

**The IAWS Code to Promote Gender
Sensitization and Combat Sexual Harassment
at the Workplace**

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The IAWS Code to Promote Gender Sensitization and Combat Sexual Harassment at the Workplace

Preamble

The Indian Association of Women's Studies ("**IAWS**") has established the following principles and procedures aimed at the prevention and redressal of Sexual Harassment, the IAWS Code to Promote Gender Sensitization and Combat Sexual Harassment at the Workplace ("**this Code**").

IAWS is committed to ensuring a safe and dignified working environment for all persons who form part of our community. No person shall be subject to any form of discrimination, harassment or violence on the basis of their gender identity or sexual orientation.

This Code has been drafted, and shall be interpreted, bearing in mind the following principles:

- 1) The Constitutional commitments to equality, non-discrimination and dignity of life;
- 2) The principles laid down by the Supreme Court of India in *Vishaka v. State of Rajasthan* (1997);
- 3) The mandate contained within the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("**the Act**") and corresponding Rules;
- 4) The objectives for which the IAWS was established and which it currently seeks to promote.

Chapter 1: Scope

This Code applies to all instances of Sexual Harassment committed during the course of or in connection with IAWS work. A person may file a complaint even if they are not an IAWS member, or even if the alleged instance(s) of harassment occurred outside of an IAWS office or Conference location. Illustrative examples include:

- 1. Persons X and Y are attending an IAWS Conference. X sexually harasses Y at the hotel where they are staying.*
- 2. X is an IAWS member and Y is a staff worker employed by the hotel where an IAWS Conference is taking place. X sexually harasses Y during the Conference.*
- 3. X and Y are IAWS members and Z is working for another organization. X and Y sexually harass Z while collaborating on an IAWS project.*

This Code would be applicable to all the above instances. However, even if this Code is not applicable to a given case, IAWS shall assist the Aggrieved Person in seeking alternate remedies as far as possible.

An Aggrieved Person is not bound to file a complaint under this Code at the first instance. They may approach the Executive Committee, seek legal advice, directly file a police complaint, etc. However, if they require IAWS to take any Corrective Action against a person for Sexual Harassment, this Code will be applicable.

1.1 This Code shall apply to, and be the exclusive mechanism for redressal through the IAWS of, all instances of Sexual Harassment as provided hereunder:

- a. Occurring at any location where the IAWS has a Working Presence, irrespective of the parties;
- b. Between or among members of the IAWS Community, irrespective of the location; and
- c. Where a complaint is made by a third party against a member of the IAWS Community and where such member was involved in an activity pertaining to the IAWS, irrespective of the location.

1.2 This Code shall also be the exclusive mechanism for redressal through the IAWS of all instances of Sexual Harassment occurring during the duration of any Conference, as provided hereunder:

- a. Occurring at a Conference, irrespective of the parties;
- b. Between or among persons who are attending a Conference, irrespective of the location. This includes any instance/s which occur during the course of travel to and from a Conference, and
- c. Where a complaint is made by a third party against a member of the IAWS Community and where such member was involved in an activity pertaining to a Conference, irrespective of the location.

1.3 An Aggrieved Person may choose to make a complaint directly with the Executive Committee or any member of the IAWS Community prior to initiating proceedings under this Code. In which case, the Executive Committee or the concerned member shall exercise best efforts to advise the Aggrieved Person about the mechanisms available under this Code and any other civil/criminal remedies available to them. An Aggrieved Person may also choose to directly avail of any remedial mechanism outside of this Code without approaching the IAWS.

Provided that irrespective of the redressal mechanism availed of by an Aggrieved Person, the IAWS shall not take any Corrective Action against any person for Sexual Harassment without following the procedure as prescribed under this Code.

1.4 In case of any doubt as to whether this Code is applicable in a particular instance, the Internal Committee shall have the final discretion to make a decision.

Provided that if the Internal Committee decides that this Code is not applicable, it is recommended that the IAWS should nevertheless take note of the instance complained of, and offer its support and co-operation in pursuing alternative remedies, as it deems fit in the facts and circumstances of the case.

Chapter 2: Definitions and Interpretations

This Code is meant to be as inclusive as possible of the concerns of Sexual Harassment survivors who require IAWS assistance. It applies to all locations where the IAWS is carrying out any work, including online work. It covers all persons who work in any capacity for the IAWS. It is a gender-neutral Code. It not only prohibits unwelcome sexual advances by men against women but is also meant to guard against same-sex harassment and discrimination against LGBTQ persons. The procedure prescribed under this Code includes the usage of digitized documentation for convenience.

In this Code, unless the context otherwise requires;

2.1 “**Administrative staff**” includes all persons appointed to any administrative positions by the IAWS or where the IAWS has a Working Presence, regardless of the duration or nature of appointment.

2.2. “**Aggrieved Person**” means a person who alleges that Sexual Harassment as defined under this Code has taken place.

2.3 “**Communication**” or “**Documentation**” include a formal request for inquiry, notices issued to the parties, written applications made by the parties and their witnesses, written submissions of parties and their witnesses, replies, lists of questions, orders and reports of the Internal Committee, and copies of the aforementioned. These may be in a digital or physical form.

2.4 “**Conference**” means and refers to any colloquium, event, exhibition, forum, programme or workshop which is organized by the IAWS or a Local Group, whether singularly or in collaboration with any individual, group, or another organization. It includes:

- a. The annual National Conference;
- b. Regional conferences; and
- c. Pre-conference events or any other event which is conducted in relation to a Conference.

Explanation: The term Conference extends to events which are conducted remotely or through modes of digital communication such as video-conferences.

2.5 “**Day**” means one working day, unless stated otherwise.

2.6 “**Employee**” means a person employed by the IAWS or a Local Group for any work on a regular, temporary, ad hoc or daily wage basis; either directly or through an agent, including a contractor; with or, without the knowledge of the IAWS or the concerned Local Group; whether for remuneration or not; working on a voluntary basis or otherwise; whether the terms of employment are express or implied; and includes an auditor, Administrative Staff member, co-employee, contractual employee, Researcher, probationer, project staff member, trainee, apprentice, intern or called by any other such name.

