POLICY AGAINST SEXUAL HARASSMENT

1. Objective:

To set out what conduct constitutes sexual harassment, the organization’s approach creates and maintains safe work environment which is conducive for all Personnel, free from sexual harassment and discrimination and in the unlikely chance of such an occurrence, to enable a fair mechanism for dealing with such conduct as per the guidelines of “The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013.”

2. Scope:

Centre for Wildlife Studies aims to adopt zero tolerance attitude against any kind of sexual harassment or discrimination caused by any employee (which includes any employee of Centre for Wildlife Studies, consultants, donors, NGO partners, interns, volunteers during volunteering work and vendors) during their tenure in Centre for Wildlife Studies towards any other employee of Centre for Wildlife Studies in organization premises or elsewhere in India or abroad.

a. Action under this policy will be initiated in cases where any of the above employee (employee of Centre for Wildlife Studies, consultants, donors, NGO partners, interns, volunteers during volunteering work and vendors) are subjected to sexual harassment by Centre for Wildlife Studies employee, inside or outside the organization premises, on or off CWS field locations/areas of work, occurred during or beyond working hours.

b. In cases where a Centre for Wildlife Studies employee is subjected to sexual harassment by a third party who is not a Centre for Wildlife Studies Personnel, 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 criminal justice system.

c. This policy is only applicable when both or either of the alleged aggrieved and the offender are employees of the Centre for Wildlife Studies. It is not applicable when both the alleged aggrieved and the offender are third parties.

3. Effective from: This policy comes into effect from 19th May, 2021.

4. Sexual Harassment: The Law

a. The Act has laid down process and procedures for resolution and prevention of sexual harassment enjoining employers by holding them responsible for providing a safe work environment for the employee. The application of the Act is to both organized and
unorganized work sectors and to those working part time, on contract or in voluntary/honorary capacity. This policy is in sync with the guidelines and procedures laid down by the Act and is majorly with the purpose of expressly prohibiting sexual harassment at Centre for Wildlife Studies.

b. Sexual harassment is an act of power, and a public violation of an individual’s dignity that is often trivialized by labelling it an interpersonal transgression. The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013 (hereinafter referred to as The Act) in line with the Vishaka Judgement by the Hon’ble Supreme Court of India, has laid out that it is the duty of the employer or other responsible persons at work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedure for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required. Centre for Wildlife Studies endeavours to put in place adequate measures to ensure safety, security, dignity, rights and equality of employees.

5. Definition

a. Sexual Harassment – Harassment of an employee consisting of any unwelcome sexually determined behavior, whether directly, indirectly, by any male/female in charge of the management or a male/female co-employee either individually or in association with other persons to exploit the sexuality of co-employee to harass him/her in manner which prevents or impairs his/her full utilization of full benefits, facilities or opportunities or any other behavior which is generally considered to be derogatory.

b. Workplace - In relation to an employee, means any place where an aggrieved individual or defendant is employed or works, or visits in connection with work during the course of or arising out of employment. This also includes time spent on travel during visits to and from the workplace.

c. Complainant

i. Any employee, who alleges to have been subjected to any sexual harassment;

ii. Where the aggrieved employee is unable to make a complaint on account of his/her physical incapacity or on account of mental incapacity, a complaint may be filed by – relative or friend; or co-worker; or an officer of the National Commission for Women or State Women’s Commission; or any person who has knowledge of the incident, with the written consent of the aggrieved employee; a special educator; a qualified psychiatrist or psychologist; or the guardian or authority under whose care he/she is receiving treatment or care; or any person who has knowledge of the incident jointly with his/her relative or
friend or a special educator or qualified psychiatrist or psychologist or guardian or authority under whose care he/she is receiving treatment or care.

d. Defendant - A person against whom a complaint is filed by a complainant.

6. Policy Guidelines

Sexual Harassment shall include anyone or more of the following unwelcome acts or behaviour (whether directly or by implication) but not limited to:

a. Physical contact and sexual advances;

b. Demand or request for sexual favours;

c. Sexually - coloured remarks;

d. Showing pornography;

Any other unwelcome physical, verbal or non-verbal or written conduct of a sexual nature.

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

Where submission to or rejection of sexual advances, requests or conduct is made either explicitly or implicitly

a. as a term or condition of employment

b. as a basis for employment decisions

c. for the purpose or effect of interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

d. in exchange for actual or promised job benefits such as favourable reviews, salary increases, promotions, increased benefits or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, when that is unwelcome and where any staff has a reasonable apprehension that the conduct has the effect of creating a workplace environment that is hostile, offensive, intimidating, or humiliating to staff may also constitute sexual harassment. While it is not possible to list all those additional circumstances that may constitute sexual harassment, 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.

