



GUIDELINES FOR PREVENTION, PROHIBITION AND REDRESSAL OF SEXUAL AND GENDER BASED VIOLENCE FOR TIBETANS-IN-EXILE

2020

**Women's Empowerment Desk
Social and Resource Development Fund
Department of Finance, CTA**

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FOREWORD

Sexual and Gender Based Violence (SGBV) is one of the greatest challenges that communities face today. This challenge violates the human rights and dignity of individuals and hinders human development. SGBV is deeply rooted in the attitudes that condone violence in the community especially against women and children who are at risk in these situations.

Today, across the globe, Governments and international communities are more united than ever in their commitment to end gender-based violence. There is a need for a collective effort to put an end to this violence and respond compassionately and more effectively to those affected by it. We must come together and act to put into place systems to prevent violence from occurring, but when it does occur, to respond to the needs of the survivors/victims.

The Central Tibetan Administration is committed towards the elimination of the SGBV in all spaces of the exile Tibetan community and has adopted a 'ZERO tolerance' policy for any types of SGBV in the community. As a step towards the fulfillment of this commitment, we have published these Guidelines for the Prevention of Sexual and Gender Based Violence in the Tibetan Community as a tool to provide practical assistance on the establishment of a coordinated approach for the prevention and mitigation of SGBV. The Guideline also details the essential steps and interventions required to respond to the needs of the survivors/victims of this violence. We would like to call upon all those who are involved in the development of our community to use these Guidelines and work together to prevent and respond to sexual and gender-based violence.

As per the Kashag Secretariat's letter no. KA/617 (5) 2020/21 dated on 23rd July 2020 I, hereby request each and every one to abide by the contents of this document.

Let us all work together to ensure a community that is free of all forms of Sexual and Gender Based Violence. It will take a coordinated and collaborative effort to ensure the protection and development of those who are at risk in our community as well as for our common goal of a future that is safe and secure for all.

Karma Yeshi

Minister, Department of Finance (CTA)

LIST OF ACRONYMS

CTA	Central Tibetan Administration
UN	United Nations
UNHCR	United Nations High Commission for Refugees
UDHR	Universal Declaration of Human Rights
CEDAW	Convention on Elimination of Discrimination Against Women
WED	Women's Empowerment Desk
WEP	Women Empowerment Policy
TWA	Tibetan Women Association
TCCR	Tibetan Centre for Conflict Resolution
TCHRD	Tibetan Centre for Human Rights and Democracy
STSSS	Sambhota Tibetan School Society
SGBV	Sexual and Gender Based Violence
GBV	Gender Based Violence
PSEA	Prevention of Sexual Exploitation and Abuse
POCSO	Protection of Children from Sexual Offences
IPC	Indian Penal Code
FIR	First Information Report
SOP	Standard Operation Protocol
NGO	Non-Governmental Organization
LGBTQIA	Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual or Allied
IC	Internal Committee
LC	Local Committee
IEC	Information, Education and Communication
WASH	Water, Sanitation and Hygiene
CWC	Child Welfare Committee
CICL	Children in Conflict with Law

I. INTRODUCTION

The Central Tibetan Administration (CTA) is committed to creating a Tibetan community free of sexual abuse and exploitation, along with ensuring justice at the centre of its relief and development work. The Charter of the Tibetans-In-exile is the supreme law governing the functions of the CTA. It was promulgated and adopted by the Eleventh Assembly of Tibetan People's Deputies on June 14, 1991. It recognises that Sexual and Gender Based Violence results in the violation of the fundamental right of all Tibetans, under Articles 9 and 12, to equality without discrimination on grounds of birth, sex, race, religion, language, lay or ordained status, social origin and economic status.

The CTA conscientiously addresses all cases and concerns of sexual exploitation, abuse and complaints that are brought to its attention. The Women's Empowerment Desk (WED) under the Department of Finance, CTA believes in ensuring human dignity and justice to all individuals, asserting the importance of recognizing and addressing sexual and gender based violence in the community. The CTA is dedicated towards supporting the vision of a gender-just and gender-inclusive society for all Tibetans in exile. To further this commitment, the CTA in partnership with various non-governmental partners, experts and communities, has been working towards building a pro-active and accessible mechanism for the prevention and redressal of sexual and gender based violence (SGBV) among the Tibetan community in India.

The CTA is also committed to the implementation of the six core principles adopted in 2002 by the Inter-Agency Standing Committee on Prevention and Response to Sexual Exploitation and Abuse (PSEA) of the United Nation, which is applicable for addressing complaints of sexual exploitation and abuse involving CTA Employees and the general public as well. The WED released the first ever guidelines for Tibetan community to create a 'Sexual Assault Free Tibetan Society' on 12th August 2014 in Dharamshala.

Taking forward this initiative, the CTA is introducing these Guideline, with a view of establishing and strengthening this mechanism. These Guideline outlines strategies to bring tangible results in preventing and responding to SGBV among the exile Tibetan community in India.

