

Prevention of sexual harassment At Workplace

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NATIONAL RIFLE ASSOCIATION OF INDIA



NRAI endeavors –

- ❖ to have a healthy training place environment sans unfair/ unlawful people practice of any nature.
- ❖ to ensure that our work environment respects an individual's identity & self esteem.

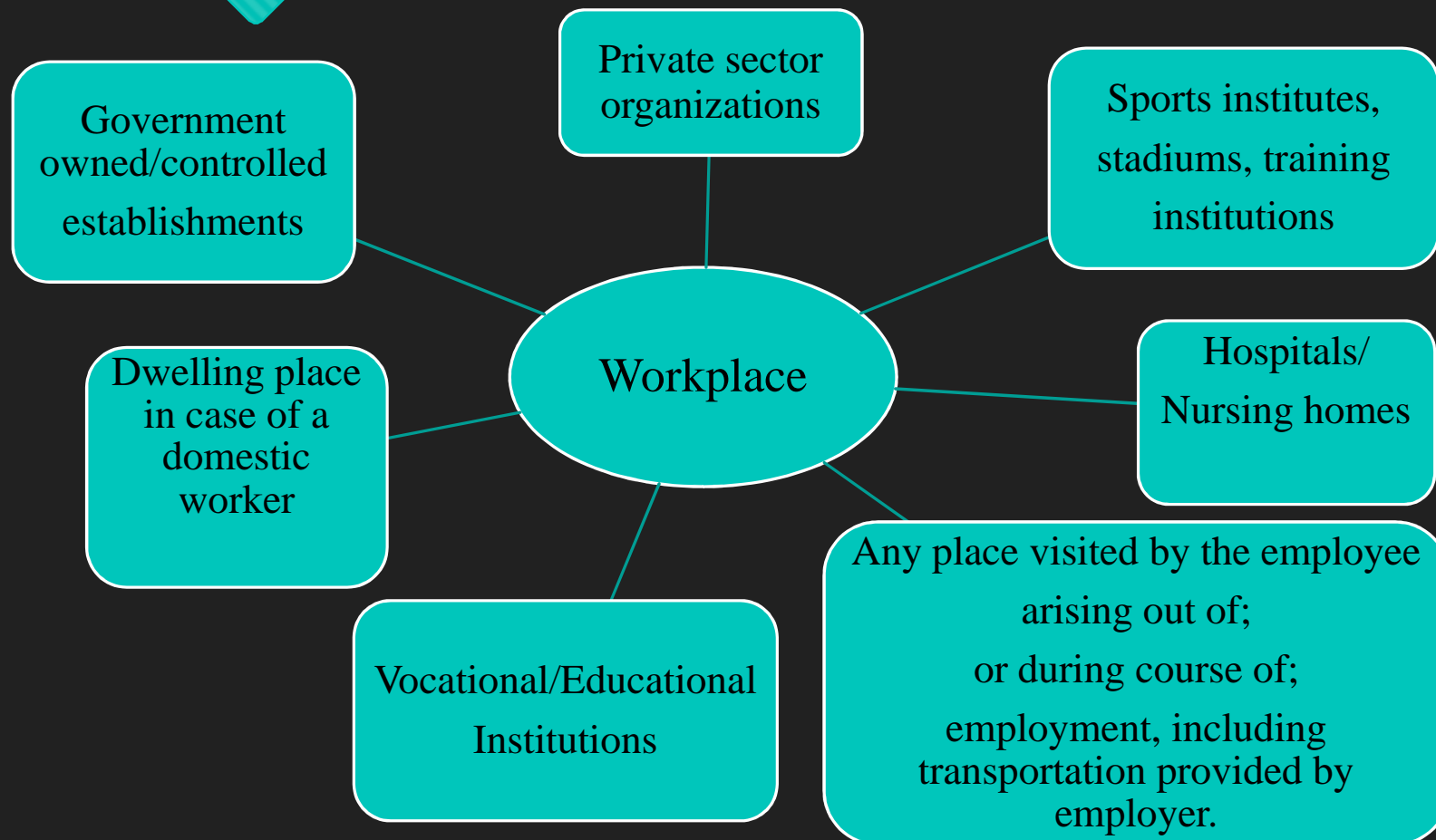
NRAI is strongly committed to having a workplace that is free of all unlawful discrimination/ practices, including training/practice place harassment & sexual harassment.

