



Sexual harassment in the world of work

In June 2019, at the Centenary Conference of the International Labour Organization (ILO), the Violence and Harassment Convention (No. 190) and its accompanying Recommendation (No. 206) were adopted. The global community has made it clear that violence and harassment in the world of work will not be tolerated and must end. These landmark instruments were developed by the world of work actors (representatives of governments, employers and workers), and set out a common framework to prevent and address violence and harassment, based on an inclusive, integrated and gender-responsive approach.

The Convention recognizes that everyone has the right to a world of work free from violence and harassment, including gender-based violence and harassment. It offers broad protection and applies to the public and private sectors, to the formal and informal economy, and in urban and rural areas. The Convention defines violence and harassment as “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment.” Gender-based violence and harassment is then defined as “violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment” (Art. 1(1)).

Sexual harassment is a widespread phenomenon that undermines equality at work. It can have a negative impact on victims’ pay, career progression and working conditions, and potentially drive individuals out of the world of work. While it can affect anyone, sexual harassment particularly affects women, and reinforces stereotypes about their abilities and aspirations. It also contributes to fewer women entering or remaining in the labour market (adding to the labour force participation gap) and to women being paid less than men (exacerbating the gender pay gap).¹

► What is sexual harassment?

Sexual harassment is a serious manifestation of sex discrimination and a violation of human rights, which is addressed in the context of the ILO Discrimination (Employment and Occupation) Convention 1958 (No. 111).² Under Convention No. 190, sexual harassment is not defined, but it is clearly included within the definition of gender-based violence and harassment (Art. 1(1)(b)).

Within the framework of ILO Convention No. 111, and according to the 2002 General Observation of the ILO Committee of Experts on the Application of Conventions and Recommendations (ILO Committee of Experts), definitions of sexual harassment contain the following key elements:

- **“(1) (quid pro quo)**
Any physical, verbal or non-verbal conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men, which is unwelcome, unreasonable, and offensive to the recipient; and a person’s rejection of, or

submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person’s job; or

- **(2) (hostile work environment)**
Conduct that creates an intimidating, hostile or humiliating working environment for the recipient.”

Sexual harassment can therefore encompass a range of behaviours and practices of a sexual nature, such as unwanted sexual comments or advances, “jokes”, displaying pictures or posters objectifying women, physical contact or sexual assault. Sexual harassment may be perpetrated by different individuals, including colleagues, supervisors, subordinates and third parties.

Whatever form it takes, sexual harassment results in an unsafe and hostile work environment for the person experiencing it, as well as for witnesses and co-workers. Moreover, the often persistent,

¹ This information brief focuses on sexual harassment against women and its subsequent impact on gender gaps. It is important to acknowledge that men can also experience sexual harassment and its effects, as well as persons who do not define themselves along the binary man/woman construct.

² ILO. 2012. *Giving globalization a human face. Report III (Part 1B)*. International Labour Conference, 101th Session, Geneva, para. 789.

“normalized” nature of sexual harassment³ can have grinding effects and lead to great personal suffering, damage to reputation, loss of dignity and self-esteem on the part of the victims, and victim blaming from family, friends and peers. It can lead to serious health consequences and substantial economic costs, and affects the functioning of enterprises and, more generally, the world of work.

▶ Who are the victims of sexual harassment?

Sexual harassment can target anyone in the world of work. However, it is often based on the abuse of power and reported cases are usually committed against women and perpetrated by men. Furthermore, women from specific groups – such as those with low socio-economic status, indigenous women, women from ethnic minorities, lesbian, bisexual, trans⁴ or gender non-conforming women, women migrant workers, women with disabilities and young women – may face sexual harassment in particular ways. This is due to the intersection, or combination, of factors or circumstances that can exacerbate the risk of violence and harassment.

Sexual harassment: widespread but under-reported

Sexual harassment is a persistent problem affecting all countries, sectors and occupations around the world. However, victims of sexual harassment are often unlikely to report it. This is often due to the normalization of sexual harassment, lack of awareness about what constitutes sexual harassment, fear of reprisals from co-workers, supervisors, family-members or the employer, lack of effective redress or reporting mechanisms, and stereotypes blaming the victim instead of the perpetrator. There are also difficulties of evidence, especially where sexual harassment occurs without witnesses, which can make proving it through corroborating evidence challenging.

▶ What can cause sexual harassment?