The Guidelines will be reviewed as and when required to ensure consistency and effectiveness.

DEFINING SEXUAL AND GENDER BASED VIOLENCE

Gender Based Violence (GBV) is defined as a violence that is directed at an individual based on their biological sex and gender identity. According to the United Nations High Commissioner for Refugees (UNHCR), "*Sexual and Gender Based Violence (SGBV) refers to any act that is perpetrated against a person's will and is based on gender norms and unequal power relationships. It encompasses threats of violence and coercion. It can be physical, emotional, psychological, or sexual in nature, and can take the form of a denial of resources or access to services. It inflicts harm on women, girls, men and boys*".

It is important to remember at the outset that:

- All forms of SGBV stem from unequal gender power relationships in a society and they seek to maintain these unequal relationships intact. Therefore, intervention related to SGBV should be able to address structural gender-based inequalities to ensure long-term impacts.
- SGBV is not just physical, but also emotional and psychological; therefore, its impact is not just upon an individual's physical well-being, but also their emotional and psychological well-being.
- People can also experience SGBV based on socially defined norms of masculinity and femininity.
- SGBV not only affects women and girls, but also men, boys, and people who do not fall in gender binary category; gender power relationships also render powerless men and boys, who do not identify with the gender norms or are located outside of them; especially at risk are young children (both boys and girls) and people who do not identify as straight or heterosexual, but rather belong to the Lesbians Gays Bisexual Transgender Queer Intersex Asexual (LGBTQIA) gender spectrum.

People most at risk of sexual violence:

- Single women
- Female heads of households
- Unaccompanied children (includes separated children unaccompanied by relatives who are not legal or previous customary primary care-givers)
- Children in foster care
- People in detention or detention-like situations
- Old women
- Differently abled people
- LGBTQIA+

It is also critical to remember that in a patriarchal society, SGBV can take place anywhere, including in our homes, communities, public places, workplaces and digital spaces. SGBV includes, but is not limited to:

- **Intimate partner violence** (which can be physical, sexual, emotional and economic in nature)
- **Domestic Violence** (which can be physical, sexual, emotional and economic in nature)
- **Sexual Violence** (which can be physical, verbal, non-verbal and visual in nature)
- **Sexual Harassment at Workplace** (which can be physical, verbal, non-verbal and visual in nature)
- **Child Sexual Abuse** (which can be physical, verbal, non-verbal and visual in nature)
- **Child/ Forced/ Early marriages** (which can affect both boys and girls)
- **Forced commercial sex work** (which can affect both boys and girls)
- **Human Trafficking for the purpose of commercial sex work** (which can affect both boys and girls)
- **Acid Violence** (against both men and women)
- **Violence against people of LGBTQIA+** (who do not fall in binary gender description)
- **Everyday gender discrimination, due to which people have differential access to resources and opportunities.**

Based on these definitions of SGBV, the Guidelines outlined in this document applies to all Tibetans in India (including men, women, boys, girls and LGBTQIA), who are at risk to SGBV in their homes, communities, schools, colleges, public places and workplaces and are committed towards providing these individuals with support and protection¹.

¹ Further definitions of various forms of SGBV are annexed.

KEY PRINCIPLES

- Intervene with a **victim/survivor-centred approach** (advocated both by the Indian Constitution and UNHCR):
 - ⇒ Treat every victim/survivor with respect
 - ⇒ The safety of victims/survivors and their families is paramount
 - ⇒ Respect the choices, wishes, rights and confidentiality of victims/survivors and their families. The identity of a survivor should never be revealed without his or her or their prior consent
 - ⇒ Provide services and support without discrimination on any grounds
 - ⇒ All victims/survivors should be provided with support to overcome the cultural and social barriers that discourage them from reporting sexual violence
 - ⇒ All victims/survivors should be provided with holistic support, which include (but not limited to):
 - ◆ **Legal support**
 - ◆ **Medical support** (which should not be limited to medical examination conducted after the reporting of the case; there are long-term detrimental health impacts of SGBV, which can only be addressed through active socio-medical support)
 - ◆ **Livelihood and rehabilitation support** (many victim/survivors of SGBV are at the risk of poverty, homelessness and loss of income. Often, their families and communities are not ready to accept them and therefore, they may need rehabilitative support. Also, in the long-term, to ensure that

According to the Criminal Law (Amendment) Act, 2013 of India, a woman is not required to prove that there was active resistance on her part during the commission of the act of rape. Absence of these factors does not indicate that a woman has given consent for the act. The provision stating that it is not necessary for the victim to resist a rape attempt was inserted especially for situations where the victim may fear further wrath of the perpetrator or even death. The burden is on the accused to prove that he took steps to ascertain that the victim was consenting. Further keeping in mind the interest of the victim/survivor, the 2013 Amendment also explicitly stated that a woman alleging rape cannot be cross-questioned in the court on the basis of her sexual history. Also, any woman who approaches the police with a complaint of rape or sexual assault cannot be denied filing of First Information Report (FIR). The police also have to assist the victim with her medical examination. The statement of the woman can be recorded at her home. The UNHCR guidelines for “Sexual and gender based violence (SGBV) prevention and response”, also emphasize upon the importance of intervening with a victim/survivor centric approach.

