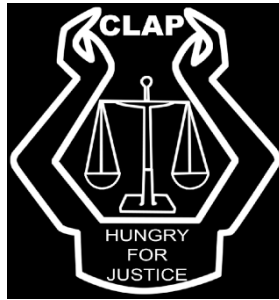


COMMITTEE FOR LEGAL AID TO POOR



POLICY DOCUMENT
of
INTERNAL COMPLAINT COMMITTEE
TO PREVENT SEXUAL HARASSMENT OF WOMEN
AT THE WORKPLACE
of
CLAP



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INTRODUCTION:

The Legal Service Institute managed by CLAP, the acronym of Committee for Legal Aid to Poor, is a Non-Governmental Voluntary Organization registered under the Societies Registration Act 1860 (Act XXII of 1860) of India. CLAP got registered as a Society on November 18th 1982. It is a legal service and advocacy organization, which seeks to advance Human Rights through use of law, legal process and legal system. It is based in Cuttack City (the erstwhile capital city of Orissa) in the State of Orissa in India. It works in various states of India with primary focus on Orissa.

Vision of CLAP: Being inspired by Democratic Values, more particularly the concept of Rule of Law and having full faith in Fundamental Human Rights with Dignity, the Committee for Legal Aid to Poor in short CLAP visualises a Society where Justice and Equity Prevails based on the principle of equality of opportunity and protection for all irrespective of sex, religion, caste, creed, colour and socio-economic status.

Mission of CLAP: In order to accomplish its vision, the CLAP manages Legal Service Institute which strives to eliminate injustice in its manifold manifestation and promote justice by way of strategic legal intervention and through strengthening access to justice. The mission of the organisation is to render legal services in its various dimensions. The CLAP dedicates itself for promotion, enforcement and protection of human right with dignity in association with civil society organisations and governance systems. In its endeavour the CLAP uses Law, Legal Process and Legal System as a tool for empowerment of people and a means for accomplishment of desired goals. The mission statement of CLAP reflects its commitment towards accomplishment of Human Rights with Dignity, Democratic Development and Environmental Justice. The principle of Rule of Law is the fundamental premise within which the mission has been envisaged and rolled out.

Goal of CLAP: Elimination of all forms of Discrimination, Exploitation and Injustice on Women, Children, People with Different Sexual Orientation, Scheduled Caste, Scheduled Tribes, Minorities, Persons with Disability, People living below Poverty Line and exclusion of all those institutions that perpetuates Poverty or causes deprivation of entitlements. Improved opportunity for marginalised to overcome their situation is the sole aim in all actions.

POLICY AGAINST SEXUAL HARASSMENT OF WOMEN AT THE WORKPLACE

I. Preamble:

The Parliament of India passed the “Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act,” in the year 2013 and it came into force from 9th December 2013. The Act provides protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for the matters connected therewith or incidental thereto. The Act was formed on the basis of the guidelines laid down by the Supreme Court in its landmark judgment, *Vishakha v. State of Rajasthan*.

The guidelines explicitly state the following:

“It shall be the duty of the employer or other responsible persons in workplaces or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolutions, settlement, or prosecution of acts, of sexual harassment by taking all steps require.”

The main aim of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 is to curb sexual harassment at workplace. The Act recognizes the right of every woman to a safe and secure workplace environment irrespective of her age or employment/work status. Hence, the right of all women working or visiting any workplace whether in the capacity of regular, temporary, adhoc, or daily wages basis is protected under the Act. The Act includes all women whether engaged directly or through an agent including a contractor, with or without the knowledge of the principal employer. In addition to it the Act also includes a co-worker, a contract worker, probationer, trainee, apprentice etc. It also extends to a woman who is working in a dwelling place or house.

All organizations where more than ten employees are working are bound by the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. CLAP Legal Service Institute, Cuttack Odisha is also committed to creating and maintaining an environment which is free of all forms of gender violence, sexual harassment, and discrimination on the basis of sex/gender. Hence CLAP is committed to uphold the Legislative mandate ensuring the above mentioned human rights of all those who fall within its jurisdiction. CLAP has constituted an “Internal Complaint Committee to Prevent Sexual Harassment of Women at Workplace of CLAP keeping in mind the Provisions of the Act and directives issued by the Supreme Court of India.

