



EUROPEAN UNION



Under EU-Funded Balochistan Rural Development and Community Empowerment Programme (BRDCEP) Being Implemented In Collaboration With The Local Government And Rural Development (LG&RD) Department, Government Of Balochistan

Quetta

December 11-14, 2017

IMPLEMENTATION PARTNERS FOR BRDCEP GRANT COMPONENT



National Rural Support Programme



PROGRAMME TECHNICAL ASSISTANCE PARTNER



Acknowledgements

Special thanks to all the trainers and resource persons- Ms. Maliha Hussain, Ms. Sadaf Dar, Ms. Salma Khalid and MS. Naseema Salaam for conducting comprehensive and interactive sessions as per the training workshop agenda and schedule.

We would also like to appreciate Ms. Yasmeen Lehri, Member of Provincial Assembly (MPA) Balochistan and Chairperson of Provincial Committee Irrigation, Energy, Forest, Wildlife and Environment, Ms. Shaista Nouroz, Assistant Director Women Development Department GOB and Mr. Qadir Bux, Field Officer Social Welfare Department GOB for their active participation. Last but not least, we are grateful to the participants from BRSP, NRSP and representatives from GoB-P&D department for their interactive discussions during the training sessions.

 www.facebook.com/BRDCEP

www.rspn.org; www.brdcep.org.pk

Author, Editing, Formatting and Designing

Mawish Iqbal, Documentation and Reporting Officer, BRDCEP, RSPN

Review and Finalisation

Ahmed Ullah, Programme Manager, BRDCEP, RSPN

© 2017 Rural Support Programmes Network (RSPN). All Rights Reserved.



"This publication has been produced with the assistance of the European Union. The contents of this publication are the sole responsibility of Rural Support Programmes Network (RSPN) and can in no way be taken to reflect the views of the European Union."

More information about the European Union is available on:

Web: <http://eeas.europa.eu/delegations/pakistan/>

Facebook: European-Union-in-Pakistan/26974504320745

Contents

1.	Balochistan Rural Development and Community Empowerment Programme (BRDCEP).....	1
2.	Preamble to Training of Trainers on RSPs Gender and HR Policies and Anti-Sexual Harassment Laws in Pakistan.....	1
3.	Proceedings of Day One (11 th December, 2017).....	2
	Opening Remarks	2
	Welcome Address	2
	Norms Setting of the Training	3
	Introduction to Gender Component of BRDCEP	3
	Presentation on RSPs Human Resource and Gender Policies.....	4
	Defining Gender	4
	Traditional Gender Roles in Pakistan	5
	Gender Diversity and Gender Related Issues at Workplace	5
4.	Proceedings of Day Two (12 th December, 2017).....	6
	Dignified Work Environment.....	6
	Harassment and Sexual Harassment.....	6
	Myths around Sexual Harassment	7
5.	Proceedings of Day Three (13 th December, 2017)	7
	History of Anti-Sexual Harassment Laws in Pakistan and Workplace Harassment Law	7
	Responsibilities of the Management, Inquiry Committee, Employees and Ombudsperson.....	8
6.	Proceedings of Day Four (14th December, 2017).....	9
7.	Closing and Certificate Distribution	9
8.	Feedback of the Participants.....	10
	Annex 1 Agenda	12
	Annex 2 List of Participants	13
	Annex 3 The Protection Against Harassment Of Women At The Workplace Act 2010	15

1. Balochistan Rural Development and Community Empowerment Programme (BRDCEP)

Balochistan Rural Development and Community Empowerment Programme (BRDCEP), a five-year European Union (EU) funded rural development programme, is launched, with three implementing partners of grant component namely: RSPN, NRSP and BRSP in 249 Union Councils of eight districts in Balochistan. It is being implemented with the collaboration of Local Government and Rural Development Department (LGRDD), Government of Balochistan. The Programme implementation has commenced from June 2017. The EU has also engaged the services of Human Dynamics (HD), an Austrian company to enable the Government of Balochistan (GoB) to foster an enabling environment for strengthening the capacities of local authorities to manage and involve communities in the statutory local public sector planning, financing and implementation processes. The Programme also has a Public Finance Management (PFM) component through a service contract by EU with Oxford Policy Management (OPM) which will work closely with HD to assist the Government of Balochistan in costing and funding the community-led development policy framework through clearly defined fiscal and regulatory frameworks, budgetary processes and commitments reflected in a multi-annual budgetary framework and defined institutional arrangements.

Under BRDCEP, 1.9 million Pakistani citizens of 300,000 poor rural households in 249 union councils are to be mobilised and organised into a network of people's own institutions: 19,129 Community Organisations (COs), 3,103 Village Organisations (VOs), 249 Local Support Organisations (LSOs) and 31 LSO Networks at tehsil level and eight at district level. RSPs will then provide support to improve the organised households' lives and livelihoods, as well as to foster linkages between the community institutions and local government to improve local basic service delivery.

2. Preamble to Training of Trainers on RSPs Gender and HR Policies and Anti-Sexual Harassment Laws in Pakistan

Effective workplace policies not only have the key stake in stopping sexual harassment from happening but also in providing effective remedies to a victimized employee. In essence, the workplace sexual harassment needs to be dealt through workplace policies and complaints procedures, as well as the establishment of mutual bargaining and sexual harassment complaints committees. The patriarchal social characterizations of 'proper feminine behaviour'—set for women—strongly dismay the victims from pursuing justice. In 2010, Pakistan was the first country in South Asia to make sexual harassment a legally indictable crime. Workplace harassment is still considered a taboo topic and is therefore ignored.

