

## Anti-Sexual Harassment Policy

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**Context:** The YP Foundation (TYPF) is committed to ensuring an enabling, dignified and equitable work environment for every employee, consultant, volunteer and intern. Any individual that is connected to TYPF for work has a right to a safe, harassment free and violence free workplace. TYPF has a **zero tolerance policy** on sexual harassment. The primary objective of this policy is the protection of consultants, employees, volunteers, peer educators and stakeholders from sexual harassment by colleagues or third parties<sup>1</sup>. In cases where harassment is reported, this policy is aimed at ensuring fast and fair investigation to provide justice and redressal to the complainant as well as appropriate disciplinary action against the perpetrator if harassment is proved.

### 1. Definition of Sexual Harassment as per TYPF Policy

Sexual harassment includes unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexually harassing nature, when: (1) submission to the harassment is made either explicitly or implicitly a term or condition of employment; (2) submission to or rejection of the harassment is used as the basis for employment decisions affecting the individual; or (3) the harassment has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment may span a wide range of actions and behaviours. **Whether or not a particular action or behaviour constitutes sexual harassment is determined by the effect on the recipient, independent of the intention of the perpetrator.** Sexual harassment can be subtle and indirect or blatant and overt. It can occur between people of the opposite sex or people of the same sex, between peers or between people at differing levels in the organisational hierarchy, and may involve a single incident or repeated incidents over a long period.

Sexual harassment is unacceptable to The YP Foundation because every employee/consultant has a right to respect, equality, and safety at the workplace. Sexual harassment in any form or manner is a violation of this human and fundamental right. Sexual harassment creates an intimidating, threatening or hostile work environment, and adversely impacts the morale, mental equilibrium and work performance of the person at whom it is directed.

Sexual harassment is discriminatory if the person being harassed has reason to believe that protesting against the harassment will have an adverse effect on career prospects or working conditions. All forms of sexual

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<sup>1</sup> For the purposes of the policy Third Party is defined as any individual who is not directly a staff member of The YP Foundation including but is not limited to vendors, partner organisations, consultants, external facilitators/professionals and individuals mentioned in the clause 3 of the policy.

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harassment are/is a criminal offence under the provisions of the proposed Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

### 2. Definition of Sexual harassment as per Law

The Indian Penal Code was amended in April 2013 to include a new section pertaining to the sexual harassment of women. The Criminal Law (Amendment) Act, 2013 has introduced Section 354A which enlists the acts which constitute the offence of sexual harassment and further prescribes penalty/punishment for the same. It includes within the scope of sexual harassment:

- a) Physical contact and advances involving unwelcome and explicit sexual overtures; or
- b) A demand or request for sexual favours; or
- c) Showing pornography against the will of a woman; or
- d) Making sexually coloured remarks
- e) Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature

Additionally, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 defines sexual harassment as any of the following unwelcome acts or behaviour:

- a) Physical contact and advances; or
- b) A demand or request for sexual favours; or
- c) Making sexually coloured remarks; or
- d) Showing pornography; or
- e) Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature

The following circumstances, amongst others, if it occurs or is present in relation to or connected with an act of sexual harassment may amount to sexual harassment:

- a) Implied or explicit promise/threat of preferential/detrimental treatment in or in the future of a person's employment.
- b) Interference in a person's work or creating an intimidating or offensive or hostile work environment for them.
- c) Humiliating treatment is likely to affect a person's health or safety.

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### 3. Who are covered under this?

The provisions of this policy are applicable to:

- 3.1 All employees/consultants of TYPF, regardless of the nature of their contract, duration of employment or position in the organisation.
- 3.2 Volunteers and interns, regardless of the duration of their association with the organisation.
- 3.3 Partners, stakeholders and providers of services including, but not limited to, participants in training programmes and workshops and participants in campaigns and public events.
- 3.4 Community members reached out as part of TYPF's programmes by TYPF Staff, TYPF partners, peer educators and volunteers on ground or online directly in the course of implementation of programmes or events undertaken by TYPF.

Action under this policy will be initiated in cases where any of the above is subjected to sexual harassment by a TYPF employee/consultant, inside or outside the office.

In cases where a TYPF employee/consultant is subjected to sexual harassment by a third party who is not a TYPF employee/consultant, this policy mandates immediate action to protect the complainant and to initiate action against the harasser, either through the appropriate policy of the concerned employer or, in cases where this is not possible, through the ICC (Internal Complaints Committee) of the organisation and in cases where there is no resolution at this stage, the complaint can be referred to the LCC (Local Complaints Committee) for required action.

In case the complaint is between third party members at a TYPF led process, the complaint will be registered by the ICC of the organisation and all proceedings will be applicable accordingly. This however is not applicable in cases of public events where there is no mandate to record the public as participants of the processes such as rallies, campaigns, open forums at a community level but is only applicable to those who are mandated to sign and adhere to the policy mandate.

