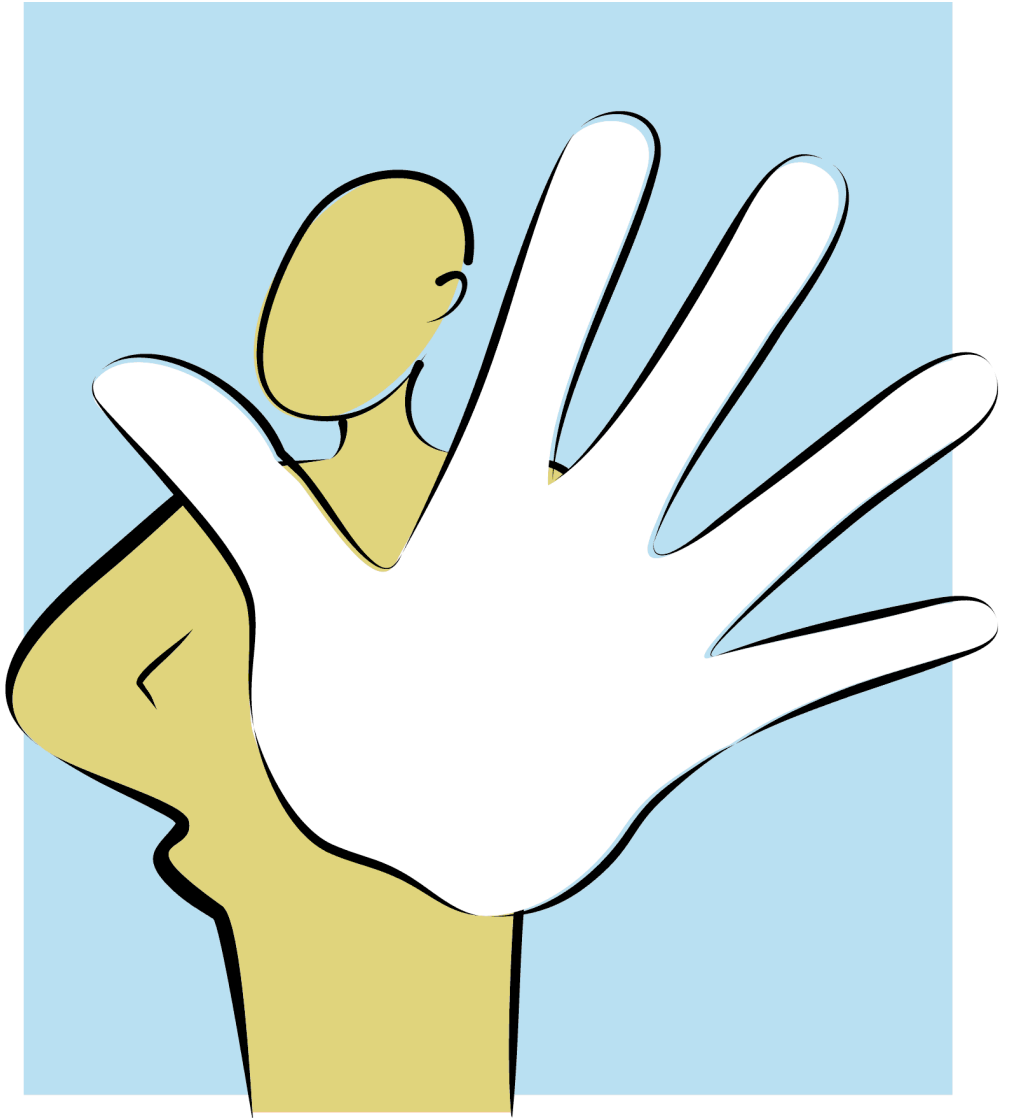


Policy on Protection from Sexual Exploitation, Abuse, and Harassment





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05 INTRODUCTION AND PREAMBLE