Source:

<https://cms.emergency.unhcr.org/documents/11982/51689/UNHCR%2C+Sexual+and+GenderBased+Violence+against+Refugees%2C+Returnees+and+Internally+Displaced+Persons.+Guidelines+for+Prevention+and+Response%2C+2003/9591f62d-4f6a-4faf8c03df0d6bacf871>

victims/survivors of SGBV are able to lead a life of dignity and independence, they should be assisted with livelihood support)

- ◆ **Psycho-social support** (Ongoing abuse and violence can induce feelings of shock, disbelief, confusion, terror, isolation, and despair, and can undermine a victim/survivor's sense of self. It is necessary to help victims/survivors of SGBV to overcome depression and post-traumatic stress, so that they become aware of themselves, not blame themselves for the violence inflicted upon them and are able to lead a life of dignity and confidence)

Intervene with a rights-based approach, where individuals and communities, with support, can empower themselves to exercise their rights, rather than assisting them as 'beneficiaries'. The direct involvement of the victim/survivor should be promoted in decisions relating to their own protection, and their full enjoyment of human rights, including rights to be protected against SGBV. This also requires that culturally appropriate and acceptable services are available, accessible and affordable for all SGBV survivors.

Inclusivity should be at the centre of all intervention, where the involvement of women, girls, men, boys, LGBTQIA and persons of concern with specific needs is ensured. Special attention should be paid to children, persons with disability and elderly people and conscious attempts should be made to understand how SGBV impacts them.

The capacity, agency, rights and dignity of persons of concern should be at the centre of intervention. There should be an active and substantive involvement of communities in all aspects of programmes that affect them. The community should be the driving force of change. This will ensure a structural renegotiation in gender power relationships and ensure positive sustainability to the intervention.

Evolve a **convergent approach**, where all relevant partners and stakeholders are equipped with the necessary knowledge and tools for prevention of SGBV, so that it is mainstreamed in all their actions.

II. KEY CURATIVE MEASURES FOR RESPONSE TO AND REDRESSAL OF SGBV

LEGISLATIVE FRAMEWORKS RELATED TO SGBV:

1. Charter of the Tibetans – in – Exile

The core objective of the Charter is to secure to all Tibetans-in-Exile Justice, Liberty, Equality, Fraternity and Dignity.

Article 6 of the 1991 Charter of the Tibetan People recognises that all laws, ordinances, regulations, administrative and executive orders of the Tibetan Administration-in-Exile shall conform to the generally accepted principles of international law and in particular comply with the local laws of the host countries.²

1.1 Fundamental Rights as vested by the Charter

- Article 9: Provides for equality before the law for all Tibetans-in -Exile. It ensures that all the people of Tibetan origins shall enjoy the rights and freedoms set forth in the Charter without discrimination on grounds of birth, sex, race, religion, language, lay or ordained status, social origin, rich or poor.
- Article 12: Ensures that all Tibetans shall be entitled to the following rights and freedoms:
 - Freedom of life, liberty and property;
 - Freedom of speech and expression;
 - Freedom of movement;
 - The Right to publish and distribute newspapers, periodicals, articles and other writings;
 - Freedom to assemble peacefully without arms;
 - When charged and required to appear before a court of law, the right to free legal counsel and interpreter should a person lack necessary means;
 - The Right to form and become a member of any religious, cultural, economic, or trade union or other association;
 - Freedom of employment in the Tibetan Administration, or any other institution under its jurisdiction, according to qualification;

²Related information on laws, both International and that of the host country (India) are annexed

- The Right to practice any profession or carry out any trade or business enterprise or occupation, including acquisition of land and property, in accordance with the law of the respective host countries;
- The Right of children under the age of 14 years not to be employed in manual labor.
- Article 14: Ensures that as specified in Article 12 of the Charter, all Tibetans shall have the right to approach the Tibetan Supreme Justice Commission, and all Tibetan Local Justice Commissions, in the event of violation of their Rights subject to restrictions imposed by the law.

2. Tibetan Women's Empowerment Policy

The CTA is fully committed towards recognizing and respecting the fundamental rights of Tibetan women as equal partners in all aspects of Tibetan society. The goal of the Tibetan Women's Empowerment Policy, therefore, is to acknowledge the rights of Tibetan women and girls to participate as equal partners in all socio-economic and political activities. The Policy also believes that for effectively responding to and addressing complaints of SGBV, it is important to have a grievance handling mechanism that is accessible to all. The Policy strongly recommends the establishment of a redressal mechanism for those who have experienced SGBV, harassment and discrimination.

