

Policy on Sexual Harassment Complaint and Redress

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DEFINITIONS

1. **Accused:** A staff, volunteer or relevant stakeholder of Transparency International Bangladesh (TIB) against whom an allegation of sexual harassment is made and investigation undertaken under this policy.
2. **Aggrieved person:** A staff, volunteer or relevant stakeholder who has experienced or has been subjected to any act of sexual harassment by another staff, volunteer or relevant stakeholder.
3. **Board of Trustees (BoT):** TIB's Board of Trustees, the highest policy making body.
4. **Complainant:** An aggrieved person or anyone on his/her behalf who has filed a complaint under this Policy.
5. **Committee:** The Sexual Harassment Complaint and Redress Committee (SHCRC) established under this Policy to receive, hear and investigate sexual harassment related grievances.
6. **Chairperson:** Chairperson of the TIB's Board of Trustees.
7. **Consultant:** Individual(s), either Bangladeshi or foreign, appointed on specific terms & conditions as determined by TIB, on a special contract for rendering consultancy or some advisory or technical function.
8. **Convener:** Refers to Convener of the Sexual Harassment Complaint and Redress Committee.
9. **Deputy Executive Director (DED):** The Deputy Executive Director of TIB appointed by the Board of Trustees.
10. **Executive Director (ED):** The Executive Director of TIB appointed by the Board of Trustees.
11. **Executive Management Team (EMT):** Executive Management Team, the highest decision-making body of TIB after the BoT.
12. **Neutrality:** Absence of decided views, expressions, or strong feelings.
13. **Party:** Aggrieved or accused individual(s).
14. **Policy:** The present Policy on Sexual Harassment Complaint and Redress.
15. **Staff:** A person who is employed by TIB on a permanent or temporary basis (including short term, intern or in any other capacity).
16. **Stakeholder:** A person, group or organization that has interest or concern in TIB, i.e. volunteers, members, consultants, vendors, etc.
17. **TIB:** Transparency International Bangladesh, national chapter of Transparency International, registered as a Trust and under the NGO Affairs Bureau of the Government of Bangladesh.

18. **Vendor:** Anyone who provides goods and/or services to TIB.
19. **Volunteers:** The term volunteers relate to anyone working for TIB on an unpaid basis. They include Committees of Concerned Citizens (CCC), Youth Engagement and Support (YES), Active Citizens Groups (ACG), Youth Professional Against Corruption (YPAC), members and any other similar groups that may be created under TIB's civic and youth engagement programme.
20. **Work-related situation:** A scenario in the workplace or in connection with the work of the organization or in the course of any official work or travel or mission.
21. **Workplace:** The place of work or office premises of TIB in Dhaka and CCCs.

1. INTRODUCTION

Transparency International Bangladesh (TIB), accredited chapter of Berlin-based Transparency International, is committed to the principles of gender equality and to creating a gender-sensitive working environment. TIB strives to ensure that its entire staff, volunteers, and other relevant stakeholders with whom TIB engages professionally are treated with dignity and respect and that they are able to work in an environment that is free from discrimination, harassment and abuse of any kind.

Protection from sexual harassment, and the right to work with dignity are universally recognized human rights as envisaged in different international human rights treaties and international labor standards such as, the International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR); the Convention on the Elimination of All Forms of Discrimination against Women 1979 (CEDAW); and ILO's Discrimination (Employment and Occupation) Convention 1958 (Convention No. 111).

Bangladesh is Party to a number of international human rights instruments including the ICESCR and CEDAW, and to the Optional Protocol to CEDAW. Bangladesh has also been an active Member State of the International Labour Organization (ILO) since 22 June 1972 and has ratified 33 ILO Conventions including seven fundamental conventions, and ILO Convention No. 111. Bangladesh has adopted the National Women Development Policy 2011, affirming its commitment to abide by different international instruments in an effort to protect and promote the rights of women in Bangladesh, and eliminate discrimination against women and girl children.

