

KURUKSHETRA UNIVERSITY

KURUKSHETRA



Policy Against Sexual Harassment of Women, 2015

**The Internal Complaints Committee Against Sexual
Harassment of Women at Workplace
(Prevention, Prohibition and Redressal):
Rules and Procedures**

(ICCASH)

2015

INTRODUCTION

Following the guidelines on the prevention and deterrence of sexual harassment in the workplace laid down by the Supreme Court of India in its 13 August 1997 Judgment on the Writ Petition (Criminal) *Vishaka v. State of Rajasthan*, the Executive Council of Kurukshetra University, Kurukshetra had approved a Policy against Sexual Harassment at the Workplace. The Rules and Procedures of the ICC were approved in principle by Kurukshetra University **Executive Council Resolution No. 25 dated 06.06.2005.**

In pursuance of the **Sexual Harassment of Women At Workplace (Prevention, Prohibition and Redressal) Act, 2013**, the Policy has been now modified in compliance with the provisions of the said Act¹. **Further the Policy against Sexual Harassment of Women shall now be called The Internal Complaints Committee Against Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal): Rules and Procedures.**

NOTIFICATION OF THE EXECUTIVE COUNCIL

POLICY AGAINST SEXUAL HARASSMENT AT WORKPLACE

The Executive Council of the University in its meeting held on 14.10.2015 vide Res. No. 33 has approved a Policy against Sexual Harassment of Women called **'The Internal Complaints Committee Against Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal): Rules and Procedures.**

Kurukshetra University is committed to provide to all women a place of work and study free of sexual harassment, intimidation or exploitation. It is expected that all students, faculty, staff, karamcharis and officials shall treat one another and visitors to the University with respect. All members of the University community, including those who are in temporary or short term positions are subject to this Policy. Anyone violating this Policy is liable to disciplinary action.

Reports of sexual harassment are taken seriously and shall be dealt with promptly. The specific action taken in any particular case depends upon the nature and gravity of

¹ The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 28.

the conduct reported. The University recognizes that confidentiality is important. The University shall respect the confidentiality and privacy of individuals reporting or accused of sexual harassment to the extent reasonably possible. Reprisals against an individual who in good faith reports, or provides information in an investigation, about behaviour that may violate this Policy, are against the law and shall not be tolerated. Intentionally providing false information, however, is ground for disciplinary action.

The University is committed to principles of free inquiry and free expression. Vigorous discussion and debate are fundamental to the pursuit of knowledge, and this Policy is not intended to stifle teaching methods or freedom of expression. Sexual harassment, however, is not the proper exercise of academic freedom, nor can it be proclaimed as freedom of expression. It compromises the integrity of the University and its tradition of intellectual freedom, and it also violates the principle of equality and dignity of all its members.

What is Sexual Harassment?

- A. "Sexual Harassment" includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely²:-
- (i) physical contact and advances; or
 - (ii) a demand or request for sexual favours; or
 - (iii) making sexually coloured remarks; or
 - (iv) showing pornography; or
 - (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.
- B. The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment³:-
- (i) implied or explicit promise of preferential treatment in her employment; or
 - (ii) implied or explicit threat of detrimental treatment in her employment; or
 - (iii) implied or explicit threat about her present or future employment status; or
 - (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or

² *Ibid, Section 2 (n)*

³ *Ibid, Section 3 (2)*

- (v) humiliating treatment likely to affect her health or safety.

What to do if you feel you are being sexually harassed

- **Know your rights-** Sexual Harassment is illegal, both the law of the land and Kurukshetra University, Kurukshetra prohibit sexual harassment.
- **Speak up-** If you can, tell the person to stop. State clearly and firmly that you want a particular behaviour to cease.
- **Get information and support-** If you feel you cannot speak up, ask your friends to help you and bring it to the notice of the University. Keep records that might be useful for pursuing the case.

What not to do

- **Do not blame yourself-** Sexual harassment is not something one brings on oneself. It is not a consequence of certain ways of dressing or acting. It is a violation of an individual's right to work and live with dignity.
- **Do not ignore-** Ignoring sexual harassment does not make it go away. The harasser may misinterpret a lack of response as approval of the behaviour.
- **Do not delay-** Delay in action increases the probability that unwanted behaviour shall continue or escalate.
- **Do not hesitate to ask for help-** Speaking up may prevent others from being harmed as well.

POLICY AGAINST SEXUAL HARASSMENT

I. SHORT TITLE

The Internal Complaints Committee Against Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal): Rules and Procedures (ICC).

II. APPLICABILITY

- (i) It shall apply to all students, academic staff and non-teaching staff on active rolls of Kurukshetra University, Kurukshetra, as also to residents, service providers and outsiders, on the Kurukshetra University campus, to the extent specified in these rules and procedures.

- (ii) It shall also apply to all the Colleges, Regional Centres and Institutions affiliated to Kurukshetra University.
- (iii) The affiliated Colleges shall formulate an Internal Complaints Committee as per Sections VI & VII (B) of the Policy with the Principal of the College as the Convenor of the Board.

III. DEFINITIONS

1. (A) "Sexual Harassment" includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely⁴:-
 - (i) physical contact and advances; or
 - (ii) a demand or request for sexual favours; or
 - (iii) making sexually coloured remarks; or
 - (iv) showing pornography; or
 - (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.
- (B) The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment⁵:-
 - (i) implied or explicit promise of preferential treatment in her employment; or
 - (ii) implied or explicit threat of detrimental treatment in her employment; or
 - (iii) implied or explicit threat about her present or future employment status; or
 - (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
 - (v) humiliating treatment likely to affect her health or safety.
2. "Aggrieved woman" means in relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent⁶.

⁴ *Ibid, Section 2 (n)*

⁵ *Ibid, Section 3 (2)*

⁶ *Ibid, Section 2 (a)*

3. "Respondent" means a person against whom the aggrieved woman has made a complaint under section XX (B).
4. "Student" includes any person who is enrolled for any course, regular, private or through distance education with Kurukshetra University, Kurukshetra and includes a postgraduate, undergraduate student, a Research Scholar, a visitor and a repeater. It includes a student of University College/College of Education and School on the Campus.
5. "Employee" means a person employed at a workplace for any work on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name⁷.
6. "Academic staff" includes any person on the staff of the University who is appointed to a teaching and/or research post, whether full time, temporary, ad-hoc, part-time, contract basis, guest faculty, visiting faculty, honorary, or on special duty or deputation, and shall include employees employed on a casual or project basis.
7. "Non-teaching staff" includes any person on the staff of the University who is not appointed to a teaching and/or research post, whether full-time, temporary, ad-hoc, part-time, daily wager, honorary or on special duty or deputation, and shall include employees employed on a casual or project basis, as also persons employed through a contractor.
8. "Outsider" includes any person who is not a student, resident, or member of the academic or non-teaching staff of Kurukshetra University.
9. "Resident" includes any person who is a temporary or permanent resident of any of the accommodations or premises managed and/or allotted by Kurukshetra University, irrespective of whether he/she is the person to whom the accommodation is officially allotted.