Basics

What is

- Workplace
- Employee
- Sexual Harassment

Workplace



ARE SPORTS INSTITUTES & EVENTS WORKPLACES?

- The term ‘workplace’ in the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) (POSH) Act, 2013 is broadly defined and also liberally interpreted by the judiciary. According to Section 2(o)(iv) of the Act, *“any sports institute, stadium, sports complex or competitions or games venue, whether residential or not used for training, sports or other activities relating thereto”* is a workplace.
- The workplace is the Act’s central term. The terms ‘employer’ (Section 2(g)) and ‘employee’ (Section 2(f)) are defined in relation to it. An employer is a person in charge of the “management, supervision, and control” of the workplace. The employer is liable to form an Internal Committee (IC) for the workplace.
- India’s various sports federations and other governing bodies are employers in relation to sports facilities, venues for competitions and events, hostels, and games villages, to name a few workplaces in sports. Therefore, as per the law, these employers are obligated to establish an IC to investigate and inquire into sexual harassment allegations made by athletes and sportspersons

Who is an “Employee”?

**Regular, temporary, ad
hoc employees**

**Directly/through an
agent/contractor**

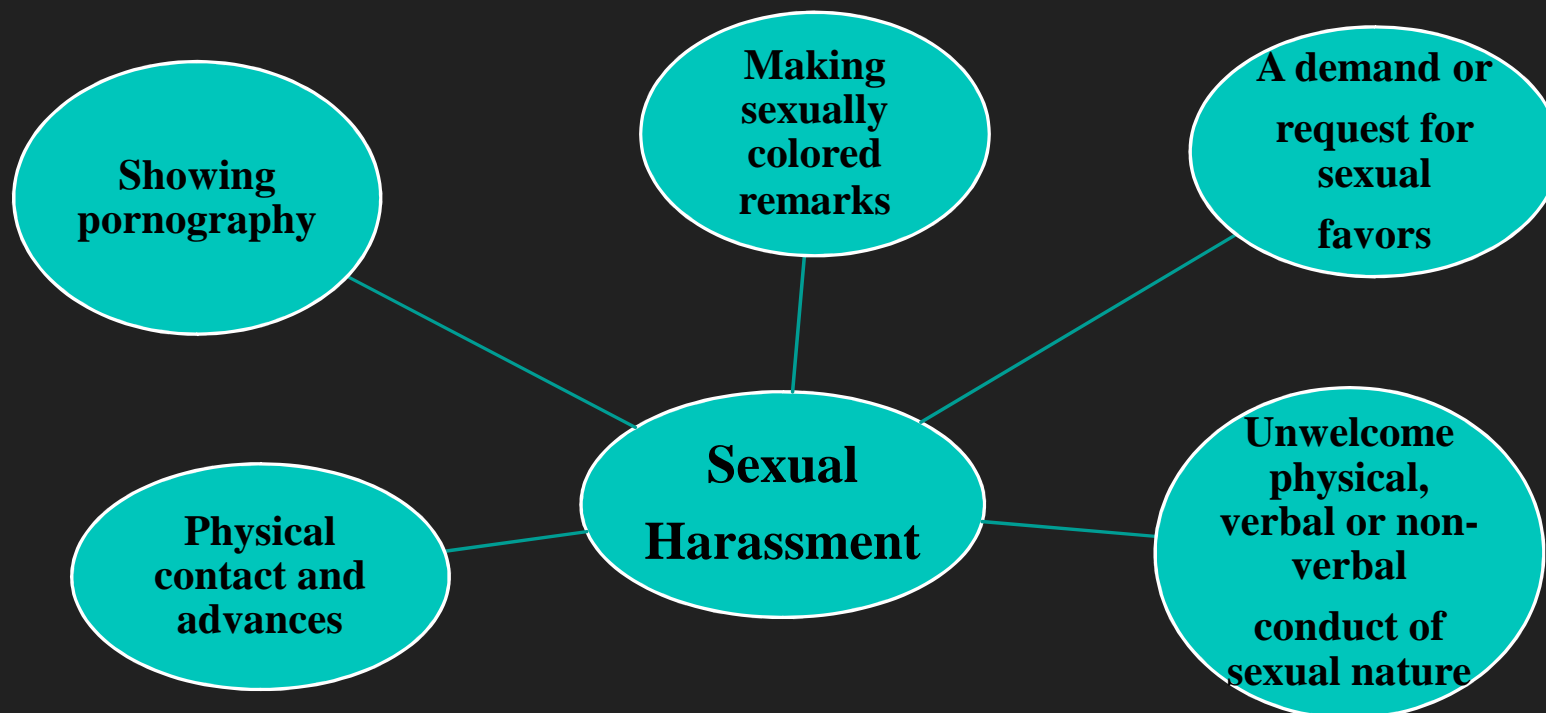
**With or without
remuneration/voluntary**