The Constitution of Bangladesh, explicitly provides for equality before the law, prohibits discrimination against any person on the grounds only of, among others, sex, and guarantees that women should have equal rights with men in all spheres of the State and of public life, and clearly states that the State can make special provision in favor of women or children or for the advancement of any "backward" section of citizens (Articles 27 and 28). The Constitution further ensures the right to enjoy the protection of the law, and to be treated in accordance with the law, and only in accordance with law, to every citizen and guarantees that no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law (Articles 31 and 32).

National legislation has clear mechanisms to combat violence against women. In addition to provisions in the Penal Code 1860 and the Suppression of Repression against Women and Children Act, 2000 (as amended in 2003), there are guidelines on sexual harassment prescribed by the High Court Division of the Supreme Court. The Judicial Guidelines, which were given in *BNWLA v Bangladesh and others* in 2009 [14 BLC (HCD) 694] as modified in *BNWLA v Bangladesh and others* [BLD (HCD) 31], spell out ways to deal with sexual harassment at the workplace and in educational institutions.

TIB practices zero tolerance against violence against women in all its manifestations from both organizational and programmatic perspectives. TIB has robust provisions in its Gender Policy, Safeguarding Policy, Code of Ethics and the Human Resource

Manual that aim to ensure an enabling environment where all staff, volunteers and relevant stakeholders of the organization shall work and interact with each other with utmost respect, decency and sensitivity.

Although anyone could be subjected to sexual harassment irrespective of age, sex, marital status, education or profession, TIB recognizes that women are usually more vulnerable to such victimization. Discrimination and harassment, including sexual harassment, are often accompanied by abuse of authority or misuse of power. Victims of sexual harassment are deterred from complaining when a person in a position of authority indulges in such acts for fear of backlash. This makes the situation more complex.

TIB will take necessary steps to put in place preventive and remedial measures to address workplace harassment. As part of this broader objective, TIB has formulated this Policy to enable staff, volunteers and relevant stakeholders to file complaints and seek redress in the event of any unfortunate incidence of this nature in a work-related situation.

2. SCOPE OF THE POLICY

This policy is called *“TIB Policy on Sexual Harassment Complaint and Redress”*. Any staff, volunteer or relevant stakeholder of TIB can invoke this Policy against another (or more than one) staff, volunteer (s) and/or relevant stakeholder(s) in the event the latter commits an act of sexual harassment in or outside the office premises during or in the course of employment/involvement with TIB.

The complainant and the accused can be of any gender. TIB encourages a spirit of openness in the workplace so that staff, volunteers and relevant stakeholders feel confident in challenging unacceptable conduct and lodge complaints in the due process.

This Policy is not intended to impair or limit the right of any staff, volunteer or relevant stakeholder seeking a remedy available under the law of the land. Proceedings under this Policy shall continue notwithstanding any proceedings initiated by a complainant against an alleged perpetrator under any law in force at the time.

3. SEXUAL HARASSMENT DEFINED

This Policy draws on the definition provided in the High Court Division Guidelines to signify Sexual Harassment. However, it is important to note that the acts described in the checklist below are not exhaustive. TIB’s Sexual Harassment Complaints and Redress Committee shall have the authority to accept, investigate and analyse any complaint based on any act beyond this checklist in order to arrive at an informed decision.

For the purposes of this Policy, sexual harassment means and includes

- a. Unwelcome sexually determined behavior (whether direct or by implication) as physical contact and/or advances;
- b. Attempts or efforts to establish physical relations having sexual implications;
- c. Sexually colored verbal representations;
- d. Demand or request for sexual favors;
- e. Showing pornography;
- f. Sexually colored remarks and gestures;
- g. Indecent gesture use of abusive language, joking having sexual implications.
- h. Insult/harassment through any medium, including social media, letters, telephone/cellphone calls, SMS, notices, cartoons, writing of any kind having a sexual implication on any fixtures and furniture of any office, conference room, meeting room, classroom, washroom or any other facility in office premises;
- i. Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity;
- j. Preventing participation in sports, cultural, recreational, organizational, professional and academic activities on the ground of sex and/or for the purpose of sexual harassment;
- k. Making any inappropriate/unwelcome love proposal and exerting pressure or posing threats in case of refusal of the said proposal;
- l. Attempt to establish sexual relations by intimidation, deception or any false assurance;
- m. Stalking;
- n. Any other act or behavior that TIB's Sexual Harassment Complaint and Redress Committee may consider to be tantamount to sexual harassment.