- Section 7 of the Policy frames the outline for addressing Sexual and Gender-based Violence (SGBV) as a step towards ensuring empowerment of women, by:
 - Adopting a zero tolerance policy towards sexual and domestic violence
 - Disseminating information regarding laws on SGBV and sexual harassment in schools, settlements, home and in workplaces
 - Sensitizing community members on SGBV and sexual harassment
 - Establishing a redressal mechanism for those who have experienced SGBV, harassment and discrimination.³

3. CTA's Policy Guidelines on the Prevention and Response to Sexual Exploitation and Abuse (PSEA)

CTA is committed towards the implementation of the 6 core principles adopted in 2002 by the Inter-Agency Standing Committee Task Force on Prevention and Response to Sexual Exploitation and Abuse. The Core Principles states that:

- Sexual exploitation and abuse by humanitarian workers are an act of gross misconduct and are therefore grounds for termination of employment.

³Tibetan Women's Empowerment Policy

- Sexual activity with children (persons under the age of 18) is prohibited regardless of the local age of consent, i.e. the local or national laws of the country you are working in. Ignorance or mistaken belief on the age of the child is not cause for defence.
- Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour by CTA Employees and Related Personnel is prohibited and are punishable offences.
- Sexual relationships between “CTA employees and Related- Personnel”, and beneficiaries of CTA’s programs are strongly discouraged. Such relationships undermine the credibility and integrity of CTA’s relief and development work.
- When a CTA employee or Related Personnel develops concerns or suspicions regarding sexual exploitation or abuse by a CTA Employee or Related- Personnel, they must report such concerns via the established reporting procedures to the appropriate authority.
- CTA Employee and Related personnel are obliged to create and maintain an environment that prevents sexual exploitation and abuse and promotes the implementation of this Policy. CTA and its affiliate Institutions at all levels have particular responsibilities to support and develop systems that maintain this environment.

The PSEA Policy applies to complaints of sexual exploitation and abuse involving CTA employees and related personnel and the general Tibetan public as well. It recognises that working relationships often put CTA employees and related personnel in positions of power, especially with regards to at risk women and children. PSEA policy sets the minimum standards to be followed and defines strategies and procedures to uphold this Policy and the Core Principles on which it is based.

CTA’s Policy Guidelines on Prevention and Response to Sexual Exploitation and Abuse (PSEA), lays down the following standards of behavior for all employees:

- Exchange of money, employment, goods or services for sex by employees of CTA and its affiliate units is strictly prohibited and are punishable offences.
- Employees must be aware of consent regardless of the local age of consent, i.e. the local or national laws of the country in which the employee works. Ignorance or mistaken belief of the child’s age is not a cause for defense.
- Employees will not support or take part in any form of sexual exploitative or abusive activities including, for example, child pornography or trafficking of human beings.
- Employees must report any concerns or suspicions they have regarding possible violations of this PSEA Policy via CTA’s or affiliate’s reporting mechanism.
- Sensitive information related to incidents of sexual exploitation and abuse whether involving colleagues, program participants or others in the communities shall be shared only with enforcement authorities and CTA employees of the appropriate seniority or function who have a need to know such information.

- Employees must undertake to create and maintain an environment that promotes implementation of this policy.
- Competent officers and supervisors at all levels have particular responsibilities to support and develop systems that maintain an environment that facilitates implementation of this policy.

4. Application of the Indian Constitution and Law

There are two types of Fundamental Rights granted in India - one available to only citizens and the other available to all persons irrespective of their nationality, provided that they are residing in India. This second set of Articles use the word 'person' in place of 'citizens', implying that they are available to non-citizens, including Tibetans in India. These articles are as follows:

- **Equality before law and equal protection of laws (Article 14).**
- **Protection in respect of conviction for offences (Article 20).**
- **Protection of life and personal liberty (Article 21).**
- **Right to elementary education (Article 21 A).**
- **Protection against arrest and detention in certain cases (Article 22).**
- **Prohibition of traffic in human beings and forced labour (Article 23).**
- **Prohibition of employment of children in factories etc., (Article 24).**
- **Freedom of conscience and free profession, practice and propagation of religion (Article 25).**
- **Freedom to manage religious affairs (Article 26).**
- **Freedom from payment of taxes for promotion of any religion (Article 27).**
- **Freedom from attending religious instruction or worship in certain educational institutions (Article 28).**

All Indian statutes or laws are derived from the provisions of the Indian Constitution. They are applicable to all persons, irrespective of their nationality, including Tibetans in India. These guidelines listed below encourage and promote building access to the following laws (both criminal and civil) for the protection of Tibetan in India from SGBV:

- **Juvenile Justice Act [refer Chapter 6]**
- **Protection of Children from Sexual Offences (POCSO) Act, 2012 [refer Chapter 7]**
- **Protection of Women from Domestic Violence Act, 2005 [refer Chapter 8]**
- **Sections in Indian Penal Code (IPC) related to sexual violence, acid violence and domestic violence [refer Chapter 9]**
- **Sexual Harassment of Women at Workplace (Prevention, Prohibition, Redressal) Act, 2013 [refer Chapter 10]**

- **The Prohibition of Child Marriage Act, 2006**
- **Child Labour (Prohibition and Regulation) Act 1986**
- **Immoral Traffic (Prevention) Act 1986**
- **Pre-conception and Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 2004**
- **Rights of persons with Disabilities Act, 2016**

Information on some of these laws are provided in the Annexure. Given that these laws apply to all Tibetans living in India, the following section explains the critical steps that need to be undertaken to institutionalize a robust mechanism for response to and redressal of cases of SGBV.