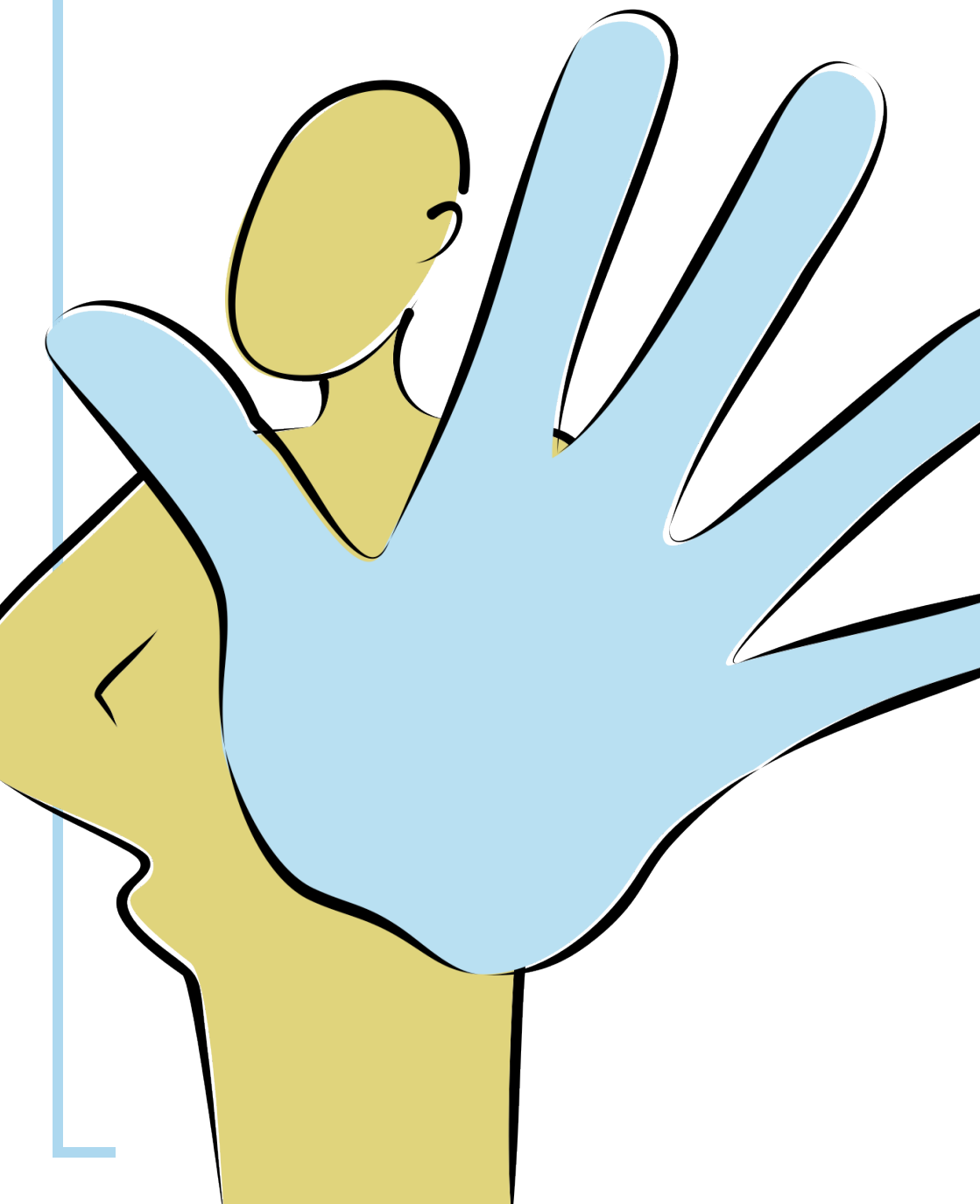
06 VISION STATEMENT

07 CORE PRINCIPLES AND BEHAVIORAL GUIDELINES

09 SCOPE OF APPLICATION

11 REPORTING OF ALLEGATIONS OF SEXUAL EXPLOITATION AND ABUSE OR HARASSMENT

13 ANNEX 1: DEFINITIONS



1.

INTRODUCTION AND PREAMBLE

The Heinrich-Böll-Foundation (hbs) is committed to creating and maintaining a working environment that is based on respect for human beings, regardless of their age, origin, class, cultural or gender identity, sexual orientation or political opinion – both at its headquarters and international offices as well as when cooperating with volunteers, scholarship holders, partners and other associated personnel. As part of this commitment, the hbs does not tolerate sexual exploitation, abuse, harassment, or sexualized violence of any kind.