**Express/implicit terms of
employment**

Probationer/apprentice

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

- **Sexual harassment** is bullying or coercion of a sexual nature, or the unwelcome or inappropriate promise of rewards in exchange for sexual favors.



Forms of Workplace Sexual Harassment

➤ **Quid Pro Quo** (*this for that*)

- Implies or explicit promise of preferential / detrimental treatment in employment
- Implied or express threat about her present or future employment status

➤ **Hostile Work Environment**

- Creating hostile, intimidating or an offensive work environment
- Humiliating treatment likely to affect her health and safety

Circumstances Considered as Sexual Harassment

- Implied/explicit promise of preferential treatment in employment
- Implied/explicit threat of detrimental treatment in employment
- Implied/explicit threat about present or future employment status
- Interference with work or creating an intimidating/hostile environment
- Humiliating treatment, likely to affect health or safety

Indian Law on Sexual Harassment

- ❖ **The Constitution of India**
- ❖ **The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**
- ❖ **Vishaka Vs. State of Rajasthan**
- ❖ **The Indian Penal Code, 1860**

The Indian Penal Code Provision

➤ **Section 509** - Word, gesture or act intended to insult the modesty of a woman

▪ **Offence:**

- utterance of any word,
- making any sound or gesture
- exhibiting any object

With an intention to intrude upon the privacy of such woman

▪ **Punishment:** Simple imprisonment up to 3 years + fine

▪ **Nature of offence:** Cognizable

➤ **Amendment to the Indian Penal Code Provision**

Section 354 A: Sexual harassment and punishment for sexual harassment

Sexual harassment is a violation of the constitutionally guaranteed **fundamental rights**:

- Articles 14 and 15: Right to equality
- Article 21: Right to life - to live with dignity
- Article 19(1)(g) - Right to practice any profession/trade/occupation/business, i.e., a right to a safe environment free from harassment

Impacts of sexual harassment at work

- **Causes emotional distress**
- **Lowers job satisfaction**
- **Lowers Capability to perform to their potential**
- **Lowers morale**
- **Increases absenteeism**
- **Increases shooters exit from the teams**
- **Inhibits growth and creativity**

icc are mandatory

- The employee who had a fundamental right to a workplace free of sexual harassment, had complained about sexual harassment. According to the Court, had the organisation complied with the Vishaka Guidelines and set up such a Complaints Committee, the preventative benefit would have been three-fold:
 - A) Ensured a place where women employees could seek redress;
 - B) Sent a clear message to the workplace that such complaints would be enquired into by a specially designated committee with external expertise;
 - C) Prevented a series of litigation that followed.

Hence, the Madras High Court awarded Rs. 1.68 crores in damages to an employee for the non-constitution of a Complaints Committee by the employer, as per the Vishaka Guidelines (at the time of the complaint, the Sexual Harassment of Women at Workplace Act 2013 had not been enacted).

