

MADA

Anti-Discrimination Policy

November 2018

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I. ACKNOWLEDGEMENTS

Mada's anti-discrimination and anti-harassment policies, along with the annex laying out procedural mechanisms, are based on policies developed by EIPR and made available to other institutions for their use. The following is EIPR's acknowledgements, which gives a sense of the process and research undertaken:

First, we would like to acknowledge Amnesty International's Bullying and Harassment Policy, 2013, from where we drew a lot of inspiration. Other agencies whose work we have learned and adapted include UNHCR, the International Centre for the Legal Protection of Human Rights, UNESCO, and ILO.

The overwhelming majority of publicly accessible anti-discrimination and/or anti-harassment policies were those published by educational institutions and governments, especially the Ontario Human Rights Commission, Ontario State Government (Canada). Sexual harassment in particular has been widely covered. However, there is a paucity¹ of comprehensive institutional anti-discrimination and harassment policies, among rights-based organizations aimed at creating inclusive, safe, just and equal work-spaces for all employees and associates.

A key challenge through our research process was related to accessing publicly available and published policies on anti-discrimination and anti-harassment, even

¹ The literature review for the anti-sexual harassment and anti-discrimination policies looked at a total of 12 anti-discrimination, anti-harassment, and anti-bullying Policies, across national human rights institutions, educational institutions, international organizations, and civil society (development and human rights organizations), and publications and academic thought on discrimination law, affirmative action, bullying and harassment. While there is exists a robust literature on discrimination law, evaluation of affirmative actions, and anti-harassment policies, especially within educational institutions, it was a challenge to source publically available policies and action plans on anti-harassment and anti-discrimination, by human rights organizations, especially at the national and regional level.

though multiple organizations have developed and institutionalized/operationalized, these policies internally. We hope that this process encourages like-minded organizations and collectives to share their work and strengthen our collective understanding and ability to identify and eliminate incidents of discrimination and harassment within our workspace, and increasingly beyond it.

This policy started as an anti-discrimination and anti-harassment (including sexual harassment) policy, and in the process of development, we decided that it was necessary to differentiate sexual harassment as a separate challenge to equity in the workplace, in order to highlight its two-fold nature both as a form of discrimination and of gender-based violence. This separation also aimed to ensure that both discrimination and sexual harassment are equally perceived as threats to workplace equity and safety.

II. EXECUTIVE SUMMARY

The anti-discrimination policy has a three-fold purpose of:

- a) Preventing and minimizing incidents of discrimination
- b) Laying out institutional compliance and grievance mechanisms to tackle and resolves such incidents
- c) Influencing the institutional culture towards realizing zero-tolerance towards discrimination, among individuals and as a collective.

The policy has three sections and one annex. Section 1 provides a rationale behind the policy, our goals and objectives, Section 2 provides clarification and information on key terms and concepts, and Section 3 lays out a roadmap for the implementation of this policy. Finally, the annex lays out a complaints and redressal

procedure, which is both formal and informal, along with recommended disciplinary actions and remedial measures.

Our goal is to promote an environment of safety, equality and inclusivity by ensuring that all employees are informed of and have access to the latest version of the institutional stance and policy on discrimination. Discrimination, overt or subtle, has far-reaching negative implications on the ability of and opportunity for individuals and/or groups of people to participate, engage, and contribute in a meaningful and effective manner, and consequently obstructing institutional progress. The principles of substantive equality² and non-discrimination are central to any system of human rights protection. This is evident from both the provisions of human rights instruments and the case law of their supervisory bodies.³ We maintain a zero-tolerance stance toward any form of discrimination, intentional or accidental. Any such act/s shall not be tolerated, condoned or ignored.

Because institutions are dynamic entities that are continuously evolving and adapting, it is essential to continue revisiting, updating, adding and modifying this policy according to **ongoing learning** and the institutional and national context and environment.