HELP SEEKING AND REFERRAL PATHWAY IN A COMPLAINT OF SGBV:

REPORTING

Victims/survivors informs about the incident:

- Case to be received by committees in schools, communities or workplaces; Survivors are accompanied as needed to health centre, police or counselling centre, based on what the victim/survivor wishes
- Inform survivors/victims about their rights, available recourse and services. In case of children, their parents/guardians should be informed about the same.
- Do not compel the survivors/victims to take certain action, which they do not desire or is not ready for
- Maintain proper record of incident and keep all information confidential.



IMMEDIATE RESPONSE

The service provider must provide a safe, caring and respectful environment for the victims/survivors:

- Provide immediate medical/ health care. Maintain a record of the institution from where the victims/survivors obtained the medical/ health care.
- Obtain consent from victims/survivors and make referrals to legal experts/ police. If the victims/survivors wishes, initiate reconciliation. In case of children, parents/guardians should be informed about the same.
- If legal action is taken, the victim/survivor should be accompanied when visiting the police, protection officer, Para-legal worker or lawyer. All of this should be duly documented; maintain copies of DD entry, FIR, medical report, depositions and charge sheet and ensure that the victims/survivors also have copies of the same.
- Provide psycho-social support. Maintain a record of the institution from where the victims/survivors obtain such support.
- Ensure confidentiality so that the survivor doesn't experience any threats or backlash.



FOLLOW-UP

After immediate response, follow-up with other services:

- Support and protection during case proceedings, with the assistance of the Police
- Continued health care and psycho-social support
- Ensure that victims/survivors receives his/her compensation as per the law
- Basic needs, safe shelter, ration, support for children, livelihood should be provided.

ESTABLISHING A SGBV RESPONSE AND REDRESSAL SYSTEM ACCORDING TO THE FOLLOWING GUIDELINES:

Any aggrieved person may file their complaint to any of the following committees, each of which has been described in this documents:

1. Central Coordinating Committee with WED
2. Settlement Level SGBV Committee
3. Helpline: within CTA and the registered State helpline of the particular State in India
4. For sexual harassment at workplace:
 - a. Internal Committee within the workplace
 - b. Local Committee at the District level
5. Child protection committee in schools for addressing issues related to POCSO
6. Local Justice in India for Crimes Against Women and Children

1. Central Coordinating Committee with WED

- Five to Eight Member team
 - ⇒ Headed by a woman
 - ⇒ 50% women membership mandatory
 - ⇒ Should be changed every three years
 - ⇒ Should consist of prominent gender rights' activist/lawyers and representation from LGBTQIA+ and differently abled people.
- Receive and review report from regional teams and monitor their performance and output
- Ensure that all teams at regional, settlement, workplace and school level receive necessary training and capacity building support
- Publish IEC material on redressal and prevention of SGBV to be used for awareness and sensitization
- Ensure all cases received by the helpline are referred to the relevant committees
- To mobilize financial and infrastructural resources for ensuring the sustainability of the system
- Make an annual report and submit to the CTA as well as share important updates with the Tibetan community in India through newsletters, emails, social media, radio or messages

2. SETTLEMENT LEVEL SGBV COMMITTEE FOR COMPLAINTS OF SGBV:

- Eight member SGBV committees to be established in every settlement for the redressal of SGBV complaints.
- **Composition:**
 - ⇒ Mandatory 50% women membership
 - ⇒ One male or female head of the committee
 - ⇒ Members to include settlement officer, camp leader, community women leader(s), NGO ,youth, LGBTQIA+ representative
 - ⇒ All members should be trained as Para-legal workers, be gender sensitive and have no criminal records
 - ⇒ 80% of the committee to change every 2 year so as to ensure continuity of the committee
- **Committee to receive all cases of SGBV directly or through the helpline.** Upon receiving the case, the committee shall:
 - Accompany the victim/survivor to the police or protection officer to register a DD entry or FIR
 - Assist the victim/survivor to access legal aid, medical care and psycho-social support
 - Keep confidentiality of the victim
- Ensure that all schools and workplaces in settlement have School Level Complaints committee and Internal Committees
- Documentation of each case to be maintained, including its follow-up
- Report quarterly to Central Coordination Committee
- Consult with empanelled counsellor, medical practitioner and legal expert for support and advice when required
- Ensure that all settlements have CCTV Cameras, adequate lighting, SGBV complaint boxes and display of important legal and non-legal information related to SGBV Committee and Internal Committees respectively
- Ensure access to shelter homes for victims/ survivors of SGBV (CTA established or Indian government approved shelter homes)