- Ms. G v. ISG Novasoft Technologies Ltd. Madras High Court (Crl.R.C.No.370 of 2014 order dated 02.09. 2014. Original Petition No.463 of 2012

SEXUAL HARASSMENT IN SPORTS

- According to the data obtained in 2020 by The Indian Express, 45 complaints of sexual harassment have been registered in the past 10 years. Out of these, 29 complaints have been filed against coaches. In February 2019, a parliamentary committee constituted for the empowerment of women indicated that the incidents of sexual harassment in sports can be higher as they often go unreported.
- In January 2020, an FIR was registered against a coach for allegedly harassing a woman cricketer. In July 2021, seven sportspersons accused renowned coach P Nagarajan of sexual harassment. He already had a complaint filed against him and was reportedly abusing athletes for years. He had also threatened the athletes to cease their training. These incidents, however, only form part of an extensive and deeply-rooted system of harassing women sportspersons.

INTERNAL COMPLAINTS COMMITTEE

The NRAI has a nominated a committee , any shooters who believes he/she has been sexually harassed may report the case to this committee.

- Any shooter or any other employee who has been subjected to sexual harassment or has been a witness to another colleague being a victim of harassment can report the case.
- Shooters/employees may report the incident/case to the Internal Complaints Committee
- Shooters /employees can also report the case (written/verbal) to his/her Reporting Manager/ Next Level Reporting/ Head of Department; incidence will be immediately forwarded to the investigation committee.

GRIEVANCE REDRESSAL

For any reported Harassment the Investigation Committee will play the following role:

- To act as an impartial Inquiry Authority on a harassment complaint and decide appropriate disciplinary action if findings of the inquiry suggest so.
- To ensure that victims and witnesses are not victimized or discriminated because of their complaint.
- To take proactive measures towards sensitization of employees on gender issues.
- To maintain confidentiality- all complaints will be kept confidential to the extent possible. All complaints will be promptly investigated. Remedial action will be taken where appropriate.
- To prevent retaliation against an employee who in good faith has reported or provided information about any harassment sexual or otherwise.

Grievance Redressal

In an event where an employee/trainee feels he/she is being victimized, he/she should –

- Not feel ashamed. Tell the harasser very clearly that the conduct is unwelcome and must stop.
- Not ignore the harassment in the hope that it will stop on its own. Come forward and complain through any of the above mentioned modes.
- Talk to somebody you trust about the harassment. It will not only give you strength but also help others in similar situations to come forward and complain.
- Maintain a record of all incidents of harassment. If a need to register a formal complaint arises later, this record will be helpful.

ACTION AGAINST ACT OF HARASSMENT

- ❖ After it has been proved that the offender has indulged in an act of harassment in the work place, the investigation committee will decide on appropriate disciplinary action against him/her irrespective of his/her status in the organization.
- ❖ Care shall be taken by the committee to ensure that the victims of harassment and the witnesses shall not be victimized while dealing with the complaint.

Disciplinary Action may include but is not restricted to:

- Written or verbal warning.
- Transfer from current business.
- Termination from services.

Timelines for complaint process as per the POSH Act

- Submission of Complaint Within 3 months of the last incident
- Notice to the Respondent Within 7 days of receiving copy of the complaint
- Respondent to reply within 10 days of receiving the copy of complaint
- Completion of Inquiry Within 90 days
- Submission of Report by ICC/ to Employer Within 10 days of completion of the inquiry
- Implementation of Recommendations Within 60 days
- Appeal Within 90 days of the recommendations

Conciliation Process (Sec 10 - Act, Sec 4.8 - HB)

- Employer to ensure no backlash against the complainant
- Choice of a formal/informal process rests with the aggrieved
- Settlement terms to be recorded

Conciliation Process (Sec 10 - Act, Sec 4.8 - HB)

Informal mechanism

1. Counselling, educating, orienting, or warning the respondent to promptly stop the unwelcome behaviour
 2. Appointing a neutral person to act as a conciliator
 3. If successful, such resolution is to be recorded by the conciliator and forwarded to the employer
- No monetary settlement in case of conciliation

Formal mechanism

1. If the complainant opts for formal redress, or the nature of the complaint is serious then the ICC responds to the complaint
2. ICC must be free of any conflict of interest
3. Independent third party member has sound knowledge, skill and experience in dealing with such complaints

Action against false or malicious complaint (Sec 14 - Act, Sec 10 - Rules)

What is a malicious or false complaint?

