

STATUTE
THE EAST WEST UNIVERSITY DISCIPLINARY
CODE FOR STUDENTS, 2011

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PREAMBLE

Whereas, the East West University is a public Institution having special responsibility for providing higher education for advancing knowledge and for providing other related services to the community;

And, whereas, as a center of learning, the East West University also has obligation to maintain conditions conducive to freedom of inquiry and expression to the maximum degree with the orderly conduct of its functions;

And whereas, admission to the East West University carries with it the presumption that students will conduct themselves as responsible members of the Academic Community and as a condition of enrollment all students assume responsibility to observe standards of conduct that will contribute to the pursuit of academic goals and to the welfare of the academic community;

And whereas it is expedient to frame Code of conduct for maintaining and upholding the standards of conduct of students of the East West University;

And, now therefore, under the strength of section 37 of the Private University Act, 2010 the East West University makes the following **Statute**:

1. TITLE

This statute shall be called "The East West University Disciplinary Code for Students, 2011".

2. DEFINITIONS

- 2.1 **'University'** means East West University.
- 2.2 **'Code'** means the East West University Disciplinary Code for Students, 2010.
- 2.3 **'Vice Chancellor'** means the Vice chancellor of East West University including Acting Vice Chancellor.
- 2.4 **'Registrar'** means the Registrar of East West University.
- 2.5 **'Proctor'** means the Proctor of East West University.
- 2.6 **'Prosecutor'** means an employee of the University appointed by the Proctor to conduct the case for and present the evidence on behalf of the University at the Student Disciplinary Committee.
- 2.7 **'Board of Trustees'** means the Board of Trustees of East West University.
- 2.8 **'Syndicate'** means the Syndicate of East West University.
- 2.9 **'Teacher'** includes any person of any grade or status providing teaching or is employed to teach by the university or under the authority of the university whether remunerated or not, and/or any other person who is recognised as teacher by the university.
- 2.10 **'Officer'** means any officer of the university.
- 2.11 **'Employee'** means a permanent or temporary employee of the University.
- 2.12 **'Student'** means any person, who at the time of the alleged misconduct is or was.
 - (i) registered for a qualification listed in the University's calendars, or

- (ii) taught or evaluated on any University premises by an employee or someone contracted by the University for that purpose, or,
 - (iii) any other person who is deemed to be student of the University for the purpose of this Code as per notification of the University.
- 2.13 **'Disciplinary Committee (DC)'** means a committee of East West University constituted under Section-28 of the Private University Act, 2010, to adjudicate charges of misconduct relating to students.
- 2.14 **'Disciplinary Appellate Authority'** means the Syndicate to consider appeals from decisions of the Disciplinary Committee.
- 2.15 **'University premises'** includes any premises or building which is the property of the University or is controlled and/or occupied on rented basis or otherwise for hour(s) or day(s) by the University for University activities including regional offices, centers and examination venues.
- 2.16 **'Unfair or Illegal means'** includes
- i) Communicating or attempting to communicate verbally or otherwise any information relating to an examination by a student to any other examinee or examinees in the examination hall.
 - ii) Possession of any written unauthorized cheat/paper/ book(s)/materials/means and/or any unauthorised aid(s) related to the subject of examination, at anytime during the examination.
 - iii) Copying or attempt to copy from other examinee(s) or resorting to any other unfair means.
 - iv) Arrogant behaviour or use of insolent or indecent language to any person in the exam hall.
 - v) Unauthorized possession of or attempt to possess examination script or question(s) anytime before the specified time of a particular examination.
 - vi) Influencing or attempting to influence any person(s) involved with the examination to allow/give undue advantages or benefits to self or any other person(s).
 - vii) Taking the examination through a proxy or becoming a proxy for any examinee.
 - viii) Collecting or attempting to collect from outside, any exam related materials.
 - ix) Any use of cell-phone or any other unauthorized electronic device(s) or Code/sign/symbol etc. related to the examination, anytime during the examination.
 - x) Intentionally or negligently assisting another student during the examination.
 - xi) The removal or attempted removal from an examination room of any examination book or writing paper supplied by the University for the purposes of answering an examination.
 - xii) The use of a false name, identity number or student number in an examination.
 - xiii) The commission of any other fraudulent or dishonest practice whereby a student, whilst being examined by the University, seeks to mislead or deceive the examiner or the examination officer.
 - xiv) submission for examination as own work any matter that has been copied, reproduced or exacted in whole or in part from the work of another student or any other person, or which is substantially the same in whole or in part as the work of another student or any other person, or otherwise committing an act of plagiarism.

- xv) Aiding, abetting or assisting any other student in 'adopting unfair means' in any examination.
- 2.17 **'Examination'** includes all assessments, whether written, oral or practical, unseen or assignment or research based, of a student's performance organized and/or conducted in the name of the University.
- 2.18 **'Duration of Examination'** means the time when the answer book or the question paper or the assignment whichever is earlier has been made available to the student till it is declared the end.
- 2.19 **'Sexual Harassment'** means sexual harassment as defined in para-4 of the High Court's Directives given against Writ Petition No.5916 of 2008 (Please see Annexure-A for the said Directives). These Directives, hereinafter, will be referred to as the High Court's Directives.

