

**A CRITICAL LEGAL ANALYSIS ON THE REASONS FOR THE CONTINUOUS  
OCCURENCE OF CASES OF SEXUAL HARASSMENT AT WORK AND ITS  
EFFECTS ON THE VICTIMS**

**SHAKIRA MUKERA**

**BS20B11/051**

**A DISSERTATION SUBMITTED TO THE SCHOOL OF LAW IN PARTIAL FULFILLMENT OF  
THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF BACHELOR OF LAWS OF  
UGANDA CHRISTIAN UNIVERSITY**

**May, 2025**



**UGANDA CHRISTIAN  
UNIVERSITY**

*A Centre of Excellence in the Heart of Africa*

**DECLARATION**


I, MUKERA SHAKIRA, declare that this dissertation is my original work. It has not been submitted to any other university or higher institution for any award and where it is indebted to the work of others, due acknowledgement has been made.

Sign:  Date: 19th/05/2025

**MUKERA SHAKIRA**

**APPROVAL**

I hereby certify that this research was carried out by **MUKERA SHAKIRA**,  
Registration number **BS20B11/051**, a student of Uganda Christian University  
under my full supervision and guidance in partial fulfillment of the award of  
Bachelors Degree of Laws and it is now read for submission

Sign:  ..... Date: 19/05/2025

**SUPERVISOR**

**Ms. KANYAGO KALAGALA CAROLINE**

## **ABSTRACT**

Sexual harassment remains one of the least acknowledged, yet common practices experienced within employment in Uganda. It takes the form of any sexual behavior whether intended or not that is viewed as offensive by the victim party. Until 2006, there had been no clear attempts developed in the combating of this practice which had consistently jeopardized the wellbeing and working life of employees as well as equality at the workplace. This gap raised concerns not only for the legal authorities but also for the employers and the aggrieved parties since there were no clear measures on how the subject was to be addressed. Henceforward with the later emergence and development of the legal regime on employment, fair means of protection were introduced towards combating this practice. To achieve this, these laws worked towards promoting equality of opportunity in employment as established under Article 40(a) of the Uganda Constitution and this involved creating fair employment grounds in as far as recruitment, promotion, remuneration and termination were concerned. However, despite signifying the importance of equality of opportunity towards combating sexual harassment, these laws have so far remained less progressive in achieving this objective. This is attributed to the many gaps existent therein and the poor enforcement mechanisms adopted in giving effect to these laws.

Therefore, this research serves to show reasons for the continuous occurrence of sexual harassment at work places despite the existence of various measures prohibiting it and the effects it has on those who experience it.

## **DEDICATION**

To my mother, all female employees and all victims of sexual harassment.

## **ACKNOWLEDGMENT**

I owe a great deal of gratitude to many people who have contributed in several ways towards the completion of this dissertation. First, I must express my very sincere and profound gratitude to my mom, Mrs. Rose Namuwanga and my brother Mr. Umar Hasule for providing me with unfailing financial, emotional and moral support as well as their continuous encouragement throughout my years of study and through the process of researching and writing this dissertation. This accomplishment wouldn't have been possible without them.

I would also love to extend my sincere gratitude to my supervisor Ms. Kanyago Kalagala Caroline of the faculty of law at Uganda Christian University. Her guidance through each stage of the process, advice, support and immense knowledge were instrumental towards the completion of this dissertation. For this, I'm extremely grateful.

## CONTENTS

DECLARATION .....	ii
APPROVAL .....	iii
ABSTRACT.....	iv
DEDICATION .....	v
ACKNOWLEDGMENT .....	vi
ABBREVIATIONS.....	ix
CHAPTER ONE.....	1
1.1    GENERAL BACKGROUND .....	1
INTRODUCTION .....	1
1.2 BACKGROUND OF THE STUDY.....	3
1.3 STATEMENT OF THE PROBLEM.....	6
1.4 GENERAL OBJECTIVE .....	7
1.5 SPECIFIC OBJECTIVES .....	7
1.6 RESEARCH QUESTIONS .....	8
1.7 JUSTIFICATION OF THE STUDY .....	8
1.8 SCOPE OF THE STUDY .....	8
1.8.1 SUBJECT OF THE STUDY .....	8
1.8.2 GEOGRAPHICAL SCOPE.....	9
1.8.3 TIME SCOPE.....	9
1.9 METHODOLOGY .....	9
1.10 LIMITATIONS IN CONDUCTING THE RESEARCH .....	9
1.11 SUMMARY OF THE THESIS. ....	10
CHAPTER TWO.....	11
LI TERATURE REVIEW .....	11
2.1 introduction .....	11
2.2 Existing theories about sexual harassment .....	11
2.3 Nature and Extent of Sexual Harassment in Organizations.....	14
2.4 Measures to Combat Sexual Harassment in Organizations .....	17
2.6 Theoretical and methodological frameworks for intervention in sexual harassment in the workplace. ....	18
2.6.2 Socio-ecological model .....	19
2.6.3 Primary, secondary and tertiary interventions .....	19
2.6.4 The Our Watch model for workplace intervention.....	20

2.6.5 Organisational climate.....	22
2.6.6 UN Women requirements and impactful strategies.....	22
2.6.7 Bystander intervention.....	26
Conclusion.....	30
CHAPTER 3.....	31
3.1 LEGAL FRAMEWORK ON SEXUAL HARASSMENT IN UGANDA. ....	31
Introduction. ....	31
3.2 UGANDA LAWS THAT PROVIDE FOR SEXUAL HARASSMENT .....	31
3.2.1 The Constitution Of The Republic Of Uganda (1995) As Amended .....	32
3.2.2 THE EMPLOYMENT ACT, 2006 CAP 226.....	35
3.2.3 THE EMPLOYMENT (SEXUAL HARASSMENT) REGULATIONS 2012 .....	38
3.2.3.1 Measures brought about with the enactment of the Employment Act of 2006 and the Employment (Sexual Harassment) Regulations 2012 .....	40
3.2.3.2 Challenges with Sexual Harassment Legislation in Uganda .....	44
3.3 INTERNATIONAL LEGISLATION.....	45
3.3.1 The ILO Convention On Discrimination (Employment And Occupation) ILO Convention No. 111.....	45
3.3.2 Universal Declaration Of Human Rights, 1948.....	47
3.3.3 Convention On The Elimination Of All Forms Of Discrimination Against Women (Cedaw) 1979 .....	48
3.3.4 International Covenant On Economic Social And Cultural Rights, 1966.....	50
3.3.5 The Equal Remuneration Convention 1951 (No.100).....	52
Conclusion.....	52
CHAPTER FOUR.....	53
FINDINGS .....	53
Introduction .....	53
4.1 Reasons for the continuous occurrence of sexual harassment.....	54
4.2 Effects of sexual harassment on the victims.....	60
Conclusion.....	63
CHAPTER FIVE.....	64
RECOMMENDATIONS AND CONCLUSION .....	64
5.0 Introduction .....	64
RECOMMENDATIONS .....	64
Conclusions .....	66
BIBLIOGRAPY.....	67

## **ABBREVIATIONS**

**UDHR-** Universal Declaration of Human Rights

**ICESCR-** International Covenant on Economic Social and Cultural Rights

**MAPUTO PROTOCOL-** Protocol on the African Charter on Human and People's Rights

## CHAPTER ONE

### 1.1 GENERAL BACKGROUND

#### INTRODUCTION

The concept of sexual harassment first rose to fame as a legal concept following the publishing of Catherine MacKinnon's book<sup>1</sup> where she put forward an argument that workplace harassment constituted sex discrimination because it expressed and reinforced women's social inequality to men which as well was also against the Civil Rights Act of 1964. Being the first in-depth legal scholar to expound on the topic of sexual harassment, Catherine MacKinnon defined sexual harassment to be the unwanted imposition of sexual requirements in the context of a relationship of unequal power. She further explained that sexual harassment was classified into two types that is to say quid pro quo harassment which often occurs when the perpetrator explicitly expresses the forfeit of employment or benefits. She argued that both women and men who didn't comply with it experienced negative impacts. MacKinnon has well established the condition of work harassment, where she stated that in that kind, a hostile and offensive environment was created in case the employee tried to object to being sexually harassed.<sup>2</sup> Basing on Catherine's ideology, The U.S. Supreme Court came up with a unanimous decision in 1993 in the case of *Harris v Forklift Systems*<sup>3</sup> where it clarified some aspects of the law by overturning a ruling of a lower court that would have restricted the chances of persons being restricted in bringing sexual harassment suits. It was provided and explained by Justice Day O'Connor that the district board had been wrong to focus on whether or not the harassment had caused concrete psychological harm. The Court should have focused on whether the conduct was hostile or abusive. The court went ahead to hold that so long as the environment would be perceived as hostile or abusive, there would be no need for the harassment to be psychologically injurious. All those provided principles were applied by the Supreme Court in concluding this case<sup>4</sup>. According to Catherine Macknnon, sexual harassment is a result of judge made law. In the early

---

<sup>1</sup> Catherine A. Mackinnon "The Logic of Experience: Reflections on the Development of Sexual Harassment law" *Geo LJ* 90,813

<sup>2</sup> Haley,M.(2019) *Champion for Women's Sexual Rights and Safety in Workplace*" 19 *New Views on Gender* 37-3

<sup>3</sup> *Harris v Forklift Systems,Inc.*(1993) 17 US 510

<sup>4</sup> Robert D, (2015) *the Legal Evolution of Sexual Harassment* 241-254

years before the development of laws against sexual harassment in the workplace, women were always tormented by their employers and at times expelled from work in case they failed to give in to being sexually harassed. However, as judges heard such cases, they came up with the idea of coming up with laws that would protect women from being sexually harassed and the District of Columbia's judges were the first to come up with such judge-made laws. Sexual harassment was at first handled as a civil matter whereby a cause of action would be brought against the employer under sexual discrimination as it was the only area that could be used to cover such a vice. Because this law covered non-discrimination and as sexual harassment was perceived to be a result of discrimination based on gender, in the absence of specific laws against sexual harassment, claimants proceeded to claim against it under discrimination<sup>5</sup>. An example is the Sex Discrimination Act of 1975 in the United Kingdom which made it unlawful to treat women differently from men though it didn't mention sexual harassment. Due to the awareness about sexual harassment which happened as a result of Catherine's writings about the topic, in the US, there came a need to amend the Sexual Discrimination Act of the UK and the Equal Pay Act of 1970 to provide for discrimination. In 1986, Jean Percelli was given a first ruling as per the complaint lodged hence laying down a foundation for the law and prosecution of sexual harassment cases in the UK.<sup>6</sup> And as a wind of change, Sexual harassment in Britain today is recognized as a type of sexual violence that encompasses any sexual activity that takes place without the consent of the victim. It is provided to include such acts as rape and sexual assault. The Equality Act of 2010 classifies sexual harassment as a form of unlawful discrimination and section 26 of the same goes ahead to define sexual harassment to be an unwanted conduct of a sexual nature that has the purpose of creating a hostile, degrading offensive, and humiliating environment for the victim<sup>7</sup>

In Uganda, sexual harassment as a principle of labor law was introduced through the Employment Bill of 2005<sup>8</sup> which was later assented to by the president to become the Employment Act<sup>9</sup> which is now called the Employment Act Cap 226 . This bill was

---

<sup>5</sup> Catherine A. Mackinnon "The Logic of Experience: Reflections on the Development of Sexual Harassment law" *Geo LJ* 90,813

<sup>6</sup> Louise Jackson, 'Making Sexual Harassment History'[2021]

<sup>7</sup> Maria Malyk, "UK Sexual harassment laws of workplace" available at <https://landaulaw.co.uk>sexualharrassment at work> accessed on 5<sup>th</sup> march 2025

<sup>8</sup> The Employment Bill of 2005, the 7th Parliament of Uganda (session 7)

<sup>9</sup> The Employment Bill of 2005, the 7th Parliament of Uganda (session 7).

chaired by the Minister of Labour and Social Development then, Hon. Minister Bakako Bakoru Zoe to repeal the Employment Act Cap 219 which lacked different provisions that were assembled in the bill among which was the principle against sexual harassment. Among the objectives of the bill were to consolidate and revise the law relating to sexual harassment, to revise and modernize the law relating to individual employment and introduce protection against unjustified dismissal, to give effect to the articles of the constitution relating to freedom of association, prohibiting child labor and advancing equal opportunity and to as well repeal the Employment Act cap 219. The bill was passed on 25th May, 2006 making it the current law governing sexual harassment in Uganda today. An employee at the workplace is considered to be sexually harassed when their employer or a supervisor directly or indirectly asks for sex, for a promise of preferential treatment, detriment from work, or for a threat of the future position of the employee at the workplace according to section 6<sup>10</sup>. It also includes the use of language, visual material, and physical behavior which directly or indirectly subjects an employee to an unwelcome behavior. Regulation 1<sup>11</sup> of the Employment (Sexual Harassment) Regulations defines sexual harassment to be verbal or physical abuse that interferes with work or creates an intimidating hostile and offensive working environment. Sexual harassment takes different forms which include unnecessary touching, inappropriate medical examinations, suggestive compliments, winking, visual messages of a sexual nature, use of vulgar language, display of objects of a sexual nature, and an outright demand for sex. All these mainly affect workers in subordinate positions and result in hostile working conditions.

## **1.2 BACKGROUND OF THE STUDY.**

Employee safety and protection is considered paramount to any professional working environment and therefore is as a must incorporated in many company safety, health and security policies with intention of creating a free and healthy working environment for employees in Uganda. Available research shows that most of the employment policies and reports acknowledge the existence of sexual harassment as one of the leading and most outstanding hazards threatening the safety, protection and progress of workers in the conduct of their employment obligations.