Moreover, under BRDCEP, RSPN has reviewed Gender and Human Resource (HR) policies of BRSP, NRSP and RSPN and formulated recommendation for further improving these policies to be more gender sensitive. Recognizing the significance recommendations for improvements in Gender and HR policies and Anti-Sexual Harassment Laws in Pakistan, RSPN arranged a four days Training of Trainers (ToT) on RSPs Gender and HR Policies and Anti-Sexual Harassment Laws in Pakistan in Quetta under BRDCEP. The training was held from 11th-14th December, 2017. The primary aim of the training was to train the master trainers from BRSP, NRSP and relevant government departments on RSPs HR and gender policies and anti-sexual harassment law in Pakistan title "The protection of women against harassment at workplace Act 2010". The overall objective of the training was to train gender focal persons, relevant districts and head office BRDCEP staff of BRSP and NRSP and relevant GoB staff from Social Welfare Department, Women Development Department and Local Government and Rural Development Department who will further roll-out the training to all other programme implementation staff,

community institutions and Local Support Organisations' executive body members. The following were the specific objectives of the training.

- Conceptual clarity of gender and gender related issues
- Clear understanding of sexual harassment
- Protection against Harassment of Women at the Workplace, Act 2010
- Building competence on conducting inquiries of sexual harassment cases

This training was attended by above 20 participants that included Gender focal persons of BRSP, NRSP and RSPN along with their relevant staff as well as representatives from local government departments. The ToT was largely participatory and interactive. These trainers will further train all the BRDCEP staff in their respective RSPs and regularly follow up on the implementation of the organisational gender policies. The gender trainers will also sensitize the LSO executive body on anti-sexual harassment law and support in the adoption and implementation of the law.

3. Proceedings of Day One (11th December, 2017)



Mr. Ahmed Ullah (Programme Manager, BRDCEP RSPN) welcomed the participants and explained the purpose of the training. He also welcomed and expressed his gratitude to Ms. Maliha Hussain the facilitator of the training. He briefly presented an overview of BRDCEP and its strategic importance. He also shed light on the overall significance of mainstreaming gender into workplace policies and programmes.

Opening Remarks

Dr. Shahnawaz Khan (Senior Programme Manager and Team Lead BRDCEP, BRSP) said that this is the second of the series of activities under BRDCEP. He appreciated that the timing of this training is well timed. He highlighted that in order to attain programme objectives, it is highly significant that Gender Mainstreaming is ensured in policies, strategies, action plans and programme implementation plans. He also suggested RSPs to prepare roll out and its follow up plan for gender trainings in districts.



Welcome Address

Ms. Yasmeen Lehri, Member of Provincial Assembly (MPA) Balochistan and Chairperson of Provincial Committee Irrigation, Energy, Forest, Wildlife and Environment appreciated the role of RSPs particularly in rural development of Balochistan. She said that with respect to gender mainstreaming and empowerment the key

issue lies with our attitude. Ms. Yasmeen Lehri said that one of our target groups is women and children and for this the by-laws needs to be reached to the unprivileged and rural women. She further stressed that for this awareness raising is crucial. "We should start from ourselves then we can achieve the desired impact and all this calls for coordinated efforts", she said.



Norms Setting of the Training

The following norms to be followed throughout the training were set at the commencement of training sessions.

- Honest and open communication
- Confidentiality
- Sharing should be to the point, no rambling
- Give a chance to everyone to share
- No side conversations
- No judgments, respect others' opinions
- Mobile phones to be kept on silent
- Punctuality

Introduction to Gender Component of BRDCEP

Ms. Sadaf Dar (Gender and Development officer, RSPN) said that considerable efforts have been put in mainstreaming gender in the BRDCEP. She said that this training will be followed up and it is owned by senior management. She shared that Maliha Hussain has commendable role in implementing and advocating the workplace law. For this reason, she has been requested to facilitate this training.



Presentation on RSPs Human Resource and Gender Policies

Ms. Salma Khalid (Programme Manager Gender & Development NRSP) told that NRSP believes in gender equality and equity. She said that NRSP HR policy was amended two years back through consultants to make it more gender and harassment sensitive. She said that a participatory training was held for this purpose. As an output, all the steps related to gender issues and its redressal were included; thus people can know how to advance on gender sensitive issues. Main features: no discrimination; equal opportunities; harassment committee members are well trained on law and relevant issues. Besides this, Ms. Salma Khalid said that child abuse and labor are parts of the manual along with emotional abuse and violence and maternity leaves and relocation. Further, she mentioned that all of the NRSP targeted regions have displayed the anti-sexual harassment law and it is being closely followed up. Interestingly, she shared that the grievance committees are existing at the district level. In 2011 NRSP adopted the Alliance Against Sexual Harassment (AASHA) Code of Conduct which identifies and addresses sexual harassment in the workplace.



Ms. Naseema Salam (Gender Coordinator/Member Anti Sexual Harassment Committee BRSP) then said that BRSP has separate policies for gender and anti-sexual harassment. She shared the key features of BRSP; ethical code of conduct; employment policies; attendance policies; etc. She also explained the process of grievance redressal employed at BRSP. She also talked about the issues faced female staff at the district level with respect to HR and gender policies as well as anti-sexual harassment.

