Manual for Combatting Sexual Harassment in the Workplace and Unions
Acknowledgements

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We salute the daily struggles of COSATU members and workers in general, who contend with sexual harassment in their workplaces and in their unions, and consistently seek to find ways to address this. This manual is strengthened and enriched by these workers’ stories, their voices, their struggles and most of all, their courage.
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How to Use this Manual

This training manual has been developed to support COSATU and Affiliates training of gender activists responsible for handling and preventing sexual harassment. It can be used for awareness-raising more broadly. It can also be used in local study groups. Each section includes learning information, learning activities and guiding questions for discussion. The manual is presented in seven modules, which are as follows:

Module 1: Defining and Understanding Sexual Harassment
Module 2: Global Initiatives and National Legislative Framework to Address Sexual Harassment
Module 3: Preventing Sexual Harassment in the Workplace
Module 4: Steps and Procedures for Handling Sexual Harassment in the Workplace
Module 5: The Psychosocial Impact of Sexual Harassment in the Workplace
Module 6: Understanding and Deepening Self-Awareness
Module 7: Towards Eliminating Sexual Harassment in the Workplace

Learning Objectives

The following are the learning objectives for the manual and the associated training course. Participants should be able to:

- Define sexual harassment legally
- Recognise and define different forms of sexual harassment
- Learn about legal rights that protect against sexual harassment
- Explain why sexual harassment is a problem in the workplace
- Identify who is harmed by sexual harassment and its impact
- Understand the legal processes to follow to enforce your rights
- Describe the role of employers, unions, and workers in preventing and addressing SH
- Demonstrate action steps to take in response to witnessing or experiencing SH
- Help others be aware of their rights if they are experiencing sexual harassment
- Understand how to support a person who has been sexually harassed
Introduction

COSATU committed itself to “fight against sexual harassment in whatever form it occurs” at its Inaugural Congress in December 1985. The COSATU Women’s Conference in 1989 noted that “women workers are sexually harassed within the union, at work and in the community” and resolved to “encourage firmness and self-discipline within the unions, at work and in the community” in order to “restore women’s dignity” and “protect them from sexual harassment.”

The COSATU Congress in 1989 confronted the issue of sexual harassment in greater depth, including the thorny issue of sexual politics in unions (which refers to sexual relationships within unions fraught with unequal and oppressive gender power relations). This laid the basis for the development of a COSATU Code of Conduct on Sexual Harassment, which was further discussed in the 1994 Congress and finally adopted in 1995.

COSATU also recognised that sexual harassment must be codified in legislation as an offence, and thus COSATU was the initiator and one of the main drafters of the NEDLAC Code of Good Practice on the handling of cases of Sexual Harassment in the Workplace, which was adopted in 1998 as an addendum to the Labour Relations Act, and later amended and attached to the Employment Equity Act of 2005.

But sexual harassment remains a serious problem in unions and workplaces. We need to do more to create safe, harassment-free workplaces.

COSATU adopted a Policy and Procedure for the Handling, Prevention and Elimination of Sexual Harassment at its 12th National Congress in November 2015. The policy requires that COSATU and affiliates establish standing sexual harassment disciplinary committees to handle cases of sexual harassment, with people who are trained to handle such matters in an informed and sensitive manner. The policy also provides for the establishment of sexual harassment commissions from national to local levels to play an educational, advocacy and monitoring role. This manual is intended to train and support those tasked with these roles to ensure that we end sexual harassment in workplaces and unions.
Module 1: Defining and Understanding Sexual Harassment

1.1. Introduction

Sexual harassment is any unwanted attention of a sexual nature that takes place in the workplace or public space. Sexual harassment is disturbingly widespread in the South African workplace. A study conducted in 2003 by the Sexual Harassment Education Project (SHEP) found the following:

- 77% of women experienced sexual harassment at some time during their working lives.
- 20% of men had experienced sexual harassment during their working lives.
- 83% of perpetrators were men.
- 66% of perpetrators occupy positions of authority as supervisors or managers.
- 51% of those that had experienced sexual harassment kept quiet about it.
- On reported cases, only 44% were resolved in favour of the target of sexual harassment.

1.1.1 Sexual Harassment is a Form of Gender-based Violence

Sexual Harassment is a form of gender-based violence, which is sometimes referred to as violence against women. Violence against women is a major social, economic and health epidemic worldwide. VAW is defined in the box below. However, gender-based violence is broader that violence against women, because it includes harassment of gay men, lesbians and transgendered people on the basis of their sexuality and gender identity.

Box 1:

The UN Declaration on the Elimination of Violence against Women (DEVAW) adopted by the UN General Assembly in 1993 has been influenced by CEDAW General Recommendation No. 19. It defines VAW as: “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 deprivations of liberty, whether occurring in public or in private life.” (Article 1) The declaration encompasses all forms of gender-based violence against women (physical, sexual and psychological), no matter in which context or setting they occur:

- in the family (such as battery, marital rape; sexual abuse of female children; dowry-related violence; female genital mutilation/cutting and other traditional practices harmful to women);
- in the general community (such as rape, sexual harassment and intimidation at work, in school and elsewhere; trafficking in women; and forced prostitution), and
- violence perpetrated or condoned by the state, wherever it occurs (Article 2).

Further, DEVAW specifies that violence against women is a manifestation of unequal power relationships between men and women and a violation of women’s human rights (preamble). Article 3 lists examples of these rights, such as the right to life, the right to equality, the right to the highest standard attainable of physical and mental health, or the right not to be subjected to torture, or other inhuman or degrading treatment or punishment. (Source: 1993 UN Declaration on the Elimination of Violence Against Women).

It is clear that sexual and gender-based violence is an epidemic facing women, and affecting predominantly women, because of their subordinate position in society. (We will discuss gender based-violence and harassment in more detail in Module 2.) The following graphics demonstrate that violence against women is everywhere.
In 1993, the UN General Assembly Declaration on the Elimination of Violence against Women provided a framework for action on the pandemic. But more than 20 years later, 1 in 3 women still experience physical or sexual violence, mostly by an intimate partner.

Source: http://aiesec.org/wp-content/uploads/2015/03/womenviolence-845x400.png

1.2. Defining Sexual Harassment

Activity 1: What is Sexual Harassment?

1. In pairs, discuss your understanding of sexual harassment.
2. Write down 3-5 key points as if you are explaining it to a worker.
3. You will be asked to list your points in plenary.
4. Then, in pairs, read the EEA Code and COSATU definitions of sexual harassment, presented in Information Box 2 and Box 3. Identify areas from Box 2 and 3 that you had not considered.
5. Add any new ideas to your key points and develop a summarised definition of sexual harassment.
6. In groups of 4, create a poster reflecting your key points defining sexual harassment.
7. Present the poster in plenary.

Box 2: Definition of Sexual Harassment

Extract from The Employment Equity Act Code of Good Practice on Handling Sexual Harassment in the Workplace

Definition of Sexual Harassment

The Code of Good Practice on Handling Sexual Harassment in the Workplace, Amended 2005 (“the Code”) states that:

Sexual harassment is unwelcome conduct of a sexual nature that violates the rights of an employee and constitutes a barrier to equity in the workplace, taking into account a variety of factors-

- whether the harassment is on the prohibited grounds of sex and/or gender and/or sexual orientation;
- whether the sexual conduct was unwelcome;
- the nature and extent of the sexual conduct; and
- the impact of the sexual conduct on the employee.
Box 3: COSATU Definition of Sexual Harassment

Extract from the COSATU Policy and Procedure for the Handling, Prevention and Elimination of Sexual Harassment (2015)

5.1. Definition of sexual harassment

5.1.1. Any conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men, which is unwelcome, unreasonable, demeaning, compromising, embarrassing, threatening, humiliating and/or offensive to the recipient.

5.1.2. Where 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 position in the union.

5.1.3. Conduct that creates an intimidating, hostile or humiliating working and/or organisational environment for the recipient.

5.1.4. This can include unwelcome physical, verbal or non-verbal harassment.

5.1.5. Sexual harassment is most commonly perpetrated by men towards women as a result of sexism and the unequal power relations that exist between them, however it is also possible that men may experience sexual harassment.

5.2. Same-sex harassment

5.2.1. Sexual Harassment can occur between people of the same sex, and is also covered by this policy and procedure.

Source: Sexual Harassment in the Workplace, Sexual harassment Education Project ©SHEP 1997
1.2.1. Forms of Sexual Harassment

Activity 2: Identifying Forms of Sexual Harassment

In groups of four, discuss the following:

1. Identify 3-5 examples of each of the following types of harassment:
   • Physical harassment
   • Verbal Harassment
   • Non-verbal harassment

2. What is your understanding of quid pro quo harassment? Give examples.

3. What is sexual favouritism? Give examples.

4. What is hostile work or organisational environment? Give examples.

After discussing your own understanding, read Box 4 in your group and use it to make additions where needed.

Report back to plenary and discuss.

Box 4: Forms of Sexual Harassment (Extract from COSATU Policy)

5.3. Forms of harassment

There are various forms of sexual harassment that range from subtle attention to the most extreme forms of violence, like rape.

Examples of sexual harassment may include the following, but are not limited to the listed examples:

5.3.1. Physical form

Touching, and any other bodily contact, such as patting, pinching, fondling, grabbing a person around the waist, interfering with a person's ability to move, molestation, assault, attempted rape or rape.

5.3.2. Verbal form

Sexual advances, repeated requests for a date that are turned down, unwanted flirting, telephone calls, text messages, emails or other forms of written and/or electronic transmission with sexual overtones, sex related jokes or insults, inappropriate enquiries about a person’s life, whistling, and comments about a person’s clothing and/or body.

5.3.3. Non-verbal form

Leering/staring, winking, public display or posting/transmitting of emails or pictures of an offensive, sexually suggestive or derogatory nature, playing sexually suggestive music and indecent exposure.

5.3.4. Quid pro quo harassment

Transactional sex (the demand for sexual favours) in return for, amongst others, a job, a promotion, favourable working conditions, retention of employment, improved benefits, or to secure a salary increase. This is also referred to as quid pro quo sexual harassment. This could also apply to the demand for sexual favours in return for representation by the union.
5.3.5. Sexual Favouritism

Sexual favouritism occurs when a person who is in a position of power rewards only those who submit to his/her sexual advances. Other employees who do not submit to sexual advances are unfairly treated in the union or at work, for example, being denied promotions, salary increases, or victimised through unfair disciplinary measures being instituted against them.

5.3.6. Hostile work and organisational environment

5.3.6.1. Where there is unfair treatment of a person who refuses sexual advances, or a current or former sexual partner, this creates a hostile work and organisational environment and constitutes sexual harassment.

5.3.6.2. Similarly, unfair treatment of a current or former sexual partner, or a person refusing sexual advances, which may be interpreted as creating the conditions for that person to resign from the job or the union, also constitutes sexual harassment.

5.3.6.3. Staff or union members can experience indirect sexual harassment as a consequence of witnessing the sexual harassment of others. This has the effect of creating an intimidating and hostile work and organisational environment, since they may fear facing the same treatment.

5.3.6.4. Harassment and/or ridicule of lesbians, gays, bisexuals, transgendered and intersex individuals on the basis of their sexual orientation and/or identity also contributes towards a hostile work and organisational environment and is considered an offence under this policy.

1.2.2. Who can be a victim or perpetrator of sexual harassment?

Although the Employment Equity Act deals with the relationship between employer and employee, not only employees can be victims of sexual harassment in the working environment. The victim and perpetrator of sexual harassment do not have to be co-workers.

<table>
<thead>
<tr>
<th>The victim and perpetrator could include any of the following:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owners</td>
</tr>
<tr>
<td>Managers</td>
</tr>
<tr>
<td>Employees</td>
</tr>
<tr>
<td>Clients</td>
</tr>
<tr>
<td>Contractors</td>
</tr>
</tbody>
</table>

1.2.3. Is it still sexual harassment if it took place away from the employment premises or outside of working hours?

Yes. In Campbell Scientific Africa (Pty) Ltd v Simmers and Others (CA 14/2014) [2015] ZALCCT 62 (23 October 2015), the sexual harassment occurred away from the employer’s premises and after working hours. The Court held that the employer was entitled to discipline the employee as the sexual harassment occurred in the context of a work related social event and affected the employment relationship.

1.2.4. Is it still sexual harassment if I agreed to something because I felt that I had no choice?¹

You have experienced sexual harassment even if you agreed to engage in behaviour of a sexual nature, if you did so under the following circumstances:

- Where you agreed to engage in the sexual behaviour because you were intimidated and afraid of what would happen to you if you did not agree. For example, the person threatens to hurt or harm you or your children if you do not engage in the sexual behaviour.
- Where the harasser influences or threatens to influence your employment circumstances if you do not agree. For example, the person threatens to dismiss you or discipline you if you do not agree to engage in the sexual behaviour. Alternatively, the person may suggest that he will promote you or increase your salary if you engage in the sexual behaviour. This type of behaviour is known as quid pro quo harassment.
- Where a person in authority in the workplace rewards only those who respond to his sexual advances. This is referred to as sexual favouritism.