---

<sup>10</sup> The Employment Act cap 226

<sup>11</sup> The Employment (Sexual Harassment) Regulations

Sexual harassment as a vice has been widely discussed both at national level and international level and has thus been branded as a significant problem more common than is acknowledged in employment. Sexual harassment as a practice is said to be centuries old that is, as early as the slave trade period in native America where slave women were being subjected to sexual coercion by their masters and overseers. Such practice of sexual coercion was seen as an entrenched feature of chattel slavery endured by African-American women without protection of the law. This practice was later extended and applied in the 19th century to women who worked in the domestic service that is households as well as those who managed to work in the manufacturing and clerical positions at this time. Reasons for such acts were posited by the Americans during this time. They blamed women's sexual predicament on women themselves; that is both as slaves and domestic servants. They were judged responsible for their own predicament because they were promiscuous by nature. This led to public discussions of women's vulnerability to coerced relations at work which continued until the 1970s when feminist lawyers, Catherine Mackinnon, Lin Farley among others represented women in and out of court. They were able to establish a strong movement against the practice of sexual harassment in America. Conceding to the pressure and demands by these movements, the American legal system slowly modified and reformed its laws and for the first time in 1970, women's right to work free from unwanted sexual advances was recognized (Siegel, 2003 ). It's also worth noting that until this time, no collective name had been accepted to categorize these acts as sexual harassment<sup>12</sup>. These laws were later adopted and included in other legal systems around the world including Uganda.

Similarly in Uganda, like in other countries, sexual harassment tends to be a major challenge faced by man and therefore needs to be addressed. For example, the 2003 report of the Ministry on the research<sup>13</sup> the conducted about sexual harassment among health workers, It was revealed that 24% of the female nurses revealed the fact that they were subjected to sexual harassment by their male supervisors, 21% were subjected to harassment by patients and 16 % were reported to have been harassed by peers.

---

<sup>12</sup> Reva B. Siegel: A Short History of Sexual Harassment 2003 (New Haven & London, Yale University Press, 2003)

<sup>13</sup> A study on health workers' retention of sexual harassment cases by Ministry of health

Practice in Uganda today dictates that upon recruitment, an employee is expected to sign against various documents which are usually attached to their letters of appointment. These documents normally provide a detail of the nature of the employees work duties, the rules and regulations governing them plus any other directives expected of the employee depending on their nature of profession. Signing against such documents would normally entitle the employee to protection and safety while at the workplace and would at the same time waive his or her rights to the extent where they prejudice or affect the rights of other workmates and this covers the aspect of sexual harassment. Simply defined, regulation 2 of the Employment (Sexual Harassment) Regulations, 2012 defines sexual harassment in employment to mean a direct or implicit request to an employee for sexual intercourse, sexual contact or any other form of sexual activity that contains; an implied or express promise of preferential treatment in employment; an implied or express threat of detrimental treatment in employment; or an implied or express threat about the present or future employment of an employee. This definition also extends towards usage of unwelcome words whether spoken or written; usage of material of a sexual nature and showing behavior of a sexual nature which may be regarded as unwelcome and offensive to the victim party under employment<sup>14</sup>. The regulation further defines "harassment" to mean verbal or physical abuse or behavior that unreasonably interferes with work or creates an intimidating, hostile or offensive work environment including intimidation. The effect of these definitions as applied in practice would suggest that sexual harassment takes place where a woman or man's sexual role overshadows his or her work in the eyes of the other, whether it is a supervisor, co-worker, client or customer; in other words, his or her gender receives more attention than their work. A sexually hostile environment is created by quite several factors, but these can be summed up to one major reason that is; the abuse of power and the power to influence decisions at the workplace. Such power is not necessarily the preserve of those at the central administration of the workplace, but it is in some cases decentralized among fellow employees. One could argue that such perpetration facilitates most decisions taken at the workplace that is; the process of employment, the progress and promotion of an employee, their training, suspensions and dismissals all in the expectation of sexual favors from the victim party. Such practices tend to

---

<sup>14</sup> Section 2 of the 2006 Employment Act

undermine the credibility, potential and work rate of the employee as they would suggest to any reasonable person that the employee's recruitment and position at the workplace is not merit based.

### **1.3 STATEMENT OF THE PROBLEM**

The Employment Act encourages employees who are sexually harassed to complain to a labor officer who shall have such powers as those he has in unjustifiable dismissals of the perpetrator as provided for under section 6<sup>15</sup>

There ought to be equal treatment of both men and women in a workplace and thus all acts of discrimination based on different grounds like sex, and political affiliation among others ought to be eliminated. Article 21<sup>16</sup> of the Constitution which provides that all individuals are equal is to this effect. This provision also goes ahead to state that evil acts like sexual harassment that are based on discrimination should all be avoided by both the employers and the supervisors at work. This therefore encourages women who are discriminated against based on sex to make complaints as provided for in Article 50<sup>17</sup>. All state agencies and individuals are under a duty to ensure that women are provided with equal treatment in the political, social, and economic spheres of life where the economic ones include equal opportunities at workplaces as enshrined in the constitution in Article 33(4)<sup>18</sup>. Women therefore who are promised equal opportunities by men based on first subjecting them to sexual harassment are expected to come out and make complaints about the same as per Article 50 of the Constitution as their right to equal treatment shall have been infringed upon. All individuals in Uganda have a right to work under satisfactory and favorable conditions among which is working in a sexual harassment-free workplace as provided for in Article 40 of the constitution which gives an obligation to employers to do away with all acts that would make the workplace an unfavorable place among which is ensuring that the workplace is sexual harassment-free. Where workers are subjected to unfair working conditions like being sexually harassed at the workplace, they are under a duty to petition for violation of their rights to a court having competent jurisdiction to try their human rights abuse matter. Female employees

---

<sup>15</sup> The Employment Act cap 226

<sup>16</sup> The Constitution of the Republic of Uganda 1995, Article 21

<sup>17</sup> Ibid article 50

<sup>18</sup> Ibid Article 33(4)

whose modesty is insulted through uttering words and making gestures with the intention that such gestures are heard by them are expected to bring criminal proceedings against that individual that makes such gestures an employee in case they do so they are penalized

However, despite the existence of such legal measures, sexual harassment is still predominantly practiced and has remained an outstanding practice more common than is acknowledged. Its widespread is mostly felt by women employees among other persons in less powerful positions at the workplace who not only possess limited means of fighting against it but also lack the necessary support and assistance required in case it is committed against them. This is due to its intimidating nature which is both offensive and oppressive to the victim party hence denying them a platform to come out and speak against it as such would automatically jeopardize their job.

Ideally, every workplace is expected to be a conducive environment that is safe for all the employees working there without having to worry about being exposed to or faced with unwelcome acts or practices from their employers, sexual harassment being one of them.

However, reality shocks employees when they are exposed to unexpected evils like sexual harassment at their places of work, places where they expect to be and are told will be safe and convenient for everyone, that is to say employers and employees regardless of whether they are male or female

#### **1.4 GENERAL OBJECTIVE**

The general objective for this study is to establish the reasons for the continuous occurrence of sexual harassment at places of work despite the existence of various laws fighting against it and the effects it has on those who experience it

#### **1.5 SPECIFIC OBJECTIVES**

- i. To examine the nature of sexual harassment at the workplace.
- ii. To the reasons for the continuous occurrence of sexual harassment at places of work despite the existence of various laws fighting against it

- iii. To examine what effects, it inflicts/ has on the victims.
- iv. To establish the effect of the laws on sexual harassment.
- v. To contribute recommendations to the existing laws.

## **1.6 RESEARCH QUESTIONS**

- i. What is the nature of sexual harassment at the workplace?
- ii. What are the reasons for the continuous occurrence of sexual harassment at places of work
- iii. What are the effects of such practices on the victim?
- iv. Are there sufficient laws in force to combat sexual harassment?
- v. What recommendations can be adopted in combating sexual harassment?

## **1.7 JUSTIFICATION OF THE STUDY**

This study is intended to contribute a more comprehensive understanding of the nature of sexual harassment in the workplace. This study seeks to make key contributions to the body of existing knowledge on the subject. First the study seeks to give detailed information on the reasons for the continuous occurrence of sexual harassment at workplaces, Secondly, to make an update and analysis of the current legal trends that have been enacted in combating sexual harassment as well as the level of compliance given to these laws., and it gives an elaborate overview on how sexual harassment affects the employer, employee and the society at large which is non-existent in available literature in Uganda

## **1.8 SCOPE OF THE STUDY**

### **1.8.1 SUBJECT OF THE STUDY**

This study is aimed at finding out reasons why sexual harassment continues to exist at work places despite the existing of laws put in place to combat it.

### **1.8.2 GEOGRAPHICAL SCOPE**

The study is to be carried out considering female employees in different employment placements in the whole of Uganda at large.

### **1.8.3 TIME SCOPE**

The research is to be conducted for a period of three months that is to say from March to May 2025 concerning the area of study.

### **1.9 METHODOLOGY**

The study is to be made based on a desk-based approach to research considering both qualitative and quantitative data. This desk-based research is a secondary type of research which is based on already existing data among which is data published on different websites, reports, surveys, and books among other data publishing platforms. I chose this kind of research because it is way cheaper compared to primary research as it mainly involves the analysis of already existing data. Expenses that would therefore be incurred in going to the field to collect data are not incurred hence making it cheaper. This kind of research is also time-saving as time that would be taken in going out to the field to conduct research is spared to analyze the already existing data hence making it more advantageous in a way that it is time saving. Furthermore, I opted for desk-based research because it improves data validity as one can compare and contrast various perspectives and opinions on the same topic which enhances the validity and credibility of this data.

### **1.10 LIMITATIONS IN CONDUCTING THE RESEARCH**

Depending on the fact that this research that deals with already existing and published information, I encountered challenges in accessing data from different platforms that had information relevant to my area of study as most of them were blocked due to copyright and commercial reasons.

A lot of irrelevant information concerning my area of study was provided to me and this also proved to be a challenge while conducting this study. This challenge was due to technical challenges I had in making the most relevant searches on the internet. I

overcame this by accessing search engines with the most relevant information like Google Scholar

Data Costs. Since there is no platform you can have access to without data, I therefore was faces with a problem of having to purchase data and therefore incurred unexpected expenses. To reduce on these expanses, I had to travel to and stay at campus till late so I could be able to have access to free Wi-Fi

### **1.11 SUMMARY OF THE THESIS.**

The thesis is divided into five chapters. The first chapter provides a general introduction to the thesis. The chapter also contains the problem which is also the subject of investigation and the research questions, the methodology used in the study, the scope, objectives and significance of the study.

Second chapter brings about different literature of different scholars concerning the topic of study. It covers literature from different countries like the United States of America, England, and Kenya among other countries. It also covers literature from different publications like journals and articles from Uganda.

The third chapter gives an analysis of the Ugandan legislative policies used to implement sexual harassment laws in the workplace and the perspectives thereunder

The fourth chapter examines and investigates the nature of sexual harassment at the workplace and the reasons for its occurrence. It also assesses the impact created by sexual harassment on the employee victim as well.

The last chapter presents the proposed recommendations for employers, victims, the legislative authorities and all other persons affected by the subject on how it can be combated completely and a conclusion on all chapters

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.1 introduction**

There is a lot of literature about sexual harassment of female employees in the workplace that exists as different scholars have gone ahead to address this problem both internationally and in the Ugandan context. Issues that have dominated most of the scholarly work are whether sexual harassment in the workplace exists, the laws that protect women from being sexually harassed, and the rate at which female employees are subjected to sexual harassment among others. There is however little known as to why sexual harassment continues to occur even when many laws and writings show how evil it is. This chapter therefore shows my review of the already existing literature about sexual harassment.

#### **2.2 Existing theories about sexual harassment**

The concept of sexual harassment is quite overwhelming and current studies show that the chances of successfully eroding it totally from practice are minimal. Despite this, attempts and measures have still been laid towards achieving solutions and one of these has been trying to identify the root cause behind this practice.

According to an interesting study made by Arthurnatious Muzuva on Vicarious liability for sexual harassment, he says that sexual harassment takes place when a woman's sexual role overshadows her work in the eyes of the male, be it a supervisor, co-worker, client or customer, in other words, her gender receives more attention than her work. This means that usually women in workplaces are not looked at in the aspect of fellow worker but rather women who can be used by men to satisfy their sexual needs and therefore making sexual harassment rampant in workplaces.

He further adds that many academic writers on the subject are unanimous in the fact that harassment is about an "abuse of power" by persons in sovereign or powerful positions at the expense of those in subordinate positions<sup>19</sup>. This is derived from the fact that most of them use their positions illicitly to influence all decisions at the

---

<sup>19</sup> Basson Annali. (2007) "Harassment in the workplace", 18, Stellenbosch Law Review

workplace in their favor. Such decisions can range from who to employ or dismiss, who should receive a salary raise or promotion among others and at times use this to influence the workers in lower ranks to get involved in sexual acts with them or risk being fired.

In case of fault or failure to submit to any of these demands, the victim party would normally be exposed to unbearable consequences that would largely contribute to their termination constructively.

Stella Sheema, states that there seems to exist no single theory that fully justifies sexual harassment or upon which people attribute sexual harassment. Different scholars have hence identified different theories that can be attributed to sexual harassment among which are the natural/biological theory, the sex role spillover theory, the cultural theory, and the power theory among other theories<sup>20</sup>.

According to Pallavi Kapila<sup>21</sup> and Stella Sheema<sup>22</sup>, the natural/biological theory is defined by those that belong to the natural school of thought as men having a higher sexual drive compared to women hence leading to the sexual behavior. He also states that men as well biologically have a higher physiological urge for sex which behavior is suggested not to be an offensive one but rather one created by biological urges and therefore due to this, men may end up extending such power towards women.

Julie A. Seaman states that though biological explanations and feminist conceptions appear to conflict with one another, the causes and harms of workplace sexual harassment in these two look similar.<sup>23</sup>

In a research conducted by my wage Organization, it was found out that women in Uganda within their mindsets have a fear of being blamed as many people believe that harassment at the workplace happens because of natural forces and it is just attraction

---

<sup>20</sup> Stella Sheema and others (May 2021) Uganda's response to sexual harassment in the public health sector; from dying silently to gender transformational HRH Policy, available at <https://www.researchgate.net> [Accessed on 5th march, 2025]

<sup>21</sup> Kapila, P. (2017) "Theoretical perspectives to sexual harassment of women at workplace." International Journal of Humanities and Social Science Invention

<sup>22</sup> Ibid note 32

<sup>23</sup> Seaman, J.A (2005) "Form and function in sexual harassment law: biology, culture, and the spandrels of Title VII." Ariz. St. LJ 37 321

between men and women<sup>24</sup>. Due to such views held by different people about the natural theory of female employees inclusive, a lot of them end up not reporting as they believe that it is a natural attraction that should not be blamed on the harassers as they have no control over nature hence as a result, the harassers continue doing it without anyone stopping them.