Defining Gender

This was quite interactive session facilitated by Ms. Maliha Hussain. Firstly, the participants were asked to brainstorm what they conceptualize as gender. Ms. Maliha Hussain appreciated that the participants were well aware of the basics of gender. However, she then not only explained what does the term gender means, but also enlightened the difference between sex and gender. Mostly people confuse these two terminologies.

She shared that the gender is the differences between women and men within the same household and within and between cultures that are socially and culturally constructed and change over time. Thus, gender is not a synonym for women, but considers both women and men and their interdependent relationships. Sex is what you are born with. You are born a boy or a girl, thus sex is biological and it cannot be changed. Gender is what becomes of you as a result of your upbringing or your socialization, it can be changed though. She reinforced that cultural and social norms very strongly defines the differences among the roles and responsibilities of men, women and transgender; this is gender in short. Gender roles are therefore socially determined and can change over time, since social values and norms are not static.

Gender norms and practices lead to a gender division of labour, that is, socially constructed roles and responsibilities. These gender roles and responsibilities give rise to different levels of access and control, that is, women and men's opportunities to obtain or use resources (food, credit, water, energy, technology, etc.) or services (education, health, etc.)



The ability and opportunity to acquire resources do not necessarily imply that people will have the power to control the benefits that derive from these activities, said Ms. Maliha Hussain.

Traditional Gender Roles in Pakistan

This session was activity based. The facilitator talked about the limitations and constraints pertinent to gender, especially the discussions were related to the gender disparity that exists in our society at both home and office level. Ms. Maliha Hussain divided the participants into two groups and asked them to categorize what society expects from men and women. They shared that it's a general perception that men should be physically strong and responsible for household. He should be a bread earner. Women should be a good homemaker, doctor and teacher. Women consistently encounter serious restrictions and limitations of autonomy. However, the attainment of higher levels of education, especially not only for women, but also for men was viewed as the catalyst towards change. Furthermore, mass media, the training participants perceived as having a positive role to play in supporting women's empowerment. Further, Ms. Maliha Hussain mentioned that in our society it is expected that men are decision makers and women are bound to follow their decisions. Unfortunately, men are expected to have dominant role over women.

Gender Diversity and Gender Related Issues at Workplace

Ms. Maliha Hussain facilitated this session. The following gender related issues at the workplace were discussed in detail:

- Gender discrimination in hiring & promotions
- Interview Questions
- Office Conversations
- Disparity in compensation (unequal salary)

- Terminations due to gender bias
- Separate washrooms for male & female employees
- Maternity & paternity leave
- Posting to difficult areas
- Transportation for female employees only

The participants not only shared the general issues but also narrated their own experiences.

4. Proceedings of Day Two (12th December, 2017)

Reflections of day one were shared. Then the sessions of the day two were outlined. All the sessions of the day were moderated by Ms. Maliha Hussain.

Dignified Work Environment

Ms. Maliha Hussain said that it is crucial for both men and women to exercise the right to earn a living in a respectful and harassment free work environment. She stated that the work environment should promote

gender equity and equality. She shared that dignified work environment also must ensure that there is no discrimination on the basis of sex, religion, ethnicity, language, education, social status, power, etc. She underscored that we should not only accept diversity but also respect it.



This session was also participatory. The training participants added that the management of the organization should ensure that all physical and biological needs of men and women are fulfilled at the organization.

Harassment and Sexual Harassment

This was quite interactive session facilitated by Ms. Maliha Hussai. She intoned, "Harassment is the act of systematic and/or continued unwanted and annoying actions of one party or a group, including threats and demands". She then explained various forms of harassment that includes:

- Ethnic
- Religious
- Nationality based
- Gender based
- Exploiting positional power
- Sexual harassment

Ms. Maliha Hussain told that sexual harassment refers to 'Any unwelcome sexual advance, request for sexual favors, verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment,

or any attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment". The training participants then shared various encounters they had experiences related to sexual harassment at several fronts.

Myths around Sexual Harassment

Ms. Maliha Hussain said that when a society does not want to accept something it creates myths around that topic. Likewise, the myths around sexual harassment have been formed and spread in the Pakistani society.



Also, the training participants shared their lived experiences with respect to the myths around sexual harassment.

5. Proceedings of Day Three (13th December, 2017)

On the third day of the training Ms. Maliha Hussain asked the training participants to share the key takeaways from the previous day sessions. After sharing of the learnings and feedback for day two by participants, she moved on to the day's agenda.

History of Anti-Sexual Harassment Laws in Pakistan and Workplace Harassment Law

Ms. Maliha Hussain gave a comprehensive review of history of anti-sexual harassment laws in Pakistan and discussed Anti-sexual Harassment Laws in Pakistan through a participatory way. She said that the Government of Pakistan has passed two laws to curb sexual harassment in 2010.

- Protection Against Harassment of Women at Workplace, Act 2010 (annexed to the report)
- Amended Section 509 of the Pakistan Penal Code

She explained that under the law, workplace sexual harassment is a civil and a criminal offence. Also, she said that the Protection Against Harassment of Women at the Workplace Act (2010) provides a framework of civil remedies and furthermore the Section 509 of the Pakistan Penal Code, after amendments in 2009, categorizes workplace sexual harassment as a crime.