3. GENERAL PRINCIPLES AND RULES

- 3.1 The Student Disciplinary Code is aimed at
 - 3.1.1 upholding the name and reputation of the University
 - 3.1.2 maintaining order, discipline, safety and security at the University
 - 3.1.3 ensuring the integrity of the academic processes of the University
 - 3.1.4 assuring the quality of the assessment processes at the University
- 3.2 The general supervision and control of students' discipline at the University vests with the Proctor and are administered in terms of this Disciplinary Code of the University.

3.3 Applicability

This Code will be applicable to conducts and discipline of the students of East West University provided that if a student is accused of 'sexual harassment', without prejudice to amenability of the said student to the High Court's Directive/enactment the said student shall, for the purpose of inflicting punishment under this Code, be deemed to be guilty of misconduct under this Code on being determined to have committed 'sexual harassment' under the High Court's Directives or any policy/guidelines/order for the time being in force or any law in this regard that may be in place.

4. MISCONDUCT

- 4.1 Misconduct: Any conduct of a student that contravenes the Disciplinary Code and/or negatively impacts on the goals of the Code may be regarded as misconduct and subject to disciplinary measures.
- 4.2 A student is guilty of misconduct if she/he:
 - 4.2.1 with specific regard to assessments, takes recourse to adopting illegal means as defined in para 2.16.
 - 4.2.2 intentionally or negligently contravenes or subverts, or attempts to contravene or subvert, or assists, encourages or persuades any other person to contravene or subvert this Code, any regulation or rule or instruction of the University;
 - 4.2.3 refuses or fails to comply with a lawful instruction or request of an employee of the University authorized to give such instruction or make such request, or acts contrary to such instruction or request;
 - 4.2.4 conducts in a manner that intentionally and substantially obstructs or disrupts teaching or freedom of movement or other lawful activities on university premises or in

connection with any university- sponsored event or activity and is not constitutionally and/or legally protected.

- 4.2.5 commits any crime whilst on University premises (for the purpose of this clause no adjudication order of the court of law in respect of the alleged crime in question is required);
- 4.2.6 intentionally or negligently misuses, damages, defaces, destroys or alienates, or without authorization uses any space, building, furniture or equipment, computer, vehicle, notes, documents or any other thing owned or controlled by the University or by any employee of the University, or by any registered student of the University;
- 4.2.7 intentionally or negligently mismanages and/or misappropriates University funds;
- 4.2.8 brings intoxicating liquor or substance into the premises of the University and/or consumes or abuses intoxicating liquor or substance and/or is under the influence of such liquor while on University premises;
- 4.2.9 brings an illegal dependence-producing drug and/or controlled substances under the Narcotics Control Act, 1990 (Act No. XX of 1990) onto the premises of the University, or is found to be in exclusive possession of such illegal substance or is under the influence of such substance whilst on the premises of the University;
- 4.2.10 smokes anywhere within the university premises.
- 4.2.11 brings into or stores on university premises a firearm, other dangerous weapon of any kind, and/or any kind of harmful chemicals and/or explosives.
- 4.2.12 brings onto or stores on University premises any kind of fuel that cannot reasonably be shown to be required for the operation of a motor vehicle or any device allowed to bring by the University.
- 4.2.13 sexually (as defined in para-4 of the High Court's Directives shown in Annexure -A to this code) or otherwise harasses any person whilst on University premises.
- 4.2.14 commits any sexual and/or indecent activities, whether voluntarily or involuntarily, or whether forcible or nonforcible, or whether with consent or without consent of the counterpart, within the university premises.
- 4.2.15 commits any other act on University premises, which is indecent and/or racist and/or endangers or is likely to endanger health, welfare or safety of other person and/or prejudices or is likely to prejudice honour, dignity, rights, privileges or property of other members of the academic community, staff/employee of the university and visitors to the campus.
- 4.2.16 initiates or associates or assembles or engages in any student organization or living group, or, any pastime or amusement engaged in with respect to an organization or living group, that causes or is likely to cause bodily danger or physical harm, or serious mental or emotional harm, or humiliation by ritual act, or sleep deprivation, or forcible participation in any philosophical or religious or cultural or political activities, to any student or any other person attending the university, and/or that causes or is likely to cause voluntary participation in any political activities resulting in division in the unity, amity or tranquility of the academic community.
- 4.2.17 unlawfully expresses, publishes or disseminates in speech, writing, print or other medium on University premises any views, beliefs or ideology that would infringe upon the dignity or other human rights of any student or groups of students, or any employee of the University, or person invited by the University as a guest of the University.
- 4.2.18 commits any act(s) bullying other student(s).
- 4.2.19 without the written permission of the Vice Chancellor uses the name of the University, or uses or displays the logo of the University

