



Policy against Sexual Harassment
And
Violation of Human Rights

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INC

Policy against Sexual Harassment
and
Violation of Human Rights

PART ONE

1.1 Preamble

Icfai National College (INC) is committed to creating and maintaining a community in which students, teaching and non-teaching staff can work together in an environment free of violence, harassment, exploitation, and intimidation. This includes all forms of Human Rights violations including gender violence, Sexual Harassment and discrimination on the basis of gender. Every member of INC should be aware that while INC is committed to the right to freedom of expression, it strongly supports gender equality and opposes any form of Human Rights violation including gender discrimination and violence.

Sexual Harassment has come to be widely condemned as a form of Human Rights violation, and as an infringement on life and liberty as defined by the Constitution of India. Such behavior is seen to transgress common dignity, gender equality, and fundamental rights. Sexual Harassment is contrary to anti-discrimination laws [(Article 15: “Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth” and Article 19(1) (g): Right to Freedom which upholds a woman’s right “to practice any profession, or to carry on any occupation, trade or business”].

The Supreme Court of India, in a landmark judgment in August 1997 (*Vishaka & others vs the State of Rajasthan & others*) stated that every instance of Sexual Harassment is a violation of “Fundamental Rights” under Articles 14, 15, and 21 of the Constitution of India, and amounts to a violation of the “Right to Freedom” under Article 19(1)(g). Another Supreme Court Judgment in January 1999 (*Apparel Export Promotion Council vs. Chopra*) has stated that Sexually Harassing Behavior “needs to be eliminated as there is no compromise on such violations”. The Supreme Court further reiterated that Sexual Harassment “is a violation of the Fundamental Right to gender equality and the right to life and liberty”.

These judgments confirm India’s international commitment to the International Covenant on Economic, Social and Cultural Rights (acceded to in 1979) and the Convention for the Elimination of Discrimination Against Women (CEDAW, ratified 1993). The Government of India was also a signatory to the Resolutions of the Fourth World Conference on Women in Beijing in 1995.

The Supreme Court judgment of 1997 makes it obligatory for every employer and other responsible persons to follow the guidelines laid down by the Court and to

evolve a specific policy to combat Sexual Harassment in the workplace. Educational institutions are bound by the same directive. Following this, INC is committed to uphold the Constitutional mandate ensuring the above mentioned human rights of all those who fall within its jurisdiction.

1.2 Social Context of Sexual Harassment

Though violent conduct is prohibited both by law and by INC, a specific policy defining Sexual Harassment is required to address the specific form and extent of sexual harassment in INCs. The policy recognizes that sexual harassment is not an offence merely amounting to disruption of law and order. Sexual Harassment is an act of power, and a public and collective violation that is often trivialized by labeling it an interpersonal transgression. It is therefore a violation of gender equality and also, of the right to a safe education and work environment for all. Sexual Harassment not only affects a few individuals but reinforces gender-based discrimination for every one.

It therefore, becomes imperative that various Educational Institutions, and civil society as a whole, should take adequate measures to ensure the safety, security, dignity, rights and equality of women as much as of men. Such measures will strengthen social and professional relationships in the work place.

The INC in evolving this policy has borne in mind that the institution functions within a social context. Given the social stigma associated with Sexual Harassment, a majority of instances of sexual harassment go unreported or even unmentioned. The policy therefore has evolved mechanisms that are accessible and will ensure confidentiality. It has also attempted to ensure fair, accountable and representative procedures for redressal and resolution.

1.3 Scope Of Reference For The Icfai National Colleges And Other Offices Like Zonal Offices, Regional Offices, Headquarters And Other Establishments

In formulating a policy for preventing and redressing Sexual Harassment, the fact that INC consists of a number of colleges, Regional Offices and Zonal Offices spread over the entire country in addition to Headquarters and other establishments has been considered. INC has an unusually large constituency of almost 18000 students and over 3,200 employees. A majority of these people commute to their “work places” (i.e. place of work/study) from various parts of the country.

The interpretation of the term, “work place,” for the purpose of the policy for INC will extend to all public spheres that remain in contact with members of INC. Such public places include not just the physical premises under the supervision of the INC system, but even areas in and outside where INC members travel to as part of their work as members of the organization. The jurisdiction will include fieldtrips, sports tournaments, conferences, college festivals and all other activities undertaken by any person as a member of INC.

1.4 Guiding Principles for Definition of Sexual Harassment and Redressal Mechanism

This policy defines Sexual Harassment and the mechanisms of redressal by looking at the specific structures, needs and imperatives in INC. It is guided by the definition of Sexual Harassment given by the Supreme Court in 1997 in *Vishaka vs. State of Rajasthan*.

1.5 Objectives of The Policy

- a) To fulfill the directive of the Supreme Court enjoining all employers to develop and implement a policy against Sexual Harassment at the work place.
- b) To evolve a permanent mechanism for the prevention and redressal of Sexual Harassment and other acts of Gender Based Violence at INC.
- c) To ensure the implementation of the policy in letter and spirit through proper reporting of the complaints and their follow-up procedures.
- d) To uphold the commitment of the INC to provide an environment free of Gender Based Discrimination.
- e) To create a secure physical and social environment which will deter acts of Sexual Harassment.
- f) To promote a social and psychological environment which will raise awareness about Sexual Harassment in its various forms.
- g) To generate public opinion against Sexual Harassment and all forms of Gender Based Violence.

PART TWO

2.1 Definition of Sexual Harassment

The following constitute Sexual Harassment:

- (a) When submission to unwelcome sexual advances, requests for sexual favours, and verbal or physical conduct of a sexual nature are, implicitly or explicitly, made a term or condition of teaching/guidance, employment, participation or evaluation of a person's engagement in any INC activity.
- (b) When unwelcome sexual advances, and verbal, non-verbal and/or physical conduct such as loaded comments, remarks or jokes, letters, phone calls or e-mails, gestures, exhibition of pornography, lurid stares, physical contact, stalking, sounds or display of a derogatory nature have the purpose and/or effect of interfering with an individual's performance or of creating an intimidating, hostile, or offensive environment.
- (c) When a person uses, with a sexual purpose, the body or any part of it or any object as an extension of the body in relation to another person without the latter's consent or against that person's will, such conduct will amount to sexual assault.
- (d) When deprecatory comments, conduct or any such behaviour is based on the gender identity/sexual orientation of the person and/or when the classroom or other public forum of the INC is used to denigrate/discriminate against person(s), or create a hostile environment on the basis of a person's gender identity/sexual orientation.

2.2 Jurisdiction

The rules and regulations outlined in this policy shall be applicable to all complaints of Sexual Harassment made:

- a) By an employee of INC against any other employee of INC/Student irrespective of whether the harassment is alleged to have taken place within or outside the campus/office.
- b) By an outsider against an employee of INC/Student or by an employee of INC against an outsider if the Sexual Harassment is alleged to have taken place within the campus/office.

- c) By a member of INC against an outsider if the Sexual Harassment is alleged to have taken place outside the campus. In such cases the committee shall recommend that INC authorities initiate action by making a complaint with the appropriate authority. Further, the committee will actively assist and provide available resources to the complainant in pursuing the complaint.
- d) By a Student of INC against any other employee of INC/Student irrespective of whether the harassment is alleged to have taken place within or outside the campus/office.

In the above the following definitions will apply:

- **‘Members of INC’** includes students, teaching and non-teaching staff of INC, Zonal Offices, Regional Offices, HQ and any other establishments of the INC.
- **‘Students’** includes, students undergoing all types of programs in INC.
- **‘Teachers’** includes any person on the staff of INC or any of the Zonal Offices, Regional Offices, and HQ or any other establishments of INC who is appointed to a teaching and/or research post, whether full time, part-time, temporary, ad-hoc, visiting, honorary, or on special duty or deputation and shall include employees employed on a casual or project basis.
- **‘Non-Teaching Staff’** includes any person on the staff of INC or any of the Regional Offices, Zonal Offices and HQ or any other establishments of INC who is not included in the category of teacher. It shall also include contract workers and daily wagers.
- **‘Outsider’ includes** any person who is not a member of INC. It also includes but is not limited to any private person offering residential, food and other facilities to members of INC or any offices of INC.
- **‘Campus’** includes all places of work and residences in INC, Regional Offices, Zonal Offices, HQ and any other establishments of INC. It includes all places of instruction, research and administration, as well as hostel, health centers, sports grounds, staff quarters, public places (including parks, streets and lanes) and canteens, etc. in the INC campus offices and establishments of INC.

2.3 The Complaints Mechanism and The Scope Of Functions

Guiding Principles for Constitution of Committees:

The policy has abided by the following principles:

- a) In order to decentralize the complaints procedure and provide easy access to all, separate cells have been provided for INCs, ZOs and HQ.
- b) In order to create autonomous institutional structures to look into complaints of Sexual Harassment and other forms of Human Rights violations, members from outside the institution with a known contribution to **gender issues** have been included in each Committee.
- c) As per the 1997 Supreme Court Judgment, it is mandatory for each committee to have a woman chairperson as well as at least 50%women members.

Status:

The Complaints Committees and the Apex Complaint Committee shall have statutory status and be empowered to carry out the mandate of the policy.

Structure:

Implementation of the policy will be achieved through the following structures:

- **Campus Complaints Committee (CCC):** A complaints and redressal body to be set up in each of the INC campus.
- **Zonal Complaints Committee (ZCC):** Zonal Complaints Committee will receive and redress the complaints which are not resolved by CCC and also from the ROs located within their Zone.
- **HQ Complaints Committee (HQCC):** A complaints and redressal body to be set up at INC –HQ.
- **Apex Complaints Committee (ACC):** An Apex regulatory and appellate body of the INC (Disciplinary Committee) for redressal and resolution of complaints at the Head Quarters.

2.4 Method of Constituting The Complaint Committees

(A) College Complaints Committees (CCCs). The constitution of Three (3) member CCC is as under:

- I. *One teacher representative to be nominated by the Campus Head/ Head of Office.
- II. *One non-teaching Staff representative of the INC to be nominated by the Campus Head/Head of Office.
- III. *One person with known contribution to women's issues, to be co-opted by the Committee from outside the College (NGO).
- IV. The Chairperson (woman) to be elected from amongst the members.

Note: If the matter relates to students, then two (2) student representatives, one of them shall be a girl student, to be elected/nominated from among each batch pursuing course of study at the campus.

*The women members shall not be less than 50% of the total membership of the Committee (CCC).

The College shall ensure that the new committee is constituted latest by **20th September** every year and intimate the details of committee members to ZCC and ACC.

Complaints can be given to any member of the Committee. It will be incumbent on the Campus Head or any Faculty Member/Head of an Administrative Unit to forward a complaint she/he receives to the Chairperson of the Committee immediately.

(B) Zonal Complaints Committees (ZCCs). The constitution of five members ZCC is as under:

- i. *Three members nominated from Zonal and Regional Offices.
- ii. *One person with known contribution to women's issues to be co-opted by the committee from outside.(NGO)
- iii. *The chair person (woman) to be elected from amongst the Campus Heads/ Heads of the Department from Zonal/Regional Office.
- iv. *The Committee shall be reconstituted after every 2 years.

*The women members shall not be less than 50% of the total membership of the Committee (CCC).

(C) Head Quarters Complaint Committee (HQCC). *A Five member Gender Sensitization Committee (GSC) at INC- HQ will be set up to address the issues pertaining to Sexual Harassment and Human Rights Violations.

*The women members shall not be less than 50% of the total membership of the Committee (CCC).

(D) Apex Complaints Committee (ACC). A three member ACC at INC-HQ will be as under:

- a) Director, INC
- b) Registrar, INC
- c) Head Legal Cell, INC

All those cases which could not be resolved at Zonal/HQCC level will be forwarded to ACC with the recommendations of ZCC/HQCC for necessary disposal action.

2.5 Power and Duties of HQCC /ZCC/CCC

➤ Preventive

- a) To create and ensure a safe environment that is free of Sexual Harassment.
- b) To create an atmosphere promoting equality and gender justice.
- c) To publicise the policy widely, especially through prospectuses, notice boards etc.
- d) To publicise the name and phone numbers of members of the committees.
- e) To plan and carry out programmes for gender sensitization with the assistance of the Gender Sensitizing Committees.

Remedial

- a) The mechanism for registering complaints should be safe, accessible and sensitive.
- b) To take cognizance of complaints about Sexual Harassment, conduct enquiries, provide assistance and redressal to the victims, recommend penalties and take action against the harasser, if necessary.
- c) To recommend to the concerned authorities follow-up action and monitor the same.

- d) To advise the disciplinary authority concerned to issue warnings or take the help of the law to stop the harasser, if the complainant consents.
- e) To seek medical, police and legal intervention with the consent of the complainant.
- f) To make arrangements for appropriate psychological, emotional and physical support (in the form of counseling, security and other assistance) to the victim if she/he so desires.

2.6 Procedure for Registering Complaints

- a) All complaints must be brought by the complainant in person. The exception for this will be in cases of forced confinement of the person. In cases of complaints brought by another person on behalf of the complainant, the committee will examine whether an investigation, intervention or some other assistance is needed.
- b) In exceptional cases, third party/witness complaints may be entertained. In such cases, the committee will ascertain whether the person alleged to have been harassed wishes to lodge a formal complaint. Once such a complaint is received the committee shall proceed to investigate it as per the procedure specified.
- c) If the complainant so wishes, she/he can be accompanied by a representative who shall be an employee or a student of the INC.
- d) The complainant at campus level can by-pass CCC and lodge a complaint directly with ZCC for redressal.

2.7 Enquiry Procedures

- a) All complaints made to any committee member must be received by that member who shall in turn inform the Chairperson about the complaint and the Chairperson shall record or cause to be recorded the complaint and shall call a meeting of the committee.
- b) A notice calling the meeting of the committee shall be issued by the Chairperson, at least 3 working days prior to the scheduled date.
- c) The committee is bound to maintain confidentiality in respect of all the proceedings of the enquiry committee, in order not to prejudice the proceedings.
- d) If the complainant so desires, his or her identity should be kept confidential and should not be revealed by any member of the committee, including its Chairperson. Revealing the identity of the complainant may cause more damage and harm than bringing relief or solace, even in exceptional cases.
- e) During an enquiry the quorum for all committee meeting will be two-third of the total membership, and must include at least one member from the

complainant's category as well as, one of the remaining two members shall be co-opted from outside.

- f) The HQCC/ZCC/CCC will, within **ten** days of the receipt of a complaint establish a prima facie case of Sexual Harassment as given in this policy, and the jurisdiction of this policy. Reasons for not pursuing a complaint must be recorded in the minutes and made available to the complainant in writing.
- g) In case of a complaint filed by another person on behalf of the complainant (where the complainant is in confinement) the complaint will be investigated in order to explore whether a prima facie case of Sexual Harassment exists and whether intervention or some other assistance is required.
- h) In case a prima facie case is established the HQCC/ZCC/CCC shall set up an enquiry committee of 3-5 members, with at least one member of the complainant's category, as well as a member from outside the INC
- i) The sub-committee must inform the accused in writing about the charges made against him/her and she/he should be given a period of **five days** from the date of receipt of the notification to respond to the charges.
- j) During the enquiry procedure, the complainant and the accused will be called separately so as to ensure freedom of expression and an atmosphere free of intimidation. The complainant will be allowed to be accompanied by one representative during the enquiry.
- k) The sub-committee must submit its report to the larger committee not later than **15 working days**. The larger committee will discuss the report and make recommendations for punitive action if required.
- l) The entire process of enquiry should be completed within **one month**.
- m) The complainant or the accused may appeal to the Apex Committee if they are dissatisfied with the decision of the HQCC /ZCC/CCC.

Note:

- A complainant has the right to go public if she/he so desires. Going public before giving in the complaint to the committee by the complainant should not prejudice the committee members. Once a complaint has been given to the committee, the complainant should preferably not go public till the enquiry is completed unless required.
- Filing of a grievance/complaint shall not adversely affect the complainant's status/job, salary/promotion, grades etc.
- The HQCC/ZCC/CCC should make efforts to ensure that the complainants and the witnesses are not further victimized or

discriminated against while it is dealing with the complaint. The committee shall take action against any one who intimidates the complainant or members of the committee, during or after the enquiry.

- Any committee member charged with Sexual Harassment in a written complaint must step down as member during the enquiry into that complaint.

2.8 Redressal

1. HQCC /ZCC/CCC can ask the ACC to suspend the alleged harasser from administrative post/classes if his/her presence is likely to interfere with the enquiry.
 2. The ACC upon receipt of the enquiry report will take necessary disciplinary/administrative action based on the recommendations of the Complaint Committee.
 3. The disciplinary action will be commensurate with the nature of the violation.
- A.** In the case of INC Employees, disciplinary action could be in the form of:
- (i) Warning
 - (ii) Written apology
 - (iii) Bond of good behaviour
 - (iv) Adverse remarks in the Confidential Report
 - (v) Debarring from supervisory duties
 - (vi) Denial of re-employment
 - (vii) Stopping of increments/promotion
 - (viii) Reverting, demotion
 - (ix) Suspension
 - (x) Discharge simpliciter
 - (xi) Dismissal
 - (xii) Any other relevant mechanism.

- B.** In case of students, disciplinary action could be in the form of:

- (i) Warning
- (ii) Written apology
- (iii) Bond of good behaviour
- (iv) Debarring entry into a hostel/campus
- (v) Suspension for a specific period of time
- (vi) Withholding results
- (vii) Debarring from exams
- (viii) Expulsion
- (ix) Denial of admission
- (x) Declaring the harasser as “persona non grata” for a stipulated period of time
- (xi) Stop scholarship
- (xii) Any other relevant mechanism.

(Note: The reasons for the action have to be provided in writing. Action will be taken against person(s) who try to pressurize the complainant in any way).

4. In case of third party harassment/outsider harassment, the INC authorities shall initiate action by making a complaint with the appropriate authority.
5. Enhancement of disciplinary action, by the committee, could depend on factors such as the nature and extent of injury caused to the complainant, the impact of the violation on the institutions as a whole, the position of the harasser in the power hierarchy, repetition of offence etc.
6. Non-adversarial modes of redressal and resolution could also be considered in appropriate cases. Examples of this may be verbal warning, verbal apology, promise of good behavior etc.

2.9 Networking

- a) Counselors/Social Workers should be made available as support staff.
- b) Committees should also have the referral support of empathetic legal, psycho-therapy and health experts for ready first aid, consultation and guidance.
- c) They should establish networks with legal experts, legal aid centers, counseling centers, health centers, police stations, Crimes against Women’s

groups in the city and other organizations such as the National/State Commission for Women and National/State Human Rights Commission.

- d) The HQCC/ZCC/CCC shall conduct orientation workshop to bring awareness on behavior, social etiquette etc. along with sexual harassment training for all employees/students which would address perceptions and understanding of Sexual Harassment, impact of Sexual Harassment on individuals at workplace, understanding the policy and complaints mechanism.

2.10 Monitoring and Review

- a) The HQCC, ZCC and CCC will send annual reports to the Apex Complaints Committee.
- b) The ACC will provide a brief annual report to the Executive Council on the cases monitored by them. In the above-mentioned reports, confidentiality of the complainants will be maintained
- c) The ACC will organize a meeting once every year for all members of HQCC/ZCC/CCC to meet and discuss their experiences on the functioning of the committees.

2.11 Amendments To The Policy

On the basis of their experience of the working of the policy, HQCC, ZCCs and CCCs will have the power to make recommendations to the ACC about changes in the policy. The ACC after adequate consultations with all the committees can make amendment in the policy, as and when required.

PART THREE

3.1 Violation Of Human Rights

All violations of such rights as are enumerated and shown herein under as Human Rights falling either under the category of (1) Economic, Social and Cultural Rights or (2) Civil and Political Rights shall be investigated and reported by the same committees working at various levels.

3.2 Universal Declaration of Human Rights

On December 10, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights. The UN Charter did not specify Human Rights and specific mechanisms to implement them. As the Universal Declaration was legally not binding for Member States, it was further supplemented by two Covenants - the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR). Thus the Human Rights contained in the Universal Declaration of Human Rights (UDHR) and the two Covenants are the touchstone before us. Both the Covenants - the ICCPR and the ICESCR are legally binding treaties for such States which are parties to them.

India has ratified the two Covenants on Civil and Political Rights and on the Economic, Social and Cultural Rights with certain reservations. Thus, India has voluntarily accepted the ideals and values contained in the UDHR and also in these two Covenants.

3.3 Definition: Human Rights

The basic Value which underlies Human Rights is that human-beings, born in any part of the world, are equal in dignity and rights. Human Rights are the moral claims of these persons, irrespective of their race, class, sex or nationality, moral claims which are inalienable and inherent in all human individuals by virtue of their humanity alone.

This is to say that Human Rights are rights which all persons hold by virtue of the human condition. Such rights do not depend upon grant or permission of any State or Government; they are natural to the human person. When these inherent moral claims of human beings are articulated and formulated, as done by the UN, these are termed as Universal Human Rights.

Likewise, when such moral claims of human persons are codified by a state according to the law-creating processes of a society and granted to its citizens, they are known as Fundamental Rights or Legal Rights of the citizens. However, the basis of these Legal Rights, in the ultimate sense, is inherent naturalness of them, and also the consent of the governed, that is the consent of those who are the subjects of the rights.

The nature of rights in India is a little different. In the case of India, a distinction has been made between Fundamental Rights as contained in Part III of the Constitution and other Social, Economic and Cultural Rights as contained in Part IV under the title, Directive Principles of State Policy. While the Fundamental Rights under Part III like the right to life, liberty and equality are "justifiable", the rights arbitrated in Part IV as Directive Principles of State Policy are "non-justifiable ". Such rights are: right to employment, education, right to adequate means of livelihood etc. On the whole, Right to Equality, Right to Freedom, Right to Life and Personal Liberty, Right against Exploitation, Right to Freedom of Religion, Cultural and Educational Rights and Right to Property are "justifiable".

3.4 Human Rights Contained in the Universal Declaration:

A look at the Human Rights contained in the Universal Declaration and the two Covenants, ICCPR and ICESCR, would show that these rights fall into two principal categories, (i) Civil and Political Rights; and (ii) Social, Economic and Cultural Rights.

The first category refers to *(i) Civil and Political Rights*, which include:

- Right to life, liberty and security of persons;
- Freedom from slavery and torture;
- Equality before the law;
- Protection against arbitrary arrest;
- Right to a fair trial;
- Right to own property;
- Right to political participation;
- Right to marriage and find family;
- Fundamental freedom of thought; conscience and religion; opinion and expression;
- Freedom to assemble peacefully and form unions / association;
- Right to take part directly or indirectly in government of the country.

The second category refers to *(ii) Social, Economic and Cultural Rights*:

Under the second kind of the Human Rights, the following are the principal Social, Economic, and Cultural Rights:

- Right to work;
- Enjoyment of just and favorable conditions of work;
- Right to form trade unions;
- Social security, Social insurance;
- Right to protection of family;
- Right to adequate standard of living;
- Right to enjoyment of physical and mental health;
- Right to education; primary education to be compulsorily made available to everyone;
- Right to take part in cultural life and freedom for scientific research;

3.5 Human Rights in the Indian Constitution:

A. Human Rights as Fundamental Rights : When we look closely at the content or substance of Civil and Political Rights and personal freedom granted to the citizens of India, it becomes manifest that though the Fundamental Rights have not been christened as "Human Rights", most of such rights find a place under the title "Fundamental Rights" in the Indian Constitution.

1. Equality before Law

- **Fundamental Right under Indian Constitution:** The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. (Art.14)
- **Universal Declaration of Human Rights (UDHR):** All are equal before the law and are entitled without any discrimination to equal protection of law. (UDHR, Art. 7)

2. No Discrimination on Grounds of Religion, Sex, Caste etc.

- **Fundamental Right under Indian Constitution:** The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place or any of them. (Art. 15(1))
- **Universal Declaration of Human Rights:** Every one is entitled to all the rights and freedoms set forth in this Declaration, without

distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.(UDHR, Art. 2, Para 1) Further more, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs. Para 2 Art 7 of UDHR, goes a step further in providing equal protection to persons against any kind of discrimination as “All are entitled to equal protection against any discrimination in violation of this declaration.”

3. Equality of Opportunity in Matters of Public Employment

- **Fundamental Right under Indian Constitution:** There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. (Art. 16(i))
- **Universal Declaration of Human Rights:** Every one has the right to equal access to public service in his country. (Art. 21 (2))

4. Freedom of Speech and Expression

- **Fundamental Right under Indian Constitution:** All citizens shall have the rights to freedom of speech and expression. (Art. 19(i)(a))
- **Universal Declaration of Human Rights:** Everyone has the right to freedom of opinion and expression..” (Art. 19)

5. Right to Assemble

- **Fundamental Right under Indian Constitution:** Everyone has the right to assemble peaceably and without arms. (Art. 19(l) (b))
- **Universal Declaration of Human Rights:** Everyone has the right to freedom of peaceful assembly. (Art. 20(1))

6. Right to form Unions and Associations:

- **Fundamental Right under Indian Constitution:** Everyone has the right to form Unions and Associations. (Art. 19(l) (c))
- **Universal Declaration of Human Rights:** Everyone has the right to form and join trade unions. (Art. 23(4))

7. Right to move freely throughout the territory of one’s Country:

- **Fundamental Right under Indian Constitution:** Everyone has the right to move freely throughout the territory of India. (Art. 19 (1)(d))
- **Universal Declaration of Human Rights:** 'Everyone has the right to freedom of movements and residence within the borders of each State. (Art. 13(1))

8. Right to reside and settle in any part of the territory

- **Fundamental Right under Indian Constitution:** Everyone has the right to reside and settle in any part of the territory of India. (Art. 19 (1) (e))
- **Universal Declaration of Human Rights:** Everyone has the right to leave any country, including his own, and to return to his country. (Art. 13 (2))

9. Protection in Respect of Conviction and Offences:

- **Fundamental Right under Indian Constitution:** "No person shall be convicted for any offence except for violation of a law in force at the time of commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence." (Art. 20 (i))
- **Universal Declaration of Human Rights:** "No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under National or International law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed." (Art. 11(2))

10. Protection of Life and Personal Liberty

- **Fundamental Right under Indian Constitution:** No person shall be deprived of his life or personal liberty except, according to procedure established by law. (Art. 21)
However, in India in the case of arrest and detention of a person in custody the constitution guarantees various safeguards to a person. (Art.22 (ii) (iii) and (iv)).
- **Universal Declaration of Human Rights:** Everyone has the right to life, liberty and security of person. (Art. 3).

11. Right against Exploitation

- **Fundamental Right under Indian Constitution:** Traffic in human beings and 'beggar' and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law. (Art. 23(i))
- No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment. (Art. 24)
- How surprising it is to note that while the Constitution makers of India guaranteed this right to the children with the commencement of the Constitution, the UN recognized and adopted such a right of the child in 1989 which came in force on September 2, 1990. There are in all 42 Articles which provide detailed safeguards to children below the age of eighteen years.
- **Universal Declaration of Human Rights:** No person shall be held in slavery or servitude. (Art. 4)

12. Right to Freedom of Religion

- **Fundamental Right under Indian Constitution:** The Right to Freedom of Religion (Art. 25-29) includes freedom of conscience and the right freely to profess, practice and propagate religion and Freedom to Manage Religious Affairs along with some other religious freedoms. Art. 25(i) guarantees freedom of conscience and free profession, practice and propagation of religion as:
subject to public order, morality and health and to the other provisions of this Part, all persons are entitled to freedom of conscience and the right freely to profess, practice and propagate religion. (Art. 25(i))
- **Universal Declaration of Human Rights:** Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change one's religion or belief, and freedom, either in alone or in community with others and in public or private, to manifest one's religion or belief in teaching, practice, worship and observance. Very surprisingly, this right includes 'freedom of thought' along with freedom of conscience and religion.

13. Protection of Rights of Minorities

- **Fundamental Right under Indian Constitution:** Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same. (Art. 29(1)) Also, all minorities based on religion, language, shall have the right to establish and administer educational institutions of their choice. (30(1))
- **Universal Declaration of Human Rights:** Provision of Human Right similar to the provision under the Indian Constitution is not seen in the UDHR but the International Covenant on Civil and Political Rights States: In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of the group, to enjoy their own culture; to profess and practice their own religion, or to use their own language. (Art. 27, ICCPR)

14. Right to Constitutional Remedies: All such rights mentioned here have no meaning if they are denied in practice. Thus to safeguard the enjoyment of rights some judicial agency for the enforcement of the rights is felt necessary.

- **Fundamental Right under Indian Constitution:** The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this part (i.e. Part III of the Constitution) is guaranteed. (Art. 32(i)). The Supreme Court and any other court empowered by Parliament, (Art. 32(iii)), shall have the power to issue orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari* for the enforcement of these rights. (Art. 32(ii))
- **Universal Declaration of Human Rights:** Everyone has the right to an effective remedy by the tribunals for acts violating the fundamental rights granted to him by the constitution or law. (Art. 8)

B. Human Rights under Directive Principles

Some of the provisions of Human Rights contained in International Covenant on Economic, Social and Cultural Rights (ICESCR) or International Covenant on Civil and Political Rights (ICCPR), are incorporated in Part IV of the Constitution under

the head “Directive Principles of State Policy”. The corresponding provisions are shown in the following table:

| Position under the Indian Constitution | | Position under the ICESCR |
|--|---|--|
| Article | Directive Principles | Article |
| 39(a) | Right to adequate means of live hood | 11 (1) |
| 39(d) | equal pay for equal work | 7(a) (i) 9 |
| 39A | Equal justice and free legal aid | |
| 41 | Right to work, education, assistance in case of unemployment, old age, sickness, disablement etc. | 6(1) 11(2) 13 (i) |
| 42 | Human conditions of work and maternity relief | 7, 7(b), 10 (2) |
| 43 | Living wage, descent standard of life, full enjoyment of leisure and social cultural opportunities | 7(a), 7(ii), 7(c), 7(d), 12 (1) |
| 45 | Free and compulsory education for children interests of the weaker sections of society | 13 (a) |
| 46 | Special care for the educational and economic interests of the weaker sections of society. | ICCPR-14 |
| 47 | Raising the level of nutrition and living standard of the people | 7(a) (ii) |
| 48 (A) | Protect and improve the environment and to safeguard forests, wildlife etc. | |
| 51 | Promotion of international peace, security, respect for internal law and treaty obligations and peaceful settlement of international disputes by arbitration. | 1(1) 17, 18 & 19 |
| 19 | The six freedoms guaranteed under this Article are not absolute but they are subject to reasonable restrictions specified under clauses 2 to 6 under the same Article | Article 27 (2) and Article 29 (2) of the UDHR. |

PART FOUR

4.0 Prohibition against Victimization

4.1 No person shall be victimized for anything said or done in relation to any complaint or proceeding under this Policy.

4.2 A person victimizes another person if the person subjects the other person or threatens to subject the other person to any detriment in connection with employment or recruitment or promotion because such person:

- (i) Has brought proceedings under this Policy against any person.
- (ii) The other person associates with the complainant.
- (iii) Has given evidence or information or produced a document, in connection with any proceedings under this Policy.
- (iv) Has otherwise done anything in accordance with this Policy in relation to any person.
- (v) Has alleged that any person has contravened a provision of this policy

Explanation: In determining whether a person victimizes another person, it is irrelevant

- (a) Whether or not a factor in the above sub section is the only or dominant reason for the treatment or threatened treatment as long as it is a substantial reason
- (b) Whether the person acts alone or in association with any other person.

4.3. A person shall not request, instruct, induce, encourage, authorize or assist another person to contravene any rule or provision under clause (2) above

5.0 Conclusion:

5.1 It is, however, to be understood that the responsibility to protect and preserve the Human Rights is in the domain of National Government. INC being an education institution it's duty is to cause these rights to be disseminated, displayed, read and expounded principally in all campuses including Regional and Zonal offices and at INC HQ.

5.2 The committees are responsible to creating awareness among its employees/students at all levels by imparting training by way of conducting orientation workshops.

5.3 The Redressal Committees (HQCC/ZCC/CCC) will also investigate in to any other form of violation of Human Rights, in addition to Sexual Harassment cases.