

VISVA-BHARATI



Policy on Prevention of Sexual Harassment of Women at Workplace (PSHWW)

(A) PREAMBLE

Visva-Bharati (A Central University founded by Rabindranath Tagore) is an Institution of National Importance, is committed for creating and maintaining a community in which the students, teachers and non-teaching staff can work together in an environment- which is free of violence, harassment, exploitation, and intimidation. This includes all forms of gender violence, sexual harassment, and discrimination on the basis of sex/gender. Every member of the University community should be aware that while the University is committed to the right to freedom of expression and association, it strongly supports gender equality and opposes any form of gender discrimination and violence.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 makes it obligatory for every employer to combat sexual harassment in the workplace. Educational institutions are bound by the same directive. Following this, the Visva Bharati University is committed to uphold the Constitutional mandate ensuring the above mentioned human rights of all those who fall within its jurisdiction.

(B) SCOPE OF REFERENCE FOR VISVA-BHARATI UNIVERSITY

In formulating a policy for preventing, prohibiting and redressing sexual harassment, the fact that this University consists of a number of academic departments and administrative offices in three campuses – namely at Santiniketan, Sriniketan and in Kolkata (A publishing Department situated at 6, AJC Bose Road, Kolkata-17) have been considered. The University has a large constituency of students and around two and half thousand employees approximately. A majority of these people come to their “work place” (i.e. place of work/study/research etc.) from various parts of world (both national and overseas).

The interpretation of the term, “work place,” for the purposes of the policy for the University, will extend to all public spheres that remain in contact with members of the University. Such public spaces include not just the physical premises under the supervision of the University system, but even areas in and where University members reside or travel to as part of their work as members of the University.

The jurisdiction will include fieldtrips, sports tournaments, conferences, college festivals and all other activities undertaken by any person as a member of Visva-Bharati University.

(C) OBJECTIVES OF THE POLICY – Visva-Bharati University enjoins

- 1) To provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;
- 2) To display at any conspicuous place in the workplace, the penal consequences of sexual harassments and the order constituting the Internal Complaints Committee;
- 3) To organise workshops and awareness programmes at regular intervals for sensitising the members with the provisions of the Act;

- 4) To provide necessary facilities to the Internal Complaints Committee for dealing with the complaint and conducting an inquiry;
- 5) To provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code
- 6) Cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;
- 7) To treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;
- 8) To monitor the timely submission of reports by the Internal Committee.

(D) DEFINITION OF SEXUAL HARASSMENT

The following constitute sexual harassment:

1. "sexual harassment" includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely—
 - i) physical contact and advances; or
 - ii) a demand or request for sexual favours; or
 - iii) making sexually coloured remarks; or
 - iv) showing pornography; or
 - v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;
2. The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment—
 - i) implied or explicit promise of preferential treatment in her employment; or
 - ii) implied or explicit threat of detrimental treatment in her employment; or
 - iii) implied or explicit threat about her present or future employment status; or
 - iv) interference with her work or creating an intimidating or offensive or hostile work environment for her ; or
 - v) humiliating treatment likely to affect her health or safety.

(E) JURISDICTION

The Territorial Limits of the University

The Area known as Santiniketan in the District of Birbhum in West Bengal, admeasuring 3000 hectares, bounded—

- on the north by the Kopai River,
- on the west by a line running from Ballavpur and Benuria villages to Bandhgora,
- on the south by a line running from Bandhgora *via* Bolpur Dak Bungalow to the bridge over the Eastern Railway cutting, and
- on the east by the Eastern Railway line.

The area also includes the premises at Kolkata.

The rules and regulations outlined in this policy shall be applicable to all complaints of sexual harassment made:

- 1) By a member of the university against any other member of the university irrespective of whether the harassment is alleged to have taken place within or outside the campus.
- 2) By a resident against a member of the university or made by a member against a resident irrespective of whether sexual harassment is alleged to have taken place within or outside the campus.
- 3) By an outsider against a member of the University or by a member of the University against an outsider if the sexual harassment is alleged to have taken place within the campus.
- 4) By a member of the university against an outsider if the sexual harassment is alleged to have taken place outside the campus. In such cases the Committee shall recommend that the

university/college authorities initiate action by making a complaint with the appropriate authority. Further the committee will actively assist and provide available resources to the complainant in pursuing the complaint.

In the above the following definitions will apply:

‘Members of the University’ includes students, teachers and non-teaching staff of the University.

‘Students’ includes regular students as well as ex-students residing in campus.

‘Teachers’ includes any person on the staff of the university who is appointed to a teaching and/or research post, whether full time, temporary, ad-hoc, part-time, visiting, honorary, or on special duty or deputation and shall include employees employed on a casual or project basis.

‘Non-Teaching Staff’ includes any person on the staff of the university, who is not included in the category of teacher. It shall also include contract workers and daily wagers.

‘Resident’ includes any person who is a temporary or permanent resident of any of the accommodations or premises allotted to an employee by the University.

