

Organizational Policy on the Protection from Sexual Exploitation , Abuse and Harassment (PSEAH)¹

Asia Indigenous Peoples Pact (AIPP)

December 2022

1. Purpose and Policy Framework

1.1. Purpose

AIPP acknowledges the significance of an organisational guidance to meet standards of behaviour and conduct to prevent and address sexual exploitation, abuse and harassment. This is imperative in resolving and addressing the gaps on the awareness, prevention, reporting and action of redress on sexual transgressions involving AIPP personnel², members of its governance bodies, members and partners through clearly defined organisational guidelines and mechanisms. This is doubly essential for a leading Indigenous Peoples rights organisation in the region that fosters respect for human rights and zero-tolerance for violence³ or offences made against persons that betrays the dignity of Indigenous Peoples and humankind.

1.2. Policy Framework

1.2.1. All individuals who are part of and working for AIPP have the right to be treated with dignity and respect and to work in a safe, caring, trusted and reputable environment that is free from sexual exploitation, abuse and harassment. Hence AIPP is obligated to cultivate an organizational culture of care, respect, co-responsibility and accountability for human rights and dignity.

1.2.2. AIPP as a regional Indigenous Peoples' rights organization considers sexual exploitation, abuse and harassment as prohibited conducts being forms of violence against persons, violate the fundamental human rights and betray the dignity of offended persons. These conducts affront the core values of AIPP in promoting human rights and in upholding the respect and dignity of Indigenous Peoples and humankind. They contravene the Gender Justice Policy of AIPP and other Policies of the Organisation.

1.2.3. Consequently, AIPP upholds a zero-tolerance, preventive and pro-active approach to sexual exploitation, abuse and harassment occurring in the work place whether this is in the office, venue or community of implementation of its programs or in the course of delivery of its services that is perpetrated by anyone of its personnel, members of its leadership or governance body, members and partners. A pro-active approach cultivates an organisational culture that is constantly correcting

¹ Prepared by Vernie Yocogan-Diano. The valuable inputs came from the workshop with the AIPP Secretariat on 15 June 2022, guidelines of SIDA on Prevention of Sexual Exploitation, Abuse and Harassment and samples of PSEA Policies.

² For the purpose of this Policy, AIPP personnel shall refer to: (i) hired staff or members of the Secretariat, (ii) individuals retained on individual contracts or service contracts including consultants and (iii) interns/volunteers.

³ Physical violence; Psychological violence; Sexual violence; Symbolic violence (harmful depiction of employees, stakeholders, creation of negative narratives, defamation); Gender-based violence (based on sexual identity, orientation, lifestyle choices, misogyny); Institutional violence (violence used by professionals, civil servants, agents of any public body or institution, etc., whose purpose is to obstruct, delay or prevent certain people from having access to their rights the law, as well as public policies. It also occurs more frequently against women, according to statistics. The causes are based on prejudices, stereotypes, a patriarchal culture, etc.); Workplace violence (Workplace violence is violence that discriminates against men or women in public or private work environments. The consequences are obstacles and difficulties for these people to have access to a job, to a promotion, to a hiring, to permanence in the job, etc.); Media violence (publication or dissemination of stereotyped images or messages through some mass media. Consequences include promoting exploitation of men or women and their images; these people end up receiving insults, discrimination, defamations, humiliations, etc., for the content of these images or messages.)

perpetuation and perpetration of patriarchal mindsets and unequal power relations that reinforce sexual violence.

1.2.4. AIPP is firmly committed to safeguard the protection and dignity of Indigenous Peoples thus affirms to prevent and respond to incidents of sexual exploitation, abuse and harassment immediately and urgently with respect to due process in its pursuit to build safe and caring workplaces and co-responsible movements for equality, democracy, justice, self-determination and peace. Equally, the interest and dignity of those affected or offended guide AIPP's approach to awareness building, prevention, reporting and actions for redress.

2. Scope of the Policy

2.1. This Policy applies to all AIPP personnel, leadership/governance, members and partners while in the course of operation and during the delivery of functions e.g. leadership, management, program implementation and reflections including regional and global platforms where AIPP is invited to attend.

2.2. Allegations of prohibited conduct can be made by any person irrespective of whether such persons have any connection to AIPP.

3. Definitions:

3.1. Sexual exploitation: Any actual or attempted abuse of a position of vulnerability, differential power, position or authority, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. The act of exploitation involves power where the perpetrator/offender⁴ believes his or her target is unable to resist. An example is unsolicited sexual favours and advances by those in higher positions over those under their supervision or those in low-ranking positions. In some cases, senior personnel seek sexual favours in return for particular benefits e.g. promotion, attendance to an event useful in building the knowledge and capacity.

