

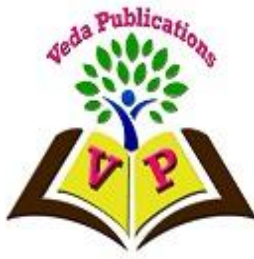
AN INSIGHT OF “NCERT POLICY FOR THE PREVENTION, PROHIBITION AND PUNISHMENT OF SEXUAL HARASSMENT OF WOMEN”

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ABSTRACT



The right of women to protection from sexual harassment and the right to work with dignity are recognized as universal human rights by international instruments such as the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which has been ratified by India. The Supreme Court in the Vishakha judgment has held that each incident of sexual harassment results in the violation of the fundamental rights of Gender Equality and the Right to Life and Liberty.

Sexual harassment is a clear violation of woman's right to gender equality as guaranteed under Articles 14 and 15, her right to live with dignity under Article 21 and her right to work with dignity in a safe environment under Article 19 (1) (g) of the Constitution of India. The Researcher has used secondary Data for collecting the data about NCERT policy to protect women against sexual Abuse

Keywords: NCERT Policy, Sexual Abuse, Women, Protection

PREAMBLE

The Supreme Court of India in its 1997 judgment in Vishakha and others vs. State of Rajasthan and others makes it obligatory for every employer and other responsible persons to follow the guidelines laid down by the Court and to evolve a specific policy to combat sexual harassment in the workplace. Educational institutions are bound by the same directive.

In compliance with the mandate of the afore mentioned Supreme Court Judgment, NCERT adopts the guidelines & procedures to prevent, prohibit and punish sexual harassment of women at the workplace. NCERT is committed to providing for all women who fall within its jurisdiction including its, academic, non-academic staff and students at the place of work and study free from sexual harassment, intimidation and exploitation. Every woman shall have a right to be free from Sexual Harassment and the Right to Work in an environment free from any form of Sexual Harassment.

The right of women to protection from sexual harassment and the right to work with dignity are recognized as universal human rights by international instruments such as the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which has been ratified by India. The Supreme Court in the Vishakha judgment has held that each incident of sexual harassment results in the violation of the fundamental rights of Gender Equality and the Right to Life and Liberty.

Sexual harassment is a clear violation of woman's right to gender equality as guaranteed under Articles 14 and 15, her right to live with dignity under Article 21 and her right to work with dignity in a safe environment under Article 19 (1) (g) of the Constitution of India. The Researcher has used secondary Data for collecting the data about NCERT policy to protect women against sexual Abuse

OBJECTIVES OF THE POLICY

1. To fulfil the directive of the Supreme Court of India enjoining all employers to develop and implement a policy against sexual harassment of women at the work place.
2. To uphold Women's Right to Protection against Sexual Harassment and the Right to Livelihood and towards that end for the prevention and redressal of Sexual Harassment of Women.
3. To evolve a permanent mechanism for the prevention, prohibition and redress of sexual harassment of women at workplace within the jurisdiction of NCERT and its constituents.
4. To actively promote a social, physical and psychological environment that will raise awareness about and deter acts of sexual harassment of girls and women.

DEFINITIONS

a. **Sexual harassment:** The following shall constitute sexual harassment of women:

1. When submission to unwelcome sexually determined behaviour such as sexual advances, requests for sexual favours, and verbal or physical conduct of a sexual nature, are explicitly or implicitly made a term or condition of teaching/guidance,

education, employment, participation or evaluation of a woman's engagement in any NCERT activity.

2. When unwelcome sexually determined behaviour, including but not limited to, sexual advances, physical and /or verbal or non-verbal or conduct, such as loaded comments, remarks or jokes, letters, phone calls, sms or emails, gestures, exhibition of pornography, lurid stares, physical contact, stalking, sounds or display of a derogatory nature have the purpose and /or effect of interfering with a woman's work or academic performance or of creating an intimidating, hostile or offensive employment, educational or living environment.
3. When a man uses with a sexual purpose, the body or any part of it or any object as an extension of the body in relation to a woman without her consent or against her will, such conduct will amount to sexual assault.

b. **Academic staff** includes Professors, Associate Professor, Assistant Professor and such other persons as may be designated as such for imparting education/instructions or for giving guidance or rendering assistance to students for pursuing any course of study. It includes any person or the staff of the council who is appointed to a teaching and/or research post, whether full time, temporary, ad-hoc, part-time, visiting, honorary, consultancy, or on special duty or deputation. It also includes persons employed on a casual or project basis. Persons on the academic staff of any of the institutions associated with NCERT or participating in any workshop/seminar/training/conference/consultancies are covered by these rules during the stay or official stay with NCERT.

c. **Non-Teaching Staff** includes any person on the staff of the NCERT & its constituents, who is not included in the category of academic staff. It shall also include administrative staff, technical staff, officers, consultants, support staff, contractual workers and daily wagers only to the extent that they are performing NCERT & its constituents related activities.

d. **Student** includes a student of NCERT & its constituents, and includes any person who has enrolled for pursuing any course of study or research for that duration with NCERT.

e. **Director, Joint Director (s) and Principal** includes director of NCERT, Joint Directors of NCERT, CIET and PSSCIVE and all Principals of RIEs.

SCOPE OF THE POLICY AND RULES AND PROCEDURES

JURISDICTION

These Rules and Procedures shall be applicable to all complaints of sexual harassment made by a woman against a man only by a woman member of NCERT and its constituent units against any male member of NCERT and its constituent units provided the harassment has taken place at work place.

RESPONSIBILITIES OF NCERT AND ITS CONSTITUENT UNITS

- a) Ensure a safe environment free from Sexual Harassment for women including prevention and deterrence of Sexual Harassment.
- b) Prepare and prominently display the policy for the prevention and prohibition of Sexual Harassment.

- c) Maintain a proactive program to educate all members as to the definition of sexual harassment and procedures for redressal.
- d) Undertake workshops and training programmes at regular intervals for sensitizing the members.
- e) Prominently display notices in various places spreading awareness about the issue of “Sexual Harassment at the Workplace” and giving information for the redressal mechanism that has been put in place and encouraging women to file their grievances.
- f) Facilitate initiation of proceedings under this Policy through the institution of Committee against Sexual Harassment for redressal of an act/s of sexual harassment.

THE COMPLAINTS MECHANISM AND THE SCOPE OF ITS FUNCTIONS GUIDING PRINCIPLES FOR CONSTITUTION OF COMMITTEES

a) The Complaints and redressal mechanism at NCERT and its constituent units, has been formulated in accordance with the following principles:

- i. In view of the structure and spread of NCERT across the country it is essential to decentralise the complaints redressal mechanism. This will ensure that the complaint mechanism is effective and accessible for all. Accordingly separate Committees against Sexual Harassment have been provided for at different levels which will function as Complaint Committee.
- ii. In order to ensure that the Committees against Sexual Harassment are gender sensitive, Representative members will be drawn from different categories.
- iii. In order to create autonomous institutional structures to enquire into complaints of sexual
- iv. Harassment, members from outside NCERT with a known contribution to women’s rights issues shall be included in each Committee.
- v. The 1997 Supreme Court judgment makes it mandatory for each Committee to have a woman chairperson.
- vi. Not less than half of the Committee members shall be women.
- vii. All members of the Committee against Sexual Harassment should be neutral and unbiased.
- viii. If in the Complaints Enquiry Committee the member representing the category of the defendant is junior in the hierarchy of NCERT to the defendant, then for that particular enquiry that member shall be substituted on the Committee by another person, senior in rank to the defendant.
- ix. Filing of a complaint shall not adversely affect the complainant’s status/job, salary/promotion, grades etc. During the pendency of an enquiry and till the final determination of a complaint of sexual harassment under this Policy the organization shall not alter the conditions of service/study of the Complainant/Supporter/Witness concerned to their prejudice, as a consequence to the filing, participation or holding of an enquiry under this Policy.

b). All these Committees shall have statutory status and be empowered to carry out the mandate of this policy including conducting an enquiry into complaints of sexual harassment.