- 4.2.20 convenes an assembly on University premises without obtaining the prior consent of the Vice Chancellor (or the person duly authorized by her/him) or the management of the regional center, or attends a gathering prohibited by the Principal and Vice Chancellor or the management of the regional center.
- 4.2.21 knowingly makes a false statement about the University in any media or anywhere or otherwise intentionally provides materially false information to anyone in or outside the University about the University or any matter there of
- 4.2.22 intentionally or negligently tenders or presents to any teacher/employee of the University any document, record or evidence which she/he knows or ought reasonably to know to be false or forged and which causes or has the potential to cause prejudice to the administrative, financial or academic interests of the University
- 4.2.23 accepts or offers a bribe from/to students, employees or any other official of the University
- 4.2.24 reproduces or transmits in any form or manner, whether electronically or mechanically (including photocopying and faxing), any study guide, book, thesis, dissertation, article, examination paper, lecture, printed tutorial matter or any other study aids in respect of which copyright exists, unless the copyright owner's permission for the reproduction or transmission is obtained
- 4.2.25 contravenes the provisions of the Copyright Infringement and Plagiarism Policy of the University
- 4.2.26 neglects or refuses to return library material borrowed from the University library
- 4.2.27 behaves in any way that leads or may lead to the consequences, which were or should reasonably have been foreseen at the time when such behavior occurred, impairing and/or prejudicing and/or impeding the good name and reputation of the University or the maintenance of order, discipline and security at the University or the process of tuition, research and administration and general University activities.
- 4.2.28 creates or causes to create any forged/false certificate or any other forged/false documents/papers and or possesses, use, deals with or submit the same with the university or resorts to any fraudulent means.
- 4.2.29 is convicted by any competent court of law for committing any criminal offence off-campus against the law of the People's Republic of Bangladesh, which in judgment of the university significantly affects the interest of the university.
- 4.2.30 commits or causes to commit physical or sexual harm/abuse or harassment or sexual/indecent assault to any student, staff or employee of the university outside university premises.
- 4.2.31 commits or causes to commit physical or sexual harm/abuse or harassment or sexual/indecent assault to any 3rd party while the said student is on tour or act as a representative of the university, whether in abroad or inside the country.
- 4.2.32 violates any instructions of any teacher, officer or employee under whose command the said student is sent on duty, assignment or tour for academic purpose or otherwise, in abroad or inside the country.
- 4.2.33 commits or causes to commit any private or public nuisance, disturbance or sound pollution, or raving, or raging within university premises including hostel(s) of the university.

5. COMPOSITION AND TERMS OF REFERENCE OF THE DISCIPLINARY COMMITTEE (DC)

- 5.1 **Composition:** As per section 28(1) of the Private University Act, 2010 there shall be a Disciplinary Committee comprising as follows:
- a. **Chairperson:** One member of the Board of Trustees nominated by the Board
 - b. **Members:**
 1. Vice Chancellor
 2. All Deans
 3. One Chairperson nominated by the Syndicate
 4. Registrar
 5. Proctor-Member-Secretary
- 5.2 **Terms of Reference:**
- 5.2.1 **Jurisdiction:** The Disciplinary Committee is authorized to deal with and adjudicate any offence(s) of misconduct under this code; but implementation of its disposal/recommendation is subject to the approval of the Syndicate.
- 5.2.2 **Assembly:** The Disciplinary Committee may assemble any time as and when required and be convened under para-9, but in exceptional circumstances to be recorded in writing, the Vice Chancellor may convene its meeting by a 6 hours notice.
- 5.2.3 **Quorum:** Presence of 5 (five) members of the Disciplinary Committee shall constitute the Quorum of a meeting of the Disciplinary Committee.
- 5.2.4 **Hearing:** The Disciplinary Committee will hear the case as per the General Procedure laid down in para- 12 of this code.
- 5.2.5 **Arriving at Decision/Disposal:** The Disciplinary Committee shall follow the steps laid down in para-11.5 of this code.
- 5.2.6 **Award of Punishment:** Where applicable the Disciplinary Committee is authorized to award any or combination of the Punishments within the Scale of Punishments mentioned in para-13 of this code.
- 5.3 **Absence of Disciplinary Committee Members**
- 5.3.1 If at any stage during the sitting of the Disciplinary Committee a member of the Committee is no longer able to participate in the proceedings or is absent for any reason, the hearing will continue, provided that the Committee has the quorum.
- 5.3.2 In all other cases, the hearing should be terminated and will commence de novo.
- 5.4 **Chairperson to Determine Procedures**
- Subject to the provisions of this Code, the procedure adopted at the Disciplinary Committee is determined by the Chairman of the Disciplinary Committee.

6. LODGING COMPLAINT

- 6.1 Any person may lodge a complaint against a student for committing misconduct/misconducts, with the Proctor within three months from the last date of commission of the said misconduct/misconducts or from the date of knowledge thereof, whichever is later.
- 6.2 In proper cases, the registrar may direct his subordinate to lodge a complaint with the Registrar in respect of a misconduct as to which the Registrar has information and in such case the Registrar may send the complaint to the Proctor for investigation and report.
- 6.3 The said person lodging complaint must state the facts as to misconduct(s) of the accused student with clarity enclosing therewith all documents available at the relevant time. Any document reasonably available at the relevant time shall not be accepted in the proceeding subsequent to lodging the said complaint.

- 6.4 After receiving a complaint the Proctor shall forthwith verbally report the matter to the Vice Chancellor and shall conduct an immediate investigation of the complaint except the offence(s) of sexual harassment, in the manner specified in para 7.1 and 7.2.
- 6.5 In case of Sexual Harassment the Proctor shall refer the complaint without investigation, to the Complaint Committee on Sexual Harassment for action under para-8 and 10 of the High Court's Directives (Copy enclosed as Annexure-A).
- 6.6 The Prosecutor
The Registrar in consultation with the Vice Chancellor shall appoint any assistant proctor or an officer as a prosecutor to present the case for the University before Disciplinary Committee.

