



Tata Institute of Social Sciences

**GUIDELINES FOR
THE GENDER AMITY COMMITTEE**

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INTRODUCTION

The Mandate

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. The Constitution further specifies that this will not prevent the state from making special provisions for women, children, scheduled castes and scheduled tribes. Equality between men and women; and 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.

In August 1997, the Supreme Court of India delivered a judgement in the case of Vishaka and others versus State of Rajasthan and others, which states the following:

In ... the absence of enacted law to provide for the effective enforcement of the basic human right of gender equality and guarantee against sexual harassment and abuse, more particularly against sexual harassment at work places, we lay down the guidelines and norms ... for observance at all workplaces and other institutions, until a legislation is enacted for the purpose. This is done in exercise of the power available under Art. 32 of the Constitution for enforcement of the fundamental rights and it is further emphasized that this will be treated as the law....

The Supreme Court Judgement also states that

It is necessary and expedient for employers in work places as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment to women. ... It shall be the duty of the Employer or other responsible persons in work places and other institutions 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.

In 1998, the National Commission for Women (NCW) formulated a Code of Conduct for Work Place, putting down the Supreme Guidelines in a simple manner.

The University Grants Commission (UGC) has issued circulars since 1998, to all the universities, advising them to establish a permanent cell and a committee and develop guidelines to combat sexual harassment, violence against women and ragging at the universities and colleges. It has further advised the universities to be proactive by developing a conducive atmosphere on the campus, where the woman is respected rather than being humiliated.

Relevant Work Done at TISS

The Tata Institute of Social Sciences has always had admission and recruitment policies that promote and protect the Fundamental Rights of equality between men and women with specific reference to right to education, work, and just and humane conditions for work, including maternity relief. The Institute work conditions have ensured that there is no hostile environment towards women. The Institute has already formulated rules prohibiting ragging.

An exploratory study was conducted in Mumbai at the initiative of the Unit for Women's Studies of TISS, in 1999. The target group mainly comprised of students from various universities (Mumbai, SNDT, TISS) and colleges. Interviews, group discussions with students and some faculty members were conducted to get the information. A questionnaire was also used to elicit information from students from nearly 18 colleges. Nearly 196 questionnaires were distributed to students in various settings in colleges and university campuses in Mumbai. 17 students were interviewed individually. About 51 students' views were taken in by group discussion. Thirty faculty members, including principals and deans were contacted. The faculty members who in some way were associated with the issue were also contacted. The draft policies of Madras, Delhi and Mumbai were referred to and then a draft policy framework for Tata Institute of Social Sciences was prepared and discussed among the faculty members. These guidelines are prepared from this draft policy framework.

The Unit for Women's Studies also carried out an Orientation Workshops on Gender and Workplace for TISS administrative and service staff, together with a poster exhibition, in August 2002.

Purpose and Content of the Guidelines

This document on 'Guidelines for Functioning of the TISS Gender Amity Cell' is prepared with the following purpose:

- Assist the Gender Amity Committee (GAC) in carrying out its functions;
- Sensitise all the constituencies of TISS towards the Constitutional, Supreme Court and UGC mandate of prohibition of discrimination and sexual harassment against women; and
- Inform all about functioning of the GAC at TISS.

The document includes the objectives, guidelines for composition of the GAC and a Panel of Advisors, definitions, scope of complainants and accused, functions, complaint redressal procedure, ethical responsibilities to the complainants and the accused and the previous and the present GACs. In case of any dispute relating to the interpretation of these guidelines, the decision by the Director will be considered final and binding.

OBJECTIVES

Following are the objectives of the work of the GAC:

- Prevent discrimination and sexual harassment against women, by promoting gender amity among students and employees;
- Make recommendations to the Director for changes/elaborations in the Rules for students in the Prospectus and the Bye-Laws, to make them gender just and to lay down procedures for the prohibition, resolution, settlement and prosecution of acts of discrimination and sexual harassment against women, by the students and the employees;
- Deal with cases of discrimination and sexual harassment against women, in a time bound manner, aiming at ensuring support services to the victimized and termination of the harassment;

- Recommend appropriate punitive action against the guilty party to the Director.

COMPOSITION OF THE GENDER AMITY COMMITTEE AND A PANEL OF ADVISORS

The Supreme Court Judgement of 1997 states that “The complaint mechanism ... should be adequate to provide, where necessary, a Complaints Committee, a special counselor or other support services, including the maintenance of confidentiality. The Complaints Committee should be headed by a woman and not less than half of its members should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.” The UGC has suggested that the universities appoint a Nodal Officer in addition to the setting up of the permanent cell (complaints committee) who could be easily contacted from time to time for information/suggestions related to the complaints received.

TISS proposes the following guidelines for composition of the Committee.

General Requirements

While constituting the GAC, the following general requirements need to be met:

- Representation from all the constituencies of the Institute,
- Members need to have personal integrity and gender sensitivity and
- At least 50% of the members should comprise of females.

