



JANAKALYAN

Sexual Harassment Policy 2011

An instrument (based on Supreme Court Order dated 13-8-1997) of Janakalyan to safeguard female employees within the organization and to provide a safe working environment

Governing Board of Janakalyan

11/11/11

JANAKALYAN

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JANAKALYAN

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1. **Preamble:** Janakalyan exists to serve 4 holy mothers and woman being its first mother, it strives hard to safeguard her whether within the organisation or in the society. Therefore, protecting the rights, promoting safe and secure workplace environment for all these mothers/employees, is at the core of its mission.

The Supreme Court has directed organizations to lay down guidelines and a forum for redressal of grievances related to sexual harassment and thus Janakalyan formulates this policy to creating a healthy working environment that enables employees to work without fear of prejudice, gender bias and sexual harassment.

2. **JANAKALYAN is committed to Gender Equality:** Janakalyan has a Gender Policy in place through which it is committed to Gender equality. It lays emphasis on internalizing the spiritual values such as compassion, sharing, equality, justice, integrity and solidarity required for promoting a just social, economic, political and cultural order, which ensures the dignity of the human beings.

Janakalyan believes that gender inequality is about unequal power relations between persons (men and women). It emphasizes on removing this inequality and attempts to eradicate gender discriminatory attitudes and structures within Janakalyan and in the society. While valuing the nature-endowed differences between men and women, it places emphasis on the commonalities between them, nurturing the endowed quality of partnership, mutual understanding and respect for each other as members of the human race. Janakalyan believes that both men and women as human persons have a right to bodily integrity, sexual autonomy and has complete control over their bodies and decisions. Janakalyan's Policy against Sexual Harassment at workplace is based on this understanding.

3. **Sexual Harassment at Workplace:** Janakalyan recognizes that sexual harassment is a serious criminal offence, creates an atmosphere of disharmony in the workplace and contributes towards destruction of dignity of persons. Janakalyan believes that the workplace should be sexual harassment free and to that end has created structures for providing redressal within the organization.

4. **The Objective of Sexual Harassment Policy:**

- To fulfill the directive of the Supreme Court enjoining all employers to develop and implement a policy against sexual harassment at the work place.
- To evolve a permanent mechanism for the prevention and redressal of sexual harassment cases and other acts of gender based violence.
- To ensure the implementation of the policy in letter and spirit through proper reporting of the complaints and their follow-up procedures.



JANAKALYAN

- To uphold the commitment of the Janakalyan to provide an environment free of gender-based discrimination.
- To create a secure physical and social environment which will deter acts of sexual harassment
- To promote a social and psychological environment which will raise awareness about sexual harassment in its various forms

5. Definition of Sexual Harassment: Janakalyan defines sexual harassment to include any behavior by any person either individually or in association with other persons or by any person in authority whether directly or by implication leading to-

- i. Eve-teasing.¹
- ii. Unsavory remarks.
- iii. Jokes causing or likely to cause awkwardness or embarrassment.
- iv. Innuendos and taunts.
- v. Gender based insults or sexist remarks.
- vi. Unwelcome sexual overtones in any manner including but not limited to e-mails, text messages, telephone calls and the like.
- vii. Touching or brushing or attempting to touch or brush, against any part of the body and the like.
- viii. Displaying pornographic or other offensive derogatory pictures, cartoons, pamphlets or sayings.
- ix. Forcible physical touch or molestation.
- x. Physical confinement against one's will and any other act likely to violate one's privacy and includes any act or conduct by a person in authority and belonging to one sex which denies or would deny equal opportunity in pursuit of career development or otherwise making the environment at the work place hostile or intimidating to a person belonging to the other sex, only on the ground of sex.

In addition to the above, where any comment, act or conduct is committed against any person and such person has a reasonable apprehension that,

- a. It can be humiliating and may constitute a health and safety problem, or
- b. It is discriminatory, as for instance, when the person has reasonable grounds to believe that his/her objection would disadvantage his/her in connection with future employment or study, including recruitment or promotion or advancement or when it creates a hostile environment, or

¹ *Eve-teasing will include any person willfully and indecently exposing his/her person in such a manner as to be seen by other employees or use indecent language or behave indecently or in a disorderly manner in the work place. It will also include any word, gesture or act intending that such work or sound shall be heard or that such gesture or object shall be seen by such person (man/woman) or intrudes upon the privacy of an employee (man/woman).*



JANAKALYAN

- c. It would result in adverse consequences if s/he does not consent to the conduct or raises any objection, it shall be deemed to be sexual harassment.

