

# Policy on Prevention and Redressal of Sexual Harassment at the Workplace

2020

## Introduction

The International Centre for Integrated Mountain Development (hereafter ICIMOD) is committed to creating and maintaining a workplace environment free of violence, harassment, exploitation, and intimidation to ensure full and meaningful participation of all its staff<sup>1</sup> in the pursuit of its vision and mission.

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Through this Policy on Prevention and Redressal of Sexual Harassment at the Workplace (hereafter Anti-Sexual Harassment Policy, or Policy) outlined below, ICIMOD supports the fundamentally important overall societal goal of gender equality and women's empowerment by opposing any form of gender discrimination or violence at the ICIMOD workplace (not just the physical premises at the headquarters in Kathmandu and field offices in Pakistan and Afghanistan but also in areas where the staff move

as part of their work<sup>2</sup>). In keeping with this goal of gender equality, and consistent with ICIMOD's Gender Equality Policy, 2013, ICIMOD does not tolerate sexual harassment in any form and is committed to providing an environment free from sexual harassment.

Besides this Anti-Sexual Harassment Policy, ICIMOD has developed a Procedure for Prevention and Redressal of Sexual Harassment at the Workplace. The Procedure is a separate document which outlines procedures for implementation of this Anti-Sexual Harassment Policy at the Centre.

Although minor and major misconduct are addressed within ICIMOD's Human Resources Policy and its Code of Conduct, a specific policy defining sexual harassment and clarifying procedures for redressal is presented here since broad misconduct provisions may not provide sufficient clarity. In developing this Anti-Sexual Harassment Policy, ICIMOD has borne in mind that the institution functions in social contexts where sexual harassment issues may not be reported for fear of social stigma or other negative repercussions. The Anti-Sexual Harassment Policy, therefore, has envisioned mechanisms that seek to be accessible and confidential

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<sup>1</sup> The term "staff" is used in this policy to include ICIMOD employees and other personnel as detailed under the section on applicability.

<sup>2</sup> The ICIMOD workplace has been defined in detail under the section on Definition of Sexual Harassment at the Workplace.

and all attempts has been made to envision redressal and resolution procedures that are fair, transparent, accountable, and representative.

With this Anti-Sexual Harassment Policy, ICIMOD also strives to create awareness within the organization to prevent actions of sexual harassment. The Anti-Sexual Harassment Policy recognizes that sexual harassment is not an offence limited within spheres of law and order. Sexual harassment is an act of power, and although it may be experienced as an interpersonal transgression, it constitutes a public and collective violation that goes beyond an interpersonal transgression. It is therefore a violation of gender equality and of the right to a safe work environment for all. Sexual harassment not only affects individuals but also reinforces gender-based discrimination. ICIMOD thus takes seriously its responsibility to take adequate measures to ensure the safety, security, dignity, rights and equality of both women, men and others. This Anti-Sexual Harassment Policy is presented here with the belief that such measures help to strengthen social and professional relationships in the workplace.

Although many different definitions exist, for the purposes of this Anti-Sexual Harassment Policy, ICIMOD recognizes sexual harassment at the workplace as emotional and physical abuse which creates an unhealthy, unproductive workplace environment. It also recognizes that sexual harassment transgresses principles of gender equality and fundamental rights of both women, men and others (Sexual Harassment has been defined in detail under the section on Definition of Sexual Harassment at the Workplace in this Policy). While it is important to note that statistically, a majority of victims of sexual harassment are women who occupy positions of relatively less power than their harassers, it is also true that the reverse situation may be reported.

Across ICIMOD's eight regional member countries, sexual harassment has been considered in national laws and policies as below:

- **Afghanistan:** the Afghan National Assembly approved a new law on prevention of sexual harassment in 2016.
- **Bangladesh:** the High Court Division of the Supreme Court of Bangladesh in 2009 issued guidelines on sexual harassment.