¹ Source: Women’s Legal Centre A Simplified Guide to Sexual Harassment in the Workplace
**Activity 3: Is this Sexual Harassment?**

On your own, mark each item on this Hand-out with one of the following answers:

YES if you think it is sexual harassment

NO if you do not think it is sexual harassment

? If you cannot decide, or do not have enough information to decide whether it is sexual harassment or not

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Male employees whistle at a female employee as she walks through the warehouse.</td>
<td>________</td>
</tr>
<tr>
<td>2. A male on a crew asks a female on the crew out for a date. She says no, she’s not interested; he continues to ask.</td>
<td>________</td>
</tr>
<tr>
<td>3. A supervisor writes notes with sexual innuendos and leaves them in a female worker’s locker.</td>
<td>________</td>
</tr>
<tr>
<td>4. Pin-ups of naked women are hanging in the shop.</td>
<td>________</td>
</tr>
<tr>
<td>5. A supervisor puts a hand on a worker’s shoulder and says ‘You’re really doing a great job. Let’s go out for a drink later and talk about your future with the company.’</td>
<td>________</td>
</tr>
<tr>
<td>6. A male worker puts his hand over a female worker’s to demonstrate how to use a tool. He takes his hand away as soon as he finished the demonstration.</td>
<td>________</td>
</tr>
<tr>
<td>7. The guys are going out for a drink after work. They ask the female workers to come along.</td>
<td>________</td>
</tr>
<tr>
<td>8. Bomani is a Malawian migrant worker who works as a cleaner in a large office building at night. A male office staff member who works late has followed him around, asking him to have a drink with him. Bomani does not speak English very well and decides to avoid going to that office. He has been reprimanded for not cleaning that office.</td>
<td>________</td>
</tr>
<tr>
<td>9. Sizwe regularly leers at Buhle’s body, focusing on her breasts, hips and buttocks. It disorients Buhle to the extent that she sacrifices time and energy to go out of her way to avoid Sizwe’s workstation.</td>
<td>________</td>
</tr>
<tr>
<td>10. Mary and Jane work in the same office. Whenever Mary is near Jane, she makes a point of touching her or brushing up against her. Jane doesn’t like it and has told Mary that it upsets her. Mary persists.</td>
<td>________</td>
</tr>
<tr>
<td>11. Steve is a forklift operator. All of his co-workers are female. He is young and attractive and the women take turns teasing him about his physique and making suggestive remarks. As a result, Steve often finds it hard to concentrate on his work. This has led to errors and Steve has been given a warning by his boss. Steve has now asked the women to stop, but they treat it as a big joke and continue.</td>
<td>________</td>
</tr>
<tr>
<td>12. A supervisor has to choose whom to lay off. He tells a female worker that if she agrees to go out with him she won’t get laid off.</td>
<td>________</td>
</tr>
<tr>
<td>13. A female apprentice complains to her trainer that she does not like him rubbing up against her when they are working together. The trainer tells her that it comes with working in this field.</td>
<td>________</td>
</tr>
</tbody>
</table>

After filling in the response work in groups of 4, and discuss your responses. Identify areas of agreement and disagreement

Present your group’s areas of agreement and disagreement to plenary and discuss.
1.3. Causes of Sexual Harassment

Activity 4: The Causes of Sexual Harassment in the Workplace and the Union

In groups of five, discuss the following:

- What do you believe to be the underlying causes of sexual harassment?
- Why do you believe that addressing sexual harassment matters in the workplace and in the union?
- Why is sexual harassment often not reported in the workplace and in the union?

Present your responses in summary on cards or flipcharts to plenary.

The facilitator will present a short summary of the causes highlighted in the COSATU Policy.

In your own time, read pages 13-15 (including Box 6).
Gender-based violence is rife all over the world, as a result of patriarchy and the oppression of women. Violence against women is endemic in South Africa, partly as a result of the legacy of the brutality of slavery, colonialism and Apartheid, which also institutionalised gender based violence. It is further compounded by the extreme poverty and vulnerability experienced under neo-liberal capitalism.

COSATU recognises that sexual harassment, sexual aggression and rape are forms of gender based violence, which constitute discrimination and abuse of women.

COSATU recognises that sexual harassment is, above all, a manifestation of power relations. Women are more likely to be subjected to sexual harassment because they are in more vulnerable and insecure positions in the economy and in society. This is mirrored in the trade union movement as a workplace and organisation. This means that COSATU and its members need to actively address unequal gender power relations and the manifestation of patriarchy, which further perpetuates a climate of silencing and oppression of women. It is acknowledged that men may also experience sexual harassment.

COSATU and members realise that the threat of gender-based violence serves to reinforce unequal power relations, and contributes towards the fear of confronting and reporting sexual harassment and abuse.

Women who experience sexual violence and sexual harassment usually blame themselves (as does the society, for instance questioning their clothing, lifestyle and conduct that is assumed to have caused this). It is patriarchy and sexism which are to blame for sexualising, objectifying and demeaning women and then blaming them for it.

Sexual harassment is often invisible because the victims fear further humiliation and retaliation by those in power (who are often the perpetrators) and are therefore silenced. There is also a fear of lack of support (or victimisation) for victims of sexual harassment, because the perpetrators are often powerful in the workplace or organisation.

Victims of sexual harassment are also often intimidated from speaking up because they tend to be in more vulnerable socio-economic positions, and fear reprisals.
1.3.1. Why is sexual harassment an important issue to address in the workplace?

- Sexual harassment is an assertion of power and control
- Unequal gender power relations and the position of women in workplaces means that women are most affected
- Sexual harassment is a form of discrimination
- Sexual harassment is a health and safety issue

1.3.2. Why is sexual harassment often not reported in the workplace?

- Victims of sexual harassment are often afraid to report incidents because of unequal power relations and fear of reprisal
- They may fear victimisation and/or risk losing out on promotion
- They may lack faith in the employer (in their workplace) or leadership (in their trade union) to act effectively (they may have observed this in their organisation, and there are many examples in society and workplaces where SH cases have not been taken seriously)
- They may fear further exposure and humiliation and that they as the victim will be blamed (especially in cases involving high profile/powerful men)
- Statistically, proportionately fewer cases are resolved in favour of the victim, therefore the victim may fear that the cost of reporting is not worth it.

1.4. What is the impact of sexual harassment in the workplace?²

- Sexual harassment in the workplace creates a hostile working environment.
- It jeopardises the victim’s emotional and mental health and well-being, causing significant stress and anxiety. It may affect other personal relationships. In some cases, victims of sexual harassment experience long-term clinical depression. Victims of sexual harassment are often blamed for being harassment and may blame themselves because of sexist ideas.³
- Physical health is closely linked to emotional health. Physical health is often compromised by emotional stress, leading to sleep disturbances, loss of appetite, headaches, weight fluctuations. Ongoing sleep disturbance can lead to other serious health problems such as high blood pressure, hormonal imbalances and a weakened immune system.
- Financial challenges may result from sexual harassment, due to job loss, lost wages and unpaid leave.
- It may also have broader career repercussions, where women, who are already disadvantaged in the workplace pay be further disadvantaged as a result of sexual harassment. For example, they may lose job references, or they may decide to leave their current employer due to a hostile working environment in the workplace.
- Economic consequences are felt throughout the global economy, with millions lost due to absenteeism, low productivity, employee turnover, low morale and legal costs related to sexual harassment.

Source: Sexual Harassment in the Workplace, Sexual Harassment Education Project © SHEP 1997

² Source: https://www.employmentadvocacy.com/blog/2015/02/the-effects-of-sexual-harassment-in-the-workplace/
³ This is explored in more detail in Module 5 on the Psychosocial impact of sexual harassment.
**CONSEQUENCES OF SEXUAL HARASSMENT**

**VICTIM**
- Lose confidence
- Job performance drops
- Embarrassment
- Job loss
- Isolation/depression
- Fearful
- Powerless
- Self-doubt
- Fear of victimisation

**PERPETRATOR**
- Public humiliation
- Dismissal
- Law suit
- Family breakup
- Office pervert
- Loss of friends
- Jail time
- Career stopper
- Not respected

Source: [www.stafftraining.co.za](http://www.stafftraining.co.za)

**SPACES WHERE SEXUAL HARASSMENT OCCURS & ITS POTENTIAL IMPACTS**

**Street Harassment:**
This form of sexual harassment occurs in public places.
- Sexually objectifies
- Makes public spaces feel less comfortable and safe
- Reinforces vulnerability to assault and attack in public spaces

**Workplace Sexual Harassment:**
- Undermines a person’s sense of dignity
- Undermines a person’s sense of competence at work
- Compromises earning potential (absenteeism, distraction, loss of promotion)
- Creates a toxic environment

**Sexual Harassment in Educational Settings:**
- Undermines skills and a person’s ability to learn
- Disrupts education
- Compromises a person’s ability to reach his or her full potential
- Can result in absenteeism, poor grades and discontinuation of one’s studies

Sexual harassment can negatively impact every domain of a survivor’s life.

Activity 5: Myths and Facts about Sexual Harassment

Use the following scale to rate each of the statements below:

A: Strongly Agree      B: Agree      C: Disagree      D: Strongly Disagree      E: Don’t Know

1. Sexual Harassment is rare.

2. Sexual harassment only happens to women and is perpetrated only by men.

3. The seriousness of sexual harassment has been exaggerated; most so-called harassment is really trivial and harmless flirtation.

4. Many victims make up and report stories of sexual harassment to get back at their employers or others who have angered them.

5. Women who are sexually harassed generally provoke harassment by the way they look, dress and behave.

6. If you ignore harassment, it will go away.

7. There must be repeated acts of harassment in order to consider it a violation of the law.

8. Victims can successfully resist harassers if they try.

9. To be considered harassment, the victim must actively resist and make it clear that it is unwanted.

Discuss your responses to each of these questions in groups of three.

In your group, read and discuss Handout 1: Myths and Facts about Sexual Harassment to check your responses against the facts.

Discuss in plenary.

In your own time, read the box on the following page, on Myths and Realities: Sexual Harassment in the Workplace.
MYTHS AND REALITIES:
SEXUAL HARASSMENT AT THE WORKPLACE

This so-called harassment is just harmless flirting. Women enjoy this kind of attention.

When flirting is unwelcome, it is known to cause anxiety, depression and health problems in women. It often forces them to leave the workforce, and in extreme cases, even commit suicide.

Women provoke sexual harassment by the way they behave and dress. Respectable women do not face sexual harassment.

All kinds of women, whether old or young, dressed in sarees or burgas, construction workers or bankers, report having faced harassment. It is not the conduct of a woman that matters. Rather, harassment occurs because women tend to get sexualised in a male-dominated society.

The best way to put an end to sexual harassment is to ignore it.

Silence never helps. It may be misconstrued as enjoyment, encouraging the harassment to continue. It is important to object to the unwelcome conduct, and if necessary, raise an alarm and complain.

It is wrong for the law to restrict sexual expression/flirting among adults, only because they happen to work together.

The law does not restrict consensual sexual expression/flirting between adults at the workplace; it restricts only that conduct which the woman finds unwelcome and hostile. ‘Flirting’ that is coercive, or ignores the woman’s discomfort and refusal, is wrong.

Most charges of sexual harassment are a way to get back at bosses and colleagues.

Complaints are in fact under-reported because women fear stigma and possible loss of job for speaking out against sexual harassment. It is only in extremely rare instances that complaints are unsubstantiated.

Source: https://feminisminindia.com/2015/12/17/know-sexual-harassment-workplace-law/
Activity 6:

In groups of 3, read the following graphic. What is the point the writer is trying to make here? Discuss your thoughts and share in plenary.

Source: https://vgvli.gov.in/sites/default/files/TRAINING%20MODULE%20ON%20SEXUAL%20HARASSMENT%20OF%20WOMEN%20AT%20WORKPLACE.pdf
Module 2: Global Initiatives and National Legislative Framework to address Sexual Harassment

In addition to legal and policy measures, many governments, workers organisations and other bodies are using a range of strategies to prevent sexual harassment.

The graphic below shows that while many countries have adopted laws to prohibit sexual harassment in the workplace, there are still massive numbers of women and men that remain unprotected.

Is sexual harassment explicitly prohibited in the workplace?

More than one-third of the world’s countries do not have any laws prohibiting sexual harassment at work, leaving nearly 235 million working women without this important protection. A study by UCLA’s WORLD Policy Analysis Center also found that nearly 82 million working women live in 24 countries that do not have any legal protections against gender-based discrimination in compensation, promotions and/or demotions, or vocational training at work.


2.1. Global Initiatives

- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
  http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm
- ILO Convention 111 on non-discrimination
- ILO Occupational Safety and Health Recommendation, 1981 (No. 164)
- ILO Brown Report (Draft Convention on Violence and Harassment in the World of Work)
- UN Women Safe Cities Global Initiative
CEDAW defined sexual harassment as:

“Any insult or inappropriate remark, joke, insinuation and comment on a person’s dress, physique, age, family situation, etc.; a condescending or paternalistic attitude with sexual implications undermining dignity; any unwelcome invitation or request, implicit or explicit, whether or not accompanied by threats; any lascivious look or other gesture associated with sexuality; and any unnecessary physical contact such as touching, caresses, pinching or assault.”

Some of the key issues highlighted in the Draft ILO Convention on Violence and Harassment in the World of Work⁴ are as follows:

• Violence and harassment in the world of work includes: “not just physical, but also psychological and sexual aspects” (page 5)
• Violence and harassment is described as: “unacceptable behaviours and practices that are likely to result in physical, psychological or sexual harm or suffering”. (page 6)
• Gender-based violence is defined as follows: “Physical, psychological and sexual violence can be considered gender-based if it stems from unequal power relationships between men and women (WHO, 2009, page 3) or if it is perpetrated against people because they do not conform to socially accepted gender roles (van der Veur et al., 2007, page 43).” (page 10)
• “Gender-based violence is not synonymous with violence against women; however, women and girls are the “primary targets” for gender-based violence, and the perpetrators are mostly men (UNFPA, 2009, page 7; EIGE, n.d.). Gender-based violence can be committed by or against both women and men, such as violence against non-gender conforming men, including men who are or who are perceived to be gay, bisexual or trans.” (page 10)

UN Women Safe Cities Global Initiative:

“Sexual harassment and other forms of sexual violence in public spaces are an everyday occurrence for women and girls around the world – in urban and rural areas, in developed and developing countries. This reality reduces women’s and girls’ freedom of movement. It reduces their ability to participate in school, work and public life. It limits their access to essential services and enjoyment of cultural and recreational opportunities. It also negatively impacts their health and well-being.”

A growing list of cities, including Cape Town, participates in the UN Women Safe Cities Initiative. These cities have committed to:

• passing legislation to prevent and respond to sexual violence in public spaces
• investing in safety and economic viability of public spaces
• campaigning to change attitudes and behaviours to promote women’s and girls’ rights to enjoy public spaces free from violence.

Activity 7: Safe cities initiative

In groups of 4,

• Read the additional material provided by the facilitators about the UN Women Safe Cities Global Initiative.
• Discuss which workers are most affected by sexual harassment and violence in public spaces
• Brainstorm about how you could take up this campaign in your area, including in public spaces where you work.
• Draft a plan on posters to present to plenary.

SEXUAL HARASSMENT AT WORK

SEXUAL HARASSMENT IS:
Where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose of, or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.