II. Objectives:

The objectives of the Internal Complaint Committee to Prevent Sexual Harassment of Women at the Workplace are as follows:

- To provide a safe and secure working atmosphere for the women employees working in CLAP.
- To make all the employees of CLAP aware as to what constitutes Sexual Harassment.
- To develop a guiding principle against sexual harassment of women at CLAP.
- To promote a mechanism for the prevention and redressal of sexual harassment cases and other acts of gender based violence in CLAP.
- To make sure that the law is implemented in proper spirit.
- To uphold the commitment of CLAP to provide an environment free of gender-based discrimination.

III. The Definition of Sexual Harassment:

According to the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act 2013, sexual harassment includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:

- 1) Physical contact and advances; or
- 2) A demand or request for sexual favors; or
- 3) Making sexually colored remarks; or
- 4) Showing pornography; or
- 5) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Any act falling under the purview of following cases will be considered as an incident of sexual harassment. Clarification of Unwelcome acts or behavior can be understood properly from the below mentioned points:

- a) Implied or explicit promise of preferential treatment in her employment.
- b) Implied or explicit promise of detrimental treatment in her employment.
- c) Implied or explicit threat about her present or future employment status.
- d) When submission to unwelcome sexual advances, requests for sexual favours, and verbal or physical conduct of a sexual nature are, implicitly or explicitly, made a term or condition of teaching/guidance, employment, participation, or evaluation of a person's engagement in any activity.

- e) When unwelcome sexual advances, and verbal, non-verbal and/or physical conduct such as loaded comments, remarks or jokes, letters, phone calls or e-mails, gestures, exhibition of pornography, lurid stares, physical contact, stalking, sounds or display of a derogatory nature.
- f) Interfering with her work or creating an intimidating, offensive, or hostile environment for her.
- g) When a person uses the body or any part of it or any object as an extension of the body with a sexual purpose in relation to another person without the latter's consent or against that person's will, such conduct will amount to sexual assault.
- h) When deprecatory comments, conduct or any such behaviour is based on the gender identity/sexual orientation of the person and/or when the premises or any public forum of the institute is used to denigrate/discriminate against person(s), or create a hostile environment on the basis of a person's gender identity/sexual orientation.
- i) When a person shows any humiliating treatment to woman that is likely to affect her health and safety.
- j) Teaching activities or explanation of various issues related to fertility, reproductive health and other research topics in a scientific manner will not be considered as harassment.

IV. Jurisdiction:

The Policy Document applies to all employees of CLAP.

V. Membership of the Internal Complaints Committee:

An Internal Committee shall consist of the following members (to be nominated by the employer) every 3 years:

- 1) A Presiding Officer who shall be a woman employed at a senior level at the workplace, unless there is no senior women employee at the office or any other administrative unit. In that case the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation.
- 2) At least 2 members from amongst the employees either committed to cause of women or who have experience in social work or have legal knowledge.
- 3) One member from a Non-Governmental organisation or association committed to the cause of women and familiar with the issues relating to sexual harassment. This

member shall not be part of the employer's enterprise. **Provided that one-half of the total members must be women.**

VI. Disqualification:

No person shall be appointed or continue to be a member of the Committee, if he/she is;

- 1) Contravenes the provisions of section 16 that is Prohibition of Publication or making known contents of complaint and inquiry proceedings or
- 2) Has been convicted for an offence or an inquiry into an offence under any law for that time being in force is pending against him or
- 3) He has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him or
- 4) Has so abused his position as to render his continuance in office prejudicial to the public interest, such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination.

VII. Statutory Status:

The Internal Committee to Prevent Sexual Harassment of Women at the Workplace of CLAP is empowered to carry out the mandate of the policy and has statutory power as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters:

1. Summoning and enforcing the attendance of any person (COMPLAINANT/ COMPLAINEE/ WITNESS) and examining him/her on OATH and recording the statements,
2. Requiring the discovery and production of valid Documents,
3. Any other matter which may be prescribed.

VIII. Allowances:

Sitting allowances shall be paid to the External members of the Committee for attending all the meetings of the Committee or any invited guest coming for the work of Committee.