2.7 “**IAWS Community**” refers to and includes:

- a. Members of the General Body and Executive Committee;
- b. Members and office bearers of any Local Group;
- c. Employees of the IAWS; and
- d. Any other person providing any services to the IAWS where it has a Working Presence.

2.8 “**Internal Committee**” or “**IC**” means the Sexual Harassment Inquiry Committee constituted under Chapter 5 of this Code.

2.9 “**Memorandum of Association**” means the Memorandum of Association of the IAWS, as updated and published by the IAWS from time to time.

2.10 “**Researchers**” includes all persons employed or assigned to undertake research by or on behalf of IAWS, whether at a IAWS research center or otherwise.

2.11 “**Respondent**” means a person against whom the Aggrieved Person has made a complaint under Chapter 6 of this Code.

2.12 “**Sexual Harassment**” includes any one or more of the following unwelcome acts or behaviour, whether directly or by implication:

- a. Physical contact and advances;
- b. A demand or request for sexual favors;
- c. Making sexually colored remarks;
- d. Showing pornographic content including verbal, textual and graphic representations of a sexual nature, whether such content is transmitted in physical or digital form;
- e. Any other unwelcome conduct of a sexual nature;
- f. Any unwelcome conduct or interference with work on the basis of a person’s gender identity or sexual orientation, which is used to create a hostile work environment;
- g. Stalking as defined in Rule 2.13 ; and
- h. Making submission to unwelcome conduct as stated in (a) to (g) a term or condition of employment, evaluation or participation in IAWS activities at any point of time.

Explanation 1: “**Unwelcome acts or behaviour**” extends to acts or behaviour which are committed:

- i. To a person;
- ii. In a person’s presence whether or not the representation concerns the person; and/or
- iii. About a person, when malicious or discriminatory in nature.

Explanation 2: “**Unwelcome acts or behaviour**” covers all forms of conduct, speech, gestures and words, written or otherwise, where the aggrieved person has not expressly or impliedly given consent to the behaviour complained of. The silence of the aggrieved person or lack of protest at the time of the incident or afterwards shall not by itself be taken as proof of consent.

Explanation 3: “**Sexual Harassment**” extends to unwelcome acts or behaviour which are committed online or through a digital form, including through text messages, e-mails, video-calls and video conferences.

2.13 “**Stalking**” means and refers to the following acts, whether done directly or indirectly:

- a. Physically following a person without their consent;
- b. Repeatedly contacting, or attempting to contact a person in spite of express or implied indication of disinterest by such person, including through digital modes of communication such as e-mails, social media platforms, or text messages; and/or

- c. Monitoring the communications of a person without their consent, whether such communications are in a physical or digital form.

Provided that the aforementioned acts shall not amount to stalking if the Respondent can prove that in the particular circumstances, the acts were justified or reasonable.

2.14 “**Summary Proceedings**” means and refers to the procedure for inquiry during a Conference as outlined under Chapter 8 of this Code.

2.15 “**Victimization**” shall be understood to mean any adverse action by a person, group of persons or an organization against an individual because they have, in good faith:

- a. reported an instance of Sexual Harassment;
- b. participated in, or have been witnesses to proceedings under this Code; or
- c. acted as Support Persons to redress an alleged instance of Sexual Harassment on behalf of the Aggrieved Person under this Code.

Provided that this definition shall not be applicable if such adverse action is against the Respondent, their witnesses or Support Person.

Explanation 1: For avoidance of doubt, “**participation in proceedings under this Code**” shall include the filing of a complaint.

Explanation 2: “**adverse action**” shall include, but not be limited to

- i. directly or indirectly making such participation in proceedings under this Code a ground for adverse action relating to employment, academic participation or evaluation, or entitlement to services/opportunities;
- ii. directly or indirectly using intimidation in any form and/or undue influence so as to dissuade or deter such participation;
- iii. making slanderous (i.e. public and defamatory) statements regarding the Aggrieved Person and/or their witnesses in relation to such participation, and
- iv. creating a hostile environment for the Aggrieved Persons and their witnesses.

2.16 “**Woman**” means and includes both cisgender and transgender women.

2.17 “**Working Presence**” refers to:

- a. any center, chapter, institution or office which is established or run by the IAWS. This includes the registered office at the Centre for Women’s Development Studies; the IAWS Center at Jharkhand; the Archives at Mumbai and the offices of any Local Group;
- b. any location where the administrative or financial activities of IAWS are carried out; and
- c. any other location over which the Executive Committee exercises control or supervision.

Explanation: The term Working Presence extends to any work performed at or for (a) to (c) which is conducted remotely, or through modes of digital communication including e-mails, text messages, video-calls and video-conferences.

2.18 Any reference to “**written**” shall include Documentation which is made in a digital form and/or sent through e-mail.

2.19 Any expression or term which is not specifically defined herein shall have the same meaning as is assigned to it in the Memorandum of Association.

2.20 Unless there is anything repugnant in the subject or context:

- a. words importing one gender identity shall be taken to include all gender identities; and
- b. words in the singular shall include the plural, and vice versa.

2.21 Head notes at the beginning of a section are only for the purpose of readers' convenience and shall not have authoritative value in terms of interpreting the provisions of this Code.

2.22 Sexual Harassment is prohibited and shall be dealt with under this Code.

Chapter 3: Duties of the IAWS

IAWS is duty bound to provide a safe working environment and ensure that all persons associated with it are aware of this Code. In the event of Sexual Harassment, IAWS is duty bound to facilitate the inquiry process and provide any other assistance to the Aggrieved Person.