7. PROCEDURE IN THE CASE OF A COMPLAINT OF MISCONDUCT NOT RELATED WITH SEXUAL HARASSMENT

7.1 Notification of the Complaint

- 7.1.1 In case of any offence(s) other than that of sexual harassment the Proctor shall, by registered post, formally serve a written notice containing an accusation/complaint or allegation in the form of charge(s), to the accused student or a person authorized by her/him to receive such complaint asking for a written reply of the accused student within 10 days of the issue of the notice.

7.2 Investigation

- 7.2.1 The Proctor thereafter, shall conduct an investigation into the accusation, complaint or allegation.
- 7.2.2 For investigation purpose the Proctor will take the written evidence of all probable eye witnesses, take into consideration the documentary and circumstantial evidence as and when applicable and may also examine the witness(s) or relevant person(s) to elicit the truth.
- 7.2.3 After completion of the investigation the proctor must submit the investigation report to the Vice Chancellor within 21 days of the receipt of the complaint by the Proctor.
- 7.2.4 The report must contain the written statements of all the witnesses duly signed by each, the documentary and circumstantial evidence/proof followed by 'Findings' and Recommendations based thereon.
- 7.2.5 If the report finds anybody guilty the Proctor must submit with the report, a Charge Sheet against him/them briefly giving the particulars of offence(s) or act(s) of misconduct committed (alongwith the place, date and time of commission).

8. PROCEDURE IN CASE OF COMPLAINT RELATED WITH SEXUAL HARASSMENT

The 'Complaint Committee' will deal with and investigate any complaint related with Sexual Harassment in the manner described in para-8 and 10 of the High Court's Directives (enclosed as Annexure-A) and submit its report with specific recommendation(s) to the Vice Chancellor within the time stipulated in the Directives.

9. SUBMISSION OF INVESTIGATION REPORT TO THE VICE CHANCELLOR AND ACTION BY THE VICE CHANCELLOR

After receiving the investigation report from the Proctor or the Complaint Committee on Sexual Harassment, as the case may be, the Vice Chancellor will endorse his remarks on it and send the same within 3 days of the receipt, to the Proctor for subsequent necessary action accordingly.

10. CONVENING OF THE MEETING OF THE DISCIPLINARY COMMITTEE

If the Vice Chancellor's endorsement is in favour of proceeding the case against the student(s), the Proctor (as Member Secretary), in consultation with Chair, Disciplinary Committee, shall convene meeting of the Disciplinary Committee for disposal of the case giving at least 7 days Notice generally.

11. NOTICE TO THE ACCUSED STUDENT(S)

11.1 When proceedings against a student/students are instituted in terms of 9 above, the Proctor on behalf of Disciplinary Committee will give the student concerned not less than 7 days notice in writing of the date, time and place of the hearing by the Disciplinary Committee along with full description of the charges and the provision of the Code regarding misconduct for breach of which the proceeding has been initiated.

11.2 The Notice under this rule will inform the student:

11.2.1 that proceedings under the Disciplinary Code are to be instituted against her/him and that a copy of the Code is available for inspection in the Office of the Registrar,

11.2.2 of the Rule that the student is alleged to have breached and/or the act(s) of misconduct that the student is alleged to have committed. The Notice must set out the charge with sufficient particularity to enable the student to prepare for her/his defense,

11.2.3 of her/his right to answer the charge in writing before the hearing,

11.2.4 of her/his right to attend the hearing to present her/his case, or to be represented at the hearing by another student member or an employee of the University, and

11.2.5 of her/his right if she/he is a minor or insane, to be assisted by her/his parent or guardian or, at the discretion of the Disciplinary Committee, to be assisted by any other person appointed by such parent or guardian, provided that nothing contained in this Rule renders the conduct of the Disciplinary Committee void if the student is not so assisted on the date set for the hearing.

11.3 Service of Notice

11.3.1 Service of any written notice and the furnishing of particulars in terms of this Code will be by registered post to the residential address given either on the application form completed by the student for the purpose of admission or registration or on any later written notice submitted by the student to the University of a change of address.

11.4 Suspension

11.4.1 Generally, no student will be suspended from the University before a hearing is held. However, in appropriate cases, the Registrar in consultation with the Vice Chancellor, may, by service of Notice to the student(s), prohibit such student from:

- (i) entering into the premises of the University, or any part thereof, and/or
- (ii) exercising a right or privilege resulting from her/his enrolment as a student.

11.4.2 A temporary suspension in terms of paragraph 6.6.1 remains in force until the disciplinary proceedings in terms of this Code have been completed.

11.4.3 The suspended student may make written representations to the Vice Chancellor within five days of receipt of written notice of her/his suspension, advancing reasons why she/he should not be suspended.

11.4.3.1 The Vice Chancellor may at her/his discretion revoke a suspension at any time, provided that, notwithstanding such revocation, further steps may be taken to proceed with the disciplinary hearing on the charge of misconduct against the student.