⁷ *Ibid, Section 2 (f)*

10. "Service provider" includes any person who runs or manages commercial enterprises on the campus, or provides services to the campus. It includes, but is not limited to persons working in shops, canteens and restaurants on the campus, as well as persons working in premises allotted on the campus, such as the shopping complexes, Police Post, Banks, Department of Posts & Telegraph etc.
11. "Chairperson" means the Chairperson of the ICC nominated under sub-section X.
12. "Employer means-
 - (i) in relation to any department, organization, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, organization, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in the behalf.
 - (ii) in any workplace not covered under sub-section (i), any person responsible for the management, supervision and control of the workplace⁸.
13. "Campus" includes all places of work and residence in the Kurukshetra University campus. It includes all places of instruction, research and administration such as health centre, library, university press, hostels, guest houses, public places and places of residence allotted and administered by Kurukshetra University, including the shopping centre, post office, bank, playground etc.
14. "Third party" shall include the NGO representative and eminent woman academic serving on ICC.
15. "Counsellor" includes any woman appointed by the University authorities, who has proven expertise in social and personal counseling on matters arising out of incidents of sexual harassment.
16. "Eminent woman academic" includes a senior woman academic who is presently not a member of either the academic or the non-teaching staff of Kurukshetra University, and who has experience in working for gender equality.
17. "Complaints Screening Committee" as defined in Clause XX (C) herein.

⁸ *Ibid, Section 2 (g)*

18. "Enquiry Committee" as defined in Clause XXI herein.
19. "ICC" shall refer to the Kurukshetra University Internal Complaints Committee Against Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal): Rules and Procedures.
20. "NGO" includes any Non-Governmental Organization registered under the Societies Registration Act or as a public charitable trust. Such a society/charitable trust must not be affiliated to any political party, and should have been engaged in work for gender equality, particularly for the amelioration of the status of women for a minimum of three years. Two-thirds of the registered membership of such a society or charitable trust shall be outsiders with respect to Kurukshetra University; i.e. atleast two-thirds of the membership shall not include any person who is a student, resident, service provider, or a member of the academic staff or non-teaching staff of Kurukshetra University.
21. "University authorities" shall refer to the Vice-Chancellor of Kurukshetra University, by virtue of his/her being the head of the Executive Council of Kurukshetra University, as well as any such person to whom such powers may be delegated, or any person who is entrusted with the powers and functions to act on behalf of the University under the Kurukshetra University Act, 1986, or statutes, ordinances or rules thereunder.
22. "University functionaries" includes any person appointed, designated or nominated by the University authorities to a position of service in Kurukshetra University and includes, but is not limited to, the following: Dean Academic Affairs, Dean Students Welfare, Deans of Faculties, Chairpersons/Directors of University Teaching Departments/Institutes, Proctor, Chief Wardens, Security personnel, health professionals, as well as persons discharging administrative responsibilities, such as the Registrar and the Finance Officer.
23. "Vacations" shall refer to the periods when the University is observing vacations according to Academic Calendar.
24. "Vacations Committee" as defined in Clause XVIII herein.

25. "Warden" shall refer to any person, who is nominated, appointed, or designated as a Warden of a hostel allotted and/or administered by Kurukshetra University.
26. "Appeals Committee" as defined in Clause XXVI (C) herein.

IV. SCOPE OF THE POLICY

This Policy shall be applicable to all complaints of sexual harassment made:-

- (i) By a student, a member of the academic or non-teaching staff, or by a member of the academic or non-teaching staff against a student or another member of the academic or non-teaching staff; in either case, irrespective of whether sexual harassment is alleged to have taken place within or outside the campus.
- (ii) By a service provider or an outsider against a student or a member of the academic or non-teaching staff or made by a student or a member of the academic or non-teaching staff against an outsider or a service provider, if the sexual harassment is alleged to have taken place within the campus.
- (iii) By a resident against a student or a member of the academic or non-teaching staff or made by a student or a member of the academic or non-teaching staff against a resident, irrespective of whether sexual harassment is alleged to have taken place within or outside the campus.

V. DUTIES OF THE EMPLOYER⁹

Every employer shall-

- (a) Provide a safe working environment to all women at the workplace which shall include safety from the persons coming into contact at the workplace.
- (b) Display at any conspicuous place in the workplace, the penal consequences of sexual harassment; and the order constituting, the ICC.
- (c) Organize workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the members of the ICC in the manner as may be prescribed.

⁹ *Ibid, Section 19*

- (d) Provide necessary facilities to the ICC for dealing with the complaint and conducting an inquiry.
- (e) Assist in securing the attendance of respondent and witnesses before the ICC.
- (f) Make available such information to the ICC, as it may require having regard to the complaint.
- (g) Provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force.
- (h) Cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place.
- (i) Treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct.
- (j) Monitor the timely submission of reports by the ICC.

VI. CONSTITUTION OF ICC

ICC shall have a membership of eleven persons, of which at least half the members shall be women. The members shall be nominated by a Board headed by the Vice-Chancellor (As defined in Clause VII A) in a meeting convened for the purpose.

- (i) Two faculty members (at least one woman who shall be the Chairperson of ICC)
- (ii) Two Wardens (at least one woman)
- (iii) Two students (preferably one day scholar and one hostel resident with at least one of them being a woman)
- (iv) One officer and one staff member (at least one woman).
- (v) One eminent woman academician from outside the University
- (vi) One woman representative of an NGO with special experience in issues of sexual harassment

- (vii) One woman counsellor.

VII. (A) PROCEDURE FOR THE CONSTITUTION OF ICC IN THE UNIVERSITY

The Executive Council will constitute/appoint a Board of members representing various stakeholders to be chaired by the Vice-Chancellor to approve the members of ICC. The members of the Board may consist of the following:-

- a. Vice-Chancellor (in the chair)
- b. Registrar
- c. Dean, Academic Affairs
- d. Dean, Students Welfare
- e. Chief Wardens (Men & Women)
- f. Senior Most lady Professor of the University
- g. Director, Women's Studies Research Centre
- h. Presidents, KUTA, KUNTEA, Students Union, if in existence

(B) PROCEDURE FOR THE CONSTITUTION OF ICC IN COLLEGES AFFILIATED TO KURUKSHETRA UNIVERSITY

Board to be approved by the Management/Department of Higher Education to appoint the members of ICC in the College.

