



# PEOPLE'S PARTICIPATION

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## **-:Anti-Sexual Harassment Policy:-**

(Acknowledgement: Anti Sexual Harassment Policy, Action Aid, India)

### **I. Introduction**

It is a core goal principle of People's Participation to ensure gender equality and gender justice through all of People's Participation interventions and practices. In keeping with this principle, it is important to ensure an organisational climate free from discrimination and harassment with a particular focus on sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by this organization. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unacceptable and will not be tolerated. To achieve this goal, the conduct that is described as "Sexual Harassment" in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered among employees.

People's Participation will also take all the appropriate steps necessary to protect staff from retaliation. Such Steps include:

- Action to stop retaliatory behavior
- Providing required security measures.
- Counseling help to Complainant and Accused

People's Participation takes allegations of sexual harassment seriously, and will respond promptly to complaints of sexual harassment and where it is determined that such inappropriate conduct has occurred, prompt and appropriate corrective action as is necessary, including disciplinary action, will be taken.

While this policy sets forth our goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit the authority of People's Participation to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

### **II. Scope of the Policy**

This policy shall extend to all Staff of People’s Participation and project partners and includes external incidents involving such staff.

### III. Definitions

For the purposes of this Policy

1. “Staff” shall mean any person employed by People’s Participation including People’s Participation associates whether full-time, part-time, temporary, voluntary, seconded, contracted or casual and also researchers, trainees, consultants and employees of project partners.
2. “NGOs” for the purposes of this policy means any non-governmental organisation operating on a secular non-profit basis and involved in work concerning gender justice.
3. “Sexual harassment” includes any unwelcome sexually determined behaviour (whether direct or by implication) such as:

i.	physical contact and advances physical and non -physical
ii.	a demand or request for sexual favours;
iii.	sexually coloured remarks
iv.	showing pornography
v.	creating a hostile work environment
vi.	any other unwelcome “sexually determined behaviour” be it physical, verbal or non-verbal conduct of a sexual nature
vii.	creating a “hostile work environment”

**Explanation 1:** Unwelcome “sexually determined behaviour” shall include but not be limited to the following instances:

a)	where submission to or rejection of sexual advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
b)	such advances, requests or conduct (whether direct or implied) have the purpose or effect of interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

**Explanation 2:** Creating a “hostile work environment” means:

a	Creating a workplace where Sexual Harassment may go unheeded, where despite complaints no action is taken, where there is nexus between accused/aggressor & higher management, and where complainant is placed under fear, disadvantage or threat of victimization.
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b	It will also mean Retaliation which includes:
	<ul style="list-style-type: none"> <li>✗ marginalizing someone in the workplace with regard to his / her roles and responsibilities</li> <li>✗ socially ostracizing</li> <li>✗ intimidating someone physically, psychologically, emotionally or someone close to or related to the victim</li> <li>✗ spreading canard</li> </ul>
c	And any other behavior that may commonly be construed as retaliatory

**Explanation 3:** “Sexual Harassment “in People’s Participation and its associates shall also mean:-

(a) Direct or implied requests by any staff for sexual favours in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

(b) Other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to staff may also constitute sexual harassment.

**Explanation 4:** In addition the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

●	Unwelcome sexual advances -- whether they involve physical touching or not;
●	Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
●	Displaying sexually suggestive objects, pictures, cartoons, displaying body parts;
●	Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
●	Inquiries into one's sexual experiences; and,
●	Discussion of one's sexual activities.
●	Abuse of authority (Quid Pro Quo) - demand by a person in authority, for sexual favours in exchange for work related benefits (e.g. a wage increase, a promotion, training opportunity, a transfer or the job itself).
●	The behavior that creates an environment that is intimidating, hostile, or offensive for members of one sex, and thus interferes with a person's ability to work.

