

**NPTEL**  
**NPTEL ONLINE CERTIFICATION COURSE**

**Course**  
**On**

**Gender Justice and Workplace Security**

**by**

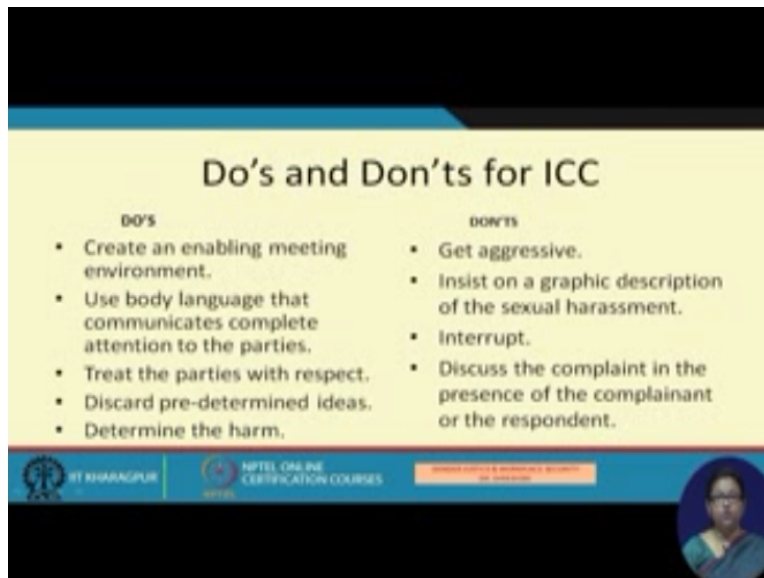
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**Lecture 13: Women at Workplace (Contd.)**

Hello everybody in the last lecture on the issue of sexual harassment at workplace we were discussing the role and responsibility of the internal complaints committee in handling the issue of sexual harassment at workplace. In that regard we understand that there is a very important and significant role on the part of the internal complaints committee. And they must discharge their role in tune with the law and the spirit of the law to see that the best possible remedy is given to the women and the rights of the both the parties are not affected in the process.

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To continue with the expected responsibilities of ICC and those which should not be done by them, we have the do's and the don'ts. In the previous lecture we try to see that what are expected of them in which it is very important for them to create an environment to communicate in a manner which reposes confidence and faith in the parties to treat the parties with respect, to see that no prejudices believe values etc, come in the way of the decision making process.

And very importantly to determine the harm which has been coursed to the victim. Behavior which they should avoid in the process of acting as a enquiry body is not to get aggressive, it is very, very important that they should not be carried over and get aggressive with any of the parties whether the victim or the respondent. It is equally important that they must have at most empathy and consideration for the condition of the victim.

And therefore, to ask the victim repeatedly with regard to the act of sexual harassment and insist on depicting it with all the details in terms of graphical details of the sexual harassment should be discouraged and it should be something which should not be allowed. Because if there is a repeated reminder in this regard many times it creates a further trauma for the victim, complaint of sexual harassment should not be a situation of secondary victimization for the women in question.

So she should be faced with a pleasant atmosphere, a pleasant an enabling environment where she can express herself with confidence and explain the necessary details. But to insist on the graphic description of the sexual harassment is something which should be avoided. Repeated

