



Prevention of Sexual Harassment, Exploitation and Abuse (PSHEA) Policy, 2024

Policy for all staff and representatives

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Section I: The PSHEA Policy

Introduction

Organization Background

Srijanalaya was established in December 2013 as a non-profit Non-Governmental Organisation (NGO) with a mission to create safer, more inclusive, spaces of learning through the arts – visual, performing, and language arts - as each person has the right to express and be heard. The organization consists of a large network of artists and educators who advocate the use of the creative arts and storytelling in learning spaces in Nepal's diverse communities. With a firm belief in the power of the arts to foster creativity and to counter the silencing of multiple narratives and histories in the education system and our societies at large, Srijanalaya organizes workshops, artist collaborations and residencies, produces picture books, designs and implements exhibitions, conducts teacher seminars and trainings, conducts educational outreach programs and events, designs short courses and curricula, and organizes performances. Through storytelling and strengthening marginalized voices, this community of artists and educators creates bridges and connections to motivate, empower, and bring about long lasting social norm changes. www.srijanalaya.org

Statement of Commitment

Srijanalaya maintains a policy of zero tolerance towards Sexual Harassment, Exploitation, and Abuse (SHEA) in all its forms. Srijanalaya recognizes that SHEA incidents are rooted in an imbalance of power, particularly gendered and sexualised abuses of power. Srijanalaya is committed to safeguarding the rights of employees, partners, interns, and consultants, contractors, dependents accompanying staff to an environment free from discrimination on any ground and from harassment, exploitation, or abuse at work, including anything of sexual nature. Srijanalaya also commits to extending a safeguarding measures to other professionals and members of the public that come in contact with Srijanalaya's staff and individuals associated with Srijanalaya in a work capacity.

Srijanalaya will operate a zero-tolerance policy for any form of sexual harassment, exploitation or abuse, and will respond robustly to any such concerns or complaints. Srijanalaya will treat all incidents seriously and promptly investigate all allegations of sexual harassment, exploitation or abuse. Any person found to have exploited, abused or sexually harassed another person will face disciplinary action. All complaints of misconduct will be taken seriously and treated with respect and in confidence. No one will be victimized for making such a complaint. Anyone associated with Srijanalaya through work is committed to react to any form of sexual harassment, exploitation or abuse.

By SHEA Srijanalaya means any unwanted or forced sexual act committed without consent or threat thereof. Harassment, exploitation or abuse can occur either against a person's will, by force or coercion, or when a person is incapable of giving consent, such as when they are under duress, under the influence of drugs or alcohol.

Sexual Harassment - is understood as any kind of unwanted verbal, non-verbal or physical behaviour of a sexual nature with the aim or impact that a person's dignity is violated, especially if it happens in a threatening, hostile, degrading, humiliating or offensive environment.

Sexual Exploitation - is understood as attempts or actual abuse of position of power to exploit a person's vulnerability for sexual gain. This also applies to relationships where economic, social or political advantage is gained from another person on the basis of sexual exploitation.

Sexual Abuse - can consist of either a threat of or actual physical abuse of a sexual nature.

Sexual exploitation and abuse also include sexual relations with a child, in any context, defined as: Child - a "human being below the age of eighteen years".

Srijanalaya is committed to:

- Creating a safe working environment that upholds the rights and dignity of all.
- Ensuring that our SHEA work, continuously improves based on best practises.
- Ensuring that our approach is survivor-centred
- Srijanalaya is committed to working with complainants and survivors to ensure they are central to any response, are not further harmed or disempowered by any processes, and receive support throughout.
- Demonstrating our zero-tolerance approach to SHEA concerns by:
 - listening, fully investigating concerns and complaints, and reflecting and learning from them.
 - ensuring that all allegations of SHEA are responded to in a timely, robust, and survivor-centred manner.
 - ensuring that we embed SHEA into every aspect of our work – from recruitment to programme design and implementation.

Srijanalaya's zero-tolerance approach to SHEA, means that the following SHEA clause must be included in all cooperation agreements, including contracts:

"In terms of a code of conduct, the parties [individual] agree to maintain others' and one's own respect and dignity when representing the organization. The parties [individual] agree(s) to actively prevent sexual harassment, exploitation, and abuse (SHEA), and ensure, in the best possible way, that any interaction or activity is carried out in an environment free of all kinds of harassment, exploitation, and abuse, sexually or otherwise, especially in the case of particularly vulnerable groups."