- a. Principal (Convenor)
- b. Vice-Principal
- c. Senior most lady teacher of the College
- d. In-charge, Women's Cell
- e. Convenor, Proctorial Board
- f. Convenor, Sports Board
- g. Convenor, Cultural Activities
- h. Coordinator, NSS

VIII. FUNCTIONS OF ICC

ICC shall have three functions:

(1) Gender Sensitization and Orientation

- (i) ICC shall ensure the prominent publicity of the Policy in all University Teaching Departments/Colleges/School on the campus, Centres, hostels, offices of administration, as well as in all public places on the campus such as the library, health centre, residential areas, canteens, shopping centres etc. The Policy will also be available on the Kurukshetra University website.
- (ii) ICC shall organize programmes for the gender sensitization of the campus community through workshops, seminars, posters, film shows, debates, skits etc. It may also enlist the help of specialized NGOs and any campus body to carry out these programmes.
- (iii) ICC shall conduct at least one major activity per semester involving large sections of the Kurukshetra University community.
- (iv) ICC shall coordinate with the campus security services to devise ways and means by which a system of crisis management that is both gender-sensitive as well as prompt and effective is put in place. It shall maintain regular conduct with the campus security services to ensure that in crisis arising out of incidents of sexual harassment, ICC members, and/or the volunteers identified by it, shall be intimated without delay.
- (v) ICC shall organize training workshops for members of ICC to equip them to handle sexual harassment cases (including legal and medical aspects of aid).

(2). Crisis Management and Conciliation¹⁰

- (i) The Internal Complaints Committee Against Sexual Harassment may before initiating an inquiry and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation by the Complaints Screening Committee.

Provided that no monetary settlement shall be made as a basis of conciliation.

¹⁰ *Ibid, Section 10*

- (ii) Where a settlement has been arrived at under sub-section 2 (i), Internal Complaints Committee Against Sexual Harassment shall record the settlement so arrived and forward the same to the Vice-Chancellor to take action as specified in the recommendation.
- (iii) The Internal Complaints Committee Against Sexual Harassment shall provide the copies of the settlement as recorded to the aggrieved woman and the respondent.
- (iv) Where a settlement is arrived at, no further inquiry shall be conducted by the Internal Complaints Committee Against Sexual Harassment.
- (v) ICC can *suo moto* assist in the conciliation of crisis arising out of sexual harassment and sexual assault on the campus.

(3). Formal Enquiry and Redressal

- (i) ICC shall be responsible for the formal redressal of complaints of sexual harassment. It shall receive complaints, conduct time-bound enquiries and recommend disciplinary action, if any, in accordance with the rules and procedures laid down herein.
- (ii) In all cases of sexual harassment, ICC shall provide its resources to ensure the complainant's safety.

IX. TERM OF ICC

- The term of the Committee shall be from 1st August to 31st July each year.
- The University shall ensure that the ICC is constituted before the expiry of the existing committee i.e. 1st August every year.
- The term of office of each member of ICC, shall be twelve months. One third of the members may be retained to the maximum period of 3 years for each member.

X. CHAIRPERSON OF ICC

The Chairperson of ICC shall be a woman faculty member nominated by the Board at Clause VI.

XI. DISQUALIFICATION OF CHAIRPERSON AND MEMBERS

A person shall be disqualified for being appointed, nominated or designated as, or for being continued as, a member of ICC if there is any complaint concerning sexual harassment pending against him or he has been found guilty of sexual harassment.

XII. DISQUALIFICATION OF AN NGO

A person shall be disqualified for being appointed, nominated or designated as, or for being continued as, an NGO representative on ICC if such appointment, nomination, designation, election or continuation is inconsistent with the provisions of Clause III (20).

XIII. VACANCY OF A MEMBER OWING TO ABSENCE WITHOUT INTIMATION

If a member nominated or designated to ICC remains absent without written intimation to ICC for three consecutive meetings or two months, whichever is more, his/her office shall thereupon become vacant.

XIV. RESIGNATION OF A MEMBER

A member of ICC may resign from his/her office at any time by tendering his/her resignation in writing to Chairperson ICC. Such a person shall be deemed to have vacated his/her office as soon as ICC has accepted the resignation.

XV. PROCEDURE FOR FILLING A VACANCY IN ICC

If a vacancy arises in ICC in accordance with the provisions of Clauses XI, XII, XIII and XIV, the Chairperson ICC shall intimate to the Vice-Chancellor within two weeks of the vacancy. The Vice-Chancellor as Convenor of the Board shall arrange for filling up the vacancy in accordance with the procedure outlined in Clause VII (A) for that particular category within four weeks of the vacancy.

XVI. ACTING CHAIRPERSON OF ICC

In the event of the Chairperson of ICC being unable to discharge her duties for a short period (not exceeding three weeks), barring the period when the University is on vacation, ICC shall designate from amongst its members, a woman member to the post of Acting Chairperson of ICC for the said period. The Acting Chairperson of ICC shall have all the powers and duties as of the Chairperson of ICC outlined herein.

XVII. MEETINGS OF ICC

- (i) ICC shall meet at least once in a month from August to July.
- (ii) Members shall be intimated of meetings in writing or by electronic communication.
- (iii) Minutes of all meetings shall be confirmed and adopted.
- (iv) Any member may request the Chairperson to call an Ordinary Meeting. Forty-eight hour's notice shall be required for such a meeting to be called. The quorum for an Ordinary Meeting shall be one-third of the members of ICC. Motions shall be carried by a simple majority.
- (v) Any member may request the Chairperson to call an Emergent Meeting. At least twenty-four hour's notice shall be required for such a meeting to be called. The quorum for an Emergent Meeting shall be one-third of the members of ICC. Motions shall be carried by a simple majority.
- (vi) A Special Meeting may be called by the Chairperson of ICC, with atleast twenty-four hours notice. A special meeting shall have a quorum of two-third of the members of ICC, and the attendance of at least one of the third party members shall be mandatory. Motions shall be carried by a two-thirds majority of the members present and voting.
- (vii) If the required quorum is not there at any meeting, such a meeting shall be adjourned for not more than seven working days. But for the adjourned Ordinary or Special meetings, the required quorum shall be the same as in a regular meetings.
- (viii) ICC shall hold atleast two annual public meetings where it shall report to the campus community about its activities. Of these, atleast one meeting shall be

called specifically for the purpose of the presentation of the Annual Report of ICC.