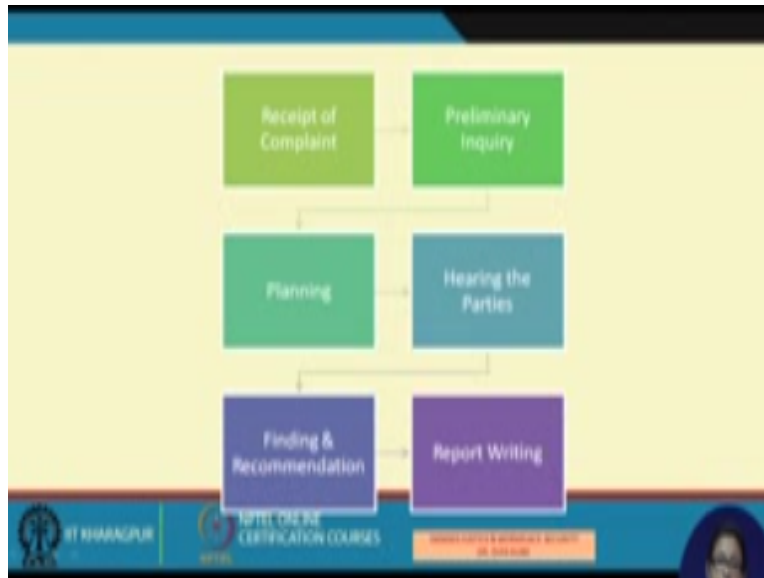
interruptions of the statements when the parties are making statements repeated interruptions in such statements should also be avoided. In the first place when they are giving statements their statements should be taken as they intend to depose before the committee.

So if it is the victim speaking about her complaint or if it is the respondent refuting the allegations which has been leveled against him in both the situations the committee must show patience and must give adequate time to the parties to narrate the entire incident or incidences which constitute the complaints or which are important to explain for the purpose of refuting the complaint and there must be as less interruptions as possible in the process.

Discuss the complaint in the presence of the complainant or the respondent, any sort of discussions which are to be carried out with regard to the truth or falsity the correctness or otherwise of the complaint over the or the statements made by the parties any statements made with regard to that it should it is be avoided in the presences of both the parties, so therefore it is very important that they must exhibit some amount of independence.

Some amount of impracticality create confidence create a secure environment for the parties where and not exhibit any sort of buyers any sort of prejudices in favor of or against any of the parties in question, so that is something which is very important on the part of the internal complaints committee.

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Now how does the entire procedure move now it starts with the receipt of a complaint as we have already stated that there has to be a written complaint which is filed there is a provision under the law as to 6 copies being given along with the names of witnesses etc by the complainant who wants to initiate the complaint this in reducing it to writing in situations where the complainant finds it difficult to put it down in writing it is the responsibility of the internal complaints committee.

To give the necessary assistance in that regard but definitely not to dictate and not to create a situation where it puts its own word into the returned complaint so it should be the narration of the complainant but whatever assistance may be written required in the purpose that should be afforded now once there has been the receipt of a complaint in the next phase is what we call or what is preferred in many situations is a preliminary enquiry with regard to the complaint.

Now generally the term preliminary enquiry is something which is found in the inquiries or in actions taken by police but this is to be understood in the context in which it is being discussed because first is in the complaint it is to be understood that what is this sexual harassment which is being spoken now does it in fact amount to an act of sexual harassment because many times it may be a general behavior.

A rude behavior and aggressive talking of a male employee which may be misinterpreted by the other party not intensely but mistakenly as being a case of sexual harassment so when such a complaint comes before the committee it is for the committee to understand that whether a case

prime of place of sexual harassment is made out and therefore whether the complaint comes within the purview of the 2013 Act and therefore within their jurisdiction and therefore it is equally important that there should be a clarity in the complaint.

Clarity with regard to the behavior and it must indicate that the behavior was offensive, was abusive, the behavior happened at the work place or it was related to work, so all of it is very important now to determine also the issue it may be important to informally talk with the complainant as well as the other witness so therefore in this preliminary enquiry it is very important that there must be the initial determination of the issue as to whether to proceed with it or not to proceed with it.

The next comes situations where it may be necessary to explore options for formal or informal resolution as we have said before there are the provisions of conciliation between the parties so if the complainant chooses informal redress of the problem then conciliation may be allowed between the parties and there may be education, counseling, warning etc.

Which may be given in such case however it is very important that such demand for informal redress must come from the victim or the complainant herself in no situation whatsoever the internal complaints committee should be seen as advising or pressurizing or cursing the complainant to resolve the matter directly with the respondent that is not all permissible under the Act but if it is only willingly allowed then only it should be pursued and thereafter the matter should be resolved between the parties.