² See InterRights, the International Center for the Legal Protection of Human rights, *Non-discrimination in International Law: A Handbook for Practitioners*. “Substantive equality refers to the notion that individuals in different situations should be treated differently. It encompasses two distinct ideas – equality of results and equality of opportunity. ‘Equality of results’ requires that the result of the measure under review must be equal. It recognizes that apparently identical treatment can, in practice, reinforce inequality because of past or ongoing discrimination or differences in access to power or resources. Under this approach, the effects as well as the purpose of a measure must be taken into account. ‘Equality of opportunity’ suggests that all individuals must have an equal opportunity to gain access to the desired benefit, taking into consideration their different starting positions. Equal opportunity aims to provide equal chances but not equal results.” <http://www.interights.org/handbook/index.html/> (accessed July 4, 2015)

³ Ibid.

Section 1 | INTRODUCTION

1.1. Objectives

The purpose of this policy is three-fold:

- a) *Prevention*: Mada is committed to ensuring an inclusive, safe and equitable work environment for its staff members by reducing and progressively eliminating all instances of discrimination, harassment, and/or bullying. Institutional preventive strategies set in place range from identifying, reviewing, and removing barriers to communication, awareness-generation, positively affecting behavioral and attitude change among staff members and stakeholders, and setting strong precedent against any instances of discrimination, harassment and/or bullying.
- b) *Compliance and remedial mechanisms*: Designing and operationalizing, formal and informal mechanisms and protocols to redress instances of discrimination and harassment.
- c) *Motivating institutional culture and promoting organizational learning*: Tied in with prevention strategies, the third purpose of this policy is to affect and transform the attitudes and behaviors our staff members and stakeholders through the active and intentional focus on promoting organizational learning towards identifying, minimizing and eliminating incidents of discrimination, and identifying the structural and systemic root causes.

1.2. Methodology

This policy document was approached through a process of a literature review that brought together research on the dynamics of discrimination, harassment, bullying, intimidation, and abuse of power within the workspace, along with best practices on methods and strategies to respond to and eliminate such incidents, adopted by other like-minded institutions. We have drawn and adapted from international and national legal frameworks and conventions, the work of international organizations

such as UNHCR, ILO, and the World Bank, educational institutions and universities, national human rights commissions, and from human rights organizations, such as Amnesty International. Additionally, the policy document draws on conversations with active civil society members in Egypt to ensure its relevance to recurrent forms of discrimination in the workplace in the Egyptian context.

Section 2 | DEFINITIONS

This section aims to provide clarity on what actions and behavior constitute discrimination, harassment and bullying, and would thus not be tolerated on any account and would be liable to action. This section could also be useful to staff members and stakeholders who want to increase their awareness and understanding on these issues, especially where there is confusion regarding an individual having a justifiable claim or not.

The descriptions provided below are based on human rights principles of equality, choice, justice and dignity.

2.1. Discrimination⁴

Discrimination includes any distinction, exclusion, restriction, preference or unequal treatment made on the basis of age, sex, gender identity, sexual orientation, ethnic origin, religion, socio-economic background, disability, mental health and/or any other such grounds, with the purpose of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing as others, all rights and

⁴ In a legal context, discrimination can be understood along three dimensions. “The first is inequality before the law. This refers to de jure discrimination either in the formal legal system or customary law. The second refers to unequal treatment on the grounds of gender, race, disability, sexual orientation, poverty or other status. This is often known as direct discrimination or disparate treatment. The third dimension of discrimination addresses unequal impact of policies, practices or rules, including mal-distribution of social benefits, underrepresentation of certain groups in employment or representative structures, and institutional inequalities. This is often known as substantive equality, and includes legal conceptions of indirect discrimination or disparate impact. Substantive equality goes beyond formal equality in that it addresses disadvantage even if there has been equal treatment” For more details, http://siteresources.worldbank.org/EXTNWDR2013/Resources/8258024-1320950747192/8260293-1320956712276/8261091-1348683883703/WDR2013_bp_Anti-Discrimination_Laws.pdf/.

freedoms,⁵ and leading to adversely affecting (directly or indirectly) equality of opportunity, treatment, or result within the workspace.⁶

An act of discrimination may be intentional or unintentional. What matters is if it is viewed as unwelcome and/or unreasonable conduct, experienced and defined by the recipient.

Even if there are many factors affecting a decision or action, if discrimination is one factor, it will be considered as a violation of this policy.