XVIII. VACATIONS COMMITTEE (If the Chairperson, ICC is on vacation for more than three weeks)

During the period when the University is on vacation, ICC shall strive to ensure the discharge of its duties and functions, in accordance with the procedure outlined herein:

- (i) ICC shall designate from within itself a Vacations Committee(s), for the period when the University is in vacation, of not less than five persons. Half of the members of the said Committee shall be women.
- (ii) The Vacations Committee shall elect from within itself a Convenor, who shall be a woman faculty member, and shall exercise all the powers and functions of the Chairperson of ICC outlined herein.
- (iii) At least seven days before every vacation ICC shall intimate the Campus Community by Public Notice the contact details of the members of the Vacations Committee.
- (iv) The Vacations Committee shall designate from within itself a monthly Complaints Screening Committee, which shall function in accordance with the rules and procedures.
- (v) In the event of an enquiry proceedings being necessitated, the Vacations Committee shall call a Special Meeting for the constitution of an Enquiry Committee, in accordance with the provisions of Clauses XX(D) and XXI.
- (vi) Save for reasons that the Vacations Committee considers urgent, further action on the complaint shall take place after the end of the vacations, in an Emergent Meeting, called by the Chief Enquiry Officer within seven working days of the commencement of the term.
- (vii) In case of a need for urgent disciplinary action, the reasons for which the Chief Inquiry Officer shall state in writing, the Convenor of the Vacations Committee shall call a Special Meeting to discuss and adopt the report and recommendations of the Enquiry Committee, and to initiate further action on the complaint, in accordance with the procedures outlined in Clause XXI.

XIX. ANNUAL REPORT OF ICC

ICC shall forward an Annual Report on the discharge of its functions of gender sensitization and orientation, crisis mediation and formal enquiry and redressal to the Vice-Chancellor of Kurukshetra University. The Annual Report shall also be presented and discussed in atleast one public meeting called for the purpose by ICC.

XX. REGISTRATION OF COMPLAINTS

Where, despite the preventive and conciliatory efforts of ICC, incidents of sexual harassment do take place, registration of complaints about such incidents shall follow a two-stage procedure. At the first stage there shall be a preliminary system for filing of complaints and subsequently there shall be follow-up by a Complaints Screening Committee. Both these stages are spelt out in the outline given below.

(A) Procedure for Filing Complaints

- (i) Any woman student, resident, service provider, outsider, or a member of the academic or non-teaching staff may lodge a complaint of sexual harassment against a student, resident, service, provider, outsider, or a member of the academic or non-teaching staff. Third party¹¹ complaints and witness complaints shall be entertained.
- (ii) Complaints can be lodged directly with any member of ICC, or through existing channels for lodging grievances, such as the University authorities, wardens, teachers, students, union/association representatives, administrative superiors etc. If the complaint is made through any such channel, the person to whom the complaint is made should bring it to the notice of ICC within two working days of its receipt by her/him.
- (iii) 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 under this section¹².

¹¹ Third Party here refers to any individual who is not party to the incident. Third party complaints may only be pursued if there is enough evidence (eye witness/material evidence) to establish a prima facie case of sexual harassment, and/or the complaint himself/herself agrees to testify.

¹² The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 9 (2)

- (iv) Upon receipt of the complaint, the ICC member to whom the complaint is made shall forward the same to the Chairperson, ICC.
- (v) The ICC may, before initiating an inquiry under section (ii) and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation¹³.
- (vi) Provided that no monetary settlement shall be made as a basis of conciliation¹⁴.
- (vii) Where a settlement has been arrived at under section (v), the ICC shall record the settlement so arrived and forward the same to the Vice-Chancellor to take action as specified in the recommendation¹⁵.
- (viii) The ICC shall provide the copies of the settlement as recorded under section (vii) to the aggrieved woman and the respondent¹⁶.
- (ix) Where a settlement is arrived at under section (v), no further inquiry shall be conducted by ICC¹⁷.
- (x) As far as possible an attempt should be to explore whether conciliation can provide a suitable solution of the case. This would be desirable in so far as it can spare the trauma of formal procedures for both the complainant and the accused. In cases where there is a possibility of success of such an effort, the time span between receipt of first information about an incident and bringing it formally to the notice of ICC by the faculty or other concerned person, may be enhanced beyond two days but to a period less than a week from the date of the initial complaint.
- (xi) The complaint may be oral or in writing. If the complaint is oral, it shall be reduced in writing by a Complaints Screening Committee or the ICC member receiving the complaint, on Form I, prescribed for the purpose (Schedule-II), and authenticated by the complainant under her dated signature or thumb impression as the case may be.

¹³ *Ibid, Section 10 (1)*

¹⁴ *Ibid, Section 10 (1)*

¹⁵ *Ibid, Section 10 (2)*

¹⁶ *Ibid, Section 10 (3)*

¹⁷ *Ibid, Section 10 (4)*

(B) Time Frame for Filing a Complaint¹⁸

- (i) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the ICC within a period of three months from the date of the incident and in case of a series of incidents, within a period of three months from the date of last incident.
- (ii) Provided that where such a complaint cannot be made in writing, the Presiding Officer or any Member of the ICC or the Chairperson shall render all reasonable assistance to the woman for making the complaint in writing.
- (iii) Provided further that the ICC 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.

(C) Complaints Screening Committee

(i) Composition

ICC shall designate by rotation three persons from amongst its members for a period of one month to receive and screen complaints, henceforth called the Complaints Screening Committee¹⁹. The names and contact details of these members shall be given widespread publicity by ICC.

(ii) Functions

- (a) The Complaints Screening Committee shall receive and record complaints of sexual harassment on Form II (Schedule-II) prescribed for the purpose.
- (b) It shall carefully study the complaint, and may hear both the complainant, the accused and/other involved parties to determine whether an enquiry by ICC is to be instituted. The process of screening of complaints would be kept as simple as possible, complainant-friendly and quick in terms of its decision as to whether the matter needs to be referred to the Enquiry

¹⁸ *Ibid, Section 9*

¹⁹ The Complaints Screening Committee procedure is essential to the just functioning of ICC, as in a number of instances, complaints received by ICC may not instantiate a complaint of sexual harassment as defined by law. The procedure also recognizes that an inquiry can be as traumatic for an accused as the complainant, and the institution of an enquiry without determining a prima facie case can lead to adverse consequences and a hostile working environment for the accused.

Committee or should be taken care of by counseling/conciliation. Recourse to calling of witnesses would therefore be avoided at the complaints registering stage to the maximum extent possible.

- (c) At no time during the complaint receiving and recording procedure shall the past sexual history of the complainant be probed into, as such information shall be deemed irrelevant to a complaint of sexual harassment²⁰.
- (d) ICC may issue an order of restraint to the accused in accordance with the procedure outlined below in Clause XX(D).
- (e) The Complaints Screening Committee shall communicate its recommendations, along with the reasons and documentary evidence, if any, thereof, in writing to the Chairperson of ICC as soon as possible.
- (f) The Complaints Screening Committee shall be responsible for making counselling services available to a person requesting for it.
- (g) The complainant may withdraw her complaint in writing at any time during the complaints receiving and/or enquiry procedure.
- (h) The enquiry procedure shall, on such withdrawal, be terminated, save in instances in which the Enquiry Committee is informed, knows, or has reasons to believe, that the reasons for such withdrawal are the consequences or effect of coercion and intimidation exerted by the accused, or any person can on his behalf, on the complainant. In such as instance, the enquiry proceedings shall continue in accordance with the procedure outlined in Clauses XX (D) and XXI.