Sexual exploitation, abuse, harassment, and other forms of sexualized as well as gender-based violence result from a culture of discrimination and privilege based on unequal relations and power dynamics. The hbs has developed this policy on the basis of international guidelines for protection from sexual exploitation, abuse and harassment (PSEAH). This policy is part of a broader safeguarding framework that also includes the hbs' Code of Conduct, Guidelines for the implementation of this policy and an Complaints and Allegation Management Policy.¹ All terms used in this policy are based on internationally recognized definitions and are explained in the enclosed documents (see annex 1).

Sexual exploitation, abuse, harassment and sexualized as well as gender-based violence violate universally recognized international legal norms and are unacceptable misconduct. The hbs takes all complaints seriously and will handle these in a confidential manner. Where complaints indicate a violation of this policy, the hbs will take action outlined in the “Complaints and Allegation Management” (see boellcity) and subject to disciplinary action, up to and including dismissal.

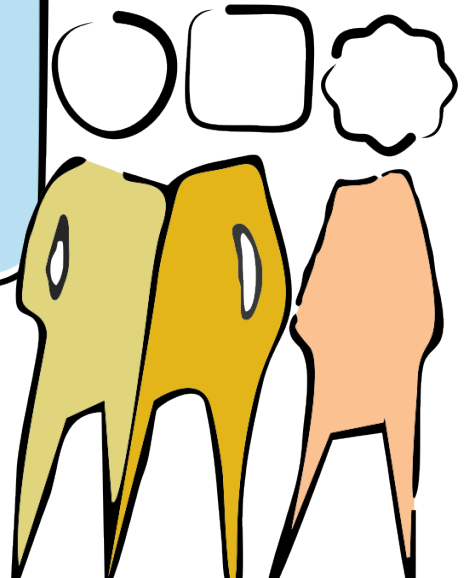
¹ These documents are made available for hbs employees via boellcity.



2.

VISION STATEMENT

The hbs stands for full respect for human rights and social justice for all. Gender democracy and zero-tolerance policy towards any form of sexual exploitation, abuse and harassment are firmly anchored at the normative, programmatic, and organizational levels within the hbs. We are committed to protect all of our core principles and consider them as shared responsibility and common task of all staff members and affiliated partner organizations and individuals.



3.

CORE PRINCIPLES AND BEHAVIORAL GUIDELINES²

In order to protect the most vulnerable groups of the population and to ensure that the guiding values of the hbs are respected, the following Core Principles must be adhered to by all falling under the scope of this policy³:

Sexual exploitation, abuse, and harassment constitute acts of gross misconduct and are therefore grounds for disciplinary action, such as censure, warning, written reprimand, or summary dismissal.

Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief regarding the age of a child is not a defense.

The exchange of money, employment, goods, or services for sex, including sexual favors within a distinctly unequal power relationship or other forms of humiliating, degrading or exploitative behavior is prohibited. This includes exchange of assistance and grants that are due to program or project participants.

- 2 Based on the six principles of the Inter-Agency Standing Committee (IASC): “IASC Six Core Principles Relating to Sexual Exploitation and Abuse,” in: Report of the Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises of June 13, 2002, Plan of Action, Section I.A..
- 3 All those falling under the scope of the policy will hereafter be described as hbs people and partner organizations. See point 4 and also annex 1.



Hbs people and partner organizations can decide or influence who receives services and grants. This can put them in a position of power over other people. The hbs raises awareness of the sensitivity of such situations and requires its employees and associated personnel to handle their position in a responsible manner.

Where an hbs person develops concerns or suspicions regarding sexual exploitation, abuse, or harassment by a fellow employee or associated personnel, the person must immediately report such concerns via the established reporting mechanisms.

Hbs people and partner organizations are obliged to create and maintain an environment that prevents unacceptable misconduct and promotes the implementation of this policy. Management at all levels has particular responsibilities to support and develop systems that maintain this environment.

THIS POLICY APPLIES TO

Hbs employees, consultants, volunteers, partners, contractors and other associated persons are hereinafter referred to as hbs person or hbs people and associated personnel.