Designation and Representation

The following chart depicts the specific guidelines for nominating members to the GAC:

S. No.	Designation	Constituency and Other Requirements	Sex
1	Convener/ Nodal Officer	Senior faculty members who teach/ do research/ conduct field action project on women’s issues	F
2	Member- Secretary	Administration staff, belonging to Group A	F/M
3	Former Convener as Ex-Officio Member	Senior faculty members who teach/ do research/ conduct field action project on women’s issues	F
4	Member	Faculty members from teaching departments	At least one F
5	Member	Faculty members from research/resource units	
6	Member	Faculty in charge or social workers of TISS field action projects, dealing with women’s issues	F/M
7	Member	Member of the administrative staff	At least 1 F
8	Member	Member of the service staff	
9	Member	Representative of a voluntary organization, dealing with the issue of sexual harassment	

In consultation with the Students' Union Advisor, the Committee may invite student representatives to coordinate the functions related to students.

Disqualification

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

Tenure

The tenure of a GAC will be for three years.

Meetings

The GAC shall meet at least once a semester. The meetings may be chaired by the Convener 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. In emergency situations, the meetings may be called at a shorter notice and held with fewer members, after explanation for doing so. In the absence of the Convener, 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

A gender sensitive panel of advisors may be nominated, comprising of at least two experts in each of the following category:

- 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.

DEFINITIONS

Discrimination against Women

The United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), to which India is a signatory, defines discrimination against women as “any discrimination, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” CEDAW also requires the governments to eliminate discrimination against women and sets forth their obligations to promote equality through constitutional, legal, and other appropriate means. It also requires the governments to take positive measures to ensure the full development and advancement of women.

CEDAW recommends positive temporary (affirmative action) measures for women to accelerate *de facto* equality between men and women. With reference to education, CEDAW recommends that women and men should have equally access to literacy and education, type of education, scholarships, awards or grants, sports and physical education and so on. With reference to employment, CEDAW recommends that women and men should have equal access to type of employment, equal pay for equal work, same retirement age, right to old age benefits, disability benefits, job training, promotions, retirement, paid annual leave or vacation, paid paternity/maternity leave without loss of employment/seniority/allowances, child care facilities, nursing breaks for breast feeding and so on. Denial of these facilities at work place amounts to gender discrimination at work place.

Sexual Harassment

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

- Physical contact and advances,
- A demand or request for sexual favors,
- Sexually colored remarks,
- 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 where under 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. 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 behavior 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,
- Unsavory 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 and prevention of discrimination and sexual harassment against women.

Gender sensitivity is awareness and insight into the state of the other sex, mainly women, 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 for women.

Punitive Action

An employee guilty of discrimination or sexual harassment against women shall be liable to give a written apology to the victim and any of the following punitive action from the TISS Bye-Laws:

- Censure;
- Withholding of increments;
- Reduction to lower service, grade or post;
- Compulsory retirement;
- Removal from service; or
- Dismissal from service.

A student guilty of discrimination or sexual harassment against women shall be liable to give a written apology to the victim and any of the following punitive action from the TISS Rules for Students:

- Censure;
- Withholding/withdrawing scholarship/fellowship and other benefits;
- Suspension/expulsion from the hostel;
- Rustication from the Institute for a period up to one year; or
- Expulsion from the Institute.

COMPLAINANTS AND ACCUSED

The GAC will deal with all complaints of discrimination or sexual harassment against women, made by a student, or an employee of the Institute, or a third party; with accusations against a student, or an employee, or a third party.

Student means any person who is enrolled for any degree/diploma/certificate course at the Institute (full-time/part-time/short term/long term).

Employee means any person employed by the Institute, in the positions of director, the faculty, technical staff, administration staff, service staff, social workers on field action projects and research project staff, including those appointed in temporary, part-time, honorary, visiting, ad-hoc, or casual capacity.

Third party includes relatives of the employees staying on campus; agency supervisors; and visitors to the Institute, such as contractors/workers, participants of a seminar, workshop or a training programme, students' relatives, alumni or students from another university.

FUNCTIONS

The UGC has suggested that the Cell to combat sexual harassment may organize Seminars/Conferences/Workshops at various levels, print booklets and pamphlets and disseminate the guidelines through web sites so as to generate awareness about the issue. At TISS, the main functions of the GAC are proposed as promotion of gender amity, review of Students' Rules and Bye-Laws with reference to gender amity; deal with cases of discrimination and sexual harassment against women and documentation and dissemination, as elaborated below:

Promotion of Gender Amity

- Organize awareness workshops/training programmes for members of the GAC, students, faculty and staff on different aspect of gender amity, discrimination against and sexual harassment women, to discourage policy makers from discrimination against women, to deter men from causing sexual harassment and to encourage women to object to gender discrimination and harassment;
- Provide information/ consultation on gender amity to any student or employee who seeks it; and
- As and when possible, bring out publications in English and Hindi on promoting gender amity and preventing discrimination and sexual harassment against women.