Organization's SHEA Policy

The intention of this Policy is to create a work environment that enables all employees and individuals coming into contact with Srijanalaya in the course of their work to grow and thrive professionally, moving towards realizing the right to a workplace free from discrimination, harassment and bullying. Srijanalaya prohibits discriminatory conduct or harassment based on a person's grounds of origin, religion, race, caste, tribe, gender, sexuality, physical condition, condition of health, marital status, pregnancy, economic condition, language or region, ideology or on similar other grounds, and reserves the right to take appropriate action as per its policies, to preserve the sanctity of the workplace.

This Policy is cognisant of the fact that violence and harassment is incompatible with the promotion of sustainable enterprises and impacts negatively on the organisation of work, workplace relations, worker engagement, enterprise reputation and productivity. The Policy is further cognisant of the fact that the professions of the arts, entertainment and the media are structured on patriarchal lines that have thus far fostered a system of patronage and privilege in which women pay a heavy professional and personal price for raising issues of sexual harassment in these spaces, especially by seniors.

Srijanalaya is therefore implementing the Policy in order to (i) nurture a respectful, dignified and friendly work environment (ii) work towards a workplace free of harassment and violence (iii) to prevent, prohibit and respond robustly to complaints of sexual harassment, exploitation, and abuse.

Definitions

In this Policy, unless the subject or context has any other meaning:

"Actors" shall mean all the persons who may be involved with Srijanalaya in any capacity such as employees, sponsors, participants, audience, school community, government officials, etc.

"Aggrieved Person" means any person, who is/ has been subjected to any act of sexual harassment by any of the Actors.

“Complainant” means any Aggrieved Person or any person on the behalf of such Aggrieved Person (as defined above) who makes a verbal/ written complaint of sexual harassment to the Safeguarding Committee. The Safeguarding Committee reserves the right to take cognisance of cases where the aggrieved person is unable to file the complaint itself due to any form of incapacity. Provided however, the Policy differentiates between a witness and confidant. For clarification, complaints made by a confidant, without the consent of the Aggrieved Person would be in breach of trust, and would not be considered as a Complaint for the purposes of the Policy.

“Employee” means any person employed by and / or engaged with Srijanalaya for any work on regular, temporary or ad hoc basis, either directly or through an agent, including a contractor, with or without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, intern, apprentice, volunteer or any such term at Srijanalaya.

“Employer” means Srijanalaya.

“Focal Person” means any Employee designated by the Employer for the purpose of propagating information in relation to the Policy, informally dealing with the complaints that may be raised and/or assisting the Aggrieved Person and / or conducting any other activities in relation to the implementation of the Policy.

“Safeguarding” broadly means avoiding harm to people or the environment. It means taking all reasonable steps to prevent harm, particularly sexual exploitation, abuse and harassment from occurring; to protect people, especially vulnerable adults and children, from that harm; and to respond appropriately when harm does occur.

“Survivor” refers to the person who endured the harassment, exploitation or abuse. Legally the word “victim” is used as the person who suffered the harm. The term survivor acknowledges that the person has persisted, endured and has been overcoming adversities.

“Sexual Harassment” means any of the acts defined in “What constitutes Sexual Harassment, Exploitation and Abuse” below. .

“Sexual Exploitation” means any of the acts defined below.

“Sexual Abuse” means any of the acts defined below.

What constitutes Sexual Harassment, Exploitation, and Abuse

Sexual Harassment means any sex-based act/conduct/behaviour that is unwelcome and offensive to its recipient. Sexual harassment may then result in the creation of a hostile working environment in which the conduct creates conditions that are intimidating or humiliating for the survivor (legal term-victim). Sexual Harassment can be verbal, written or physical. It can include, but is not limited to:

- Physical contact and/or advances or attempts to make such physical contact/advances, such as touching, hugging, kissing, pinching, massaging and brushing up against someone;
- Excessive or unwelcome familiarity or physical contact;
- Showing or displaying of pornographic material, including on screensavers, or while browsing the internet;
- Suggestive comments, and questions about appearance, life-style, sexual orientation, offensive phone calls, insults or taunts of sexual nature, lewd jokes, conversations or innuendo;
- Whistling, insults or taunts of a sexual nature or obscene gestures;
- Expressing sexual intentions by way of written, verbal, or non-verbal means;
- Inappropriate advances on social networking sites;
- Demand, requests, proposals for unwanted dates or sexual favours;
- Flirting or harassing with sexual motive;
- Inappropriate or unwanted gifts;
- Name-calling or using slurs with a gender/sexual connotation;
- Staring or leering at a person or parts of their body in a sexually suggestive matter

Absence of explicit objection to inappropriate behaviour does not amount to consent. Inappropriate behaviour can constitute sexual harassment even if:

- it is a one-off incident;
- the person engaging in the behaviour does not intend for the other person to be offended, humiliated or intimidated;
- some people in the workplace are not offended by the behaviour; or
- the behaviour was previously an accepted practice at the workplace.

