

# Guidelines on Dealing with Sexual Harassment or Sexual Violation

## Amnesty International Thailand

### Background

Amnesty International has previously put in place a Bullying and Harassment Policy, which aims at promoting and maintaining a working environment where all individuals are treated equally, fairly and with dignity by colleagues and managers. Such an environment will enable them to make the most effective contribution to the human rights work. Amnesty International Thailand has developed this guideline in accordance with the aforementioned policy to offer guidance for dealing with sexual harassment and sexual violation issues specifically.

### Scope of application

The term “Amnesty Thailand” in this guideline refers to “Amnesty International Thailand Association”  
This guideline for dealing with sexual harassment or sexual violation applies to all of the following:

- Amnesty Thailand board
- President of the association
- Director and staff of the association
- Other staff members appointed by director including students/interns and contractors of Amnesty Thailand
- Acting director
- Amnesty Thailand advisor

### What constitutes sexual harassment or sexual violation

As detailed in the appendix of Amnesty International Secretariat’s Bullying and Harassment Policy and referred to the definition of sexual harassment in the Guidelines for the Prevention and Addressing Sexual Harassment or Sexual Violation in the Workplace according to the Cabinet Resolution on 16 June 2015, sexual harassment or sexual violation is defined as unwanted conduct of a sexual nature in which the individual subject to such act feels annoyed, uncomfortable, humiliated, degraded or offended. This covers visual, verbal, physical and other acts including for the purpose of exchanging benefits. Any behaviour that applies within the scope of Amnesty Board’s consideration must occur under work circumstances related to Amnesty Thailand only.

### Recommendations for the perceived victim of sexual harassment or sexual violation

If you feel that you are being sexually harassed or sexually violated in the workplace, there are multiple ways you can seek support. No matter what you choose to do, you can expect to be heard and that action will be taken.

If you feel hesitant or unsure whether what you have experienced is considered a sexual violation, you can choose to confide in someone, for example with a colleague you trust to share your feelings or impacts of the incident before coming to a conclusion. If you decide to take the matter further, you may choose to talk to the following individuals: 1. Line manager 2. Director 3. A member of Human Resources 4. Amnesty Thailand board or advisor.

Even in the case that the complainant only wishes the incident to never occur again, all complaints, formal or informal, will not be taken lightly. In the case that a formal investigation may be required, Amnesty Thailand board will take action on disciplinary misconduct. If the case turns out to be a serious offence, the work duties of the accused may be transferred while under investigation. The complainant might be assigned to work from home or reassigned to other duties.

If you decide to report the incident, you should prepare any records of the incident that can be used as evidence. These include noting down the place, time and other evidence related to the incident, for example, online chat log, name of individuals who witnessed the incident, etc. Even if there was no witness, you can still report the incident.

### Recommendations for witness of sexual harassment or sexual violation

If you have witnessed an incident of abuse that did not directly occur to you, but feel concerned of the potential consequences from such behaviour, which might happen just once or over a period of time. If you feel hesitant whether such behaviour constitutes sexual harassment or sexual violation since everyone else seems to not be disturbed by such behaviour, Amnesty Thailand requires you to report the behaviour. Reporting might be done verbally or via written records of the incident by including the place, date and the details of the surroundings as well as the people present during the incident. This can be communicated to the director, a member of Human Resources or Amnesty board member who has been appointed to oversee the Sexual Harassment or Sexual Violation Policy.

### Informal Resolution

Amnesty Thailand anticipates that many issues may be resolved through an informal approach, through open and transparent discussion, with all appropriate parties, at the earliest opportunity. If possible, Amnesty encourages all parties to try and resolve the issue informally in the first instance before raising it through formal processes. This could be done by informing the other party involved that their behaviour is unacceptable and that it must stop as they may be unaware of how their behaviour is impacting others. However, if you feel unable to deal with the situation on your own, it is completely valid to ask for support from the following individuals as

appropriate: 1. Line manager or a member of Human Resources 2. Director 3. Amnesty board or advisor who has been appointed to oversee the Sexual Harassment or Sexual Violation Policy, to help explain to the person causing offence that their behaviour is unwelcome and should stop. In all instances if they wish to do so an employee has the right to make a formal complaint.