If it does not happen then where we come probably to the planning what I have called as a planning stage then to decide as to what next to be done an informal redress has not been adhered to so there has to be a formal redress of the allegation and at this point of time the committee would decide as to how they want to proceed, now how they want to proceed the larger procedure is generally already laid down.

But they can determine the other issues which are there in the entire process, now so therefore within 7 days of receiving the complaint thereafter the complaints committee has to inform the respondent in writing that a complaint has been received, so there has to be an opportunity given to the respondent to respond to the allegations which have been brought against him and therefore there has to be an information which is passed on in writing.

In many situations it may take the color of a charge sheet in case the complaints committee itself is taken as the disciplinary committee where a charge sheet may be issued at that point of time or may be later at a later point of time, now once the respondent receives the complaint and he is requested to give his response with regard to that 10 days thereafter, so that is the issue of adequate notice being given to the respondent.

Within 10 days thereafter he has to give a written statement explaining his behavior and his part of the entire thing as to why it would not make out a case of sexual harassment or what he intends to say, so it is very important there must be appropriate timely communication made between the part with the parties in the process and each such thing must be well documented a file must be kept for that purpose and the internal complaints committee should accordingly proceed.

Now as we have spoken in terms of the victim that there are internally measures so also once the complaint starts or there an enquiry starts then the complainant can make a request that has to be in writing to the internal complaints committee of the type of interim measures that request which may be a leave which is upto 3 months period of time or a transfer or the transfer of the respondent.

So therefore it would be the responsibility of the complaints committee to ensure that such internally measures are given to her and even if there is no such written request in a particular case if the complaints committee feels that there are certain threats there are there is a situation of quotient or duress or intimidation etc so the complaints committee itself must take necessary corrective measures.

And that is important in order to prevent further sexual harassment from happening VISA-V the victim, now next is the stage of hearing the parties now that again assumes where great significance because hearing the parties is the very important step in order to find out what we say so far as possible the truth of the allegations, this is not to indicate that an allegation once made is false for that matter.

But the internal complaints committee has to independently verify and understand and be satisfied for itself that the allegations which have been brought by the complainant against the respondent is true and that can be understood from this statements of the parties from the questions which are put to them. So that is what is essentially meant by hearing the parties in a

case of sexual harassment. Now both the parties must be heard they must be heard patiently and all their and all that they want to say with regard to the complaint must be taken down. Now this is a very, very important part.

And very significant aspect of the rule of all altering partum which says here the parties, so it cannot be a situation that the victim is heard and there after the accused is not heard or the accused being in an influential position is given a better opportunity to explain his part of the story whereas the allegation of the victim is ignored, it cannot be such a situation but both the parties irrespective of their position irrespective of their seniority extra must be hard and hard with regard to all the details that they want to put on record.

Additionally it is the responsibility of the committee to put questions on important facts which are necessary to be determine for the purpose of the complaint. In general procedural law illegal procedural law or more particularly criminal procedural law this takes the color of examination cross examination of the parties. Now cross examination except in certain situations is also taken as one of the basic principles of natural justice.

Avoiding the term cross examination here we would, we can say that the internal complaints committee must see they must put appropriate questions to each of the parties. Now in the process of the answers being given if there are major inconsistencies major flows which are noticed in the process it is the responsibility of the internal committee to take record of that to ask the party with regard to such inconsistencies and ask for necessary explanations in this regard.

Now questioning should be done with each person separately and in confidence and generally what has been maintained and even the hand book which further illustrates the law on the point makes it very clear that it should not be both the parties, should never be brought face to face with each other. Now in some situations generally when it comes to examination cross examination it is the party who cross examines the other.

But in cases of sexual harassment many times the parties are at different levels both parties may not be equally influential, powerful or in a senior position extra many times the victims suffers for the drama when is made to face the harasser and therefore it is very, very important that

questions are put individually and separately to each of the parties and preferably they should never be brought face to face with each other.