Notwithstanding anything above, in the event any of the above acts are done for educational purpose and/ or in the course of treatment and/ or providing protection to the employees, then such acts should not be regarded as sexual harassment. Therefore, as an example, if any pictures are displayed in the course of raising awareness of reproductive health, the mere display of such pictures should not constitute Sexual Harassment for the purpose of the Policy. Provided However such acts shall only be undertaken with explicit “content/trigger warning” as may be appropriate.

Sexual exploitation is any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes. A person in power gets sex/any form of sexual behavior in exchange for something a more vulnerable person needs. Sexual exploitation can take the form of a *quid pro quo*, when a job benefit - such as a pay rise, a promotion, or even continued employment - is made conditional on the Aggrieved Person acceding to demands to engage in some form of sexual behavior.

Examples of sexual exploitation are but not limited to:

- Transactional sex: the exchange of money, jobs, commodities, services, or any special benefits in exchange for sex, including sexual favors;
- Solicitation of transactional sex: Any request for transactional sex;
- Threats or insinuations that an individual's refusal or unwillingness to submit to sexual advances or demands will affect the person's entitlement to project assistance & support;
- Exploitative relationship: Any sexually demeaning, degrading, or exploitative relationship between a person in a position of power and a person in a position of vulnerability;
- Prostitution: Hiring a prostitute is considered sexual exploitation, even in countries where prostitution is legal;
- Verbal conduct such as sexually derogatory remarks, graphic verbal commentaries about an individual's body or dress, sexually degrading words used to describe an individual, sexually suggestive or obscene letters, notes, emails or invitations, demeaning or inappropriate comments, name-calling, innuendos, slurs, jokes, sexual advances or propositions;
- Visual conduct such as leering, sexual gestures, displaying or distributing sexually suggestive objects or pictures, cartoons, graffiti posters or magazines; or Actual or threatened physical contact or conduct, such as patting, pinching, blocking movements, or any other offensive touching

Sexual Abuse is an actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. A person in power demands non-consensual sex from a more vulnerable person. Examples of sexual abuse are:

- Sexual assault: A violation of bodily integrity and sexual autonomy
- Sexual activity with children under the age of 18. Consent from children is not consent.
- Rape: The penetration of a sexual organ and/or any item or bodily part of a person who does not consent.
- Unauthorized touches to obtain sexual gratification.

Prevention of Sexual Harassment, Exploitation, and Abuse

Srijanalaya will be undertaking the following steps in its efforts to prevent Sexual Harassment, Exploitation, and Abuse:

- Conduct an orientation once the Policy is adopted. Conduct a yearly refresher for its Board, staff and consultants;
- Conduct a sensitisation/training for members of the Safeguarding Committee (Committee responsible for responding to concerns and complaints);
- Include a clause ensuring adherence to the Policy in contracts with all Actors;
- Publish information relating to prevention of Sexual Harassment, Exploitation, and Abuse on various forums of media that Srijanalaya has access to;
- Appoint a focal person from the institution to employ informal methods of dealing with any complaints as mentioned.
- Require anyone hired by Srijanalaya to be screened through two references in the hiring process.
- In the case of past history of having engaged in Sexual Harassment, Exploitation or Abuse, the person is required to self-proclaim and demonstrate clear reparative measures having been taken. This person will remain on probation while working. This clause would need to be carefully addressed in the spirit of transformative justice; without jeopardizing the safety of the workplace for all involved.

Prohibition of Sexual Harassment, Exploitation, and Abuse

Sexual Harassment, Exploitation and Abuse is strictly prohibited in any premises of the Srijanalaya or during the course of work with the Srijanalaya.

Response to concerns and complaints of Sexual Harassment, Exploitation, and Abuse

Any Aggrieved Person/person on behalf of such Aggrieved Person, subjected to such inappropriate behaviour, that may constitute Sexual Harassment, may report such behaviour to Srijanalaya. If someone witnesses an incident or learns about a concern is obligated to report to Srijanalaya using the reporting mechanisms available. The institution shall deal with the Complaints in the manner provided below. See Section II for detailed response mechanism.