*The Head of these Committee or any of the other members can be removed by the Committee before the end of their tenure, if they are abusing their position(s) as a member of the committee by:

- Publishing, communicating or making known to the public, press and media about the information related to the case
- Convicted for an offense under any law or undergoing an inquiry into an offense under any law or found guilty in any disciplinary proceedings

3. HELPLINE:

- A Toll free Tibetan women helpline service should be established, in order to provide 24 hours immediate and emergency response to Tibetan women in distress who are seeking support and are affected by violence across the country through a single uniform phone number.
- Forms of Support:
 - ⇒ Referral (linking with appropriate authority such as the police, One Stop Centre, hospital)
 - ⇒ Information about women related government schemes/programs
- **Staff Composition:**
 - ⇒ Helpline Management Staff (Female)
 - ⇒ Helpline Supervisor
 - ⇒ Counselor
 - ⇒ Community Outreach worker
- A **Physical Safe Space/Shelter Home** should be provided to shelter these SGBV survivors as needed.
- A **Sustenance Fund** should be allocated to provide financial assistance to SGBV affected Tibetan in all age group who have no adequate means of subsistence and are at risk.
- Develop a **Standard Operating Processes (SOPs)** taking into account the law of the land for Helpline operation.
- Ensure linkages/maintain relations with other departments, civil society groups and partners to provide psychological, social, medical, and legal and any other form of support to survivors.
- Ensure the accessibility of the Helpline service to all the Tibetans across the country.
- Indian Govt. helpline:
 - ⇒ **Children in Difficult Situation: 1098**
 - ⇒ **Women Helpline : 1091**
 - ⇒ **Women Helpline (Domestic Abuse): 181**
 - ⇒ **National Commission for Women : 011-26942369, 26944754**
 - ⇒ **Deputy Commissioner of Police- Missing Child and Women : 1094**

4. WORKPLACE:

- Internal Committee (IC) have to be constituted in all work places with more than 10 employees as per the Sexual Harassment of women at workplace (Prevention, Prohibition, Redressal) Act 2013
- **Composition:**
 - ⇒ At least 4 members, out of which 2 should be women
 - ⇒ Presiding officer should be senior women employee
 - ⇒ A third party member who is familiar with issues related to sexual harassment at work place
- All workplace to have:
 - ⇒ Complaint boxes
 - ⇒ Display of information regarding the provisions of the Act and names and contact information of IC members
- All complaints of sexual harassment to be received by the IC in writing. As per the Act:
 - ⇒ The IC has the power akin to that of a civil court
 - ⇒ It can summon and enforce the attendance of any person
 - ⇒ Examine the individual on oath
 - ⇒ Require the discovery and production of documents essential to the case.
- The inquiry has to be completed within a period of 90 days upon receiving the complaint
- Duties of Employer:
 - ⇒ Should act on the recommendations of the committee within 60 days of the receipt of the inquiry report
 - ⇒ Maintain a safe working environment
 - ⇒ Organize awareness and sensitization programs for the employees and inform them about the provisions of the Act,
 - ⇒ Develop relevant visual materials like brochures, posters or notices to disseminate such information
 - ⇒ Establish facilities for the Committee to conduct the inquiry
 - ⇒ Ensure that Committee members undergo regular capacity building training.
- If the complaint is against the senior most person of the organization, then it has to be referred to the local committee (LC) constituted at the district level by the district officer.

5. SCHOOLS:

- School complaints committee have to be constituted in all schools
- **Composition:**
 - ⇒ Head of Committee—Principal/ Vice-principal
 - ⇒ One female teacher and one male teacher
 - ⇒ One male student and one female student
 - ⇒ One non-teaching staff—male or female
- All schools to have:
 - ⇒ Complaint/ suggestion box
 - ⇒ CCTV Cameras
 - ⇒ Display toll free child helpline number —centralised child helpline number **1098** must be popularized and displayed at prominent places in the schools
- Mandatory training or capacity building:
 - Conduct programmes to support the empowerment of and by girls
 - In residential schools, all house masters and mistresses/ wardens should undergo compulsory training on gender sensitization and POCSO Act
 - All induction of teachers should include a mandatory module on gender sensitization and child rights
 - All school staff (teaching and non-teaching) should undergo training on adolescent gender issues and awareness programmes that promote gender equality and sensitivity
 - All students should undergo age-appropriate gender sensitization programmes and participate in special activities that promote gender equality and sensitivity
 - Provision for guidance and counselling facilities in schools
- As per India's Prevention of Child Sexual Offences (POCSO) Act, teachers and management are mandated to report instance of sexual abuse to Special Juvenile Police Unit or the Child Welfare Committee.

Important:

Listen to
children
reporting sexual
abuse

Believe the
child

Tell the child
that he/she is
brave

Tell the child
it is not his/
her fault that
he/she has
been abused

6. LOCAL JUSTICE IN INDIA FOR CRIME AGAINST WOMEN AND CHILDREN:

Crime against Women and Children are divided into two broadly category.