3.1 IAWS shall —

- a. provide a safe working environment at places where it has a Working Presence;
- b. display at any conspicuous place(s) where it has a Working Presence as well as on the IAWS website, this Code and the order constituting the IC under Chapter 5 of this Code;
- c. display at any conspicuous place(s) at any event organized by IAWS, this Code and the order constituting the IC under Chapter 5 of this Code;
- d. organise 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 IC;
- e. provide necessary facilities to the IC for dealing with the complaint and conducting an inquiry;
- f. assist in securing the attendance of the Respondent and witnesses before the IC;
- g. make available such information to the IC as it may require having regard to the complaint made under Chapter 6 of this Code;
- h. provide assistance to the Aggrieved Person 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, or if the aggrieved woman so desires, where the respondent is not an employee of IAWS, in the workplace at which the incident of sexual harassment took place;;
- i. provide protection and assistance to the Aggrieved Person and her witnesses from actual or attempted victimization from any person/group of persons or organisations, where such instances or attempts are brought to its notice by the Aggrieved Person or a facilitator acting on behalf of the Aggrieved Person;
- j. monitor the timely submission of reports by the IC;
- k. ensure that any instance of harassment that has been brought to their notice, whether under this Code or otherwise, has ended;
- l. ensure compliance with all laws pertaining to sexual harassment;
- m. formulate strategies for spreading awareness of this Code among all participants at the Conference and members of the IAWS Community. In this regard, IAWS shall also be responsible for coordinating with the direct supervisor of all administrative, contract and informal workers who are associated with IAWS.

Chapter 4: Facilitators and SHPA at the IAWS

A Sexual Harassment Policy Advisor will be responsible for overseeing the implementation of this Code. They will also be responsible for conducting orientations with the Code and its mechanisms. An Aggrieved Person can approach Facilitators designated under this Code, in the first instance, or even otherwise.

4.1 Appointment of Sexual Harassment Policy Advisor (“SHPA”): Every three years, the Executive Committee shall appoint a **Life Member** with some formal or informal training in issues relating to sexual harassment, to act as a SHPA. Subject to availability, the SHPA shall be a woman. The SHPA shall ensure effective implementation and administration of this Code.

4.2 Facilitators: The Executive Committee, in consultation with the SHPA, shall have the power to appoint Facilitators under this Code.

- a. At any given point, at least one Facilitator shall be appointed at every Working Presence of the IAWS.
- b. At any given point, there shall be at least one Facilitator appointed from the Administrative staff at every Working Presence and one Facilitator from the students who are members of the IAWS.
- c. Only those persons, who have completed the requisite training programme organized by the SHPA, to the satisfaction of the person/organisation responsible for the training, may be appointed as Facilitators. Their term shall be for a period of three years.
- d. The names and contact information of all Facilitators shall be widely publicized on notice-boards and through such other means, across all Working Presence of the IAWS. This information must be publicized in English and the regional language, as may be applicable.
- e. There shall be at least three Facilitators at the Conference, or any other event, that is organized by the IAWS. The names and contact information of the facilitators shall be visibly published on noticeboards, flyers, website and any other relevant medium of publicity for the event. For the convenience of the staff, the names and contact information of the facilitators should be adequately publicized in the regional language of the venue of the event.

4.3 Powers and Duties of the SHPA: The powers and duties of the SHPA, in addition to the duties of the IAWS provided in Chapter 3 of this Code, shall include the following:

- a. To organize annual orientation workshops under this Code, wherever IAWS has a Working Presence. These workshops may be conducted virtually.
- b. To organize orientation workshops for all attendees of IAWS organized Conferences. In the event that the SHPA is unable to attend any of the aforesaid event, they should delegate such duty to a Facilitator with relevant experience.
- c. To ensure implementation of this Code and regularly review its functioning and effectiveness.
- d. To delegate responsibilities to appropriate persons to undertake periodic surveys among all members, staff and conference attendees to ascertain the extent of the problem and prevailing attitudes to all aspects of sexual harassment.
- e. To ensure the proper constitution and functioning of the IC along with the Executive Committee.
- f. To facilitate the training of the IC and Executive Committee (in collaboration with relevant organizations, if any), as and when it is constituted.

- g. To identify and monitor support structures to be provided wherever the IAWS has a Working Presence and at Conferences.
- h. To prepare an annual report of all activities undertaken and submit the same to the Executive Committee.

4.4 Training of Facilitators

- a. The SHPA shall, in association with qualified persons and organizations (subject to availability), organize and conduct an annual workshop for the training of Facilitators. The workshop may also be conducted virtually, in order to enable a joint training programme, wherever the IAWS has a Working Presence.
- b. The purpose of such workshop shall be:
 - i. to impart basic counseling and mediation skills;
 - ii. to equip Facilitators with a comprehensive understanding of this Code; and
 - iii. to impart any other skills or knowledge which may be considered appropriate by the organizers in order to ensure efficient functioning of this Code.

4.5 Role of the Facilitator – The Facilitator shall perform the following functions under this Code:

- a. act as a counselor;
- b. act as a mediator; and
- c. be the receiver of the formal request for inquiry, which may be the first step towards approaching the inquiry mechanism under this Code. In discharging any/all of the functions mentioned above, the Facilitator shall
 - i. act as a first known point of contact;
 - ii. assist with clarifying the nature of the complaint;
 - iii. give information on options and possible outcomes available under this Code;
 - iv. assist in drafting and filing of a formal request for inquiry;
 - v. explore strategies to safeguard against victimization;
 - vi. support the Aggrieved Person throughout the inquiry process, and even after its closure;
 - vii. provide information on other relevant internal/external remedies, and any limitation periods that may apply to such remedies;
 - viii. provide support irrespective of the Aggrieved Person's decision to file a formal request for inquiry;
 - ix. provide counseling, as needed; and
 - x. maintain complete confidentiality of all proceedings under this Code as per Chapter 13 of this Code.

Chapter 5: Constitution of Internal Committee

The Executive Committee shall constitute an Internal Committee every 3 years, which shall consist of at least 5 persons, half of which are women.

5.1 Constitution of Internal Committee: The Executive Committee shall constitute an Internal Committee, which shall consist of the following members:

- a. A Presiding Officer, who shall be a woman who is a member of the Executive Committee;
- b. Not less than two members of IAWS, preferably who are committed to the cause of women or who have had experience with social work;
- c. One external member from amongst non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment;
- d. One lawyer familiar with issues related to sexual harassment:

Provided that at least one-half of the total Members of the IC shall be women.

