

Workplace sexual harassment:

Unions strategise

Sexual harassment is one of the key problems that women face at the workplace. **Janet Munakamwe** explores current efforts by unions to deal with the issue.

INTRODUCTION

Trade unions have the obligation to sensitise and educate members on sexual harassment including raising awareness on the nature and scope of the problems involved and handling and taking preventive measures as well as establishing grievance procedures. Policies should be drawn in consultation with employers and relevant trade unions, and should form part of the collective bargaining agreements.

As such, the issue of sexual harassment in the workplace has always been at the centre of debates and discussions within the Congress of South African Trade Unions (Cosatu) and its affiliates. In these discussions there have been commitments to preventing and addressing sexual harassment in the unions. In order to encourage the development of workplace policies by its affiliates, the federation adopted a sexual harassment code of conduct in 1995.

Like anywhere else in the world, South Africa's labour force has been highly feminised, with more young women workers, who are more vulnerable to sexual harassment, entering the labour market. Therefore, there is need for transformation in terms of the laws and working conditions of the historically masculine

workplace so as to suit the needs of the current workforce made up of mostly women.

For instance, both the South African Labour Relations Act (LRA) 66 of 1995 and the Employment Equity Act 55 of 1998 Code of Good Practice have been amended to accommodate working women with regard to sexual harassment problems that they are prone to in the workplace.

This article reflects on the extent to which affiliates have taken forward or developed sexual harassment policies to ensure a safe working environment for women workers. It also outlines the basic forms of sexual harassment in the workplace and also seeks updates on current information on the subject.

The article will also discuss how affiliates have developed sexual harassment policies. As there is little or no data on cases and disciplinary hearings on sexual harassment in the workplace recorded so far, the article will also attempt to address that gap.

WHAT IS SEXUAL HARASSMENT?

The question of what constitutes sexual harassment has always been a contested terrain as the phenomenon is so complex and fraught with a lot of biases and myths. Whilst perpetrators have their own views of sexual

harassment, victims have a different perspective. Simply defined, sexual harassment is any repeated unwelcome sexual advances, requests for sexual favours and other verbal or physical conduct of a sexual nature.

It is an abuse of power, privilege, and control that makes the victim feel intimidated or degraded and is a barrier to equal rights and also a form of sex discrimination. It can come in the form of unwelcome attention or outright violent behaviour. This could be either one or a combination of the following:

- degrading comments, jokes or questions about appearance and deliberate verbal abuse
- unwanted physical contact, touching or patting
- unwanted persistent sexual advances
- use of pornographic pictures at the workplace
- sexual assault, fondling and its worst form: rape
- transactional sex for a job or favourable working conditions.

OTHER TYPES OF HARASSMENT

1. *Same sex harassment*

It is important to note that not only people of the opposite sex perpetrate sexual harassment, but also people of the same sex could be culprits too!



Sexual harassment is common at work as workplaces are not always safe for women.

2. **Non-employee harassment**

This is sexual harassment by a non-employee, for example customers or visitors to the workplace and is common amongst those working in retail, restaurants, and domestic or entertainment industries. However, this is not justifiable or explicable behaviour.

3. **Third-party harassment**

This is the type of behavior found offensive by some

employees whereas others appreciate it. For example, workers discussing their sex lives in a group in the presence of others who feel uncomfortable.

WHY IS SEXUAL HARASSMENT AN ISSUE?

Women are the most targeted and victims because of the inequalities and power relations in the labour market. Despite laws on discrimination, women

remain confined in poorly paid, low-skilled or low-status jobs, while men predominate in better-paid, authoritative positions and supervisory jobs. Where women are in higher positions of authority, harassment can be used as a weapon to undermine their authority such as supervisors and managers.

Sexual harassment affects all women regardless of age, marital status, physical appearance, background or professional status. It also cuts across racial and class lines. According to the International Confederation of Trade Free Trade Unions (ICFTU), young women under 30, and unmarried, widowed, divorced or separated, especially with dependents, are high-risk groups. However, sexual harassment does not affect women only, as some men also feel they are victims. Sexual harassment threatens the health and safety of women workers in the workplace.