4. SEXUAL HARASSMENT COMPLAINT AND REDRESS COMMITTEE

Pursuant to the judicial directives of the High Court Division and in order to strengthen the gender dimension of its institutional framework, TIB has constituted a "Complaint Committee to Safeguard against Sexual Abuse and Harassment of Women", in short, **Sexual Harassment Complaint and Redress Committee** (hereinafter referred to as "Committee"). The purpose of the Committee is to hear and settle complaints of sexual harassment and protect them from all forms of sexual misconduct.

4.1 Composition

The Committee shall consist of five (5) members of whom three (3) shall be external experts from related fields and two (2) shall be from within the organization. All external experts shall be women. The internal members shall comprise of TIB's Director, Finance & Administration Division and Director, Civic Engagement Division by virtue of their positions. The Head of Human Resource and Organizational Development (HR&OD) Unit shall be the Member Secretary without any voting rights.

The Executive Management Team (EMT) of TIB shall determine the composition of both external and internal members of the Committee. The EMT shall also review the same to ensure full independence and objectivity in its functions free from conflict of interest.

In the event of an allegation against any of the above-mentioned members, the EMT will nominate another person to replace him/her to deal with this matter.

A Convener shall be selected from among the external members in consultation with them and based upon consensus reached in this regard at the first formal meeting.

The composition of the Committee will therefore be as follows:

- i) Convener (external, female)
- ii) Member (external, female)
- iii) Member (external, female)
- iv) Member (internal, Director-Finance and Administration)
- v) Member (internal, Director-Civic Engagement)
- vi) Member Secretary (internal, Coordinator-HR&OD, without voting right)

The Committee may, in consultation with EMT, co-opt any other staff from TIB if necessary and as appropriate.

4.2 Powers and Functions

- i. The Committee shall receive sexual harassment complaints, conduct investigations thereon and recommend actions as appropriate in accord with the relevant provisions of TIB's Gender Policy, Safeguarding Policy, Code of Ethics, Human Resource Manual and the High Court Directives in the form of Guidelines mentioned above.
- ii. In receiving complaints and acting thereon, the Committee shall follow prescribed procedures developed for this purpose. The Committee shall have the liberty to call for any document or witness in due process for the ends of justice.
- iii. The Committee will ensure neutral, fair and objective investigations, in consideration of the arguments brought forward by both Parties with the intent of arriving at an informed decision and recommending appropriate measures.
- iv. The Committee will be directly reportable to the Executive Director of TIB. In the event the allegation implicates or lies against the Executive Director, the Committee will report to TIB's Board of Trustees.
- v. The Committee will document its findings based on which it will form its decision. Based on the views of the majority of the members, the Committee will finalize the report and submit it to the Executive Director/Deputy Executive Director.

- vi. Confidentiality, impartiality and independence are the cardinal principles, which will guide the work of the Committee. Facts and information concerning any incident and identities of the Parties shall not be disclosed by the Committee or by TIB's Management without the complainant's permission unless required under any law for the time being in force or under the order of any Court or if the parties waive their right to confidentiality. The Committee shall do everything in its power to ensure due process and neutrality while investigating a complaint, for which it will function independently of TIB's organizational structure, if necessary.
- vii. All complaints of sexual abuse and/or harassment in all work places under the jurisdiction of TIB, namely its head office in Dhaka and its CCC-based offices, in all events and/or activities organized as part of TIB's organizational and programmatic jurisdiction shall be within the remit of the Committee. Any harassment committed by a TIB staff, volunteer or relevant stakeholder in any situation other than that mentioned above shall also qualify to be investigated by the Committee.
- viii. The Committee shall meet as and when necessary in response to complaints received and/or as convened by the EMT or Chairperson of TIB's Board of Trustees (where applicable). In addition, the Committee will convene every four months for review meetings.