Examples of behaviour include:

a. Unwelcome sexual advances - whether they involve physical touching or not;

b. 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; banter, insults, taunts or gibes which are disparaging about a particular gender or make reference to sexuality or intimate parts of the body;

c. Displaying pornographic or sexually suggestive objects, pictures, cartoons;

d. Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;

e. Inquiries into one's sexual experiences;

f. Sexually oriented comments and use of abusive language in the presence of others or any other foul language which shows disrespect towards others;

g. Discussion of one's sexual activities;

h. Persistent or unwanted attention or physical contact or similar;

i. The exercise of undue influence to obtain consent to a sexual relationship;

j. The general use of sexually explicit or provocative language;

k. Obscene behaviour in front of colleagues; seeing or compelling them to see photographs which make them feel harassed;

l. Any behaviour 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;

m. The above is not exhaustive and can only be used as a guide for examples of sexual harassment.

All staff should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will be treated as gross indiscipline.
7. Internal Committee (IC):

Constitution of the Committee - The Committee shall consist of 5 members in total:

a. Presiding Officer - Shall be a woman employed at a senior level at the Trust.

b. Internal Members - 3 internal members out of whom at least one would be a male member.

c. External Member - 1 external member who is a person committed to the cause of sexual harassment.

i. No meeting of the IC can be held without at least 3/5 members present including the external member.

ii. No member shall be part of IC for more than a period of 3 years. The only exception of extension in any member’s tenure would be in case of an ongoing investigation.

d. Management - For the implementation of this policy, the IC would report all matters to the Managing Trustee. The Managing Trustee shall act as Management for the purpose of this policy and the Act. In case an allegation against a Managing Trustee is being investigated by the IC, the Management would mean the Board of Trustees of CWS.

8. Procedure for IC:

a. Complaint - IC will take action on the basis of any complaint received from a complainant in accordance with this policy and does not have the power to take up cases on its own.

i. The aggrieved party must complain to the Chair of the IC in writing within 03 (three) months of the incident or 03 (three) months from the last incident in case of series of incidents. This can be further extended to another 03 (three) months in case of exceptional circumstances by the IC but in no case more than 06 (six) months.

ii. The Chair of the IC will inform the Managing Trustee within 01 (one) working day.

iii. If the complaint has been lodged with the employee’s superior, the superior should forward the complaint directly to the Chair of IC for further action.

iv. The employee is required to disclose his/her details to enable the Chair to contact them and take the matter forward. If the complainant approaches or writes anonymously, then it should be accompanied by evidence for the Chair to be able to initiate the process.
b. Internal Enquiry: The Chair of the IC will proceed to determine whether the allegations made in the complaint fall under the purview of Sexual Harassment, preferably within 07 (seven) working days from receipt of the complaint.

i. In the event, the allegation does not fall under the purview of Sexual Harassment or the allegation does not constitute an offence of Sexual Harassment, the Chair will record this finding with reasons and communicate the same to the complainant.

ii. If the Chair of the IC determines that the allegations constitute an act of sexual harassment, she/he will proceed to investigate the allegation with the assistance of the Complaints Committee.

iii. Within 15 (fifteen) days from receipt of the original complaint, the IC shall record and accordingly communicate in writing to the complainant and the Respondent, its prima facie findings, upon giving the concerned parties a fair and due opportunity to represent themselves and upon conducting fact finding, truth verification and counselling sessions with persons involved in alleged act(s).

iv. The IC shall have the right to terminate the inquiry proceedings or to give ex-parte decision on the complaint if the complainant or respondent fails within sufficient cause to present herself or himself for three consecutive hearings convened by the Chairperson.

c. Conciliation - IC at the request of the aggrieved party may take steps to settle the matter between the complainant and the respondent through conciliation. Such conciliation can’t result in monetary settlement.

d. Settlement - IC shall complete the investigations, take appropriate actions and finish the inquiry within a period of 90 (ninety) days from the date of receipt of the complaint. The IC shall record the settlement and submit the same to the Management and also a copy each to the complainant and the offender. If settlement is submitted once, no further investigation will be made by the IC.

e. Both Parties Heard - The IC shall give both parties an opportunity of a hearing before arriving at a conclusion. In such hearings, the complainant shall be required to present first, followed by the defendant. The complainant and defendant shall be permitted to submit such documents and such material as is necessary to prove the correctness of their statement.

f. Powers of IC - The IC has the powers under law as equivalent to that of a Civil Court in the following matters:
i. Summoning and enforcing the attendance of any person and examining him/her on oath; and  

ii. Requiring the discovery and production of documents.  

g. Recommendations - At the end of such inquiry, the IC needs to submit a recommendation to the Management and the Management is bound to implement such recommendations within 60 (sixty) days.  

h. The Management is also required to submit a report of such implementation to the IC. Copy of such recommendations shall be submitted within 10 (ten) days of finishing the inquiry. A copy of the same shall also be submitted to the two parties involved.  

i. During the pendency of the inquiry on a written request by the aggrieved, the IC may recommend transfer of the aggrieved or the respondent to any other workplace; or grant leave to the aggrieved up to a period of 03 (three) months which shall be in addition to the leave otherwise entitled.  

j. Punishment - Since the sexual harassment is considered a misconduct, punishment for misconduct may apply.  