Sexual harassment shall also include any act by any person in charge of the management or any person employed by it to exploit the sexuality or sexual identity of a subordinate employee to harass her/him in a manner which prevents or impairs the employee's full utilization of employment benefits or opportunities. It also includes behavior that covertly or overtly uses the power inherent in the status of the employer or the head of the institution or management to affect negatively an employee's work experience or career opportunities and/or to threaten, coerce or intimidate an employee to accept sexual advances or making employment decision affecting the individual or create an intimidating, hostile or offensive working environment.

- 6. Responsibilities of Employer:** It shall be the duty of the management to prevent or deter the commission of acts of sexual harassment and to provide the procedure for the resolution, settlement or prosecution for acts of sexual harassment by taking all steps required.

The management will ensure that in addition to conducting regular sessions/ interactions to create awareness on sexual harassment at workplace,

- a. Prohibition of sexual harassment as defined above at the work place shall be notified and widely circulated in all the offices and in the offices of the partners;
 - b. If any one is found guilty of the above act, speedy action is taken to implement the recommendations;
 - c. Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the management shall initiate appropriate action in accordance with the law by making a complaint with the appropriate authority or assist the complainant in making such a complaint by herself/ himself.
- 7. Redressal Mechanisms:** Janakalyan has set up redressal mechanisms to address sexual harassment at workplace by setting up Complaints Committee to deal with sexual harassment issue.
 - a. Based on the "*the protection of women against sexual harassment at work place bill, 2010*" passed by Union Cabinet on 4th November 2010 and Supreme Court directive 1997, Janakalyan will have a Complaint Committee with five members (one management representative, three members (2F:1M, one among them is women convener), and one external expert on law and gender. The external experts should preferably be woman. The Committee will be elected after every two years. The Governing Board of Janakalyan shall constitute Complaint Committee and same shall be circulated to all the branches of Janakalyan.



JANAKALYAN

- b. A quorum of 3 members is required to be present for the proceedings to take place. The quorum shall include the Chairperson, at least two members, one of whom shall be a lady.

8. Procedure for accessing the Complaints Committee:

8.1 Complaint

- a. An *aggrieved person* may approach any one, more or all the members of the Complaints Committee and submit a written or an oral complaint (directly or indirectly) within one month of the incident. Complaint after one month without sufficient reasons will not be entertained.
- b. Complaints received orally will be reduced to writing by the concerned Member of the Complaints Committee and the signature of the Complainant would be taken.
- a. The Committee will maintain a register to endorse the complaint received by it and keep the contents confidential, if it is so desired, except to use the same for discreet investigation.
- b. A copy of the complaint would be given to the Complainant with a proper receipt from the Committee.
- c. The proceedings of the complaint would be deemed to have commenced upon the receipt of the Complaint from the Complainant.

8.2 Preliminary Hearing:

- a. Upon receipt of the Complaint, the Committee shall meet and examine the complaint to determine whether the allegations in the Complaint constitute sexual harassment.
- b. The Committee can requisition the presence of the Complainant in its determination of the same and also hear her/him orally after explaining to her/him the nature of this hearing.
- c. At the first meeting, the Committee members shall hear the Complainant and record her/his allegations. The Complainant can also submit any corroborative material with a documentary proof, oral or written material, etc., to substantiate his / her complaint. If the Complainant does not wish to depose personally due to embarrassment of narration of event, a lady officer for lady employees involved and a male officer for male employees, involved shall meet and record the statement.
- d. If the Committee comes to a conclusion that the complaint does not disclose any instance of sexual harassment, the Committee shall record its reasons in writing and close the complaint and hand over a copy of its reasons to the Complainant.
- e. The Committee must give an oral hearing to the Complainant before coming to the conclusion that the complaint does not disclose any instance of sexual harassment.
- f. It would be open to the Committee to direct the Complainant to submit a fresh complaint if during the preliminary hearing, the complainant discloses instances of sexual harassment.



JANAKALYAN

- g. In cases where the Committee comes to the conclusion that the complaint does contain ingredients of sexual harassment, the Committee shall formally summon the alleged perpetrator and fix a hearing.
- h. The Committee shall ensure that the preliminary hearing commences within 15 days of the receipt of the Complaint and is concluded within 45 days from the date of receipt of the same.