HOW TO RECOGNISE SEXUAL HARASSMENT
It can be identified from the following behaviours:

PHYSICAL
Sexual touching, physical violence, including sexual violence.

VERBAL
Sexual comments, gestures, innuendo, visual images, etc.

CYBER
Sexually explicit e-mails, handwriting, Senior managers' actions or comments on social networking sites.

In every 1% of workers in the EU (a total of 3% of all employees) have experienced sexual harassment.

14% of employees in the hotel/restaurants industry have experienced sexual harassment.

SILENCE
Many victims (men and women) do not talk about their experiences of sexual harassment.
Only 4% talked to an employer or manager of an experiencing sexual harassment in the workplace.

SEXUAL HARASSMENT AGAINST WOMEN
Women are almost three times as likely to be sexually harassed.

Women are more likely to be sexually harassed within:

"Male-dominated jobs" (e.g., police officer, bus or truck driver).

Traditional "female jobs" (e.g., waitress, nurse).

61% of women employed in service industries have been subjected to sexual harassment (since the age of 15).

32% of all female victims of sexual harassment sold the perpetrator as a colleague or customer.

75% of women in top management have experienced sexual harassment.

CONSEQUENCES
For the victim:
- Anger and annoyance
- Fear and anxiety
- Shame and embarrassment
- Vulnerability
- Loss of self-confidence

For his/her work:
- Reduced productivity
- High absenteeism
- Reduced performance
- Low morale
- High staff turnover

ZERO TOLERANCE
Sexual harassment must never be accepted. Employees should be protected.

Implementing a policy
Establishing a system on recognizing
Implementing disciplinary

Raising awareness
Following up complaints

Health and safety at work is everyone's concern. It's good for you. It's good for business.

Combatting Sexual Harassment in the Workplace and Unions
2.2. South African Legislative Framework

- The Constitution of South Africa 1996
- The Employment Equity Act, no 55 of 1998
- The Code and Amended Code of Good Practice on Handling of Sexual Harassment Cases in the Workplace addendum to EEA, 1998 and 2005
- The Protection from Harassment Act, no 17 of 2011
- Criminal Law (Sexual Offences and Related Matters) Amendment Act, no 32 of 2007

Employers are expected to create and maintain a working environment where employees feel safe and where the equality and dignity of employees is respected.

Workers’ rights against sexual harassment in the workplace are set out in the Labour Relations Act, the Employment Equity Act and in a set of guidelines issued by the Department of Labour called the Code of Good Practice on the Handling of Sexual Harassment Cases (the Code).

Both the Labour Relations Act and the Employment Equity Act prohibit sexual harassment in the workplace and set out the steps that an employee can take to deal with sexual harassment. The Code sets out the definition of sexual harassment and describes the procedures that employers can adopt to deal with sexual harassment in the workplace. The Code is a guide for employers on how to deal with sexual harassment in the workplace. Employers are encouraged to develop and implement policies on sexual harassment based on the Code.

Module 3: Steps and Procedures for handling SH cases in the workplace

3.1. Reporting Sexual Harassment to your Employer

When should I report sexual harassment to my employer?
You cannot be dismissed or punished in any way for reporting sexual harassment to your employer if you did so in good faith, meaning that you honestly believed that you experienced sexual harassment.

How do I report sexual harassment to my employer?
You should try to report the sexual harassment as soon as reasonably possible so that steps can be taken to protect you from further harassment.

You can bring the sexual harassment to the attention of your employer directly or through someone that you trust like a friend, colleague, a trade union representative or human resources official.

If you have delayed in reporting the sexual harassment because you were not ready to do so or because you were afraid of what would happen to you once you reported it, this does not prevent you from taking action against the harasser.

If you choose to advise your employer of the sexual harassment through someone else, you can ask the person to keep the information confidential and not to tell anyone other than your employer.

If your workplace has a sexual harassment policy, check the policy to see what options are available for how to report sexual harassment. If you are not comfortable with reporting the sexual harassment in the way provided for in the policy, you can choose to bring it to your employer’s attention in any way that you choose.

What can I expect from my employer when I report sexual harassment?
Once the employer has been made aware of sexual harassment, the employer should consult with you and take all the necessary steps to address the complaint of sexual harassment. It is against the law for your employer to do nothing after you report that you have experienced sexual harassment.

You can ask your union to negotiate with your employer to provide or pay for confidential advice or counselling to help you to deal with the effects of the sexual harassment.

You have the following rights:

- The right to deal with the complaint of sexual harassment through an informal process or through a formal process. Your employer should also explain the available procedures to you especially if your employer has a policy for dealing with sexual harassment matters.

- The right to have the matter investigated and handled in such a manner that the identities of any people involved, including yourself, are kept confidential except from those people who are dealing with the investigation.

You have the right to choose whether you want to follow an informal procedure or a formal procedure. Depending on the circumstances, you can choose to first follow the informal procedure and then follow the formal procedure. Alternatively, you can choose to proceed directly with a formal process. This depends on the type and duration of the harassment.

If it appears to your employer that there is a risk of harm to others in the workplace, your employer may choose to follow a formal procedure to deal with the complaint of sexual harassment regardless of your preference.

The COSATU Policy (which applies to COSATU and its affiliates) states that the informal approach should not be used for severe cases that involve sexual assault, quid pro quo or persistent harassment.

### 3.2 Making an Informal Complaint

An informal procedure can be followed if you want your employer to bring the sexual harassment to the attention of the harasser but you do not want your employer to conduct an investigation or to take any formal action against the harasser. This can be done through, for example, a discussion between the employer and the harasser or providing the harasser with a circular or memo regarding the type of behaviour that he is engaging in which is not welcome.

**Where the harasser is given the identity of the complainant**

You can ask your employer to have someone of your choice explain to the harasser that his behaviour towards you is not welcome and that it makes you uncomfortable and interferes with your work. The harasser should be asked to stop engaging in such behaviour.

**Where the harasser is not given the identity of the complainant**

You can ask your employer to have someone of your choice explain to the harasser that certain types of behaviour make employees uncomfortable and constitute sexual harassment. With this procedure, the harasser is not given your identity but is generally made aware of the type of behaviour that is inappropriate.

### 3.3 Making a Formal Complaint

You can choose to follow a formal procedure regarding your complaint of sexual harassment, either with or without first following an informal procedure.

If your employer has a sexual harassment policy or a policy for dealing with complaints or grievances in the workplace, that policy will set out the internal processes that need to be followed in order for the complaint of sexual harassment to be investigated and for action to be taken against the harasser. If your employer does not have a sexual harassment policy, you can discuss the manner in which the complaint will be dealt with.

The complaint procedure will usually require you to provide the following information:

**How to make a formal complaint**

The following steps should be agreed on for the formal procedure:

- A description of the incident of sexual harassment
- The name of the harasser
- What action you want the employer to take against the harasser

**Investigation**

Once you have lodged the complaint or grievance, the matter will be investigated by your employer.
Interviews
The investigation will usually begin with the employer or human resource official interviewing you. You may be required to provide a written statement with details of the sexual harassment that you experienced. The person that you have accused of engaging in sexual harassment may also be interviewed and required to provide a written statement.
Any witnesses who may have witnessed the sexual harassment may also be interviewed.

Employers must ensure that sexual harassment grievances or complaints are handled and investigated in a way that ensures that the identities of the people involved are kept confidential and not disclosed to other employees who are not part of the investigation.

Evidence
Any relevant documents that can be used as evidence of the sexual harassment will be collected. These documents could include emails or any other written messages or pictures that were sent by the harasser to you which can be used as evidence of the sexual harassment that you experienced.

Hearing
Once the sexual harassment complaint has been investigated, there will be a hearing at which both you and the person who sexually harassed you will have an opportunity to explain what happened.
The hearing will be conducted by a chairperson who can be someone from the organisation like a manager or it can be someone from outside the workplace.
If the hearing is conducted by someone within the workplace, that person must be independent and should not have been part of the investigation.
The chairperson will consider the evidence and may ask questions to help him or her to decide what action should be taken.
After the hearing, the chairperson will make a recommendation regarding whether the person engaged in sexual harassment and if so, what action should be taken against him.

Punishment
If the person is found guilty of sexual harassment then the penalty can range from a written warning to a dismissal depending on the seriousness of the sexual harassment.
3.4 Rights of the parties

Extract from the COSATU Policy on Sexual Harassment

8. Guiding Principles of the COSATU Procedure for Cases of Sexual Harassment

8.1. **Confidentiality** is key in the handling of sexual harassment cases. Any individual charged with the responsibility of handling a sexual harassment case is bound by this principle of confidentiality and non-disclosure in relation to any detail (other than to communicate the finding and the process of a hearing and not the details/content of the case and the witness statements). The two parties at the centre of a sexual harassment case are also bound by this principle. The Federation is not entitled to reveal the identity of the complainant without their express permission.

8.2. **Sensitivity** to the complainant in a case of sexual harassment is critical. This means that the committee members must ensure that s/he is supported through the hearing process such as ensuring that the complainant is not unduly exposed to the perpetrator or exposed to secondary harassment and/or pressure to withdraw the allegations by the alleged perpetrator or his/ her allies.

8.3. The **employment security** of the complainant shall be guaranteed.

8.4. **Protection against victimisation** of the complainant shall be assured. COSATU will permit no retaliation of any form against anyone who brings a complaint of sexual harassment or who speaks as a witness in the investigation and/or hearing of a complaint of sexual harassment.

8.5. **Conflict of interest.** Individuals who are handling a Sexual Harassment Case must recuse themselves if they believe that they have a conflict of interest which may be unfair to either the complainant or the alleged perpetrator of sexual harassment.

8.6. **Fairness** is key to the implementation of the COSATU sexual harassment policy and procedure. The complainant shall be treated fairly and without prejudice, in spite of the authority that the alleged perpetrator may wield in the union or in the workplace. The alleged perpetrator will be treated as innocent until found otherwise.

Activity 8: Sexual Harassment Scenarios

In groups of three, read the following scenarios and answer the questions that follow, documenting the steps that you would follow to respond to these scenarios.

**Scenario A:**
A potential employee goes for an interview for a new position. The hiring manager hints that he would like to hire this person and suggests that they go for drinks to discuss this further. While out for drinks, the manager offers the job, while implying that he wants to sleep with the new employee.

Is this sexual harassment?
If so, what type of sexual harassment is this?
How would you handle this situation if you were the potential employee?
How would you advise the potential employee if they asked you for help?

**Scenario B:**
A female union educator works in the national office of a large trade union. She often has to work late. The General Secretary calls her up to his office for a meeting at 18h00 when everyone else is leaving to go home. She feels uncomfortable going up there at that time but they have urgent work to finish.
When she arrives in her office he comes to the door to greet her and gives her a long hug. She tries to manoeuvre out of his embrace but he holds her firmly. She can feel his body against hers. But she is afraid to say anything, because he is a very powerful leader who does not like to be challenged. He lets go of her and they sit down for the meeting. She finds it hard to concentrate, worrying about what will happen when it’s time to leave his office.

Is this sexual harassment?
If so, what type of sexual harassment is this?
How would you handle this situation if you were the union educator?
How would you advise the educator to respond to the situation, if you were the gender coordinator or a worker leader?

Scenario C:
A female worker goes to the male union organiser with a complaint of sexual harassment against her boss. When she starts to explain what happened, the organiser asks her the following questions.
What were you wearing? Did you encourage this behaviour? Did you enjoy it? Have you had a relationship with the manager? Did you confront the boss and tell him to stop? The female worker feels uncomfortable and decides not to pursue the case further. Later, she approaches the union gender coordinator with this experience.

What is your understanding of what is happening here?
If you were the gender coordinator, how would you handle this situation?
How would you advise union organisers to handle such a scenario?

Scenario D:
You work in an open plan office with cubicles. You notice that the manager regularly visits your neighbouring colleague’s cubicle. He talks about his sexual encounters over the weekend in a loud voice and enquires about your colleague’s love life. He makes remarks about your colleague’s clothing and makes jokes about how attractive she is. One day you walk into the staff kitchen and see the manager standing behind your colleague and pressing her against the counter. She tries to move but he holds her there. When he sees you he quickly walks away. When you try to discuss this with your colleague she tells you that she is uncomfortable, but she doesn’t want to make any trouble.

Is this sexual harassment?
What do you do after having witnessed this incident?
How do you advise your colleague?

Activity 9: Rights and Principles in the COSATU Procedure
You will be divided into 6 small groups:

- Read through the extract from the COSATU Policy on Guiding Principles below.
- You will be given a piece of paper with one of the following principles written on it:
  - Confidentiality
  - Sensitivity
  - Employment Security
  - Protection against victimisation
  - Conflict of Interest
Fairness

- Prepare a short role play where you act out a scenario where the union violates the principle your group has been given
- Each group will act out their role play for the plenary and the other groups will guess which principle has been violated
- The workshop will then discuss how this could have been handled differently in each case

Rights of the Parties
When it comes to redress for workplace sexual harassment, an employee has a right to expect a trained, skilled and competent Complaints Committee, a time bound process, information confidentiality, assurance of non-retaliation, counselling or other enabling support where needed and assistance if the complainant opts for criminal proceedings.

Rights of the Complainant
- An empathetic attitude from the Complaints Committee so that they can state their grievance without fear
- A copy of the statement along with all the evidence and a list of witnesses submitted by the respondent
- Keeping their identity confidential throughout the process
- Support with lodging a formal complaint with police in case the complainant chooses to lodge criminal proceedings
- Provision for the complainant’s statement to be recorded in absence of the respondent (in case of fear of intimidation)
- Right to appeal in case the complainant is not satisfied with the recommendations/findings of the Complaints Committee

Rights of the Respondent
- A hearing to present their case in an objective manner
- A copy of the statement along with all the evidence and a list of witnesses submitted by the complainant (where this does not infringe the rights of the complainant and witnesses)
- Keeping their identity confidential throughout the process
- Right to appeal in case the respondent is not satisfied with the recommendations/findings of the Complaints Committee

Activity 10: Case Studies and Role Plays on Handling Cases of Sexual Harassment

In four groups, read the case study that you have been given and discuss the questions provided.

Develop a role play to demonstrate a key aspect of the scenario to the class and respond to the questions provided.

See Handout 2 for Case Studies.
Module 4: Preventing Sexual Harassment in the Workplace

Activity 11: Duties and Responsibilities of Parties for Preventing Sexual Harassment

In 5 groups:

• Brainstorm the duties and responsibilities of the following groups to prevent sexual harassment:
  1. Employers
  2. The State
  3. Trade Unions
  4. Women Employees
  5. Male Employees

• Read through the relevant notes (in Sections 4.1 – 4.3) in Module 4 and make additions, where needed.

• Prepare a presentation.

• Each group to present their ideas to plenary.

4.1. What are the duties and responsibilities of the Employer?


• Employers should create and maintain a working environment in which the dignity of employees is respected.

• A climate in the workplace should also be created and maintained in which complainants of sexual harassment will not feel that their grievances are ignored or trivialized, or fear reprisals.

Implementing the following guidelines can assist in achieving these ends:

• Employers/management and employees are required to refrain from committing acts of sexual harassment.

• All employers/management and employees have a role to play in contributing towards creating and maintaining a working environment in which sexual harassment is unacceptable.

• Employers/management should attempt to ensure that persons such as customers, suppliers, job applicants and others who have dealings with the business are not subjected to sexual harassment by the employer or its employees. And vice versa

• Employers/management should take appropriate action in accordance with the Code where instances of sexual harassment occur in the working environment.

When sexual harassment has been brought to the attention of the employer, the employer should consult all relevant parties; take the necessary steps to address the complaint in accordance with the Code and the employer’s policy; and take the necessary steps to eliminate the sexual harassment.

• Employers must make it clear that this is a workplace where harassment will not be tolerated.

• Provide education and information to all staff about sexual harassment as an important part of addressing the silence
• Develop an anti-harassment policy with employees, managers and union representatives.
• Ensure that all managers and supervisors understand their responsibility to provide a harassment-free work environment.
• Ensure that all employees understand the policy and procedures for dealing with SH.
• Make sure that the policy applies to everyone including managers.
• Promptly investigate and deal with all complaints of harassment.
• Appropriately discipline all employees who harass other employees.
• Provide protection and support for employees who feel they are being harassed.
• Take action to eliminate discriminatory jokes, posters, graffiti, emails and photos at the work-site.
• Monitor and revise policy and education programmes.

4.2. What are the Responsibilities of the State?
• Public awareness about legislation.
• Monitor and evaluate implementation of legislation.
• Conduct research.
• Maintain data.

4.3. What are the Responsibilities of Employees and Trade Unions?

Employee Responsibilities
• Become familiar with policy.
• Examine own attitude, awareness and behaviours.
• Observe, be aware of, and discourage sexual harassment behaviours.
• Be sensitive to other complaints about your own behaviour.
• Confront sexual harassers where possible.
• Seek support and assistance to resolve/deal with cases of SH.
• Document and keep records.
• Support co-worker who is being harassed.

Trade Union Responsibilities
• Awareness raising and training.
• Assist aggrieved in filing complaints/awareness and support on policies and procedures.
• Appoint ‘persons of confidence’.
• Research the extent of the problem of SH in the workplace.
• Negotiate policy with employer.
• Fight for workplace equality and gender mainstreaming.
• Constitute internal procedures, including internal complaints committee.
• Establish trade union policies and procedures for sexual harassment complaints within the trade union organisation.

Roles of women and men
• Men should take an active stand against sexism.
• Hold your male friends accountable.
• Take a public stand against sexual assault.
• If you experience or witness sexual harassment, take action to stop it.

(Source: GIRI national labour institute manual)
OUR RIGHTS AT WORK

We all have the right to:

- a workplace that is free from sexual harassment
- be treated with dignity and respect
- equal and fair treatment irrespective of gender, race, age, physical appearance and sexual orientation
- report any case of sexual harassment without fear of intimidation or victimisation
- demand confidentiality when reporting cases
- exercise our human rights and have our grievances taken seriously

We are finding out how new labour laws can protect us against sexual harassment. Unions and other organisations such as SHEP can advise you about what you can do in your workplace.

Source: Sexual Harassment in the Workplace, Sexual harassment Education Project ©SHEP 1997
4.4. Policy for Dealing with Sexual Harassment

- Employers are expected to develop policy to assist in developing procedures for dealing with sexual harassment in the workplace.
- COSATU has developed a policy and procedure for the Handling, Prevention and Elimination of Sexual Harassment.
- The COSATU Policy and Procedure has a three-pronged approach, namely:
  - Clear procedures for effectively handling cases of sexual harassment
  - Measures for preventing sexual harassment
  - Action and commitment to work towards the elimination of sexual harassment in all its forms in workplaces and society
- Elements of policy that worker representatives/shop stewards should negotiate for in workplaces include the following:
  - Policy statement defining sexual harassment and what behaviours are considered to form part of sexual harassment (while this does not exclude behaviours not listed)
  - Clear procedures to be followed in cases of sexual harassment, including identifying persons to whom complaints can be taken
  - Measures for Protection against reprisals for reporting a case of sexual harassment
  - Provision for Sick leave
  - Clear commitments regarding awareness-raising processes and programmes

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6 The NEDLAC Code and COSATU Policy can be used as model for negotiating workplace policies. The detailed procedures and provisions are further outlined in other sections of this manual.
Module 5: The Psychosocial Impact of Sexual Harassment in the Workplace

5.1. Overview

Sexual harassment occurs when people are targets of unwanted sexual comments, sexual gestures or sexual actions because of their actual or perceived gender, gender expression or sexual orientation.

The adoption of an intersectional framework when considering sexual harassment is very important as it recognises how the multiple identities that we each hold (gender; race; class; age; education; ability; sexual orientation) impact differently on our lives. The term intersectionality refers to how different forms of oppression and discrimination connect and lead to structural inequality.

Individuals who face more than one system of oppression, for example racism and sexism, face unique forms of discrimination, such as gendered racism. As long as entrenched patterns of patriarchy and heteronormativity remain unchallenged in the workplace, sexual violence will continue to be one of the most hidden forms of abusive power.

Victims of sexual harassment are members of a variety of communities and they frequently experience discrimination and oppression at these intersections. Sexual violence impacts all communities, however some forms of sexual violence are more impactful than others. The intersections of race, gender and sexual orientation are particularly important to understanding and responding to sexual harassment.

For example, lesbian, gay, bisexual, transgender, queer (LGBTQ community) and cisgender women are subjected to sexual harassment on a far greater scale than heterosexual men. Black men are far more likely to have been sexually harassed than white men. Transgender people face some of the highest rates of sexual violence, especially black transgender women.

Transgender is an umbrella term for people whose gender identity is different from their assigned sex at birth and/or who express their gender in non-traditional ways (World Health Organisation, 2015). An understanding of these connections between wider oppressive systems and what is deemed acceptable workplace behaviour is essential to creating an equitable and safe workplace for people across all gender identities and sexual orientations.

The predominance of social norms that support gender inequities, adherence to traditional gender roles and a general acceptance of violence, perpetuate sexual violence; the perception of women as sex objects and breeds homophobia and transphobia. Institutionalised practices within the workplace whereby women are objectified and members of the LGBTQ community are stigmatised create rife conditions for sexual harassment to take place. This kind of climate also makes it very difficult for victims of sexual harassment to come forward and report their harassment.

Sexual harassment impacts on the morale and wellbeing of all employees. It disrupts the work of everyone, including people not directly involved. Sexual harassment has a cumulative, undermining effect and creates a hostile work environment. This overview of the psychosocial implications of sexual harassment has relevance to the following forms of sexual harassment:

Physical: Ranges from inappropriate touching to assault, attempted rape and rape.

Verbal: Sexual advances; sex related jokes; inappropriate enquiries into a person’s private life and spreading rumours about a person’s personal life; comments about a person’s clothing or body.
Non-verbal: Leering; following; loitering, posting or displaying suggestive images; unsolicited email or texting.

Quid pro quo: Sexual favours in exchange for employment and union related opportunities.

Hostile environment: Unfair treatment of a person who refuses sexual advances; the witnessing of sexual harassment; ridicule and harassment of lesbians, homosexual; bisexual; transgender and intersex individuals.

It is very important for employers, union officials and co-workers to understand the negative impact of sexual harassment on victims, their families and the workplace. This understanding will lead to effective implementation of our labour laws and meaningful responses to victims of sexual harassment.

The following section will offer some insight into the physical and mental health of victims of sexual harassment.

5.2. Physical and mental health amongst victims of sexual harassment

Sexual harassment has consequences for physical and mental health. We typically pay more attention to physical health. However, as evidenced in scientific research, our brains and bodies are linked. The parts of our brains that process emotions, including stress, are among the earliest to develop. These parts are located near the brain stem and they deal with involuntary functions such as heart rate and breathing. When we are stressed neurotransmitters in both the brain and the stomach are activated. This ongoing activation over time creates physical and mental illness.

Victims of sexual harassment frequently experience emotional and physical symptoms for years after the experience. The trauma associated with sexual harassment can begin as acute stress or as a by-product of cumulative stress.

Both types of stress can seriously impair a person’s ability to function with resilience and ease. People who have been sexually harassed typically feel anger, fear and vulnerability.

The ongoing strain might take the form of panic attacks; emotional outbursts; hair loss; skin rashes; insomnia; weight loss or gain; muscle aches; headaches; high blood pressure and increased blood sugar. Victims tend to isolate themselves and become distracted. Their overall work performance suffers, often resulting in burnout.

The experience of sexual harassment can also trigger past traumas and stressors. The most common mental health diagnoses are depression and anxiety. Symptoms of depression and anxiety are either new to the person or they exacerbate a previous condition or experience. The unaddressed emotional implications of sexual harassment can also lead to alcohol and drug problems.

Post-Traumatic Stress Disorder (PTSD) is also identified as a common outcome of sexual assault. PTSD is a mental health condition that is triggered by experiencing or witnessing a frightening event. Symptoms might include flashbacks; nightmares; severe anxiety and unrelenting thoughts about the event.

While it is common for a person to have temporary difficulties adjusting and coping after experiencing trauma, they typically feel much better with appropriate care over time. However, if symptoms worsen over time (months or even years), and begin to interfere with daily living, the person is suffering from PTSD.

Victims of sexual harassment typically feel shame, guilt and low self-esteem. They worry that they have egged the perpetrator on and experience self-doubt. The high incidence of violence towards women and
their devalued position in society reinforces feelings of powerlessness and insecurity. There is also the impact of internalised oppression whereby women often tolerate abuse because deep down they feel they do not deserve better. They may have witnessed other women in their families being assaulted or they may have been abused themselves. This often leads to women feeling that they cannot do anything about the abuse and they remain silent.

These psychological barriers to reporting sexual assault in turn reinforce the denial. When a person adopts a position of denial in relation to their trauma, overwhelming emotions often manifest physically in the body. This is called somatising which can result in further physical complications. The cycle of victim blaming is therefore very dangerous to mental health. This is where people around the victim can play an important role to help to lessen self-blame. They can take the harassment seriously and repeatedly remind the person that the abuse has occurred through no fault of their own.

5.3. The social world of victims of sexual harassment

Symptoms are reduced by social support and effective coping strategies. While silence is not ideal, the victim might find it difficult to talk about the experience and the silence is then a coping mechanism that must be respected. It is also important to bear in mind that silence frequently feels like the only option given the social stigmas and shame attached to the experience of being sexually harassed.

The gravity of the situation when someone is sexual harassed must be acknowledged. Even if the intention of the accused was not to be offensive or harassing, it is the perception of the victim that counts. For example, a male colleague jokingly referring to a female colleague as dikgat” (loosely translated as “fat arse”) is a slur and cannot be justified as a joke. In 2018 a Labour Court judge made it clear that the defence of “I did not know that I was harassing you!” is entirely unacceptable (Rustenburg Platinum Mines Limited v UASA obo Pietersen JR641/2016 [2018].

While it is important that those around the victim speak out, they need to take action with sensitivity towards how the victim is feeling. People must also be cautious not to gossip or spread rumours within the workplace and wider community.

Contextual factors shape the experience of sexual harassment. The normalisation of sexual harassment via social media that depicts women as sex objects; comments about women’s bodies and men whistling at women, to name a few, can result in an unconscious acceptance of the status quo.

A report by Amnesty International UK in 2019 claims that women are still feeling silenced to speak out about their abuse online. Society frequently relies on social media to shame through cyberbullying and this impacts on the extent to which victims feel confident to report their experiences. Bullying is not a once-off event. It is a pattern of behaviour that is intended to cause harm to another. Cyber bullying or online bullying is defined as behaviour characterised by intentional acts, carried out by a group or an individual, using electronic communication, like social media, email and WhatsApp, with the intention to hurt a specific person. According to an Ipsos Global study, South Africa has one of the highest rates of cyber bullying in the world.

Victims often feel that they will be exposed and not believed by a society that blames them for wearing revealing clothes and for behaving in particular ways. When we view sexual harassment through this lens we can see how difficult it can be for victims to confront their perpetrators and report the harassment. Despite strong evidence to shows that a very small number of reported cases of sexual harassment are without grounds, it takes a great deal of courage to step forward.
The imbalance of power between men and women, where men are dominant and women are subordinated, plays out in social institutions like the workplace, home, religion, educational settings and interpersonal relationships. The extent to which women are disrespected and devalued impacts negatively on their capacity to speak about their abuse.

Cultural norms might differ with regard to how women should dress and behave but the pervasive societal response towards women who have been sexually harassed is to question their clothing, lifestyle and conduct. Women therefore fear further humiliation and retaliation because of the power that is held by perpetrators within organisations and society at large.

Lesbian, gay, bisexual, transgender and queer individuals often experience a lack of family and social acceptance, as well as discrimination in the workplace. This systemic and interpersonal discrimination increases the risk of LGBTQ individuals experiencing depression, PTSD and substance abuse as a result of sexual harassment. The risk of suicide amongst transgender individuals is a reality that can be exacerbated by sexual harassment.

In September 2018 the Mail & Guardian reported that a 20 year old shelf packer in a large retailer in a small, Western Cape town was harassed by her colleagues because she is transgender. She was told she would ‘go to hell’ and was given heavier and harder work to do. The store manager ignored her grievance when she lodged a complaint.

In her own words:

“When I first started there, I would wear women’s clothes and make-up. But then I decided I’m not going to do that anymore … I do it just to protect myself, but I’m not happy. Because even if I wear men’s clothes, my body has changed so much because of the hormone replacement therapy, that people can see that something about me is different to men. Hulle kan sien (They can see)... What I want is respect for who I am. I know my manager and co-workers here will never call me ‘she’, but I just want respect.”

The same article refers to a 2014 study of queer discrimination in the South African workplace that was conducted by the Human Rights Campaign Foundation. The study is titled Cost of the Closet and the Rewards of Inclusion and found that “despite a changing social and legal landscape for LGBT people, still over half (53%) of LGBT workers hide who they are at work”.

5.4. Responding and supporting victims of sexual harassment in the workplace

When we offer victims of sexual harassment support it is essential to keep in touch with our own assumptions and belief systems and to be careful not to impose them onto the person. The victim might respond to their circumstances very differently to how we feel about it. We need to allow the person space that is free from our own judgements and values. It is important to bear in mind that everyone responds to trauma differently. For example, calmness is not a sign that the event did not occur!

We are all socialised within a patriarchal social framework and a culture that encourages male sexual aggression towards women. This predatory environment encourages women to be silent about their abuse. The predominance of heteronormativity and its inherent power makes it extremely difficult for victims amongst the LGBTQ community to step forward. Having to keep silent can increase feelings of isolation, and places a burden of secrecy on victims that can become damaging over time.
It is important to emphasise that we believe victims of sexual harassment and to acknowledge their courage in speaking out. Victims should also be encouraged to seek help from a health professional if they are experiencing emotional difficulties as a result of the harassment.

We need to continually remind the person that the abuse is not their fault, they haven’t done anything to deserve it and they are not alone. We can express our availability if they wish to share their story and also check that they have other people in their life beyond the workplace that they can seek comfort from. It is also very useful to share information relating to available community resources to support their healing.

While it can be difficult to witness a survivor struggling with the effects of sexual assault for an extended period of time, it is best to avoid phrases like you have been feeling this way for a long time and how much longer will you feel this way? These phrases infer pressure that the person is taking too long to recover. We can communicate our support by keeping in touch with individuals and inquiring into their wellbeing in an open manner without prescribing how they should or shouldn’t feel.

As there is no designated recovery time, supporters of victims need to keep in touch with the limits of their own personal resources. Family and personal relations can take strain and loved ones should also be encouraged to seek support and guidance.

Labour legislation affords every person the right to privacy, dignity and equal treatment in the workplace and women are legally protected from sexual harassment. Despite this legal framework, powerful social beliefs and practices in the workplace and wider society make it extremely difficult for victims of sexual harassment to cope with the trauma associated with the abuse.

Sexual harassment is directly linked with stress-related mental and physical conditions. These psychological and physical implications need to be understood in relation to the context in which the abuse takes place. People of different identities experience and respond to sexual harassment in varying ways depending on their intersecting identities. Recognition of how gender, race, class, sexual orientation, education, residential status, religion and other variables shape identity, and in turn trigger difference responses to sexual harassment, is essential for working meaningfully with sexual harassment.

5.5. Engaging employers about sexual harassment:

The engagement of employers on sexual harassment by union officials requires alerting employers to the following factors:

5.5.1. Structural inequality

Employers need to be reminded that South African women occupy the lowest levels of the economy and have limited access to positions of power in the workplace. In this context, gender-based violence continues to prevail, thriving on these unequal power relations. It is essential that employers are made aware of the difficulties victims of sexual harassment face when reporting their abuse and confronting this power.

5.5.2. Powerful people rally together:

People who are accused of sexual harassment typically deny that the behaviour they are accused of constitutes sexual harassment. People who hold power, and have been accused of harassment, appeal to other powerful people to rally their support. They convince powerful people that they could never be guilty of such actions and that their accusers want to remove them from power because they have become dissatisfied. They often argue that accusers are unstable or make up stories because they are seeking revenge.

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5.5.3. Making sexual harassment more visible

Sexual harassment is often secretive and underhand and is frequently invisible to anyone other than the victim. It is seldom an isolated event yet it can easily exist below the radar. This invisibility increases the risk of the abuse. The extent to which employers exercise their leadership by supporting victims and consistently following policies and procedures will increase the visibility of the harassment. The perceived effectiveness of grievance procedures relating to sexual harassment within the workplace relates directly to the extent to which managers take allegations of harassment seriously.

Even the most benign reports of sexual harassment require attention. Low morale amongst employees is common in the workplace when sexual harassment is a feature of organisational life. Employers can be reminded that, in addition to their legal obligation to address sexual harassment, low morale amongst staff is directly linked to low productivity.

5.5.4. Believing victims and retaining their confidentiality and trust

Nonreporting is frequently viewed by employers as a sign that the story must have been made up and they question why it would take so long for the victim to come forward. Employers need to be reminded of the reasons why victims often take a very long time to report an incident. The victim might be filled with self-doubt and they might also fear victimisation, losing their job and negative labelling. Employers must be made aware of the importance of believing victims and retaining confidentiality.

5.5.5. Employer support for sexual harassment advocates

Employers have a positive duty to prevent sexual harassment as set out in Section 5 of the Employment Equity Act, as amended: “Every employer must take steps to promote equal opportunity in the workplace by eliminating unfair discrimination in any employment policy or practice.” Employers are also required to adhere to the Code of Good Practice on the Handling of Sexual Harassment Cases.

Employers are thus vicariously liable when sexual harassment occurs amongst their employees. Sexual harassment advocates also require protection from employers and leaders within the workplace. By doing their job properly, it is inevitable that these advocates will receive pushback from people who have been disciplined, and others who adhere to sexism and patriarchy (consciously and unconsciously).

Employers need to communicate the scale and severity of sexual harassment and its implications for individuals, work performance, as well as the benefits of combating it. Employers must also make it clear to employees that sexual harassment does not have to be continuous, nor does the victim have to make it clear that the behaviour is unwelcome, to warrant a sanction. A single incident is punishable, for example, a manager inquiring into the private life of a subordinate in a manner that makes his own love interest clear.

5.5.6. Access to health and wellness

The provision of counselling and medical support for victims of sexual harassment is very important. Restrictive gender roles and the stigma of seeking counselling can also be barriers to seeking help. The more these services are made available, and openly talked about, the more likely people will seek help. It is also important to support different cultural approaches to healing as it is the prerogative of the victim to select the form of care.

The nature of counselling and medical support must also be relevant to the experience of being sexually
harassed or abused. Trauma survivors typically feel disconnected from their bodies and feel vulnerable as a result of this disconnection. This is particularly relevant to sexual assault trauma because the body itself was the location of the trauma. The body thus becomes a barrier to the individual’s recovery and healing must include comprehensive body and mind approaches.

The discipline of perpetrators should also involve education, and in some cases, opportunities to seek psychological help. This might be particularly difficult for men due to masculine gender role socialisation that discourages help seeking. However, making these services available and encouraging their usage, creates opportunities to challenge restrictive gender roles and negative social stigmas.

There are various services available to victims and witnesses of sexual assault. Contact details are at the end of this manual.

5.5.7. Understanding intersectionality

The extent to which employers and leaders understand the intersectional nature of sexual harassment impacts significantly on efforts to alleviate it. A one size fits all approach that does not address power inequity typically means that the most vulnerable members of the workforce remain unprotected. Victims respond differently to their harassment based on the multiple identities that they hold (gender; race; class; age; education; ability; sexual orientation; position within the workplace). Employers need to understand the impact of intersectionality in terms of how best to respond to victims of sexual harassment so that the dignity of all employees is protected.

Reference materials


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What keeps us from talking about sexual abuse.
Module 6: Understanding and Deepening Self-Awareness

6.1. Introduction

Self-awareness can contribute towards better communication and interactions. It can also help to bring our actions into better alignment with our principles. It is necessary to conduct an introspection in order to better understand ourselves. When we reflect on the manner in which we think, act and communicate; we begin to understand the messages received by the people with whom we interact.

In this module, we will be looking at some important aspects of self-awareness which inform the manner in which the recipients of our messages, verbal and non-verbal, interpret our communication.

In doing this, we will examine our attitudes, prejudices and non-verbal forms of communication.

We will also take a closer look at our communication and listening skills. The insights that we glean from developing our self-awareness need to be linked to our communication skills when interacting with other people. This is particularly relevant when dealing with sexual harassment in the workplace as communication that is sensitive to the needs of others is required.

Due to different upbringings, languages, cultures, religions, etc. this discussion cannot be treated with a one size fits all approach. It is necessary to bear in mind that diversity influences the messages sent and the messages received. These differences between us shape how we respond differently to societal and patriarchal systems that maintain stereotypes and discriminate against women and other less powerful social groups.

The starting point to challenging and eliminating sexual harassment is to recognize and challenge our own discriminatory views and practices. Our behaviour is also influenced by wider systems of oppression that afford greater social power to some over others based on race, gender, sexual orientation, ability, age and other aspects of identity. We therefore need to understand how our own attitudes, values and beliefs are shaped by larger structures of oppression.

Activity 12

We all hold attitudes and prejudices about people who are different to ourselves. The aim of the following exercise is to make us more aware of some of our discriminatory attitudes, beliefs and prejudices.

On a separate piece of paper, write down one word which immediately comes to mind when you think of each of the following:

1. A woman wearing a very short skirt with a visible tattoo on her thigh
2. A man who has been sexually harassed by his female boss

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3. An unmarried elderly man
4. A gay person
5. A female soldier
6. A man who has been charged with sexual harassment for posting a calendar of naked women on his office wall.
7. An HIV positive child
8. A woman who has been raped
9. A transgender teenager
10. A single mother

The facilitator will collect the pieces of paper, collate the responses received and read them aloud. The responses will be the answers given by the group participants. There is no right or wrong answer. The responses reflect the attitudes associated with these terms/people. It is interesting to consider how the various responses are shaped by wider systems of power and how participants feel when they hear a response that directly challenges their own belief system.

6.2. Attitudinal and Systemic Discrimination

The Oxford Dictionary defines attitude as “a settled way of thinking or feeling about something”. It is important to differentiate between negative or stereotyped attitudes that individuals hold against others as opposed to patterns of behaviour, policies or practices that are part of the structures of an organisation.

When discrimination is at an institutional or societal level, it becomes systematised. Systemic discrimination is very difficult to fight because it may be well engineered and entrenched. It is often unconscious in the sense that people simply accept ‘the way things are.’ When there is systemic discrimination in an organisation, the whole organisation directly or indirectly supports the discrimination and this legitimises it. An example is a receptionist position being reserved for women. Systemic discrimination can be seen as a less explicit form of discrimination.

The attitudes we hold as individuals inform our behaviour. Recipients of our behaviour may not perceive it in the intended manner and it may thus be offensive and even discriminatory. Linked to this is our difficulty in accepting our inherent differences which is often the result of intolerance.

Intolerance lies at the core of discrimination. Where there is an extreme reaction to differences and where power is used to crush beliefs, a destructive cycle of discrimination is set up. In this cycle, society is taught or conditioned to view behaviour that is outside of mainstream norms as unusual and thus behaves in an extreme manner, shunning, imprisoning or even assaulting those who are different.

8 CCMA manual on Dealing with discrimination in the workplace, 2014
9 https://en.oxforddictionaries.com/definition/attitude

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In less obvious forms of discrimination, mainstream norms do not allow for the possibility of difference and those who are different may be made to feel like outsiders. In extreme cases of discrimination, the intensity is greater and the effects are more harmful. However, even in less extreme cases, where mainstream society is intolerant of differences, those who are discriminated against may feel that they do not belong.

The society that we live in is important in terms of setting up the conditions in which intolerance may either thrive or where intolerance is not condoned. In order to understand the cycle of discrimination, it is important for us to understand our own prejudices and attitudes and also to understand what groups are vulnerable to discrimination and the factors that influence the effect of discrimination.

6.3. Internalised Oppression

Oppression is discrimination carried out in its extreme. Oppressed people are not only discriminated against but can also be subjected to physical and psychological brutality. Internalised oppression is an ideology that reflects and influences how society is organized in terms of race, class and gender. It refers to the ways in which we accept oppressive ideas about ourselves as truth, and the ways in which we act towards ourselves and members of our oppressed group in the same manner as those who oppress us. Oppressed people accept and reinforce these truths due to their economic dependence on those in power and the adoption of the belief that they are less valued than those who hold power.10

In a capitalist and patriarchal society, ideas that support capitalism and male domination predominate. They shape how we see ourselves and how we behave. This is why working class ideology and feminist ideology have historically been very important tools for liberation. The oppressor in a post-colonial and post-apartheid South Africa is no longer as physically identifiable as in the past and this can make it difficult to address the various forms of oppression that still exist.

Internalised oppression is not only about believing misinformation. It is also about how we treat ourselves and others. Internalised sexism, for example, results in misconceptions about men and women which in turn lead to behaviour and actions that reinforce the oppression of women. Sexist views position women in the home where they hold little power and are economically dependent on men. Women are discouraged from taking on leadership roles. They are valued for serving others, in particular the sexual needs of men. When women act according to these beliefs they limit their own lives as well as the lives of other women. For example, women might decide not to stand for shopsteward positions or discourage other women from doing so. They might spread unkind rumours about the sexual behaviour of other women yet never insult men for similar behaviour.

The prevalence of violence against women also shapes how women view themselves. They are blamed by society for their abuse, and often feel that they do not deserve better, which is an example of how defeated women can become by their internalized oppression.

While men are also negatively influenced by sexism in that they are seen as economic providers who are inherently violent and incapable of loving relationships and child rearing, they are afforded power over women and are placed in the role of oppressor.

The power of internalized oppression is that it continues to operate even if we are not being oppressed by another person. It occurs amongst members of the same group when they adopt misinformation and stereotypes that society communicates about members of their group. They turn their oppression against each other instead of addressing it at a systemic level, treating each other in disrespectful ways that isolate people and create further divisions. An example of internalized racism is Colourism, whereby
black people afford privileges to other lighter-skinned black people because of their proximity to white people.

Our challenge is to face our own internalized oppression and to replace it with beliefs in our power, strength and value as human beings. We will then be able to claim our power and confront the wider oppressive system.