**Malicious Complaint** - If the IC comes to a conclusion that the allegations made against the respondent are malicious or have been made even after the knowledge of it being false or has produced forged or misleading documents, it shall report the same to the Management and the Management is bound to take action against the person involved in such malice. Every complaint that is not successful is not malicious.  

Any retaliation against an individual who has complained about sexual harassment (complainant) or retaliation against individuals for cooperating with an investigation of a harassment complaint is similarly unlawful and will not be tolerated.  

Misuse of policy or Malicious complaints will be dealt with as a disciplinary matter.  

**9. Prohibition against Retaliation:**  

No employee will be retaliated against in any way for complaining of harassment. The rights of all parties must be protected, and depending upon the case, the accused may have rights to information regarding the case. Employees are duty bound to assist in investigative steps, employees' wholehearted participation shall be mandatory in this regard. Whistle-blowers shall be protected from exposure, retaliation or hostility.
10. **Determination of Compensation:**

The determination of compensation shall be made on following grounds:

a. The mental trauma, pain, suffering and emotional distress caused to the aggrieved person.

b. The loss in career opportunity.

c. Medical expenses incurred due to physical or psychiatric treatment.

d. Feasibility of such payment in lump sum or instalments.

11. **Non-Disclosure or Publication:**

Any complaint, the identity of the aggrieved individual, respondents and witnesses, any information relating to conciliation, compensation, settlement, inquiry proceedings, recommendations and actions taken shall not be disclosed or published to the public, press and media in any manner.

12. **Provision of Appeal:**

In case any party is not satisfied with the recommendations, they have the freedom to appeal in the court of law within 90 (ninety) days of such recommendations.

13. **Disciplinary Action:**

The disciplinary action that shall be commensurate with the nature of the gravity of the offence, shall include but not limited to,

a. Warning Letter

b. Written apology from offender

c. Bond of good behavior

d. Transfer

e. Debarring from supervisory duties

f. Reduction in salary

g. Forfeiture of employee benefits like increments, promotion, salary correction, etc.

h. Cancellation of specific work assignment

i. Suspension
j. Dismissal

Provided further that before any action is taken under this clause, the defendant shall be given an opportunity to show cause as to why the proposed action should not be taken against him / her.

Explanation: - For the purpose of this subsection, "damage" shall include the injury to the feelings of the aggrieved individual or the humiliation suffered by him/ her.

Annual report summarizing complaints and redressal of sexual harassment shall be prepared by designated person. The said report as well as all documents regarding Sexual Harassment complaints shall be in the custody of designated person and will be termed as ‘Strictly Confidential’.

The position of the offender and the criticality of the position occupied by the offender shall not be any hindrance to the disciplinary action taken against the offender.

14. Others:

a. Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the Committee and Centre for Wildlife Studies Management will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

b. Partners will be advised and requested to consider adopting suitable measures to ensure that the guidelines laid down by this order are also observed by their organizations.

15. Criminal Proceedings

In the event of conduct complained-of amounts to a specific offence under the Indian Penal Code or under any other law in existence, the IC, shall recommend to the management to take appropriate action in making a complaint with the appropriate authority.

16. Internal and External Committee Members

The Trust has instituted an Internal Committee for redressal of sexual harassment complaint and for ensuring time bound treatment of such complaints.
Contact details for the Internal Committee: posh@cwsindia.org

The committee has one external member whose details are as follows:

a. Name: Alok Prasanna
Designation: Senior Resident Fellow at Vidhi Centre for Legal Policy
Contact details: +91 95600 65577
Email: alok.prasanna@vidhilegalpolicy.in

Till further notice, the Internal committee will comprise the following members:

a. Sumit Arora
Designation: Associate Director
Contact details: +91 98183 59033
Email: sumit.arora@cwsindia.org

b. Dr. Divya Vasudev
Designation: Affiliate Senior Scientist
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c. Dr. Bindu Raghavan
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d. Ishika Ramakrishnan
Designation: Research Fellow
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17. Conclusion

a. 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 the law.

b. 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.

c. The policy will be reviewed from time to time and revised to keep it up to date with changes in Indian legal laws, employment policies or lessons learnt. The process of review will also consult staff and seek advice externally.

d. The Committee will minute all its meetings and proceedings and submit reports to the Managing Trustee.

e. These Reports will be placed before the Board for information at the Board Meeting. In conclusion, Centre for Wildlife Studies reiterates its commitment to providing its employees a workplace free from harassment/discrimination and where every employee is treated with dignity and respect.

KRITHI K. KARANTH  Ph.D
Executive Director