Additionally, Akina Maama WA Afirika gives us a detailed study of the Ugandan context of Sexual harassment. She states that it is about power. She further asserts that there is a belief that sexual harassment occurs when there is a power imbalance. She also states that women are much more likely to be victims of sexual harassment because, unlike men, they lack power and are in more vulnerable and insecure positions. They also lack confidence and have been silenced as victims of sexual harassment.<sup>25</sup>

According to Catherine Mackinnon,<sup>26</sup> men are perceived to be having power over everything that exists in society. This brings about the power theory as another theory attributed to sexual harassment. According to her, they have the power to decide what is valuable in society and what is not. They therefore use this power to shape and define social beings hence making themselves superior and women inferior and submissive to them. She also goes ahead to assert that women have been had and will always be controlled by men unless they understand men's tricks and acquire the power to control themselves and hence get rid of being made an inferior sex and men a superior one. Due to this power theory women who are considered the inferior gender end up complying with all the requests made towards them by the men for fear of what the men might do to them if they refuse to do as instructed even when they are asked for sexual favors.

According to Paula M Popovich and another<sup>27</sup>, it stated that men derived power from societies, organizations, and within themselves. Due to this power, many of them ended up exploiting females who were perceived to be powerless and hence an

---

<sup>24</sup> Mywage.org Uganda (21st May 2023) what is the economic cost of Sexual Harassment at workplace? Available at <https://mywage.org/labourlaw/fairtreatment> [Accessed on 6th march, 2025]

<sup>25</sup> Akina Maama Wa Afirika,(September 2023)Understanding Sexual Harassment in the World of work Available at <https://www.makeway.org/uploads> [Accessed on 7<sup>th</sup> march 2025]

<sup>26</sup> Bartlett, and another (1987). "MacKinnon's feminism: power on whose terms." Calif. L. Rev. 75 1559.

<sup>27</sup> Popovich, and others. (2010) "The role of power in sexual harassment as a counterproductive behavior in organizations." Human Resource Management Review 45-53

inferior gender. This was also attributed to be one of the reasons for the presence of sexual harassment at workplaces. According to Stella Sheema, when it comes to economics, it is believed that men are a powerful gender capable of doing some jobs and are therefore entitled to do them.

### **2.3 Nature and Extent of Sexual Harassment in Organizations**

Sexual harassment has been recognized as a worldwide problem that can occur anywhere. And while it has been known to affect mainly women, men have also been subjected to it. While sexual harassment is mainly between the sexes it has also been recognized that, it can happen within same sexes that is to say, male or female employees may subject fellow workmates of their gender to harassment on the basis of their sexual orientation.

Eugenia Date-Bah stated that although sexual harassment has been described in various ways from country to country, and across the various cultures and practices, they all typically refer to “unwanted conduct of a sexual nature, where either the rejection or imposition of such a conduct can have negative employment consequences for the victim, as well as undesirable effects on the work environment”. Despite the differences in definition, it’s accepted that for an act to be considered sexual harassment, it must be sexual in nature, unwelcome to the recipient of such behaviour and must be reasonable in the circumstances; that the person who was harassed felt offended or humiliated.

This categorization automatically differentiates it from sexual engagements that are mutually consensual. Questions however arise about relationship between the bosses and juniors that may appear consensual but beneath it lays tenets of pressure and a need for self-preservation on the part of the victim. Issues therefore arise on how to determine what is unwelcome and what is sexual. This controversy has led many to include sexual or love relationships that involve a type of abuse of authority or „sexual blackmail“, by use of inducements in their definitions, especially as long as such behaviour has the ability to cause stress, loss of self-esteem or interferes with an individual’s work performance. Hence “consent or participation which is obtained by fear, intimidation, threat or coercion will not mitigate a complaint of sexual

harassment” as per Dr. Frank Till 1980<sup>28</sup>. In the context of Uganda, section helps to differentiate sexual harassment from consensual sex between employers and employees by defining what amounts to sexual harassment.

He states that sexual harassment also takes many forms, from the physical, to the verbal as well as psychological. He summarizes these as the range of conducts that constitute sexual harassment as generalized sexist remarks; inappropriate and offensive, but occasionally sanction-free sexual advances; solicitation of sexual activity or other sex linked activity by promise of reward; coercion of sexual activity by threat of punishment; sexual crimes and misdemeanors.

According to Niamh Reilly<sup>29</sup> Sexual harassment exists and persists in different regions of the world for sometimes different reasons altogether. However, there is a temptation to think of it as a “western concept that only applies to western industrialized society and that it may not apply to the Muslim world or African setting. That those have their own female controlling practices”

As Safran 1976 says, “sexual prowess in most African cultures symbolizes men’s power and is intricately linked with the institution of polygamy and culturally endorsed male promiscuity. It is perpetrated because it is interpreted as normal, complimentary and even flattering to victims.”

Despite the differences that might exist from region to region, sexual harassment is known to exist at the workplace and is determined more by the gender that controls the workplace and is responsible for the discrimination at work. Gallengah (pg 10) in her research found that in the 43 organizations she researched, the patterns were similar and whatever the exception, women’s overall share of jobs though increasing and achieving greater visibility in certain high profile roles, the men almost still exclusively dominated the decision-making power.

Niamh Reilly calls it the “patriarchal play and display of power. Hence Simmel’s” comments that a man’s position of power does not only assure his relative

---

<sup>28</sup> Frank J till, A report on the sexual harassment of students

<sup>29</sup> ” Testimonies of the global tribunal on violation of women human rights; at the UN World conference on Human Rights-Vienna, June 1993-)

superiority....but it assures that his standards become generalized as genetically human standards". In other words, in the work place, it is the men who set the agenda.

Richard Anker and Catherine Hein in their studies asserted that because men control the workplace, the women are often subjected to sexual pressure in order to obtain jobs and promotions, and that women seek rich and influential male friends as a means to obtain jobs and money.

Karanja, 1981 in his study of Lagos, Nigeria found that sexual harassment was widespread and that the main targets for sexual pressure were the less educated, the single and those working in low paying jobs as typists, secretaries or petty contractors.

Paul Nyende 2000<sup>30</sup> found that of the women interviewed in Uganda, 65% admitted having been sexually harassed and this was mainly because women's jobs not only offer low pay, little privilege and routine tasks but also require women to serve emotional support and be sexually attractive to men. The need to earn a better pa therefore compels many women to stay and work in places where they are sexually harassed without placing any complaints.

According to him, women in all backgrounds and positions in the hierarchy have been subjected to sexual harassment. Where the men have fallen victims of sexual harassment it has been mainly because of the coming into play of such concepts as equality, affirmative action, women's emancipation, human rights etc. This has led to change of attitude in women in the way they dress, their attainment of higher position in workplaces and hence their influence over the men.

The absence of laws or their inadequate implementation in most regions, particularly in Africa, has also led to the persistence of sexual harassment at the workplaces. Clare Semambo 2001 points out that sexual harassment in Britain came to the fore only when government policies were put in place to hold employers liable for failure to incorporate sexual harassment policies in rules governing their employees.

---

<sup>30</sup> P Nende. The experiences of sexual harassment of female and male students at Makerere university, 2000

In Uganda, the 1995 constitution provides for affirmative action and the right to work. As a result very few formal complaints are made and victims rarely seek professional advice.

## **2.4 Measures to Combat Sexual Harassment in Organizations**

Research indicates that although the adoption of “model” policies is widespread, the public sector has lagged behind the private sector in establishing and successfully implementing such policy according to Reese and Lindenberg, 4<sup>31</sup>. The application of policies also differs from country to country because of difference in perception of the concept of sexual harassment. The public service is known for its severe financial constraints and no comprehensive training in and full application of sexual harassment policy.

Milkovich and Boudreau 1994<sup>32</sup>, Hall and Taylor 2002 all have highlighted the positive changes that have taken place in the USA and UK respectively towards achieving equality and fair treatment of employees at the workplace. Legislations have been put in place like the Employment Law 1970, the Equal Pay Act and the Sex Discrimination Act of 1975 in Britain which have continued to undergo major transformations.

In the USA, the trend is similar with Equal Employment Opportunity Act (EEO) and Affirmative Action (AA). These measures allow minorities in workplaces to seek redress in case of discrimination, and encourage women and minorities to take advantage of job opportunities. The studies confirm that as a result of the above, women have made gains since the 1980s while men have made terrible slides.

Research in Uganda also points to attempts on policy in sexual harassment areas. Nyende 2000<sup>33</sup>, Semambo,2001, Asiimwe<sup>34</sup> all lament that while there are general law books supposed to address problem of discrimination, there are none to specifically address individual issues of gender discrimination. That challenges such as sexual harassment, denial of maternity leave, lack of child care facilities, lack of equal pay

---

<sup>31</sup> Reese,L.A and Lindenberg,K.E(2002a),Assessing local government sexual harassment policies

<sup>32</sup> Milkovich G. T and Boudreau J.W gender, discrimination and sexual harassment

<sup>33</sup> P Nyende. The experiences of sexual harassment of female and male students at Makerere university, 2000

<sup>34</sup> The Monitor, 5th March 2004; 18-19

for work of equal value have not yet taken centre stage and few complaints are made and victims rarely seek professional advice.

## **2.6 Theoretical and methodological frameworks for intervention in sexual harassment in the workplace.**

These could be used by employers to frame their prevention and intervention efforts. It covers a general model of effective prevention programmes; the socio-ecological model; the primary, secondary and tertiary interventions; the Our Watch model for workplace intervention; the UN Women requirements and impactful strategies; and then bystander intervention theory

### **2.6.1 A general model of prevention**

While it is unclear what specific prevention models work to reduce sexual harassment in the workplace, Nation et al ,2003 presents a meta-analysis of prevention reviews on four key areas that is to say substance abuse, risky sexual behaviours, school failure and juvenile delinquency and violence which identified nine characteristics that were consistently associated with effective prevention programmes.<sup>35</sup>

According to this framework, effective prevention programmes should be: comprehensive; use varied teaching methods; ensure that there is a sufficient dosage of training, including follow up sessions; be theory driven; promote positive relationships; be timed appropriately; be sociocultural relevant and in this instance relevant to the culture of the organisation using examples that are specific to that organisation or sector; evaluate outcomes from the prevention programmes; and use well trained staff or experts to deliver the programmes and assist with implementations.

While these characteristics have not been robustly tested for reducing sexual harassment in the workplace, in the absence of subject specific best practice they provide a good framework for organisations to consider and use as a framework for attempts to address sexual harassment in the workplace.

---

<sup>35</sup> Nation, M., Crusto, C., Wandersman, A., Kumpfer, K. L., Seybolt, D., Morrissey-Kane, E., & Davino, K. (2003). What works in prevention: Principles of effective prevention programs. *American psychologist*, 58(6-7), 449-456, p. 452

## **2.6.2 Socio-ecological model**

Taking lessons learned from approaches to prevent violence against women, the 2018 CARE Australia report ‘What Works? Preventing & Responding to Sexual Harassment in the Workplace’ espouses approaches to reducing sexual harassment must sit within the socio-ecological model.<sup>36</sup> In accordance with widely adopted public health theory, organisations such as the World Health Organisation, 2002 and academics such as Michau et al. 2015 have extended Bronfenbrenner’s 1994 original socio-ecological model to demonstrate how violence against women including sexual harassment is experienced individually and interpersonally, in the context of community and societal attitudes, practices and structures.<sup>37, 38</sup>

In the CARE report, Campbell and Chinnery 2018 argued that these ecological understandings of sexual violence should underpin understanding of sexual harassment in the workplace and be the starting point for developing interventions that operate across all levels of the model<sup>39</sup>. Adopting this model places the individual and their attitudes and beliefs about gender roles at the core. It recognises that these attitudes can drive gender inequality and social norms which are conducive towards workplace sexual harassment. It also recognises that changes made at an organisational level can play a tangible role in transforming the experience of women and reducing gender inequality beyond the workplace.

## **2.6.3 Primary, secondary and tertiary interventions**

In their 2010 literature review of sexual harassment in the workplace, Hunt et al. 2010 set out a framework of primary, secondary and tertiary interventions that is commonly used as a prevention framework in public health and applied it to understanding how

---

<sup>36</sup> Campbell, H., & Chinnery, S. (2018). What Works? Preventing & Responding to Sexual Harassment in the Workplace. Retrieved from: <https://www.care.org.au/wp-content/uploads/2018/12/STOP-Rapid-Review.pdf>, p. 9.

<sup>37</sup> Krug, E.G., Dahlberg, L.L., Mercy, J.A., Zwi, A.B., & Lozano, R. eds. (2002). The world report on violence and health. Geneva, World Health Organization. The Lancet, 360, 1083-1088, p. 1084

<sup>38</sup> Michau, L., Horn, J., Bank, A., Dutt, M., & Zimmerman, C. (2015). Prevention of violence against women and girls: lessons from practice. The Lancet, 385(9978), 1672-1684, p.1676

<sup>39</sup> Campbell, H., & Chinnery, S. (2018). What Works? Preventing & Responding to Sexual Harassment in the Workplace. Retrieved from: <https://www.care.org.au/wp-content/uploads/2018/12/STOP-Rapid-Review.pdf>, p. 9.

different employer interventions might help to tackle sexual harassment in the workplace.<sup>40</sup>

Primary interventions include preventative measures which aim to address the ‘root cause’ of the issues. They typically try to change the antecedents that lead to sexual harassment and include interventions such as awareness campaigns and training for staff. Primary interventions are key to changing the organisational culture and norms which are conducive to sexual harassment. In contrast, secondary interventions are utilised in the stage when an organisation responds to an incident of sexual harassment, while tertiary interventions are rehabilitative procedures for the victims and the perpetrators once sexual harassment has occurred, such as counselling.