On behalf of the Convener of the Committee, TIB's Head of HR & OD, who shall also serve as member Secretary to the Committee, shall convene all Committee meetings. S/he will also draft minutes of the Committee meetings to be approved and signed by the Convener of the Committee.

4.3 Tenure of the Committee

The tenure of the Committee members shall be for a period of three (3) years from the date of its constitution after which the Committee shall be reconstituted. External members can be re-elected for a maximum of two (2) consecutive terms. External members shall be eligible for another three (3) year term after a gap of at least one (1) year from the date of conclusion of their earlier term.

Membership of the Committee may be discontinued before the end of the prescribed term upon resignation by member/s or by a decision taken by the EMT or TIB's Board of Trustees.

4.4 Quorum

At least three (3) members, of which at least two (2) must be external, shall constitute a quorum for a meeting of the Committee at any given time.

5. COMPLAINT MECHANISM

All complaints shall be filed directly to the Convener of the Committee in writing (email, letter) or orally (in person or over the phone) for necessary action. A complaint may be made by the aggrieved person or by his/her friend, colleague or member of the family on behalf of him/her.

No anonymous complaints shall be accepted.

The complainant must file the complaint within thirty (30) working days from the date of the alleged incident.

On receiving a complaint, the Committee shall follow the investigation procedures as prescribed in Section 5.2 below.

If the complainant or the accused is not satisfied with the decision/action taken by the Committee, s/he may appeal to TIB's Ombudsperson within fourteen (14) calendar days from the date when the decision was made known.

5.1. Contents of the Complaint

- Factual description of the incident(s) with date(s), time(s) and location(s) as accurately as possible;
- The name(s) of the accused;
- The name(s) of witnesses, if any, and any physical and/or documentary proof, which corroborate the allegation (e.g. e-mails, texts or voice messages, photos, letters, etc.).

5.2. Investigation Procedures

5.2.1 On receipt of the complaint, the Committee shall hear both parties and witnesses, gather evidence and examine their veracity. In addition to oral and documentary evidence, and evidence adduced by witnesses, if any, the Committee will also consider other circumstantial evidence in accordance with the applicable law.

5.2.2 The Committee will be discreet in its approach while recording the testimony of the complainant in order to put her/him at ease. The Committee will refrain from indulging in a line of questioning that might be construed as insensitive, embarrassing, harassing or offensive.

5.2.3 The Committee will record the complainant's testimony, a transcript of which shall be signed by the complainant with a copy to be provided to her/him.

5.2.4 The Committee shall complete the investigation and prepare its report within thirty (30) working days of receiving the complaint. If considered necessary, the Committee may extend the investigation period up to sixty (60) working days. The report will comprise of a) findings, b) assessment and analysis of findings, and c) recommended course of action.

5.2.5 The Committee will take decisions based on the views expressed by the majority of its members. The Committee shall prepare the report and recommendations and submit it to the Executive Director, except where the complaint concerns the Executive Director, in which case it shall submit the report directly to the Chairperson, BoT.

5.2.6 Based on recommendations by the Committee, the Executive Director will communicate the outcome and decision to the complainant(s) and the accused through Head, HR&OD Unit. Where the complaint is against the ED, the BoT will directly communicate the outcome and decision to the complainant and the accused.

5.2.7 The HR&OD Unit will inform the accused of any disciplinary action and/or, remedies within a week after receipt of the Committee's recommendation as communicated to it by the Executive Director (or by the BoT where applicable). The Head of HR&OD Unit will also inform the complainant regarding the disciplinary actions taken against the accused.