1. If allegation is false/ misleading or false evidence is produced, and or forged or misleading documents are submitted
2. Mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant

Action

1. ICC may recommend employer to take action as per service rules

Action against false or malicious complaint (Sec 14 - Act, Sec 10 - Rules)

Conditions

- 1. Malicious intent will be established after an inquiry in accordance with the procedure prescribed, before any action is recommended**

Scenario 1

- As she was entering the elevator in the office, Deepak walked by Renu, tapped her on her shoulders and told her how hot she looked in her dress. This made Renu uncomfortable & she looked at Deepak disapprovingly. She promptly asked him to keep his hands off her, and use discretion in his language. Deepak apologized, and it never happened again.

Is Renu being sexually harassed by Deepak?

- **Answer: No.** This is a one-time event that Renu found offensive, and when Renu expressed her displeasure, it never happened again. The conduct was neither severe nor frequent, although it was certainly unprofessional and inappropriate.

Scenario 2

- Tina is a trainee who has just finished her training and is waiting for a project.
- One day her manager Tilak calls her to his cabin and tells her about the onsite assignment he is planning to assign her to. Tina is delighted at the thought.
- Then Tilak suggests they go to his farm house over the weekend. When Tina refuses to comply he threatens her that she may not be positioned for the project.

True or False: Tilak's actions constitute sexual harassment.

- **Answer: True.** Tilak's conduct is clearly sexual harassment, as non-compliance to his suggestion would result in Tina not being able to perform her job.

SOME WELL KNOWN CASES

○ 1. Chief Justice of India (CJI) Ranjan Gogoi

A Supreme Court in-house panel, inquiring into alleged sexual harassment charges against Chief Justice of India Ranjan Gogoi, on Monday said that there was “no substance” in her allegations. The committee report will, however, not be made public.

A short cryptic release issued by the Supreme Court secretary general said that the in-house panel had submitted its report to the “next judge competent to receive the report”. The in-house panel was headed by Justice S.A. Bobde.

○ 2. Genpact executive commits suicide over allegations of sexual harassment; leaves note claiming 'innocence'

The senior executive's body was found by his wife Kriti at Noida's Paramount Society after she returned home and informed the police. Kirti who is also an employee of Genpact married Swaroop two years ago. *Swaroop Raj had been suspended from his company over the allegations till the case was being probed*

SOME WELL KNOWN CASES

- 3. TEHELKA : young woman journalist has said the editor-in-chief Tarun Tejpal subjected her to on two separate occasions
- 4. JUSTICE GANGULY : A. K. Ganguly for sexual harassment of his intern in Le Meridian Hotel New Delhi
- 5. PACHORI: FIR lodged against Rajendar Kumar Pachauri who was the chairman of the Intergovernmental Panel on Climate Change for alleged offence of sexual harassment, criminal intimidation on the basis of a complaint of a woman research analyst of TERI

SOME WELL KNOWN CASES

- **6.KPS Gill:** Senior IAS officer Rupan Deol Bajaj complained in 1988 that former Punjab director general of police, KPS Gill, touched her inappropriately at a party
- **7.Gopal Kanda:** In a 2012 suicide note, 23-year-old airhostess Geetika Sharma charged Gopal Kanda, a former Haryana minister, of sexually harassing her and forcing her to take her life.
- **8. 7.David Davidar:** The Indian-born author was sacked as head of Penguin Canada in 2010 following allegations by another firm employee, Lisa Rundle, that Davidar sexually harassed her for three years, assaulting her in 2009 during the Frankfurt Book Fair

Reported cases in sports

- An eight year old girl was alleged to have been sexually assaulted by her 45-year old sports teacher at a school in New Ashok Nagar. The accused has been arrested.
- Head of Indian wrestling federation accused of sexual harassment
- Cyclist's Sexual Harassment Complaint Against Coach in 2022.