(D) Restraint Order

- (i) A Restraint Order in terms of ICC Rules shall provide on Form IV prescribed for the purpose (Schedule-II) a summary of the complaint, the date(s), and location(s) of the alleged incident(s) acting on his behalf, to contact or influence, or intimidate, or exert pressure on the complainant or

²⁰ This provision has its basis in the guidelines laid down by the Law Commission on the law, so as to restrict attempts to impugn the credibility of the complainant on bounds of her alleged 'bad character'.

any person in the complainant's confidence which may prove prejudicial to the case.

- (ii) The complainant or any other person should intimate in writing to the Complaints Screening Committee, the Chairperson of ICC and/or the Enquiry Committee of any violation of the order of restraint by the accused, or any persons acting on his behalf.
- (iii) Should the Complaints Screening Committee, the Chairperson of ICC, or the Enquiry Committee be convinced of the truth of such allegations, the Chairperson of ICC and/or the Chief Enquiry Officer may summon the accused in person and issue a verbal and written warning that such behaviour may lead to an adverse inference being drawn against him. The Enquiry Committee of ICC shall retain the right to close the enquiry proceedings, and to give an ex parte decision on the complaint.
- (iv) The Enquiry Committee and ICC shall consider all violations of the restraint order while determining the nature of offence of an accused found guilty of sexual harassment.

XXI. FORMAL ENQUIRY²¹

Once the Complaints Screening Committee has decided that the complaint merits further investigation, ICC shall conduct formal enquiry and provide its resources to ensure the complainant's safety on the campus during this period. For this purpose, the Chairperson of ICC shall convene an Emergency meeting to constitute the Enquiry Committee. ICC shall designate from within the members of such committee the Chief Enquiry Officer who shall be a woman faculty member of Kurukshetra University, Kurukshetra.

(A) Constitution of Enquiry Committee

The constitution of the Enquiry Committee shall conform to the guidelines indicated below:-

²¹ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 5

- (a) **The Enquiry Committee shall consist of not less than three persons and not more than five persons, including one third party.**
- (b) It shall have at least 50% women.
- (c) It shall include at least one third party, i.e. the NGO representative or an eminent woman academic.
- (d) It shall include the constituency of the complainant and the accused (i.e. if the complaint is filed by a student against an academic staff member, then the Enquiry Committee shall include one student and one academic staff member).
- (e) No person who is a complainant, witness or an accused in the complaint at hand shall be part of an Enquiry Committee into a complaint.
- (f) The constitution of an Enquiry Committee shall not be changed or in any other way modified during its proceedings, save for the provisions in Clause XI to XIV.
- (g) Members of ICC who are representatives of unions/associations of which the complainant and/or the accused are also members, shall not be eligible to serve on an Enquiry Committee.
- (h) ICC may, at its own direction co-opt any person(s) with demonstrable sensitivity to gender issues to be a part of an Enquiry Committee, provided that the majority of members are the members of ICC. Such a person shall also not serve as the Chief Enquiry Officer.

(B) Functions of the Enquiry Committee

- (a) The Enquiry Committee shall enquire into the complaints of sexual harassment using procedures in conformity with the principles of natural justice to the extent permitted by the need to observe gender sensitivity. In arriving at a decision, the Committee shall take cognizance of all aspects of the incident, including the time, place and the context of the alleged incident of sexual harassment.

- (b) The Enquiry Committee shall act on any violation of the order of restraint issued to the accused in accordance with the procedure outlined in Clause XX (D).
- (c) The Enquiry Committee shall submit a detailed report to ICC within 90 days in which it shall communicate its findings based on its investigations.
- (d) The ICC in its meeting should pronounce:
 - (i) Whether the accused is guilty or not-guilty;
 - (ii) If found guilty, the Committee shall indicate whether it considers the offence to be:
 - a major offence;
 - Or a serious offence;
 - Or a minor offence.

An intermediate category, i.e. 'serious offence', has been introduced since there may be cases which are more serious than minor ones but not of such a character as to be called major sexual offences which would include aberrations leading to murder, rape, physical assault/injury etc.

(C) Procedure to be Followed by the Enquiry Committee

- (a) The Enquiry Committee shall strive to complete the enquiry in the shortest possible time, not exceeding three months from the date that a complaint is referred to it, except for reasons that the Enquiry Committee shall provide in writing.
- (b) The Enquiry Committee shall provide reasonable opportunity to the complainant and the accused for presenting and defending her/his case.
- (c) The Enquiry Committee may call any person to appear as a witness if it is of the opinion that it shall be in the interest of justice.
- (d) The Enquiry Committee shall have the power to summon any official papers or documents pertaining to the complainant as well as to the accused.

- (e) The Enquiry Committee may consider as relevant any earlier complaints against the accused. However, the past sexual history of the complainant shall not be probed into, as such information shall be deemed irrelevant to a complaint of sexual harassment.
- (f) The Enquiry Committee shall have the right to summon, as many times as required, the accused, complainant and/or any witnesses for the purpose of supplementary testimony and/or clarifications.
- (g) The Enquiry Committee shall have the right to terminate the enquiry proceedings and to give an ex parte decision²² on the complaint, should the accused fail, without valid ground, to present himself for three consecutive hearings convened by the Chief Enquiry Officer.
- (h) The Chief Enquiry Officer shall be responsible to make the accused and the victim aware that counseling services can be made available if so desired.
- (i) Within ten days of the institution of enquiry proceedings by ICC; the Enquiry Committee shall prepare a chargesheet containing specific charges and shall hand over the same to the complainant as well as to the accused, on Form III prescribed for the purpose (Schedule-II). It shall also intimate the accused and the complainant the contact details of all members of the Enquiry Committee.
- (j) On receipt of the first intimation of the enquiry, and not more than two days after such date, the complainant or the accused may make a written request to ICC to be informed of her/his rights. In such an event, the Chief Enquiry Officer shall convene a meeting of the Enquiry Committee specifically for this purpose.
- (k) Within not more than two working days on the receipt of the first intimation of the enquiry, the complainant and the accused shall submit to the Chief Enquiry Officer, in writing, a list of witnesses, together with their contact details, that she/he desires the Enquiry Committee to examine.

²² In accordance with the procedure laid down by the Central Vigilance Commission for domestic enquiries.