**Activity 13**

The way we view the world and our thinking are strongly influenced by the world we live in. We come to believe things are ‘natural’ when in reality they are often based on injustice, inequality and exploitation. Our thinking is also strongly influenced by our class, race, gender and other social positions and experiences.

It is important that we are able to recognize and suspend our own discriminatory attitudes and beliefs. This requires recognition of the cultural or social rank that we each hold.

Rank is often an invisible power. If we don’t recognize our rank and how it shapes our behaviour towards others, we can inadvertently oppress other people. Rank implies power differences and everyone has more or less power than someone else.

Please respond to the following questions on your own and thereafter discuss your responses with a partner.

1. Identify the various social groups that you belong to. For example: race; gender; nationality; occupation; religion or spirituality; education; sexual orientation; economic class; relationship status; age; physical condition.

2. What privileges are linked to your various group memberships?

3. What disadvantages are linked to your various group memberships?

4. What prejudice have you been exposed to because of your various group memberships?

5. In what ways might some of your own experiences of your group memberships be shaped by internalized oppression?

6. Select three of your responses from Activity 1.1 Consider how the power associated with the cultural and social ranks that you have identified might have influenced your responses. This power can be privileged and/or disadvantaged.

6.4. Verbal and non-verbal communication

In addition to developing our self awareness, it is very important to consider how we interact with people. The following section considers some of the practical skills that we all need to strengthen in our work and personal lives.

When communicating, the message that is sent can sometimes be clouded by unconscious messages. As a result, the receiver may end up feeling confused or angry. Our own internal prejudices or insecurities might influence our behaviour and we need to retain our self-awareness.

The message may be distorted by fear or discomfort. In these cases, the message may be vague or unclear.

A message may also be distorted through the process it is sent (e.g. email or sms) or if it is relayed via a third party.

A message may be distorted by the context within which it is sent e.g. the atmosphere of an on-going strike. The context includes the past relationship between the parties, e.g. one of hostility may distort the message, the physical environment e.g. the presence of other people; interruptions.

Time pressures can also influence communication between parties as the sender tries to quickly communicate a complex message. The receiver may receive the information, but not the message that was intended, and this can lead to a perception that the sender has provoked the receiver.

When messages are sent between the sender and receiver, each may project onto the other an understanding of the message or the content. What you say and what I hear can be two different messages given that the message is filtered through my projections as well as your projections. When there is any confusion, it needs to be communicated so that either receiver or sender can clarify the message - what it means and what they understand by it.

Some researchers claim that as much as 80% of our communication is non-verbal. In other words, 80% of what we communicate is done through our bodies, eyes, faces and tone of voice as we speak.

Every culture has its own body language and we therefore need to be sensitive to those subtleties so as to ensure that the message that comes through is “I am eager to hear and understand your view”.

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Non-verbal communication consists of a number of elements:

a) **Physical Proximity**: body space, how close to one another people are prepared to be.

b) **Orientation**: the way in which people are placed in relation to others, e.g. sitting; standing beside; opposite; below; behind a desk; facing or turning away from a party. This often demonstrates status and position. All societies have rules about orientation.

c) **Body posture and gestures**: these convey messages about emotions and can include depression, anger, frustration, joy, and/or agreement.

d) **Head movements**: this can show whether someone is paying attention such as nodding or shaking your head to indicate sympathy. Abruptly turning away may indicate anger, rejection and looking away may express thoughtlessness.

e) **Facial Expressions**: reveal all sorts of emotions from displeasure, pleasure, boredom and confusion. This is an important clue when gauging the effectiveness of the communication. It is often a mirror of communication. A change of facial expression raises questions without saying anything. It can show that a statement was not understood or the person is confused. Eyebrow movement can show understanding or lack of it or even being critical, surprised or shocked.

f) **Eye contact**: the significance of not looking at the person or looking at them. In Western culture looking directly at an individual while talking is regarded as positive. Looking away or gazing out a window suggests a lack of interest or shiftiness. In African culture, looking down from the person talking demonstrates respect, loyalty and sincerity.
6.5. Speech

Our speech also contains non-verbal elements, such as volume, tone, inflection, pauses or silences.

a) **Volume** may indicate mood, emotions, and threats, fear. Low volume such as an audible whisper may be a manifestation of depression, despair, lack of interest, or hostility. High volume may indicate anger, frustration or loss of control.

b) **Tone** is an aspect of speech that can be subtle. A message may contain appropriate content but may be conveyed in such a manner using tone to convey insubordination or disrespect.

c) **Pace or speed** can also convey a message. A fast paced delivery may reveal anxiety in the speaker or impatience. A decreasing pace might suggest despair, indifference or seriousness and thoughtfulness.

d) **Inflection** is the way in which tone rises or falls. Added meaning can be given to a statement if the person’s voice rises. It could be that the statement becomes a question. If the statement is given with a falling inflection this suggests a final non-negotiable position. E.g. “It is not my intention to reconsider your assessment”. A rising inflection indicates openness to on-going negotiation e.g. “It is not my intention to reconsider your assessment, but it might be possible if you could…”

e) **Silence and silences** can convey meaning. Long silences can create tension. It can be used to intimidate particularly when followed by a provocative statement e.g. Why did you write such a dismal report?” Silence is often interpreted as an inability to respond, revealing a sense of hopelessness or powerlessness, a refusal to participate or a high degree of hostility. It could also mean that your statement is not worthy of a response.
6.6. Active Listening

Attentive listening is being:

- Alert and focused on the speaker.
- Interested in the needs of the speaker and conveying this interest.
- Non-judgmental.
- Maintaining eye contact (only if appropriate).
- Aware of own body language and avoiding defensive body language.
- Aware of own verbal responses (‘yes’…‘tell me more…’).
- Able to paraphrase viewpoints and not commenting on personalities.

Attentive listening is not:

- Using phrases such as ‘it’s not so bad’ or ‘don’t be upset.’
- Getting emotionally engaged or argumentative.
- Letting own values and beliefs interfere with what is being said.
- Rehearsing in own head what one is going to say while others speak.
- Interrogating and giving advice.
- Interrupting and telling one’s own story.
- Asking questions for one’s own curiosity.

Activity 14

Choose a partner and arrange two chairs facing each other. Decide who will have the first turn to be the speaker. The facilitator will indicate the topics to be spoken about and the time to start.

1. The first speaker speaks for one minute. The listener is required to simply look at the speaker without making any movements or gestures and give their full attention to the speaker. Reverse the roles.

2. The first speaker speaks for one minute. The listener is required to seek to understand using the skills of active listening. The listener must attempt not to judge, problem solve, argue or explain. The listener must also attempt to paraphrase where relevant.

Reflect on your experiences and share how you felt listening to each other in both instances.
Module 7: Towards Eliminating Sexual Harassment in the Workplace

In Module 4, we looked at preventing sexual harassment. This module looks at eliminating sexual harassment, which goes beyond prevention (policies and procedures to prevent discriminatory behaviours) to look at how to eliminate the conditions that cause and enable sexual harassment. In other words, this module begins to look at what it would mean to create a gender-sensitive and gender equitable workplace and union environment. Eliminating sexual harassment requires that we address gender inequality in our society more broadly.

Activity 12: Steps towards Eliminating Sexual Harassment

In groups of four:

• Read the following extract from the COSATU Policy, which is a policy statement, committing to measures that will contribute towards eliminating sexual harassment.

• Discuss the identified measures, and whether these are sufficient to create the conditions for the elimination of sexual harassment

• Think about what other measures could help to eliminate sexual harassment in the workplace and in the union
7. Policy Statement

7.1. We, the leaders, Affiliate members and staff of the Congress of South African Trade Unions (COSATU) commit to taking decisive action to eliminate sexual harassment in all its forms within the Federation, society, and more particularly, in the workplace.

7.2. COSATU is completely opposed to all forms of oppression and exploitation whatever the basis, and expressly committed to the struggle against the oppression of women. COSATU will continue to fight for the complete transformation of society to eradicate patriarchy and gender discrimination, racial discrimination, and class exploitation.

7.3. COSATU commits itself to re-building and strengthening democratic, worker controlled structures where the voices of all workers – women and men, are heard; believing that this will help to create conditions for the elimination of women’s oppression and sexual harassment.

7.4. COSATU commits itself to the implementation of this policy and procedure in order to create a workplace and organisational environment that is free from sexual harassment, where worker leaders, elected officials and staff respect one another’s integrity and dignity and their right to equity in the workplace and organisation.

7.5. COSATU and its Affiliates have the obligation to take firm action against any form of sexual harassment, and to take preventative measures, including programmes to sensitize and educate members on sexual harassment and the creation of a climate which encourages victims to speak out against sexual harassment.

7.6. COSATU and its members shall ensure that no union official, worker leader or union member shall victimise or jeopardise the job security of any person raising a complaint of sexual harassment.

7.7. The Federation and its structures must necessarily work to remove the causes of sexual harassment, in addition to taking resolute steps to deal with cases of sexual harassment. This includes addressing unequal gender power relations within the Federation, in particular, male domination in leadership structures and positions, and a largely gender-blind implementation of policies.

7.8. COSATU further commits itself to recognising and valuing the contribution of women staff within the Federation, who remain in predominately administrative occupations.

7.1 Gender sensitisation for the workplace

The purpose of Gender Sensitisation is to create awareness and to sensitize staff members in the organization, both men and women, to understand and to identify and take action to eliminate gender discrimination. This helps to provide a safe and conducive working environment for women.

Violence against women thrives in a society where women are generally disrespected and treated as inferior. It also thrives in a society where gender roles are restricted, and women’s voices are silenced. Sexual harassment is an extension of the violence and mistreatment that women and girls face in their daily lives.
While there is extensive legislation to advance gender equality in the world of work, patriarchal attitudes remain prevalent, and underpin much of the violence and sexual harassment of women. Awareness-raising programmes can help to change these attitudes. Module 6 looks at how we can deepen self-awareness as part of this process of challenging our prejudices. However, changing sexist attitudes, while very important, will not solve the problem on its own, we also need to ensure that we change behaviours and systems.

**Activity 15: Is Changing Attitudes Enough?**

In pairs, read Section 5.1 above, and discuss the following questions:

- How can we change sexist attitudes most effectively?
- Is changing attitudes enough on its own?
- What else needs to change?
- And, how can we change it?

Discuss this further in plenary.

**7.2. Prevention of Discrimination in the workplace**

Employers and trade unions must familiarise themselves with laws preventing discrimination in the workplace. But beyond this, workplaces should develop comprehensive anti-discrimination policies. Such a policy would make clear to employers and employees the types of behaviour that will not be tolerated in the workplace. This would also require that the employer conducts anti-discrimination training for employees.

**7.3. Creating a conducive working environment**

In addition to outlawing discrimination, it is critical for workplaces to put in place policies and systems that redress gender inequalities. Gender disparities exist in workplaces for a range of reasons, including (but not limited to) the following:

- The sexual division of labour in the workplace and in the home;
- The unequal distribution of childcare and household responsibilities, with the bulk of care work falling on women’s shoulders;
- Gender and racial inequity in pay;
- The domination of men in leadership positions;
- Lack of availability of childcare support and facilities
- Lack of work/life/family balance and policies to support this

It is essential that workplaces and trade unions address these disparities to create a climate where unequal gender relations are addressed.
7.4. Educating Employers and Employees on Sexual Harassment Policies

It is essential that all staff, shop stewards and leadership in the union, and all management and employees in the workplace, are fully aware of what constitutes sexual harassment, and what steps to follow in cases of sexual harassment.

Clear posters need to be put up all around the workplace to ensure that this information is easily accessible. The policy and procedure needs to be made readily available to staff, and regular training needs to take place. These are essential measures that need to be put in place.

Action and Commitment from Leadership

Commitment is shown through enforcement and action by the responsible authorities. Even the most comprehensive sexual harassment policies and procedures are bound to fail if an organisation does not enforce them quickly, consistently, and aggressively. To be effective, organisations must take sexual harassment seriously. They need to make certain that personnel responsible for enforcement conduct prompt, thorough, and documented investigations of all complaints, even those that appear trivial.

Practice consistent with Policy

It is essential that organisations demonstrate their commitment to dealing with sexual harassment by ensuring that their responses are consistent at all times, whether or not the accused is in a senior position. This will communicate to all employees that the organisation will not tolerate sexual harassment in any form from any person.

Ear to the Ground

It is necessary to conduct surveys from time-to-time to identify factors that lead to the incidence of sexual harassment. The survey can be done anonymously. The survey can simply ask the employees (male and female) if they have experienced any form of sexual harassment during the past year. The survey would also help to assess the organisation’s progress with preventing sexual harassment.

Conclusion

It is essential to recognise sexual harassment in workplaces and to prevent it. Where it happens we need to make sure that unions and employers act quickly and decisively. Extensive training to create awareness and sensitisation regarding the anti-sexual harassment policy of the organisation is required. Policies and procedures should be adopted after consultation or negotiation with employee representatives. Strategies to create and maintain a working environment in which the dignity of all employees is respected are most likely to be effective where they are jointly agreed. While South African labour law provides clear guidelines for resolution and prevention of sexual harassment, and for holding employers responsible for providing a safe work environment, the issue is still hidden in many organisations. It is only through breaking the silence, expanding awareness and organising collective action that we can actively prevent and eliminate sexual harassment.
### Useful Contact Numbers

<table>
<thead>
<tr>
<th>Service</th>
<th>Contact Information</th>
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</thead>
<tbody>
<tr>
<td>Women’s Legal Centre Cape Town Office</td>
<td>021 424 5660</td>
</tr>
<tr>
<td>Women’s Legal Centre Johannesburg Office</td>
<td>011 339 1099</td>
</tr>
<tr>
<td>South African Police Services Flying Squad</td>
<td>10111</td>
</tr>
<tr>
<td>CCMA</td>
<td>0861 16 16 16</td>
</tr>
<tr>
<td>Stop Gender Violence Helpline</td>
<td>0800 150 150</td>
</tr>
<tr>
<td>Rape Crisis</td>
<td>021 447 9762 (Observatory, Cape Town)</td>
</tr>
<tr>
<td></td>
<td>021 633 9229 (Athlone, Cape Town)</td>
</tr>
<tr>
<td></td>
<td>021 361 9085 (Khayelitsha, Cape Town)</td>
</tr>
<tr>
<td>People Opposed to Women Abuse (POWA) helpline</td>
<td>083 765 1235</td>
</tr>
<tr>
<td>Child Line</td>
<td>0800 055 555</td>
</tr>
<tr>
<td>Lifeline</td>
<td>082 231 0805/ 011 728 1347</td>
</tr>
<tr>
<td>South African Depression and Anxiety Group</td>
<td>011 234 4837</td>
</tr>
<tr>
<td>Family and Marriages Association of South Africa</td>
<td>011 975 7106/7</td>
</tr>
<tr>
<td>National Counselling Line</td>
<td>0861 322 322</td>
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Handout 1: Myths and Facts about Sexual Harassment

1. **Myth:** Sexual harassment is rare.
   **Fact:** Sexual harassment is extremely widespread. It touches the lives of 40 to 60 percent of working women, and similar proportions of female students in colleges and universities.

