

GUIDELINES ON THE WORKING OF TIFR WOMEN'S CELL (TWC) FOR DEALING WITH SEXUAL HARRASSMENT

BACKGROUND

According to the Constitution of India, Right to Equality is a Fundamental Right that includes the right to equality before law, prohibition of discrimination and equality of opportunities in matters of public employment. Equality between men and women, right to work, to education and to public assistance in case of unemployment, old age, sickness and disablement and provision of just and humane conditions for work and maternity relief, are important Directive Principles of State Policy.

Following the 1997 Supreme Court judgment in the case of Vishaka and others versus the State of Rajasthan, the Women's cell in TIFR was constituted in November 1997, in accordance with the mandate that it shall be the duty of the Employer to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required, and to be proactive by developing a conducive atmosphere on the campus, where women can work safely with dignity.

Over the last seven years TIFR Women's Cell (TWC) has been dealing with cases of sexual harassment that came up, and has also been organizing awareness activities and women's welfare workshops/lectures. In the light of the experience a definite need is perceived for sensitization of the employees towards gender issues, and laying down guidelines for handling cases of sexual harassment or misbehaviour. It is also felt that various policies concerning recruitment, promotion, and service conditions should be reviewed to ensure that they meet high standards in the current perspective on gender issues, even though it may be broadly agreed that the policies at TIFR have been generally progressive in the overall context of the country.

Purpose and Content of the Guidelines

This document on Guidelines for Functioning of the TWC is prepared with the following aims:

1. Assist the TWC in carrying out its functions;
2. Sensitize all the constituencies of TIFR towards the Constitutional and Supreme Court mandate of prohibition of gender discrimination and sexual harassment at work place;
3. Inform all about functioning of the TWC at TIFR; and
4. The document includes the objectives, definitions, functions, complaint redressal procedure, guidelines for constitution of the TWC and a Panel of Advisors, ethical responsibilities to the complainants and the alleged perpetrator.

These Guidelines are applicable to all TIFR employees.

OBJECTIVES

Following are the objectives of the TWC:

1. Prevent gender discrimination and sexual harassment, by promoting gender amity amongst all TIFR employees.
2. Make recommendations to the Director for changes/elaborations in the Rules, Standing orders and Bye-Laws etc, to make them gender just and to lay down procedures for the prohibition, resolution, settlement and prosecution of acts of sexual harassment by and of TIFR employees.
3. Deal with cases of sexual harassment, in a time bound manner, aiming at ensuring support services to the victimized and termination of the harassment;
4. Recommend appropriate punitive action against the guilty party to the Director.

DEFINITIONS

Gender discrimination

Sexual differences are biological differences and gender differences are socially or culturally constructed. Sexual and gender stereotypes are supported by sexist attitudes. Sexism is a prejudice or discrimination on the grounds of sex, especially against women. Sexism is an attitude or mindset, which justifies male control over women, headship for the man and subordination for women, and such attitude often justifies discrimination and violence against women. It restricts perception of dignity and worth of women, denies their contribution to society, and makes their rights and opportunities conditional, resulting in their vulnerability.

In the work place, denial of employments to women due to women's reproductive role, or rigidity in attitude, which hinders the reproductive role of women (for example non-flexible work hours and timings, non-availability of day care services, lack of maternity leave etc.), adds to gender discrimination.

Sexual harassment

According to the Supreme Court Judgment, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implications), such as the following:

- Physical contact and advances
- A demand or request for sexual favours
- Showing pornography
- Any other unwelcome, physical, verbal or non-verbal conduct of sexual nature.

The Judgment further states that "Where any of these acts is committed in circumstances whereunder the victim of such conduct has a reasonable apprehension, that

in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary whether any Government, public or private enterprise, such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory, for instance, when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment that adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto".

According to the Code of Conduct at Work Place prepared by the National Commission for Women in 1998, sexual harassment includes such unwelcome sexually determined behaviour by any person either individually or in association with other persons or by any person in authority, whether directly or by implications, such as the following:

- Eve Teasing
- Unsavoury remarks
- Jokes causing or likely to cause awkwardness or embarrassment
- Innuendos and taunts
- Gender based insults or sexist remarks
- Unwelcome sexual overtone in any manner such as over telephone (obnoxious telephone calls) and the like

- Touching or brushing against any part of the body and the like
- Displaying pornographic or other offensive or derogatory pictures, cartoons, pamphlets or sayings
- Forcible physical touch or molestation and
- Physical confinement against one's will and any other act likely to violate one's privacy

Gender amity

Gender amity includes gender sensitivity and gender justice

Gender sensitivity is awareness and insight into the state of the other sex, with reference to historical roots of sexist stereotyping, discrimination and violence. It leads to empathy, which is the expression of placing of credence on what women feel and experience. Gender sensitivity helps to develop non-judgmental attitude to women. It leads to acceptance or appreciation of the individuality and dignity of women.