Sexual harassment is often less about sexual interest and more about reinforcing existing power relations.⁵ Traditional gender roles and stereotypes of how men and women should act are replicated in the world of work, and they play a significant part in sexual harassment. For example, when women are seen as breaking these roles – by working outside the home or entering a traditionally male-dominated occupation – sexual harassment may be used as a form of punishment or deterrent.⁶

▶ Sexual harassment has an adverse impact on the world of work

The ILO Committee of Experts observed that “sexual harassment undermines equality at work by calling into question the integrity, dignity and well-being of workers. It damages an enterprise by weakening the bases upon which work relationships are built and impairing productivity.”⁷

Sexual harassment results in large monetary costs for governments and employers, particularly in terms of medical care and counselling, lost productivity, case settlement and judicial monetary awards. For employers, sexual harassment can also lead to significant reputation costs. It also creates significant health, economic and career costs for victims.

3 Sexual harassment is normalized when seen as a normal, or unquestioned, part of daily work. See: ILO. 2017. Report V (1) Ending violence and harassment against women and men in the world of work, ILC.107/V/1 (Geneva), para. 91.

4 “Trans” is an umbrella term that refers to “people whose gender identity and/or gender expression differ from the sex/gender they were assigned at birth”. See: ILGA-Europe. “Glossary”. Available at www.ilga-europe.org/resources/glossary [16 April 2018].

5 Research indicates that sexual harassment most often occurs in relationships of unequal power or authority. McCann, D. 2005. *Sexual harassment at work: National and international responses*, Conditions of Work and Employment Series No. 2 (Geneva, ILO).

6 Research comprising 800 employees in Canada showed that, in “male-dominated jobs”, women “with relatively masculine personalities” experienced twice as much harassment as other women. See Berdahl, J.L. 2007. “The sexual harassment of uppity women”, in *Journal of Applied Psychology*, Vol. 92, No. 2, pp. 425-437.

7 ILO. 2003. *Report of the Committee of Experts on the Application of Conventions and Recommendations (articles 19, 22 and 35 of the Constitution). Report III (Part 1A)*. International Labour Conference, 91st Session, Geneva, p. 463. See also: Brown, D. and Lin, X. 2014. Discussion paper 16: Sexual Harassment in the Workplace: How does it affect Firm Performance and Profits? (ILO and IFC; Geneva).

Because of its disproportionate impact on women, sexual harassment may exacerbate already existing gender gaps in the world of work, including the pay gap and the gap in labour force participation of women, and to the segregation of women into sectors and occupations with lower remuneration or that have limited career prospects. This contributes to the unequal status of women in the world of work and in societies around the world.

Impact on pay and career progression

Sexual harassment may contribute to women earning less than men. For example, considering that sexual harassment is often based on unequal gender power relations, a woman in tipped-wage work who does not tolerate sexual harassment by customers may get paid less, or not at all. Sometimes, harassment pushes victims to reduce their working hours or to leave their jobs with the risk of entering into lengthy periods of unemployment or leaving the workforce entirely. For victims who remain in the job, sexual harassment may deter them from applying to higher-level (and better-paying) or more visible positions.

Impact on occupational segregation

Gender roles and stereotypes often lead to men and women working in different occupations, depending on which jobs are considered more socially “appropriate” for them. Often, this segregation is already seen in education with assumptions of what girls and boys should (or should not) study. Workplaces dominated by persons of one gender can be more hostile to persons of another gender; hence, sexual harassment towards women may be more pronounced in sectors traditionally dominated by men. Also, sexual harassment may be more present in highly feminized sectors where the majority of the production workforce is female but line supervisors and managers are men. In this context, the fear – or the reality – of being sexually harassed may keep women from entering certain sectors that are often higher paid, therefore contributing to the gender pay gap.

▶ Preventing sexual harassment in the world of work

Sexual harassment is physically and psychologically harmful and should not be tolerated anywhere and under any circumstances, including in the world of work.

To prevent sexual harassment, it is important to build inclusive and supportive workplaces where it is clear that sexual harassment is not tolerated. It is also important to dismantle the culture of impunity that often surrounds it, as well as the gender, cultural and social norms that support violence and harassment. A culture based on mutual respect and dignity needs to be created at the workplace and employers have the responsibility to take steps commensurate with their degree of control to prevent violence and harassment. Some workplaces tolerate, or even promote, the sexual objectification of women and the mistreatment of lesbian, gay, bisexual, trans, intersex or gender-nonconforming workers, and this can become ingrained in workplace culture, if it is not properly addressed.