Ms. Maliha Hussain expressed that this is an extremely effective legislation made in the Constitution of Pakistan. Its main intent is to protect the women workers from sexual harassment. But she said that in reality until now many of the women are not knowledgeable regarding how they can use it to protect themselves from sexual harassment at workplaces.



She informed that under this legislation the guidelines are manifestly pinned down and she further highlighted that the best part is that in this case in order to get justice, the victim need not go to the police or to the court of law. Ms. Maliha Hussain mentioned that ever since this legislation has been approved and the amendment in the Pakistan penal Code has taken place the numbers of reported cases of sexual harassment at workplaces have increased to hundreds. At the end of the session, question and answer session held in which the training participants asked questions and answered by the facilitator related to various aspects of these laws and remedial procedures.

Responsibilities of the Management, Inquiry Committee, Employees and Ombudsperson

Ms. Maliha Hussain then comprehensively explained the role and responsibilities of the management, inquiry committee, employees and ombudsperson with respect to the Protection Against Harassment of Women at Workplace, Act 2010. She explained the detailed procedure too. Besides this, she mentioned two elements related to non-compliance i.e.,

- Any employee can take their management to court for non-compliance and if proven, they can be fined.
- If the management does not implement the orders of the Ombudsperson, the punishment is the same as that of Contempt of High Court.

She also shared that the Inquiry Committee may recommend to Ombudsperson for appropriate action against the complainant if allegations leveled against the accused are found to be false and made with mala fide intentions. In this session, the training participants' discussions hovered around various aspects of redressal clauses and mechanism.

6. Proceedings of Day Four (14th December, 2017)

On the fourth day of the training Ms. Maliha Hussain explained how to conduct an inquiry in the absence of evidence and witnesses. She also discussed various taxonomy of sexual harassers followed by case studies and practice sessions.

Ms. Maliha Hussain shared that let alone the policies and legal mechanisms cannot support in reducing the gender issues at work place. She said for this it is highly essential that the whole assertiveness and acceptance level of the people should modify accordingly. Even though the workplace harassment law exists in Pakistan but attributable to absence of proper implementation and interpretation of law, it has not been fully effective in defending the victims from the crimes and discrimination in the workplace.

The federal government, she said, was, startlingly, one of the first to respond. In September 2010, the National Implementation Watch Committee, formed to monitor the implementation of the new law, suggested that the prime minister release a formal notification about it to all government organisations. Though this led to the formation of the required enquiry committees in many places; however, it did not at all times create safer environments for women workers.



Toward the end Ms. Maliha Hussain formed organization wise groups and asked them to plan step by step implementation within your organizations. She also asked the training participants to plan roll-out within your communities with concrete steps (for organizations and individuals).

7. Closing and Certificate Distribution

Closing and certificate distribution ceremony held on the fourth and final day of Training of Trainers (ToT) on Rural Support Programmes' Gender, Human Resource policies, and on Anti-Sexual Harassment Laws in Pakistan.

Ms. Shaista Nouroz, Assistant Director Women Development Department GOB, Mr. Qadir Bux, Field Officer Social Welfare Department GOB, and Mr. Nadir Gul Barech CEO Balochistan Rural Support Programme (BRSP) participated in the ceremony.



Mr. Nadir Gul Barech (Chief Executive Officer, BRSP) said that BRDCEP is fully based on the philosophy of RSPs. He shared that political and administrative pillars are not much resourceful to reach to every household and for this the role of social pillar is fundamental. It is imperative to understand that poverty exists at household level and to mitigate it reaching households is essential. He said that in Balochistan it is important first to sensitize men and then work with women; considering the sociocultural norms. He said it is the responsibility of each and every employee of the RSPs that they ensure programme implementation and monitoring through gender sensitive approaches and contribute in implementation of anti-sexual laws in Pakistan at organisational and community institutional level. After this certificates were distributed to the training participants.

8. Feedback of the Participants

All the participants were of the view that the training programme proved to be quite comprehensive, and was especially designed to train the targeted participants. They said that Ms. Maliha Hussain fully covered and explained the gender issues, issue of sexual harassment, clarifying the myths and realities, comprehensive procedures



given in the law for effective implementation and handling the cases of sexual harassment, which usually occur without any evidence and witness. It has raised their awareness and augmented their knowledge on the training subject. The training participants expressed that the best element of the training was that it was highly interactive and participatory.

Annex 1 Agenda

Training of Trainers (ToT) on RSPs Gender and HR policies and Anti-Sexual Harassment Laws in Pakistan

December 11-14, 2017

Venue: Quetta Serena Hotel

Indicative Training Agenda and Schedule

Date	Agenda Items	Responsibilities
December 11, 2017	Welcome Remarks	Secretary/Deputy Secretary Local Government and Rural Development Department
	Introduction to Gender Component of BRDCEP	RSPN/RSPs
	Training Objectives	RSPN
	Round of Introduction	All
	Presentation on RSPs Human Resource Policies	RSPs Gender Focal Persons
	Tea Break	
	Session 1: What is Gender	Consultant
	Session 2: Traditional Gender Roles in Pakistan	Consultant
	Session 3: Gender Diversity	Consultant
	Lunch Break	
	Session 4: Gender Related Issues at Workplaces	Consultant
	Tea Break	
	Session 5: Gender Equality	Consultant
December 12, 2017	Reflections of Day 1	Consultant
	Session 6: Dignity of Work	Consultant
	Tea Break	
	Session 7: Harassment	Consultant
	Lunch Break	
	Session 8: Sexual Harassment	Consultant
	Tea Break	
	Session 9: Myths Around Sexual Harassment in Pakistani Society	Consultant
December 13, 2017	Reflections of Day 2	
	Session 10: History of Anti-Sexual Harassment Laws in Pakistan	Consultant
	Tea Break	
	Session 11: Workplace Harassment Law	Consultant
	Session 12: Role of the Management	Consultant
	Lunch Break	
	Session 13: Role of the Standing Inquiry Committee	Consultant
	Session 14: Role of the Employees	Consultant
	Tea Break	
	Session 15: Role of the Ombudsperson	Consultant
December 14, 2017	Reflections of Day 3	
	Session 16: How to Conduct an Inquiry in the Absence of Evidence and Witnesses	Consultant
	Tea Break	
	Session 17: Case Studies	Consultant
	Lunch Break	
	Session 18: Practice Sessions	Consultant
	Session 19: Implementation of the Law throughout the Country	Consultant
	Session 20: Implementation of the Law in Balochistan	Consultant
	Tea Break	
	Session 21: Role Participants can play in the Implementation Process	Consultant
	Remarks by Women Development Department	Official from WDD
	Remarks by Social Welfare Department	Official from SWD
Closing Remarks		LGRDD

Annex 2 List of Participants

Sr.	Participant's Name	Designation	Org.	Location
1	Marzia Younas	SPO M&E and Gender Specialist	NRSP	Turbat
2	Mahzeb	Social Organizer BRDCEP	NRSP	Turbat
3	Nasir Usman	RP-HRD BRDCEP	NRSP	Turbat
4	Salma Khalid	Programme Manager Gender & Development	NRSP	Islamabad
5	Naseema Salam	Gender Coordinator/Member Anti Sexual Harassment Committee	BRSP	HIDL HO (Quetta)
6	Fouzia Yasmin	Social Organizer	BRSP	Zhob
7	Fouzia Kakar	Livelihood Officer	BRSP	Pishin
8	Samina Mengal	Senior Social Organizer	BRSP	Khuzdar
9	Aliya Naz	Livelihood Officer	BRSP	K. Abdullah
10	Bisma Batool	Social Organizer	BRSP	Jhal Magsi
11	Aliya Naz	Senior Social Organizer	BRSP	Loralai
12	Raheem Sasoli	Monitoring &Evaluation Officer	BRSP	Washuk
13	S. Abdul Ali	Chairman Anti Sexual Harassment Committee	BRSP	Internal Audit HO
14	Mahreen Rehman	HR Officer	BRSP	Human Resource Department
15	Syed Naseebullah	Deputy Manager	BRSP	Human Resource Department
16	Zaheer Tareen	Coordinator	BRSP	Human Resource Department

Sr.	Participant's Name	Designation	Org.	Location
17	Maliha Hussain	Consultant	Mehrgarh	Islamabad
18	Sadaf Dar	Programme Officer Gender & Development	RSPN	Islamabad
19	Ahmed Ullah	Programme Manager BRDCEP	RSPN	Islamabad
20	Dr. Shahnawaz	Senior Programme Manager and Team Lead BRDCEP	RSPN	Quetta
21	Qadir Bux	Field Offiecr	SWD, GoB	Quetta
22	Asia Khan		SWD, GoB	Quetta
23	Sajid Naeem	Deputy Director	LG&RDD,GOB	Quetta
24	Hafiz Munir	Chief Officer	LG	Quetta
25	Shaista Nouroz,	Assistant Director	WDD, GOB	Quetta
26	Nadir Gul Barech	CEO	BRSP	Quetta
27	Luluwa Baloch	Communication, Visibility and Research Officer	BRSP	Quetta

Annex 3 The Protection Against Harassment Of Women At The Workplace Act 2010

REGISTERED No. M - 302
L.-7646



EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, THURSDAY, MARCH 11, 2010

[THE PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE ACT 2010]

PART 1

Acts, Ordinance, President's Orders and Regulations

(2) SENATE SECRETARIAT

Islamabad, the 11th March, 2010

No. F. 9 (5)/2009-Legis. The following Acts of Majlis-e-Shoora (Parliament) received the assent of the President on 9th March, 2010, are hereby published for general information:—

Act No. IV of 2010

An Act to make provisions for the protection against harassment of women at the workplace

WHEREAS the constitution of the Islamic Republic of Pakistan recognizes the fundamental rights of citizens to dignity of person;

AND WHEREAS it is expedient to make this provision for the protection of women from harassment at the workplace;

It is hereby enacted as follows:

1. **Short title, extent and commencement.** - (1) This Act may be called the Protection against Harassment of women at the Workplace Act, 2010.

- (2) It extends to the whole of Pakistan.
- (3) It shall come into force at once.
2. **Definitions.** – In this Act, unless there is anything repugnant in the subject or context,—
- (a) “accused” means an employee or employer of an organization against whom complaint has been made under this Act;
 - (b) “CBA” means *Collective Bargaining Agent as provided in the Industrial Relations Act 2008, (IV of 2008) or any other law for the time being in force.*
 - (c) “Code” means the Code of Conduct as mentioned in the Schedule to this Act;
 - (d) “Competent Authority” means the authority as may be designated by the management for the purposes of this Act;
 - (e) “Complainant” means a woman or man who has made a complaint to the Ombudsman or to the Inquiry Committee on being aggrieved by an act of harassment;
 - (f) “Employee” means a regular or contractual employee whether employed on daily, weekly, or monthly or hourly basis, and includes an *intern or an apprentice*;
 - (g) “Employer” in relation to an organization, means any person or body of persons whether incorporated or not, who or which employs workers in an organization under a contract of employment or in any other manner whatsoever and includes –
 - (i) an heir, successor or assign, as the case may be, of such person or, body as aforesaid;
 - (ii) any person responsible for the direction, administration, management and control of the management;
 - (iii) the authority, in relation of an organization or a group of organization run by or under the authority of any Ministry or department of the Federal Government or a Provincial government, appointed in this behalf or, where no authority is appointed, the head of the Ministry or department as the case may be;
 - (iv) the office bearer, in relation to an organization run by or on behalf of the local authority, appointed in this behalf, or where no officer is so appointed, the chief executive officer bearer of that authority;
 - (v) the proprietor, in relation to any other organization, of such organization and every director, manager, secretary, agent or office bearer or person concerned with the management of the affairs thereof.
 - (vi) a contractor or an organization of a contractor who or which undertakes to procure the labour or services of employees for use by another person or in another organization for any purpose whatsoever and for payment in any form and on any basis whatsoever; and
 - (vi) office bearers of a department of a Division of a Federal or a Provincial or local authority who belong to the managerial, secretarial or directional cadre or categories of supervisors or agents and those who have been notified for this purpose in the official Gazette;

- (h) “harassment” means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment;
- (i) “Inquiry Committee” means the Inquiry Committee established under sub-section (1) of section 3;
- (j) “management” means a person or body of persons responsible for the management of the affairs of an organization and includes an employer;
- (k) “Ombudsman” means the Ombudsman appointed under section 7
- (l) “organization” means a Federal or Provincial Government Ministry, Division or department, a corporation or any autonomous or semi-autonomous body, Educational Institutes, Medical facilities established or controlled by the Federal or Provincial Government or District Government or registered civil society associations or privately managed a commercial or an industrial establishment or institution, a company as defined in the Companies Ordinance, 1984 (XLVII of 1984) and includes any other registered private sector organization or institution;
- (m) “Schedule” means Schedule annexed to this Act;
- (n) “workplace” means the place of work or the premises where an organization or employer operates and includes building, factory, open area or a larger geographical area where the activities of the organization or of employer are carried out and including any situation that is linked to official work or official activity outside the office.

3. Inquiry Committee. – (1) Each organization shall constitute an Inquiry Committee within thirty days of the enactment of this Act to enquire into complaints under this Act.

(2) The Committee shall consist of three members of whom at least one member shall be a woman. One member shall be from senior management and one shall be a senior representative of the employees or a senior employee where there is no CBA. One or more members can be co-opted from outside the organization if the organization is unable to designate three members from within as described above. A Chairperson shall be designated from amongst them.

(3) In case a complaint is made against one of the members of the Inquiry Committee that member should be replaced by another for that particular case. Such member may be from within or outside the organization.

(4) In case where no competent authority is designated the organization shall within thirty days of the enactment of this Act designate a competent authority

4. Procedure for holding inquiry.–(1) The Inquiry Committee, within three days of receipt of a written complaint, shall–

- (a) communicate to the accused the charges and statement of allegations leveled against him, the formal written receipt of which will be given;
- (b) require the accused within seven days from the day the charge is communicated to him to submit a written defense and on his failure to do so without reasonable cause, the Committee shall proceed ex parte; and
- (c) enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defense of the accused as the Committee may consider necessary and each party shall be entitled to cross-examine the witnesses against him.

(2) Subject to the provisions of this Act and any rules made thereunder the Inquiry Committee shall have power to regulate its own procedure for conducting inquiry and for the fixing place and time of its sitting.

(3) The following provisions *inter alia* shall be followed by the Committee in relation to inquiry:

- (a) The statements and other evidence acquired in the inquiry process shall be considered as confidential;
- (b) An officer in an organization, if considered necessary, may be nominated to provide advice and assistance to each party;
- (c) Both parties, the complainant and the accused, shall have the right to be represented or accompanied by a Collective Bargaining Agent representative, a friend or a colleague;
- (d) Adverse action shall not be taken against the complainant or the witnesses;
- (e) The inquiry Committee shall ensure that the employer or accused shall in no case create any hostile environment for the complainant so as to pressurize her from freely pursuing her complaint; and
- (f) The Inquiry Committee shall give its findings in writing by recording reasons thereof.

(4) The Inquiry Committee shall submit its findings and recommendations to the Competent Authority within thirty days of the initiation of inquiry. If the Inquiry Committee finds the accused to be guilty it shall recommend to the Competent Authority for imposing one or more of the following penalties:

(i) **Minor penalties:**

- (a) censure;
- (b) withholding, for a specific period, promotion or increment;
- (c) stoppage, for a specific period, at an efficiency bar in the time-scale, otherwise than for unfitness to cross such bar; and
- (d) recovery of the compensation payable to the complainant from pay or any other source of the accused;

(ii) **Major penalties:**

- (a) reduction to a lower post or time-scale, or to a lower stage in a time-scale;
- (b) compulsory retirement;
- (c) removal from service;
- (d) dismissal from service; and
- (e) Fine. A part of the fine can be used as compensation for the complainant. In case of the owner, the fine shall be payable to the complainant.

(5) The Competent Authority shall impose the penalty recommended by the Inquiry Committee under sub-section (4) within one week of the receipt of the recommendations of the Inquiry Committee

(6) The Inquiry Committee shall meet on regular basis and monitor the situation regularly until they are satisfied that their recommendations subject to decision, if any of Competent Authority and Appellate Authority have been implemented.

(7) In case the complainant is in trauma the organization will arrange for *psycho-social counseling or medical treatment* and for additional medical leave.

(8) The organization may also offer compensation to the complainant in case of loss of salary or other damages.

5. Powers of the Inquiry Committee. – (1) The Inquiry Committee shall have power—

- (a) to summon and enforce attendance of any person and examine him on oath;
- (b) to require the discovery and production of any document;
- (c) to receive evidence on affidavits; and
- (d) to record evidence.

(2) The Inquiry Committee shall have the power to inquire into the matters of harassment under this Act, to get the complainant or the accused medically examined by an authorized doctor, if necessary, and may recommend appropriate penalty against the accused within the meaning of sub-section (4) of section 4.

(3) The Inquiry Committee may recommend to Ombudsman for appropriate action against the complainant if allegations leveled against the accused found to be false and made with mala fide intentions.

(4) The Inquiry Committee can instruct to treat the proceedings confidential.

6. Appeal against minor and major penalties.— (1) Any party aggrieved by decision of the Competent Authority on whom minor or major penalty is imposed may within thirty days of written communication of decision prefer an appeal to an Ombudsman established under section 7 .

(2) A complainant aggrieved by the decision of the Competent Authority may also prefer appeal within thirty

days of the decision to the Ombudsman.

(3) The Appellate Authority may, on consideration of the appeal and any other relevant material, confirm, set aside, vary or modify the decision within thirty days in respect of which such appeal is made. It shall communicate the decision to both the parties and the employer.

(4) Until such a time that the ombudsman is appointed the District Court shall have the jurisdiction to hear appeals against the decisions of Competent Authority and the provisions of sub-sections (1) to (3) shall *mutatis mutandis* apply

(5) On the appointment of Ombudsman all appeals pending before the District Court shall stand transferred to Ombudsman who may proceed with the case from the stage at which it was pending immediately before such transfer.

7. Ombudsman:- (1) The respective Governments shall appoint an ombudsman at the Federal and provincial levels.

(2) A person shall be qualified to be appointed as an Ombudsman who has been a judge of high court or qualified to be appointed as a judge of high court. The Ombudsman may recruit such staff as required to achieve the purposes of this Act and the finances will be provided by the respective Governments

8. Ombudsman to enquire into complaint.- (1) Any employee shall have the option to prefer a complaint either to the Ombudsman or the Inquiry Committee. ‘

(3) The Ombudsman shall within 3 days of receiving a complaint issue a written show cause notice to the accused. The accused after the receipt of written notice, shall submit written defense to the Ombudsman within five days and his failure to do so without reasonable cause the Ombudsman may proceed *ex parte*. Both the parties can represent themselves before the Ombudsman.

(3)The Ombudsman shall conduct an inquiry into the matter according to the rules made under this Act and conduct proceedings as the Ombudsman deems proper.

(4) For the purposes of an investigation under this Act, the Ombudsman may require any office or member of an organization concerned to furnish any information or to produce any document which in the opinion of the Ombudsman is relevant and helpful in the conduct of the investigation.

(5) The Ombudsman shall record his decision and inform both parties and the management of the concerned organization for implementation of the orders.

9. Representation to President or Governor:- Any person aggrieved by a decision of Ombudsman under sub- section (5) of section 8, may, within thirty days of decision, make a representation to the President or Governor, as the case may be, who may pass such order thereon as he may deem fit.

10. Powers of the Ombudsman

The Ombudsman shall for the purpose of this Act have the same powers as are vested in a Civil Court under the Code of Civil Procedures, 1908 (Act V of 1908), in respect of the following matters, namely:

- i. Summoning and enforcing the attendance of any person and examining him on oath;
- ii. Compelling the production of evidence;
- iii. Receiving evidence on affidavits;
- iv. Issuing commission for the examination of witnesses
- v. entering any premises for the purpose of making any inspection or investigation, enter any premises where the Ombudsman has a reason to believe that any information relevant to the case may be found; and
- vi. The Ombudsman shall have the same powers as the High Court has to punish any person for its contempt.

(2) Ombudsman shall while making the decision on the complaint may impose any of the minor or major penalties specified in sub- section (4) of section 4.

11. Responsibility of employer.— (1) It shall be the responsibility of the employer to ensure implementation of this Act, including but not limited to incorporate the Code of Conduct for protection *against harassment at the workplace* as a part of their management policy and to form Inquiry Committee referred to in section 3 and designate a competent authority referred to in section 4.

(2) The management shall display copies of the Code in English as well as in language understood by the majority of employees at conspicuous place in the organization and the work place within six months of the commencement of this Act.

(3) On failure of an employer to comply with the provisions of this section any employee of an organization may file *a petition before the District Court* and on having been found guilty the employer shall be liable to fine which may extend to one hundred thousand rupees but shall not be less than twenty-five thousand rupees.

12. Provisions of the Act in addition to and not in derogation of any other law.— The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

13. Power to make rules.—The Federal Government may make rules to carryout the purposes of this Act.

Schedule

[See sections 2(c) and 11]

CODE OF CONDUCT FOR PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE

Whereas it is expedient to make the Code of Conduct at the Workplace etc to provide protection and safety to women against harassment it is hereby provided as under:

- (i) The Code provides a guideline for behavior of all employees, including management, and the owners of an organization to ensure a work environment free of harassment and intimidation;
- (ii) “Harassment” means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature, or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment;

The above is unacceptable behavior in the organization and at the workplace, including in any interaction or situation that is linked to official work or official activity outside the office.

Explanation:

There are three significant manifestations of harassment in the work environment:

(a) Abuse of authority

A demand by a person in authority, such as a supervisor, for sexual favors in order for the complainant to keep or obtain certain job benefits, be it a wage increase, a promotion, training opportunity, a transfer or the job itself.

(b) Creating a hostile environment

Any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature, which interferes with an individual’s work performance or creates an intimidating, hostile, abusive or offensive work environment.

The typical “hostile environment” claim, in general, requires finding of a pattern of offensive conduct, however, in cases where the harassment is particularly severe, such as in cases involving physical contact, a single offensive incident will constitute a violation.

(c) Retaliation

The refusal to grant a sexual favor can result in retaliation, which may include limiting the employee's options for future promotions or training, distorting the evaluation reports, generating gossip against the employee or other ways of limiting access to his/her rights. Such behavior is also a part of the harassment.

- (iii) An informal approach to resolve a complaint of harassment may be through mediation between the parties involved and by providing advice and counseling on a strictly confidential basis;
- (iv) A *complainant* or a staff member designated by the *complainant* for the purpose may report an incident of harassment informally to her supervisor, or a member of the Inquiry Committee, in which case the supervisor or the Committee member may address the issue at her discretion in the spirit of this Code. The request may be made orally or in writing;
- (v) If the case is taken up for investigation at an informal level, a senior manager from the office or the head office will conduct the investigation in a confidential manner. The alleged accused will be approached with the intention of resolving the matter in a confidential manner;
- (vi) If the incident or the case reported does constitute harassment of a higher degree and the officer or a member reviewing the case feels that it needs to be pursued formally for a disciplinary action, with the consent of the complainant, the case can be taken as a formal complaint;
- (vii) A complainant does not necessarily have to take a complaint of harassment through the informal channel. She can launch a formal complaint at any time;
- (viii) The complainant may make formal complaint through her incharge, supervisor, CBA nominee or worker's representative, as the case may be, or directly to any member of the Inquiry Committee. The Committee member approached is obligated to initiate the process of investigation. The supervisor shall facilitate the process and is obligated not to cover up or obstruct the inquiry;
- (ix) Assistance in the inquiry procedure can be sought from any member of the organization who should be contacted to assist in such a case;
- (x) The employer shall do its best to temporarily make adjustments so that the accused and the complainant do not have to interact for official purposes during the investigation period. This would include temporarily changing the office, in case both sit in one office, or taking away any extra charge over and above their contract which may give one party excessive powers over the other's job conditions. The employer can also decide to send the accused on leave, or suspend the accused in accordance with the applicable procedures for dealing with the cases of misconduct, if required;

- (xi) Retaliation from either party should be strictly monitored. During the process of the investigation work, evaluation, daily duties, reporting structure and any parallel inquiries initiated should be strictly monitored to avoid any retaliation from either side;
- (xii) The harassment usually occurs between colleagues when they are alone, therefore usually it is difficult to produce evidence. It is strongly recommended that staff should report an offensive behavior immediately to someone they trust, even if they do not wish to make a formal complaint at the time. Although not reporting immediately shall not affect the merits of the case; and
- (xiii) The Code lays down the minimum standards of behavior regarding protection of women from harassment at workplace etc but will not affect any better arrangement that an organization may have developed nor will it bar the grant of protection that employees working in an institute may secure from their employers through negotiation.

STATEMENT OF OBJECTS AND REASONS

The objective of this Act is to create a safe working environment for women, which is free of harassment, abuse and intimidation with a view toward fulfillment of their right to work with dignity. It will also enable higher productivity and a better quality of life at work. Harassment is one of the biggest hurdles faced by working women preventing many who want to work to get themselves and their families out of poverty. This Act will open the path for women to participate more fully in the development of this country at all levels.

This Act builds on the principles of equal opportunity for men and women and their right to earn a livelihood without fear of discrimination as stipulated in the Constitution. This Act complies with the Government's commitment to high international labour standards and empowerment of women. It also adheres to the Human Rights Declaration, the United Nation's Convention for Elimination of all forms of Discrimination Against Women and ILO's convention 100 and 111 on workers' rights. It adheres to the principles of Islam and all other religions in our country which assure women's dignity.

This Act requires all public and private organizations to adopt an internal Code of Conduct and a complain/appeals mechanism aimed at establishing a safe working environment, free of intimidation and abuse, for all working women. It shall also establish an Ombudsman at Federal and provincial levels.

MINISTER-IN-CHARGE

YOUSAF RAZA GILLANI

PRIME MINISTER

ISLAMIC REPUBLIC OF PAKISTAN