I. Crime under Indian Penal Code:

- ⇒ Murder (Section 302 IPC)
- ⇒ Attempt to commit murder (Section 307 IPC)
- ⇒ Infanticide (Section 315 IPC)
- ⇒ Rape (Section 376 IPC)
- ⇒ Unnatural Offence (Section 377 IPC)*
- ⇒ Assault on Women (Girl Child) with Intent to Outrage her Modesty (section 354 IPC)*, (6.1 Sexual Harassment (Section 354A IPC)* , 6.2 Assault or Use of Criminal Force to Women (Girl Child) with Intent to Disrobes (Section 354B IPC*), 6.3 Voyeurism (Section 354C IPC)* , 6.4 Stalking (Section 354D IPC)*
- ⇒ Insult to the Modesty of Women (Section 509 IPC*)
- ⇒ Kidnapping & Abduction (Section 363, 364,364A, 365, 366, 367, 368 & 369 IPC).
- ⇒ Feticide (Section 315 and 316 IPC).
- ⇒ Abetment of Suicide of Child (Section 305 IPC)
- ⇒ Exposure and Abandonment (section 317 IPC)
- ⇒ Procurement of Minor Girls (section 366-A IPC)
- ⇒ Buying of Minors for Prostitution (Section 373 IPC)

II. Crimes Under Special and Local Laws:

- ⇒ The Dowry Prohibition Act, 1961
- ⇒ The Child Marriage Restrain Act of 1976
- ⇒ The Medical Termination of Pregnancy Act of
- ⇒ Prohibition of Child Marriage Act, 2006
- ⇒ Child labor (Prohibition & Regulation) Act, 1986
- ⇒ Immoral Traffic (Prevention) Act, 1956
- ⇒ Juvenile Justice (Care & Protection of Children) Act, 2000
- ⇒ Protection of Children from Sexual Offences Act, 2012
- ⇒ Protection of Women from Domestic Violence Act, 2005
- ⇒ Sexual Harassment of Women at Workplace (Prevention, Prohibition, Redressal) Act, 2013
- ⇒ Indecent Representation of Women (Prohibition) Act, 1986

Any aggrieved person can seek grievances under these legal provisions in India. More on some of the related laws are provided in the annexures.

COMPLAINTS RELATED TO SGBV SHOULD BE DEALT WITH IN THE FOLLOWING MANNER:

- The statements/ testimonies/ depositions of victim/survivor(s) should never be met with doubt or scepticism.
- The survivor/victim(s) should be informed of what to expect from the legal process. Protection and community services should collaborate to ensure that the complainant is adequately informed of their rights, procedures and time involved in the legal process. The Staff should be adequately prepared to answer any queries the survivor may have.
- All cases related to aforementioned laws/statutes should be referred to the Indian police, after obtaining due consent from the victim/survivor. Since these offences are criminal in nature, the guidelines emphasize on referring these cases to the Indian police, so that justice can be delivered on the principles of natural justice.
- The complainant should be counselled on the nature of the crime, the time it will take to investigate and prosecute the crime, and the possible outcomes from the Indian judicial process.
- The point person or nodal officer will ensure that the survivor and accused have identity cards and should work closely with local lawyers familiar with national laws and procedures concerning sexual violence.
- Once (an) incident report is received, it should be ensured that the complaint is recorded with the Indian police and; the medical report and a statement from the survivor/victim are recorded.
- Crucial witnesses from the Tibetan community in India should comply with legal procedures by providing statements and attending court when summoned.
- In the event where the guardian is accused of sexual

According to UNHCR guidelines for prevention of SGBV, when speaking to a victim/survivor of SGBV, following should be kept in mind:

- Conduct interviews in private settings and with same sex interviewer
- Be a good listener
- Maintain a non-judgmental manner
- Be patient; do not press for more information if the victim/survivor is not ready to speak about their experience
- Ask victims/survivors only relevant questions
- The status of the virginity of the victim/survivor is not an issue and should not be discussed
- Avoid requiring the victim/survivor to repeat the story in multiple interviews
- Do not laugh or show any disrespect for the individual or their culture, family or situation
- The victim/survivor should be referred to appropriate/relevant actors when there is no qualified individual available to conduct an interview
- Ask the victim/survivor separately whether they want their married/unmarried partner to be present during the interview.

violence, the child should be immediately separated from the guardian, either through foster care or by finding alternative housing for the guardian. It should be ensured that the victim and the accused do not come in contact during the investigation. The confidentiality and dignity of the complainant should be ensured and secured in all cases and scenarios. Wherever possible, a survivor's anonymity should be maintained. Written information on the survivor must be kept locked and secured from others. If confidentiality is breached, it could bring grave consequences for the survivor, particularly if adequate protection is not in place. It may subsequently discourage others from coming forward.