Important prevention policies or measures can include providing information and training on sexual harassment for workers and other persons concerned, and issuing – and prominently displaying – a workplace policy or a code of conduct that clearly defines and prohibits sexual harassment.⁸ The unacceptability of misconduct and the corresponding consequences and disciplinary measures should be stated clearly. It is also important to include the topic of sexual harassment in workplace risk assessments and ensure safe, fair and effective reporting and complaint procedures. These procedures need to be explained clearly and should include protection against retaliation, including through appropriate confidentiality requirements.

⁸ According to Article 9 of Convention No.190, employers should take appropriate steps, commensurate with their degree of control to prevent violence and harassment in the world of work. This includes, so far as is reasonably practicable, the adoption and implementation of a workplace policy, the identification of hazards and assessment of risks and the provision of information and training.

The goal should be to prevent sexual harassment in the world of work, not prohibit women from accessing, advancing or remaining in decent work. Therefore, care needs to be taken not to reinforce occupational segregation – for example, well-meaning efforts to respond to hostile work environments may inadvertently end up excluding women from certain sectors. Recommendation No. 206 states clearly that violence and harassment prevention measures should not result in the restriction of the participation in specific job, sectors or occupations, or their exclusion therefrom, of women (Para. 12).



▶ Protecting against sexual harassment through law

It is important to take effective measures to prevent and prohibit sexual harassment in the world of work.⁹ Sexual harassment is one of the most commonly regulated forms of violence and harassment in the world of work. Of the 80 countries studied by the ILO, 65 countries regulate such a phenomenon.¹⁰

Action against sexual harassment in the world of work requires an inclusive, integrated and gender-responsive approach, and legislative gaps need to be closed to ensure the effective prevention of, and protection against, sexual harassment. For example, criminal law allows victims to seek police protection, but is usually limited to sexual assault, requires a high burden of proof and does not address the wide range of unacceptable behaviours and practices that sexual harassment includes. In practice, prosecutions of sexual harassment under criminal law are rare and unlikely to be successful. On the other hand, labour law can cover a wider range of behaviours, but its scope may be limited by the type of contract. Coverage of labour law is often limited to those with an employment contract and a strict employee-employer relationship, thus excluding independent contractors, trainees, volunteers, job applicants and others. Specific categories of workers may also be excluded, such as domestic workers or agricultural workers, despite being more exposed to the risk of sexual harassment. As such, it is important to cover sexual harassment in different areas of law.

▶ Sexual harassment and Convention No. 190 and Recommendation No. 206

Convention No. 190 includes sexual harassment within gender-based violence and harassment, and requires Members to define and

prohibit it (Art. 7). This comes at a time when States are increasingly prohibiting sexual harassment in labour and other areas of law.

The Convention provides that, to prevent and address violence and harassment, fundamental principles and rights at work, including the right to non-discrimination, need to be respected, promoted and realized (Arts. 5 and 6). Specific measures are required under the instruments in the context of gender-based violence and harassment, including adopting prevention and protection measures such as workplace risk assessments that take into account hazards and risks that arise from discrimination, abuse of power relations, and gender, cultural and social norms supporting violence and harassment (Art. 9 C190 and Para. 8 R206). The Convention also calls for providing victims with effective access to gender-responsive, safe and effective complaint and dispute resolution mechanisms, support, services and remedies (Arts. 9 and 10). Details of possible support, services and remedies for victims of gender-based violence and harassment are set out in the Recommendation, and include support to help them re-enter the labour market and counselling and information services (Para. 17).

Sexual harassment is still widely tolerated in the world of work, and deeper societal change is needed. As the Convention recognizes, to address gender-based violence it is necessary to tackle its underlying causes and risk factors. These include gender stereotypes, multiple and intersecting forms of discrimination, and unequal gender-based power relations (Preamble). In this regard, workers and employers, and their organizations, play an essential role in building respectful, gender-responsive workplace cultures. This can be achieved through legislation, collective agreements and other measures aiming at breaking down the climate of impunity and sexism surrounding sexual harassment, providing training and undertaking awareness-raising, and supporting victims.

⁹ ILO. 2003. *Report of the Committee of Experts on the Application of Conventions and Recommendations (articles 19, 22 and 35 of the Constitution). Report III (Part 1A)*. International Labour Conference, 91st Session, Geneva, p. 463.

¹⁰ ILO. Report V (1) Ending violence and harassment against women and men in the world of work, ILC.107/V/1 (Geneva).