Provided further that in case of non-availability of a woman who is a member of the Executive Committee, the Presiding Officer shall be a woman who is a Life Member of IAWS;

Provided further that a minimum of three members of the IC, including the Presiding Officer and the external member, shall be present for conducting the inquiry.

Provided further that the members of the IC shall undergo compulsory training with respect to sexual harassment and procedures under this Code.

5.2 The IC shall be constituted immediately after the constitution of the Executive Committee and shall hold office for a period of 3 (three) years.

5.3 Any member of the IC, including the Presiding Officer, shall cease to be a member of the IC and the Executive Committee shall reconstitute the IC within a period of ten working days, in the event that:

- a. A member of the IC has been convicted of an offence, or an inquiry into an offence under any law in force is pending against such member; or
- b. A member of the IC has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against such member; or
- c. A complaint is made against a member of the IC under this Code or the sexual harassment inquiry mechanism of any other institution; or
- d. A member of the IC contravenes the provisions of Chapter 13 of this Code; or
- e. A member of the IC has so abused her position as to render her continuance in office prejudicial to the public interest.

5.4 Two members of the IC, including at least one woman, shall be available for all Conferences and shall constitute the IC for the purpose of the Conference. Upon receiving communication of a complaint of Sexual Harassment under Chapter 8 of this Code during a Conference, the two members constituting the IC shall carry out the Summary Proceedings.

Chapter 6: Complaint of Sexual Harassment

A complaint of Sexual Harassment may be made to the IC, either in writing or by means of e-mail. In case the Aggrieved Person wishes to file a police complaint, the IC shall provide assistance.

6.1 Any person aggrieved of Sexual Harassment may make, in writing, a complaint of Sexual Harassment to the IC, provided that where a complaint cannot be made in writing, the IC shall render all reasonable assistance to the person for making a complaint in writing. Provided further that a complaint may also be made by means of e-mail.

6.2 In case an Aggrieved Person is unable to make a complaint on account of death or physical/mental incapacity, or for any other reason, the legal heirs of the Aggrieved Person or such other person as may be prescribed may make a complaint under this section.

6.3 The IC may, before initiating an inquiry, and at the request of the Aggrieved Person, take steps to settle the matter between the parties as per Chapter 9 of this Code.

6.4 The members of the IC shall provide assistance to the Aggrieved Person if the Aggrieved Person chooses to file a police complaint in relation to any incidence of Sexual Harassment.

Chapter 7: Procedure for Inquiry

This chapter contains the procedure to be followed during the inquiry under this Code. It lays down the timeline to be followed, the rights available to the parties, mandates the IC to follow principles of natural justice and lays down the relevant factors to be taken into account while coming to a conclusion.

7.1 Initiation:

This Rule contains the timeline within which all written submissions, witness statements and written replies must be exchanged.

- a. Within two days of the receipt of the formal request for inquiry, the IC shall furnish a copy of the formal request for inquiry to all parties and simultaneously furnish a notice requiring all parties to submit their written submission and the written statements of all their respective witnesses (“witness statements”) within a week of having received the notice.

Provided that in receipt of the formal request for inquiry and in response to the notice, the Respondent may by way of a written submission accept the charges made against them by the Aggrieved Person and the IC may, in such instances directly file a report under Rule 7.2(f).

- b. Within 1 day of the receipt of the written submissions and witness statements, the IC shall forward a copy of the written submissions and written statements to the other party.
- c. Within a week of receiving the written submissions and written statements of the other party, both parties shall send their written replies to the written submissions and written statements that had been served to them by the IC.
- d. Within 1 day of the receipt of the written replies, the IC shall forward a copy of the written replies to the other party.

Explanation: The IC shall have the power to anonymize the complaint, if it deems necessary upon due consideration of the sensitivity of the complaint.

7.2 Conduct of Inquiry:

This Rule contains the procedure that must be followed while conducting the oral hearing and the powers of the IC.

- a. Within one day of the completion of the procedure delineated in Rule 7.1, the IC shall call for an oral hearing.

Explanation 1: Before each oral hearing, a notice shall be issued to both parties specifying the time and venue of the hearing. The hearings can be conducted online if acceptable to both parties.

Explanation 2: Either Party can file a written application to the IC requiring postponing of the hearing and providing alternative timings, up to 48 hours before the hearing.

- b. The IC shall conduct the hearings in accordance with the principles of natural justice. The IC shall question the relevant persons and inspect the necessary documents and records. The IC may call upon any additional witnesses if it deems necessary.

Explanation: “principles of natural justice” guarantee, to every party, a right to a fair hearing including the right to receive all communications submitted to the IC by the other party, a reasoned order and the absence of bias.

- c. For the purpose of making an inquiry under this Chapter 7, the IC shall have the same powers as are vested in a civil court the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely
 - i. summoning and enforcing the attendance of any person and examining him on oath;
 - ii. requiring the discovery and production of documents; and
 - iii. any other matter which may be prescribed.
- d. The IC shall hold a hearing where the parties shall be given a fair and reasonable opportunity to present their case, to call for their evidence and to cross-examine the other party and their witnesses.

Explanation: The cross examination will not be direct and will be done by submitting questions in writing to the IC. The IC has the discretion to ask only those questions it deems relevant.

- e. The IC shall ensure that the proceedings are accessible to all parties. This includes accessibility of language, accommodating any disability and any other factor that impedes access.
- f. Upon conclusion of the oral hearings, the IC shall, within ten calendar days, submit a report to the Executive Committee containing its factual findings, determination of whether this Code has been violated and the recommendation of Corrective Action under Chapter 10 of this Code.
- g. The applicable standard of proof shall be preponderance of probability.
- h. The inquiry, including the applicable standard of proof, shall be guided by the consideration that it is not a criminal proceeding or a proceeding of any court of law.

7.3 Written Submissions, Evidence and Documentation:

- a. All communications to the IC including written submission, witness statements and written replies can be in a simple format, using informal language (either English or any regional language). The written submission shall be signed by the Aggrieved Person respectively and the witness statements shall be signed by the respective witness. Where necessary a scanned signed copy can be sent via e-mail to the prescribed e-mail address.

Explanation: Where necessary, the IC will provide a translated version of the Communications submitted by one party to the other party.

- b. Documentation of the proceedings and all Communications must be strictly maintained by the IC.
- c. Evidence can include, *inter alia*, voice recordings, text messages, emails, photographs, social media posts, social media messages.

7.4 Corrective Action for False Evidence: Where the IC arrives at a conclusion that during the inquiry, any party or induced false testimony from any witness or produced any forged or misleading document, the IC may recommend Corrective Action under Chapter 10 of this Code against the offending party.

7.5 Time Frame: The inquiry as a whole under Chapter 7 of this Code must not take more than ninety days from the date of filing of the complaint under Chapter 6 of this Code.

7.6 Ex-Parte Order: The IC shall have the right to give an ex-parte decision on the complaint, if either party fails, without sufficient cause, to present themselves for three consecutive hearings.

Provided that such termination or ex-parte order may not be passed without giving a notice in writing, fifteen days in advance, to the party concerned.

7.7 Withdrawal of Inquiry: Where a request for inquiry has been made, withdrawal of the same shall not be permitted except with the permission of the SHPA when she is satisfied that the individual concerned is not acting under duress.

7.8 Relevant Factors:

- a. The past sexual history of the parties shall not be taken into account while establishing and/or deciding on the incident/s of sexual harassment.
- b. In determining Corrective Action, the IC shall consider the previous record of the Respondent under this Code (if any), under any other institutional mechanism, and the extent of victimization (if any).
- c. In determining the Corrective Action, the IC may consider the position of the Aggrieved Person in society and whether she suffers from patterns of disadvantage or belongs to a group that suffers from such patterns of disadvantage.

Explanation: Patterns of disadvantage can include factors of caste, disability, sexual orientation, gender identity, and class or any or all of them.

Chapter 8: Summary Proceeding Applicable for Conference

On communication of a complaint of Sexual Harassment during a Conference, the IC may carry out summary proceedings immediately within three days and take interim measures against the Respondent.

8.1 Initiation

If an Aggrieved Person reports an incident of Sexual Harassment during a Conference, the Aggrieved Person is entitled to request that the Respondent stop all contact with her immediately, and the IC will communicate this to the Respondent.

- a. The Aggrieved Person shall communicate a complaint of Sexual Harassment to the IC. Such complaint may be verbal or written, provided that any verbal complaint made shall be followed up with a written complaint within 24 hours of the initial complaint being made, failing which the Summary Proceedings shall be adjourned, and shall commence once such written complaint is received.
- b. Immediately on receiving a complaint, the IC shall commence the Summary Proceedings and inform the Aggrieved Person of the interim reliefs available under Rule 8.3(a) and Rule 8.3(b) notwithstanding anything contained in Chapter 10 of this Code.
- c. On the receipt of a complaint, the IC shall contact the Respondent, informing them of the complaint, the requirement to comply with the interim relief under Rule 8.3(a) if exercised by the Aggrieved Person. The IC shall also forward to the Respondent the written complaint when received by the IC. The Respondent shall submit a written response to the written complaint within such time frame that the IC may prescribe.

8.2 Conduct of Summary Proceeding.

The Investigation will be fair and impartial and the IC must maintain a detailed record of the process followed and evidence considered. The Investigation will be concluded within 3 days.

- a. The Respondent shall be given an opportunity to make both written and verbal submissions to the IC during the pendency of the investigation, provided that if no submissions are made by the Respondent, the IC shall arrive at an ex-parte conclusion.
- b. In conducting the investigation, the IC shall ensure that the principles of natural justice are followed. The IC shall speak to both parties and give them the opportunity to present their case. Interested IC members must recuse themselves. The conclusion of the investigation must be both written and reasoned.
- c. Members of the IC shall contact all parties involved along with all relevant witnesses and question them in relation to the incident of sexual harassment, in a manner they deem fit.
- d. The IC shall maintain a detailed record of the process of investigation followed, all evidence considered and all witnesses questioned during the investigation.
- e. The IC shall complete the investigation within 3 days of receiving the complaint and submit an Initial Written Report communicating their final decision and the recommended corrective measures under Rule 8.3(a) and 8.3(b). The IC shall submit a Final Written Report containing the reasoning of the decision within 3 days of filing their Initial Written Report.

8.3 Interim Reliefs

Immediately after making a complaint, the Aggrieved Person may request the IC to order the Respondent to stop all contact with her, and minimize her interaction with him during the conference. On conclusion of the summary proceeding, the IC may recommend the additional corrective measures listed in this Rule.

- a. On receiving a complaint, the IC shall have, at the request of the Aggrieved Person, the power to direct the Respondent to stop all contact with the Aggrieved Person, both online and in-person.
- b. On receiving a complaint, the IC shall have, at the request of the Aggrieved Person, the duty to work with the organizers of the Conference to ensure that the Aggrieved Person and Respondent are not coming face to face with each other, as far as practically possible.
- c. At the conclusion of the Summary Proceeding, in the event that a *prima facie* case has been made out against the Respondent, the IC shall recommend any or all of the following corrective measures.
 - i. **Removal of the Respondent from IAWS provided accommodation;**
 - ii. Retrospectively charging the Respondent for IAWS provided accommodation;
 - iii. Barring any presentations to be made by the Respondent during the Conference;
 - iv. An apology by the Respondent to the Aggrieved Person, provided that the Aggrieved Person gives her consent.
- d. After the submission of the Final Report by the IC under Rule 8.2(e), the Aggrieved Person shall have the right to file a complaint under Chapter 6 of this Code and avail the process of Inquiry under Chapter 7 of this Code.

Chapter 9: Mediation

This Chapter contains the procedure to be followed for initiating/ during the mediation proceedings. It also lays down the timeline to be followed and the rights available to the parties during the mediation proceedings. Mediation is a completely voluntary process. Even if the parties have consented to mediation, they have the right to walk out of the mediation proceedings before the 45-day time limit expires.

9.1 Request to mediate

a. Mediation before initiating an inquiry

This Rule contains the procedure to be followed for initiating the mediation proceedings before an IC inquiry has been initiated.

- i. In the event that the Aggrieved Person, after consultation with the Facilitator, requests mediation, the Facilitator shall inform the SHPA of this request and the SHPA shall inform in confidence the person/s against whom the concern has been raised about the nature of the concern. There shall be no direct correspondence between the Facilitator, who is assisting the Aggrieved Person, and the Respondent.
- ii. The SHPA shall initiate mediation proceedings only on obtaining consent of the parties concerned.
- iii. The mediator shall be a Facilitator who all parties concerned have agreed to. The Facilitator who is/has been the contact person and/or the counsellor for the Aggrieved Person or the Respondent shall not be the mediator.
- iv. If either of the parties are unable to agree on whether to have mediation or on the proceeding/result of the mediation, they may, at any point, make a request to end the mediation proceedings. The Aggrieved Person shall then have the option to make a request for inquiry.

b. Mediation after the inquiry proceedings have commenced

This Rule contains the procedure to be followed for initiating the mediation proceedings after the IC inquiry has commenced.

- i. In the event that the Aggrieved Person requests mediation after an inquiry has been initiated or while the inquiry is going on, the IC shall inform the SHPA of this request. The SHPA shall place the request before the Respondent to seek their consent.
- ii. In the event that both parties consent to mediation, the IC shall pause the inquiry proceedings and the SHPA shall then initiate the mediation proceedings.
- iii. The mediator shall be a Facilitator who all parties concerned have agreed to. The Facilitator who is/has been the contact person and/or the counsellor for the Aggrieved Person or the Respondent shall not be the mediator.
- iv. If either of the parties are unable to agree on whether to have mediation or on the proceeding/result of the mediation, they may, at any point, make a request to end the mediation proceedings. The Aggrieved Person shall then have the option to request

the IC to resume the inquiry proceedings. On such a request, the IC shall resume the inquiry proceedings.

9.2 The mediation proceedings shall be initiated within 7 days from the date on which the Aggrieved Person has made the request to mediate. The mediation proceedings shall be concluded within 45 days from the date of the first mediation proceeding, which may be extended by the SHPA for a period of 15 days on obtaining the written consent of both the parties. The time spent in mediation will not be included in the time limit prescribed under Rule 7.5 of this Code.

Explanation: Nothing in these rules shall be read to preclude the right of the Aggrieved Person to request for initiating or resuming the inquiry proceedings before the completion of the 45 days timeline prescribed in Rule 9.2.

9.3 The mediation shall be confidential in accordance with Chapter 13 of this Code.

9.4 The SHPA shall have the duty to ensure that the parties are not under duress while initiating and/or participating and/or continuing to participate in the mediation proceedings. The parties shall report to the SHPA if they are under any duress and the Executive Committee, on consulting with the SHPA, shall take appropriate action/s.

9.5 No monetary incentive/offer shall be made to the Aggrieved Person to get them to initiate and/or participate and/or continue to participate in the mediation proceedings.

9.6 If the parties reach a settlement during the mediation proceedings, the settlement shall be made in writing and recorded with the SHPA. If the settlement involves any action that may require the mandate of the Executive Committee, the SHPA shall forward the recorded settlement to the Executive Committee to take appropriate action/s in furtherance of the settlement.

9.7 The SHPA shall provide the copies of the settlement as recorded under Rule 9.6 of this Code to the Aggrieved Person and the Respondent. The settlement shall be confidential in accordance with Chapter 13 of this Code unless the SHPA obtains written consent from both the parties.

Chapter 10: Interim Reliefs and Corrective Action

This rule provides for the Interim Reliefs that may be awarded by the IC during the pendency of proceedings under this Code. Parties or their witnesses may ask for interim relief at any stage of the inquiry. The IC is required to decide requests for interim relief as soon as possible.

10.1 Interim Reliefs- The IC may provide the parties Interim Reliefs, during the pendency of the inquiry by taking actions including:

- a. Temporary leave with pay and employment benefits to the Respondent on an application made by the Aggrieved Person;
- b. Leave with pay and all employment benefits for up to three months to the Aggrieved Person on an application made by the Aggrieved Person;
- c. Direct IAWS to bear the cost of emergency medical expenses to be incurred by the Aggrieved Person as a result of the Sexual Harassment. In the event of a finding of guilt by the IC, the said expenses shall be included as part of the penalties imposed on the Respondent, payable to IAWS;
- d. Restrain the Respondent from supervising or evaluating the work or performance of the Aggrieved Person;.
- e. Restrain either party or anyone acting on their behalf from contacting or attempting to contact the other party or their witnesses against their wishes on an application made by either party;
- f. Pass immediate orders restraining the Respondent from attending or continuing to participate in the event where IAWS has a Working Presence where the alleged act of Sexual Harassment took place;
- g. Temporarily cancel the Conference Membership of the Respondent;
- h. If the Respondent has any previous history of acts of Sexual Harassment committed by him or where the IC apprehends that the Respondent poses a danger to the safety of others, the IC may take one or more of the following actions during the pendency of the enquiry:
 - i. Restrain the Respondent from representing IAWS in any events;
 - ii. Restrain the Respondent from attending or participating in any capacity in IAWS events;
 - iii. Restrain the Respondent from being nominated as a representative of an Institutional Member;
 - iv. Restrain the Respondent from participating in the General Body meetings and/or meetings of the Executive Committee of IAWS.

10.2 The parties may request for Interim Reliefs at any stage of the proceedings;

10.3 Violation(s) of the provisions of this Rule by the Respondent where the said violation would constitute an act of Victimization as under Chapter 15 of this Code and shall attract corrective action under Chapter 10.

Explanation 1: In clauses 10.1(i) and 10.1(ii) the leave granted to the party is to be in addition to the leave to which the party would otherwise be entitled.

Explanation 2: The IC shall not consider any order passed under this sub rule to be a mitigating circumstance when determining the penalty to be imposed.

10.4 Persons who may avail of Interim Reliefs -

- a. The IC may grant Interim Reliefs as per Chapter 8 of this Code with respect to complaints pertaining solely to the Conference, and as per Chapter 10 at all other times
- b. The parties may apply to the IC for interim relief at any stage of the inquiry.
- c. A party's witness may apply to the IC for interim relief at any stage of the inquiry, provided that a witness may apply for interim relief only if they themselves are subject to victimization.
- d. The IC may, *suo moto*, take action as it deems fit as per Rule 10.1 of this Code.

10.5 Procedure for grant of Interim Relief

- a. Persons seeking Interim Relief shall make a written application to the IC.
- b. Timeframe:
 - i. If the complaint pertains solely to the Conference, the IC shall dispose of the application for Interim Relief as soon as possible.
 - ii. With respect to all other complaints, the IC shall dispose of the application for Interim Relief within three days of receipt.
- c. The IC shall communicate its decision on all applications for Interim Relief to all parties in an inquiry.

10.4 Corrective Action

This Rule provides the Corrective Actions that the IC may recommend upon a finding that the Respondent has Sexually Harassed the Aggrieved Person

The IC shall recommend penalties to be imposed on the Respondent upon a finding that the Respondent has Sexually Harassed the Aggrieved Person, including:

- a. Termination of employment of the Respondent;
- b. Deduction, 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 Person or to her legal heirs;
- c. Suspension from employment without pay for a period as may be determined by the IC;
- d. Removal from the position of office bearer or member of the Executive Committee;
- e. Life ban on Respondent from contesting elections to the Executive Committee or a ban for such period as may be determined by the IC
- f. Suspension from holding the position of office bearer or member of the Executive Committee for a period as may be determined by the IC;
- g. Temporary suspension of membership of the Respondent for a period as may be determined by the IC;

- h. Termination of membership of the Respondent;
- i. Temporary restraint on the Respondent being the nominated representative of an Institutional member for a period as may be determined by the IC;
- j. Permanent restraint on the Respondent being the nominated representative of an Institutional member;
- k. Life ban on the Respondent attending, representing or participating in any IAWS event or a ban for a period as may be determined by the IC;
- l. Directions to issue a written public apology which is to be displayed prominently on all notice boards in the respective IAWS office(s) or shared with all participants of the Conference by e-mail.
- m. Monetary compensation payable to the Aggrieved Person or her legal heirs. In determining the quantum of the penalty to be imposed, the IC shall take into account the following factors:
 - i. the mental trauma, pain, suffering and emotional distress caused to the Aggrieved Person;
 - ii. the loss in the career opportunity of the Aggrieved Person due to the incident of Sexual Harassment;
 - iii. medical expenses incurred by the Aggrieved Person for physical or psychiatric treatment;
 - iv. the income and financial status of the Respondent;
- n. Mandatory gender sensitization and/or sexual harassment workshop to be attended by the Respondent;

Provided that where the Respondent is the nominated representative of an Institutional Member, a formal intimation of the finding of guilt of the Respondent under this Code shall be communicated by IAWS to the said Institutional Member.

Provided further that where the Respondent is not a nominated representative of an Institutional Member, the IC may provide a formal intimation of the finding of guilt of the Respondent under this Code to the employer or educational institution of the Respondent as the case may be;

Provided further that where IAWS has borne the costs of the medical expenses of the Aggrieved Person during the pendency of the enquiry, the Respondent shall be directed to pay the said amount to IAWS.

Explanation: The medical costs to be refurnished by the Respondent to IAWS shall be in addition to any other monetary penalties that may be imposed on him under Rule 10.4(1).

10.5 In recommending corrective action for the Respondent, the IC shall have regard to the following factors:

- a. Any previous history of acts of Sexual Harassment by the Respondent under this Code or otherwise;
- b. Gravity of the offence;
- c. Any proven act of Victimization of the Aggrieved Person or her witnesses by the Respondent;
- d. Likelihood of the Respondent being a threat to public safety;

- e. Reliefs sought for by the Aggrieved Person by way of her Complaint;
- f. The respective socio-economic positions of the parties, including but not limited to caste, class, religion, race, nationality, gender and sexuality.

Chapter 11: Review

The recommendations of the IC will be reviewed by the Executive Committee. The Executive Committee will either approve them or send them back to the IC for re-consideration. If the Executive Committee still does not approve the recommendations submitted by the IC after reconsideration, it may constitute a different IC for a fresh inquiry.

11.1 The Executive Committee shall review the recommendations submitted by the IC and shall implement the recommendation unless it finds that the Inquiry or the Corrective Action is vitiated by any gross irregularity or illegality or non-application of mind.

11.2 If the Executive Committee decides to reject the findings and recommendations of the IC pursuant to Rule 11.1 above, it shall return the entire proceedings to the IC for re-consideration or further inquiry, setting down the reasons for such rejection in writing.

11.3 On receipt of a communication from the Executive Committee under Rule 11.2 above, the IC shall consider the issues identified by the Executive Committee and reconsider its prior decision in response to the issues raised by the Executive Committee and, if the IC feels necessary, make further inquiry into the matter.

11.4 Upon completion of its consideration under Rule 11.3 above, the IC shall submit its conclusions and recommendations to the Executive Committee.

11.5 If the Executive Committee is satisfied that the findings and recommendations of the IC as re-submitted under Rule 11.4 above satisfactorily address the concerns raised by it under Rule 11.2 above, the Executive Committee shall implement such recommendations made by the IC.

11.6 If the Executive Committee is still of the view that the findings and recommendations resubmitted by the IC under Rule 11.4 above suffer from any gross irregularity or illegality or non-application of mind, it may constitute a fresh IC.

11.7 Final orders made by the Executive Committee under Rule 11.1 and/or Rule 11.5 above shall be communicated in writing to the concerned parties who shall also be supplied with a copy of the report of the Inquiry, the findings and the proposed Corrective Action.

11.8 The proceedings under this Chapter shall be treated as confidential in accordance with Chapter 13 of this Code.

11.9 The Executive Committee's final order shall not be subject to further review.

Provided that any member of the Executive Committee, who is or was a part of the IC for any Inquiry, shall recuse themselves from any proceedings of the Executive Committee concerning the review of the recommendations given by such IC.

Provided also that any member of the Executive Committee, who was a part of the review panel for any Inquiry, shall not be made a member of any reconstituted IC for such Inquiry.

Chapter 12: Recusal

All persons who are a part of proceedings under this Code must recuse themselves in case of a conflict of interest.

12.1 Any member of the Executive Committee, the IC, or a facilitator under this Code shall mandatorily recuse themselves if they feel that their impartiality may be compromised due to a conflict of interest or for any other reason. In case such a person fails to recuse themselves, the Executive Committee shall take appropriate action.

12.2 In case a person recuses themselves from participating in any proceedings under this Code, an *ad hoc* member fulfilling the same criteria shall be appointed by the Executive Committee as a replacement within a period of ten working days.

Chapter 13: Confidentiality

All parties involved in sexual harassment proceedings must respect and maintain the confidentiality of the proceedings.

13.1 Notwithstanding anything contained in the Right to Information Act, 2005, the contents of the complaint made under Chapter 6, the identity and addresses of the Aggrieved Person, Respondent(s) and witnesses, any information relating to mediation and inquiry proceedings and the recommendations of the IC shall be confidential (i.e. shall not be published, communicated or made known to the public, press and media in any manner).

13.2 All proceedings, documents and records maintained under this Code shall be confidential, subject to Rule 13.6, provided that this rule shall not apply to any information divulged prior to the commencement of the proceedings, or to information divulged for the purpose of criminal proceedings under the Code of Criminal Procedure, 1973.

13.3 All persons involved in proceedings, mediation, or Summary Proceedings under this Code, including the parties, witnesses, support persons, members of the inquiry panel, mediator, facilitators and members of the Executive Committee shall be under a duty to respect and maintain confidentiality.

13.4 No part of the proceedings under this Code, regardless of whether conducted physically or online, may be electronically recorded.

13.5 No documentation or evidence produced during the mediation process, or Communication in relation to the mediation process shall be produced before the IC unless the party presenting the document and/or making the statement provides their consent to the Communication and/or document being shared with the IC. The mediator shall not be called to testify and/or produce documents which were shared during the mediation process, before the IC or any other authority, unless the parties consent to the Communication and/or document being shared with the IC or such other authority.

13.6 All parts of the Summary Proceeding, except the Final Written Report shall be confidential, provided that any details which may lead to the identification of the Aggrieved Person or their witnesses, including names, addresses, or any other particulars (“**identifying details**”) shall be redacted in the event that such Final Written Report is made public.

13.6 All decisions taken under this Code, except the final decision of the Executive Committee shall be kept confidential, provided that any identifying details shall be redacted in the event that such final decision is made public, provided that any settlement reached through a mediation process shall be recorded and such record shall be maintained with the Executive Committee, and further provided that such record shall be confidential.

13.7 Any person who violates any rule of this Chapter 13 will be liable for Corrective Action under Chapter 10 of this Code, provided that nothing in this Chapter 13 shall bind the Aggrieved Person to keep confidential any information regarding the incident of sexual harassment pursuant to which the complaint was filed, on conclusion of proceedings or Summary Proceedings under this Code.

Chapter 14: Support Persons

If a party so desires, they may ask for a Support Person of their choice to be appointed. A support person can help a party in any manner required but cannot speak on their behalf before the Inquiry Committee. The Support Person of the Respondent cannot attend the proceedings.

14.1 Support Persons:

- a. Either party may request the IC for the appointment of a Support Person of their choice at any stage in the proceedings.
- b. The IC shall determine the role of the Support Person in consultation with the respective party. The Support Person may be allowed to attend all proceedings at the discretion of the IC.

Provided that the Support Person shall not make any representations on behalf of the parties.

Chapter 15: Victimization

Any intentional disadvantage caused to the Aggrieved Person or their witnesses because they participated in sexual harassment proceedings will be noted and subject to corrective actions under this Code.

15.1 Any person or group of persons or organization which commits victimization at any time before the commencement of proceedings under this Code, during such proceedings, or after completion of such proceedings, shall be liable to Corrective Action under Chapter 10 of this Code.

15.2 Without prejudice to Rule 15.1 above, Aggrieved Persons and their witnesses shall have the right to seek interim relief during the pendency of any proceeding under this Code against any person/s, group/s or organization/s victimizing them.

15.3 Any proven complaint of victimization against a Respondent in a proceeding under this Code shall warrant Corrective Action in addition to any Corrective Action prescribed for a proven act of Sexual Harassment.

Chapter 16: Mala fide Complaint

If the Inquiry Committee finds that the Aggrieved Person made the complaint in bad faith, it may (after a separate inquiry) recommend to the Executive Committee that the Aggrieved Person should issue a written public apology. Inability to prove the complaint will not be considered as having made the complaint in bad faith.

16.1 In the event that the formal request for inquiry is proved to have been made by the Aggrieved Person knowing the allegation of Sexual Harassment to be false, the IC shall recommend to the Executive Committee that the person found guilty of such *mala fide* be required to issue a written public apology.

Provided that a mere inability to substantiate a complaint or provide adequate proof shall not attract action against the Aggrieved Person under this Chapter.

16.2 Malicious intent on part of the Aggrieved Person shall be established by the IC in a separate hearing after the submission of its recommendations on the Inquiry under this Code.

16.3. The IC shall not have regard to any previous findings by any inquiry committee for determination of *mala fide* complaint under this Chapter.