As a mandate of the POSH Act, the policy also covers reporting to the LCC of Gautam Buddha Nagar district, Uttar Pradesh. The LCC will also be approached in case there is a complaint against a member of the Board or ICC or Trustee.

TYPF will abide by and pursue the course of justice prescribed on the issue of sexual harassment by any and all laws, present and future, and all relevant directions by the Hon'ble Supreme Court of India.

### 4. Committee against Sexual Harassment (Internal Complaints Committee)

Complaints of sexual harassment will be received, reviewed and investigated by an Internal Complaints Committee (ICC) with five members (at least three of them women) constituted as follows:

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- 4.1 Presiding Officer: Shall be a woman employed at a senior level and nominated by the staff and Executive Director (ED) of the organisation.
- 4.2 Internal Members: 3 Internal members out of whom at least 1 would be a male member and 1 member would be from the Project Coordinator level of the organisation.
- 4.3 External Member: A person who has demonstrated expertise in handling cases of sexual harassment and violence intervention mitigation work.
- 4.4 The Internal Complaints Committee will have a term of 2 years and will be re-constituted by dissolving the previous committee. No meeting of the ICC can be held without at least 3 out of 5 members present including the external member. The ICC will be empowered to receive complaints, attempt informal resolution through mediation, conduct formal enquiries and recommend appropriate actions for redressal and punishment. In cases where a complaint is received against a member of the ICC, the concerned individual will be required to step down, and will be replaced by another person from the same category. Members of the ICC can be re-elected for not more than two consecutive terms. The only exception to extension in any member's tenure would be in case of an ongoing investigation.

### Names of the Internal Complaints Committee members at TYPF:

Deepshikha Ghosh	Presiding Officer-TYPF	deepshikha@theypfoundation.org
Avali Khare	Internal Member-TYPF	avali@theypfoundation.org
Nidhi Arya	Internal Member-TYPF	nidhi@theypfoundation.org
Sagar Sachdeva	Internal Member-TYPF	sagar@theypfoundation.org
Adsa Fatima	External Member	adsa1110@gmail.com

See <https://theypfoundation.org/our-policies/> for the most up to date list.

## 5. Procedures

### 5.1 Filing of Complaints

- Any individual who holds a TYPF contract or has professional dealing with TYPF including volunteers and interns can approach any member of the Internal Complaints Committee with a verbal or written complaint of sexual harassment against a staff member or a third party.
- The aggrieved party must complain to the Internal Complaints Committee in writing or verbally within 3 months of the incident or 3 months from the last incident in case of a series of incidents. This can be further

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extended to another 3 months by the ICC, in case of exceptional circumstances. The complaint can also be made by the legal heir in case the aggrieved party is not in physical or mental condition to do so. Only in exceptional cases, the ICC will be able to accept a complaint later than 6 months after the incident for a legal investigation. However, in such cases, a mediation and internal remedial procedure will be completed and documented.

- c) A meeting of the Internal Complaints Committee will be convened within 3 days of receipt of a complaint, to discuss the substance of the complaint and draw up a time-bound schedule for the further process.
- d) In the event of all the members of the Internal Complaints Committee not being available for a meeting within the stipulated time limit, those present will be empowered to convene a meeting and take immediate decisions on the further process as per clause 4.4.

### 5.2 Mediation and Conciliation

- a) If judged appropriate, a process of conciliation will be initiated as per the protocols laid down in the POSH Act with both the parties involved with their due consent.
- b) In cases where the respondent accepts part or all of the substance of the complaint in the course of the informal process, the Internal Complaints Committee may recommend appropriate disciplinary action.
- c) In cases where the informal process has been successful in resolving the grievance, the Internal Complaints Committee will close the case and submit a report to the Executive Director of the organisation recommending measures to prevent the recurrence of the situation that generated the complaint.

### 5.3 Investigation

- a) In cases where an informal approach is deemed inappropriate, or is tried and fails to resolve the issue, a formal investigation will be instituted within 15 days from the date of receipt of the original complaint. The complainant and the respondent will be informed of the initiation of the formal inquiry process and asked to cooperate. If the initial complaint was made verbally, it will be taken in writing at this stage.
- b) The complainant will be asked to submit or record a written statement with details of the alleged incident(s) of harassment, with supporting evidence and names of persons who can provide corroboration.
- c) The respondent will be informed in writing with the copy of the complaint. Depending on the nature of the complaint and the particular circumstances of the case, the respondent will be requested to respond either in writing or orally to the Internal Complaints Committee, which will record the response.
- d) The respondent will also be asked to submit documentary or other evidence in refutation of the complaint.
- e) In the course of investigating the complaint, the Internal Complaints Committee will conduct interviews with and cross-question the complainant, the respondent and any other individuals who can provide

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information in support of, or in refutation of, the complaint. The ICC may also examine documents, including confidential files and records pertinent to the case.