2.2. Harassment in the workplace

Harassment is a form of discrimination. It constitutes any unwanted, offensive, undesired conduct in the workplace or in connection with work, that can be reasonably perceived to have a purpose or effect of violating the dignity of a person, and creating an intimidating, hostile, degrading, humiliation or offensive environment,⁷ and interferes with an individual/group's performance. Harassment has the purpose or effect of violating an individual's dignity and is related to a relevant protected characteristic of the individual,⁸ including, age, national or ethnic origins, sex, gender identity and/or sexual orientation, civic partnership status, religion or beliefs, disability, mental health, marital status, pregnancy, maternity or paternity, and/or status as a parent, or any other grounds/personal characteristics. It should be noted that an employee can file a complaint of discrimination and/or harassment on the grounds of that:

- They belong to or are related to or associated with someone belonging to a certain group/identity
- They have been perceived as belonging to a certain group/identity

⁵ (Adapted) Human Rights Council, General comment No. 18 (1989), Paragraph 7, International Labour Organization, Convention 111 on Discrimination in Employment and Occupation, CEACR, The Committee on the Elimination of Discrimination against Women (1979), Committee on the Elimination of Racial Discrimination, and Convention on the Rights of Persons with Disabilities (May 3, 2008). Anti-Harassment Policies of UNESCO, Amnesty International, UNHCR, and New York University, have also been used as references.

⁶ Adapted from Committee on the Rights of Persons with Disabilities, can be accessed at: <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx>.

⁷ UNESCO Anti-Harassment Policy

⁸ Amnesty International, Bullying and Harassment Policy

The term “unwanted” places the right of judgement whether a certain behaviour constitutes harassment or not with the individual (victim). The motive of the “harasser” is irrelevant. The term further highlights this “purpose and effect” that makes it clear the behaviour can amount to harassment in the absence of any deliberate intention to discriminate. However, the conduct in question must “reasonably be considered as having that effect.” This phrase ensures a degree of balance between the victim's subjective perception of the treatment and an objective, reasonable viewpoint.

Any behaviour, action or decision falling under the following categories, shall be considered as a form of harassment at Mada, and a violation of the organizational code of conduct, subject to disciplinary action.

a) **Protected harassment**, which includes, jokes, pranks, intimidation, physical-violence based on the protected⁹ characteristics of an employee.

b) **Retaliatory harassment** is when a person/s who complains or takes part in an investigation is harassed or discriminated against for their participation in an investigation or for submitting a complaint.

2.3. Bullying

Bullying is defined as “offensive intimidating, malicious or insulting behaviour, and abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.”¹⁰ It is defined by the way an individual feels about a certain behaviour and not by the intentions of the person behaving in a way that is believed to be bullying.¹¹

2.4. Abuse of authority or power

Abuse of authority or power, in the context of this policy, encompasses the improper use of a position of influence, power or authority against another person. This is

⁹ Protected characteristic includes a person’s race, age, color, sexual orientation and/or gender identity, national or ethnic origin, religious beliefs, national origin, marital status, pregnancy status, and/or mental or physical disability.

¹⁰ Amnesty International, Bullying and Harassment Policy, August 27, 2013.

¹¹ Amnesty International Bullying and Harassment Policy, August 27, 2013, Appendix II, p. 11.

particularly serious when a person uses his or her influence, power or authority to improperly influence the career or employment conditions of another, including but not limited to appointment, assignment, contract renewal, performance evaluation or promotion. Abuse of authority may also include conduct that creates a hostile or offensive work environment, which includes but is not limited to the use of intimidation, threats, blackmail or coercion. Harassment is particularly serious when accompanied by abuse of authority.¹²

Constructive Feedback – Critiquing and holding team members accountable, are central to the roles and responsibilities of managers and supervisors. Managers and supervisors must provide feedback to their team members constructively. Mada has zero tolerance for any form of aggressive, intimidating, or bullying behavior towards employees, including those they feel are under-performing or otherwise unsuitable for their role. However, it is essential that the process stays clear of personal comments or attacks, and should be restricted to responsibilities and duties at work. Constructive feedback includes:

- Supervisors substantiating their feedback and comments with facts and/or specific examples, especially when pointing to unsatisfactory behavior.
- Providing a description of what has been done well, and identify areas for improvement.
- Assisting/initiating the development of a learning plan and process.
- Acting calmly and reasonably and not adding personal criticism, insults and/or put-downs.
- Deploying proper performance management measures or capability processes.