Rehabilitation of Victim(s)/Survivor(s) of SGBV:

- All curative measures, while ensuring justice for the victims(s)/survivor(s), should also focus on their rehabilitation. These rehabilitative measures should include:
- Socio-legal support for the survivor;
- Medical and healthcare support: all schools, settlements, homes, colleges and CTA offices should be equipped with providing other medical care that is required
- The victim/survivor should not be forced to live in a hostile or an abusive home or environment. The PWDVA Act 2005 of India provides right to residence to a survivor of domestic violence. The same should be ensured for any Tibetan survivor of domestic violence. In case of a child experiencing SGBV, they should not be made to live in a hostile home. It should be ensured that there are rehabilitation or shelter homes for victims/survivors of SGBV.
- For complete rehabilitation, vocational, skills training and livelihood opportunities should be enabled for victims/survivors of SGBV. The CTA can design and implement special schemes to ensure the same.
- Counsellors should be identified and trained to provide necessary post-trauma support to the victims/survivors. Also, it should be ensured that psychological support is provided to the victim/survivor as soon as a case comes to light.

III. KEY MEASURES FOR PREVENTION OF SGBV

PREVENTIVE MEASURES FOR SGBV:

- Support community initiatives in SGBV prevention with an active participation of women, girls, men, boys, youth, community and faith leaders
- Engaging community members in the assessment, prioritization, design, implementation, monitoring and evaluation of SGBV prevention programmes
- Increasing awareness and knowledge on gender equality and SGBV related issues and laws, thus, promoting positive changes in community attitudes and practices
- Empowering communities to support SGBV survivors, have zero tolerance for perpetrators, and tackle sensitive topics such as sexual violence and domestic violence through undertaking commitments to prevent SGBV
- Seek innovative approaches that identify new entry points and tools to address SGBV
- Monitor the implementation of the Guidelines to identify areas in need for improvement.

STEPS FOR PREVENTION OF SGBV:

1. Develop a team of core trainers to deliver the various training programmes
2. Deliver community sensitization programmes through community level teams
3. Deliver school sensitization programmes through school level teams
4. Deliver workplace sensitization programmes through regional level teams,
5. Capacity building of key stakeholders such as settlement officers, school teachers, school principals, NGO members, para legal workers, community, school and regional team members
6. Publish and display IEC material for communities, schools and workplaces; utilizing radio, newspaper, social media and emails to publicize and enhance outreach
7. Establish community resource centres, where sensitization activities can take place, victims/survivors can be counselled (along with their families) and information related to prevention and redressal of SGBV can be accessed; all community resources centres should have relevant IEC material and modules on prevention and redressal of SGBV
8. Cultivate and strengthen dialogue with Indian state and district authorities through regular meetings and consultations; inviting them for community programmes and seeking their support as resource people and facilitators for these programmes.
9. Create a safe physical environment. In settlements and camps, there should be adequate provision of lighting, an adequate security presence (including female security personnel),

and secure shelters allocated according to need and vulnerability, and WASH facilities that are safe and accessible.

10. Set up complaint boxes in settlements, camps, schools, colleges and workplaces, so that people can immediately report cases without any fear of backlash.
11. Make Helplines easily accessible. Phone numbers of the relevant people should be displayed in all places, so that they can be immediately contacted is there is a case of SGBV.
12. Phone numbers of members of Internal Committee should be displayed in all workplaces.
13. Make the information on the Committees accessible to everyone. Some of the practical measures that may be considered are listed below:
 - Raise awareness about the Committees at all levels
 - Raise awareness about the Committees among the officials of the relevant government institutions so that they can provide support as appropriate
 - Develop a network of trained officers at different administrative levels who would provide necessary assistance to workers in filing a complaint
 - Collaborate with civil society organisations at the grassroots level to support assistance in filing a complaint.

ANNEXURES

ANNEXURE I: IMPORTANT DEFINITIONS

According to UN Women:

- **Gender:** Gender refers to the roles, behaviors, activities and attributes that a given society at a given time considers appropriate for men and women. These attributes, opportunities and relationships are socially constructed and are learned through socialization processes. They are context/time-specific and changeable. Gender determines what is expected, allowed and valued in a woman or a man in a given context. In most societies there are differences and inequalities between women and men in responsibilities assigned, activities undertaken, access to and control over resources as well as decision making opportunities.
- **Sexual Rights:** Sexual Rights embrace human rights that are already recognize in national laws, international laws, international human rights documents and other consensus documents. These include the right of all persons, free of coercion, discrimination and violence, to the highest attainable standard of health in relation to sexuality, including access to sexuality; sexuality education; respect for bodily integrity; choice of partner; decide to be sexually active or not; consensual sexual relations; consensual marriage; decide whether or not and when to have children and pursue a satisfying, safe and pleasurable sexual life.
- **Violence against Women:** Any act of gender based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. Violence against women shall be understood to encompass but not be limited to the following:
 - Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, intimate partner violence, non-spousal violence and violence related to exploitation;
 - Physical sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment in public spaces and sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
 - Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.