Utilising the public health violence prevention framework, McDonald et al. 2015 crossed the timing typologies by a second set of typologies around the actual functions or tasks that the business carries out to intervene at each point of time.

McDonald et al. outlines three key functions of the organisation which are messages, management and monitoring. Messages refer to the way that sexual harassment is defined legally and behaviourally and how it is communicated within the workplace. Management refers to the actions of those in the organisation with the authority to prevent or intervene in sexual harassment. Whereas Monitoring refers to the organisational tasks designed to identify risk factors for sexual harassment, assessing professional standards and social norms across the workplace.

It is thought that this model for sexual harassment prevention has the most overlap with the aforementioned socio-ecological model.<sup>41</sup> Yet a review of the literature reveals that proposed theories and action that has been taken has tended to focus on primary and secondary interventions and have largely ignored tertiary interventions.

#### **2.6.4 The Our Watch model for workplace intervention**

While the other models mention the importance of improving gender equality as part of primary prevention, the Our Watch model, 2018 centres around business functions

---

<sup>40</sup> Hunt, C. M., Davidson, M. J., Fielden, S. L., & Hoel, H. (2010). Reviewing sexual harassment in the workplace—an intervention model. *Personnel Review*, 39(5), 655-673

<sup>41</sup> Campbell, H., & Chinnery, S. (2018). What Works? Preventing & Responding to Sexual Harassment in the Workplace. Retrieved from: <https://www.care.org.au/wp-content/uploads/2018/12/STOP-Rapid-Review.pdf>, p.35

which tackle gender inequality and are more inclined to be simultaneously addressing issues outside of the workplace. Although the Our Watch model was originally developed to tackle sexual violence in the workplace, the common thread of tackling gender inequality is thought to remedy the antecedents for both sexual violence and sexual harassment. Consequently, Campbell and Chinnery, 2018 advocate that this model provides a promising approach for reducing sexual harassment in the workplace as well.

Our Watch 2018 proposed using interventions which require whole of organisational approaches with five closely overlapping organisational standards that aim to redress gender inequality within the business. These are Secure the commitment of leaders and staff, Ensure conditions support gender equality, Reject sexist and discriminatory culture, Support staff and stakeholders who experience violence and Integrate gender equality into you core business.

Our Watch has crafted these standards into a format that employers can easily pick-up and adopt. To achieve these standards, Our Watch recommends considering how leadership, norms and practices and business strategy or policy can be changed to achieve each of the five standards. Our Watch suggests that these three areas are key for an organisation to focus on as they seek to remedy gender inequality within their organisation.

They should understand that there is need for a change, a need to support and participate in the change, know how to change and the skills needed, engage in behavioural change, sustain the change through intrinsic-reward mastery, autonomy and purpose.

Further Campbell and Chinnery 2018<sup>42</sup> suggest that the Our Watch five standards for businesses is more advanced than other models previously discussed as they incorporate the aspects of primary, secondary and tertiary interventions as a subset within the standards.

---

<sup>42</sup> Campbell, H., & Chinnery, S. (2018). What Works? Preventing & Responding to Sexual Harassment in the Workplace. Retrieved from: <https://www.care.org.au/wp-content/uploads/2018/12/STOP-Rapid-Review.pdf>, p.35

### **2.6.5 Organisational climate**

Before the Our Watch framework, Powell et al. 2015 suggested that workplace prevention strategies should first consider the workplace climate before attempting to address cultural change. There are three different stages when organisations are prepared for change, and different interventions should be used accordingly.

The three stages are;

**Leadership**; this shapes what is expected, accepted and applauded in a workplace. Leaders across a workplace must actively support and model gender equality to prevent violence against women and ensure the necessary resources to support Organisational change

**Norms and practices**; These reflect and impact on gender equality. Acceptable attitudes and behaviour are shaped by messages that friends, family and social institutions reinforce. Workplaces need to use their powerful influence to support attitude and behaviour change

**Strategy**; It is essential to driving, supporting and sustaining change. All practices and processes must represent, include and be accountable to women and support the structural and cultural changes necessary to achieve and sustain gender equality.

Powell et al. argued that it is important to develop tailored approaches which start addressing gender inequality at a level the specific organisation is comfortable with.

### **2.6.6 UN Women requirements and impactful strategies**

In November 2018, the United Nations released their report 'Towards an end to sexual harassment: The urgency and nature of change in the era of #MeToo'.<sup>43</sup> Within the context of international commitments and standards against violence discrimination against women and human rights, the report provides guidance on policy and practice on sexual harassment. The report addresses sexual harassment in public and private spaces; however most recommendations can be taken up within the

---

<sup>43</sup> UN Women (2018). Towards an end to sexual harassment: The urgency and nature of change in the era of the #MeToo, p. 1-44

workplace, and some are workplace specific, and should be considered when attempting to remedy sexual harassment in the workplace.

The UN sets out ten requirements which are needed as the starting platform from which to effectively ‘build a new normal’ and address sexual harassment from.<sup>44</sup> It is evident that several of these requirements reflect aspects of the theories and models for intervention as discussed above. The ten requirements are replicated below:

1. Understanding sexual harassment as a matter of sex and gender inequalities of power that intersect with other dimensions of inequality including race and ethnicity, age, disability and sexual orientation; it is a violation of human rights.
2. Recognition that sexual harassment has much in common with other sexual abuse, whether it happens in conflict, the home, the street or elsewhere
3. Placing the concept of unwelcomeness at the core and acknowledging that the victim is the source of this determination.
4. The crafting of a culture of intolerance of sexual harassment, with unequivocal leadership that repeatedly and proudly speaks as well as acts against abuse and for victims.
5. Prompt, appropriate, and publicly disseminated sanctions against perpetrators, regardless of their status or seniority.
6. Recognise that those who report sexual harassment in fact help authorities (college, work, transport etc.) to deliver their obligations on equality and safety; refuse to pre-judge them as untrustworthy or malicious.
7. Enact policy and practices, including training and campaigns, that understand the cultural construction of inequalities and the need for persistent and repeated efforts to undo and reshape these.
8. Implement multiple and publicized avenues for reporting, so that victims have options from which to select what works best for them.

---

<sup>44</sup> UN Women (2018). Towards an end to sexual harassment: The urgency and nature of change in the era of the #MeToo. p. 3.

9. Provide support for bystander engagement in incidents, including but not only the enabling of immediate safety.

10. Acknowledging that sexual harassment runs the range from looks to rape, recognize the harm and trauma it can bring and structure all interventions to support healing and change. A victim focus requires setting out their rights.

During her presentation at the seminar hosted by GEO in July 2019 as part of its Women and Gender Equality Research Programme (WAGE) on gender norms and sexual harassment in the workplace, Dr Helen Mott pulled six key strategies for making change to sexual harassment from the UN report.<sup>45</sup>

While these strategies overlap with other previously discussed models, Mott argued that they illustrate best practice in reducing sexual harassment and have had some positive impact in the plight to reduce sexual harassment. These strategies suggest that employers and policy makers:

Create a culture in which women are treated as equals and there is respect between colleagues.

Commit to and display unequivocal and courageous leadership.

Encourage and support bystander interventions - to defuse a situation, remove the target from the context or address the harasser.

Have training that is in person, interactive and tailored for the given workplace. It should last several hours and regularly be repeated. Ingrained cultural norms about power and sexual norms cannot be undone in a short/one-hour, one-off, online session.<sup>46</sup>

Promote more women and minorities. Workplaces with higher numbers of women in management appear to have lower reports of sexual harassment. Such staff profiles

---

<sup>45</sup> Government Equalities Office (2019 July, 19). Seminar 4: Gender Norms and Sexual Harassment in the Workplace. Seminar hosted by the Government Equalities Office Workplace and Gender Equality (WAGE) Research Programme

<sup>46</sup> Note that in her presentation Dr Mott echoed the message of Fenton et al. (2016); that training must be developed in consultation with experts who are familiar with sexual harassment in order to avoid unintended negative impacts. Further, this point this training point reflects the key characteristics related to training as set out by Nation et al. (2003)

will also disrupt the distribution of power along gender lines. Ensuring that those who generally experience discrimination and are denied power are instead in positions of authority within the organization can change the ways in which power and authority are exercised. This includes at least indigenous and LGBT people, racial minorities, young and old staff and those with disabilities.

Encourage reporting – make available many routes for reporting and people to whom to make reports. It is more likely that victims will find someone with whom they are comfortable speaking if multiple routes are open to them. Make it possible for victims to record their harasser's name, times and dates of abuse, and turn this into a formal report if another note is made against the same person (information escrows).

It is important to note that any strategies taken to address sexual harassment should be done in consultation with experts, developed with strong theoretical underpinnings and piloted to test for potential backlash effects. In their literature review, Fenton et al. 2016 note when addressing gender norms and sexual violence some prevention efforts, despite their intentions, can be harmful and have the opposite effect to that desired. Fenton et al. 2016 cite research which demonstrates that trying to persuade people to change their attitudes can lead people to taking more extreme versions of their attitudes.

For example, a 1999 study with male undergraduate students found that the students were more likely to engage in rape supportive behaviours after listening to the account of a female rape victim.<sup>47</sup> Secondly, research in 2011 revealed that if advertising campaigns and training sessions presented information about descriptive norms such as the high rate of campus sexual assault this can lead to an increased perception that these actions are normative. Instead the researchers suggest that attempts to change cultural norms would be more effective if they presented information about injunctive norms, which demonstrate the strength of social

---

<sup>47</sup>Berg, D. R., Lonsway, K. A., & Fitzgerald, L. F. (1999). Rape prevention education for men: The effectiveness of empathy induction techniques. *Journal of College Student Development*. As cited in Fenton et al. (2016), p. 27

disapproval towards sexual assault.<sup>48</sup> Evidently attempts to shift cultural norms, raise awareness or train staff must be thoroughly tested before they are launched

### **2.6.7 Bystander intervention**

Sitting within these wider models of tackling sexual harassment in the workplace, is the promising approach of bystander intervention programmes.<sup>49</sup> Bystanders are persons who witness an event, and in this case we are referring to a person who witnesses an act of sexual harassment in their workplace, but are not directly involved as either the perpetrator or the victim. Bystanders can either ignore the incident or fail to see it and be passive bystanders, or they can be active bystanders who elect to intervene.<sup>50</sup>

In their seminal work on bystander theory, Latane and Darley 1970 suggested that a pro-social bystander must go through the following gates to enable action: notice the event, interpret it as a problem, feel responsible to deal with it; then, possess the necessary skills to act.<sup>51</sup>

Bystander approaches to sexual harassment endorse the view that it is the shared community responsibility to take action; it is the responsibility of perpetrators to not use violence, rather than a victim's responsibility to avoid it.<sup>52</sup>

Strategies where bystanders who are often colleagues are encouraged to intervene in instances of sexual harassment not only reflect a community responsibility for responding to and preventing sexual violence, but are also thought to relieve some of

---

<sup>48</sup> Paul, L. A., & Gray, M. J. (2011). Sexual assault programming on college campuses: Using social psychological belief and behavior change principles to improve outcomes. *Trauma, Violence, & Abuse*, 12(2), 99-109. As cited in Fenton et al. (2016), p. 27.

<sup>49</sup> McDonald, P., Charlesworth, S., & Graham, T. (2016). Action or inaction: Bystander intervention in workplace sexual harassment. *The International Journal of Human Resource Management*, 27(5), 548-566

<sup>50</sup> Campbell, H., & Chinnery, S. (2018). What Works? Preventing & Responding to Sexual Harassment in the Workplace. Retrieved from: <https://www.care.org.au/wp-content/uploads/2018/12/STOP-Rapid-Review.pdf>, p. 23

<sup>51</sup> As cited in Fenton, R. A., Mott, H. L., McCartan, K., & Rumney, P. (2016). A review of evidence for bystander intervention to prevent sexual and domestic violence in universities. Public Health England. Retrieved from: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/515634/Evidence\\_review\\_bystander\\_intervention\\_to\\_prevent\\_sexual\\_and\\_domestic\\_violence\\_in\\_universities\\_11April2016.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/515634/Evidence_review_bystander_intervention_to_prevent_sexual_and_domestic_violence_in_universities_11April2016.pdf), p.17

<sup>52</sup> Campbell, H., & Chinnery, S. (2018). What Works? Preventing & Responding to Sexual Harassment in the Workplace. Retrieved from: <https://www.care.org.au/wp-content/uploads/2018/12/STOP-Rapid-Review.pdf>, p. 14, 23

the reporting burden from the victim and would reflect a culture of zero-tolerance to sexual harassment.<sup>53</sup>

As with other theories of sexual harassment intervention, bystander interventions have largely been neglected by rigorous evaluation or research and the work is largely limited to be focused within university and education settings and typically within the US. However, in their rapid review of bystander intervention literature, Fenton et al. 2016 stated that the growing research base on bystander interventions indicates that such interventions are particularly effective at addressing primary prevention of sexual violence in the university setting, and especially so when such interventions meet the nine characteristics of effective prevention programmes outlined by Nation et al. 2003.<sup>54</sup>

In the United States, bystander interventions have been used effectively on college campuses, in the military and non-profits.<sup>55</sup> For example, in a study of close to 1,000 college students pre-tests, post-tests and 12-month follow up tests revealed that the four and half hour bystander training sessions coupled with media campaigns did result in attitude shifts towards sexual violence and the roles that individuals were willing to play in ending violence.<sup>56</sup>

Although bystander interventions in sexual harassment are complex, McMahon and Banyard 2015 have adapted the primary, secondary and tertiary intervention model of violence prevention, as used by Hunt et al. 2010 and McDonald et al. 2015, to demonstrate how there are opportunities for bystanders to intervene with regards to sexual violence at each level

---

<sup>53</sup> McDonald, P., Charlesworth, S., & Graham, T. (2016). Action or inaction: Bystander intervention in workplace sexual harassment. *The International Journal of Human Resource Management*, 27(5), 548-566 p. 556,566.

<sup>54</sup> Fenton, R. A., Mott, H. L., McCartan, K., & Rumney, P. (2016). A review of evidence for bystander intervention to prevent sexual and domestic violence in universities. Public Health England. Retrieved from: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/515634/Evidence\\_review\\_bystander\\_intervention\\_to\\_prevent\\_sexual\\_and\\_domestic\\_violence\\_in\\_universities\\_11April2016.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/515634/Evidence_review_bystander_intervention_to_prevent_sexual_and_domestic_violence_in_universities_11April2016.pdf), p.5

<sup>55</sup> Miller, C. (2017, December 3). Sexual Harassment Training Doesn't Work. But Some Things Do. *The New York Times*. Retrieved from: <https://www.nytimes.com/2017/12/11/upshot/sexual-harassment-workplace-prevention-effective.html>

<sup>56</sup> O Cares, A. C., Banyard, V. L., Moynihan, M. M., Williams, L. M., Potter, S. J., & Stapleton, J. G. (2015). Changing attitudes about being a bystander to violence: Translating an in-person sexual violence prevention program to a new campus. *Violence Against Women*, 21(2), 165-187. p. 173-174

Alternatively, McDonald et al. 2015 suggest four categories of bystander intervention based on the immediacy of the situation (high or low) and the level of involvement from the bystander (high or low):<sup>57</sup>

High immediacy interventions occur during an ongoing incident or focus on interrupting the event.

Low involvement: actions the bystander takes that involve private, but not public support such as redirection of the perpetrator, interruption of the sexual harassment without judgement

High involvement: public and social actions taken by the bystander such as challenging the perpetrator to stop, naming the conduct or encouraging the victim to report or act and taking a visible role in the remedial process.

Low immediacy interventions occur at a later time and can include attempts to prevent future harassment.

Low involvement: again the bystander provides private but not public support without public connection to the incident. For example, this might include covert efforts to separate the victim and the perpetrator, giving private advice and providing social support behind the scenes.

High involvement: strong social involvement in a public or social scene such as reporting on the target's behalf, confronting the perpetrator after the incident or offering to accompany the target when they report.

Powell et al., 2015<sup>58</sup> and McDonald et al., 2016 recognise that there are strong barriers against intervening for bystanders.

They argue that if bystanders are to act in a workplace setting, organisations need to assure safety and protection to the bystanders. These protections should be explicitly defined and mandated throughout the organisation by being incorporated in policies and employee handbooks.

---

<sup>57</sup> McDonald, P., Charlesworth, S., & Graham, T. (2016). Action or inaction: Bystander intervention in workplace sexual harassment. *The International Journal of Human Resource Management*, 27(5), 548-566 p. 556,566.

<sup>58</sup> Powell et al. (2015) A refined compilation of implementation strategies

There also needs to be more assertive involvement from senior members of staff who are less likely to face reprisals for their actions and who have greater authority to shift workplace norms. Further active bystander training is fundamental for successful intervention.

Lee, Hanson and Cheung ,2019 use Latane and Darley's, 1970 requirements for a prosocial bystander to underpin their bystander training on sexual harassment.<sup>59</sup>They suggest sexual harassment training should:

Remove barriers to bystander intervention behaviours – by teaching trainees how to be more vigilant in noticing what is occurring around them, encouraging a sense of responsibility to intervene and practising intervention until they are comfortable doing so, and removing negative social pressure by assuring trainees their intervention will not be viewed negatively by others.

Break sexual harassment myths – Breaking the attitudes and beliefs that are generally false but are widely and persistently held and suggesting evidence to discredit these myths. An example is the myth that most people will blame the victim for incidents of sexual harassment.

Promote empathy – Promoting empathy is expected to increase the sense of responsibility among trainees to intervene. By encouraging trainees to take another persons' perspective this is also expected to encourage trainees to think in terms of 'us' rather than 'them' and may reduce stereotypes around victims.

Cost and benefit analysis – While the above three elements to the training may increase the likelihood of an individual intervening, the level to which a trainee is prepared to get involved at depends on the net cost of behaviours. It is presumed that a high level of involvement is beneficial as it helps to construct a meaning to the incident and models exemplary behaviour to other observers. Consequently, training should focus on increasing the perceived benefits and reducing the perceived costs of intervening.

---

<sup>59</sup> Lee, S. Y., Hanson, M. D., & Cheung, H. K. (2019). Incorporating bystander intervention into sexual harassment training. *Industrial and Organizational Psychology*, 12(1), 52-57

Bystanders are unlikely to be present when the most egregious offences happen, but perpetrators often test how far they can go, starting with inappropriate comments or touches and bystander intervention at this stage can help to prevent the sexual harassment escalating. Robert Eckstein from the Prevention Innovations Research Centre recognises that a good workplace culture stops such advances before it gets worse. Eckstein argues that “bystander intervention is not about putting on your cape and saving the day, it’s about having a conversation with a friend about the way they talk about women.”<sup>60</sup>

## **Conclusion**

The literature review covers the various existing theories most of which contribute to the reasons for the continuous occurrence of sexual harassment despite the various attempts to put an end to it. This literature review also covers the theoretical and methodological frameworks for intervention in sexual harassment in the workplace.

---

<sup>60</sup> Miller, C. (2017, December 3). Sexual Harassment Training Doesn’t Work. But Some Things Do. The New York Times. Retrieved from <https://www.nytimes.com/2017/12/11/upshot/sexual-harassment-workplace-prevention-effective.html>

## **CHAPTER 3**

### **3.1 LEGAL FRAMEWORK ON SEXUAL HARASSMENT IN UGANDA.**

#### **Introduction.**

This chapter gives an analysis of the various laws that were put in place to combat sexual harassment both those made domestically in Uganda and the International laws.

The legal system alone is not an adequate mechanism for reducing or preventing sexual harassment. Adherence to legal requirements is necessary but not sufficient to drive the change needed to address sexual harassment.

An overly legalistic approach to the problem of sexual harassment is likely misjudging the true nature and scope of the problem. Sexual harassment law and policy development has focused narrowly on the sexualized and coercive forms of sexual harassment, not on the gender harassment type that research has identified as much more prevalent and at times equally harmful.

In most cases, the sexual harassment that women experience that damages women and their careers in science, engineering, and medicine does not meet the legal criteria of illegal discrimination under current law.

### **3.2 UGANDA LAWS THAT PROVIDE FOR SEXUAL HARASSMENT**

According to research by Racheal Ampaire<sup>61</sup>, the Government of Uganda intended to advocate for the rights of employees to work under favorable conditions and as well ensure that they enjoyed their freedom of association through forming Trade unions among other labor law rights and privileges. This justifies the coming up with different labor laws by the Government to protect both male and female employees from sexual harassment in workplace and these include the Constitution of the Republic of Uganda (1995) as amended, The Employment Act (2006), The Employment Sexual harassment Regulations (2012), The Penal Code Act cap 120(as amended), The National Gender Based Violence Policy 2017, The Uganda Gender

---

<sup>61</sup> Rachel A. A critical analysis of the rights of workers in Uganda in the Context of labor laws.(dissertation) Kampala International University,2016.Deserrtation

Policy (2007) among others which all tend to protect an employee from being subjected to sexual harassment<sup>62</sup>

### **3.2.1 The Constitution Of The Republic Of Uganda (1995) As Amended**

On the 27th day of September 1995, the General Assembly which had been assigned the duty of coming up with the constitution adopted it. This constitution establishes three branches of the government that is to say the executive, judiciary, and parliament<sup>63</sup>.

In its preamble, it is stated that the constitution was adopted recalling the history of constitutional instability in the country, recognizing struggles against irony and exploitation, and being committed to building a better future. Article 1<sup>64</sup> provides that power belongs to the people and that their sovereignty shall be observed as per the Constitution. This provides that people have the power to complain about such acts that exploit them like sexual harassment in the workplace and these have to be determined by Courts of law in a dignifying manner towards those individuals since power is held by the people as per the Constitution.

The Constitution is as well the Supreme law of the land and any law that is inconsistent with it shall, to the extent of its inconsistency be declared null and void as provided for under Article 2<sup>65</sup>. The constitution provides for different rights to different individuals and these rights are held to be fundamental and not granted by the state as provided for under Article 20<sup>66</sup>.

Among the rights enshrined in the Constitution is the right to work under satisfactory and healthy conditions as per Article 40(1) (a)<sup>67</sup>. When it comes to working under satisfactory conditions, it involves working in a sexual harassment-free environment. These provisions therefore prohibit employers from making the workplace an unfavorable one by subjecting their employees to sexual harassment hence being so important in eliminating the vice

---

<sup>62</sup> The Ministry of Health. (2018) 'Guidelines to implement the policy on prevention and response to sexual harassment available at <https://health.go.ug> . Accessed on 17th February, 2025

<sup>63</sup> Constitutionnet, "Constitutional history of Uganda" (International idea, 2016) available at <https://constitutionainet.org> accessed on 15<sup>th</sup> march 2025

<sup>64</sup> Ibid note 23

<sup>65</sup> Ibid note 23, Article 2

<sup>66</sup> Ibid note 23, Article 20

<sup>67</sup> Ibid note 23, Article 40

Therefore, all individuals are equal and have the freedom not to be discriminated against on any basis as enshrined in provisions of Article 21 of the Constitution 1995 as amended. The article defines discrimination to be giving different treatment to different persons on grounds of sex, color, and political opinion among others, and goes ahead to prohibit such and all forms of discrimination. It is in this constitutional provision that discrimination based on different grounds like sex including being favored in a certain job market because someone is either male or female is prohibited hence acting as a relevant provision in eliminating sexual harassment as many scholars have attributed it to discrimination.

Women in Uganda are thus entitled to a legal right to equal treatment with men and that right shall include equal opportunities in political, economic, and social activities as provided for in Article 33 (4). This hence provides that both men and women regardless of the rank or post they hold at the workplace are equal in the economic sector that provides work and hence either of them can bring a claim against the other in case they feel like their rights are being violated at the workplace including claims of sexual harassment which falls under freedom from discrimination.

However, according to Carol Bacchi and another in their journal<sup>68</sup>, the question has always been whether women need equal or a different treatment from men and they state that this has always been a point of argument amongst different American feminists.

In relation to the above in Ugandan context as per that question posed, women need special treatment in some fields as they are considered a vulnerable group. Article 32 of the Constitution of Uganda recognizes that women are a vulnerable group that needs special care and provides that affirmative action ought to be taken to ensure that they are put on the same footing as men. This also includes providing the necessary services and remedies to ensure that they are not sexually harassed as a weaker gender in the workplace.

The state is also mandated under Article 33<sup>69</sup> to provide the facilities and opportunities to enhance the welfare of women which is aimed at enabling them to

---

<sup>68</sup>Carol B. and another, "What's the problem represented to be?" (2010) *Mainstreaming Politics: Gendering Practices and Feminist Theory* 111

<sup>69</sup> Ibid note 23, Article 33

realize their full potential and advancement including laws, policies, strategies, and action platforms to prevent, control, and respond to sexual harassment.

The State's responsibility is also stretched to protect women and their rights taking into consideration their unique status and natural maternal functions in society<sup>70</sup>. This also covers the protection of women as a vulnerable group from being sexually harassed by men in case they are under an employer-employee relationship.

According to Catherine Mackinnon,<sup>71</sup> men are perceived to be having power over everything that exists in society. They use this power to shape and define social beings hence making themselves superior and women inferior and submissive to them. She also goes ahead to assert that women have been had and will always be controlled by men unless they understand men's tricks and acquire the power to control themselves. This study proves that women are a vulnerable gender that needs unique treatment as they have been silenced by men therefore justifying the existence and importance of Article 32 that provides for affirmative action and 33 of the Constitution of Uganda 1995 as the state comes up with measures to ensure that women are no longer held and controlled by men.

There is guarantee that any individual who feels like their freedoms or the freedom of other individuals has been abused has a right to apply to a competent court for redress which is compensation according to Article 50 of the Constitution. It also provides in clause 3 that one dissatisfied with the decision of a court can go ahead and lodge an appeal in a competent Court. This hence provides for remedy to workers who are sexually harassed at the workplace and feel like their right to work under a favorable workplace has been infringed to proceed and make claims against their employers hence enabling them to attain justice when it comes to sexual harassment claims hence the constitution being of great importance in addressing the vice of sexual harassment at workplace.

---

<sup>70</sup> Nabwire Ritah, 'A critical analysis of the law against sexual harassment in Ugandan prisons'(2019) available at <https://ir.kiu.ac.ug>

<sup>71</sup> Ibid note 39

### **3.2.2 THE EMPLOYMENT ACT, 2006 CAP 226**

The Employment Act, 2006 is considered as the parent law governing the employment relationship both under private and public workplaces in Uganda as seen under section 3 which stipulates that this Act applies to all employees employed by an employer under a contract of service. It however does not apply to soldiers whose mode engagement and employment is reserved by the Uganda Peoples Defense Forces Act 2005.

The Employment Act was passed to consolidate and revise the laws governing individual employment relationships and provide for other related matters<sup>72</sup>. It brings several employment considerations to the spotlight and these include determination of the employment relationship, remuneration, termination and dismissals etcetera which facilitate this relationship.

The Employment Act, 2006 introduces the subject of sexual harassment, an area that was not catered for in the former employment laws. Section 7 of the Employment Act defines sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

Sexual harassment is committed against an employee if the employer or the representative of an employer does any of the following: directly or indirectly makes a request of that employee for sexual intercourse, sexual contact or any other form of sexual activity that contains: an implied or express promise of preferential treatment in employment; an implied or express threat of detrimental treatment of employment; an implied or express threat about present or future employment status of the employee; uses language, whether written or spoken, of a sexual nature; uses visual materials of a sexual nature; or shows physical behavior of a sexual nature.

Such actions directly or indirectly subject the employee to behavior that is unwelcome or offensive to her/him and, that either by its nature or through repetition, has a detrimental effect on his/her employment, job performance, or job satisfaction.