5.2.8 A complaint lodged by any aggrieved person against any TIB staff, volunteer or relevant stakeholder with reference to an incident that had occurred in the latter's earlier workplace, shall be investigated by the Committee provided that the complainant provides the Committee with sufficient evidence of his/her guilt proven in the alleged matter in the due process.

5.2.9 Interim Measures: TIB will provide medical support, counseling, and/or facilitate referral to legal aid if the complainant so requires in order to recover from the consequences of harassment, especially in case of serious offences. Depending on the seriousness of the alleged act, steps will be taken to keep the complainant away from the company and proximity of the accused in the workplace or suspend the accused until the investigation is complete.

5.2.10 False Complaints: If the complainant is proved to have filed a false complaint with malicious intent, the Committee will recommend appropriate disciplinary action against her/him. Disciplinary action shall also be initiated against those who have given false testimony in support of the complaint.

Failure on the part of the complainant to prove sexual harassment shall not amount to a false complaint, unless her/his mala fide intentions are proved beyond reasonable doubt.

5.2.11 Withdrawal of Complaint: If the complainant wishes to withdraw the complaint or stop the investigation at any stage, s/he must furnish the Committee with a written request along with grounds for such decision. If the Committee is not convinced of the grounds cited, it will consult with the complainant to ensure that s/he has taken the decision to withdraw the complaint of her/his own free will.

In any case, once an investigation has commenced, it shall continue notwithstanding that the complainant wishes to withdraw the complaint so long there is sufficient evidence in support of the complaint.

5.2.12 Co-opting Experts and Outsourcing of investigation by Committee: In appropriate cases, the Committee shall have the discretion to—

- a) Co-opt any other individual with desired or relevant knowledge and expertise to assist in the investigation;

- b) Outsource the investigation to an independent Third Party.

6. DISCIPLINARY MEASURES

6.1 If the Committee finds a staff, volunteer or relevant stakeholder guilty of sexual harassment, s/he will face the following disciplinary actions depending on the degree and gravity of the offence and duly categorized as major and minor:

- Letter of warning (minor)
- Deduction of salary (minor)
- Termination (major)
- Dismissal (major)

6.2 In case of consultants and vendors, their contract will be rescinded if proven guilty. Depending on the gravity of the offence, they will also be blacklisted.

7. DOCUMENTATION AND TRAINING

7.1 HR&OD Unit will preserve the complaint and the results of the investigation in the personnel files of both the complainant and the accused.

7.2 HR&OD Unit will ensure that any individual who has been separated from TIB on charges of sexual harassment shall never re-employed or re-hired/re-contracted ever again.

7.3 HR&OD Unit will maintain a database of the number of sexual harassment complaints filed each year, the decisions reached and executed.

7.4 HR&OD Unit will ensure that a copy of this Policy is made available at all TIB offices including online version on TIB's website.