### Formal grievance

If the perceived victim decides to make a formal complaint, they may contact or write to the following individuals: 1. Director 2. Amnesty board or advisor who has been appointed to oversee the Sexual Harassment or Sexual Violation Policy. The consideration process will fall under one of these two instances as follows:

1. In the instance that the complainant/the accused is Amnesty board or director, Amnesty board will consider appointing external personnel to investigate the incident. Amnesty's director or board who has been appointed to oversee the Sexual Harassment or Sexual Violation Policy will be coordinating the evidence gathering process as well as communication with all persons involved subject to the Amnesty board appointment resolution.
2. In the instance that the complainant/the accused is an employee or personnel involved with Amnesty office, Amnesty board will consider appointing internal personnel to investigate the incident or may consider appointing someone externally if deemed necessary.
3. The individual assigned to investigate the incident will be responsible for gathering evidence as well as the outcomes of all considerations and recommendations, which can be divided into 2 instances as follows:
  - (1) In the instance that the accused is an Amnesty employee, the outcome of a consideration will be submitted to Amnesty board, which will then be forwarded to the director who might consider taking a disciplinary action.
  - (2) In the instance that the accused is director, board member or chief of Amnesty, the outcome will be submitted to Amnesty board for consideration. Even if the person accused has already resigned, Amnesty board or director may consider creating a profile record for reference purposes if requested by other agencies or measures.

### Recommendations for individuals accused of sexual harassment or sexual violation

If you are accused of sexual harassment or sexual violation, you may experience feelings of anxiety that may affect your health and emotions. The investigation process can take time especially when additional information from witness or evidence is required. You will be closely informed of the progress and may request any information from your manager, Amnesty Thailand board member or advisor.

- You will be guaranteed that there will be no presumption and granted the right to object under fair proceedings.
- In some instances, you may be asked to change the workplace or transferred to other responsibilities during the investigation process. This does not mean you have been prejudged as guilty.
- In the instance that you hold a high level position in the organization, you may be asked to cease your duties temporarily if it affects your work or the investigation.
- You may be requested to sign an agreement to be part of the investigation process without taking any legal action against the complainant, Amnesty board member, investigative committee as well as witnesses or other persons involved. This is to prevent litigation or the use of laws to intimidate all persons involved in the process.

You should record everything you remember about the incident as soon as you become aware that someone has made a complaint against your action. This will help you to remember what happened. If the action was a repeated or serious offence, it may result in termination of employment or role. This includes sexual assault and even if you resign, you may still be prosecuted if found guilty.

### Key principles of investigation

The investigation process must take into account 3 principles: 1) protection of perceived victim and prevention of future harassments/violations or allowing offenders to go free (Impunity) 2) any action taken under an investigation process must take into consideration fairness to all parties and 3) organizational integrity.

Here are some guidelines:

- Take into account the safety of the complainant, risk of violence, victimization or unfair treatment. The safety of the accused should also be considered throughout the period of investigation and consideration.
- Arrange for the complainant and the accused to have meetings separately with the person in charge of investigating the case. Neither the complainant nor the accused will be asked to be in the same meeting until both of them would like mediation. However, mediation must be considered appropriate by both parties.
- If there are witnesses involved, they must not be in the same meetings with either party.
- If the complaint has been considered to be valid and further investigation is required, Amnesty board will appoint an appropriate investigator who must not be involved in any aspect of the incident.
- Take into account the gender of the investigator and the satisfaction of the complainant.
- Both parties may ask colleagues to be their representative (must not be a witness) in discussions/meetings to act as emotional and psychological support as long as confidentiality is maintained from all parties.

- All persons involved in the investigation process should not discuss the matter with others who have not been designated as supporter or representative.
- Disclosure of any information concerning the investigation without Amnesty board's deliberation is considered an offence according to Amnesty's Data Protection & Disclosure Policy and the organization's employment policies.
- As sexual violation is a sensitive and complex issue, it may not be possible to resolve the issue within the specified deadlines. Both parties should be kept closely informed. If there is a delay in any of the processes, the individual assigned to oversee the proceedings must explain the reasons for the delay to both parties immediately.
- In each step, evidence will be gathered and considered. Investigation must be done in a timely manner whilst accurate, comprehensive, and precise fact-finding must also be given a priority. The need to conduct repetitive interviews must be minimized.
- The complainant may choose to make a formal grievance anonymously. Amnesty will try to maintain confidentiality throughout the process. Information that reveals the identity of the complainant will only be made available to those whose duties require access to this information. Such information must not be disclosed without permission from individuals concerned, unless their life is threatened or domestic law states otherwise. In this regard, relevant persons should be consulted first and information may be disclosed without revealing the complainant's identity.
- Personnel whose duties are concerned with the grievance and investigation process must realize the importance of maintaining confidentiality and may be requested to sign a non-disclosure agreement or from taking any action that may pose risk to the grievance process. Employees and personnel who violate such agreement may be subject to disciplinary action. In some cases, violations of non-disclosure agreements may also violate domestic laws.
- Amnesty will try to prevent harassments or attempts to intimidate the complainant, informants, affected persons and witnesses in any form.
- During the investigation process (including coordination with relevant parties and preparation of the report on the outcomes of the complaint), Amnesty's director or board may consider assigning an attorney and/or an expert to assist in the procedures.