- f) The proceedings of the investigation and the deliberations of the Internal Complaints Committee will be recorded both in writing and on tape.
- g) The complainant (or a person nominated by the complainant as an observer) will have the right to remain present during the depositions by the respondent and witnesses. Transcripts of the depositions may be made available in cases where the complainant chooses not to exercise the right to be present.
- h) The respondent and the complainant need to be present for all the proceedings that they are called for by the ICC and cannot miss more than 3 meetings consecutively without notice with due reasons to the ICC, failure to comply will lead to the ICC taking action deemed appropriate.
- i) Neither the complainant nor the respondent can present their case through a legal practitioner.
- j) The time limit for the completion of investigation is 90 days from the date of receipt of the original complaint and an investigation report must be shared with the Executive Director of the organisation within 10 days of completion of the investigation.

### 5.4 Confidentiality and Protection

- a) The Internal Complaints Committee will address complaints and carry out the investigation process in a manner that respects the confidentiality and privacy of complainants, respondents and others who provide information or evidence in cases of sexual harassment.
- b) In exceptional situations where the law requires so, the Internal Complaints Committee may decide to set aside the commitment to confidentiality, such as in cases where legal proceedings are initiated and the organisation is required to disclose information, or in cases where disclosure is deemed necessary to protect the interests of others. In such cases, the ICC must provide a written report with such rationale to the Executive Director of the organisation, before proceeding with the same.
- c) Under the terms of this policy, the organisation is committed to providing support and protection to complainants. Measures will also be taken to prevent further harassment or discriminatory treatment of complainants by supervisors or colleagues on account of having filed a complaint.

### 5.5 Interim Reliefs

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 empowers the Internal Complaints Committee to recommend interim measures such as the following to the employer, at the request of the aggrieved employee/consultant:

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- a) Transfer of the respondent to any other project within the organisation. Granting leave to the complainant up to a period of 3 months in addition to their statutory/ contractual leave entitlement; and
- b) Restrain the respondent from reporting on the work performance of the complainant or writing their confidential report. Such duties may be transferred to other employees/consultants.

### 5.6 Penalties

Any form of sexual harassment will not be tolerated at The YP Foundation. If an investigation of any allegation of sexual harassment shows that harassing behaviour has taken place, the harasser will be subject to disciplinary action, up to and including dismissal.

Action must be taken based on the ICC's investigation report within 60 days of the receipt of the same.

As per Section 26 of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, as employer, if we fail to either constitute an Internal Complaints Committee or take appropriate action with respect to a complaint or if we attempt to contravene this Act, the organisation shall be liable for a fine. Worse punishment will be levied if the offence is repeated, as defined by this section of the Act. The following punishment may be imposed upon a person proven guilty for any form of sexual harassment. The degree of penalty will be decided by the ICC and may include one or more of the following:

1. Being put on Probation upto a period 6 months depending on length of service
2. Censure/Reprimand in writing to be placed on record in the Personal File
3. Reduction in salary not exceeding 1/3 of the gross pay
4. Forfeiture of Annual Increment
5. Suspension from work for a period not exceeding 3 months
6. Dismissal

If the ICC arrives at a finding that the complaint was malicious, action deemed appropriate will be taken as per the POSH Act.

## 6. Duties and Responsibilities for Implementation

Every employee/consultant of TYPF, regardless of role or seniority, is responsible for creating and maintaining a respectful and harmonious work environment. All employees/consultants are therefore expected to react quickly and effectively to stop or report harassment, whether directed at themselves or at other colleagues.

The Executive Director and Senior Management of the organisation are responsible for ensuring this policy and its implications are understood by the staff employed by The YP Foundation. Programme Managers are responsible for ensuring that their volunteers understand the contents and implications of this policy, and for monitoring workplace practices and the work environment. Individuals in supervisory roles may be held

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personally liable in cases where they knew or can reasonably be expected to have known about an incident of sexual harassment but did not take reasonable steps to deal with it.

The Executive Director, Senior Management and Programme Managers are also responsible for internal capacity-building so as to equip all staff with the conceptual understanding and personal confidence necessary to recognise, resist and report sexual harassment. Additionally, the ICC members will go through at least 3 training sessions to orient themselves on the provisions of the POSH Act and the policy of the organisation. The ultimate responsibility and authority for implementing this policy lies with the Executive Director in their capacity as the authorised representative of TYPF.

TYPF/Consultants will ensure that all online events should have a slide with the following information:

We do not tolerate sexual harassment or any sexist, casteist slurs or demeaning language. Anyone who violates this norm will be removed from the conference.

In case of any concerns around safety or complaints, reach out to The YP Foundation’s Committee against Sexual Harassment (Internal Complaints Committee) at the contact details listed here:

<https://theypfoundation.org/our-policies/>

IN WITNESS WHEREOF, the parties hereto have read this policy and agree to its content:

I have read and understood the above policy and will adhere to the terms so stated here:

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Name:

Date:

Place: