

Working Mechanisms for SoCRAN on Sexual Harassment at Workplace

FOCUS- IFAD Nagaland has its project coverage in 8 districts of Nagaland namely Kohima, Wokha, Phek, Kiphire, Zunheboto, Mokokchung, Mon and Longleng. The direct employees under the project consists of the following:

1. Project Management Unit:
 - i. State Project Director
 - ii. Project Support Specialist
 - iii. Project Implementing Team: 10 Departmental attached officials
 - iv. Finance & Accounts Specialist
 - v. Procurement specialist
 - vi. Accounts assistant
 - vii. Audit officer
 - viii. Manager Monitoring & Evaluation
 - ix. Manager Knowledge Management
 - x. Manager Gender & Community Institutions
 - xi. Deputy Manager, MIS
 - xii. Computer Assistant- 2
 - xiii. Peon- 4
 - xiv. Driver- 4
2. District Management Unit:
 - i. District Project Manager
 - ii. District Assistant Manager Planning, M&E/ MIS
 - iii. District Finance Officer
 - iv. District Project Assistant
3. Village Level Unit:
 - i. Lead Farmer
 - ii. Community Animal Health Worker
 - iii. Community Resource Person

TERMS AND DEFINITIONS:

1. Employer: The Agriculture Department
2. Employee: As per the act it means a person employed at a workplace for any work on regular, temporary, ad hoc or daily wage basis. It includes persons engaged either directly or through an agent, including a contractor, with or, without the knowledge of the principal employer. It also includes person working on a voluntary basis where the terms of employment are not necessarily expressed or implied.
3. Internal Committee: A committee constituted within the workplace adhering with the norms of the Act to address and redress sexual harassment cases
4. District Nodal Officers: An officer appointed at district level to receive complaints from the district and village level employees and forward the case to the Internal Committee. The Nodal Officer for SoCRAN at district level shall be the District Project Manager

5. Aggrieved Woman: A woman filing the complaint, it includes all women whether engaged directly or through an agent including a contractor, with or without the knowledge of the principal employer. They may be working for remuneration, on a voluntary basis or otherwise. Their terms of employment can be express or implied.
6. Respondent: A person against whom the aggrieved woman has made a complaint

Rights of the Complainant¹:

1. An empathetic attitude from the Complaints Committee so that she can state her grievance in a fearless environment
2. A copy of the statement along with all the evidence and a list of witnesses submitted by the respondent
3. Keeping her identity confidential throughout the process
4. Support, in lodging FIR in case she chooses to lodge criminal proceedings
5. In case of fear of intimidation from the respondent, her statement can be recorded in absence of the respondent
6. Right to appeal, in case, not satisfied with the recommendations/findings of the Complaints Committee

Rights of the Respondent *ibid*:

1. A patient hearing to present his case in a non-biased manner
2. A copy of the statement along with all the evidence and a list of witnesses submitted by the complainant
3. Keeping his identity confidential throughout the process
4. Right to appeal in case not satisfied with the recommendations/findings of the Complaints Committee

Preventive Measures on Sexual Harassment to be adopted by SoCRAN

The Society shall ensure that employees are aware of the Sexual Harassment policy of the society through the following measures:

- i. The Manager for Gender will be responsible for sensitizing the policy at PMU
- ii. All the appointed District Nodal officers will be responsible for sensitizing the policy at DMU and subsequently they will organize/ conduct sensitization programs for the Field level workers (Lead Farmers, CAHWs, CRPs)

¹ Gov. of India Ministry of Women and Child Development; 2015; Handbook on Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act 2013

Working Modalities:

In pursuance of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 and the Rules framed there under, SoCRAN hereby adopts the following procedure for determining complaints filed to the Internal Committee (IC) constituted under the Act.

1. Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident.
 - i. Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Nodal Officer in charge of respective district shall render all reasonable assistance to the woman for making the complaint in writing
 - ii. Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.
 - iii. The written complaint should contain a description of each incident(s). It should include relevant dates, timings and locations; name of the respondent(s); and the working relationship between the parties.
2. Where the aggrieved woman is unable to make 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.
3. In instances of conciliation on the request of the aggrieved woman, the Internal committee will adopt the following steps provided that no monetary settlement be made:
 - i. The IC will record the statement of settlement
 - ii. Copies of the record of settlement to be given to both the aggrieved woman and the respondent
 - iii. No further inquiry to be made by the IC after the conciliation settlement
4. Any complaint received by the members should be immediately forwarded to the Presiding Officer, and this must be notified to other committee members at the earliest and not later than 3 days and a meeting should be called for discussing the matter.
5. Notice shall be issued to the respondent within 7 working days of receipt of the complaint and 10 working days shall be given for submission of reply (along with the list of witnesses and documents.)
6. The Committee will provide assistance to the aggrieved woman, if she so chooses, to file a police complaint in relation to an offence under Indian Penal Code.
7. The Committee has to ensure the safety and protection of the aggrieved woman if and when required.
8. During the interim/ pendency period the committee may recommend the employer to:

- i. Transfer the aggrieved woman or the respondent to any other workplace
 - ii. Grant leave to the aggrieved woman up to a period of three months
 - iii. Grant such other relief to the aggrieved woman may be prescribed.
9. The Presiding Officer shall convene the first hearing of the enquiry. The respondent, the aggrieved woman, and the witnesses shall be intimated at least 7 working days in advance in writing of the date, time and venue of the enquiry proceedings. The subsequent proceedings may be on a day to day basis, to be decided by IC.
10. The Committee may at any time during the enquiry proceedings, preclude the face-to face examination of the respondent and the aggrieved woman and/or their witnesses keeping in view the need to protect the aggrieved woman or the witnesses from facing any serious health and/or safety problems.
11. The Committee shall have the right to summon, as many times as required, the respondent, aggrieved woman and/or any witnesses for the purpose of supplementary testimony and/or clarifications.
12. The Committee shall have the power to summon any official papers or documents pertaining to the aggrieved woman as well as the respondent.
13. The past sexual history of the aggrieved woman shall not be probed into as such information shall be deemed irrelevant to a complaint of sexual harassment.
14. The Committee shall have the right to terminate the enquiry proceedings and to give an ex party decision on the complaint, should the respondent fail, without valid ground, to be present for three consecutive hearings convened by the Presiding Officer.
15. The aggrieved woman and the respondent, or any one person on her/his behalf, shall have the right to examine written transcripts of the recordings with the exclusion of witnesses' names and identities.
16. Any person nominated by the aggrieved woman and/or the respondent on her/his behalf shall be a co-worker. No person who has been found guilty of sexual harassment shall be accepted as a nominee. The aggrieved woman/respondent should inform the Presiding Officer specifically if they wish to exercise this right. The Presiding Officer shall allow access to such documents on a specific date to be intimated at least two days in advance to each of the parties concerned. At no point in time, however, can the concerned parties take these documents outside the office.
17. The aggrieved woman and the respondent shall be responsible for presenting their witnesses before the Committee. However, if the Committee is convinced that the absence of either of the parties to the disputes is on valid grounds, the Committee shall adjourn that particular meeting of the Committee for a period not exceeding five days. The meeting so adjourned shall be conducted thereafter, even if the person concerned fails to appear for the said adjourned meeting without prior intimation/valid ground.

18. All proceedings of the IC shall be recorded in writing. The record of the proceedings and the statement of witnesses shall be endorsed by the persons concerned as well as the committee members present in token of authenticity thereof. In case the minutes cannot be reduced in writing the same day, as audio recording of the proceedings may be made, and the written proceedings will be authenticated on a next available opportunity.
19. If the aggrieved woman desires to tender any documents by way of evidence, the Committee can supply true copies of such documents to the respondent. Similarly, if the respondent desires to tender any documents in evidence, the Committee shall supply true copies of such documents to the aggrieved woman.
20. In the event the Committee thinks that supplementary testimony is required, the Presiding Officer shall forward to the persons concerned a summary of the proceedings and allow for a time period of seven days to submit such testimony, in person or in writing, to the Committee.
21. The aggrieved woman and the respondent shall have the right of cross-examination of all witnesses. However such cross-examination shall be conducted in the form of written questions and responses via the Committee only. The respondent shall have no right to directly cross-examine the aggrieved woman or her witnesses.
22. The respondent/aggrieved woman may submit to the Committee, a written list of questions that he/she desires to pose to the aggrieved woman/witness. The Committee (ICC) shall retain the right to disallow any questions that it has reason to believe to be irrelevant, mischievous, slanderous, derogatory or gender-insensitive.
23. Amicus Curiae or in other words a person who is not part of the case and is by profession a legal expert can be called for helping the committee if and when required.
24. After concluding its investigation, the Committee shall submit a detailed reasoned report to the Employer.
25. If the Committee finds no merit in the allegations, it shall report to the Institute.
26. In the event the Committee finds that the allegation(s) against the respondent have been proved, it shall recommend the nature of action to be taken by the Institute. The following actions may be recommended:
 - i. A written apology
 - ii. Warning
 - iii. Reprimand or censure
 - iv. Withholding of promotion
 - v. Withholding of pay rise or increments
 - vi. Undergoing a counseling session

- vii. Carrying out of community service
 - viii. Terminating the respondent from service
 - ix. Any other punishment according to the service rules applicable to the respondent
27. When the Committee arrives at the conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the Institute to take action against such falsification.
28. If the allegation(s) is/are proved against the respondent, the Committee may direct the Employer to ensure the payment of compensation to the aggrieved woman by the respondent. The determination of compensation to the aggrieved woman shall be decided based on the following facts:
- i. The mental trauma, pain, suffering and emotional distress caused to the aggrieved woman.
 - ii. The loss of career opportunity due to the incident of sexual harassment.
 - iii. Medical expenses incurred by the victim for physical or psychiatric treatment
 - iv. The income and financial status of the respondent
 - v. Feasibility of such payment in lumpsum or in installments
29. The Employer or the head establishment will file a compliance report to the Committee within 30 days of issuance of such recommendation.
30. IC shall have the necessary powers to take actions on its own motion in notice of incidents of sexual harassment and/or gender injustice within the workplace.
31. The identity of the aggrieved woman, respondent, witnesses and proceedings of the Committee and its recommendations and the action taken by the Institute shall not be published, communicated or made known to the public, press or media in any manner and it will be outside the purview of the Right to Information Act, 2005.
32. No legal practitioner will be allowed to represent either the aggrieved woman or the respondent in proceedings before the Complaints Committee.
33. The Committee has the powers of a civil court in the following cases
- i. Summoning and enforcing the attendance of any person related to the incident.
 - ii. Requiring the discovery and production of any documents
 - iii. Any other matter relating to the incident as decided by the Committee from time to time.