#### IV. Preventive Action

Consistent with the existing law under *Vishaka*, People’s Participation shall take all reasonable steps to ensure prevention of sexual harassment at work. Such steps shall include:

1. Circulation of People's Participation's policy in English on sexual harassment to all persons employed by or in any way acting in connection with the work and/or functioning of People's Participation;
2. Ensuring that sexual harassment as an issue is raised and discussed at People's Participation meetings from time to time
3. Conduct or cause to carry out in-house gender training on sexual harassment and addressing complaints to *staff* as well as members of People's Participation.
4. Widely publicize that the SH is a crime & will not be tolerated. [Incase when they get appointed by other employer(s)].

## **VI. Procedure of Dealing with Complaints of Sexual Harassment**

1. If any staff at People's Participation believes that he or she has been subjected to sexual harassment, such person (Governing Body Members who may have assisted the complainant or those who have otherwise observed sexual harassment at People's Participation) shall have the option to file a complaint with GBM. This may be done in writing or orally. Even if it is done verbally initially, it is always preferable to have the complaint in writing.
2. A complaint may be filed by contacting any one of the Governing Body Members. The Governing Body Members will also be available to discuss any concerns staff may have and to provide information about People's Participation's policy on sexual harassment and the complaint process.
3. Informal complaints of SH may be made to the Governing Body Member within the Unit or directly to the President.
4. Informal Way of dealing with complaints of Sexual Harassment:
  - (i) An informal approach to resolve a complaint of sexual harassment can be through mediation between the parties involved and by providing advice and counselling on a strictly confidential basis. The procedures though less stringent than formal procedures will be conducted in the full spirit of this policy document.
  - (ii) The case will be taken up for investigation at an informal level by the Governing Body Members in a confidential manner. The matter will be reviewed and the alleged offender will be approached with the intention of resolving the matter in a confidential manner.
  - (iii) If the incident or the case reported does constitute sexual harassment of a higher degree the member will suggest taking it up for disciplinary action or with the agreement of the complainant, the case can be taken as a formal complaint.
  - (iv) Once such complaints are dealt with, the Governing Body Members will seat for a meeting to discuss on the issue.

(v) The choice whether to deal with the complaint in the informal way or through the formal mechanism (whether the case constitutes sexual harassment of a higher or lower degree) should depend entirely on the complainant.

5. All formal complaints of SH have to be referred to the President by the Governing Body Members. Unit Heads, in consultation with Governing Body Members or any other staffs are not empowered to penalize People's Participation staff.
6. The investigation into a complaint will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The Enquiry Committee ( EQC ) has to be set up within 2 weeks of receiving the complaint. The President is responsible for setting up the EQC with support from the People's Participation Executive Body.
7. The EQC has to investigate and submit report to ASH Cell within 6 weeks. The President will have to decide on recommendations within 2 weeks of receiving report from EQC.

## **VII. Process of Inquiry:**

1. Upon receiving a formal complaint, the Committee shall ask the complainant to prepare a detailed statement of incidents if written complaint is sketchy. A statement of allegations will be drawn up by the Committee and sent to the accused.
2. The accused will be asked to prepare a response to the statement of allegations and submit to the Committee within the given time.
3. The statements and other evidence obtained in the inquiry process will be considered confidential materials.
4. An officer in the organization could be designated to provide advice and assistance to each party if requested by either of them. Similarly, the complainant and the accused will have the right to be represented or accompanied by a member of staff of People's Participation, a friend or a colleague.
5. The Committee will organize verbal hearings with the complainant and the accused.
6. Statement of Complainant will be recorded first in the presence of the accused. The accused may cross question the complaint if there is a need to do so in the presence of the Enquiry Committee.
7. The Committee will take testimonies of other relevant persons and review the evidence whenever necessary. Care should be taken to avoid any retaliation against the witnesses by giving necessary protection.
8. The Committee will take its decision after carefully reviewing the circumstances, evidence and relevant statements in all fairness.
9. If the accused, being provided fair opportunity to participate in the inquiry and defend him/herself fails to participate in the inquiry, the Committee may conduct the inquiry expert.

10. The Committee will ensure confidentiality during the inquiry process.
11. In the course of investigating any complaint of sexual harassment the principles of natural justice are adhered to namely:
  - (i) Both parties shall be given reasonable opportunity to be heard along with witnesses and to produce any other relevant documents;
  - (ii) Upon completion of the investigation, both parties will be informed of the results of that investigation.
  - (iii) Documents which form part of the official record shall also be given to the complainant if need be.
12. The President shall be empowered to do all things necessary to ensure a fair hearing of the complaint including all things necessary to ensure that victims or witnesses are neither victimised nor discriminated against while dealing with a complaint of sexual harassment. In this regard the President shall also have discretion to make appropriate interim recommendations vis-à-vis an accused person pending the outcome of a complaint including suspension, transfer, leave, change of office etc. The complainants should have the option to seek transfer of the perpetrator or seek his/her own transfer.
13. In the event, the President/ Chief Program Officer/ Development Officer/ Governing Body Members determines that sexual harassment has occurred, it will make appropriate recommendations as to necessary action to be instituted to remove the offensive conduct and, where appropriate, to institute disciplinary action. The complainant's views may be taken into consideration for this purpose.
14. Given that People's Participation views any finding of sexual harassment a serious violation of human rights, if it is determined that inappropriate conduct has been committed by a staff, appropriate action will follow under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action the President deems appropriate under the circumstances. The Governing Body Members will be guided by HR procedures for disciplinary action within People's Participation. If the aggressor is guilty of serious sexual harassment or has repeatedly (second time) committed acts of SH then he /she must be dismissed. In appropriate cases he/she may also be required to pay monetary compensation.
15. Sexual harassment by line managers or by colleague senior to the victim, then such acts will be considered to be very serious and will attract higher penalties.

### **VIII. Sexual Harassment and People's Participation Partners**

People's Participation is responsible for ensuring that its partners have a commitment to an SH free working atmosphere within their organizations i.e. the partner organizations. While respecting the autonomy of the partner organization, People's Participation will have to play a facilitating role within the partner organization, by

- Creating an Sexual Harassment free climate
- Helping in the Anti – Sexual Harassment actions.

- Ensuring that complaints of SH are heard and investigated

It is necessary when complainant and accused are from 2 or more different organizations there should be an EQC with at least representatives from at least one such other organization.

### **IX. Third Party Harassment**

Where SH occurs as a result of an act or omission by any third party or outsider, People's Participation will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

### **X. Management Obligations**

1. Management of People's Participation shall provide all necessary assistance for the purpose of ensuring full, effective and prompt implementation of this policy. It shall further be bound by the decisions of the ASH Policy and shall implement the same expeditiously.
2. The support to be provided to ASH Policy includes:

i.	Secretarial and administrative support for training and other preventive actions.
ii.	Helping to set up EQCs
iii.	Secretarial support during SH enquiries
iv.	Adequate financial resources for all activities

3. The responsibility for preventive activities (regarding SH) rests with the Management of People's Participation.
4. The responsibility of taking prompt action on Governing Body Members recommendations lies with the President of People's Participation. However, if the President has a difference of opinion he/she may ask the EQC to review its decision. Action on EQCI recommendations should be taken within 2 weeks of the recommendation being made.
5. People's Participation is expected to provide adequate protection to Enquiry Committee members in case of threats and any retaliation. Support and protection must also be provided (by Management) if matters go to Court. Management should in all cases defend the EQC & the complainant.
6. In the event the conduct complained of amounts to a specific offence under the Indian Penal Code or under any other law in existence, the EQC, subject to the wishes of the complainant, shall take appropriate action in making a complaint with the appropriate authority. The People's Participation management will have to provide all manner of support required in such instances.

7. People's Participation Management will actively assist and do all that is necessary to ensure the safety of a complainant in the office premises or otherwise in respect to any duties/activities performed in connection with her work, which take place outside office premises.
8. People's Participation Management has to ensure that the Enquiry Committee retain their autonomy and may work unhindered.
9. The proceedings under this policy shall not be stalled or postponed merely because the complainant is proceeding against the accused under any other provision of law.
10. The provisions of this policy shall not restrict the powers of the Management or the complainant to proceed against the alleged offender for any other misconduct or other legal remedies.