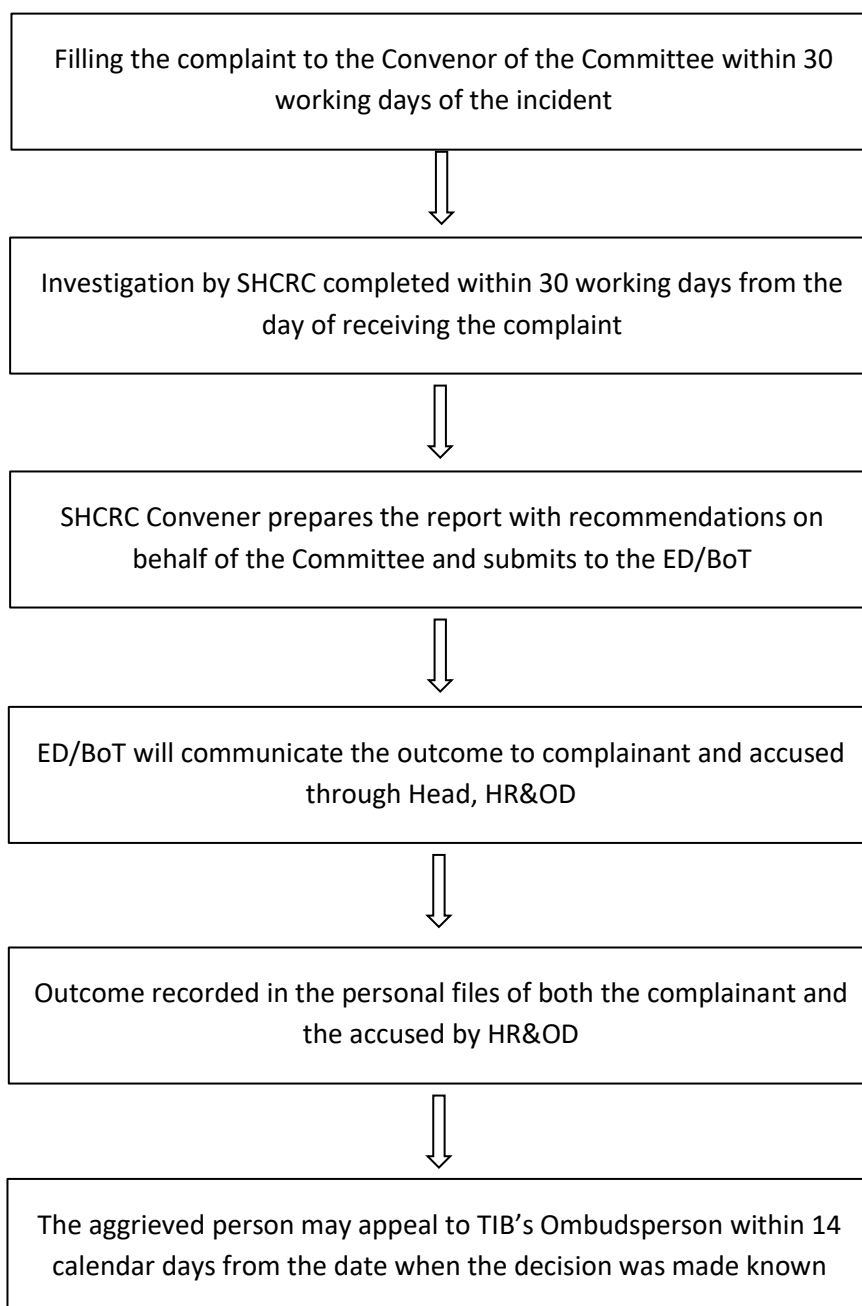
7.5 HR&OD (Training) team of TIB shall provide orientation to all staff and volunteers to introduce and explain the policy. All new recruits shall receive a similar orientation. Refresher sessions shall be undertaken periodically.

8. POLICY REVIEW

Unless warranted more frequently for specific reason, this Policy will be reviewed at least once in every three (3) years to accommodate emerging challenges.

ANNEXURE ' A '

Procedural Flowchart for Complaint and Redress of Sexual Harassment



ANNEXUR ' B'

Some Examples of Sexual Harassment at the Workplace

A. Visual and Written Conduct:

- Leering
- Making sexual gestures
- Displaying sexually suggestive or explicit objects, letters, notes, greeting cards, pictures, videos, cartoons, graffiti or posters in any manner, including but not limited to those transmitted via e-mail

B. Verbal Conduct:

- Whistling and catcalls
- Foul or obscene language
- Making or using derogatory comments which are sexual in nature
- Explicit discussions about sexual activities/behaviors
- Comments about a woman's physical attributes
- Spreading rumors about another person's sexual activities/conduct and/or partners
- Jokes which contain offensive, obscene or lascivious content
- Sexual advances/Sexual propositions

C. Physical Conduct:

- Unwelcome touching
- Sexual Assault
- Kissing /Hugging /Grabbing
- Coercing another person to participate in sexual intercourse or other sexual behaviors
- Impeding or blocking movements
- Any physical interference with normal work or movement
- Sexual gesture