- **Bhutan:** The Sexual Harassment Regulation, 2009 contains legal requirements that must be met by all workplaces in Bhutan which are under the jurisdiction of the Department of Labour, Ministry of Labour and Human Resources.
- **China:** As per the amendment to the Law of the People's Republic of China on the Protection of Rights and Interests of Women, sexual harassment of women is prohibited and the victimized woman has the right to make a complaint with the appropriate authority (Article 40). The amendment was approved by the 10th Standing Committee of the National People's Congress on 28 August 2005, and the amendment came into force on 1 December 2005.
- **India:** The Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013 is the national law related to workplace sexual harassment.
- **Myanmar:** The Prevention and Protection of Violence against Women Bill, drafted by the Ministry of Social Welfare, Relief and Resettlement is currently awaiting approval by Parliament, which is reportedly expected in 2019.
- **Nepal:** The Sexual Harassment at the Workplace Prevention Act, 2015 came into effect on 20 February 2015. The protection of employees against sexual harassment has been integrated in the Labour Act, 2074 BS (2017).
- **Pakistan:** The Protection against Harassment of Women at Workplace Act came into effect in 2010.

Besides these regional laws and policies, there are international commitments and standards that address violence, discrimination against women, and human rights, such as the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the Sustainable Development Goals (SDGs). CEDAW was adopted in 1979 by the UN General Assembly and is often described as an international bill of rights for women. It defines what constitutes discrimination against women and provides guidelines for national action to end discrimination against women, including: abolishing all discriminatory laws and adoption of appropriate ones prohibiting discrimination against women; establishment of tribunals and other public institutions to ensure the effective protection of women against discrimination; and elimination of all acts of discrimination against women by persons,

organizations or enterprises. Apart from this, SDG 5, “Achieve gender equality and empower all women and girls” sets clear targets related to gender-based violence and harmful practices.

By formulating this Anti-Sexual Harassment Policy, ICIMOD confirms its commitment to formal and substantive equality in its quest to provide equal employment opportunity and a safe work environment to all its staff. Any violation of organizational norms as stated in this Anti-Sexual Harassment Policy will result in disciplinary action.

This Anti-Sexual Harassment Policy is meant to:

- Create a secure physical, psychological and social environment in the ICIMOD workplace, which will deter acts of sexual harassment
- Outline the guiding principles for definition of Sexual Harassment and redressal mechanism
- Establish a fair mechanism for review and redressal in the event of an occurrence of sexual harassment at the workplace
- Educate staff about what constitutes sexual harassment

ICIMOD staff who are victims of sexual harassment may, in addition to any process described in the procedure, seek legal recourse under the various laws in force in Nepal or any other Regional Member Country where the harassment may have taken place.

## Definition of sexual harassment at the workplace

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### Workplace

The term “workplace” is used in this Anti-Sexual Harassment Policy to extend to the spheres and spaces within which ICIMOD staff operate and move in the course of their work for ICIMOD, including physical premises at the headquarter office in Kathmandu, field offices in Pakistan and Afghanistan, and areas where the staff move as part of their work. The jurisdiction of this Anti-Sexual Harassment Policy will include field

trips, conferences or workshops, and all other activities undertaken by any individual while employed as an ICIMOD staff.

### Sexual harassment at the workplace

This Anti-Sexual Harassment Policy defines sexual harassment at the workplace as unwelcome physical, verbal or non-verbal conduct of a sexual nature. When considering sexual harassment, it is important to regard the impact of the action rather than intention of the accused and that it is unwelcome to the recipient. Also, sexual harassment may be recurring acts which have a cumulative effect or a single offending incident.

Based on the national laws and policies on sexual harassment in the eight Hindu Kush Himalaya countries as well as the sexual harassment policies of various UN bodies, four significant manifestations of sexual harassment at the workplace have been identified:

#### i) Abuse of authority (*quid pro quo*)

A demand by a person in authority, for sexual favour in exchange for work related benefits (e.g., a wage increase, a promotion, training opportunity, a transfer, or the job itself).

#### ii) Unwelcome conduct or advances

Any unwelcome sexual advance, request for sexual favour or other verbal or physical conduct of a sexual nature, such as – but not limited to – loaded comments, remarks or jokes, letters, phone calls or emails, gestures, exhibition of pornography, lurid stares, physical contact, stalking, sounds or display of a derogatory nature, by an individual directed towards another individual which interferes with their work performance.

#### iii) Creating a hostile environment

When unwelcome verbal, non-verbal and/or physical conduct of a sexual nature or deprecatory comments or any such behaviour based on gender/sexual identity that have the purpose and/or effect of interfering with the performance of any individual creating an intimidating, hostile, or offensive environment in general.

#### iv) Sexual assault

When a person/s uses, with a sexual purpose, the body or any part of it or any object as an extension of the body

in relation to another person without the latter's consent or against that person's will, such conduct will amount to sexual assault.

To further clarify what might be considered as sexual harassment, some specific examples are given below, although these specific examples are in no way to be considered exhaustive.

- Unwelcome sexual advances whether they involve physical touching or not
- Sexual epithets, jokes, written or oral references to sexual conduct, or gossip about an individual's sexual activity
- Displaying, exhibiting or broadcasting sexually suggestive objects, visuals, words, pictures, cartoons, calendars, sounds, magazines.
- Passing on pornographic material in print or electronic form or passing written offensive messages of a sexual nature (including through email or text message)
- Unwelcome leering, whistling, brushing against the body, sexual gestures or suggestive or insulting comments
- Disclosing vulgar and sexual intent through writings, speech or gesture.
- Graphic or suggestive comments or gestures about an individual's dress or body
- Retaliation from a person in authority due to refusal of sexual favour (which may include limiting opportunities for the complainant or generating gossip against the staff or other acts that limit access).

- Expressions suggesting superiority of one gender over the other including jokes demeaning one gender, unwelcome references to one's appearance or body where they cause psychological harassment
- Proposing sexual activities
- Repeated or unwanted social invitation for dates

## Applicability

The Anti-Sexual Harassment Policy is applicable to all staff working at all ICIMOD work locations including the headquarters in Kathmandu and field offices in Afghanistan and Pakistan and areas where the staff move as part of their work (including field trips, conferences or workshops, and all other activities undertaken by any individual while employed as ICIMOD staff). This can be extended to any other location in which staff may be based during a longer term for ICIMOD.

### ICIMOD staff

ICIMOD staff refers to any person employed – through any form of employment contract currently under use at ICIMOD or through a signed letter for collaboration – for any work, be it as a regular employee or temporary or ad-hoc staff. Definitions of specific staff categories are given below in Table 1.

Any person who aids or abets or seeks to cover up the sexual harassment act of another ICIMOD staff may also be held liable under this Anti-Sexual Harassment Policy.

**TABLE 1** ICIMOD STAFF CATEGORIES

ICIMOD staff category	Definition
Regular and project staff	Refers to any person on employment contract with ICIMOD
Other personnel	This category includes various individuals employed in a non-regular resource category. These include, but are not limited to: personnel on a Consultancy Special Services Agreement (SSA), individual consultants, interns, young ICIMOD professionals, visiting students, personnel hired on a daily wage basis, ICIMOD Fellows, post docs, visiting scientists, policy advisors, volunteers and seconded or deputed staff.

## Third party harassment

The provision for Third party Harassment is developed in the context of non-ICIMOD staff and outsiders.

For the purpose of this Anti-Sexual Harassment Policy, non-ICIMOD staff are those who work in or for ICIMOD but who are employed/hired through a service provider/ agency such as – but not limited to – staff from ICIMOD’s regular contractors (e.g., maintenance, day care, and guard staff); agency outsourced for different services (currently canteen). Non-ICIMOD staff category may also include, but is not limited to, staff of any partner organization, project participants, members of ICIMOD’s Board of Governors, ICIMOD Support Group, or any service provider to ICIMOD.

For the purpose of this Anti-Sexual Harassment Policy, an outsider is considered as any person who is unconnected to ICIMOD.

Outsiders to ICIMOD and non-ICIMOD staff are covered under third party harassment provisions,

Third party harassment may be in situations where:

- An ICIMOD staff may face sexual harassment by an outsider or non-ICIMOD staff while on official duty whether within or outside the ICIMOD premises. In such cases, ICIMOD will take all necessary and reasonable steps to assist the affected individual in terms of support and redressal.
- Third party harassment may also be a case of sexual harassment against an ICIMOD staff by an outsider or non-ICIMOD staff. In this case the complaint of sexual harassment can be filed with ICIMOD directly.

