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# **A Canadian Perspective on Gender and Health and Safety in the Workplace**

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**Janet Bobechko, John P. Andrews, Kellie L. Johnston**



# Sexual Harassment in Canada

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- Sexual harassment in the workplace – how big is the problem?
  - More than 28% of Canadians have experienced sexual harassment in their workplace or at a work-related function. In Canada, women were more than three times as likely to experience sexual harassment.
- In Canada, sexual harassment is illegal.
  - Canadian federal, provincial and territorial human rights law prohibits sexual harassment.
  - It is also illegal under human rights laws to discriminate against someone on the basis of other characteristics such as sex or sexual orientation.
  - Retaliation is also prohibited where a person raises issues or complains of sexual harassment.



# What is sexual harassment?



- Definition:

- Sexual harassment is any behaviour, comment or gesture of a sexual nature which is deemed to be offensive. It is unwanted behaviour that makes the receiver feel uncomfortable and can be coercive or subtle in nature. Sexual harassment is an abuse of power and is often used as a way of controlling or intimidating someone.

- Sexual Harassment is:

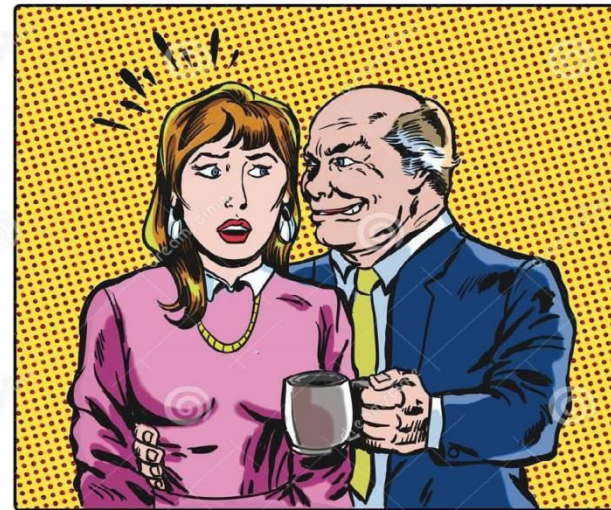
- Vexatious sexual conduct or a course of comment that is known or ought reasonably to be known as unwelcome.
- A sexual solicitation or advance made to an individual by another individual where the other individual is in a position to confer a benefit on, or deny a benefit to the individual to who the solicitation or advance is made, where the individual who makes the solicitation or advance knows or ought reasonably to know it is unwelcome.
- A reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance.



# The Power Imbalance

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- A person does not have to object to the harassment when it happens for there to be a violation. They may be in a vulnerable situation or afraid to speak out due to the power imbalance that often exists between a harasser and the person being harassed. Since they may be worried about what will happen if they object, people may go along with the unwelcome actions. But in these cases, sexual harassment is still against the law.



# There are Different Types of Sexual Harassment

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- Sexual Solicitation and Advances
- A Poisoned Environment
- Gender-based Harassment
- Sexual Violence



# Examples of Sexual Harassment

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- Unwanted sexual flirtations, advances, sexual propositions
- Unwanted touching
- Leering or sexually suggestive looks
- Making derogatory comments about a person's sexual orientation, gender identity or expression
- Sexist jokes or inappropriate remarks about someone's pregnancy
- The display of sexually explicit material, showing pornography, sexual pictures or cartoons
- Sending sexually explicit emails or texting sexually explicit images or pictures via cell phone
- Sexually suggestive or obscene comments and use of offensive or derogatory names
- Unwelcome inquiries or comments about a person's sex life
- Request for sexual favours



# Intent

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- A lack of intent is NOT a defence to an allegation of sexual harassment





# Who is affected?

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- Canadian provincial, federal and territorial human rights laws protect people of all genders from sexual harassment
- Sexual harassment can happen in all social and economic classes, ethnic groups, jobs, and places in the community
- Sexual harassment in a workplace is not limited to just co-workers. Harassment can also occur with individuals not directly employed by an organization, such as contractors, consultants, and even customers.