4.

SCOPE OF APPLICATION

4.1. Scope of Application to Persons

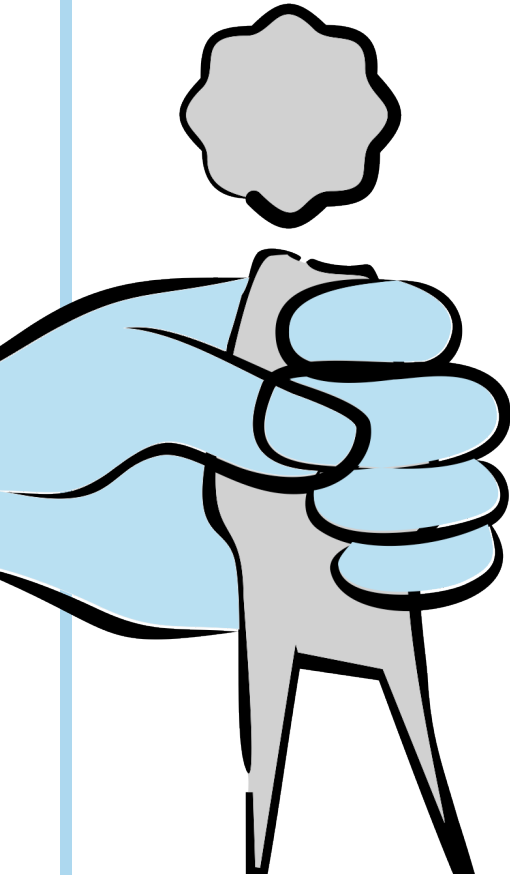
This policy defines the obligations of the hbs and of the below defined persons with respect to protection from sexual exploitation, abuse, and harassment. It applies even where more rigorous than local laws.

THIS POLICY APPLIES TO

- all persons associated with the organization including all employees of the international offices, all seconded staff of the hbs, interns, scholarship holders, international and local consultants working for the international offices,
- suppliers and external organizations and their employees as well as persons who have entered into a partnership or an agreement with the hbs with regard to individual grants or benefits.



We are committed to protect all of our core principles and consider them as shared responsibility and common task of all staff members and affiliated partner organizations and individuals.



Hbs employees, consultants, volunteers, partners, contractors and other associated persons are hereinafter referred to as hbs person or hbs people and associated personnel.

The hbs assumes responsibility to address incidents of misconduct that involve non-employees if the complainant and subject of complaint came into contact with one another through the Foundation's work (for details on the scope of application, see the document "Complaints and Allegation Management" on boell-city).

The hbs can refer complaints that do not fall within the scope of its policy to relevant institutions concerned by the complaint.

4.2 Project Partners

This policy will be included as an annex to the cooperation agreement with partners of the hbs and enclosed for signature. The hbs will provide information on PSEAH trainings and disseminate awareness materials.

In the event of misconduct that

violates the Code of Conduct and/or this policy that concerns project partner employees or associated personnel, the hbs will follow the Foundation's complaint system and case management procedures provided that the partner does not have a stronger complaint management system in place.

If the project partner fails to take action on a complaint in line with minimum requirements and/or fails to take appropriate action when sexual exploitation, abuse or harassment has been proven and continues, the hbs will take measures, which can include terminating the cooperation agreement.

5.

