



Issue Sheet 1

CLIMB THE HILL: Sexual Harassment in the Workplace

It's About Power

Every day across Canada, in every public and private sector workplace, women are building this country's economy. For both men and women, the demands of work are often difficult and stressful. But when women go to work, we face additional pressures because we are women - including sexual harassment.

Numerous surveys have shown that the majority of working women have experienced sexual harassment at some point in our working lives.

Sexual harassment is not a joke. It's not about romance.

Sexual Harassment is about power and control. It's discrimination. It's illegal.

Sexual Harassment is:

Any UNWELCOMED sexual advances, requests for sexual favours or other verbal or physical conduct of a sexual nature when:

- Submission to the behaviour is either an explicit or implicit term of employment;
- Submission to or rejection of the behaviour is used as a basis for employment decisions; or
- The behaviour has the purpose or effect of interfering with an individual's work performance or creates an intimidating, hostile or offensive work environment. A hostile environment can result from the gender-based unwelcome conduct of supervisors, co-workers, customers, vendors or anyone else with whom the victimized employee interacts on the job. The behaviours that have contributed to a hostile environment have included:
 - unfulfilled threats to impose a sexual quid pro quo (favour for a favour)
 - discussing sexual activities
 - telling off-colour jokes
 - unnecessary touching

- commenting on physical attributes
- displaying sexually suggestive pictures
- using demeaning or inappropriate terms, such as "Babe"
- using indecent gestures
- sabotaging the victim's work
- engaging in hostile physical conduct
- granting job favours to those who participate in consensual sexual activity
- using crude and offensive language

Note: Physical and sexual assault, stalking and threats do fall under the definition of harassment. They are also violations under the Canadian Criminal Code. If you believe you are in danger or you have been assaulted contact the police.

Harassment can also be directed at a woman's racial or cultural background, sexual orientation, disability, or other personal characteristics. In these cases, the woman or women face multiply forms of discrimination. For example, women of colour face prejudice and discrimination on two grounds; often, their harassment involves both racism and sexism.

The victim, as well as the harasser, may be a man or woman. Case law decisions show that the victim and the harasser do not have to be of the opposite sex.

Harassment is experienced by women regardless of age, race, physical abilities, marital status or appearance. Sexual harassment is the single most dangerous occupational hazard for working women.

Sexual Harassment is Illegal

Sexual Harassment is illegal sex discrimination covered by Federal and Ontario Human Rights Legislation, Ontario Occupational Health and Safety Act and may violate the Canadian Criminal Code. It subjects the worker to adverse employment conditions having nothing to do with job performance. Sometimes it is accomplished by threats of adverse job actions or promises of raises or promotions. It is also sexual harassment when a worker is subjected to sexual insults, jokes, pictures or other inappropriate sexual references which create a hostile work environment.

The Supreme Court of Canada has ruled that employers are legally responsible for the actions of its employees, and even non-employees, if it knew or should have known of the problem and did nothing to stop it.



Issue Sheet 2

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Unions have developed many successful strategies to prevent and address workplace harassment. Please contact your local union for educational material and support.

There are a number of measures that local unions can take. The goal is to make union members aware of the problem and create a climate in the workplace that discourages sexual harassment. If sexual harassment should occur, victims must feel comfortable turning to the union for assistance and local union stewards and the leadership need to be trained to effectively address the issue.

What the Union can do:

- Establish an anti-sexual harassment policy.
- Educate the membership about the issue. This can include speakers, workshops and distribution of union literature and posting of union materials at the workplace.
- Include training on handling harassment grievances as part of your steward training program. If the employer provides training for supervisors, get union stewards and officers included.
- Determine the extent of the problem in the workplace. A survey of the membership may be useful.
- Negotiate anti-harassment language in your collective bargaining agreement and a procedure to deal with violations.
- Work with the employer to conduct jointly sponsored training programs.
- When sexual harassment does occur, act effectively to protect the member. Offer support, investigate and file appropriate grievances and/or complaints.
- Be sure that the employer has an anti-harassment policy that is prominently posted or otherwise effectively communicated to all employees. If the employer has no formal policy, broach the issue in labor/management meetings and assist in developing one. Make sure that policies include a "bypass" procedure which allows initial complaints to be filed with someone other than an immediate supervisor, who may be the harasser.

Issue Sheet 3

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Local Union Representatives

As with any other health and safety issue, the local leadership can play a key role in stopping an injury before it happens. The onus on ending harassment is not solely on the shoulders of the worker who is experiencing the harassment. Union stewards must take a leadership role in the workplace by taking down the pin-ups, speaking out when sexist, racist or homophobic “jokes” are told and confronting harassers about their behaviour.

The issue for unions is twofold: One is moral, the other legal.

Moral - One of the cornerstones to building a strong union is the principle that every member has the right to dignity and respect. If harassment is happening in your workplace, it is a threat to the strength and unity of the union.

Legal - The “duty of fair representation” requires us to represent everyone in the bargaining unit fairly. A recent human rights decision requires unions to take action when union leadership is aware that discrimination or harassment is occurring.

Unions must make a good faith effort to stop employment discrimination; including filing grievances in appropriate cases. Therefore it is extremely important that sexual harassment complaints be taken seriously and grievances or other appropriate action be promptly initiated.

In many instances it will be a supervisor or other management person who is the harasser. However, there are situations where the harasser or harassers are other union members. This may occur, for example, where a woman is in a non-traditional job. In these cases the steward may feel “caught in the middle” but there are appropriate ways to deal with the situation.

- Try to stop any harassment you observe, whether or not the victim has complained. If this is unsuccessful, do not do or say anything that could be interpreted as condoning the harasser's behavior.
- Put management on notice about what is going on. Regardless of who is doing the harassing, management is responsible for providing a

harassment-free work environment. Get management to do something before the problem escalates.

- Disclose information only to the extent necessary to protect the confidentiality of all who are involved.
- If the sexual harassment victim comes to you for help, try to informally resolve the complaint by talking to the harasser. If that is ineffective, file a grievance against *management*. Management is responsible for the behavior of their employees.
- When the union also represents the harasser, make sure that his (or her) rights under the contract are protected. Many unions have a process to represent both members such as handling member-versus-member sexual harassment complaints by using two stewards - one to deal with each party.
- Do not hesitate to ask for assistance from the union office, business agent or local officers. It may be better for all concerned if someone from the outside who is more detached gets involved.
- Not all stewards are comfortable handling sexual harassment problems. Therefore union officers may want to consider designating specific stewards to look after sexual harassment grievances, provide them with additional training and let the members know they are available. Since the vast majority of sexual harassment victims are female, the union officers might consider designating specific women stewards as those having special responsibilities for sexual harassment problems.

Conclusion

Harassment is a complex issue involving men and women, their perceptions and behavior and the social norms of the society we live in. Stopping harassment before it starts must be a priority. We must make harassment totally unacceptable in our workplaces and our unions.

Issue Sheet 4

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Some Myths and Facts about Sexual Harassment

Myth 1: Sexual harassment is not very common.

Recent surveys have indicated that 80-90 percent of women in the labour force have experienced sexual harassment at some time in their working lives. In Canada, that represents 3.6 million women.

Myth 2: So-called sexual harassment is just natural, normal behavior. Women should feel complimented that they are considered desirable and attractive.

Sexual harassment is a power play using sexually directed behavior as a weapon. It is inappropriate actions to try and control another person through degradation and humiliation. It is not “sexy” and not part of healthy human relationships based on mutual respect.

Myth 3 – Women who object have no sense of humour.

This statement implies that sexual harassment is “harmless fun”. It is not; it is degrading and humiliating. Sexual harassment means being treated as a sex object, not as a worker. It is a vivid reminder that the harasser has higher status and more power than the victim. Sexual harassment has the potential to threaten the victim’s job, working conditions, training and career opportunities. Any behaviour with such potential is certainly not “harmless”.

Myth 4: If a worker asks another worker for a date, suddenly a sexual harassment complaint will be filed.

Some people confuse sexual harassment with workplace flirtation. It is important to make the distinction. Workplace flirtation can be harmless and can be fun. But, the prerequisite is that the interest must be mutual and there must be no intimidation involved. When the interest is one-sided, and instigated by one in authority, it becomes harassment. When the harassment is enforced by threats to economic security, it is anything but “harmless”.

Myth 5: Sexual harassment doesn’t hurt anyone.

Besides the threats to economic security, sexual harassment can severely affect the victim’s health.

Victims of sexual harassment suffer tension, anxiety, anger, fear and frustration. These psychological effects often manifest themselves in physical ailments such as headaches, ulcers and other nervous disorders. Some of these ailments become so serious that they require medical treatment, even hospitalization.

The effects of the harassment are often carried over to the victim's family life as well. And co-worker harassment has the additional effect of dividing and weakening the working class.

Myth 6: A firm 'no' is enough to discourage any man.

This statement ignores another, more serious myth "A woman's 'no' means 'yes'." As long as this myth survives, women have no credibility in refusing sexual advances.

Even if a woman's refusal is understood as meaning "no", it does not mean it will be respected. Sexual harassment usually does not occur between equals. In most cases, the harasser has greater physical and/or economic power, which is often accompanied by the control of reprisal. This authority enables the harasser to override the firmest "no".

Myth 7: Women who enter a predominately male field should expect to put up with rough language, off-colour jokes and hazing. The women will be treated the same as new male hires.

Women working in a previously all-male environment are often not just treated as "one of the boys". Many times these workplaces will see an escalation of foul language, sexual conduct or direct barriers to women doing their jobs.

Myth 8: Women often make false claims of sexual harassment.

Victims of sexual harassment often face a credibility problem. False claims of sexual harassment are the exception, not the rule. Yet, because these false claims receive such attention, legitimate claims are automatically questioned. Women who report sexual harassment are subject to ridicule, disbelief, accusations of entrapment and further humiliation. Reprisals may follow the reports, ranging from creating intolerable working conditions to firing the woman and black-listing her as a troublemaker.

Conclusion

Myths about sexual harassment are based on outdated and incorrect assumptions and sex role stereotypes. Because sexual harassment has such a devastating impact on the victim, it must be eliminated. Trade unionists must

take action to dispel these myths and to ensure a workplace and a union free of sexual harassment.

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Issue Sheet 5

CLIMB THE HILL: Sexual Harassment in the Workplace

Collective Agreement Harassment Audit Checklist

The collective agreement is the foundation for workers' rights in the workplace. It is important to review our collective agreements to ensure that we fully represent all our members and meet our legal requirements. It is equally important that as unions we always bargain beyond the law both for rights and benefits.

Anti Discrimination/Harassment Clauses

- Does your clause prohibit harassment as well as discrimination?
- Does your collective agreement have a policy for dealing with harassment (including sexual harassment), or does it reference such a procedure?
- Is there suitable investigation and decision-making processes outlined, with protections for those involved?
- Does the collective agreement or policy provide that the harassing party may be disciplined or transferred?
- If the harassment procedure is carried out under employer policies, is the union familiar with the policies and do they meet the needs of the membership?
- Are such procedures included or referenced in the collective agreement without prejudice to the grievance and arbitration rights of the members?
- Is the harassment language or policy limited to situations based on human rights grounds?
- Does it cover other forms of workplace conflict?
- Is the harassment language or policy able to address situations of:
 - Harassment by management,
 - Harassment by co-workers,
 - Harassment by those reporting to bargaining unit members,

- Harassment by clients, patients, customers or others to whom bargaining unit members provide services or goods?
- Is there a definition of “harassment”? If so, is it broad enough to cover a full range of human behavior (such as bullying)?
- Is it clear that the management rights clauses shall be read as subject to the anti-discrimination and anti-harassment clauses in the agreement?

Workplace Education/Training

Workplace education, communication and training play a key role in insuring harassment free workplaces.

- Does your collective agreement provide for onsite human rights/anti-harassment educational training?
- Does the union have the right to post union posters and distribute brochures addressing harassment?
- Is anti-harassment included in management and union orientations sessions?