

Bangladesh Legal Aid and Services Trust (BLAST)
Sexual Harassment Elimination and Prevention Policy

Introduction:

Recently, according to the Guidelines contained in the judgment dated 14.05.2009 of the High Court Division of the Supreme Court of Bangladesh, 2009 in Writ Petition No. 5916/2008, it was directed as follows:

“In view of the inadequacy of safeguards against sexual abuse and harassment of women at work places and educational institutions whereby noble pledges of our Constitution made in so many articles to build up a society free from gender discrimination and characterized by gender equality are being undermined everyday in every sphere of life, we are inclined to issue certain directives in the form of guidelines as detailed below to be followed and observed at all work places and educational institutions till adequate and effective legislation is made in this field.¹”

BLAST adopted a Gender Policy on 06.2.2007 in order to achieve equality between men and women, and in the light of BLAST’s Service Rules, Policies and Guidelines. In view of the Guidelines of the Hon’ble High Court Division and in the current context, the Gender Policy has been reviewed, and the organization’s “Sexual Violence and Harassment Prevention and Protection Policy” shall hereby be treated as a part of the said Gender Policy and be effective immediately.

To make this Policy effective, a “Zero” tolerance approach will be adopted.

1) Scope:

This Policy is applicable to all staffs and Panel Lawyers appointed to BLAST’s head office, its unit offices located in districts/ clinics/ and partner organisations.

2) Aims and Objectives:

BLAST is committed to ensuring a pleasant, safe, harassment free and friendly working environment for all staffs and officers, and the aims and objectives of this are as follows:

- (a) To create awareness about sexual harassments;
- (b) To create awareness about the consequences of sexual offences;
- (c) To create awareness that sexual harassment is punishable offence.

3) Duties of the Employer and Authority

As it is the duty of every citizen and government official to uphold the state’s Constitution and laws and, as several sections in the Constitution of the People’s Republic provide for guarantees of gender equality, and as the state is firmly committed to removing all forms of gender discrimination and, as the Constitution states that women have the same rights as men in the state and public life, and all citizens are equal before the law, and have an equal right to protection under law, hence, the employers or other concerned authority have a duty to adopt effective measures to prevent and deter offences of sexual violence and harassment in the

¹ Policy – Sexual Violence and Harassment Elimination and Prevention, 2010

workplace, and also have a duty to seek protection of relevant laws for trial of offences of sexual harassment and to take institutional steps.

4) Definitions:

i) Sexual Harassment includes

a. Unwelcome sexually determined behaviour (whether directly or by implication) as physical contact and advances;

b. Attempts or efforts to establish physical relation having sexual implication by abuse of administrative, authoritative or professional powers;

c. Sexually coloured verbal representation;

d. Demand or request for sexual favours;

e. Showing pornography;

f. Sexually coloured remark or gesture;

g. Indecent gesture, teasing through abusive language, stalking, joking having sexual implication.

h. Insult through letters, telephone calls, cell phone calls, SMS, pottering, notice, cartoon, writing on bench, chair, table, notice boards, walls of office, factory, classroom, washroom having sexual implication.

i. Taking still or video photographs for the purpose of blackmailing and character assassination; j. Preventing participation in sports, cultural, organizational and academic activities on the ground of sex and/or for the purpose of sexual harassment;

k. Making love proposal and exerting pressure or posing threats in case of refusal to love proposal;

l. Attempt to establish sexual relation by intimidation, deception or false assurance.

Such conduct mentioned in clauses (a) to (l) can be humiliating and may constitute a health and safety problem at workplaces or educational institutions; it is discriminatory when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her education or employment in various ways or when it creates a hostile environment at workplaces or educational institutions.

(ii) Concerned Authority means:

The authority of the Bangladesh Legal Aid and Services Trust which has powers to enforce disciplinary rules against misconduct.

(iii) Disciplinary Rules means:

Any Acts, Ordinances and any Rules adopted under any ordinance, as enacted/promulgated by the Government and any compatible Guidelines or Directions imposed by BLAST to ensure discipline within the organization.

(iv) In this Policy “woman” means:

A woman of any age as defined in the Nari o Shishu Nirjaton Domon Ain, 2000.

5) To create awareness and public opinion:

- a) To create a safe environment and to eliminate and prevent gender discrimination and sexual harassment and violence in every work place of the organization, the employer/concerned authority shall give the utmost importance to awareness raising publications and communication. To this end, monthly and six monthly orientations shall be arranged for all newly appointed employees.
- b) If required, necessary counseling shall be arranged for any concerned person
- c) The relevant sections of the Constitution and statutory laws which provide for women's rights shall published in simple language notifications to build the awareness of all;
- d) To increase awareness among law enforcing agencies, the employer of the organization shall hold regular communications and effective dialogue with the administrative authority;
- e) Booklets shall be published setting out the provisions of the Constitution and statutory laws on gender equality and on sexual offences, and all these guidelines;
- f) Awareness shall be created about the fundamental rights guaranteed by the Constitution.