Gender justice is ensuring sexual equity and equality, non-hierarchy and non-discrimination, and protective safeguards.

Employee means any person employed by the Institute, inclusive of students, visiting fellows, project staff and persons appointed in temporary, part-time, honorary, visiting, ad-hoc, or casual capacity.

Victim –Complainant

Accused- Alleged Perpetrator

FUNCTIONS

The main functions of the TWC are

- Promotion of Gender amity
- Programmes concerning women's welfare
- Documentation and Dissemination
- Deal with Cases of Gender Discrimination/Sexual Harassment

Promotion of Gender Amity

- Organize awareness workshops/training programmes for members of the TWC on different aspects of gender amity.
- Organize awareness lectures/workshops for TIFR members on different aspects of gender amity.
- Take proactive steps towards health management of all TIFR members, particularly women.
- Provide information/consultation on gender amity to any student or employee who seeks it.

Programmes concerning women's welfare

- Organize health awareness programmes such as stress-control or prevention of cancer.
- Organize socially relevant programmes such as child care center.
- Organize seminar/workshops on legal rights of women.
- Organize cultural programmes with the basic objective of increasing awareness in women.
- Bring out publications in English and Hindi on promoting gender amity and preventing gender discrimination and sexual harassment at work place, as and when possible.

Documentation and Dissemination

- Translate these guidelines in Hindi, Marathi; disseminate them in English, Hindi and Marathi among all the students and employees as appropriate.
- Provide everyone with names and phone extensions of the TWC members
- Review and revise these guidelines as and when necessary. A summary may be put up on select notice boards and web-site with names and phone extensions of the TWC members;
- Keep confidential all the details of the cases handled, that would include the complaint, the inquiry report, advises given by the advisors and the recommendations made by the TWC to the Director; and
- Prepare an annual report, summarizing the activities of the TWC, for the UGC and for the TIFR Annual Report.

Deal with Cases of Gender Discrimination/Sexual Harassment

- Deal with complaints of gender discrimination/sexual harassment and make an inquiry into the case.
- Provide support services to the victimized and recommend early action to the Director to ensure termination of the harassment with immediate effect,
- Consult a lawyer, doctor and/or a counselor, as the need may be,
- Refer the victim to a lawyer, doctor and/or a counselor, as the need may be and submit a report to the Director, recommending appropriate punitive action against the accused if found guilty; and
- Provide information/consultation to anyone who wants to discuss issues relating to gender discrimination/sexual harassment whether a complaint has been lodged or not.
- Follow the Complaint redressal procedure (as described below)

COMPLAINT REDRESSAL PROCEDURE

Procedure for the Complaint

- A complaint of gender discrimination/sexual harassment may be lodged with any member of TWC in writing by the complainant.
- Under special circumstances an individual, who may be a friend/colleague/teacher/parent of the complainant, may make a written complaint on behalf of the complainant.
- A written complaint to the TWC may be addressed to the Convenor of the TWC. If a written complaint is made to the Director, Dean, Registrar or any of the TWC members, the complaint shall be forwarded to the Convenor of the TWC.

Immediate Action

- The member of the TWC, to whom the complaint has been made, should immediately provide initial support and consultation to the victim.
- On receipt of the written complaint, the TWC shall initially try to resolve the dispute through informal discussions. However, if the dispute cannot be resolved through such means, an Inquiry Committee shall be set up by the TWC Convenor preferably within the next ten working days. The Inquiry Committee thus set up will consist of at least three persons from the TWC, co-opting other members from TIFR, or outside TIFR, if necessary. At least 50% members of this Committee shall be women. The Inquiry Committee will be headed by a woman and will have one outside member (preferably a member of NGO).
- During the pending inquiry, the complainant shall be protected against the accused. For example, if the complainant is a student and the accused a teacher, the accused will not act as an examiner to this student. If the complainant is a student and the accused his/her supervisor, the student's placement may be changed or his/her supervisor may be changed. If the complainant and the accused are both employees, either may be temporarily transferred. If the accused is an outsider, he/she may not be allowed to enter the Institute, during this period.
- The victim may be referred to a lawyer, doctor and/or a counselor, if necessary.