8.3 Hearings before the Complaints Committee:

8.3.1 Notice to the alleged perpetrator:

- a. The complaints Committee shall give opportunity for the alleged perpetrator to respond in writing to the allegations made against him/her.
- b. It shall be made known to the alleged perpetrator that the contents of the complaint and the subsequent statement recorded by the Committee would constitute charges against him/her and the response may be addressed on the same.

8.3.2 Representation:

- a. Both the complainant and the alleged perpetrator can seek the assistance of another colleague to represent them before the Complaints Committee.
- b. In certain cases where the Complainant/alleged perpetrator is unable to get any colleague to represent him/her, the Committee may help them identify persons to represent him/her;
- c. At all times, the Committee shall ensure that both the sides are given reasonable and equal opportunity to be heard.

8.3.3 Recording of statements of witness:

- a. Following receipt of the response of the alleged perpetrator, the Complainant and the alleged perpetrator shall be given time to submit to the Committee a list of their witnesses who shall depose before the Committee.

The Committee shall be at liberty to identify persons to depose before the Committee as the Committee deems fit who shall be in addition to and independent of the witnesses submitted by either party.

- b. The deposition of the witnesses shall be in writing and both the parties would be given opportunity to cross examine the witnesses.
- c. It shall be the duty of the Committee to ensure that witnesses are not intimidated and are given immunity from wrongful disciplinary action that may be taken against them as a consequence of their deposition.
- d. The Committee shall also advise the witnesses their rights and the protection that would be given to them.



JANAKALYAN

8.3.4 Concluding Statement:

- a. Upon conclusion of the recording of evidence, the Complainant and the alleged perpetrator shall be given time to give their concluding statement to the Committee.
- b. The Concluding statement shall be submitted within 15 days from the date the last witness deposes and the copy of the same is handed over to both the parties;

8.4 Interim orders / directions:

- a. During the pendency of the proceedings before the Committee, the Committee shall have the powers to recommend interim directions including suspension, transfer or non-punitive leave of the alleged perpetrator. Transfer of the Complainant shall not take place unless s/he requests for the same.
- b. In the event, the complaint does not fall under the purview of Sexual Harassment or the complaint does not mean an offence of Sexual Harassment, the same would be dropped after recording the reasons thereof.

8.5 Report of the Committee:

- a. The Committee shall give its final report indicating reasons for the conclusions and the recommendations arrived at to the Management and or Governing Board within 60 days (two months) of receipt of the complaint;
- b. The report shall contain the entire proceedings of the Committee including the complaint, reply by the alleged perpetrator and the deposition of the witnesses. In cases where the conclusions and/or recommendations are not unanimous, the dissent report may also be submitted to the Management or Governing Board
- c. The majority opinion shall however prevail.
- d. The Management shall confirm with or without modification the penalty recommended after duly following the prescribed procedure. The recommendation shall be implemented within 60 days (two months).

8.6 Confidentiality:

- a. Proceedings before the Committee shall be confidential and the committee shall direct every person to ensure that the proceedings of the Committee are not discussed outside;
- b. As far as possible, the identity of the complainant and alleged perpetrator shall be kept confidential;

8.7 Disciplinary Action:

- a. Where the conduct of an employee amounts to misconduct in employment as defined in the relevant service rules the employer should initiate appropriate disciplinary action in accordance with the relevant rules.
- b. In case the complaint is found to be false, the Complainant shall, if deemed fit, be liable for appropriate disciplinary action by the Management.



JANAKALYAN

8.8 Third party harassment:

Where sexual harassment occurs as a result of an act or omission by any third party or outsider the employer and the person's in-charge shall take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

It is the moral responsibility of Janakalyan to provide referral services with minimum basic support including finance to initiate the process of legal justice if the victim so desire. However, the extent of financial support will be decided case by case by the Complaint Committee and management.

8.9 Annual Report:

The complaints Committee shall prepare an Annual Report giving a full account of its activities during the previous year and forward a copy thereof to the Head of the Organization concerned.

- 9. Savings:** Nothing contained in this code shall prejudice any right available to the employees or prevent any person from seeking any legal remedy under the National Commission for Women Act 1990, Protection of Human Rights Commission Act 1993 or under any other law for the time being in force.

When such conduct amounts to a specific offence under the Indian Penal Code or under any other law, Janakalyan shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.