



Recommendations on Sexual Harassment for Women in India

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Introduction

The last two decades or so have engendered considerable discussion throughout much of the world about issues of sexual harassment in the workplace. It is not that the problem is new, only that it has been exacerbated and made more visible as increasing numbers of women have entered the work force. In a survey published by the CGIAR Gender Staffing Program in January 1995, in fact, 13% of the 87 internationally-recruited women respondents (representing a 65% response rate) reported having experienced unwelcome verbal or physical conduct of a sexual nature from supervisors or colleagues that caused personal offense and was, in many cases, very disturbing to the woman involved. Most incidents were not reported, however, since few procedures were in place to handle complaints of this nature and since the alleged perpetrators were in positions senior to the women. Where reports were registered, none of the women were satisfied with solution of the situation. In fact, some of the women resigned their positions as a result.

Outside of the work environment, only the most egregious forms of sexual harassment—acts of physical aggression, including rape—are issues dealt with in public policy, ordinarily. For example, the 1979 United Nations Convention on the Elimination of All Forms of Discrimination against Women sought to ensure women the right to the same employment opportunities as men, as well as the right to health protection and safe working conditions. The Nairobi Forward-Looking Strategies for the Advancement of Women, adopted in 1985 and building on the Convention, called specifically for measures to prevent sexual harassment in the employment context. In 1992, the U.N. Committee established to monitor implementation of the Convention recommended legal and other measures to sanction and prevent sexual harassment on the grounds that equality in employment could be severely impeded by gender-specific abuse, such as sexual harassment in the workplace. Attention to the issue of sexual harassment within the CGIAR System increases in importance as the number of women on centre staff at all levels expands. Although women are not the only recipients of harassing behaviour, they are victimized more frequently than are males.

What is sexual harassment?

Sexual harassment, in all its configurations, is not easy to define. Other than conduct that involves physical violence, it is, to some extent, in the eye of the beholder. The Equal Employment Opportunity Commission in the United States, however, has developed a useful definition in the following:

Unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature constitute sexual harassment when

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual Harassment is any unwelcome sexual advance, request for sexual favour or other verbal, non-verbal or physical conduct of a sexual nature which unreasonably interferes with work, is made a condition of employment, or creates an intimidating, hostile or offensive environment. (The World Bank, 1994)

Sexual harassment is neither a trivial offense nor a personal matter between employees. It results in loss of productivity and is detrimental to staff morale. A harassment free work environment is, therefore, essential to our effectiveness as an institution and to maintaining staff morale. Staff members can expect harassment complaints to be taken seriously and dealt with promptly. (The World Bank, 1994)

In addition, the proliferation of legal remedies to sexual harassment in national law in many parts of the world suggests it is good practice for centre management to be aware of local law as it relates to this issue and is applicable to both nationally-recruited and international staff. The Bank's booklet on the subject then goes on to define physical conduct of a sexual nature as "unwanted physical contact ranging from unnecessary touching, patting, or pinching, or brushing against another person's body, to assault or coerced sexual intercourse. It notes that verbal conduct may include "unwelcome sexual advances, offensive flirtations, suggestive remarks, innuendoes or lewd comments, as well as propositions or pressure for sexual activity, and continued suggestions for social activity outside the workplace after it has been made clear that such suggestions are unwelcome." Finally, the booklet indicates that non-verbal conduct refers to "the display of pornographic or sexually-suggestive pictures, objects of written materials, leering, or making sexually suggestive gestures."

The operative word in these definitions is "unwelcome," a factor that makes precise definition of inappropriate conduct particularly difficult in the multicultural context in which the centres operate. The fact that cultural norms touching upon sexual relationships may vary so widely from region to region can lead to situations where the "alleged perpetrator" is legitimately unaware of a possible offense and where the "victim" is unable to express discomfort with the conduct in any manner that the offending colleague or supervisor can comprehend. The centres' complex multicultural situation thus suggests an even greater need to deal explicitly with the issue of sexual harassment than might be the case in an apicultural employment setting where employees can be expected to share an understanding of what constitutes appropriate conduct in the workplace and what does not. It is also worth noting that international organizations such as the centres find little difficulty in dealing openly with issues stemming from cultural diversity; where issues of a sexual nature arise, however, there is a sense of discomfort in ringing the min to public view. This argues, of course, for an even more deliberate effort on the part of management to build staff understanding of sexual harassment and how to deal with it. As embedded in the definitions, two forms of sexual harassment have been recognized. One is referred to as "quid pro quo," alluding to situations in which a supervisor or other senior official with control over a subordinate's employment status solicits sexual favours in exchange for the position itself or for a job-related benefit. The second form is that in which a "hostile environment" is created by unwelcome behaviour on the part of anyone in the workplace, be it as subordinate, a peer or a senior official. Such behaviour can be either deliberately offensive or inadvertently so; behaviour is sexual harassment if it unreasonably interferes with an employee's work performance and overall comfort.

Policy on Sexual Harassment

(a) Definition of Sexual Harassment

Sexual harassment is comprised of offensive sexual comments, gestures or physical contact that may be deemed objectionable or offensive, either on a one-time basis or in a continuous series of incidents, at or away from the usual workplace. Generally, sexual harassment is behavior of asexual nature that is deliberate and unsolicited. Sexual harassment is one-sided and both males and females can be victims of it.