2.5. Victimization

Includes treating someone or threatening to treat someone less favorably because they have made a complaint, or are believed to have made a complaint of discrimination, harassment or bullying, and shall not be tolerated.

¹² UNESCO, Anti-Harassment Policy, accessed June 27, 2015.

2.6. Terms

This policy is applicable across the workplace, i.e. where “work is performed” and locations where “work-related business is conducted.” It provides protection and procedural access to Mada staff members and stakeholders. The policy is also applicable outside of the workplace in cases where both parties were Mada staff members during the time when the incident in question took place.

- **Staff members** include any individual who is employed full or part-time. This includes paid and unpaid staff and consultants, temporary and probationary, casual and contractual staff, interns/apprentices, volunteers and contractors.
- **Stakeholders** includes all person/s, collectives, and organizations ranging from partners, institutional clients, participants during events and vendors engaging with Mada on a short- or long-term basis.
- **Workplace** includes any department, portfolio, branch or unit established, owned, controlled, affiliated, wholly or substantially supported by Mada. It also encompasses external venues and spaces that are accessed by a staff member or stakeholder either as a representative of the organization, or to which they have been invited due to their employment status or professional association. These would include but are not limited to conferences, meeting and trainings (external and internal), interviews and other work-related communications, official travel, work-related social gatherings for work colleagues, staff members, and stakeholders.
- **Complainant** is the person/s highlighting an incident of discrimination or harassment, formally or informally.
- **Respondent** is the individual or group against whom the allegation of discrimination or harassment has been made.

Section 3 | ADOPTION AND UPTAKE

(Suggested Recommendations)

3.1. Consensus building

Before the policy is finalized and set into motion, it must be shared with and agreed on by staff members, in order to get their input, recommendations, and buy-in for the policy and its vision. The process of consensus-building should be inclusive and transparent, including individuals across a range of positions and identities, who can speak to the relevance, applicability, and responsiveness of this policy, based on a varied set of experiences and lived realities. This process also constitutes a crucial first step in generating awareness about its objectives and use.

3.2. Training and awareness

Increasing levels of information and understanding are fundamental to creating behavioral and attitude change. The vision of this policy can only be realized if staff members and stakeholders have a shared understanding of what constitutes discrimination and harassment, their root causes and negative impacts, and the appropriate response mechanisms at the individual and institutional level. This requires staff members and the leadership of the institution to take ownership of and initiative towards generating awareness on these issues. Below is a suggested list of spaces and times, where these activities can be implemented:

- Annual staff retreats, staff trainings, and staff meetings
- Induction trainings during induction phase for new staff members, during which new member has a complete, language-appropriate, updated copy of this policy, including annexes
- Institutional training and workshops
- Informal staff dialogues, reading and discussion groups
- Email and posters

- Providing a listing of verified helplines, response services, and counseling centers to all employees
- Training and sensitization of senior staff, managers and board members

3.3. Communication Strategy

(Distribution and Dissemination of the Policy)

3.3.1. Internal

Communication and dissemination of this policy is central to ensuring that staff members and stakeholders are aware of their roles and responsibilities; the procedures and guidelines that can be accessed and invoked; and the institutional stance on discrimination and harassment. The policy should be accessible and thus be available in Arabic and English, print and digital forms, and updated on a regular basis.

3.3.2. External

The anti-discrimination policy shall be released and made publicly available ~~via a collective press release by EIPR and partners.~~

3.4. Reporting

Low rates of reporting are not necessarily indicative of low levels of discrimination. We encourage staff members and stakeholders to report all observed or experienced cases of discrimination. Additionally, the number of documented cases should be analyzed within the present context, taking the reality of under-reporting, informal resolutions, and impact of the new system into account.

3.5. Maintenance and Sustainability

This includes continuously updating and revising the provisions in the policy to ensure relevance, applicability and efficacy. Additionally, we hope that all staff

members take initiative in ensuring that all employees (old and new) are knowledgeable of and well-versed with the latest version of the policy.

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