Review of Rules for Students in the Prospectus and Bye-Laws

- Review the Rules for students in the Prospectus and make recommendations to the Director for changes/ elaborations to make them gender just and lay down policies and procedures for punitive action against students found guilty of discrimination and/or sexual harassment against women; and
- Review the Bye-Laws and make recommendations to the Director for changes/ elaborations, to make them gender just and lay down policies and procedures for punitive action against employees found guilty of discrimination and/or sexual harassment against women.

Deal with Cases of Discrimination/Sexual Harassment against Women

- Deal with complaints of discrimination or sexual harassment against women 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 discrimination or sexual harassment against women whether a complaint has been lodged or not.

Documentation and Dissemination

- Translate these guidelines in Hindi, disseminate them among all the students and employees, with names and phone extensions of the GAC members, and review and revise these guidelines as and when necessary. If there is any dispute regarding interpretation of the translation, the English version will hold good. New staff and students shall also be given copies of the guidelines, until these are incorporated in the Bye Laws and Prospectus. A summary may be put up on select notice boards (for example on the notice boards of the Dining Hall, Guest House, Students, Staff, Personnel and Academic Sections) with names and phone extensions of the GAC members. The guidelines will be including in the post-admission orientation to students;
- Copies of the relevant GOI and UGC documents will be kept on the reserved shelf in the Library;
- Keep confidential all the details of the cases handled, that would include the complaint, if given in writing, the inquiry report, advises given by the advisors and the recommendations made by the GAC to the Director; and
- Prepare an annual report, summarizing the activities of the GAC, for the UGC and for the TISS Annual Report.

COMPLAINT REDRESSAL PROCEDURE

The Supreme Court Judgment of 1997 states that "...an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints...". TISS proposes the following procedure for complaint redressal.

Procedure for the Complaint

- A complaint of discrimination or sexual harassment may be lodged by the victim or a third party, who may be a friend/ colleague/ teacher/ parent.
- If an oral complaint is made to any of the GAC members, the complainant may be encouraged to lodge a written complaint.
- A written complaint to the GAC may be addressed to the Convener of the GAC. If the complaint is made to the Director, Deputy Director or any of the GAC members, they may forward it to the Convener of the GAC.

Immediate Action

- Initial support and consultation should be immediately made available to the victim, by the member of the GAC, to whom the complaint has been made.
- On receipt of the written complaint, the GAC shall meet as soon as possible, but not later than five working days. The GAC may, within ten working days of the complaint being lodged, set up an inquiry committee of two to three persons from the GAC, co-opting members from outside of the GAC, if necessary. At least 50% of the members of this Committee shall also be women, and at least one member shall belong to the constituency that the complainant belongs to.
- During the pendency of the 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 field work supervisor, the student's field work placement may be changed or his/her supervisor may be changed. If the complainant and the accused are both employees, working in the same section, either shall be temporarily transferred. If the accused is an outsider, he/she shall not be allowed to enter the Institute, during this period. These changes may be continued as long as necessary.
- The victim may be referred to a lawyer, doctor and/or a counselor, if necessary.

Procedure for the Inquiry

- 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 significant others and investigate relevant documents or evidence that may be referred to. Determining what constitutes gender discrimination/ 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 GAC Convener, within two 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 Convener of the GAC.

Procedure for the Redressal

- If there is a *prima facie* case against the accused, the GAC may recommend his immediate suspension till he 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 GAC may recommend appropriate punitive action to be undertaken by the Director.
- If the offence amounts to an offence under the Indian Penal Code, or any other law, the GAC will refer the victim to a lawyer to lodge a complaint with the concerned police station. The complainant shall keep the GAC 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 GAC may submit its report to the Director within six weeks after the date of receipt of the complaint. In case the inquiry has to be extended beyond this period, the Convener of the GAC shall give the reasons for the delay in writing to the complainant.
- The Director shall discuss his/her plan of punitive action against the guilty party with the GAC and then implement it within five working days.
- A copy of the Director's order for punitive action to the perpetrator may be given to the complainant/victim.
- The complainant shall have the right to appeal to the Chairman of the Governing Board if she/he is not satisfied by the action taken by the Director.

Savings

- 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.

ETHICAL RESPONSIBILITY TO THE COMPLAINANTS AND THE ACCUSED

The GAC and the Inquiry Committees shall have the following ethical responsibility to the complainants, witnesses and the accused, until found guilty:

- Empathize with them, and thereby respect and give credence to their life experiences.
- Do not label them because of the problematic situation that they may be facing, but see their strengths and enable them to work on them.
- Respect their right for self-determination, and ensure their participation in decision making about their life situation.
- Share with them, accurate and relevant information regarding the extent and nature of help available to them, which includes opportunities, rights, strengths, limitations and risks associated with the intervention.
- Keep confidential, all matters shared by them, and inform them about the limits of privileged communication in a given situation.