#### Action on cases that have occurred in the past prior to the issuance of this policy

There are many cases that occurred which have not been reported or complained due to various reasons, for example, at the time the perceived victim felt uneasy or uncomfortable to make a complaint. If a complaint has been made after the issuance of this policy, Amnesty board may assign Amnesty board member or advisor to be responsible for speaking with the complainant and determine the possibility of a resolution. Since these incidents occurred in the past, it may take time to gather evidence or the

accused may have resigned from the organization. However, relevant agencies will investigate the matter as much as possible. The complainant will be notified of the investigative procedures as well as the outcomes. It is at the sole discretion of Amnesty board to consider taking any further action following an investigation.

### Behaviours that may constitute a criminal offence

Some actions constitute a criminal offence. In some instances, the complainant may not want the case to progress to justice proceedings or to become a lawsuit. However, if Amnesty's director or board member believes otherwise, a meeting should be held with the complainant to consider legal aspects regarding the matter. The director or designated person should inform the complainant that the matter will need to be referred to an advisory agency for further recommendation and action.

### Monitoring and review of the content

Amnesty Board should review the contents of the policy every 3 years to stay up-to-date with the latest developments.

### Appendix

Formal Grievance Information Form (The complainant reserves the right to provide information on any detail)

#### *Basic information of the complainant*

- First name-last name, sex, current age
- Role or employment status of the complainant and its relevancy to the role or employment status of the accused at the time of incident occurrence
- Other information including other aspects of relationship between the complainant and the accused that the complainant wishes to specify

#### *Details of the sexual harassment incident*

- Time of occurrence and frequency of the sexual harassment conduct that the accused inflicted upon the complainant: specify as much as possible. If able to clearly specify the date/month/year and time of occurrence (morning/noon/evening/night etc.), it would be highly useful for the investigation. In the case that the incident occurred more than once, information should be provided separately for each incident.
- Location and surroundings of the place of occurrence

#### *Other persons present during the incident (if any)*

#### *Types of behaviours that the complainant considers to be sexual harassment including:*

- Verbal
- Action or physical expression
- Communication via different channels including online
- Other forms of behaviours

It is recommended to specify the details of the behaviours as much as possible.

*Impact of sexual harassment on the complainant:* Identify all aspects of the impact e.g. psychological impact, effect on work and impact on other aspects of life

*Communication or expression from the complainant to the accused*

- At the time of incident or after the incident, the complainant has expressed to the accused that they felt dissatisfied, unwilling, and did not consent to their behaviour of sexual harassment nature (if any)
- If the complainant did not communicate or make their feelings known to the accused, the complainant may specify their thoughts, feelings or other reasons/restrictions that caused them not to speak out or express their dissatisfaction towards such behaviour.

*The complainant may explain the details of the incident through many ways*

- Written statements
- Voice recording
- Online interview between representative of the investigative committee and the complainant, which will be voice recorded
- Other methods that are convenient for the complainant

*List of evidence related to the behaviours of sexual harassment or sexual violation that have been reported* that the complainant can present to the investigative committee, for example, a screenshot of online correspondence, audio file, etc. (please attach evidence).

*Name and contacts of witnesses willing to provide information* regarding the accused's behaviour of sexual harassment or sexual violation to the investigative committee.

*Demands of the complainant in terms of compensation from the accused* in the case that the investigative committee has concluded that the incident was indeed considered to be an act of sexual harassment or sexual violation.

*Expectations of the complainant towards Amnesty* in the case that the investigative committee has concluded that the complaint regarding sexual harassment or sexual violation was proven to be valid.

In the instance that the accused has consented to be a part of the investigation process, the complainant consents the investigative committee to inform the accused their name in order for the accused to defend or admit wrongdoing in accordance with their right to know their accuser and the nature of the charges.

*Other information or opinions of the complainant (If any)*