Whistleblowing

Whistle blowing is raising a voice if something wrongdoing is happening or making a disclosure. As per this policy, whistleblowers will be protected from any action of reprisal and thorough investigation will be done for the concern raised.

Rights of the Complainant

Srijanalaya will ensure the following rights of the complainant:

- The Complainant's identity shall be kept confidential throughout the process, or anonymous, as may be the case.
- Srijanalaya shall take measures to ensure that the Complainant is not in any way intimidated, threatened or harassed to suppress, alter or withdraw the complaint.
- In case of fear of threats from the accused, her/his/their statement can be taken in absence of the accused.
- A complainant shall not be removed from employment for the reason of making a complaint. Further the employer shall not take any other departmental action or any other action which may affect the development of an individual, including promotion, transfer etc. If the employer takes any such action against an employee, such employee may file an appeal to the Director or Srijanalaya's Chairperson.
- The Complainant shall be granted an impartial and independent hearing by the Safeguarding Committee.

- The Complainant has the right to appeal, in case they are not satisfied with the recommendations/findings of the Safeguarding Committee within 70 (seventy) days.
- Srijanalaya shall offer legal, psychological counsel to the Complainant as may be necessary.
- The Complainant has the right to external recourse before the Chief District Officer and other competent authorities, depending on the gravity of the offense.

Rights of the Accused

Srijanalaya will ensure the following rights of the Accused:

- The accused shall receive a copy of the statement along with all the evidence and a list of witnesses submitted by the complainant. Provided However, in case of anonymous complaints, the Safeguarding Committee will not be able to disclose the identity of the accused.
- The identity of the accused shall be confidential throughout the entire process.
- The accused shall be granted an impartial and independent hearing by the Safeguarding Committee.
- The accused has the right to appeal, in case, not satisfied with the recommendations/findings of the Complaints Committee within 70 (seventy) days.

Responsibilities of the Employer

Srijanalaya will follow the following responsibilities of the Employer:

- The Employer shall orient its employees towards the provisions of the Act as well as the Policy it has adopted, which may be in the form of dissemination of information, training and/or workshops.
- The Employer shall make necessary arrangements for preventing the occurrence and recurrence of sexual harassment, exploitation or abuse.
- The Employer shall make necessary arrangements for effective response mechanisms to address complaints of Sexual Harassment, exploitation, or abuse.
- The Employer shall provide the Aggrieved Person with legal, psychological counselling.

Guiding Principles for the Policy

Zero tolerance of Sexual Harassment, Exploitation, and Abuse: Srijanalaya has a zero tolerance policy of any behaviour which may constitute Sexual Harassment, Exploitation and Abuse and reserves the right to address it in the manner specified in the Response Mechanism..

Accountability: All Actors shall be responsible and accountable for their actions.

Confidentiality: Information regarding the allegation of Sexual Harassment, Exploitation and/or Abuse and the survivor/complainant/ accused shall be kept confidential and shared only to those who have a legitimate reason to know.

Anonymity: An anonymous complaint refers to a complaint that is made without disclosing the identity of the complainant. Although the identity is not revealed, the Complainant is required to leave a phone number/ email address so that the Employer may proceed with addressing the Complaint. Since this may result in significant hurdles during the course of the investigation, Srijanalaya encourages individuals making complaints to disclose their identity so that a thorough investigation can advance. However, in the event the Complainant wishes to remain anonymous, Srijanalaya respects the wishes of the Complainant.

Impartiality and independence: The Safeguarding Committee shall address the complaint in an impartial and independent manner.

Consent: Consent is crucial in the context of implementing the Policy, and to this end, Srijanalaya recognises the consent of the survivor in taking forward the Complaint.

Survivor-centred: Survivor-centered approach means placing the needs and priorities of survivors of violence at the forefront of any response.

Section II: Response Mechanisms for the PSHEA Policy

How to report and subsequently respond to a Complaint/Concern

The reporting mechanism for concerns and complaints around SHEA as part of the policy comprises of three larger possibilities, which allow for multiple ways to address a report of a concern or complaint of sexual harassment, exploitation, or abuse:

1. Informal Consultation
2. Internal Complaint Mechanism
3. External Complaint Mechanism

1. Informal Consultation

Any person may seek to consult Srijanalaya to understand their options available to them under the Policy. Focal persons need to be clearly designated for this purpose and shared so that all those who work professionally with Srijanalaya have easy access to this information. Based on the consultation, Srijanalaya will provide such a person with the psychological/psycho-social/options available to them within the institution as well as outside the institution to address the issue within the capacity of the institution. In the case that a person does not feel comfortable with the Focal Person appointed, any staff member may be consulted. The Focal Person/point of contact will consult the Safeguarding Committee and take further action accordingly based on the Internal Complaint Mechanism keeping the safety and consent of the Complainant at the centre.