The division of labour in the workplace could be one of the major reasons why men do not see women as equal partners. Most positions of authority or so-called 'hard' tasks like finance or economics in the workplace are occupied by men and women are usually allocated what is regarded as the 'soft' issues like personal assistants, cleaning or catering. It is even worse for those working in male-dominated sectors like mines, engineering or transport. Some men would even offer to undertake some so-called 'masculine' obligations or assignments in exchange for sexual favours.

Those in authority always manipulate women and restrain their access to workplace rights such as job promotions or salary increments, job security unless they gain sexual favours. The big question is whether women are being given enough support when they report or have they really been empowered to address and

report cases of sexual harassment especially when they are made to believe that they are benefiting from their bosses' favours.

NON-REPORTING

Despite efforts made by unions and the protective role played by national legislation in curbing sexual harassment, it is worrying that this problem still persists in the workplace and even goes unreported. Below are some of the reasons cited for failure to report:

- lack of faith in the chain of command
- being labelled as a non-team player
- peer pressure
- not worth the risk (promotions, awards, career)
- fear of reprisal.

Considering the above, it would be useful for affiliates to reflect on how much effort they have invested in sexual harassment awareness programmes to break the silence. Again, it is fundamental to assess the inputs and resources committed by union leadership towards this issue.

FINDING SOLUTIONS

Cosatu has worked closely with the Sexual Harassment Education Project to seek solutions to the sexual harassment that occurs in the workplace and in trade unions. Below are some of the suggestions that have been provided to educate women workers on how to deal with such a problem:

- make use of existing legislation and policies
- express your disapproval
- confront the harasser
- use an intermediary to confront the harasser
- write a letter to the harasser
- maintain a log or diary of incidents
- request sexual harassment training for the unit
- report the incident to the police – rape is a criminal offence.

There seemed to have been a great silence with regard to the sexual harassment issue and it would be helpful to find out why. Could it be because of the amended laws that have criminalised sexual harassment or is it because of progressive policies and codes of good practice set up by unions or women workplace empowerment programmes or intimidation by perpetrators or those in authority? All these questions can only be answered through getting information and views from affiliates through shop steward committees.

To respond to some of the questions, one of the places to look are affiliates sexual harassment policies.

In line with the Cosatu's Code of Conduct, the federation is mandated to 'ensure that affiliates negotiate a sexual harassment code and procedure with employers to show its commitment to fighting the problem in the workplace'. Against this background, it is important to assess the progress in terms of policy development by affiliates in relation to their trades/sectors.

CONCLUSION

The problem of sexual harassment in the workplace and unions is a daily reality that should not be awarded a break as perpetrators always devise new strategies to evade the course of the law and legislation that has been established to deal with the issue. With more young women entering the labour market and for unions to be able to attract them, their protection against sexual harassment would be one of the key strategies.

The lull period taken by Cosatu and its affiliates in terms of implementing sexual harassment programmes in recent years, seems as if it is not a matter of concern and could create opportunities for perpetrators to satisfy their egos. This absence of advocacy and education empowerment programmes on sexual harassment means several women are suffering silently and that

many cases have gone unreported. It is a plausible move that South Africa's legislation has been amended and adjusted to criminalise sexual harassment. But, it is the obligation of trade unions and other civil society organisations to monitor implementation of such laws and rights in the workplace.

RECOMMENDATIONS

- Cosatu and its affiliates need to resuscitate the Sexual Harassment Education Programme (SHEP) to cater for new entrants in the labour market.
- Constant updates and training of shop stewards to empower them to undertake such obligations.
- A toolkit should be developed as the first empowerment tool for new entrants into the labour market to raise awareness of sexual harassment to potential victims and perpetrators.
- Enough human (sexual harassment trainers & education officers) and financial resources should be committed towards SHEP for it to remain functional and relevant to women workers.
- There is need for a comprehensive research to gather current information in terms of existing or amended laws and to identify major areas for policy advocacy. The research should also assess the extent to which affiliates have handled and dealt with sexual harassment matters and seek ways for interventions.
- The issue of the 50% women component in the disciplinary committees of companies or unions needs to be revisited. ^{LB}

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