‘Campus’ includes all places of work and residence in the University, It includes all places of the Institution, research and administration, as well as hostel, health centres, sports grounds, staff quarters, public places (including parks, streets and lanes) and canteens, etc. of University campus .

(F) THE COMPLAINT MECHANISM

Visva-Bharati University constituted a Committee to deal with cases of sexual harassment at workplace on June 22, 2000, conforming to the Supreme Court guidelines of Visakha-vs-State of Rajasthan. The committee was then called “Standing Committee”. The same has been renamed as the **‘Internal Complaints Committee’** after the Act was passed by the Parliament in 2013.

At present the Committee has thirteen members headed by a Chairperson. The members are nominated by the Vice-Chancellor of the University. The Committee is well represented and has members from different Bhavanas/Vibhagas of the University. It also has members committed to the cause of women and who have had experience in social work and have legal knowledge. More than fifty percent of the members of the Committee are women and the quorum for holding a meeting is seven. The members of the Committee hold office not exceeding three years.

(G) PROCEDURE FOR REGISTERING COMPLAINTS

1. Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Complaints Committee within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident:

Provided that where such complaint cannot be made in writing, the Chairperson or any other member of the Internal Complaints Committee shall render all reasonable assistance to the woman for making the complaint in writing:

Provided further that the “Internal Complaints Committee” for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

2. Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other authorised person may make a complaint.

(H) ENQUIRY PROCEDURES

1. The “Internal Complaints Committee” shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent.

2. For the purpose of making an inquiry the “Internal Complaints Committee” shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely –
 - i) summoning and enforcing the attendance of any person and examining him or oath;
 - ii) requiring the discovery and production of documents; and
 - iii) any other matter which may be prescribed.
3. The inquiry shall be completed within a period of ninety days.
4. On completion of the inquiry the “Internal Complaints Committee” shall provide a report of its findings to the employer within a period of ten days from the date of completion of the inquiry and such report shall be made available to the concerned parties.
5. Where the “Internal Complaints Committee” arrives at the conclusion that the allegation has not been proved, it shall recommend to the employer that no action is required to be taken in the matter.
6. If the “Internal Complaints Committee” arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules and also deduct, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with clause J of this policy.

In case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved woman. In case the respondent fails to pay the above sum the “Internal Complaints Committee” may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.
7. The employer shall act upon the recommendation within sixty days of its receipt by him.

(I) PUNISHMENT FOR FALSE OR MALICIOUS COMPLAINT AND FALSE EVIDENCE–

1. Where the “Internal Complaints Committee” arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer to take action against the woman or the person who has made the complaint in accordance with the provisions of the service rules applicable to her or him.

However, a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant:

Also, the malicious intent on part of the complainant shall be established after an inquiry into the matter, before any action is recommended.
2. Where the “Internal Complaints Committee” arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness to take action in accordance with the provisions of the service rules applicable to the said witness.

(J) DETERMINATION OF COMPENSATION–

For the purpose of determining the sums to be paid to the aggrieved woman the “Internal Complaints Committee” shall have regard to–

- 1) the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;
- 2) the loss in the career opportunity due to the incident of sexual harassment;
- 3) medical expenses incurred by the victim for physical or psychiatric treatment;
- 4) the income and financial status of the respondent;
- 5) feasibility of such payment in lump sum or in instalments.

(K) PENALTIES

After completion of inquiry and on ascertaining the offense of the respondent, the “Internal Complaints Committee” may recommend to the employer the penalty to be given which may be any one or more of the following:

1 : Teaching and non-teaching staff

- i) Warning
- ii) Written apology
- iii) Bond of good behaviour
- iv) Adverse remarks in the Confidential Report
- v) Debarring from supervisory duties
- vi) Denial of membership of statutory bodies
- vii) Denial of re-employment
- viii) Stopping of increments/promotion
- ix) Reverting, demotion
- x) Suspension
- xi) Dismissal
- xii) Any other relevant mechanism.

2 : Students

- i) Warning
- ii) Written apology
- iii) Bond of good behaviour
- iv) Debarring entry into a hostel/ campus
- iv) Suspension for a specific period of time
- vi) Withholding results
- vii) Debarring from exams
- viii) Debarring from contesting elections
- ix) Debarring from holding posts such as member of Committee of Courses, membership of college union, etc.
- x) Expulsion
- xi) Denial of admission
- xii) Declaring the harasser as "persona non grata" for a stipulated period of time
- xiii) Any other relevant mechanism.

(L) NOTE:

1. A complainant has the right to go public if she/he so desires. Going public before giving in the complaint to the committee by the complainant should not prejudice the committee members. Once a complaint has been given to the committee, the complainant should preferably not go public till the enquiry is completed unless required.
2. Filing of a grievance/complaint shall not adversely affect the complainant's status/job, salary/promotion, grades etc.
3. The committee should make efforts to ensure that the complainants and the witnesses are not further victimised or discriminated against while it is dealing with the complaint. The committee shall take action against anyone who intimidates the complainant or members of the committee, during or after the enquiry.
4. Any committee member charged with sexual harassment in a written complaint must step down as member during the enquiry into that complaint.