REPORTING OF ALLEGATIONS OF SEXUAL EXPLOITATION AND ABUSE OR HARASSMENT

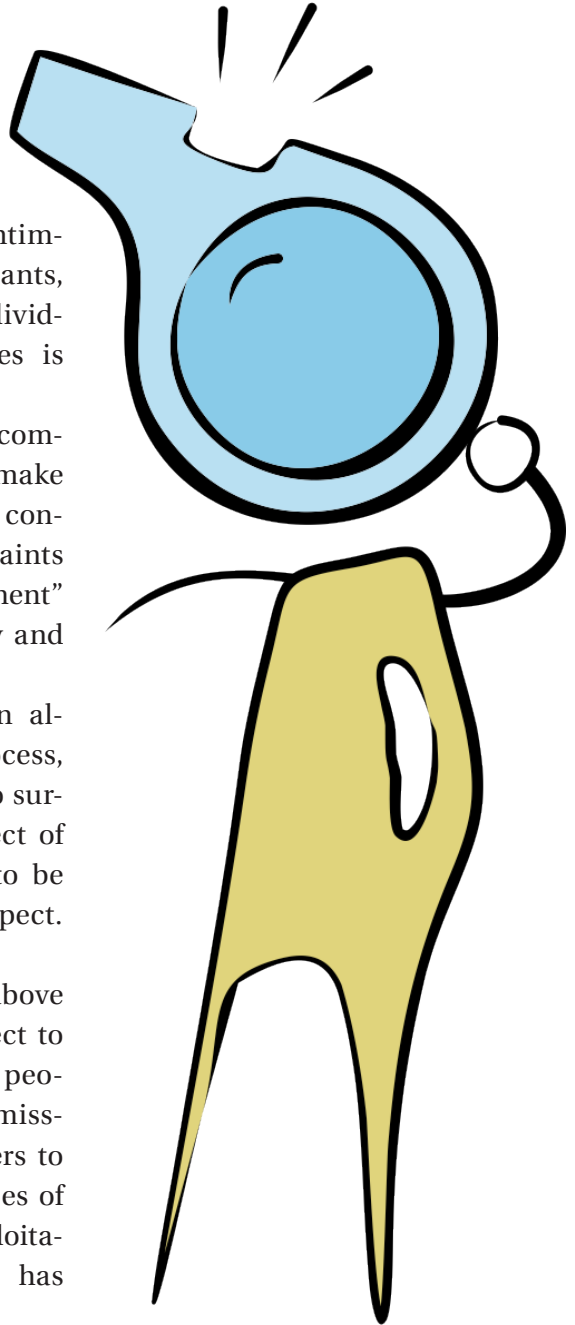
Anyone having suspicions or concerns about sexual exploitation and abuse or harassment involving hbs people and associated personnel, shall report this verbally or in writing to the Case Management Team, the (Gender) Focal Points/appointed focal person or anonymously via e-mail/phone number (see the document "Complaints and Allegation Management" on boellcity).

All international offices of the hbs establish and advertise appropriately context-sensitive complaint mechanism/reporting channels and make information on suitable local support services for hbs people and partner organizations available.

- Individuals with suspicion or concern about sexual exploitation and abuse or harassment must refrain from investigating allegations or the suspicion of misconduct themselves.
- Reports must be made in good faith.

- Any form of retaliation or intimidation against complainants, whistleblowers, affected individuals/survivors, or witnesses is prohibited.
- Individuals involved in a complaint procedure must make every effort to maintain confidentiality (see “Complaints and Allegation Management” for more on confidentiality and mandatory reporting)
- All persons affected by an allegation management process, including but not limited to survivor, witnesses, and subject of complaint have the right to be treated with dignity and respect.

Non-compliance with the above stated principles can be subject to disciplinary action for all hbs people, up to and including dismissal. The hbs expects its partners to take appropriate action in cases of a complaint and if sexual exploitation, abuse and harassment has been proven.



Annex 1. Definitions

1.1 SEXUAL EXPLOITATION⁴

Sexual exploitation is defined as an actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.

1.2 SEXUAL ABUSE⁵

Sexual abuse is defined as an actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

1.3 SEXUAL HARASSMENT

Sexual harassment is defined as an unwanted verbal, non-verbal or physical conduct of a sexual nature or gender-related with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.⁶

1.4 SEXUAL VIOLENCE⁷ / SEXUALIZED VIOLENCE

Sexual violence is defined as acts of a sexual nature against one or more persons or that cause such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, or by taking

4 UN standards (ST/SGB/2003/13).

5 UN standards (ST/SGB/2003/13).

6 German General Act on Equal Treatment (Allgemeines Gleichbehandlungsgesetz, AGG), section 3(4) in relation to section 2 (1) nos. 1 to 4.