3.2. Sexual abuse: The actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. Examples are unsolicited sexual advances, soliciting sexual favours with external stakeholders when on duty outside and these harmful behaviours are deemed detrimental to the reputation of AIPP, bullying and blackmailing for sexual purposes regardless of position, forced marriage, sexual slavery and sexual activity with a child (any person under the age of 18).

3.3. Sexual harassment: The act of any unwelcome conduct of a sexual nature which maybe verbal, non-verbal or physical conduct that might reasonably be expected or be perceived to cause offence, humiliation or violates the dignity of a person. Sexual harassment may occur in the workplace or in connection with work and is made a condition of employment or creates an intimidating, hostile or offensive work environment. This can also occur outside of the workplace e.g. casual hangouts, eating together.

Verbal sexual harassment includes suggestive comments, unwelcome jokes of sexual nature, lewd remarks and requests for any type of sexual favour. Non-verbal sexual harassment involves distribution, display of any written or graphic materials that are sexually suggestive or show hostility towards an individual or group because of sex. This also considers suggestive or insulting sounds, staring, whistling, obscene gestures in notes, text messages, emails or catcalls. Physical sexual harassment includes the conduct of unwelcome and unwanted physical contact such as touching, kissing, hugging, cornering, forced sexual contact, assault or fondling.

4. Core Principles

1. Do no harm: As an IP rights organization, AIPP has the responsibility not to jeopardise the life, safety, freedom, dignity and well-being of persons from its members and partners or anyone who comes in contact with the Organisation. It must exercise good judgement, be aware of the potential risks, prioritise victim's safety and well-being and avoid causing further

⁴ Any person who causes any act of sexual assault, exploitation, abuse and harassment.

harm to victims when addressing sexual exploitation and abuse. AIPP is obliged to create and maintain an environment which prevents sexual exploitation, abuse and harassment, and promotes the implementation of their code of conduct. Those in leadership and management positions in different levels have particular responsibilities to support and develop systems which maintain this environment. Special provisions and protections for children must be applied.

2. Putting victims⁵ first: The rights and best interests of victims are central in shaping responses to allegations regardless of who the alleged perpetrators are. This means that victims are proactively sought of their views and preferences, are informed of the options available to them, and that their safety and wellbeing take precedence. Taking a victim-centred approach implies ensuring that investigations are guided by international best practices and human rights standards, and that appropriate redress avenues are available and accessible to victims.
3. Respect for confidentiality: Confidentiality is key in protecting the identity of victims including the identity of those who provided the information and the perpetrator, as well as the information itself. Disclosure of confidential information is done according to informed consent of the concerned victim and an assessment of the potential implications the disclosure of information may have on his/her protection.
4. Respect for informed consent: Informed consent is based upon the victim's clear appreciation and understanding of the facts, implications and future consequences of an action. In order to give informed consent, therefore, SEAH victims must have all relevant facts available at the time their consent is sought to be able to evaluate and understand the consequences of a course of action. They must also be aware of and have the power to exercise the right to refuse to engage in an action.
5. Participation: This principle requires consulting with victims and creating the opportunity and channels for them to actively participate in decisions and processes that affect them and impact on their life.
6. Transparency: In preventing and responding to sexual exploitation, abuse and harassment, it is imperative for AIPP to build transparent procedures and actions and victims are informed on the progress and outcomes of the processes.
7. Accountability: AIPP is responsible for ensuring accountability e.g. application of disciplinary measures, a ground for termination, and for seeking accountability when such responsibility lies with its member or partner organisation. AIPP shall prioritise victims' rights, take appropriate measures to ensure their protection, safety and well-being and respect due process requirements. Where a representative of AIPP develops concerns or suspicions regarding sexual abuse or exploitation by a fellow worker, he or she must report such concerns via established reporting mechanisms.
8. Non-discrimination: All individuals are equal as human beings and by virtue of their inherent dignity. All human beings are entitled to their human rights without discrimination of any kind on the grounds of race, colour, sex, gender identity and sexual orientation, ethnicity, age, language, religion, belief, political or other opinion, national or social origin, disability, property, birth or other status. In the context of sexual violence, existing patterns of marginalisation, discrimination or stigmatisation should be taken into consideration. Any sexual relationship between a person representing AIPP and a person benefiting from AIPP program service that involves improper use of rank or position is prohibited. Exchange of money, employment, goods, or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour is prohibited. This includes exchange of assistance that is due to AIPP members/partners/beneficiaries.
9. Equal application: This principle implies taking action to prevent and respond to sexual exploitation, abuse and harassment regardless of the nature and/or status of the alleged perpetrator's affiliation with AIPP.
10. The best interests of the child: Determine and prioritise the best interests of the child, particularly in relation to securing the child's physical and emotional safety in the immediate, short and long terms. Policy, procedure and individual interventions should be