POWER AND DUTIES OF ALL COMMITTEES AGAINST SEXUAL HARASSMENT**A. Preventive****Gender sensitization and Orientation**

1. To work towards creating an atmosphere promoting equality, non-discrimination and gender justice
2. To promote and facilitate measures to create a work and study environment that is free of sexual harassment of women.
3. To publicise widely the policy against sexual harassment in Hindi, English and the language of the region where the Centre is located, especially through the prospectus, programme guide or other appropriate document and display the same on notice boards, website, offices and residential areas etc.
4. The CASH as well as RIE/PSSCIVE CASH shall publicise the phone numbers of the Security Office at the Headquarters and at RIE.
5. Every recruitment/admission announcement must state: NCERT has a policy against sexual harassment and is committed to providing an environment free from sexual harassment of women at the workplace.
6. To regularly organize and carry out programmes for gender sensitization of NCERT members through workshops, seminars, posters, film shows, debates etc. It may enlist the help of specialized NGOs to carry out these programmes.
7. The Complaints Committee shall take notice of grave violations of the basic principles of gender sensitivity and gender justice on the campus.

GUIDELINES FOR ALL COMMITTEES AGAINST SEXUAL HARASSMENT

- a. The Chairperson (woman) and members of the committee to be nominated by the Director from the panels recommended.
- b. At least 50% of the members in each of these categories should be women.
- c. The term of each Committee shall be two years. The previous Committee will however continue till the new Committee is constituted.
- d. In the event of the expiry of the term of a Committee against Sexual Harassment during the pendency of an enquiry then for purposes of that complaint the Committee against Sexual Harassment will be regarded as a valid Committee, under this Policy and Service Rules, till the submission of the Enquiry Report to the disciplinary authority.
- e. A person shall be disqualified from being appointed, elected, nominated or designated as, or for being continued as, a member of any Committee Against Sexual Harassment if there is any complaint concerning sexual harassment pending against him, or if he has been found guilty of sexual harassment/serious misconduct.
- f. In any complaint where the defendant is the Head of the institution then the said complaint shall be enquired into by the CASH.

PENALTIES

1. Any member of the NCERT & its Constituents, non-teaching staff, student, service provider, and resident found guilty of sexual harassment shall be liable for disciplinary action.
2. The penalties listed below are indicative, and shall not constrain the NCERT & its Constituents authorities from considering others, in accordance with the rules governing the conduct of all members of the NCERT.

A. In the case of academic/administrative/ technical/ non teaching staff/ management, Disciplinary action could be in the form of one or more of the following:

- i. Warning
- ii. Written apology
- iii. Bond of good behaviour
- iv. Gender sensitization
- v. Counselling
- vi. Adverse remarks in the Confidential Report
- vii. Debarring from supervisory duties
- viii. Denial of membership of statutory bodies
- ix. Denial of re-employment
- x. Stopping of increments/promotion
- xi. Reverting, demotion
- xii. Transfer
- xiii. Dismissal
- xiv. Withdrawal of residential facilities and prohibition from entry on the campus etc.
- xv. Any other relevant mechanism.

B. In case of students, disciplinary action could be in the form of:

- i. Warning
- ii. Written apology
- iii. Bond of good behaviour

3). Penalty in Case of a Second Offence

A second or repeated offence, may, on the recommendation of the concerned Committee against Sexual Harassment, attract an enhanced penalty.

4). Non-adversarial modes of redress and resolution could also be considered in appropriate Cases. Examples of this may be verbal warning, verbal apology, promise of good behaviour, Counselling etc.

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