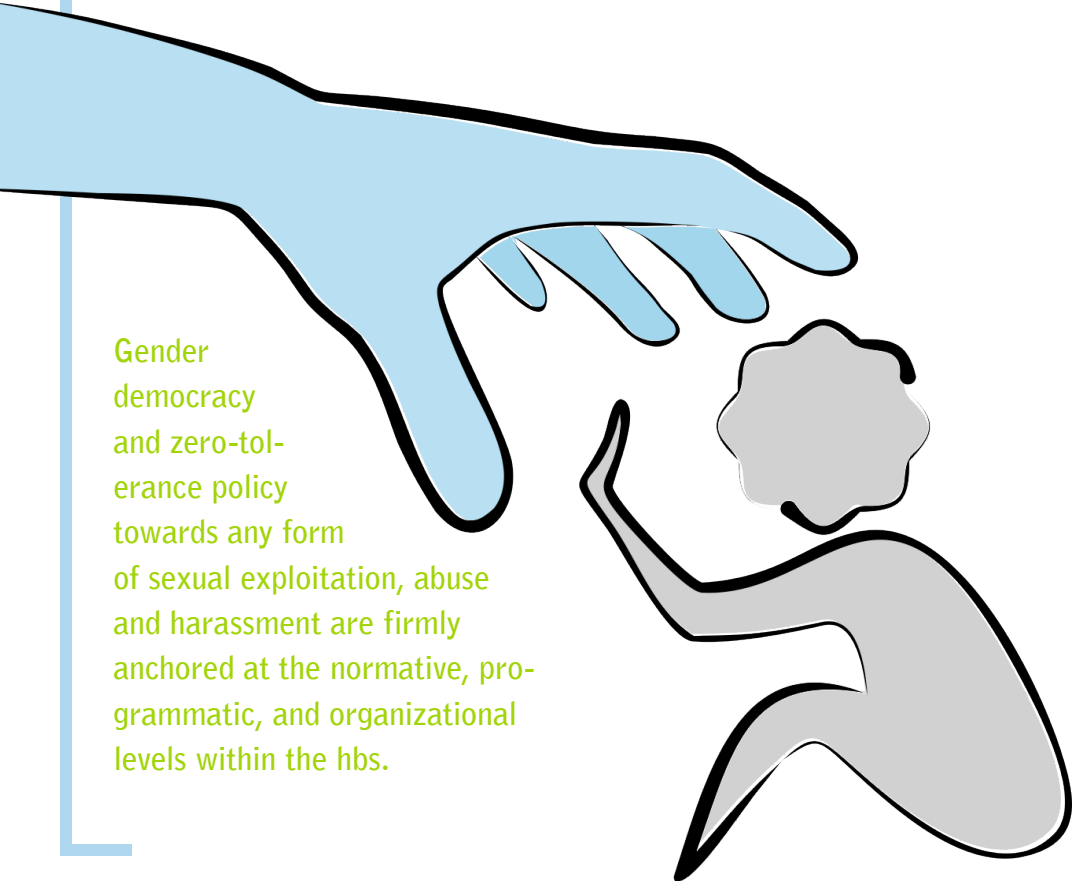
7 International Criminal Court, Elements of Crime Article 7 (1) (g)-6 Crime against humanity of sexual violence

advantage of a coercive environment or such person's or persons' incapacity to give genuine consent. Forms of sexual violence include rape, attempted rape, forced prostitution, sexual exploitation and abuse, trafficking for the purpose of sexual exploitation, child pornography, child prostitution, sexual slavery, forced marriage, forced pregnancy, forced public nudity, forced virginity testing, etc.

1.5 GENDER-BASED VIOLENCE

Gender-based violence is used here as an umbrella term for any harmful behavior committed against the will of a person and

Gender democracy and zero-tolerance policy towards any form of sexual exploitation, abuse and harassment are firmly anchored at the normative, programmatic, and organizational levels within the hbs.



based on the (socially ascribed) gender differences. It is a form of discrimination in which individuals are unable to exercise their human rights and freedoms under international law (including the human rights treaties, such as the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW) for reasons of their gender or gender identity. Worldwide, women and girls are disproportionately affected by gender-based violence. Therefore, this term is most often used to highlight the specific vulnerability of women and girls for violence due to gender inequality. However, men and boys, homosexuals, and trans- and intersex persons also suffer from gender-based violence. Sexual exploitation and abuse is a form of gender-based violence. Sexualized/sexual violence can also be a form of gender-based violence.