# Where does it happen?

- Sexual harassment can happen in workplaces, educational settings, or on the street
- Sexual harassment in a workplace can occur anywhere that an employee represents their organization. This includes parties, dinner with co-workers or clients, conferences, trade shows, sales calls, and charity events.



# Consequences of Sexual Harassment

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- Mental Health/Physical Effects
  - Victims of harassment can suffer from physical and emotional effects, including anxiety, depression, fatigue, weight loss, nausea and stomach problems, inability to sleep, withdrawal from relationships, self-blame, reduced self-esteem, and post-traumatic stress disorder.
- Socio-Economic Effects
  - Sexual harassment can limit a person's ability to earn a living, get housing, get an education, feel safe and secure, and take part fully in work life and society.
- Organizational Effects
  - Organizations that do not take steps to prevent sexual harassment can face major costs in decreased productivity, low morale, increased absenteeism and potential legal expenses.



# Legal Duty

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- Organizations operating in Canada have a legal duty to take steps to prevent and respond to sexual harassment.
- Employers must make sure their environment respects human rights.
  - From a human rights perspective, it is not acceptable to ignore sexual harassment, whether or not someone has formally complained.



# Best Practices for Preventing and Addressing Sexual Harassment

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- Show strong leadership
- Develop policies and raise awareness
- Provide training
- Address online harassment
- Respond appropriately to a sexual harassment complaint



# Duty to Respond

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- In Canada, a human rights board of inquiry will likely look at the following to decide if an organization has met its duty to respond:
  - The resources made available to deal with the complaint
  - The procedures in place at the time to deal with harassment
  - If the organization provided a healthy environment
  - Whether appropriate action was taken
  - How quickly the organization responded to the complaint
  - How seriously the complaint was treated.



# What to do if you are being sexually harassed

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- In Canada, people are encouraged not to put up with sexual harassment just because you don't want to lose your job – not always easy
- Be persistent and speak out against the harasser
- Try, with the help of your colleagues, to resolve the problem through internal policies and resolution mechanisms
- In Canada, if internal mechanisms are not available or don't resolve the issues, you can file a human rights complaint at a Human Rights Commission
  - It is illegal for any employer to retaliate against you for filing a human rights complaint



# When does sexual harassment become a crime?

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- In more extreme cases, sexual harassment is a criminal offence
- It is a crime in Canada if the harassment involves attempted or actual physical assault, including sexual assault, or threats of sexual assault.
- Stalking is a crime called “criminal harassment”
- Where sexual harassment includes any of these things, in Canada, you can contact:
  - Local police service
  - Women’s resource and sexual assault services centres
  - Hospitals
  - Police Victim Services





# Preventing Sexual Harassment in the Workplace

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- Sexual harassment is a serious health, social and public safety issues that affects everyone.
  - Leave sexually-based behaviours outside the workplace
  - Treat everyone with respect; speak up when you see harassment
  - Deal with complaints of sexual harassment properly
- Steps:
  1. Leadership
  2. Commitment
  3. Workplace culture change
  4. Develop policies
  5. Awareness
  6. Training
  7. Compliance
  8. Accountability



# Key point

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Everyone has the right to work safely



# Resources

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- Sample anti-harassment policy: [Canadian Human Rights Commission Workplace Anti-Harassment Policy](#)
- Policy and practice guidelines: [Ontario Human Rights Commission Policy on Preventing Sexual and Gender Based Harassment](#)
- Harassment video series: [“That’s Harassment” Video Series](#):
- [Alberta Human Rights Commission I am Being Harassed or Witnessing Harassment. What Can I Do?:](#)
- [OHRC and HRPAs webinar on preventing sexual harassment at work](#)
- [United Nations’ Office of the Special Adviser to the Secretary-General on Gender Issues and Advancement of Women “What is Sexual Harassment”](#)





THANK YOU