⁵ Any person who is made to suffer any act of sexual exploitation, abuse and harassment

developed with advance consideration of the possible negative or positive consequences for children, with the least harmful course of action always preferred. Assessing and determining the best interests of the child requires the participation of the child herself or himself, with the views of the child being given due weight in accordance with their age and maturity.

5. International Standard on Protection from Sexual Exploitation and Abuse: UN's Normative Frameworks⁶

The Secretary-General's Bulletin on 'Special measures for protection from sexual exploitation and sexual abuse' (ST/SGB/2003/13) constitutes the legal and policy framework for the United Nations relating to sexual exploitation and abuse, including definitions of this type of serious misconduct. All United Nations personnel are bound by the Bulletin and/or other applicable legal frameworks which incorporate its principles. These acts may amount to crimes under national law and may also constitute violations of international law, including international human rights, humanitarian and criminal law. In some circumstances, some acts may also be defined as conflict-related sexual violence.

UN uses a human rights-based approach that requires the development of holistic strategies which tackle the occurrence of sexual exploitation and abuse, and the root causes and consequences of such acts. Root causes may include violations of the right to freedom from discrimination and the rights to health, education and an adequate standard of living. It also involves acknowledging the inherent power imbalance. Unequal gender relations and gender-based discrimination lie at the heart of sexual exploitation and abuse and create an environment that can facilitate gender-based sexual violence. While women and girls are most often primarily affected by sexual violence due to structural power imbalances, the fact that sexual violence also affects men and boys is increasingly recognised. Individuals who belong to marginalised groups or who are in situations of vulnerability - such as internally displaced persons, national or ethnic, religious and linguistic minorities, lesbian, gay, bisexual, transgender and intersex persons, persons with disabilities or older persons - may be at heightened risk of sexual exploitation and abuse and/or may have fewer protection mechanisms accessible to them, and may also face barriers and risks in the form of discriminatory national legislation and policies.

In addressing sexual exploitation and abuse committed by its personnel, the United Nations is committed to placing the rights of victims of sexual exploitation and abuse at the centre of prevention and response strategies and actions and to act in accordance with the principles guiding a human rights-based approach, such as 'do no harm' and non-discrimination.

Applying a human rights-based approach also entails that the United Nations engages with Member States on, and supports them in, fulfilling their human rights obligations to prevent and protect individuals from sexual exploitation and abuse. This is a responsibility of all parts of the United Nations system, requiring coordinated action across the full spectrum of United Nations programming and the use of complementary mandates of each United Nations entity.

6. Strategies for the Prevention of Sexual Exploitation, Abuse and Harassment (PSEAH)

6.1. Awareness building: AIPP cultivates the awareness of all its personnel, of members of its governance bodies, its member and partners including participants joining AIPP events, meetings and workshops on the standards of behaviour and conduct expected of them to prevent and become responsive to any form of sexual exploitation, abuse and harassment as a culture of the organisation in their private and working lives.

⁶ https://www.un.org/preventing-sexual-exploitation-and-abuse/sites/www.un.org.preventing-sexual-exploitation-and-abuse/files/policy_on_integrating_a_human_rights-based_approach_to_un_efforts_to_prevent_and_respond_to_sea.pdf

6.2 *Prevention*: AIPP mainstreams the Policy within the Organisation, its members and its partners. It institutionalise a robust awareness program and good practice to minimise the risks of any form of sexual exploitation, abuse and harassment and internalise the zero-tolerance principle⁷ and approach to any form of sexual violence. It shall also include in its practice conducting relevant vetting and background checks of personnel as part of its recruitment and selection process.

6.3. *Reporting*: AIPP provides clear reporting guidelines and mechanism for its personnel, members of its leadership/governance bodies, members and partners regarding suspicions or concerns about allegations of sexual exploitation, abuse or harassment with respect to the principles of trust, respect, confidentiality and protection from retaliation.