2. **Myth:** Sexual harassment only happens to women and is perpetrated only by men.
   **Fact:** Both men and women can be victims or perpetrators of sexual harassment. In addition, sexual harassment may occur between members of the same sex.

3. **Myth:** The seriousness of sexual harassment has been exaggerated; most so-called harassment is really trivial and harmless flirtation.
   **Fact:** Sexual harassment can be devastating. Studies indicate that most harassment has nothing to do with “flirtation” or sincere sexual or social interest. Rather, it is offensive, often frightening and insulting. Research shows that survivors are often forced to leave school or jobs to avoid harassment; may experiences serious psychological and health-related problems.

4. **Myth:** Many victims make up and report stories of sexual harassment to get back at their employers or others who have angered them.
   **Fact:** Research shows that less than one percent of complaints are false. In fact, survivors rarely file complaints even when they are justified in doing so.

5. **Myth:** Women who are sexually harassed generally provoke harassment by the way they look, dress and behave.
   **Fact:** Harassment does not occur because women dress provocatively or initiate sexual activity in the hope of getting promoted and advancing their careers. Studies have found that victims of sexual harassment vary in physical appearance, type of dress, age, and behaviour. The only thing they have in common is that over 99% of them are female.

6. **Myth:** If you ignore harassment, it will go away.
   **Fact:** It will not. Research has shown that simply ignoring the behaviour is ineffective; harassers generally will not stop on their own. Ignoring such behaviour may even be seen as agreement or encouragement.

7. **Myth:** There must be repeated acts of harassment in order to consider it a violation of the law.
   **Fact:** According to the NEDLAC Code of Good Practice, even a single act can constitute sexual harassment.

8. **Myth:** Victims can successfully resist harassers if they try.
   **Fact:** Victims can sometimes resist harassers, however, some harassers do not stop no matter what the victim does.

9. **Myth:** To be considered harassment, the victim must actively resist and make it clear that it is unwanted.
   **Fact:** According to the NEDLAC Code of Good Practice, there are various ways of communicating that the behaviour is unwelcome, including stating as such, and/or walking away, and/or not responding. Furthermore, it is not always possible to communicate that the behaviour is unwelcome, and the Code states that where the perpetrator should have reasonably known that the behaviour was unacceptable this also constitutes sexual harassment.

**Sources:**
https://www.rsccd.edu/Departments/Risk-Management/TitleIX/Pages/Common-Myths-and-Facts-About-Sexual-Assault.aspx
Handout 2: Case Studies on Sexual Harassment in the Workplace & Unions

The purpose of the Case Study is for participants to:

- Identify key issues related to sexual harassment and other forms of unacceptable workplace behaviour, including the impact on recipients and implications for the workplace.
- Understand the context of the above issues and behaviour.
- Develop a clear understanding of acceptable workplace behaviour.
- Propose solutions to the problems presented in the case study.
- Recommend how these solutions can be implemented.
- Understand both content and implementation of sexual harassment policy.
- Reflect on own unconscious bias and knowing when to suspend assumptions to avoid inadvertently condoning sexual harassment.
- Explore the root causes of gender-based violence and generate ideas about how to change workplace culture from one that facilitates sexual harassment and silence to one that promotes respect, support and equity.

Instructions: Please read through the following case carefully. Take note of important information, omissions and questions raised by the case study.

Try to put yourself in the position of the victim and the union representatives in the case study so that you develop a sense of involvement in the problem that is posed.

Define what you believe to be the basic issues. Determine if there are any deeper underlying issues and write them down. You might need to consult relevant legislation. Then proceed to answer the questions that follow the scenario.
CASE STUDY 1

Lerato is twenty two years old. She grew up in Umlazi in Kwazulu-Natal where she lived with her parents and younger brother, Kagiso. After she matriculated, Lerato worked in the kitchen of the local crèche. Kagiso won a bursary to study at a university. Lerato and Kagiso were very close. Everyone in the family looked up to Kagiso and valued his opinion.

Although Lerato enjoyed working at the crèche, she felt a need to experience life beyond her community and decided to seek work in the greater Durban area. She had always been good with numbers and eventually found a job working as a cashier at the Honeywell Supermarket in Greyville. The manager, Joshua, (a man in his early thirties) who had interviewed Lerato for the job, was very friendly. At the time of the interview he had joked with Lerato, telling her that “it was a pity that she had to wear a uniform while working otherwise the store would definitely attract more male customers as she looks good enough to eat.”

Later that evening while talking to Kagiso, she mentioned Joshua’s comment. She said to Kagiso that she interpreted this to mean he wants to sleep with her. Kagiso shrugged his shoulders, shook his head and concluded that this was the way of the world!

Lerato was hired with a three month probation period and during this time Joshua directed a lot of attention towards her. He praised her efficiency and strong service ethic. He also stood very close to Lerato when interacting with her and often held her elbow or placed a hand on her shoulder. In the beginning Lerato felt uneasy about these gestures, but over time she brushed off her discomfort. One Friday evening as Lerato was leaving the store, Joshua put his arm around her and walked with her to the door. He leaned into her body and said: “You must be off to meet someone special for a date dressed like that. Do your parents know him? Lucky man!”

Lerato felt a chill down her spine and the unsettled feeling stayed with her throughout the weekend. On Monday, during her tea break, Lerato approached the shop steward, Amahle. She shared her concerns about how Joshua behaved towards her. Amahle, a middle aged woman, adopted a motherly tone and told Lerato that it would be advisable for Lerato to dress for work more humbly and more in line with ‘African Culture’. Although Lerato wore a uniform while working everyone noticed how she dressed when she arrived in the morning and left at the end of her shift.

Amahle explained that it had been years since she left the rural area that she grew up in, but she had never got used to the way city women dress. She told Lerato that she should dress in a manner that does not accentuate (emphasise or show off) her female body. Amahle also warned Lerato that she was still on probation and could not afford to get into ‘a difficult situation’ with the manager.

Lerato felt deeply embarrassed, but agreed to comply. She never spoke to anyone about this conversation and began to dress more conservatively. Joshua continued touching and teasing her in the same light-hearted manner. Some weeks later Lerato came across an on-line article on the Media 24 website:

Case Study 1 and 2 were developed by the CCMA for the use of COSATU and remain copyrighted to the CCMA.
Local woman lays sexual harassment charges against boss

The Witness, 2018-10-15 10:36

After 20 long years of allegedly enduring sexual harassment from her boss, a local woman has finally broken her silence. Not only has the 51-year-old woman laid a criminal charge against the head of a major Pietermaritzburg office equipment outlet, but she has also issued summons against him. She is claiming R5 million in damages from him. This is for causing her to become an emotional wreck and for the loss of income due to her resignation. The man is not being named because by law the names of alleged sexual offenders cannot be published until after they have pleaded to charges. Her civil claim lodged in the Pietermaritzburg high court vividly details the man’s alleged conduct towards her. She claims it began when she started working at the company.

Among the allegations is that he:

- made sexually explicit suggestions to her;
- repeatedly contravened the Sexual Offences and Related Matters Amendment Act and abused his power over her;
- pinched her nipples;
- forced her to place herself on his lap;
- repeatedly touched her inappropriately;
- lightly punched her face;
- made suggestions to her of how he would like to have sexual intercourse with her, describing sexual positions;
- treated her with disrespect and as a sexual toy.

The woman was too afraid to say anything because the man was in a position of authority, according to the court papers. She alleges he abused his position to the extent that it inhibited her from indicating to anybody her unwillingness and her resistance to the sexual advances and sexual acts that had been perpetrated on her. The papers say when she could no longer take the abuse she decided to do something.

On May 18, when the man called her into his office to discuss work, she took her cell phone with her. Again she was sexually harassed and this time she recorded the verbal suggestions. She made this a habit and continued to record the sexually explicit suggestions every time he made them. His conduct became unbearable and he refused to stop, said the claim.

The woman is allegedly close to a nervous breakdown and is currently on medication as a direct result of his conduct over the years. The claim added she has been on medication since 2014 to date. These include anti-depressants, sleeping tablets and anxiety tablets. She “endured extreme hardship at the hands” of the man and has had to work under conditions that were “totally unbearable” causing her severe psychological, emotional and physical trauma.

She eventually resigned in June 2018. She is unable to obtain employment due to her age and has suffered a loss of earnings. As a consequence of his “wrongful, malicious and unlawful conduct”, the woman’s dignity and reputation have been impaired and she continues to suffer such impairment to her dignity and reputation and will continue to do so. The woman is suffering from “severe psychological and emotional trauma and is now in need of psychological help to reintegrate into a normal relationship with another man”.

Attorney Anand Pillay, who is representing the man, said his client’s view is that she is trying to extort money from him. He denies the allegations.

Lerato found herself wondering how the woman in the article had dressed for work. She also wondered if the woman’s interactions with her boss had begun in the light hearted manner that she was experiencing with Joshua. Kagiso happened to be seated opposite her while she read the article. Lerato read the article to Kagiso and told him about her own experiences. Kagiso listened carefully. He told Lerato that
he failed to see a connection between Joshua’s ‘male teasing’, Lerato being reprimanded for her clothing by Amahle, and the sexual harassment claims that were made in the newspaper article. He advised her to relax and not read too much into her manager’s behaviour.

Lerato could not shake off the feeling that her manager’s behaviour towards her might become more extreme. She discussed her concerns with Amahle. The union official said that as the company does not have any policy on sexual harassment, Lerato should wait until her probation period is over so that her employment with the company can be secured. She promised her that they would then take up the matter with Joshua if Lerato still feels the same way about it.

There were six weeks left of her probation. Lerato did not wait. Instead she resigned.

**Case Study Questions:**

1. In your view, was Lerato a victim of sexual harassment? Motivate your answer.

2.1. Are there additional legal steps that Lerato could have taken to remedy her situation? Please outline them.

2.2. Identify some of the reasons why Lerato might have been reluctant to take further action.

3. What do you think is behind the advice offered to Lerato by her brother and the shop steward and how could they view her experience differently?

4. Do you agree with Kagiso’s view that there is no connection between the newspaper article and what Lerato experienced? Motivate your answer.

5. If you were a union official (gender coordinator or union organiser) how would you handle the shop stewards response?

6. What is your view regarding Lerato’s resignation?

7.1. If you were to design a sexual harassment policy for Lerato’s workplace, what content would you include?

7.2. How would you create awareness of the policy within the workplace?

8. Do you think there are any benefits to developing collective agreements in relation to sexual harassment? Motivate your answer.
CASE STUDY 2

Sara M is a PA to a manager, Jonas T, of a large non-governmental organisation that focuses on the rights of abused women and children. Since Jonas separated from his wife of five years, he started to spend time with Sara, sharing his personal difficulties and then later, sharing his need for companionship. Sara, who is ten years younger than Jonas, would listen to his stories and often empathise with him.

In June 2017, Sara and two others had to accompany Jonas to a conference. Jonas insisted that Sara book a room next to his in case he needed administrative assistance after hours. Sara agreed to this, but made sure that her bedroom door was locked and bolted.

At dinner on the first night, Jonas started sharing his personal stories with Sara and the other two female colleagues. The latter left the table as they had plans to go and watch a movie. Jonas asked Sara to stay as he needed to discuss his conference speech with her. After a few glasses of wine, he started to go into detail about his sexual promiscuity during his student years and about how he found it difficult to be faithful to his wife. Sara felt uncomfortable with this conversation and asked to be excused on the premise of being very tired.

A half an hour after Sara had returned to her room, Jonas knocked on her bedroom door. He apologised for disturbing her, but indicated that she was the one for him and that he could see by her facial expressions when he told her intimate things that she liked him. Jonas came closer to her and started to stroke her hair. She was taken aback and pushed him away. In her panic, she froze and did not actually say anything to him. He just laughed, said she was playing games with him, and that it was clear that she was merely playing hard to get as most women do when approached by a man the first time around. Just then, a waiter appeared at the door with room service. Sara took the opportunity to hurriedly retreat into her room and lock the door. Six months later, Sara reported Jonas’s behaviour to the NGO’s HR Department stating that she was very distressed about what had happened, and that it was now impacting on her work. An investigation was undertaken and Jonas was cleared of wrong doing on the basis that there was clearly a misunderstanding on the part of Sara as to Jonas’ intentions and the state of mind he was in at the time. It was also found that, from the facts, it was not clear whether or not Jonas’ behaviour was in fact unwelcomed by Sara, since she never expressly said so. Lastly, it was also found that Sara could not have been that distressed given the fact that she continued to work with Jonas and only reported the alleged sexual harassment six months later.

Questions:

1. What difference, if any, will the fact that Sara did not expressly reject Jonas’ advances have on the test for sexual harassment, which requires the alleged conduct to be unwelcome?

2. Could Jonas argue that, in his culture, it is accepted that a woman would never say yes the first time that she was approached, thus her silence was an indication that his advances were not entirely unwelcomed?

3. Do you think the fact that Sara paid attention to Jonas’ many stories, including those regarding his sex life, will weigh in favour of Jonas’ claim of there being a misunderstanding as to his intentions? Briefly explain your answer with reference to the facts before you.

4. What difference, if any, will the fact that Sara took six months to report the matter to HR have on –
   a) The credibility of her version of events?

   b) The extent to which the alleged sexual harassment is said to have distressed her?