2. Internal Complaint Mechanism

Internal Complaint Mechanism is activated through both informal (above) or formal complaints, further elaborated on below.

A Complaint may be made by an Aggrieved Person, or any person on behalf of such Aggrieved Person, to the Safeguarding Committee. Complaints may be verbal or written, and may be made through any of the following mechanisms:

- In person (to the Employer);
- Separate Phone number +977 976-1693401 (may be changed);
- A complaints box (kept at the office or in events);
- E-mail srijanalaya.documents@gmail.com (may be changed)

Provided that, the Employer may at some stage of the investigation, require a verbal complaint to be written.

The details which are to be included in written complaint, are as follows:

- Date of the incident;
- Place where incident took place;
- Timing;
- Particulars of the incident, which is as detailed as possible.
- Name of accused;
- Witnesses if any.

Setting up of the Safeguarding Committee: Srijanalaya will set up a three-member committee; comprising two internal and one external persons, at least two of whom are women, known as the Safeguarding Committee. The internal members would be the focal point person and the Director. In the case of the Director being the Accused, the Chairperson will decide the most appropriate person to be on the Committee to ensure there is no

bias. The external person will be someone with an expertise to handle SHEA situations and needs to be appointed beforehand. The Safeguarding Committee shall be oriented and sensitized for the effective resolution of complaints. The Safeguarding Committee is specifically designated to handle formal complaints in Srijanalaya.

Procedure of the Internal Complaint Mechanism: All complaints must be investigated with prompt action by the Employer. Taking measures to ensure the safety of the Complainant and the Survivor, the Employer will notify the Accused, and ask him/her to immediately stop such misbehavior/remove her/him/them from the work areas of Srijanalaya. The Employer will then ensure the Safeguarding Committee begins the investigation in the manner specified herein.

With a complaint the accompanying investigation may include the following components:

- interview the complainant and the accused;
- conduct further interviews of witnesses and other actors as may be necessary;
- collect facts and information surrounding the incident;
- document its findings regarding the complaint;
- document recommended follow-up actions and corrective action taken, if applicable.

A complaint shall be addressed with a clear timeline and plan and an initial investigation within a period of 15 (fifteen) days from the date of reporting of the incident. The complete process till a decision can take no longer than 6 weeks.

A complaint can be filed at any time no matter when the incident happened.

Powers of the Safeguarding Committee: Upon completion of the investigation, if the Safeguarding Committee finds that there has been a violation of the Policy, the Employer may take corrective measures against any person engaged in such conduct. These measures may include but are not limited to the following:

- Require the perpetrator to apologize to the survivor and a clear plan for a probation period with a plan for monitoring the situation (this would only be possible in a situation of less gravity and with an assessment of the emotional trauma of the survivor);
- Disallow the Accused from entering into the premises of Srijanalaya or attending any events organized by Srijanalaya;
- Offer mediation/conciliation between the survivor and the accused with mutual consent of the parties. Provided However monetary settlement shall not be a basis for conciliation between the parties (this would be in addition to other disciplinary actions);
- Initiate departmental action against the perpetrator pursuant to the internal employee service rules;
- Disallow the Accused from being associated with Srijanalaya;
- Report the perpetrator to the concerned authorities in case of reprisals/retaliation in response to the inquiry.
- The Safeguarding Committee may award interim relief to the Survivor and Complainant, including paid leave, change in the nature of reporting structure if possible.
- The Safeguarding Committee will take on board the mental trauma, pain, suffering and emotional distress caused to the aggrieved person; loss in career opportunity due to the incident of sexual harassment; medical expenses (if any) incurred for physical or psychological treatment; the income and financial status of the respondent.
- Expenses will be borne by Srijanalaya within its capacity and recovered from the accused party if proven guilty.

3. External Complaint Mechanism

At any point during the investigation the Survivor can initiate available external complaint mechanisms which include legal action as per prevailing civil or criminal laws of Nepal via filling civil/criminal law suit at Court of First Information Report (FIR) at relevant authorities (statute of limitations - within 2 years of the incident by an adult or within 3 years since turning 18 for those who were abused under the age of 18years) or at the Chief District Officer under the Sexual Harassment in the Workplace Act 2015 (statute of limitation to date - within 90 days of the incident). The Employer will support the initiation of this process as needed.