11.4.3.2 The Vice Chancellor may, at her/his discretion, also confirm the suspension.

11.5 Decisions of the Disciplinary Committee

- 11.5.1 At the conclusion of the evidence, the Committee decides, in light of all the evidence available, whether or not the student is guilty of the misconduct, as charged.
- 11.5.2 A finding of guilty will only be returned if:
 - 11.5.2.1 The misconduct charged has, in the opinion of the Committee, been proved on a balance of probabilities; or
 - 11.5.2.2 The student has freely and voluntarily admitted guilt and the Committee is satisfied that there is evidence from the accused or from another source to substantiate the admission. Should the Committee not be satisfied with the evidence presented, it may of its own accord call for further evidence to be led in respect of the charge.
- 11.5.3 If the Committee does not find the student guilty as provided for under para-11.5.1, the student is acquitted of the charge.
- 11.5.4 The decision of the Disciplinary Committee is determined by a majority vote of the members present.
- 11.5.5 In the event of an equality of votes, the Chairman of the Disciplinary Committee has a casting vote in addition to her/his ordinary vote.

11.6 Student's Absence from Hearing before the Disciplinary Committee

If a student charged with misconduct does not attend her/his disciplinary hearing before the Disciplinary Committee, such hearing proceeds in her/his absence and the proceedings of the Disciplinary Committee are not invalid as a result thereof.

11.7 Obstruction of Proceedings

If a student charged with misconduct interferes with or obstructs any proceedings of the Disciplinary Committee or refuses to carry out an instruction of the Chairperson of such Committee, such student may be ordered by the Chairperson to withdraw from the proceedings, which may then continue in her/his absence.

11.8 Record of Proceedings

The Registrar appoints a person as a prosecutor to record, by means of tape recording or in writing, the proceedings of the Disciplinary Committee and all the evidence tendered. Such a person is not a member of the Disciplinary Committee.

11.9 Safekeeping of the Record of Proceedings

- 11.9.1 All documents and tape recordings, pertaining to a disciplinary matter, will be kept in safe custody by the Registrar. A student is, however, entitled to receive copies of such documents and tape recordings at her/his own expense.
- 11.9.2 Such documents and tape recordings will be held by the University for a period of three years after a matter has been finalized.

12. GENERAL PROCEDURES AT THE HEARING OF A CHARGE OF MISCONDUCT

- 12.1 In the interest of transparency, all hearings are open meetings unless the Chairperson of the Disciplinary Committee is persuaded by the circumstances of the case to direct that the hearing be closed to the University community/public.
- 12.2 The prosecutor leads evidence against the accused student and generally conducts the case for the University.
- 12.3 The Disciplinary Committee allows the student(s) or such person representing the student(s) a reasonable opportunity to present a defence and to answer the charges.

- 12.4 Both the prosecutor and the accused student(s) are allowed to adduce all relevant evidence and call witnesses and to examine and cross-examine witnesses, as appropriate.
- 12.5 The Disciplinary Committee may also ask the witnesses questions for clarity or eliciting the truth.
- 12.6 The Disciplinary Committee may further, of its own accord, call for evidence that it may deem relevant to a determination of the issue(s) before it.
- 12.7 The hearing of the Disciplinary Committee is conducted in an informal manner, according to the principles of natural justice and with due regard for the rights of the accused student. No accused student will be prejudiced by reason of a failure to comply with the rules of procedure or rules of evidence as applied in the ordinary courts.
- 12.8 If the student is a minor or insane, no disciplinary action(s) will be taken against that student before her/his parent or guardian has also been informed in writing of her/his alleged misconduct and has been given a proper opportunity to make a written statement and, if she/he so wishes, to appear before the Disciplinary Committee in person.

13. PUNISHMENT

- 13.1 If a student is found to be guilty of misconduct/misconducts, the Disciplinary Committee may, given consideration to the gravity of the misconduct/misconducts, award any or combination of punishments set out below:
 - (i) A written reprimand and/or warning;
 - (ii) Expulsion from the examination hall;
 - (iii) Expulsion from the examination of that course/paper/ subject concerned;
 - (iv) Expulsion from the examination hall and debarring from sitting in the examinations of the remaining papers/ courses/subjects;
 - (v) Cancellation of the examination of that paper/course/ subject;
 - (vi) Cancellation of examination(s) of all papers/courses/ subjects;
 - (vii) Expulsion from the university for a term from one semester to forever depending on the gravity of the offence committed;
 - (viii) Seizure of cell-phone or electronic devices concerned or unauthorized material;
 - (ix) Revocation of a degree, diploma or other qualification of a student(s) obtained from the University in an improper manner;
 - (x) Cancellation of admission or denial of a right or privilege resulting from enrolment as a student at the University;
 - (xi) A fine to the extent twice the tuition fee for three semesters of study of the qualification for which the student is registered;
 - (xii) Payment of compensation or requiring the accused student to repair the damage caused by her/his misconduct;
 - (xiii) Denial of the right or privilege to register for a particular study module or course or program offered by the University.

14. IMPLEMENTATION OF DECISION(S) OF THE DISCIPLINARY COMMITTEE

- 14.1 If the Disciplinary Committee finds an accused student:
 - 14.1.1 guilty, the student is notified by the Registrar in writing of the finding and the punishment(s) imposed by the Disciplinary Committee. In the Notice, the student is

further informed of her/his right to appeal against the finding(s) and/or the punishment(s) imposed;

14.1.2 not guilty, the student is notified in writing of the finding of the Disciplinary Committee.

