



WOMEN'S COMMITTEE

Brussels, 21 – 22 February 2008

Agenda item 6:

Programme of Work

(b) Sexual Harassment at Work: A Trade Union Guide

1. The 2nd meeting of the General Council, Brussels, 20-22 June 2007, approved the elaboration of a Trade Union Guide on Sexual Harassment. This Guide is intended to help trade union organizations to deal with this important issue at national level. It will be published as a booklet and circulated to all affiliated organizations.

2. **The Women's Committee is invited to approve the attached "Sexual harassment: A Trade Union Guide".**

SEXUAL HARASSMENT AT WORK: A TRADE UNION GUIDE



INTERNATIONAL TRADE UNION CONFEDERATION

I. Introduction

Ask any women about sexual harassment, and she is likely to have experienced it or to know of cases of it at work. In industrialised countries, 42-50% of female workers have been sexually harassed¹, in the European Union, 40-50% of women, and in Asia-Pacific countries between 30-40% of women workers reported some form of harassment². In a recent study in South Africa, 77% of women respondents experienced sexual harassment sometime during their working lives³. Sadly, Few Latin American countries have recognised sexual harassment as a category of degrading treatment and few have attempted to prohibit it⁴.

Over the last 20 years, workers, particularly women, have begun objecting to being sexually harassed in this way. Where once they accepted it as inevitable, now they fight back. Unions campaign for governments to bring in laws and other measures to put a stop to it, and work with employers to wipe it out at work.

ITUC and GUF working against sexual harassment

At its founding Congress (November 2006), the International Trade Union Confederation declared the trade union principle that "an injury to one is an injury to all", and repeated its commitment to combat any discrimination, harassment or abuse of women.

The ITUC has a policy and list of actions to take in the face of sexual harassment, and Global Union Federations (GUFs) and national unions have developed policies.

II. What is sexual harassment?

The key to what constitutes 'sexual harassment' is that it is **repeated, unwanted, unwelcome** and **unasked-for behaviour of a sexual nature**. Sexual harassment is a display of power which is intended to intimidate, coerce or degrade another worker.

These are some examples of sexual-harassment:

Physical

- Touching, pinching, stroking, squeezing, or brushing against someone
- Leering or ogling
- Making sexually suggestive signals, winking
- Sending unwanted e-mails, posting sexually-explicit jokes on an office intranet.
- Unnecessary physical contact and touching

Verbal

- Making sexual comments or innuendos,
- Telling sexual jokes, or asking about sexual fantasies
- Making insults based on a person's sex or rating their sexuality
- Turning work discussions to sexual topics
- Requests for sexual favours, often related to promotion

¹ Figures quoted in Arosha Adikaram *An exploratory study on Sexual harassment at work place*,

² Report of the UN Secretary General on all forms of violence against women. 2006. United Nations.

³ Gender links project: www.genderlinks.org.za

⁴ Aparna Mehrotra, *Gender and Legislation in Latin America and the Caribbean*, UNDP, 1998

Non-verbal

- Displaying pictures, calendars or other sexually explicit material
- Whistling

Other

- Forcing women to work unsociable hours, which could make travel to work dangerous

III. Sexual harassment is a trade union issue

Sexual harassment at work is a trade union issue, as it is usually the result of power relations in the workplace, so the most vulnerable and least protected workers are most likely to be under threat

1. Who are the victims?

Most sexual harassment is carried out by men against women. Sexual harassment affects all women regardless of their age, marital status, physical appearance, background or professional status. Sexual harassment does not affect women alone, as men can also be victims. However, women are more vulnerable due to their position on the labour market.

In developing countries and industrialised ones too, women's employment continues to be typified by part-time, low-paid, atypical, sub-contracted, unregulated, unprotected, temporary or casual work.

Sexual harassment takes place in all countries in the world. It seems to be increasing – or perhaps it is just no longer tolerated as more women, particularly younger women, enter the workplace.

In both developing and industrialised countries migrant workers are particularly at risk because of the problems of getting work, social isolation, and inability to stick up for themselves because they are often unable to express themselves properly in the country's language to object or complain about the way they are being treated.

2. Who are the harassers?

Sexual harassment can be perpetrated by colleagues, supervisors, management or clients. Suggestive remarks and requests for sexual favours are usually made by immediate supervisors or management. Unwanted physical contact or physical aggression usually comes from colleagues, women have reported that they are harassed by clients who leer or make compromising invitations. **The harasser may be of the same sex.**

3. The social, human and economic costs of sexual harassment at work

When someone is sexually harassed it leaves them feeling threatened, humiliated, patronised or harassed, and creates a threatening, intimidating work environment.