The Act also provides guidance on how the victim party can seek redress upon the occasion of such act. Section 7(1) provides that where the employee is sexually

---

<sup>72</sup> Long title of the Employment Act, 2006

harassed, they are entitled to a complaint with a labor officer and the labor officer shall have the powers to make orders that may appear appropriate in the situation. From the reading of the above provision, I therefore submit that this section furnishes a broad-based and ambitious means of addressing the issue of sexual harassment in employment. The I further opine that this provision is reasonably applicable in so far as protecting the status, dignity and wellbeing of the employee is concerned.

Under section 7(4) of the Act, an employer who employs more than 25 employees is required to have in place measures to prevent sexual harassment occurring in their work place. Studies from legal authorities suggest that employers with less than 25 people need not have such measures to prevent harassment occurring in their workplace.

Application of the above provision is seen in the case of **J v. M Limited**<sup>73</sup> where court noted that sexual harassment, depending on the form it takes, violates that right to integrity of the body and personality which belongs to every person and which is protected in our legal system both criminally and civilly. An employer has a duty to ensure that his/her employees are not subjected to any form of sexual harassment. In this case, an action had been brought by the complainant against a fellow worker who had harassed her by caressing, slapping her buttocks and fondling her breasts. She found his behavior offensive and told him not to come near her. Eventually she told him to remain on the other side of the desk whenever he entered the office. He was charged with sexual harassment at an internal company hearing, following numerous complaints about his behavior. He was accused of having sexually molested and harassed a female employee against her will. At the hearing of the case, the company claimed that the general manager had on several occasions discussed the applicant's behavior with him, and that he had been issued with a final warning. This was disputed by the applicant but accepted by the court. At the disciplinary hearing, chaired by the general manager of the company, he was found guilty of sexual harassment and given the opportunity to resign. This he did, but subsequently withdrew his resignation and was dismissed.

---

<sup>73</sup> Industrial Law Journal, 1989: 755-762

Similarly, in the case of **Vishakha & others v. The state of Rajasthan & Others**<sup>74</sup>, Vishakha and other women groups in India instituted a suit under public interest litigation against the state of State of Rajasthan and Union of India to enforce the fundamental rights of working women under Articles 14, 19 and 21 of the Constitution of India. The petition was filed after a social worker in Rajasthan was brutally gang raped for stopping a child marriage. However, there was no legal framework under which such a complaint could be made at that time. The Indian Supreme Court found that it was the duty of the employer or other responsible persons in the workplace, to prevent or deter the commission of acts of sexual harassment and to provide the procedure for resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.

As a researcher, I can therefore submit that sexual harassment can be categorized as a form of discrimination based on sex or gender which is contrary to Article 21 of the Uganda Constitution, 1995 and section 6 of the Employment Act, 2006. Article 21(1) of the Uganda Constitution provides that all persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law.

This legal position is reflected under section 6 of the employment Act which is to the effect that in the interpretation and application of this Act, it shall be the duty of all parties under employment to seek to promote equality of opportunity with a view of eliminating any discrimination under employment.

Various writers and scholars on this topic of study have argued that sexual harassment is considered as a form discrimination rather made “indirectly” influenced by superiority of an employer over a subordinate employee. Its indirect nature would however possibly cause unlikelihood to any ordinary person to consider it as such since it is not so obvious to the naked eye and may appear neutral to anyone. Indirect discrimination normally arises because an employee belongs to a certain gender, in other words, their gender receives more attention than their ability to do certain work at the workplace. Therefore by doing away with sexual harassment a workplace would be complying with the provisions of Article 21 of the Uganda Constitution, 1995 and section 6 of the Employment Act, 2006 which fight against discrimination.

---

<sup>74</sup> [1997] [7] [SC 384]

### **3.2.3 THE EMPLOYMENT (SEXUAL HARASSMENT) REGULATIONS 2012**

In a bid to advance more protection of employees from acts of sexual harassment at the workplace, the Minister who is granted powers in Section 7 of the Employment Act and Section 97(1) of the Employment Act to make regulations for the better carrying on or implementation of the provisions of the Employment Act 2006, the Minister responsible for Labor matters came up with these regulations which laid foundation for the Employment (Sexual Harassment) Regulations 2012 hence fostering development of the law in this area leading towards improvement of employee working conditions. The Regulations have introduced improved rules aimed at combating sexual harassment and these are discussed as follows;

Regulation 1 of the Employment (Sexual Harassment) Regulations defines harassment to be verbal or physical abuse that interferes with work or creates an intimidating hostile and offensive working environment. This provision also throws more light on what exactly is considered to be sexual harassment hence making it known to every Ugandan most especially to employees as per our topic of study.

Regulation 3 of the Employment regulations gives effect to section 7(4) of the employment Act which provides that an employer who employs more than 25 employees is required to have in place measures to prevent sexual harassment occurring in their work place. It provides that an employer with more than twenty-five employees shall adopt a written policy against sexual harassment which shall include; a notice to employees that sexual harassment at the workplace is unlawful; a notice that it is unlawful to retaliate against an employee for filing a complaint for sexual harassment or for cooperating in an investigation of a sexual harassment complaint; a description and examples of sexual harassment; a statement for consequences for employers who are found to have committed sexual harassment; a description of the process for filing sexual harassment complaints and the addresses and telephone numbers of the person to whom a complaint should be made; education and training programs on sexual harassment for all employees on a regular basis; and additional training for the committee on sexual harassment, supervisory and managerial employees.

Regulation 5 expressly prohibits the dissemination of sexual materials at a place of employment. An employer shall specifically prohibit the dissemination of sexually explicit voice mail, e-mail, graphics, downloaded material or websites in the workplace and shall include these prohibitions in the workplace policy.

Regulation 8 directs that an employer with more than 25 employees shall designate a person who is gender-sensitive to oversee sexual harassment complaints.

Regulation 10 provides for the composition of a sexual harassment committee of four members who shall be persons knowledgeable in and sensitive to gender and sexual harassment issues.

Regulation 11 is to the effect that the employer as well is also under an obligation to choose a sexual harassment committee that has duties to receive and register complaints, carry out investigations as per the sexual harassment, keep records of the harassment, and measures are taken, organize and provide reports to a labor officer, review the provisions of the policy among others as provided for in Regulation 11.

A case in point is of **Magoba Editor V Tusker Mattresses U ltd**<sup>75</sup>, on the issue of whether a disciplinary committee could handle and decide cases of sexual harassment, it was held that whereas the sexual harassment committee must handle complaints, keep records and report to the commissioner issues of sexual harassment, there is no provision in the regulations that gives it sole mandate to entertain such complaints. There is also no provision stopping the disciplinary committee from handling the same. It was therefore held that in the absence of a sexual harassment committee, the disciplinary committee can handle such a complaint and therefore its decision as to the same shall not be considered illegal.

Regulations 12, 13 and 14 provide the procedure of receiving and dealing with complaints. The Committee prepares and provides reports under the complaint's procedure to the labor commissioner or labor officer. Where the commissioner has failed to dispose of a complaint referred to him or her under regulation 13(f), he or she shall refer the matter to the Industrial Court for hearing. A person aggrieved by

---

<sup>75</sup> Magoba Editor v Tusker Mattresses (U) ltd Labor dispute reference No. 243 of 2015

the decision of a labor officer may within 21 days give a notice of appeal to the Industrial Court in the form prescribed in the third schedule.

Despite receiving overwhelming support and good reception, the regulations have faced some form of criticism from workers, researchers and scholars on to the study who allege that their application doesn't accommodate or favor small enterprises. This is owed to the fact that that provisions thereunder were designed for large companies and corporations with more than 25 employees as seen under section 7(4) and regulation 3 of the Employment Act, 2006 and the Employment (Sexual harassment) Regulations, 2012 respectively hence creating an exclusion on small and infant enterprises.

### **3.2.3.1 Measures brought about with the enactment of the Employment Act of 2006 and the Employment (Sexual Harassment) Regulations 2012**

With the enactment of the Employment Act of 2006 and the Employment (Sexual Harassment) Regulations 2012, various measures were provided for and these include;

The Employment Act Cap 226 and the Employment (Sexual Harassment) Regulations 2012 place specific obligations on employers with more than 25 employees. These include the requirement to formulate and adopt a written sexual harassment policy, which must be made available to all employees under Regulations 3, 4, and 6<sup>76</sup>. Employers must also identify and designate a person responsible for handling sexual harassment complaints at work as per Regulations 8 and 9<sup>77</sup>. Additionally, employers with more than 25 employees are required to establish a sexual harassment committee to receive and investigate complaints as per Regulations 10 and 11<sup>78</sup>.

When handling complaints, the sexual harassment committee is mandated to adhere to principles including thoroughness, impartiality, timeliness, gender sensitivity, social dialogue, discretion, confidentiality, and respect for the victim's right to privacy according to Regulations 15 and 16<sup>79</sup>. Once a complaint is received, the employer is required to protect the complainant from retaliation and discrimination during and

---

<sup>76</sup>Regulations 3, 4, and 6 of Employment (Sexual Harassment) Regulations 2012

<sup>77</sup> Regulations 8 and 9 of Employment (Sexual Harassment) Regulations 2012

<sup>78</sup> Regulations 10 and 11 of Employment (Sexual Harassment) Regulations 2012

<sup>79</sup> Regulations 15 and 16 of Employment (Sexual Harassment) Regulations 2012

after the investigation in regards to Regulation 17<sup>80</sup>. The complainant should not be subjected to a hostile working environment, as this would undermine their right to dignity.

An employer who fails to fulfill these statutory obligations, such as establishing a sexual harassment policy or committee, or who fails to protect the complainant from retaliation or discrimination, may be liable to a fine not exceeding UGX.120,000 and/or imprisonment for up to three months basing on Regulation 19<sup>81</sup>.

*In Magombe Editor v Tusker Mattresses (U) Ltd*<sup>82</sup>, the Industrial Court of Uganda held that a properly constituted disciplinary committee can handle sexual harassment complaints. In the absence of a sexual harassment policy or committee, the decision of such a disciplinary committee is not rendered illegitimate or illegal. This decision implies that employers with fewer than 25 employees can address sexual harassment complaints through a disciplinary committee, even without a mandated sexual harassment policy or committee.

Since sexual harassment often occurs in private spaces and may go unnoticed in the workplace. To sustain a successful sexual harassment complaint, it is crucial for the victim to raise a complaint about the perpetrator's conduct at the earliest opportunity. Bringing the issue to the employer's attention serves a legal purpose enabling the employer to eliminate the alleged conduct. This can be done by directly informing the perpetrator that the conduct was unwelcome and must stop or by raising a grievance with senior management. In some cases, the victim may confide in co-workers or friends at work, who should assist in bringing the complaint forward.

The obligation to report "immediately" is a subjective timeline that must consider the power dynamics between the victim and the perpetrator while allowing the employer an opportunity to swiftly address the wrongful conduct.

Ugandan jurisprudence lacks case law to provide guidance on what constitutes reporting "immediately." Therefore, court decisions from nearby jurisdictions, such as South Africa and Kenya, can help interpret this term.

---

<sup>80</sup> Regulation 17 of Employment (Sexual Harassment) Regulations 2012

<sup>81</sup> Regulation 19 of Employment (Sexual Harassment) Regulations 2012

<sup>82</sup> LDR No. 243 of 2015

In *A.K v Right to Care NPC*<sup>83</sup>, heard by the Labour Courts of South Africa, a complaint brought two months after the incident was not considered unreasonably late. Conversely, in *National Union of Metal Workers of South Africa and Another v Passenger Rail Agency of South Africa*<sup>84</sup>, the South African Labour Court deemed a delay of two to three years in reporting acts of sexual harassment as fatal to the applicant's claim. Since remedies for sexual harassment claims are based on equity, the equitable maxim "delay defeats equity" applies to such scenarios.

To support a sexual harassment claim, the complainant must demonstrate that the conduct was unwelcome and occurred within the employment setting. This requirement is grounded in the principle that "he who alleges must prove."

In *Carolyn Atukunda v Micro Uganda & Emmanuel Mwanja*<sup>85</sup>, the Industrial Court of Uganda held that under Section 7 of the Employment Act, the burden of proving sexual harassment rests heavily on the complainant. The burden of proof is high, based on the preponderance of evidence. The complainant must provide evidence to show that the conduct was unwelcome, of a sexual nature, and was brought to the employer's attention.

The *Industrial Court of Uganda in Magoba Editor v Tusker Mattresses (U) Ltd*<sup>86</sup>, held that an aggrieved employee must prove that the employer or their representative:

1. Made a request for sexual intercourse, sexual contact, or any other form of sexual activity.
2. The request contained a promise of preferential treatment in employment or a threat of detrimental treatment in employment or about the employee's present or future employment status.
3. Used language or visual material of a sexual nature.
4. Showed physical behavior of a sexual nature.

---

<sup>83</sup> ZALCJHB 182

<sup>84</sup> 1 BLLR 90 (LC)

<sup>85</sup> LDR No. 291 of 2014,

<sup>86</sup> LDR No. 243 of 2015

5. Each or all of the above actions were unwelcome, offensive, and had a detrimental effect on the employee's job performance or satisfaction.

In *Bandat v De Kock and Another*<sup>87</sup>, the South African Labour Court held that central to establishing the existence of sexual harassment is the complainant's ability to demonstrate that the conduct was unwelcome. The determination of whether conduct is 'unwelcome' is an objective one, as conduct that may be subjectively unwelcome to one person may not be to another. Courts generally first consider whether a complaint was ever raised to render the actions of the perpetrator as unwelcome. Secondly, they holistically examine the work and personal relationship between the complainant and the perpetrator to determine whether the conduct complained of fell within the employment relationship.

In *Magoba Editor v Tusker Mattresses (U) Ltd* (supra), the court emphasized that the complainant must specify the date and time when the alleged sexual harassment occurred. The court further stated that evidence in the form of text messages, voice recordings, video evidence, or third-party witnesses is crucial to corroborate allegations of sexual harassment in the workplace.