14.1.3 if the student is a minor or insane, no disciplinary measure(s) will be taken against that student before her/his parent or guardian has also been informed in writing of her/his alleged misconduct and has been given a proper opportunity to make a written statement and, if she/he so wishes, to appear before the Disciplinary Committee in person.

15. DISCIPLINARY APPEAL

15.1 If the accused student found guilty is aggrieved by the order of the Disciplinary Committee he may file appeal before the Syndicate against the finding of guilt or punishment or both.

15.2 If the victim of the accused student is aggrieved by the order of the Disciplinary Committee he may file appeal before the Syndicate against the order passed by Disciplinary Committee, for enhancement of punishment. The victim shall not have right to appeal against the order of acquittal of the accused student. The victim neither shall have right to appeal for securing expulsion of student from the university forever.

16. POWERS OF THE DISCIPLINARY APPELLATE AUTHORITY (SYNDICATE)

16.1 The Syndicate is responsible for the hearing of appeals in respect of the decisions of the Disciplinary Committee whether based on factual findings, matters relating to procedure and/or the sanctions imposed.

16.2 The Syndicate has the powers to approve, review, reverse, nullify or replace decisions of the Disciplinary Committee in all respects, and can also order that hearings be held de novo except expulsion of a student forever and reversing the order of acquittal.

16.3 Presence of 7 members of the Syndicate will form the Quorum of the Appellate authority.

17. RESTRICTIONS ON APPELLATE AUTHORITY

A member of the Disciplinary Committee shall not be eligible to sit on appeal before Syndicate against the order of the Disciplinary Committee in which the said member of the Disciplinary Committee was party either in favour of university or accused student(s).

18. PROCEDURE OF APPEAL

18.1 Initiation of Appeal

A person intending to file an appeal must submit a memorandum of appeal along with order of the Disciplinary Committee setting out the grounds upon which she/he challenges the order of the Disciplinary Committee. The said person shall submit the said memorandum of appeal with Registrar within seven days from the date of receipt of the order. On receipt of the memorandum of appeal the Registrar shall place it in the next meeting of the Syndicate.

18.2 Functioning

The relevant provisions of paragraph Nos. 5 to 7 shall apply mutatis mutandis to the Appellate Authority.

18.3 General Procedures

The provisions of paragraph No.12 shall apply mutatis mutandis to the Appellate Authority.

19. INVIGILATOR'S POWER TO TAKE ACTION FORTHWITH IN EXAMINATION HALL

If an Invigilator finds or believes or has reasonable grounds to believe that a student has obtained unfair means or is likely to obtain unfair means in the examination hall, the Invigilator may, during the examination, expel the said student from the examination hall forthwith or may allow the said student to continue the examination on reporting the fact of unfair means adopted by the said student, to the Registrar at once. On being so reported, the Registrar in consultation with Vice Chancellor, shall expel/bar the said student promptly in writing and or initiate legal proceeding under this Code. If the said student is expelled forthwith under this paragraph, a fresh examination on the said subject immediately be arranged for the said student on his acquittal, if any, by Disciplinary Committee. If the said student is allowed to continue the examination on spot, the result of the student shall be subject to the order of Disciplinary Committee or Syndicate, as the case may be.

20. EDUCATING THE STUDENTS ON THIS CODE

The university shall arrange an educational session for newcomers and fresh students to enlighten them on this Code. On completion of such session, a declaration shall be obtained from the said student to the effect that she/he participated in the said session and understood the importance of the Code in letter and spirit.

21. REPEAL AND SAVINGS

The East West University Disciplinary Code for Students, 2010 is hereby repealed. However, the proceeding initiated under the East West University Disciplinary Code for Students, 2010 shall continue, wherein this Code shall apply so far it is applicable. Any order, instruction (specifically Annexure A of the East West University Disciplinary Code for Students, 2010), punishment or sanction passed under the East West University Disciplinary Code for Students, 2010 shall have force notwithstanding repeal of the East West University Disciplinary Code for Students, 2010.

22. COMMENCEMENT OF THIS CODE

This Code comes into effect immediately after, under the strength of section 37 of the Private University Act, 2010 it is approved by the Chancellor of East West University.

ANNEXURE – A

In the Supreme Court of Bangladesh
High Court Division
(Special Original Jurisdiction)
Writ Petition No. 5916 of 2008.

In the matter of
An application under Article 102(2) (a) (ii) of the Constitution of
the People's Republic of Bangladesh.

And

In the matter of
Bangladesh National Women Lawyers
Association (BNWLA)

..... the petitioner

Versus

Government of Bangladesh and Others.

..... the respondents

Mrs. Fawzia Karim Firoze with Mrs. Seema Zahur, Ms. Rebeka Sultana and Ms. Sathi
Shahjahan

..... for the petitioner.

Mr. Razik Al-Jail, DAG

.....for respondent No. 3.

Dr. Rafiqur Rahman

..... for respondent No. 7.

Mr. Mahmudul Islam

..... Amicus Curiae

Ms. Sara Hossain and Mr. Probir Neogi.