Procedure for the Enquiry

- The Inquiry Committee shall investigate into the issue, by laying down its own procedure, to find out if the accused is prima facie guilty and the nature and extent of the guilt. It shall interview the complainant, the accused and others related to the case, and investigate relevant documents or evidence that may be referred to. Determining what constitutes sexual harassment will depend upon the specific facts and circumstances of each case. The Inquiry Committee may consult a lawyer, doctor and/or a counselor, as the need may be.
- The Inquiry Committee shall submit its report to the TWC Convenor within four weeks of its appointment. In case the inquiry has to be extended beyond this period, the Inquiry Committee may give reasons for the delay in writing to the Convenor of the TWC.

Procedure for Redressal

- If there is a prima facie case against the accused, the TWC may recommend immediate suspension till the person is proved innocent or the issue is settled.
- Efforts must be made to resolve the dispute through counseling and mediation.
- In case the accused is found guilty, the TWC may recommend appropriate punitive action (see below) to be undertaken by the Director.
- Whenever appropriate, the TWC will refer the victim (complainant) to a lawyer to lodge a complaint with the concerned police station. The complainant shall then keep the TWC informed about progress with the complaint.

- The victims of sexual harassment should have the option to seek transfer of the perpetrator or her own transfer.
- The TWC may submit its report to the Director within eight weeks after the date of receipt of the complaint. In case the inquiry has to be extended beyond this period, the Convenor of the TWC shall give the reasons for the delay in writing to the complainant.
- The Director may discuss his/her plan of punitive action against the guilty party with the TWC and then implement it within fifteen working days.
- A copy of the Director's order (or an action taken report) of the punitive action to the perpetrator may be given to the complainant/victim.
- The complainant shall have the right to appeal to the Chairperson of the Governing Board if she/he is not satisfied by the action taken by the Director.
- Nothing in these guidelines shall preclude anybody from simultaneously lodging a complaint with the police in respect of any act amounting to an offence under the law.

PUNITIVE ACTION

An employee guilty of sexual harassment shall be liable to give a written apology to the victim and any of the following punitive actions:

- Suitable censure/warning.
- Withholding of increments.
- Reduction to lower service, grade or post.
- Compulsory retirement.
- Removal from service, or
- Dismissal from service.

A student guilty of sexual harassment shall be liable to give a written apology to the victim and any of the following punitive actions:

- Suitable censure/warning.
- Withholding/withdrawing scholarship/fellowship and other benefits.
- Suspension/expulsion from the hostel.
- Rustication from the Institute for a period up to a certain period or
- Expulsion from the Institute.

CONSTITUTION OF THE TIFR WOMEN'S CELL (TWC) AND A PANEL OF ADVISORS

General Requirements

While constituting the TWC, the following requirements need to be met:

- Representative members from all the constituencies of the Institute should be in the Cell.
- Convenor should be a woman.

- A socially aware non-TIFR person (possibly an NGO member) has to be on the committee.
- At least 50% of the members should comprise of females.
- Members should have personal integrity and gender sensitivity.

Disqualification

A person shall be disqualified from being nominated to the TWC if there is a complaint of gender discrimination/sexual harassment against him/her.

Tenure

The tenure of the TWC will be for three years.

Meetings

The TWC shall meet at least twice a year. The meetings may be chaired by the Convenor and the Member-Secretary will be responsible to call the meeting and take the minutes and circulate them. The notice of the meeting may be circulated at least a week in advance. The quorum for the meetings will be presence of 30% members. In emergency situations, the meetings may be called at a shorter notice and held with fewer members, after an explanation for doing so. In the absence of the Convenor, the members present shall appoint a female member to act as the Chairperson for the said meeting. In the absence of the Member-Secretary, another member may be appointed by the members present to take the minutes.

Panel of Advisors

The Director may nominate a gender sensitive panel of advisors, comprising of the following experts, identified in consultation with the TWC.

- Representative of a voluntary organization, dealing with the issue of sexual harassment
- A woman lawyer
- A woman doctor and
- A woman counselor
- The advisors may be consulted and the cases of sexual harassment may be referred to them, as and when necessary.

ETHICAL RESPONSIBILITIES TO THE COMPLAINANTS AND THE ACCUSED

TWC shall be ethically responsible to the complainants and the accused and shall do its utmost to provide justice for each complaint to the best of its ability.