The social and human costs of sexual harassment can be very high. In the worst cases women have committed suicide, and in all cases it makes victims' lives impossible.

Women who are harassed are always made to feel at fault, and if they complain may be dismissed, or lose promotion prospects, or have to resign.

Sexual harassment also has a detrimental effect on the workplace itself. As it affects workers' morale it makes them less efficient. In the US, ignoring problems of sexual harassment can cost a large company up to \$6.7 million a year in low productivity, low morale, and employee turnover and absenteeism, not including legal costs⁵.

International recognition and moves to stamp out sexual harassment at work

International recognition of sexual harassment, often as a result of union action, has led to many significant international recommendations, programmes and other measures, which unions have used – and can use – to stamp it out.

International Labour Organisation

ILO Convention 111 against 'Discrimination in employment' deals with sexual harassment at work, and for women workers it is a major form of discrimination.

In 2003, the ILO's Governing body adopted a *Code of practice on workplace violence in services sectors*, offering guidance, including against sexual harassment.

The ILO's 'Campaign for Decent Work' includes sexual harassment as an aspect of health and safety, discrimination, and a violation of workers' basic rights.

United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

The UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), declares that States should eliminate discrimination against women at work.

Beijing Declaration and Programme for Action

The 1995 United Nations' Women's Conference in Beijing drew up a Platform of Action of objectives and actions to advance women's rights, including outlawing sexual harassment at work.

Regional Measures

Europe

The European Union's 1991 'Code of Practice' called on Member States to promote awareness of sexual harassment and take measures against it, and a Directive prohibiting sexual harassment was adopted in 2002.

Organisation of American States

The 'Inter-American Convention on Violence Against Women' says that States must promote and protect women's rights to be free from violence. It suggests legal measures to prevent this occurring and ensure victims have access to "just and effective" remedies.

⁵ 'Sexual Harassment in the Fortune 500', *Working Woman*, Dec. 19, 1988.

IV. Unions taking action

Unions play a major role in outlawing sexual harassment at work. To do so they can act on three different fronts: pushing governments to introduce legislation, taking up cases, and raising awareness and training; negotiating with employers on the issues.

1. National moves

Getting strong laws is an important step forward in stopping sexual harassment and unions have played a major role in achieving changes in the law. Over 50 countries have prohibited sexual harassment at work through national legislation or labour codes:

Algeria, Argentina, Australia, Austria, Bangladesh, Belgium, Belize, Benin, Brazil, Britain, Canada, Chile, Costa Rica, Croatia, the Czech Republic, Denmark, Dominican Republic, Fiji, Finland, France, Germany, Guyana, Honduras, Iceland, India, Ireland, Israel, Japan, the Republic of Korea, Latvia, Lesotho, Lithuania, Luxembourg, Malta, Mauritius, Morocco, Namibia, the Netherlands, New Zealand, Norway, Panama, Paraguay, the Philippines, Poland, Portugal, Romania, Slovakia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Tanzania, Uruguay, Venezuela.

V. How to stop sexual harassment at work

1. What do to if you are harassed

- Don't think it is your fault or that you 'asked for it'.
- Keep a log, of when, where it occurred, including what was said or done, with witnesses if possible. Keep it in a private, safe place – i.e. at home.
- Seek support from family, friends and co-workers
- Speak to other people at work and find out if they have the same problem from the harasser, or, if you prefer speak to one of the designated 'persons of confidence' who have been appointed to help those who are harassed.
- Speak to the harasser in the company of one of the persons of confidence. Be specific about what you do not like and demand that it stops
- If the harasser is a supervisor or manager, keep records of your job evaluations, assignments and promotions.
- Speak to one of the designated persons of confidence for advice about filing a complaint if necessary

2. Check list for union action

(a) Workplace activity

- Ensure your union has a policy on sexual harassment.
- Carry out awareness raising and training on sexual harassment.
- Organise campaigns about sexual harassment.
- Training union officials to advise and counsel members.
- Set up a counselling service for victims.
- Appoint several 'persons of confidence' to handle complaints, in cooperation with the union and the employers.
- Keep a book in a secure place for logging informal or formal complaints.
- Include segments on sexual harassment in union training courses.
- Ensure there are anti-harassment documents at all union functions.

- Ensure that those who are victims of sexual harassment can inform someone of their own sex about what happened.
- Set up a clear procedure for investigating complaints – see accompanying suggestion, or arrange for the grievance to be handled through the normal grievance procedure. Ensure that this protects the victim from dismissal or further victimization during the investigation.
- Try to stop any harassment you observe, whether or not the victim has complained.

(b) Union action with employers

- Include an article against sexual harassment in collective bargaining agreements or in equal opportunities policies.
- Agree a procedure with employers on cases of sexual harassment, which is included as a part of the grievance procedure.
- Push employers to abide by national agreements and prepare complaints when they do not take action.