Failure to address a sexual harassment complaint or creating a hostile work environment that forces an employee to resign can result in liability for the employer due to unfair termination. In *CNR v FITM & Anor*<sup>88</sup> the Kenyan labour court awarded damages to the complainant, who resigned due to the employer's failure to prevent the harassment incident. The court opined that although the claimant ought not to have resigned due to harassment by her supervisor, she was forced to resign, leading to constructive dismissal. The employer's failure to protect the employee from retaliation and discrimination at work resulted in unfair labor practices.

**Section 7(2)** of the Employment Act<sup>89</sup> and Regulations 12 and 13 of the Employment (Sexual Harassment) Regulations provide procedures for lodging complaints related to sexual harassment with a labor officer, who will hear and decide the matter. The labor officer may investigate the complaint and either resolve it or refer it to a labor commissioner in case of a deadlock as per Regulation 13(f). If the commissioner is

---

<sup>87</sup> ZALCJHB 342

<sup>88</sup> KEELRC 82 (KLR),

<sup>89</sup> Section 7(2) of the Employment Act

unable to resolve the matter, they can refer it to the Industrial Court. Alternatively, a person aggrieved by the decision of the labor officer or commissioner may appeal the decision by lodging a notice of appeal with the Industrial Court within 21 days. The aggrieved party must also provide full information regarding the complaint within 14 days of receiving the notice of appeal.

However, before entertaining a complaint, the labor officer or the Industrial Court will first inquire into whether the conduct was unwelcome and whether a complaint was raised with the employer about the unwelcome conduct. If the complainant failed to make a complaint, they must provide a reasonable excuse for not doing so.

### **3.2.3.2 Challenges with Sexual Harassment Legislation in Uganda**

There is Limited Applicability of the laws and policies. The law only mandates employers with over 25 employees to adopt and formulate sexual harassment prevention measures, such as the adoption of a sexual harassment policy and the establishment of a sexual harassment committee. This 25-employee threshold excludes small or medium-sized businesses and those operating in the informal sector. While the case of **Magombe Editor v Tusker Mattresses (U) Ltd** suggests that a properly constituted disciplinary committee can address complaints in smaller businesses, this workaround does not fully remedy the lack of a comprehensive framework for all employers. This clearly shows that many employees unprotected from the vice of sexual harassment.

The law gives a Narrow Definition of Sexual Harassment: The definition of sexual harassment under Section 7(1) of the Employment Act appears to restrict such harassment to scenarios where the acts are perpetrated by the employer, implying a power dynamic. This raises the question of whether the definition under the Employment Act covers situations where sexual harassment is perpetrated by an employee of the same rank or a subordinate. While the Employment (Sexual Harassment) Regulations do not specifically limit harassment to interactions between an employer and an employee, the Employment Act, being the superior legislation, could create challenges in defining and addressing sexual harassment in the workplace. This therefore calls for a better and more detailed definition of sexual harassment.

### **3.3 INTERNATIONAL LEGISLATION**

#### **3.3.1 The ILO Convention On Discrimination (Employment And Occupation) ILO Convention No. 111**

The Convention concerning discrimination in respect of Employment and Discrimination or Discrimination (Employment and Occupation) Convention (ILO Convention No. 111) is an International Labor Organization convention enforced to prevent and debar sex discrimination at the workplace. This convention came into force on the 15th day of June 1960 after being adopted by the International labor conference at its 42nd session in Geneva on 25th June 1958.

This Convention was ratified by Uganda within Article 258 of the Uganda Constitution on the 2nd day of June 2005<sup>90</sup>. The convention mandates all partner states to enact laws and legislation prohibiting all forms of discrimination and exclusion based on race, color, sex, religion, political opinion, national or social origin in employment and repeal legislation that is not based on equal opportunities.

It further contends that discrimination constitutes a violation of rights enunciated by the Universal Declaration of Human Rights (UDHR)<sup>91</sup>. Article 23(1) of the UDHR provides that everyone has a right to work, the freedom of choice of employment and to just and favorable conditions of work. This provision therefore recognizes that the right to work cannot be fully enjoyed if it is not accompanied by just and favorable conditions of work.

According to Special survey on this convention<sup>92</sup>, a committee of experts on the application of the Convention and recommendations discovered that sexual harassment as a form of sex discrimination against women in employment undermines equality and damages working relationships and impairs productivity<sup>93</sup>. The committee defined sexual harassment as follows;

---

<sup>90</sup>[https://www.ilo.org/dyn/normalex/en/f?p#NORMALEXPUB:11300:0:NO:P11300\\_INSTRUMENT\\_ID:312256](https://www.ilo.org/dyn/normalex/en/f?p#NORMALEXPUB:11300:0:NO:P11300_INSTRUMENT_ID:312256)

<sup>91</sup> Preamble to the International Legislation The ILO Convention on Discrimination (Employment and Occupation)

<sup>92</sup> ILO Convention No. 111

<sup>93</sup> ILO: Equality in employment and occupation: Special survey on equality in employment and occupation in respect of Convention No. 111 (Geneva, 1996)

“Any insult or inappropriate remark, joke, insinuation and comment on a person’s dress, physique, age, family situation, 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” as per International Labor Organization , 1996.

In examining what amounts to sexual harassment, the committee found that the behavior must either “be justly perceived as a condition of employment or precondition for employment or influence decisions taken in this field and/or affect job performance” basing on McCann, 2005.

It added that sexual harassment may also arise from “situations which are generally hostile to one sex or the other”, thereby including instances of sex-based harassment in addition to those involving sexual behavior. It further contended that the elimination of sexual harassment should “be an integral part of a legislative or other policy, independently of policies on discrimination on the basis of sex”<sup>94</sup> .

The ILO Convention No. 111 spells out what amounts to discrimination under Article 1 which is to the effect that discrimination includes any distinction, exclusion or preference made based on race, color, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. Equality of opportunity is therefore considered of paramount importance essential to every working environment and such has been incorporated in all conventions dealing with the subject.

The Convention makes it mandatory for any for all member states to undertake and pursue national policies designed to promote by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation with a view of eliminating any discrimination<sup>95</sup>. This

---

<sup>94</sup>Deirdre McCann Sexual harassment at work: National and International responses

<sup>95</sup> Article 2 of the Convention

provision is equivalent to sections 7(4) and regulation 3 of the Employment Act and The Employment (Sexual Harassment) Regulations<sup>96</sup> respectively.

The Convention also considers sexual harassment as a form of indirect discrimination since it involves an abuse of power by those in authority to influence workplace decisions. Workers are denied opportunity to reach their potential since their gender attributes are given more relevance and audience than their abilities. Such act undermines their integrity, dignity and wellbeing of the workers at the workplace<sup>97</sup>.

### **3.3.2 Universal Declaration Of Human Rights, 1948.**

On 10th December of 1948, the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights. It encouraged its member states to publicize it, read and display it in all institutions and other places.

This declaration embodies different rights that create equality between men and women as per the subject of study and these are key in addressing the issue of sexual harassment at the workplace as they promote equality among all individuals in the workplace. Having become independent in 1962, Uganda automatically became a party to the Universal Declaration of Human Rights<sup>98</sup>.

Article 1 of the UDHR<sup>99</sup> provides that all human beings are born free and equal in dignity and rights. This hence provides that all people whether employers, employees, men or women are born and remain equal. This hence asserts that they should treat each other with dignity and shun away from vices like sexual harassment as employers tend to think they are superior due to the positions they hold. According to Peterson and others<sup>100</sup>, scholars who drafted this Declaration traced the roots of the source of this information in this article to be from different sources for example The French Declaration of Rights of Man 1789, and the American Declaration of Rights and Duties of Man 1791. A French delegate Renne Cassin who was one of the drafters

---

<sup>96</sup> Supra

<sup>97</sup> According to the United Nations Committee on the Elimination of Discrimination Against Women, workplace sexual harassment has been addressed at the national and international levels as both an aspect of gender discrimination and a form of violence against women

<sup>98</sup> Voddiannikov, 'The Universal Declaration of Human Rights and Post war Constitutional Democracy: Common origins into the 21st Century[2020]

<sup>99</sup>The Universal Declaration of Human Rights, Article 1

<sup>100</sup> Peterson, and another. "The Universal Declaration of Human Rights: An Archival Commentary." [2019] International Council on Archives—Human Rights Working Group (2018): 37-39.

of this law pointed out that there was a need to stress unity and equality of human beings to be able to promote human rights as Hitler had started by asserting how men were not equal before attacking their liberties. Every individual has a right to work, free choice of employment, just and favorable working conditions of work and protection against unemployment as per Article 23<sup>101</sup>. When it comes to just and favorable conditions of work, it simply implies creating a favorable working condition for the workers where they are comfortable and at peace. Since sexual harassment makes work a misery and usually impossible for one to perform as required, this article protects employees including the female ones from sexual harassment at the workplace thus making it relevant for this topic of study. According to Trudy H<sup>102</sup>, the UN Human Rights Council in 2011 came up with the UN Guiding Principles on Business and Human Rights which are aimed at preventing, addressing, and remedying Human Rights abuses committed in the workplace among which is sexual harassment hence these provisions are so relevant in addressing the issue of sexual harassment at workplace.

### **3.3.3 Convention On The Elimination Of All Forms Of Discrimination Against Women (Cedaw) 1979**

It should be remembered that the term sexual harassment spread in the 1970s and began to gain recognition as a legal concept in 1997 due to scholarly writings, of Catherine Mackinnon, a feminist legal scholar who put forward an argument that workplace harassment constituted sex discrimination which as well was against the Civil Rights Act of 1964.

Previously several federal judges had undermined this idea but by 1978, three courts had agreed with Mackinnon and in 1986, the Supreme Court also concurred.

In 1991, Anita Hill accused Thomas of having sexually harassed her while she was his assistant at the Equal Opportunity Employment Commission. By 1997, 75% of American Companies had developed mandatory Training Programs for all employees to explain what behavior the law forbids and how to file a complaint and 95% had

---

<sup>101</sup> Ibid note 16, Article 23

<sup>102</sup> Trudy H. "The Universal Declaration of Human Rights: An Archival Commentary." [2018] International Council on Archives—Human Rights Working Group 37-39

come up with procedures for reporting sexual harassment<sup>103</sup>. These developments also sparked off in different parts of the world and different countries therefore based on the developments in America against discrimination, laws that protected employees were developed in various parts of the world including Uganda which later incorporated these policies in its laws.

The Convention on Elimination of all Forms of Discrimination against Women addresses the issue of discrimination and it defines in Article 1<sup>104</sup> discrimination against women to be an exclusion, restriction, or distinction, made based on sex which has the effect of impairing and nullifying the recognition of women irrespective of their marital status of human rights and fundamental freedoms.

It was adopted by the UN in 1979 and ratified by Uganda on 22nd July 1985 and as well domesticated its provisions in the Constitution in 1995. By defining what amounts to discrimination as per sex, the article points out all favors or exclusions made based on sex that amount to sexual harassment.

This Convention having identified discrimination also goes ahead to prohibit it and as a result, this addresses the issue of sexual harassment in the workplace as its occurrence is usually based on discrimination. The Convention is also described as an international bill and is one of the key international agreements that guide the work of UN Women in achieving equality.

These principles, since they are recognized to be of an international standard are adopted to eliminate such practices based on discrimination like sexual harassment in the workplace<sup>105</sup>. This General Recommendation No. 35 of the Committee on Elimination of Discrimination against Women provides that member states are required to adopt legislative measures prohibiting all forms of gender violence against women and girls.

They are put under a duty to analyze women's situations of life in all spheres, explain the reason for using one type of measure and not the others, provide explanations for

---

<sup>103</sup> Economic and Social Council, General Comment no.23 : Article 7 of the ICESCR (Right to just and favorable conditions at work), 54th session, adopted on 16th June, 2015 <https://www.ohchr.org/treaty/bodies>

<sup>104</sup> Convention on the Elimination of All forms of Discrimination Against Women, Article 1

<sup>105</sup> UN women, available at <https://www.unwomen.org> published in 2016

failure to adopt any special measures, include into their constitutions temporary step measures to ensure nondiscrimination against women among others.

Since this is also aimed at eliminating all forms of discrimination which is considered the cause of sexual harassment, it is relevant in addressing the issue of sexual harassment in Uganda. By 2018, 189 states had ratified the CEDAW hence showing progress in addressing the issues affecting women globally among which is sexual harassment in the workplace.

### **3.3.4 International Covenant On Economic Social And Cultural Rights, 1966**

According to the Centre for Women, Peace, and Security, the ICESCR was adopted by the UN General Assembly on 16th December 1966<sup>106</sup>. Uganda ratified this Charter on 27th January 1987 hence being party to the present charter.

It provides the legal framework to protect and preserve the most basic economic rights among which include working rights, and social and cultural rights. Article 2 of the present charter provides for a right to non-discrimination and the right to an effective remedy in case the discrimination takes place. This provides that employers and employees are equal at the workplace hence incidences where employers use power to harass the employees should be avoided.

This present charter is relevant in preventing sexual harassment at the workplace, that is to say Article 3<sup>107</sup> provides that men and women shall enjoy economic, social, and cultural rights without any distinction as per their sex. Hence both men and women should be left to enjoy these rights without putting restrictions on one gender while the other genders aren't subjected to the same restrictions.

When it comes to Economic rights, it includes the right to work where at workplace both men and women have to be treated equally hence female employees should not be subjected to sexual harassment by them being female and being discriminated against based on gender and hence have to be treated equally. This serves to do away with instances where in some jobs, men are given some privileges yet women who are doing the same jobs are not allowed to enjoy the same privileges.

---

<sup>106</sup> Centre for Women, Peace and Security ' Violence against women' available at <https://blogs.ise.ac.uk>

<sup>107</sup> Article 3 International Covenant On Economic Social And Cultural Rights, 1966

All state parties to this present convention are under an obligation to ensure that they recognize the right to work and that everyone at the workplace should be accorded safeguards for the protection of this right as per Article 6. It goes ahead and provides that among the steps that can be taken by state parties in the realization and observance of this right is by coming up with policies, training Programmes, techniques, and guidance to different persons.