1.6 PROTECTION FROM SEXUAL EXPLOITATION, ABUSE AND HARASSMENT (PSEAH)

The term PSEA is mainly used by the United Nations and NGOs to refer to measures taken to protect persons at risk of sexual exploitation and abuse by their own staff and associated personnel.

The hbs also includes sexual harassment in its policy and therefore uses the term “Protection from Sexual Exploitation and Abuse and Harassment” and the acronym PSEAH.

1.7 SAFEGUARDING

Safeguarding⁸ is an umbrella term that is used especially in the United Kingdom and in Ireland to refer to measures taken to

8 See, “Safeguarding people.” Care Quality Commission. 18 June 2014, <https://www.cqc.org.uk/what-we-do/how-we-do-our-job/safeguarding-people>. See also, VENERO, Schutz vor sexualisierte Gewalt und Ausbeutung in der Entwicklungszusammenarbeit und Humanitären Hilfe – Handreichung, 2019, p. 5.

protect the health, wellbeing, and the human rights of individuals. It comprises the responsibility of organizations for ensuring that their employees, operations, and programs do not cause harm to children and vulnerable adults, nor put them at risk of harm and abuse.⁹ PSEA and child protection are covered by this umbrella term. In general, it does not cover sexual harassment by staff.¹⁰

1.8 HEINRICH-BÖLL-FOUNDATION PEOPLE AND ASSOCIATED PERSONNEL

The term “hbs people and associated personnel” applies to all employees and seconded staff of the Heinrich-Böll-Foundation. It also applies to interns, scholarship holders, and partners of the Heinrich-Böll-Foundation and of the international offices of the Heinrich-Böll-Foundation, including the Heinrich-Böll-Foundation’s local staff working at the international offices. In addition, the term covers international and local consultants. This also includes organizations that are not part of the Foundation and their employees as well as individuals who have entered into a partnership or an agreement with the Foundation with regard to individual grants or benefits.

1.9 AFFECTED INDIVIDUAL

A person who is alleged to have suffered sexual exploitation, abuse, or harassment.

1.10 COMPLAINANT

The person filing the complaint (this may or may not be the affected individual).

9 See also, CHSAlliance, https://www.chsalliance.org/files/files/PSEA_Info_final.pdf.

10 CHSAlliance, PSEA Implementation Quick Reference Handbook, 2017.

1.11 SUBJECT OF COMPLAINT

The person alleged to have perpetrated a breach in policy and is the subject of an allegation or complaint.

1.13 OUTCOME OF THE INVESTIGATION

Once an allegation has been investigated and the investigation report is completed, the resulting recommendations are referred to as “outcome of the investigation.”

1.14 WHISTLEBLOWERS

The term “whistleblower” refers to a complainant who is not the affected individual but is a Heinrich-Böll-Foundation employee or associated personnel person, and who reports an incident. Within the UN, under the terms of the Secretary-General’s Bulletin on protection against retaliation, employees, interns, or volunteers of the UN who report misconduct, including sexual exploitation or abuse, can be entitled to protection under certain conditions. Organizational whistleblowing guidelines can encourage employees to voice concerns or suspicions of misconduct by colleagues by offering protection against retaliatory measures for reporting and can clarify the rules and procedures for reporting and treating such cases. See also the Whistleblowing Guidelines of Malteser International.

- 11 Based on the definition of “whistleblower” in the UN Glossary on Sexual Exploitation and Abuse; see United Nations, Glossary on Sexual Exploitation and Abuse, 2nd Edition, 2017.
- 12 In accordance with the UN Secretary-General’s Bulletin S/SGB/2005/21.
- 13 UN, Statement of Commitment on Eliminating Sexual Exploitation and Abuse by UN and Non-UN Personnel (2006, updated 2011) para. 5, “Take appropriate action to the best of our abilities to protect persons from retaliation where allegations of sexual exploitation and abuse are reported involving our personnel.”
- 14 Malteser International, Whistleblowing Guidelines, 2016.