- (l) The Chief Enquiry Officer shall convene the first hearing of the enquiry. The accused, the complainant, and witnesses shall be intimated at least seventy-two hours in advance in writing of the date, time and venue of the enquiry proceedings.
- (m) On receipt of the first intimation of the enquiry, and not more than two working days after such date, the complainant and/or the accused shall inform the Chief Enquiry Officer whether they shall wish to exercise the rights accorded in (o) –(q) below.
- (n) If the complainant, accused, or witness desires to appear before the Enquiry Committee accompanied by one person of their choice, they shall communicate to the Chief Enquiry Officer the name of that person. Such a person shall have only observer status and her/his presence during the proceedings shall be restricted to the testimony of the individual she/he is accompanying. Any such person nominated as observer by the complainant and/or the accused on her/his behalf shall be (only) either a student, or a member of the academic or non-teaching staff of Kurukshetra University or a close family member. No person who has been found guilty of sexual harassment shall be accepted as a nominee.
- (o) The responsibility of ensuring the attendance of the nominee shall rest upon the complainant/accused and no hearing or proceedings of the Enquiry Committee shall be adjourned or postponed due to the inability of the nominee to be present at the said hearing. Should the complainant/accused wish to be present himself/herself at the aforesaid proceedings (with valid ground), and at the same time not wish to nominate an observer, the complainant/accused shall inform the Enquiry Committee of the same at least twenty-four hours in advance, so that the aforesaid proceedings may be postponed for a period not exceeding three days.
- (p) The complainant and the accused shall retain the right of cross-examination of all witnesses. The Chief Enquiry Officer shall inform the accused/complainant of the date, time and venue of such cross examination. The accused/ complainant shall submit to the Chief Enquiry

Officer, a written list of questions that she/he desires to pose to the witness. The Enquiry Committee shall retain the right to disallow any questions that it has reason to believe to be irrelevant, mischievous, or gender-insensitive. Any behaviour, verbal or otherwise, on the part of the accused or his nominee, that is designed to intimidate or subject the complainant or her witness to mental and physical trauma, shall be construed as a violation of the order of restraint issued by ICC as defined in Clause XX(D)²³.

- (q) The complainant and the accused shall be responsible for presenting their witnesses before the Enquiry Committee. However, if the Enquiry Committee is convinced that the absence of either of the parties to the dispute is on valid grounds, the Enquiry 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.
- (r) All proceedings of the Enquiry Committee shall be recorded in writing and the same together with the statement of witnesses shall be endorsed by the persons concerned in token of authenticity thereof.
- (s) All persons heard by the Enquiry Committee, as well as observers, shall take and observe an oath of secrecy about the proceedings. Any violation of the oath of secrecy may invite the penalties outlines in Clause XXIV.

(D) Sequential Appearance of the Complainant and the Accused

- (i) Face to face encounter of the victim and the accused shall not take place;

²³ This provision is solely in the interest of gender-sensitivity. As the Central Vigilance Commission observes in its manual, a domestic inquiry is not a court of law, and it is the duty of the Inquiry Officer to protect witnesses from harassment: “The Enquiry Officer may also disallow questions if the cross-examination is of inordinate length or oppressive or if a question is irrelevant. It is the duty of the Enquiry Officer to see that the witness understands the question properly before giving an answer and of protecting him against any unfair treatment.” (Ch. 11, Para 10.4)

In its interpretation of the Act, ICC believes that it is duty bound to ensure that the enquiry procedure itself does not risk the health and safety of the complainant and/or his/her witnesses. Such risks may well be inflicted on the posting of a gender-insensitive question, and precisely because a domestic enquiry is not a judicial proceeding, ICC is entitled to bring into effect procedures that shall serve to minimize the risk. ICC’s provisions in this regard derive from the spirit of the Supreme Court’s observations in the Apparel Judgment, where it has expressed displeasure at the harassment the complainant was subjected to during cross-examination by the accused.

- (ii) Once the Enquiry Committee has held a meeting to listen to the complaint, the allegations made by the complainant shall be passed on to the accused at a separate meeting held to consider the version of the incident which the accused has to present. The oral deposition of the complainant should be accompanied by a written version of the incident as perceived by the complainant. If the accused does not agree with the allegations made by the complainant or the complainant's version of the incident communicated to him by the Enquiry Committee, the accused should be given the opportunity to refute before the Enquiry Committee the points made by the complainant. The refutation, in turn, could be passed on to the complainant for her comments.
- (iii) In this way, while face-to-face encounter between the complainant and the accused can be avoided, cross-examination is not eliminated. It is permitted but through a written exchange of allegations and rebuttals, in the light of which the Enquiry Committee should form its own opinion based on this exchange as also other evidence and witnesses statements.

XXII. INQUIRY INTO COMPLAINT²⁴

- (i) Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.
- (ii) For the purpose of making an inquiry, the ICC shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:-
 - (a) summoning and enforcing the attendance of any person and examining him on oath;
 - (b) requiring the discovery and production of documents; and

²⁴ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 11, 12 and 13

(c) any other matter which may be prescribed.

The inquiry under sub-section XXI C (a) shall be completed within a period of ninety days.

- (iii) During the pendency of an inquiry, on a written request made by the aggrieved woman, the ICC may recommend to the employer to
- (a) transfer the aggrieved woman or the respondent to any other workplace; or
 - (b) grant leave to the aggrieved woman up to a period of three months; or
 - (c) grant such other relief to the aggrieved woman as may be prescribed.

The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.

- (iv) On the completion of an inquiry, the ICC shall provide a report of its findings to the employer within a period of ten days from the date of completion of the inquiry.
- (v) Where the ICC arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer:
- (a) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed.
 - (b) to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs.

Provided that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty

or cessation of employment, it may direct the respondent to pay such sum to the aggrieved woman.

- (vi) Notwithstanding anything contained in the Right to Information Act, 2005, the contents of the complaint made under section XX (B), the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the ICC and the action taken by the employer shall not be published, communicated or made known to the public, press and media in any manner.

Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witness.

- (vii)
 - (a) Any person aggrieved by the recommendations or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.
 - (b) The appeal shall be preferred within a period of ninety days of the recommendations.

XXIII. REDRESSIVE ACTION

After this stage, ICC shall pass on the findings of the Enquiry Committee to the Vice-Chancellor not later than 10 days of submission of Inquiry Report to ICC for taking appropriate redressive action based on the facts submitted by ICC. The nature of disciplinary action shall be determined by the appropriate authorities. In case of faculty member and employees whose appointing authority is Executive Council, the appropriate

authority for final decision regarding disciplinary action shall be the Executive Council, which shall consider the recommendations of the Vice-Chancellor. In case of students and other employees the Vice-Chancellor shall be the final decision taking authority.

XXIV. PENALTIES

Any student, service provider, resident, outsider, or a member of the academic or non-teaching staff found guilty of sexual harassment shall be liable for disciplinary action. Although the award of penalty in specific cases is outside the scope of ICC, the range and type of possible penalties from which the University authorities may pick up the one suitable for individual cases is given below in a hierarchical sequence for all five categories of persons, namely:

- (1) Academic Faculty*
- (2) Non-teaching staff*
- (3) Students
- (4) Outsiders
- (5) Service Provider

The penalties listed below, although fairly exhaustive, are only an indicative guide and shall not constrain the University authorities from considering some other penalty to suit the specific of individual cases. The penalties listed below are in a rising order of severity.