(b) Policy

It is the policy of the International Development Research Centre that its employees can expect to be treated fairly in the workplace in an environment free of sexual harassment. Any behaviour that denies individuals their dignity is offensive, embarrassing, humiliating and will not be tolerated. Harassment of another employee in the carrying out of Centre duties constitutes a disciplinary infraction and will be dealt with severely. All complaints of sexual harassment will be responded to immediately and, if founded, remedied without delay.

(c) Implementation of the Policy

Both Management and employees must be aware of the sensitivity and confidentiality of any complaint made. Therefore, all persons deal with a complaint of sexual harassment must be cognizant of the seriousness of such a charge and be sensitive to the dignity and self-respect of all persons involved. To ensure the consistent and vigorous implementation of the policy, the Director of Human Resources and the Secretary and General Counsel are named as “designated authorities.” Where both of these positions are occupied by persons of the same sex, the President shall also name a senior staff member of the opposite sex as a “designated authority”. This later appointment will be for a one-year renewable term and will be announced to all Centre staff. The role of the designated authorities is set out in ii), iii), and iv) below.

1. The Responsibility of the Employee

Employees have the responsibility to take assertive action should they feel they are being subjected to sexual harassment, regardless of who the alleged offender is or the nature of the harassment. The practical steps to follow are:

- make the disapproval and/or unease known to the offender immediately;
- if the conduct of the offender is deemed serious by the employee, the incident should be reported to either his/her responsible Officer, director or one of the designated authorities. (At this stage, the employee may seek the assistance of a colleague in reporting the incident to either his/her supervisor, director or one of the designated authorities);
- if there is more than one incident, the employee should keep a written record of dates, time, and nature of the behaviour and witnesses to it, if any.

2. The Responsibility of Management

The primary responsibility for investigating the complaint lies with the responsible Officer except in a case where this person is the alleged offender. In the latter case, the designated authority has the primary responsibility for the investigation. Where a supervisor has received a complaint about sexual harassment, he or she must report it by confidential memo to the responsible officer and/or one of the designated authorities. Where the responsible Officer has received the complaint, he or she must report it to one of the designated authorities. Where one of the designated authorities has received a complaint, he or she must report it to the responsible Officer. Since failure to act could be interpreted as condoning the prohibited behaviour, all those involved must act promptly.

3. Investigate Procedure

The individual primarily responsible for investigation must adhere to the following steps:

both the complainant and the alleged offender must be interviewed as soon as possible;

all witnesses must be interviewed;

the investigation must be documented accurately and completely;

all parties including the designated authority must be advised of the proposed action;

in cases where the responsible Officer has the primary responsibility for investigating the complaint, either the complainant or the alleged offender may ask for the designated authorities to review and modify, if necessary, the action proposed by the responsible Officer.

4. Disciplinary Measures

In those cases in which the offender is found to have committed sexual harassment, one of the following measures will be taken;

- a verbal warning
- the placement of a record of the offense on the personal file of the offender

- suspension
- dismissal

5. Review by the President

The complainant may, at the conclusion of the investigation, ask the President to review the case and take further action if warranted.

6. Other Course of Action

It should be noted that the option of proceeding to the Canadian Human Rights commission is an option that is always available to the employee. All allegations of sexual harassment will be fully, fairly and promptly investigated and deal with in a confidential manner. Any retaliation or threat of retaliation against individuals making formal or informal sexual harassment complaints or assisting in the investigation or complaints will be considered as a violation of standards of conduct and will result in disciplinary action.

Procedures for Dealing with Sexual Harassment

The cardinal rule for dealing with unwelcome behaviour is to discourage it at an early stage. Staff members should make it clear to the offender that his/her behaviour is unwelcome, that it is offensive and that it should immediately cease. In the event that the offensive behaviour does not cease after its being discouraged or if the aggrieved staff member is not comfortable in handling the situation on his/her own, the following informal and formal means of resolving the problem are available.

The Informal Approach

The informal approach is unintended to resolve a complaint of sexual harassment through mediation between the parties involved and by providing advice and counsel on a strictly confidential basis. Aggrieved staff members may seek advice and help from a Personnel Office or from a senior staff member who can advise them and who may be able to discuss the matter discreetly with them and the offender with a view to achieving an informal resolution of the problem. When posted at Headquarters, staff members may approach a senior member of the division or office. They may also contact the designated officer in the Medical Service, for information, informal guidance and counselling.

Staff members in duty stations outside Headquarters may seek advice from a senior staff member in the field office/project concerned. They may alternatively contact a Personnel Officer at headquarters or the designated officer in the Medical Service in writing or by telephone. The Officer will explain the policy and suggest ways for the staff member to deal with the situation. If necessary, the officer contacted will, in consultation with the complainant, nominate a member of the management in the field office or if there is a perceived conflict of interest, a senior manager from one of the UN agencies represented at the field level to review the matter and approach the alleged offender on a strictly confidential basis to resolve the situation.

The Formal Approach

Staff members are encouraged to use informal means in order to resolve problems. However, where such informal means are not appropriate, cases may be pursued through more formal channels.

Conclusion

Formal complaints will be dealt with rapidly, in the strictest of confidence, and where warranted, appropriate disciplinary action will be taken. Recommendations, the Supervisor concerned will carry out a follow-up enquiry with staff members who have lodged a complaint concerning sexual harassment after a reasonable period of time (normally 6 months) has elapsed from the time when the case was decided upon, regardless of the outcome. The enquiry will be made for the purpose of ascertaining the complainant has not been the object of retaliation or threat of retaliation by the offender, alleged offender or any staff member in the work place.

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