IX. Complaint Procedure:

1. Any woman employee or Intern (hereinafter mentioned as the 'COMPLAINANT') shall have the right to file a complaint concerning any harassment including sexual

harassment against a male student/ employee/ faculty/ administrative staff/ research staff/ any of the members of the Committee (hereinafter mentioned as the 'COMPLAINEE') as the case may be.

2. Any COMPLAINANT may file a complaint within a period of 3 months from the date of incident. In case of a series of incidents, COMPLAINANT should file a case within a period of 3 months from the date of last incident.
3. Where the aggrieved woman is unable to file a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.
4. All complaints will only be accepted in writing. The Committee is allowed to take action even in the absence of a written complaint. Though a written complaint is must (as per the Vishakha Guidelines), however if the woman does not want to do the same, anybody can write on her behalf.
5. Any complaint in writing has to be signed by the COMPLAINANT and will be read out to the complainant and will not be acted upon till the same is signed by the complainant.
6. The complainant shall be afforded full secrecy at each stage.
7. The name, address, identity or any other particulars calculated to lead to identification of the COMPLAINANT shall be kept confidential and will not be disclosed even to the Committee, till the meeting in this regard is convened.
8. Within a period of 5 working days from the date of such communication, the Chairperson shall convene a meeting to deal with the complaint and make preliminary enquiry/fact finding enquiry to verify the facts of the complaint. An **Enquiry Committee** will be constituted if the complaint is found genuine.

In case, the Enquiry Committee decides to proceed with the complaint, they may have the option to settle the matter between COMPLAINANT & COMPLAINEE through conciliation. For this, the wishes of the complainant shall be ascertained and if the complainant wishes that a warning would suffice then the alleged offender shall be called to the meeting of the Committee, heard and if so satisfied that a warning is just and proper, he may be warned about his behaviour. The matter shall then be treated as concluded and disposed of with a note to that effect made in the Complaint Register.

X. Meeting of the Internal Complaints Committee:

There shall be at least 2 meetings of the Internal Complaints Committee to be held in April and October unless otherwise required.

XI. The Inquiry Process:

- 1) Subject to the provisions of section 10, the Internal Committee shall, where the respondent is an employee/ Intern, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed, the Internal Committee shall proceed to make an inquiry into the complaint or forward the complaint to the police.
- 2) Provided further that where the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.
- 3) Most cases of sexual harassment occur in private, so there may not be any eye-witness. The Enquiry Committee will have to come to a conclusion about the complaint without proof or evidence of this kind. It will rely on circumstantial evidence and the written submissions and oral testimonies of the complainant, the accused, and witnesses if any as well as any documentary evidence. This enquiry is not a criminal investigation or a proceeding in a court of law – a strong probability, rather than ‘proof beyond reasonable doubt’, is enough to take a decision on the complaint.



Notification
(Committee for Legal Aid to Poor)

No SEC/04/2019
Date: 02.04.2019

Constitution of Internal Complaints Committee of CLAP

The General Body of Committee for Legal Aid to Poor (CLAP), which is the Board of Management in its Annual Meeting held on 31st March, 2019 for the financial year 2019-2020 has approved constitution of Internal Complaints Committee in accordance with the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 with the objective of preventing and protecting women employees of CLAP in workplace. The Internal Complaints Committee shall work towards prevention of sexual harassment and to ensure effective redressal of complaints of sexual harassment in all offices of CLAP including the headquarter. The Internal Complaints Committee of CLAP is constituted with the following members as its Presiding Officer and Members for a period of 3-years beginning from 2nd April 2019 to 31st March, 2022:

- 1) Smt. Swayam Sidhha Mohanty, Manager, Legal Service – Presiding Officer
- 2) Amulya Kumar Panda, Finance Manager, CLAP – Member
- 3) Sagar Sangam Raju, Manager Programme Development, CLAP – Member
- 4) Smt. Rita Satpathy, Advocate and President Jaymala Socio Cultural Trust – External Member.

Purusottam Sahoo

(PURUSOTTAM SAHOO)
PROJECT COORDINATOR (CEO)
COMMITTEE FOR LEGAL AID TO POOR.