Because that may be for the dramatic for the victim who has to again face the harasser and sometimes the harasser may become more aggressive or more demeaning in terms of his behavior with the victim. Now with all the with that hearing of the parties and the putting of questions to the parties, now the complaints committee can come at a finding of whether the complaint is appealed not appeal or inconclusive.

So then that brings out ask to the next step of finding and recommendations, now in the entire, in this thing finding and recommendations it is very important that from the beginning with the starting with the complaint there must be a file which is maintained there must be a confidential file of the compliant which is there all dates, events extra the names of witnesses, the documents extra should be put in there.

There should be any documents given by the other party should also be filed there the statements of the parties their responses to individual questions all should be put together and then when all of it is put together it should be thoroughless thoroughly studied and analyzed. Now once it is the entire thing is seen based on the statement of the complaint and hard supporting witnesses the documents which he has submitted these statements of the responded is supporting witnesses the document that he has submitted, when all is seen then the complaint committee can come to a proper finding.

Now based on that proper finding it may be a situation where an allegation is made out odd and allegation is not established or a situation which may be also inconclusive. Now based on whatever the situation is this is followed by report writing, now based on the nature of the complaint if the complaint which has been legged and finally established is very serious then there can be major penalties which are imposed on the person.

If we complaint he is relates to a matter which is definitely not permissible under the law but not something which is grave and which is injures to the party but is of a minor nature then there can be minor penalties which can be followed in the process. So there can be a range of recommendations which can be given for starting from major one's to minor ones. Now it is up

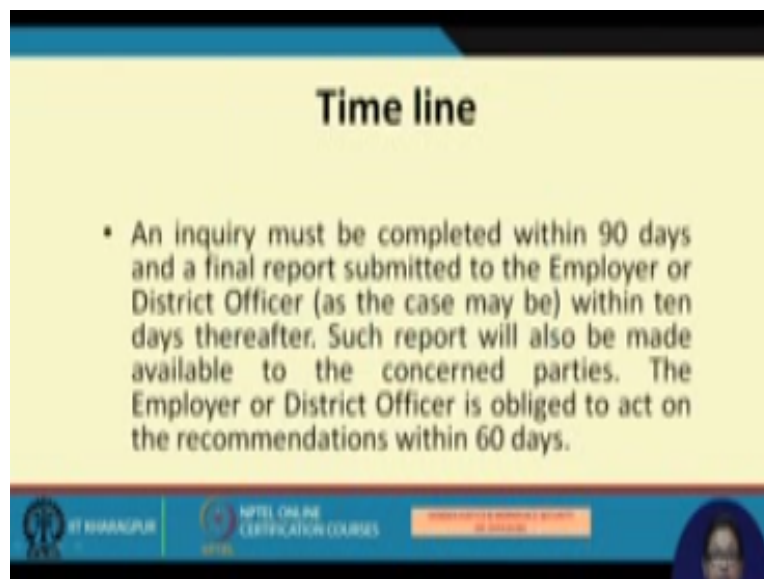


to the internal complaints committee to decide as to what sort of recommendations it instants to give for the type of allegations which have been hell to be established.

So it may be disciplinary action including a return apology or reprimand or warning or a sensor which are more minor in nature with holding promotions, pay raise, increment one which is measure his termination for employment or compulsory retirement etc, and along with that as we have previously said there can be also compensation given to the party and finally they has to be report which has to be return and submitted to the employer and the employer has to see that it acts on that report.

Now the report must be very clear it must clearly lay down the aspect of the complain the process which has been followed the necessary statements documents which have been filed the analyze of the information we finding switch the ICC has come to and lastly the recommendations.