6) Steps for Prevention:

Although the High Court Guidelines mention gender discrimination they do not give any directions regarding this. The organisation's Gender Policy sets out various steps to remove gender discrimination.

The organisation's employers, engaged employees and authority shall take effective measures to prevent sexual harassment. The following steps shall be taken to fulfill such duties:

- a) Taking extensive and effective measures to notify, publish and communicate the prohibitions on sexual violence and harassment contained in Clause 4 of this Policy.
- b) To extensively communicate the provisions on gender discrimination and sexual harassment contained in the constitution and statutory laws, and all offences regarding sexual violence and harassment;
- c) It must be ensured that the work environment is not hostile for women and the belief and confidence must be created among women employees of the organization that they are not in an unwelcome environment compared to their male co-workers.

7) Disciplinary Action:

According to clause 4 of this Policy, disciplinary action shall be taken to prevent sexual violence and harassment.

8) Complaints:

If the disciplinary rules of the organization do not contain the above mentioned behaviors, then effective steps must be taken to receive complaints for resistance of sexual violence and harassment and for providing remedies. For this purpose, the following shall be included in the procedure for receiving complaints;

- a) Until the offence is proved, the identity of the complainant and the accused person shall not be disclosed;
- b) The complainant's safety must be ensured by the concerned authority;
- c) The victim of the offence can file the complaint herself or through a relative, friend, lawyer and through the mail;
- d) The complainant may separately complain to a woman member of the Complaints Committee;
- e) The complaint must be filed to the Complaints Committee formed under clause 9.

9) Complaints Committee:

- a) The concerned authority of the organization shall constitute a Complaints Committee to receive complaints, conduct investigations and make recommendations;
- b) The Complaints Committee shall comprise of a minimum of 5 members of whom the majority shall be women. If possible, the head of the Committee shall be a woman;
- c) A minimum of two members of the Complaints Committee shall be from outside the organization, and from any organisation which works on gender and sexual violence;
- d) The Complaints Committee shall present an annual report to the Government regarding the implementation of this Policy.

10) Working Procedures of the Complaints Committee:

Generally, any complaint must be submitted to the Complaints Committee within 30 working days from the incident. To verify the truth of the complaint, the Committee shall:

- a) In cases of minor harassment, the Complaints Committee shall with the consent of both parties resolve the complaint and shall send a report to the concerned authority of the organisation regarding this matter;
- b) In every other case, the Complaints Committee shall investigate the matter;
- c) The Complaints Committee shall have powers to give notice to both parties and to witnesses by registered post, to conduct hearings, to collect information and evidence and to examine all relevant documents. In case of such complaints, in addition to oral testimony, other circumstantial testimony shall also be given importance. The concerned authority of the organization shall be bound to provide all kinds of support to the Complaints committee at its request for its effective functioning. The Complaints Committee shall ensure the anonymity of the identities of the complainant(s). When taking the oral evidence of the complainant(s), demeaning, insulting and harassing questions shall be refrained from. The testimony shall be recorded with a video camera. If the complainant withdraws the complaint or requests an end to the investigation, then the Committee shall investigate the reason for this and mention it in the report. The Complaints Committee shall submit their investigation report along their recommendations to the concerned authority of the organization within 30 days. If necessary the time limit of 30 working days may be increased to 60 working days.

If it is proven that the a false complaint has been intentionally filed, then the Complaints Committee shall recommend to the concerned authority of the organization that appropriate action be taken against the complainant(s). The

Complaints Committee shall make its decisions in accordance with the opinion of the majority of its members.

11) Punishment

The concerned authority may temporarily dismiss the accused person (except for interns and panel lawyers). In the case of interns and panel lawyers, according to the recommendation of the Complaints Committee, the concerned authority may suspend or cancel the internship, and may remove the lawyer from the panel. If the accusation of sexual harassment is proved against the accused person, then the concerned authority shall treat the matter as misconduct, and according to the disciplinary rules of the organization shall take suitable action within 30 days, and/or if the said complaint is considered an offence under the Penal Code or any other prevailing law, then it shall send the matter to the appropriate Court or Tribunal.

This Policy shall be complied with and monitored at all levels within BLAST, until any appropriate law is enacted.

Approved at the meeting of the Board of Trustees: 25 May 2010