## Mechanism for redressal

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In order to put in place a fair mechanism for redressal in the event of an occurrence of sexual harassment at the workplace, this Anti-Sexual Harassment Policy entails the establishment of a Standing Committee on Sexual Harassment (SCSH) which will be comprised of eight members with at least five being women, serving for a three year term. The choice of eight members has been made given the frequent absence of members due to work related travel; not all members need to be present for meetings to take place.

In establishing the SCSH, the below considerations have been made:

- In order to make the SCSH accountable and democratic, it will be constituted through both election and nomination of its members.
- In order to create an autonomous institutional structure to investigate complaints of sexual harassment, a member from outside the institution with good knowledge and contribution to gender issues has been included.
- To make it representative, there will be representation from all categories of ICIMOD staff on the Committee.

The SCSH is envisioned to be led by ICIMOD’s Gender Team Lead as ex-officio Chair<sup>3</sup>. The SCSH will include: (a) ICIMOD representatives from ICIMOD’s internal Gender Resource Team (GReaT), nominated ombudspersons, and representatives from GS/TS<sup>4</sup> category and gender team; (b) a non-ICIMOD representative, preferably a woman, with demonstrated knowledge, skill and capacity in dealing with workplace sexual harassment issues/complaints and, as far as possible, having a sound grasp of legal aspects/ implications of such cases. The non-ICIMOD member is expected to be independent, with no ties to the parties involved in the complaint.

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<sup>3</sup>The details of the term of the Gender team lead as ex-officio chair is detailed in the Procedure.

<sup>4</sup>GS/TS category consists of staff positions such as drivers; research/ programme/admin/KMC assistants; and, research/programme/admin/KMC associates.

## Prevention

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The emphasis of the Anti-Sexual Harassment Policy is on prevention rather than punitive action. To prevent such acts from happening, it is important that there is widespread awareness of the Policy among all categories of ICIMOD staff as well as partners. Sometimes the staff may face sexual harassment but may not be aware that it is a breach of their rights and that there is something they can do about it. It is important that they know that something can be done about it. Others may believe that it is a personal matter that needs to be resolved at an inter-personal level. This Policy makes it clear that ICIMOD views sexual harassment as an act of power, and although it may be experienced as an interpersonal transgression, it constitutes a public and collective violation that goes beyond interpersonal transgression and constitutes a violation of gender equality and of the right to a safe work environment.

ICIMOD will take all reasonable steps to prevent sexual harassment from occurring and will take immediate and appropriate action when information is received about sexual harassment.

The Directorate, HR and the Gender team in ICIMOD will be responsible for taking the appropriate steps for prevention of sexual harassment at ICIMOD. The steps to be taken for prevention of sexual harassment are detailed in the Procedure for Prevention and Redressal of Sexual Harassment at the Workplace.

## Monitoring and evaluation

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ICIMOD recognizes the importance of monitoring and evaluating of the Anti-Sexual Harassment Policy to ensure that it is administered fairly. To ensure this, the Standing Committee will submit a detailed report twice a year to the Director General (DG), Director Administration and Finance (DAF) and Head of HR.

The DG, DAF, Gender Lead and Head of HR will ensure that there is compliance with the Anti-Sexual Harassment Policy, including the number of

incidents reported how they were dealt with, and the recommendations made and implemented.

The DG will report to the Board of Governors during the Board meeting of all such cases, anonymous, that came to the attention of the SCSH. This report will form the basis for evaluating the effectiveness and relevance of this Anti-Sexual Harassment Policy and any necessary amendments if needed will be put forward for approval.

## Amendments to the anti-sexual harassment policy

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The SCSH and Head of HR will meet once a year to evaluate the Anti-Sexual Harassment Policy. On the basis of their experience in the operationalization of this Policy, the SCSH and Head of HR may make recommendations to the Management Committee that is appointed by DG about changes to be made to strengthen the Policy. This Management Committee, after adequate consultation with the Chair of the SCSH and Head of HR, may subsequently make recommendations for changes, as and when required, in keeping with the intent and objectives of the Anti-Sexual Harassment Policy. Any changes to the Policy need to be approved by the Board of Governors.

## Redressal mechanisms and procedures

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Based on this Anti-Sexual Harassment Policy, a detailed Procedure for implementing this Policy, titled **Procedure for Prevention and Redressal of Sexual Harassment at the Workplace**, is required to be prepared by ICIMOD.