

### **Statement on Sexual Harassment at ICANN 55, Marrakech**

On the 6th of March, 2016, Sunday, at about 10 am in the gNSO working session being conducted at the room Diamant, I was sexually harassed by someone from the private sector constituency named Khaled Fattal. He approached me, pulled at my name tag, and passed inappropriate remarks. I felt like my space and safety as a young woman in the ICANN community was at stake.

I had incidentally been in discussion with the ICANN Ombudsman (see annexure 1) on developing a clear and coherent sexual harassment policy and procedure for the specific purposes of ICANN's public meetings. Needless to say, this incident pushed me to take forward what had hitherto been a mere academic interest with increased vigour. I was amazed, firstly that the office of the ombudsman only had two white male members manning it. I was initially inhibited by that very fact, but made two points before them -

1. With respect to action on my individual case
2. With respect to the development of policy in general.

I would like to put on record that the ombudsman office was extremely sympathetic and gave me a thorough hearing. They assured me that my individual complaint would be recorded, and sought to discuss the possibility of me raising a public statement with respect to policy, as they believed that the Board would be likely to take this suggestion up from a member of the community. I was also informed, astoundingly, that this was the *first harassment case reported in the history of ICANN*.

I then, as a newcomer to the community, ran this idea of making a public statement - by no means an easy task at all, given the attached stigma that comes with being branded a victim of a sexual crime - by certain senior people within ICANN who had assured me that they would take my side in this regard. To my dismay, there were two strong stands of victim blaming and intimidation that I faced - I was told, in some cases by extremely senior and well respected, prominent women in the ICANN community, that raising this issue up would demean my credibility, status and legitimacy in ICANN, and that my work would lose importance, and I would "...forever be branded as THAT woman." My incident was also trivialised in off-hand casual remarks such as "This happened because you are so pretty", "Oh you filed a complaint, not against me I hope, ha ha" which all came from people who are very high up in the ICANN hierarchy. I was also asked if I was looking for money out of this.

I was almost disillusioned with the system itself, at which point certain people within the Non-Commercial Users' Constituency<sup>1</sup> extended their full support and backing, and encouraged me to voice this concern publicly.

I first made a statement in this regard at the Joint Meeting of the Board and the Non Commercial Stakeholders, which took place on 8 March 2016 from 17:00-18:00 WET at ICANN Public Meetings in the Atlas room. I voiced my experience, calling upon the Board to take up the commitment for diversity captured in Article I, Section 2, Subsection 4 of ICANN's Bylaws<sup>2</sup> and sought for both policy as well as gender sensitisation - a need that I felt was pressing. The Board responded positively and assured me that they would take this up seriously.

Over the course of the next few days, I met the ombudsman once, on 8 March 2016, and he later corresponded with me a few times as well. (See annexures 2, 3 and 4). I was yet to see the written complaint in my name, and he communicated to me that he had had a word with the perpetrator in question, who apparently did not remember the incident, and wanted to meet me. I made it extremely clear that that was not acceptable to me under any circumstance, and while I strongly believe in substantive due process, and was willing to provide evidence to support my case, I did not want to interact with the perpetrator in any regard. *No interim measures were taken after that, and I faced the extremely tough position of watching my perpetrator walk around me at many points of time during the conference, on one occasion coming extremely close to me and staring at me for a prolonged time period.* It is also pertinent to note that after my public statement, I seemed to have unleashed a can of worms, as many women came to me and spoke of varying degrees of harassment that they, or women they knew had faced over the years at ICANN. I brought this incident to the notice of the CEO, Mr. Fadi Chehade himself at the Gala event on 9 March 2016, at about 8.30 pm in the evening, and he was equally shocked and concerned.

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<sup>1</sup> Putting down on record my gratitude for Edward Morris, Stephanie Perrin, Avri Soria, Brett Schaefer, Monica Zalnerieute, Sana Ali, Ayden Ferdeline, Kathy Kleiman, Amr Elsadr, Robin Gross, Maria Farell, Tapani Tarvanein, Renata Aquilena Rebeiro and Vidushi Marda in this regard.

<sup>2</sup> This reads as follows "... Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making." Available at <https://www.icann.org/resources/pages/bylaws-2012-02-25-en#l>

The next public statement I made was at the Public Forum on Thursday, 10 March 2016. Right at the outset, the Board *suo moto* made a statement condemning harassment, assuring the community that policy would be put in place as the existing code of behaviour was not adequate. They also said that while they could not impose gender sensitisation on the community but urged the community to take it up themselves. I quote my statement from my transcript verbatim<sup>3</sup>:

*“Good afternoon. My name is Padmini Baruah and I'm a student of the law from India. I represent the Center for Internet and Society. And today I stand at the microphone for two reasons. Firstly, to express my immense gratitude to the board for standing by what they have laid down and what ICANN has laid down in its bylaws about inclusion and diversity. And secondly, I wish to use this as a platform to reach out and plead to the community. This is my second ICANN meeting and I have been sexually harassed at both the times that I have attended ICANN. At first I was lost in process, and when I got here, I had some idea whom to approach. While a substantial part of the community was extremely supportive, I did have mixed responses and all kinds of conflicting inputs, and therefore I was completely lost, and today the fact that the board has taken it up as a MARRAKECH – Public Forum 2 EN Page 18 of 101 commitment goes a long way towards encouraging me to return here. And I would like to plead to the community, since my perpetrators were both from the community, to seriously consider taking up the prong of sensitization with respect to things like sexual harassment in the community and I feel that if the board can commit to me that maybe by Helsinki there is going to be a sexual harassment policy in place, that would go a long way in assuring me. And if the community's willing to take up sensitization and continued education on dealing with these issues, that would certainly go a long way towards get- -- allowing me to return here in a safe space, and thank you. Thank you....Sorry. Just for the record, I was told that I am the first reported instance of harassment, so I feel that if there is a -- the ombudsman informed me that I was the first case ever in the history of ICANN, since its inception, that has been complained about, so if your policy has a clear and easy-to-approach*

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<sup>3</sup> See <https://meetings.icann.org/en/marrakech55/schedule/thu-public-forum/transcript-public-forum-10mar16-en.pdf>

*mechanism, I think that would certainly substantially increase -- increase complaints and therefore stop the issue. Thank you. I'm sorry."*

The Board responded favourably again, committing to developing policy.

At the end of this piece, therefore, I have three main requests in the interest of participation and inclusion:

1. A clear timeline at the end of which this policy on sexual harassment will be in place, subject to the review of the community.
2. A commitment to continued gender sensitisation for both members of ICANN Board and Staff as well as the community.
3. A better process than the ombudsman system in this respect.

I do not claim to stand at the forefront of any revolution. Creating safer spaces for women and other less-empowered communities is in the daily language of ICANN no matter which way I turn. I wish to quietly go about my work in this community, something I enjoy deeply and am passionate about, without facing any kind of inhibition. This is simply a plea to ICANN to show me and the world that they truly walk their talk. Thank you.

Padmini Baruah