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**Time line**

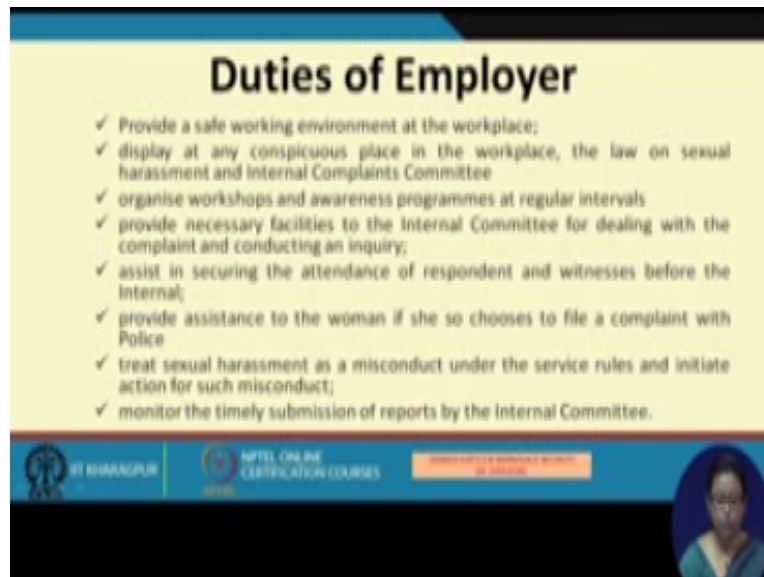
- An inquiry must be completed within 90 days and a final report submitted to the Employer or District Officer (as the case may be) within ten days thereafter. Such report will also be made available to the concerned parties. The Employer or District Officer is obliged to act on the recommendations within 60 days.

Now there is a fixed time line in this entire regard and enquiry must be completed within 90 days and a final report submitted to the employer or district officer, district officer where it relates to is the LCC of the local complaints committee within ten days thereafter. So it is our time bound enquiry which has to be conducted within three months or 90 days since the time the complaint has been large within 90 days the entire complaint has to be enquired in two and a report submitted to the employer.

Now there is an obligation on the employer or the district officer in terms of acting on the complaint because many times previously it has been seen that in spite of the appropriate authority acting on it the employer has not really taken appropriate action on the recommendations and the matter as continued and the victim has gone on to leave the job and join some other job or be at home.

So therefore the act here specifies that within 60 days the employer is required to act on the recommendation, so that is the time line which has been lay it down.

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And lastly whether the act imposes any duties on the employer to that regard the answer is yes there are a whole lot of responsibilities on the employer and the employer must ensure that he takes necessary steps in that regard. So it must provide a safe working environment at the work place it must display at con speakers place in the work place the low on the sexual harassment and internal compliance committee organized workshops and aware of this programs at regular levels provide necessary facilities to the internal compliance committee for dealing with the complaint and conducting an enquiry assist in securing attendants of the respondents and witnesses provide assistance to the women or the victim if she is to chosen the file or complaints with police.

It treat sexual harassment as a misconduct under the service rules and initiate actions for such misconduct monitor the timely submission of report by the internal compliance committee so that are theses responsibilities on the employer first what is very important that is the responsibility of the employer over all to see that if we are women or employee in an organization there is a safe secure and friendly environment which is provided for all the women.

And all necessary facilities must be there in the organization to assist the women and to ensure that she is comfortable at a work place the next important thing is constituting these committees in organization and conducting awareness programs to ensure that everybody has necessary knowledge with regard to that. So therefore it is an imperative duty of an employer to take appropriate steps in that regard so whether putting up the information on their respective websites or which making posters and displaying different places within the organization and whatever other step may be necessary is the responsibility of the employer and along with that some time to conduct workshops.

The other important thing is facilitating the internal compliances committee creating a committee and there after putting hurdles before it doesn't purpose of the law so therefore they have to create a committee keep all necessary infrastructure and other facilities which are necessary for this smooth functioning of the committee.

And other important thing is this sexual harassment act seeks to address the problem at the level of organization if a women chooses also to file a police complaints or to proceed determinable action if it is gain the responsibility of the employer to help the women in that regard and also to see that it takes appropriate actions based on the report from internal compliance committee so that this act is not difficult.

But this spirit of the act the letter of the law is appeal and all issues of sexual harassment at treated in a manner which is expected of it. If there is a failure only part of employer to discharge his responsibility there are also penalty which is laid down in the act so that is the control of the sexual harassment act a very powerful law which has come in order to protect the rights and course of week.