(c) Union action with governments

- Lobby your government for improved sexual harassment legislation.

3. Sample Sexual Harassment Clause

(a) Introduction

The union and the employer recognise that sexual harassment may occur in the workplace and are committed to ending it.

(b) Definition

For the purposes of this clause, sexual harassment is **unwanted, unwelcome and unasked-for behaviour of a sexual nature**, and may include the following:

It can occur either on a one-time basis or as a series of incidents, however minor. Sexual harassment is coercive and one-sided and both males and females can be victims.

See **Section II.** for examples of sexually-harassing behaviour.

(c) Action

A harassment victim may lodge a harassment complaint with a person of confidence, designated by the union in agreement with the company.

The person(s) of confidence shall investigate any harassment complaint, in a timely fashion and on a confidential basis.

An employee alleging harassment in the workplace has the right, after informing the person of confidence, to leave the work area without loss of pay, rights or benefits, and to refuse to return to the work area until there has been an investigation of the complaint.

The redress must reflect the seriousness of the harassment case. It may be an apology, a transfer to another department or a layoff. The harasser, not the victim, must suffer the consequences of his or her actions.

The employers will include compulsory anti-sexual harassment training in its orientation for new employees in company time.

4. Model procedure for dealing with complaints of sexual harassment

(a) Introduction

- Any employee who believes she s/he has suffered or is suffering sexual harassment has the right to raise it through the following procedure.
- If the victim does not want to make a formal complaint, the employer still has an obligation to consider whether the event should be investigated.

(b) Appointing 'persons of confidence'

- The union and the employer should appoint several persons of confidence designated to deal with complaints of sexual harassment. These should be of both sexes.

(c) Keeping a log book – respect confidentiality

- The union and/or the employer should keep a book in which to note down complaints. This should be kept in a locked drawer.
- At all times both the victim and the alleged harasser have a right to absolute confidentiality.

(d) Draw up a list of behaviour that constitutes sexual harassment

Refer to Section II. above.

(e) Dealing with the complaint informally

There may be occasions when the victim prefers to deal with the complaint informally if s/he feels it is not serious, or there has only been a one-off incident. However, s/he should not be persuaded against her/his will not to make a formal complaint

Employees who have been harassed can decide to resolve it informally by:

- Approaching the alleged harasser, with the support of a person of confidence, colleague or trade union representative, saying that the behaviour is offensive, unwelcome and should be stopped.
- Asking one of the designated persons of confidence to approach the alleged harasser on his/her behalf.
- The employee may decide not to approach the harasser, but simply to log the complaint with one of the designated persons of confidence, to ensure that any refusal to comply with sexual requests does not later affect job prospects.
- The informal complaint should be noted in the log book.

(f) Dealing with complaints formally

The alleged victim

- Employees should approach one of the persons of confidence to make a complaint, and the date of this complaint should be logged.
- A person of confidence should invite the employee to a meeting. If required the employee can bring a colleague.
- The detailed complaint should be set out in writing in the log book.
- At the meeting, the victim should be told that the complaint will be investigated and witnesses questioned, and that the alleged harassed has a right to a fair hearing.
- If the alleged action is serious, then it may be necessary to relocate or temporarily suspend the alleged harasser.
- This investigation is part of the official company grievance procedure.

The alleged harasser

- The alleged harasser meets with the person of confidence, and may bring a colleague. He/she is informed about the complaint, and given a chance to answer the allegation.
- The harasser is told that the matter will be dealt with formally, and his/her responses are also logged, and that this investigation is part of the official grievance procedure.

Investigating the complaint

- Establish clear terms of reference for those who investigate the complaint. The designated persons of confidence should investigate the complaint. impartially.
- The person(s) investigating the claim will meet with any known witnesses or anyone else to establish the facts. Witnesses will be interviewed in private, not in the presence of either the alleged victim or alleged harasser.
- All information should be kept confidential, but records of meetings must be kept.
- The employer should be informed of the decision.

Communicating a decision

To the complainant

- The person who made the complaint will be told the outcome of the investigation in a face-to-face meeting by the person of confidence, and it will also be written down.

To the alleged harasser

- The alleged harasser will be told the result the investigation in a face-to-face meeting with the person of confidence, and it will also be written down.

Where the investigation decides there was sexual harassment

The victim

- The employer should take all steps to reassure the victim and protect him/her from further potential harassment or victimisation and offering support and counselling.

The harasser

- Disciplinary action will be taken, such as redeployment at work, or if the case is more severe, sacking.

Where the investigation decides there was no harassment

- The alleged victim may appeal, but may also ask to be redeployed at work.
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