6.4. *Actions for Redress*: AIPP has clear guidelines on the immediate actions to address and redress reports of sexual exploitation, abuse and harassment. Equally, AIPP adopts a victim/survivor-centered approach that ensures the safety and well-being of the person being sexually exploited, abused or harassed through medical, health and mental/psycho-social support and assistance for shelter/safehouse, legal and financial support. Guidelines shall include handling of cases occurring in different countries that consider the legal process in particular countries.

7. Prevention Guidelines

7.1. Responsibilities of the AIPP Governance Body and Program Committee Members:

7.1.1. Ensure a robust orientation, awareness and training programmes for AIPP personnel, members of its leadership/governance body, members and partners on its Policy on the Protection from Sexual Exploitation, Abuse and Harassment that includes procedures and mechanisms of reporting and actions or interventions. This becomes a venue to draw other ideas in making the Policy a living document in building safe, caring, trusting, equal and harmonious relationships within the Organisation and live out this practice in their private lives and everywhere.

7.1.2. Proper orientation for contractors⁸, its members and partners including participants joining AIPP events, meetings and workshops in Thailand or abroad to adhere to zero-tolerance for sexual exploitation, abuse and harassment as prohibited conducts and commit to taking adequate action if faced with such allegations, in the absence of which, contractual arrangements can be terminated and membership shall be warned.

7.1.3. Take all appropriate measures (see the Strategies) to promote a harmonious, safe, caring and trusting work environment that respects equality and solidarity; take appropriate measures to protect personnel from exposure to any form of prohibited conduct and provision of effective remedies when prevention has failed for rehabilitation to happen for the offended e.g. psycho-social support/counselling and justice to prevail defining disciplinary action (educational, warning of employment, suspension without pay) to termination or legal actions based on AIPP's Code of Conduct or relevant Policies. The governance and program bodies shall also guarantee protection from retaliation to those who report allegations. Disciplinary action to termination and legal action maybe undertaken for those who retaliate against offended persons or those who reported and were involved in the resolution of the case.

⁷ Zero-tolerance for violence or offences made against persons means strong positioning against any form of violence/offence that betrays the dignity of Indigenous Peoples and humankind. Strong positioning comes with capacity building, prevention, reporting and quick appropriate actions for redress.

⁸ Any person that has entered a contract or agreement with AIPP for a specific or defined task at a definite period.

7.1.4. Undertake diligent reference checks of candidates during recruitment processes to ensure that individuals who have a documented history of prohibited conducts are not hired. Reference checks also apply to those contesting for election to the Executive Council of AIPP.

7.2. Responsibilities of Heads of Programs/Units or Supervisors:

7.2.1. The heads of programs/units or supervisors shall act as role models by upholding the highest standards of conduct without regard to the power their position or authority holds.

7.2.2. They are duty-bound to implement this Policy in their work unit and hold personnel accountable for compliance with its terms.

7.2.3. They shall ensure that personnel in their programs/units undertake the orientation on the PSEAH Policy, all mandatory trainings concerning protection from sexual violence, regularly communicate this Policy to their programs/units and draw attention about the consequences of violating this Policy.

7.2.4. They are obligated to cultivate a harmonious, safe, caring and trusting working environment that respect equality and solidarity, create an atmosphere in which personnel feel free to express concerns about inappropriate behaviours and to use all recourse mechanisms and services available to them without fear of reprisal.

7.2.5. They are duty-bound to monitor their programmes/ units for conduct that may be in violation of this Policy, respond promptly to reports of allegations, take the reported cases seriously, and undertake the necessary actions for which they are responsible.

7.3. Responsibilities of AIPP Staff

7.3.1. All AIPP staff including new staff, volunteers, fellows and interns shall undertake the orientation on the Policy, internalize this, attend mandatory awareness raising and training on PSEAH and attend other training opportunities to the extent possible. At all times, AIPP staff shall uphold the value of justice.

7.3.2. All staff take seriously the Zero-Tolerance of violence against persons hence are constantly reminded to refrain from sexual exploitation, abuse and harassment and be aware of the consequences in the form of disciplinary and legal actions to termination of employment.

7.3.3. All staff are reminded to treat all people in the workplace (physical and virtual or any agreed place for work) with courtesy and respect and demonstrate their commitment to the prevention of and response to prohibited conduct.

7.3.4. It is the obligation of all staff to report allegations of prohibited conduct particularly sexual violence guided by the reporting guidelines of this Policy.