..... Intervenors

Present:

Mr. Justice Syed Mahmud Hossain

And

Mr. Justice Quamrul Islam Siddiqui

Heard on 16.10.2008, 13.11.2008, 9.3.2009, 11.3.2009. Judgment on 14.5.2009.

Directives in the form of Guidelines:

In the backdrop of our discussion and observations made above, and in view of the inadequacy of safeguards against sexual abuse and harassment of women at work places and educational institutions whereby noble pledges of our Constitution made in so many articles to build up a society free from gender discrimination and characterized by gender equality are being undermined everyday in every sphere of life, we are inclined to issue certain directives in the form of guidelines as detailed below to be followed and observed at all work places and educational institutions till adequate and effective legislation is made in this field. These directives are aimed at filling up the legislative vacuum in the nature of law declared by the

High Court Division under the mandate and within the meaning of article 111 of the Constitution.

1. Extent. These guidelines shall apply to all work places and educational institutions in both public and private sectors within the territory of Bangladesh.

2. Aims and objectives.

The aims and objectives of these guidelines include-

- (a) to create awareness about sexual harassments;
- (b) to create awareness about the consequences of sexual offences;
- (c) to create awareness that sexual harassment is punishable offence.

3. Duties of employers and authorities.

Since it is the duty of all citizens and public servants to observe the Constitution and the laws, and since the Constitution of the Republic in several articles ensures gender equality and the State's firm and consistent stand against all sorts of discrimination on the ground of sex, and since the Constitution ensures equal rights of women with men in all spheres of the State and public life and contemplates equality before law and right to equal protection of law, it shall be the duty of the employers and other responsible persons in work places, and the authorities of all educational institutions to maintain an effective mechanism to prevent or deter the commission of offences of sexual abuse and harassment, and to provide effective measures for prosecution of the offences of sexual harassment resorting to all available legal and possible institutional steps.

4. Definition.

i) Sexual Harassment includes-

- a. Unwelcome sexually determined behaviour (whether directly or by implication) as physical contact and advances;
- b. Attempts or efforts to establish physical relation having sexual implication by abuse of administrative, authoritative or professional powers;
- c. Sexually coloured verbal representation;
- d. Demand or request for sexual favours;
- e. Showing pornography;
- f. Sexually coloured remark or gesture;
- g. Indecent gesture, teasing through abusive language, stalking, joking having sexual implication.
- h. Insult through letters, telephone calls, cell phone calls, SMS, pottering, notice, cartoon, writing on bench, chair, table, notice boards, walls of office, factory, classroom, washroom having sexual implication.
- i. Taking still or video photographs for the purpose of blackmailing and character assassination;
- j. Preventing participation in sports, cultural, organizational and academic activities on the ground of sex and/or for the purpose of sexual harassment;

- k. Making love proposal and exerting pressure or posing threats in case of refusal to love proposal;
- l. Attempt to establish sexual relation by intimidation, deception or false assurance.
- m. Stalking as defined below (Added vide High Court's Directive Number-2 given in the Writ Petition Case No.8769 of 2010).

Definition of Stalking:

A male individual stalks a female if the male engages in a course of conduct:

- (a) with the intention of causing sexual harassment or of arousing apprehension of sexual harassment in the female and
- (b) that includes any of the following:
 - (i) following the females;
 - (ii) contacting the female by post, telephone, fax, text message (SMS/MMS/blogging/tweeting), email or other electronic communication or by any other means whatsoever;
 - (iii) causing an unauthorized computer function in a computer owned or used by the female or her family members;
 - (iv) entering or loitering outside or near the female's place of residence or place of business or work or any other place frequented by the female;
 - (v) keeping the female under surveillance;
 - (vi) acting in any other way that could reasonably be expected to arouse apprehension or fear in the female for her own safety or the safety of her family members.

Exceptions:

The following lawful acts are excluded from the above definition of stalking:

- (a) the enforcement of the criminal law;
- (b) the administration of any Act of Parliament;
- (c) the enforcement of a law imposing a pecuniary penalty;
- (d) the execution of warrant;
- (e) the protection of the public revenue.

Such conduct mentioned in clauses (a) to (m) can be humiliating and may constitute a health and safety problem at workplaces or educational institutions; it is discriminatory when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her education or employment in various ways or when it creates a hostile environment at workplaces or educational institutions.

- ii) **Concerned Authority** means an authority of any educational institution or work place in both public and private sectors, which is authorised under the relevant disciplinary rules to take action in case of misconduct.
- iii) **Disciplinary Rules** mean rules prescribed by any Act or Ordinance or any other subordinate legislations and include any rules framed for maintenance of discipline in any public or private institutions, organisations and work places.