*The penalties and their classification have been determined by consulting the service conditions, the past practices in awarding penalties in Kurukshetra University, and the norms of conduct expected from the constituents of the campus community. Kurukshetra University Calendar Volume-III, (Chapter-6,7,8) pg. 291, Appendix-III

(1) Penalties in Case of Faculty:

- (a) Warning, reprimand, or censure.
- (b) Withholding of one or more increments for a period not exceeding one year.
- (c) Removal from an administrative position at the Centre, School and/or University level.

- (d) Disbarment from holding an administrative position at the Centre, School and/or University levels.
- (e) Suspension from service for a limited period.
- (f) Compulsory retirement.
- (g) Dismissal from service.

Further, the penalty awarded shall be recorded in his Confidential Record.

(2) Penalties in case of Non-teaching Staff:

- (a) Warning, reprimand, or censure
- (b) Transfer
- (c) Withholding of one or more increments for a period not exceeding one year.
- (d) Suspension from service for a limited period.
- (e) Compulsory retirement.
- (f) Dismissal from service.

Further the penalty awarded shall be recorded in his Confidential record.

(3) Penalties in case of Kurukshetra University Students:

- (a) Warning or reprimand.
- (b) Transfer to another hostel.
- (c) Withholding of hostel accommodation for a period up to one semester.
- (d) Withdrawal of the right to an official character certificate from Kurukshetra University.
- (e) Withdrawal of hostel accommodation for the entire period of study.
- (f) Rustication from the University for a period up to two semesters/one academic year.
- (g) Expulsion from the University, and/or a bar on appearing for the entrance examination/interview to any programme of study offered by Kurukshetra University.

- (h) Withholding of a degree awarded by Kurukshetra University.

Further, the penalty awarded shall be recorded in his Personal File.

(4) Penalties in case of Outsider Students:

- (a) Warning, reprimand, or censure.
- (b) A letter communicating his misconduct to his place of education, employment or residence.
- (c) Declaration of the campus as out of bounds for him, and/or a bar on appearing for the entrance examination/interview to any programme of study offered by Kurukshetra University.
- (d) Any other action as may be necessary.

(5) Penalties in case of Service Providers

- (a) Warning, reprimand, or censure.
- (b) A letter communicating his misconduct to his place of employment.
- (c) Declaration of the campus as out of bounds for him.
- (d) Withdrawal of the right to run/manage/work in any commercial enterprise, or to provide services, on the campus.
- (e) Any other action as may be necessary.

In addition to the penalties specified under (1) to (5) above, the person may be advised to undergo counseling and gender sensitization, and to give a written and/or public apology to the victim.

(6) Penalty in Case of a Second Offence

In case of a person committing a sexual offence for the second time, the penalty shall normally be stiffer than on the first occasion. But the stiffness of penalty on the second occasion shall also be in relation to the gravity of the second offence.

XXV. CONFIDENTIALITY AND THE CHANNELS OF COMMUNICATION BETWEEN THE UNIVERSITY AND ICC

ICC strongly underlines the need for maintaining confidentiality regarding proceedings involving sexual harassment. It is the duty of all involved in the processes of ICC to abide by this dictum in all earnestness. The requirement of evolving effective ways to maintain maximum possible confidentiality needs to be stressed here.

While emphasizing the need for maintaining maximum confidentiality, it needs to be borne in mind that for the smooth functioning of the mechanisms for restraining sexual harassment on the campus, there has to be complete rapport between ICC and the Vice-Chancellor.

In pursuit of the objective of curbing sexual harassment and for undertaking expeditious redressive action, the Vice-Chancellor should be kept informed at the important stages in the functioning of ICC whenever a case of sexual harassment should take place. When required the Chairperson, ICC accompanied by one or two members of ICC should inform the Vice-Chancellor about serious complaints of Sexual Harassment on the campus.

The important stages/occasions at which such consultation/communication should take place are:

- (a) When a complaint is lodged and there is prima facie evidence that the complaint is not a frivolous one, or even if no complaint is lodged but an event involving sexual harassment comes to the notice of ICC.
- (b) When a case is referred to the Enquiry Committee.
- (c) When the Enquiry Committee submits its verdict to the ICC.
- (d) If a complaint is also filed simultaneously with the notice or lodged in a Civil Court within the knowledge of ICC, this should be brought to the attention of the Vice-Chancellor.
- (e) If an event involving sexually deviant behaviour takes place in a hostel or elsewhere on the campus within the knowledge of ICC, the Vice-Chancellor should be informed about it even if no formal complaint is lodged.

The relevant information at the above mentioned stages should be passed on to the Vice-Chancellor not simply through oral consultation/ communication process but in writing as well since documentary evidence can become important if some case ultimately results in recourse to legal redressal. One, however, hopes that such situations would normally not arise.

XXVI. OTHERS MATTERS CONCERNING MODUS OPERANDI OF ICC

(A) False Complaint:

- (i) If the Complaint Screening Committee or the Enquiry Committee finds no merit in the complaint, it shall write to the Chairperson of ICC giving reasons for its conclusions.
- (ii) Within four working days of the receipt of this communication, the Chairperson of ICC shall call a Special Meeting to discuss the recommendations of the Complaints Screening Committee or Enquiry Committee, and to decide whether a show-cause notice shall be issued to the complainant.
- (iii) Upon the decision to issue a show-cause notice, the Chairperson of ICC shall issue it to the complainant. The show-cause notice shall cite the bases of the Committee's conclusions and require the complainant to explain, within seven days in writing and/or in person, as to why disciplinary action shall not be taken against him.
- (iv) Within four working days of receipt of any explanation from the complainant to this show-cause notice, or after the expiry of the time specified for such explanation, the Chairperson of ICC shall convene a Special Meeting to consider the explanation or any lack thereof.
- (v) In event of no, insufficient, or unconvincing explanation, ICC shall pass on the papers concerning the complaint to the University Authority who shall impose sufficiently strong penalty in order to exclude the possibility of lodging a motivated complaint for maligning some person's character.

(B) Protection Against Victimization²⁵

- (j) If the complainant is a student and the accused is a teacher, during the pendency of the investigation and enquiry, and even after such an enquiry if the teacher is found guilty, the accused shall not supervise any academic activity of the student, including but not limited to, evaluation and examination, re-examination, and supervision of research.
- (ii) If a witness named by the complainant is a student and the accused is a teacher, during the pendency of the investigation and enquiry, and even after such an enquiry if the teacher is found guilty, the accused shall not supervise any academic activity of the student, including but not limited to, evaluation and examination, re-examination, and supervision of research.
- (iii) If both the complainant and the accused are members of the academic and/or non-teaching staff of the University, during the pendency of the investigation and enquiry, and even after such an enquiry if the accused is found guilty, the accused shall not write the Confidential Reports of the complainant, he is otherwise so authorized.
- (iv) If witnesses named by the complainant and the accused are members of the academic and/or non-teaching staff of the University, during the pendency of the investigation and enquiry, and even after such an enquiry if the accused is found guilty, the accused shall not write the confidential reports of the witnesses, if he is otherwise so authorized.
- (v) If the accused is an outsider, during the pendency of the investigation and enquiry, and even after such an enquiry if the accused is found guilty, the accused shall not be allowed to enter the campus, except for the purpose of attending the present enquiry.
- (vi) If the accused is a resident/service provider, during the pendency of the investigation and enquiry, and even after such an enquiry if the accused is found guilty, the order of restraint issue in accordance with the procedures in Clause XX (D) shall be in force at all times.