7.3.5. All staff are duty-bound to observe the “need to know” basis, observe the principle of confidentiality and demonstrate respect and trust at all times for the person/s who shared the information.

8. Reporting and Complaint Guidelines and Mechanisms

8.1 Who can file a complaint? Any staff, member, member of the governance bodies, partner, community member or participant in any AIPP event, meeting or workshop and anyone who is directly or indirectly involved in AIPP’s work, within Thailand or abroad (1)who experience any conduct of sexual exploitation, abuse and harassment by someone who is part of the AIPP structure, or (2)who suspects that a representative of AIPP is committing an offense of SEAH against someone.

8.2. How can complaints be made? Complaints can be made directly with the PSEA focal person⁹ and/or co-focal person of AIPP. This can also be made via online mechanisms through the AIPP website with proper safeguarding and through a dedicated email for PSEAH which can be accessed by the PSEA focal person and/or co-focal person.

There is no deadline for filing a complaint. It is encouraged that complaints are filed as early as possible after the alleged incident/s of SEAH. Anonymity and passage of time may result in challenges to effective investigation and resolution.

8.3. Who will receive the complaints? The focal person and/or co-focal person for PSEAH who is appointed by the AIPP secretariat for the following functions: (a) Assist the managers and supervisors of reported allegations by receiving the reports and ensure that proper documentation is satisfied; (b) Informs the Secretariat to create the Grievance Committee¹⁰; (c) Tightly coordinates with the Grievance Committee and communicates all steps to undertake with the GC, the concerned parties (offended and the alleged perpetrator); and (d) facilitate immediate emotional or psycho-social support for the victim.

8.4. How will the mechanism prosper?

8.4.1. The PSEAH focal person and/or co-focal person informs the Secretariat to create the Grievance Committee (GC).

8.4.2. The Grievance Committee is the provisional body created per complaint of SEAH that has representation from Governance, staff and the PSEAH point person and/or co-focal persons with due respect to the preference of the victim. It is provisional and only created upon a case as the composition is carefully determined according to who are the offended/victim and the offender. If demanded by necessity, an external person who is reputable and impartial in handling the case will be taken to the GC¹¹. The composition shall take into consideration those who the offended person is most confident and comfortable with, reputable and objective in studying the case based on accurate documentation and reporting towards a prompt and judicious redress of actions and resolutions. It is prudent for those close to the alleged offender to inhibit or restrain themselves in the GC. The GC will vote among themselves the rapporteur.

8.4.3. The functions of the Committee are as follows: (a) Scrutinize the report, conduct an impartial investigation and hold an inquiry with the offended person and the alleged offender in a safe, caring and trusting environment taking into account the core principles of PSEAH particularly do no harm, putting victims first, respect for informed consent, participation, transparency and accountability. (b) Recommends on the steps to undertake until a resolution is achieved.

8.4.4. Support for the victim or offended person shall be ensured to help her/him/them recover. This may be in the form of psycho-social (counselling) and medical support including legal, shelter and financial assistance.

8.4.5. Actions for the offender shall be determined by the Grievance Committee from a range of educational and counselling, disciplinary action which may be warning the offender of his/her employment or suspension without pay, legal action to termination from AIPP with reference to the Organisation's Code of Conduct or relevant Policies.

8.5. Informal resolution is also an open option.

⁹ Recommendation from the AIPP Secretariat PSEAH workshop

¹⁰ *ibid*

¹¹ *ibid*

8.5.1. This can be done by approaching the alleged offender. Affected individuals may, on a voluntary basis, if they feel comfortable doing so, approach the alleged offender directly and request that the alleged behavior cease.

8.5.2. This can also be made by accessing the support from a person/s in AIPP who the offended person trusts and who she/he is most comfortable to share the experience of SEAH. The trusted person facilitates the resolution with the alleged offender. An unsuccessful attempt to resolve the matter informally does not preclude it from being formally reported.

9. Transparency to Cooperations/Partnerships

9.1. AIPP shall include a brief account of its work undertaken to prevent sexual exploitation, abuse and harassment from occurring, how it has handled cases that occurred and the actions it has undertaken to be included in narrative reports to organizations it has cooperation with. This is for accountability and learning purposes that other cooperation partners may learn from.

10. This Policy on the Protection from Sexual Exploitation, Abuse and Harassment shall take effect upon the approval of the Executive Council. Amendments to the Policy shall be upon the review and recommendations of the Secretariat to the governance bodies (EC/GA) for approval. As per need, amendments to the Policy may be proposed every four years as per schedule of AIPP's General Assembly.