5. Creating awareness and public opinion.

- a. In order to deter and eliminate sexual harassment and torture, and to create a safe environment for work and education, the employers/ management of all workplaces and authorities of all educational institutions will attach prime importance to the publicity and publication against sexual harassment and gender discrimination. There must be sufficient orientation before the formal classes start for a new session in educational institutions, and monthly, half yearly orientation in all workplaces and institutions;
- b. There must be arrangement for proper counselling for the concerned persons, if necessary;
- c. Awareness of the rights of female students and employees guaranteed and conferred by the Constitution and the statutes should be created by notifying in simple words the relevant provisions of the Constitution and the statutes;
- d. The educational institutions and the employers will maintain regular communication and effective consultation with the administrative authorities to create awareness among the personnel in law enforcing agencies in this regard;
- e. To prepare and publish booklets containing these guidelines and provisions of the Constitution and statutes regarding gender equality and sexual offences;
- f. To create awareness regarding fundamental rights guaranteed in the Constitution;

6. Preventive steps.

All employers and persons in charge of work places and authorities of all educational institutions shall take effective measures for prevention of sexual harassment. To discharge these obligations, they shall take, amongst others, the following steps:

- a. Prohibition of sexual harassment and sexual torture as defined in clause 4 above should be notified, published and circulated widely and in an effective manner;
- b. Constitutional and statutory provisions against gender discriminations and sexual harassment and punishment for the offences of sexual harassment and torture should be widely circulated;
- c. To ensure that there is no hostile environment towards women at workplaces and educational institutions, and to engender confidence and trust in women workers and students that they are not placed in a disadvantaged position in comparison to their male colleagues and fellow students.

7. Disciplinary Action:

Appropriate disciplinary action must be initiated in case of any falling within the definition of sexual harassment and torture in clause 4 of these guidelines.

8. Complaints:

Where such acts do not constitute misconduct under the disciplinary rules, an appropriate and effective mechanism must be evolved at the workplaces, and educational institutions, in both

public and private sectors for record and redress of the complaint made by the victim. The following measures must be included in the complaint mechanism.

- (a) It must be ensured that the identity of the complainant and also that of the accused will not be disclosed until the allegation is proved;
- (b) Security of complainant will be ensured by the Concerned Authority;
- (c) Complaint can be lodged by the victim or through her relatives, friends or lawyers, and it can be sent by mail also;
- (d) A complainant can file the complaint with a female member of the Complaint Committee separately;
- (e) The complaint will be lodged with the Complaint Committee to be constituted as provided in clause 9 below.

9. Complaint Committee.

- (a) In all work places and educational institutions in both public and private sectors, the Concerned Authority will constitute a Complaint Committee in order to receive complaints, and to conduct investigation and make recommendations.
- (b) The Complaint Committee will have minimum five members and majority of the members will be women. The head of the Complaint Committee should be a woman, if available.
- (c) The Complaint Committee should have at least two members from outside the organization concerned, preferably from organizations working on gender issues and sexual abuse.
- (d) The Complaint Committees will submit annual reports to the Government on the compliance of these guidelines.

10. Procedure of the Complaint Committee. Normally the complaint has to be lodged with the Complaint Committee within 30 working days of the occurrence. To verify the complaint the Complaint Committee will:

- i) In case of minor harassment, if it is possible, the Complaint Committee shall dispose of the complaint with the consent of the parties involved and shall report to the Concerned Authority of the educational institution or work place in public or private sector, as the case may be.
- ii) In all other cases the Complaint Committee shall investigate the matter.
- iii) The Complaint Committee will have the power to send registered notice by mail to the parties and the witnesses, conduct hearing, gather evidence, and examine all relevant papers. In this type of complaint, apart from oral evidence emphasis should be placed on circumstantial evidence. To conduct the work of the Complaint Committee effectively the related office of the educational institutions and workplaces in both public and private sectors will be bound to extend any cooperation which is requested from them. The Complaint Committee will keep the identities of the complainant/s confidential. While recording the testimony of the complainant/s any question or behaviour which is intentionally base, insulting or harassing should be avoided. The testimony must be recorded in camera. If the complainant wants to withdraw the

complaint or stop the investigation then the reason behind this has to be investigated and mentioned in the report.

The Complaint Committee shall submit the investigation report with recommendation within 30 working days to the Concerned Authority of the educational institution or work place, as the case may be. The period of 30 days may be extended up to 60 days where it is found necessary.

If it is proved that a false complaint has been filed intentionally then a report will be submitted to the Concerned Authority recommending appropriate action for the complainant/s. The Complaint Committee will take decisions on the basis of the view expressed by the majority of its members.

11 Punishment:

The Concerned Authority may suspend temporarily the accused person (other than students) and in case of students, may prevent them from attending their classes on the receipt of the recommendation of the Complaint Committee. If the accused is found guilty of sexual harassment, the Concerned Authority shall treat it as misconduct and take proper action according to the disciplinary rules of all work places and the educational institutions in both public and private sectors within 30 (thirty) days and/or shall refer the matter to the appropriate Court or tribunal if the act complained of constitutes an offence under any penal law.

We direct that the above guidelines will be strictly followed and observed in all educational institutions and work places in both public and private sectors until adequate and appropriate legislation is made in this field.

In this judgment the expression, "woman" has been used to include a female of any age as defined in the Nari-O-Shisu Nirjaton Daman Ain, 2000.

In the result, the Rule and the supplementary Rule are made absolute with the directives in the form of guidelines described hereinbefore.

We would like to record our note of appreciation to Mr. Mahmudul Islam who assisted the Court as amicus curiae by rendering valuable assistance in the performance of the difficult task in public interest.

There is no order as to costs.

Quamrul Islam Siddiqui, J

I agree.