5. What advice would you offer Sara in terms of whether or not to pursue this matter further? What are her chances of success in this regard?

Case Study 2 were developed by the CCMA for the use of COSATU and remain copyrighted to the CCMA.
CASE STUDY 3

1. Ms Small is a 23-year-old employed as an administrative officer in the Blue Bay Municipal offices. This is her first job since graduating from the local University of Technology. She grew up in a rural area, approximately 100km from Blue Bay, where her mother raised her (father deceased). As a teenager, she reported a sexual assault case to the police against the local pastor. The police, however, advised her that it was her word against his and that they felt that it was not likely that a person of his calibre would do this to her.

2. At work, her boss, Ms Bigtime, often had to meet with prominent people, including local members of the provincial legislature. One of these people, Mr Richguy, in particular, would spend time talking to Ms Small. He had a tendency to hug her tightly when he greeted her. He also made comments about how large her breasts are and how lucky her boyfriend must be. While this embarrassed Ms Small, she wondered if it was normal given the lack of response shown by Ms Bigtime who observed Mr Richguy’s behaviour.

3. On one occasion, Ms Bigtime embarrassed Ms Small further by commenting how shy she was of men. Mr Richguy then proceeded to rub Ms Small’s arm and saying that he would change that! Ms Bigtime and Mr Richguy laughed and walked off.

4. During a union meeting, Ms Small mentioned to a shop steward that she was feeling very uncomfortable about Mr Richguy’s advances towards her. The shop steward suggested that she should rather stay behind her desk when Mr Richguy is around as she is probably leading him on even if she did not realise this.

5. A week later, Mr Richguy appeared at the offices again. He was alone in the office with Ms Small. He called her over to greet him and then proceeded to press his lower body hard against her, making rubbing movements. When she tried to pull away, he laughed and said it was just a joke and that he does it with all beautiful women. On seeing her negative expression, he told her that he has a lot of power and that women respect him for that and suggested that Ms Small do so too. Mr Richguy noted that people at the council get dismissed for showing disrespect and that nobody is special.

6. Ms Small felt stressed and applied for sick leave. On her return, a day later, she approached another union representative and asked for assistance. She was called to a meeting with a union official and two shop stewards. At the meeting, she was asked to tell her story. While not entirely unsympathetic, the union official, Mr Repyou, explained to her that Mr Richguy is pro-union and not someone who they would take on without being sure that what transpired — if it is even true — fell into the definition of sexual harassment. He cautioned Ms Small not to allow herself to get caught up in a political agenda. Mr Repyou went on to say that feedback that he had received from other staff members suggests that Ms Small seemed to “appreciate” Mr Richguy’s friendly greetings and the attention he paid to her. Mr Repyou then asked Ms Small to go and think about it and that they would meet the next day.

7. When Ms Small arrived at the next meeting, Mr Repyou looked angry. He immediately accused her of trying to cause trouble for the union, stating that they were aware that there is a political agenda to get rid of Mr Richguy because he is close to the union. He went on to say that they are aware
of her history – referring to the allegations made against the pastor – of trying to make up ‘stories’ against men in powerful positions, presumably as an attempt to get compensation. According to Mr Repyou, such men, if they were looking for girlfriends, could choose women of a certain class and would not need to waste time with people like Ms Small.

8. Feeling guilty, humiliated and alone, Ms Small returned to her desk.

9. She was too afraid to lodge a complaint and started to suffer from anxiety and sleeplessness. She struggled to concentrate and was distracted and unable to pay attention to her small child. A friend gave her the contact details of a psychologist who worked for a small NGO part-time offering support to women in cases of sexual harassment and abuse. After some weeks of counselling, Ms Small developed the confidence to lodge a formal complaint.

10. Within days she was told that the union was supporting Mr Richguy, and rumours were circulating that she was co-operating with a political faction in the council to destroy the union and the ruling party, which Mr Richguy represented.

11. The case was reported in the local press, with the opposition parties making statements of concern regarding the levels of sexual harassment in the city. The speaker for the ruling party dismissed these claims, arguing that the opposition parties were using the issue of sexual harassment as a political football.

Questions for Discussion:

1. In your opinion, is this a case of sexual harassment? Explain your answer.
2. If you answered yes to question 1, what form of sexual harassment took place here?
3. How would you have handled this case if approached by the complainant?
4. What do you think about the way in which the union responded to the complainant?
5. How do you think the union gender committee should respond upon reading about the case in the newspaper or hearing about it in the workplace?
6. What steps should the COSATU gender committee and/or commission on sexual harassment take in response to this case?
7. What do you think about the speaker’s response to the extent of the problem of sexual harassment in the municipality? How would you respond as the gender committee, to what the speaker has said?
8. What effect do you think this experience had on the complainant? What kind of support do you think she might need?
CASE STUDY 4

Thabang is an openly gay man working as a supervisor for a retail company. He has been married to his partner for a number of years and is completely open about it at work. One of the managers frequently makes homophobic comments. He knows Thabang is gay and does not make derogatory comments to him or about him directly. They have a reasonable working relationship. But he often makes comments about “fairies” and “queens” and makes jokes about gay sex. Some people ignore him, but he still continues. Others laugh along.

Thabang is a union member and takes the matter to the shop steward. The shop steward promises to take the matter up. Weeks pass and when Thabang checks on the matter, the shop steward says he is working on it.

Thabang decides to take the matter to the CCMA on his own, because he feels that the union does not take it seriously. The CCMA finds that the employer must pay the employee an amount of R7000 and conduct sensitivity and awareness training in the workplace.

Some weeks go by and nothing is done by the company.

Thabang then decides to take the matter to the provincial gender coordinator, who contacts you, the union’s national gender co-ordinator.

Questions for Discussion

1. Is this a case of sexual harassment?
2. How do you advise the provincial gender coordinator to handle the matter? What are the various steps that could be taken?
3. Is there more than one way of handling this case? If so, please indicate the various options.
4. How do you respond to the shop steward who did not do anything about the case?
5. If you were the shop steward how would you have handled the case?
6. What are the various steps that can be taken to raise awareness about discriminatory behaviours against LGBTIs in the workplace?
7. What sort of workplace policies would need to be in place?
CASE STUDY 5:

Article in the Daily Sun: Thursday March 28, 2019

Waitress: I had to strip

Waitress Nompumelelo Ntshingila (25) told Daily Sun she was accused of stealing after patrons she served left without paying.

“They paid for other items and requested more alcohol and food for their friends who had just arrived, and when they had to pay no one was at the till point,” she said.

Nompumelelo said by the time someone came with a speed point, the clients had left.

“I told my managers what had happened, but they said they saw the clients pay in cash and that I stole the money.”

She said she’d already cashed that money, but no one listened.

“They got someone to search me and I had to strip naked.

“I told the woman it was that time of the month, but she said I had to take off the pad so she could check.”

She said she felt humiliated, and when no money was found on her she didn’t even get an apology.

She said she was not going back.

Moja Cafe said: “We acknowledge this matter and are investigating. A woman staff member was searched by a supervisor on suspicion of theft in a private room with no cameras. It was just the two in the room.”

Questions for Discussion:

1. Is this a case of sexual harassment?
2. What are the legal rights of the victim?
3. How would you handle the matter if approached by the victim?
4. What steps would you need to follow?
5. Whose responsibility is it to address this case from the employer side?
6. What workplace policies need to be in place?
CASE STUDY 6

A female nurse working in a hospital goes to do a bed bath for a female patient. The patient insists that the female nurse must go and call her favourite male nurse to do it. When the male nurse starts bathing the patient she becomes sexually aroused and tries to hold his hand over her crotch as he is washing her genital area. The male nurse feels very uncomfortable and embarrassed, but he does not know how to handle this, because he is afraid that the patient will lodge a complaint about him. He moves his hand away slowly but not abruptly and continues washing her. He decides not to tell anyone about this because he feels ashamed. He tries to make himself busy with other patients when it is time for washing the patients, but he knows that the patient will send another nurse to come and find him.

Questions for Discussion

1. What form of sexual harassment is this?
2. How would you handle this situation if you were the male nurse?
3. How would you handle this situation if you were the female nurse that was meant to be washing the patient?
4. What would you advise the male nurse to do, if he asked for your advice?
5. How would you respond if one of the other nurses approached you as the union organiser with the suspicion that this was what was happening?
6. What workplace policies need to be in place?
CASE STUDY 7

Sexual Harassment in a Trade Union

A young graduate is employed as an intern by a large trade union. A few months after starting working for the union, she receives a phone call from the General Secretary on a Saturday afternoon, summoning her to the office to work on an urgent press statement. She goes to the office, since the terms of her contract require flexibility when dealing with urgent work matters. When she arrives at the office she is surprised to find that she and the GS are the only ones there.

The General Secretary embraces her as she walks into his office and invites her to sit down on the couch. He sits down next to her and asks her if she was with her boyfriend when he called. The intern feels embarrassed and tries to avoid answering personal questions. She tries to steer the discussion back to the work that he has called her in for. He persists in asking her questions about her personal life.

He then reaches out and puts his hand on her thigh and asks her whether she enjoys working for the union. It is an exciting life being a trade unionist, he says, and moves closer to kiss her. She turns her head away and he reaches his hand between her legs and gropes her. She begins to cry and he backs away saying you are young, you will soon grow up in this environment. He suggests that it is best if she leaves so that he can finish the press statement himself without her distracting him.

When she gets home she finds a missed call from him and a whatsapp message with an image of his genitals. The message accompanying the image describes how she gave him such a hard erection, next time she will need to “help him with it”.

The general secretary continues sending her text messages throughout the weekend, asking for nude pics of her, telling her how much she excites him and that he cannot wait to see her in the office on Monday. He asks her to wear a short skirt so that he can see “more of her”.

The intern feels anxious and afraid and does not know what to do. She is scared to tell anyone because the GS is a powerful and influential man and she needs the income and work experience.

She calls in sick on Monday and Tuesday. When she gets to the office on Wednesday morning, the GS follows her into the kitchen and stands behind her pressing himself against her. He puts his hand on her crotch. When they hear footsteps of another staff member in the passage, he quickly releases her and goes back to his office.

She is struggling to focus on her work and feels jumpy and anxious when she is in the office and when she leaves the offices in the late afternoon. Her work begins to suffer. When the GS sends her a text message that evening asking is she felt his erection against her, this time she decides to respond. She tells him that she feels uncomfortable and asks him to please stop sending her personal messages. He does not respond.

The following day she finds an email from the Media Secretary (in whose department she has been placed) calling her to a meeting to discuss her poor work performance. She goes to the meeting and confides in the Media Secretary, explaining what has been happening. She tells him that she believes that this is sexual harassment, but she is afraid to take up a grievance against the general secretary. He asks for his assistance. His tone immediately becomes cold and angry and he tells her that she is playing a very dangerous game. He says he knows about young girls like her who lead men on to get ahead in the workplace and then turn around and claim they are the victim. He tells her she must focus on what she has been employed for. He says she has been employed to serve the interests of the working class and that the General Secretary is an honourable comrade who has been elected by workers to lead their struggles.
The intern is frightened and depressed. She wants the harassment to stop, but she does not know where to turn because she cannot see where she can get support inside the union. She knows that the gender coordinator might be sympathetic, but she has seen how the gender coordinator defers to the General Secretary; because she is also an employee of the union and relies on the income to support her children. The harassment continues, and she eventually goes to speak to one of the union presidents who is a woman. The President advises her not to take up a case because she is unlikely to win it. She tells the intern about cases in other unions that women have tried to take up unsuccessfully.

The intern does some research and finds out that the Federation has a policy on sexual harassment. She decides to approach the Federation’s gender committee for assistance.

**Questions for Discussion:**

1. What form of harassment is described here?
2. What are the various options for handling this case?
3. As the Federation’s gender coordinator how do you handle this case? Please explain all the steps that you would take and what you advise the intern to do.
4. How would you handle the case in relation to the options provided by COSATU’s policy?
5. How would you build support for the intern in this context?
6. Who would you draw upon for support in handling this case?
CASE STUDY 8

Fighting sexual harassment at a well-known fast food outlet

Source: NALEDI Workplace project on precarious work in restaurant, catering and fast-food sector, Rob Rees (2019).

A well-known fast food chain employs students as casuals over weekends and holidays. A manager, an older man, approaches a student at one of its franchises. He makes comments about her looks, and her body. He persistently asks her to go out with him. She does not know what to do and tries to avoid him.

She feels very uncomfortable. The SACCWU shop steward notices this. She also notices the manager’s behaviour to other young women on learnerships. She approaches the student and encourages her to share her problem. The shop steward promises to keep this confidential and to give her support. The student does not want the union to take up the issue directly with the manager. She is afraid of losing her wages which she needs to pay university fees.

The union finds out that it is the company’s policy for franchisees to ensure a healthy and safe workplace and that the franchisee can be reported to the holding company.

To avoid victimisation of the student, the union engages the manager about health and safety issues in the workplace. They do this during their normal workplace meetings. They speak about how to deal with sexual harassment from customers and about the company’s policy. Company policy does not accept any sexual harassment, including between employees. It could take disciplinary action if this is reported to its head office. The behaviour of the manager begins to change. He backs off and no longer harasses the student. The shop steward continues to monitor the behaviour of the manager.

The student has since graduated and no longer works there.

Questions for Discussion:

1. What form of sexual harassment is described in this case?
2. What are the important things that the shop steward did that we can learn from?
3. How did the union avoid taking up the issue directly with the manager?
4. Do you think that this was effective? In what ways?
5. How would you handle this case? Would you do anything differently? If so, what?
6. Summarise the steps taken by the union and how this helped to address sexual harassment in this workplace?
Reference Materials Used in this Manual

You can consult the following materials for more information on raising awareness and preventing sexual harassment.

COSATU Policy & Procedure for the Handling, Prevention & Elimination of Sexual Harassment (2015)

COSATU Gender Policy (Revised 2015)

NEDLAC Code of Good Practice on Handling Sexual Harassment Cases

CCMA Information Sheet on Sexual Harassment
http://www.ccma.org.za/Advice/Information-Sheet/id/547

A Simplified Guide to Sexual Harassment in the Workplace (2015), Women’s Legal Centre.

A Simplified Guide to your Rights against Sexual Violence (2015), Women’s Legal Centre.