NRAI INTERNAL COMMITTEE MEMBERS

Chairperson Ms Putul Kumari

Convenor Mr. K Sultan Singh

Committee Members

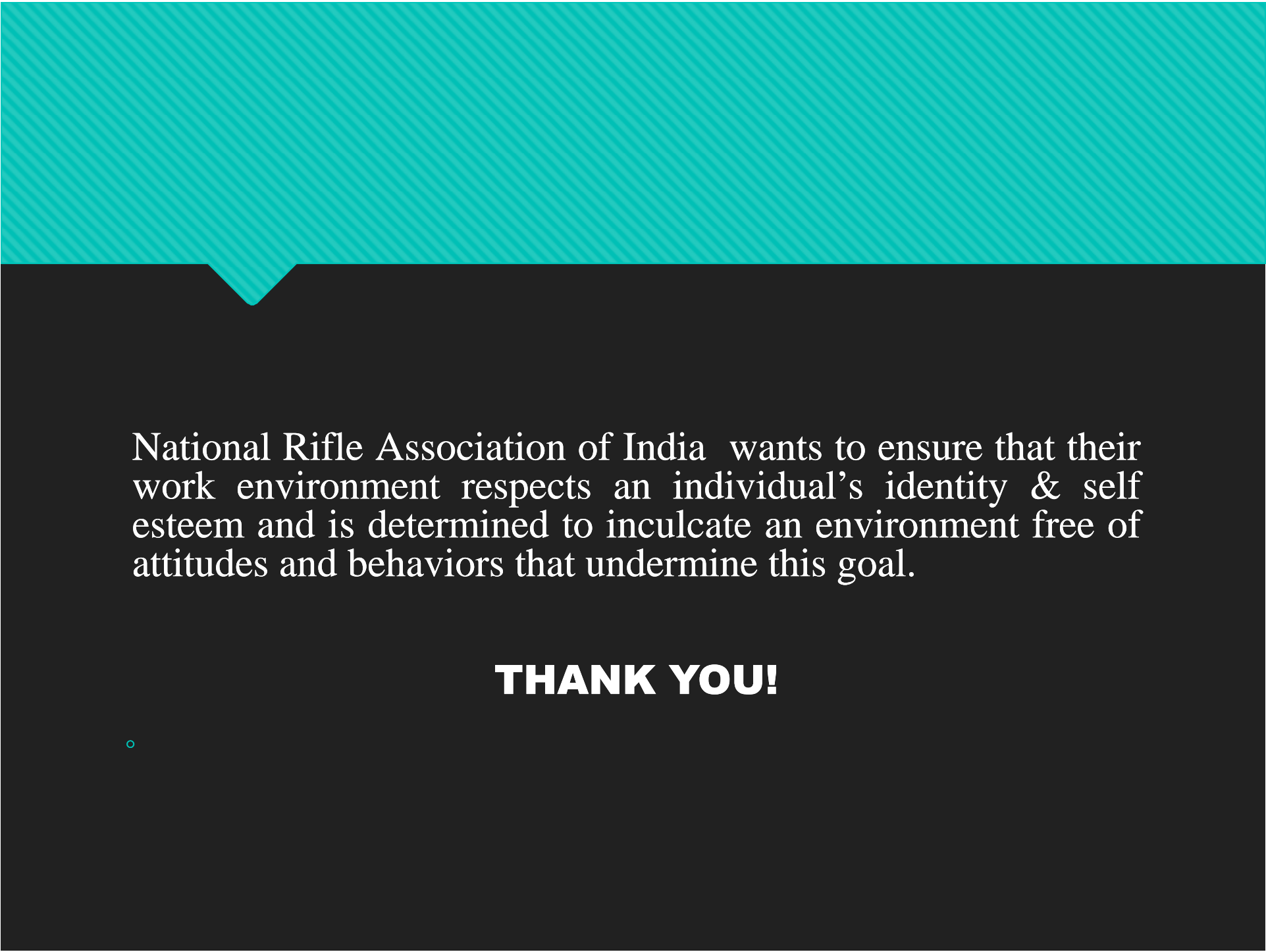
Ms Sheila Kanungao

Ms Kunti Malik

External Member

Urmila Lanba (Advocate)

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National Rifle Association of India wants to ensure that their work environment respects an individual's identity & self esteem and is determined to inculcate an environment free of attitudes and behaviors that undermine this goal.

THANK YOU!

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