²⁵ The Vishaka Judgment: “In particular, (the employee) should ensure that victims, or witnesses are not victimized or discriminated against while dealing with complaint of sexual harassment.”

(C) Provisions for Appeal²⁶

- (i) In the event of the ICC not taking action on a complaint, or if the complainant or accused is dissatisfied with the disciplinary action taken by the University authorities, he shall have the right to appeal to an Appeals Committee.
- (ii) Appeals may be lodged with the University authorities.
- (iii) An Appeals Committee shall consist of the following 3 members:
 - (a) One person nominated by the Executive Council of Kurukshetra University from amongst its members.
 - (b) One former Chairperson of ICC or any former senior woman member of ICC nominated by the Vice-Chancellor. The nominee shall chair the Appeals Committee.
 - (c) One woman faculty member of the Women Studies Centre, Kurukshetra University, or any other senior woman faculty member nominated by the Vice-Chancellor.
 - (d) Further, since the above two categories shall be woman members, the member to be nominated by the Executive Council must be a male member of the Executive Council.
- (iii) The Appeals Committee shall have all the powers and duties of an Appellate Body. It shall consider the appeal, with the appellant deposing in person. It shall have the power to summon any person as witness as well as any official records. On the basis of all the records before it, including the deposition of the appellant, if it is satisfied that the matter needs to be further enquired into, it shall conduct an enquiry in accordance with the guidelines laid down in the Rules and Procedures.
- (iv) The Appeals Committee shall report to the Executive Council of Kurukshetra University its findings and recommendations on the nature of the action to be taken on the appeal.

(D) General Service Rules:

²⁶ The Appeals Committee shall have to frame its own Rules & Procedures.

- Kurukshetra University Calendar, Volume-iii, (Chapter-6,7,8), Terms and Conditions of Service.
- Similarly, in case of students, the Brochure/Handbook provided to them at the time of admission should contain a reference to the existence of a framework of rules in Kurukshetra University for curbing sexual harassment.

(E) Special Provision for Physically Challenged Persons:

In case a physically challenged person happens to be a victim of sexual harassment, the procedure for providing succor to the person concerned would be more expeditious. In such cases, the victim may directly approach the Vice-Chancellor. Depending upon gravity of the incident involved, the Vice-Chancellor, in consultation with Chairperson of ICC, may take necessary action to reduce the steps involved in the complaints and enquiry procedure as laid down in the Rules and Procedures document.

(F) Obligations of University Authorities and functionaries:

- (i) The University authorities and functionaries shall accord full cooperation to ICC in its execution of its functions of gender sensitization and orientation, crisis management and mediation, and enquiry and formal redressal of complaints.
- (ii) The University authorities shall ensure that the aims and objections of the ICC Policy are included in the Admission Brochure and the complete Policy document is available on the University website.
- (iii) The University authorities shall ensure that recruitment announcement to all academic and non-teaching positions include the following statement, as notification of the Policy: Kuruksetra University, Kurukshetra has a Policy against sexual harassment and is committed to providing an environment free from gender discrimination and harassment.
- (iv) In order to ensure the permanent placement of the Policy, the University authorities and functionaries shall arrange for several copies to be placed before boards for display in prominent places, such as the entrances to the campus, academic and administration buildings, hostels etc.

- (v) The University authorities and functionaries shall provide legal, medical and counseling assistance to those victims who have to take recourse to the law.
- (vi) The University authorities and functionaries shall forward all complaints of sexual harassment to ICC, save in cases in which the complainant has expressly prohibited such forwarding.
- (vii) The University authorities and functionaries shall provide all necessary assistance for ensuring full, effective and speedy implementation of these Rules and Procedures.
- (viii) As required by the Act, the University authorities shall forward to the government department concerned, the Annual Report of ICC together with a written report of the Action Taken by them upon the decisions/recommendations of the ICC and the Appeals Committee.

(G) Dissident Views:

If a member of ICC does not agree with a majority decision of ICC, she/he should have the right to submit a dissenting point of view along with reasons/evidence etc.

XXVII. AMENDMENT TO THE POLICY OF ICC

Amendment to the Policy of ICC shall have effect only if these are in consonance with the spirit of the Sexual Harassment of Women at Workplace (Prevention, Prohibited, Redressal) Act, 2013 and is approved by a Committee constituted by the Executive Council of the University.

XXVIII. MISCELLANEOUS

The provisions of these Rules and Procedures shall be duly incorporated within any other Statute, Circular or Ordinance of the University as may be relevant, in keeping with the Act.

- (i) The proceedings under these Rules and Procedures shall not, in any way, be affected by any other proceedings against the accused preferred by the complainant under any other provision of civil or criminal law, except to the extent specifically ordered by a court of law.

- (ii) The provisions of these Rules and Procedures shall not restrict the powers of the University or the complainant to proceed against the accused for any other misconduct, or pursue criminal or civil remedies, whether or not connected with the misconduct within the purview of these rules.

XXIX. Right to Information²⁷

Notwithstanding anything contained in the Right to Information Act, 2005, the contents of the complaint made under section XX, the identity and addresses of the aggrieved woman, respondent and witness, any information relating to conciliation and inquiry proceedings, recommendations of the ICC and the action taken by the Vice-Chancellor under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner.

Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.

Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of this Act, contravenes the provisions of section XXIX, he shall be liable for penalty in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist, in such manner as may be prescribed.

XXX. Budget

- The University shall provide adequate office space including all facilities like secretarial help, computer/printer, stationery and photocopying facilities etc. for the functioning of the ICC.
- The University Budget shall provide a sum of Rs. 5 Lakhs per year to the ICC for TA/DA, Honorarium, Hospitality, Stationery, organizing awareness and sensitization programmes and other related activities including posters, brochures, handbills, display boards etc.

²⁷ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 16 & 17

- TA/DA for outstation members for attending the meetings shall be provided as per university rules. An honorarium of Rs. 2000/- per head per day shall be given as sitting fees to the outstation members for attending the meeting of ICC, Screening Committee and Inquiry Committee. (If more than one meeting of ICC is held on one day i.e. ICC meeting and Inquiry Committee meeting only Rs. 2000/- per day will be paid to the outstation members.)