This provision proves that this present instrument protects all workers and women from sexual harassment in the workplace since state parties are put under a duty to protect their members from the vice by the policies put in place in compliance to the provisions of this convention and as a result, through legislation and other measures taken by member states, many employees end up working under favorable working conditions.

Employees have a right to just and favorable working conditions at the workplace as provided for in Article 7 which provides that all workers shall have a right to safe and healthy working conditions and equal opportunities for employment to higher positions at the workplace.

By providing for equal opportunities at work, it creates a sexual harassment-free workplace hence addressing this issue internationally. Due to the presence of these different provisions, having ratified this convention, Uganda has been able to enforce them into her laws hence making the workplace a better place for both employers and employees.

General Comment No. 23 on the International Covenant on Economic Social and Cultural Rights provides that among the favorable conditions at the workplace is a sexual harassment-free workplace.

It provides that workers, both male and female should work in a sexual harassment-free workplace, and member states to the present Convention should legislate to prevent discrimination through their penal codes and Labor legislations.

It provides that they should in these laws define sexual harassment, prohibit certain acts that amount to sexual harassment, identify duties of employers and those of employees, provide access to justice to victims, protect victims by including focal

points to help them, provide procedures for reporting and having a sexual harassment policy<sup>108</sup>. In compliance to this, Uganda in its labor Act gives us the meaning of sexual harassment by stating the acts that amounts to sexual harassment as a way of prohibiting it.

### **3.3.5 The Equal Remuneration Convention 1951 (No.100)**

The General Conference on the International Labor Organization<sup>109</sup>, having met at Geneva on 6th June 1951 came up with this convention to address the issue of remuneration of men and women in equal employment. Uganda ratified this convention on 2nd June 2005. Article 1 of the present convention defines equal remuneration for men and women of equal value to be the rate of remuneration established without discrimination that is based on sex. Article 2 provides that member states shall ensure the principle of equal remuneration is enforced in their jurisdictions through national laws, legally established machinery wage, and collective agreements between employers and employees among others ways. Just like this convention provides, there should be equal treatment of both men and women by equally paying them and this therefore does away with discrimination which Catherine Macknonn attributed to be the cause of sexual harassment, hence addressing the vice of sexual harassment in the workplace.

### **Conclusion**

From my point of view, all the above legal instruments share a collective objective and that is upholding the principle of equality of all persons involved in the working environment as this is a keystone and foundation to respecting human rights. However, despite the existence of all those laws, sexual harassment still occurs therefore there is need to check on the implementation of the existing laws to ensure their effectiveness and reduce or do away with sexual harassment.

---

<sup>108</sup> Economic and Social Council , General Comment no.23 : Article 7 of the ICESCR (Right to just and favorable conditions at work), 54th session, adopted on 16th June, 2015 <https://www.ohchr.org/treaty/bodies>

<sup>109</sup> UN women, available at <https://www.unwomen.org> published in 2016

## CHAPTER FOUR

### FINDINGS

#### Introduction

This chapter talks about the various findings for the reasons for the continuous occurrence of sexual harassment and the effects of its occurrence.

Muhamadi<sup>110</sup> stated that a report by the Public service international (PSI) has revealed that sexual harassment and violence at workplaces still exist despite having the needed laws. The same report emphasizes the vice has increased due to laxity in the implementation of laws. Dr. Evelyn during the launch of the above report stated that their study found that the most affected especially in three sectors which are education, health and electricity sectors.

According to Frank Kwalabye's research<sup>111</sup>, out of the 1437 respondents, two thirds of the women were below the age of thirty five and about half of the women were low ranking employees. Overall about three in five (58%) had experienced some form of sexual harassment by their employers. Women who had accepted to have sexual encounters with their bosses constituted 26% and these were likely to be fired or demoted even if they were underperforming. 13% of the respondents were aware of policies in their workplace that protect individuals from sexual harassment and 36% unmarried and new recruits were more likely to be the targets of harassers. These appear to be the potential targets because they are either green about the available policies against sexual harassment or that they will have to accept to be harassed because they don't want to lose their jobs so they will do anything to keep it

Though it is mostly referred to as an act that happens to females, in his research, Adroa Baingama<sup>112</sup> stated that Sexual harassment is experienced by both sexes, 49% of students in medicals reported having experienced sexual harassment, and majority of those who reported were females with 59%. This therefore means that though it mostly happens to women and girls, there is a small percentage of men who are also

---

<sup>110</sup> Soft power news, sexual harassment and violence at work places on the rise, a report by Muhamadi Byemboijana on July 6, 2023

<sup>111</sup> Frank Kiwalabye on the effects of sexual harassment at the workplace (a Ugandan case study)

<sup>112</sup> Commonness of sexual harassment in medical schools in Uganda by Adroa Baingama

harassed either by fellow men or women. He continued to state in his research that the prevalence of sexual harassment was equally distributed within different religious sects Muslim (55%), Catholic (50%), Protestant (46%) and least in Seventh Day Adventist (43%), however the prevalence of sexual harassment was seen to be high among the born again Christian with 76%

#### **4.1 Reasons for the continuous occurrence of sexual harassment**

According to the 2016 ministry of health report,<sup>113</sup> the most cited cause or contributor was misuse of power, an organizational-level cause that includes unclear expectations of professional behavior, unclear evidentiary and reporting requirements, facility conditions allowing no privacy or space, and lack of sanctions and regulating mechanisms that lets harassers operate with impunity. The second most cited factor was socio-cultural, in particular, a belief in “indecent dressing” that attributes the cause of harassment to the target. Ethnic stereotypes and cultural expectations of male-female relationships also figured as causes

There appears to be a recurring theme of writers who have studied sexual harassment cases which is that the courts treat sexual harassment plaintiffs with undue skepticism like rape victims, sexual harassment victims are said to lack credibility in Sexual Harassment. This is basically because Ugandan courts discourage acting on the uncorroborated evidence of a victim of sexual harassment

In many places of work, sexual harassment is considered a normal and usual thing for which one cannot be penalised The ministry of health<sup>114</sup> stated that sexual harassment in government health workplaces appears to be normalized and following a pattern of male-on-female harassment. This alone makes it impossible to deal with the vice since those would have reported it are letting it happen to them because they see nothing wrong with it.

The ministry continued that they found evidence of the two major categories of sexual harassment defined in Uganda’s Sexual Harassment Regulations: “hostile environment” and quid pro quo sexual harassment. Examples of hostile environment

---

<sup>113</sup> The Report on the Ministry of Health Sexual Harassment Formative Assessment in Uganda’s Public Health Sector August-November 2016

<sup>114</sup> The Report on the Ministry of Health Sexual Harassment Formative Assessment in Uganda’s Public Health Sector August-November 2016

sexual harassment noted by respondents included sexualized physical, verbal, written/visual, and gestural behavior, predominantly by men towards their female colleagues, behavior clearly considered by targets or witnesses to be unwanted, intimidating, and/or humiliating. Most respondents agreed that quid pro quo sexual harassment started during recruitment of health workers, mainly perpetrated by men in positions of power (e.g., senior managers, medical superintendents, supervisors). According to respondents, some female applicants are promised or given jobs after having sexual intercourse with men who are in recruiting positions. This behavior continues in the workplace, where some in-charges/supervisors offer unjustified incentives, such as an excuse from duty, exemption from night duty, working fewer hours, promising or providing opportunities for training, or promising promotion, in exchange for sex. Quid pro quo can also enter the process of performance appraisal. Refusal of unwelcome sexual advances was often met by harassers with hostility or retaliatory antagonism, ranging from verbal abuse to unfavorable employment-related actions, including negative performance evaluations.

According to Ashanut Okille<sup>115</sup>, there was deliberate normalisation of sexual harassment as part of the work place and there was pressure to conform to the culture of sexual harassment. Basing on their discovery, women who resisted were talked down to by other women who essentially told them to grow up and accept the circumstances. Others were told that they would not advance in their careers if they did not accept sexual propositions thrown their way. Although the kinds of sexual harassment varied very slightly across the sectors, all the sectors examined showed that sexual harassment is a harmful workplace behaviour. Manifestations of sexual harassment reported includes; persistent solicitation for sex through phone messages, physical propositioning, physical touch and verbal harassment. This suggests that social class and status did not particularly mitigate the likelihood of being sexually harassed. Women in banks and markets who engaged with clients the most also reported sexual harassment from that group. At flower farms, new recruits, and women who were not well off financially were reported to be more vulnerable to sexual harassment.

---

<sup>115</sup> Experiences of sexual Harassment against in the world of work of Uganda b Akina mama wa Afrika

She continued to mention that during their research about sexual harassment in the bank, regarding the physical propositioning, a respondent from a bank shared her experience as follows;

*[O]ne of the senior managers asked me to sleep with him and I refused. He then used to make suggestive remarks and I would ignore him... and then I would overhear colleagues say- 'what is up with this girl, who does she think she is? When I applied for promotion a couple of times, I did not pass the interviews and someone on the panel mentioned to me that I had failed the interview because of subjective reasons and told me that the word was, I do not come along easily.... Another senior manager told me that if a particular senior manager was on any panel, I should never expect to pass the interview. I still continue to work and do my best, but it is very frustrating.*

Okille continued that a number of factors contribute to enabling sexual harassment in the workplace, and maintaining impunity by emboldening perpetrators and silencing survivors of sexual harassment . A lack of institutional policies to respond to sexual harassment were reported in some areas, specifically markets. However, even with the existence of policies and structures, women are continually frustrated when they try to report cases of sexual harassment. In some instances, Human Resource Managers to whom the cases are reported are friendly with perpetrators which means they cannot be held to account. Women were afraid of being blamed for reporting, and feared being seen as betraying their colleagues. Others did not want their spouses to know about the abuse they suffered because they felt that it would ruin their marriages. Evidentiary requirements needed to prove sexual harassment also made it difficult for women to build a case against a perpetrator. Women said that while the abuse was occurring, it was difficult to have the presence of mind to record an incident. It therefore became a case of a woman's word against a perpetrator. Women also felt conflicted about past sexual consensual relationships with their abusers which could be used to discredit their cases of harassment, when the attention became unwanted. Women in markets specifically reported a lack of female leadership to report cases to as a deterrent to reporting.

In regards to workplaces where policies are available but not known, when asked about her experience by Akina wa mama Afrika, One respondent from a bank shared that;

*[W]hen I had just joined this bank, someone asked me if I am from a certain part of the country, and when I said no, I was told 'I wonder how you will manage working in this bank, or even get promoted'. When I asked why, I was told that it is known that women from my part of the country do not open their legs, and so miss out on opportunities. Indeed, I got challenges in my work and at some point one of the bosses whose sexual advances I refused sent me to work in branch with very little business and he told me 'you will suffer in that branch.' I was new, did not know if we had a sexual harassment policy, and did not even know who was the head of human resources in the bank.*

In Women's Experience vs. Legal Definitions, Wendy Pollack concludes that "the overwhelming impression created by hostile work environment sexual harassment cases is that, regardless of the standard applied, women simply are not trusted. This is true for decisions that find for plaintiffs as well as those which find against them.<sup>116</sup> This encourages men to harass women at work well knowing that even if the victims report, they will not be listened to and trusted. A good example was portrayed in the Ugandan case of *Uganda v Peter Matovu*<sup>117</sup>, where it was stated that in cases of sexual offences, court must warn itself before it acts upon the evidence of a victim that it is dangerous to action the uncorroborated evidence of a victim and the victim in this case was a young girl who was defiled.

McLaughlin et al.<sup>118</sup> explained that men are easily sexually aroused whereas women are the opposite resulting in aggressive behavior as one party is willing and the other is not. The theory recognizes the innate instincts of men or rather the unnaturalness and biological push factors that drive sexually violent behavior.

The false belief among some Africans that sexual harassment is a thing of the west and therefore doesn't exist in Africa. In the Uganda context, Semambo 2001 asserts

---

<sup>116</sup> Wendy Pollack, Sexual Harassment: Women's Experience vs. Legal Definitions, 13 HARV. WOMEN'S L.J. 35, 69 (1990)

<sup>117</sup> 176/2001

<sup>118</sup> McLaughlin H, Uggen C, Blackstone A. the economic and career effects of sexual harassment on working women. Gender and society

that in Africa context, sexual harassment is viewed as western concept and therefore non-existent in a typical African setting. But, this study recognized that culture and traditional beliefs were other factors responsible for sexual harassment in the workplace.

Male chauvinism is viewed as one of the biggest contributors to the continuous occurrence of sexual harassment, according to Ditomaso also cited in Hearn et al, sexual harassment is a result of competition between the sexes for domination. The men who have traditionally held the dominant roles have reacted to the challenge from women through hostility expressed in issues of sexual harassment. This is usually done by men who think that by harassing these women, they are able to show them that they are superior to them.

The absence of laws or their inadequate implementation where there are already existing policies against sexual harassment in most regions, specifically in Africa, has also led to the continuous occurrence of sexual harassment of sexual harassment at the workplaces. Clare Semambo, 2001 points out that sexual harassment in Britain came to the fore only when government policies were put in place to hold employers liable for failure to incorporate sexual harassment policies in rules governing their employees. In Uganda, the 1995 constitution provides for affirmative action and the right to work. As a result very few formal complaints are made and professional advice.

In regards to lack of accountability of already existing policies, Akina mama wa Afrika conducted a study where during an interview, one of the respondents explained their experience that;

*[I] have experienced sexual harassment. There was a manager in one of the branches that I worked at who was interested in me, but I was not interested in him. He then decided to make my life at the bank very difficult. For instance, if I was even 5 minutes late for work, he would send an email and copy everyone in the branch and ask the IT department to deactivate my access to the bank computer and data. He would berate me in front of other employees and would always find fault with my work and kept reporting me to disciplinary committees. So I decided to share my concerns with the human resources team*

*and report the matter. However, it seemed like the more I reported, the bolder he got. He even told me that he knew that I kept reporting him, and he asked me 'who do you think is your Godfather in this bank?... I will sit on you, you will stay in this position and never move...' One time he sent me an email in which he stated that he would vomit me out of the company. When I got the email, I thought that it was a good thing because I now had tangible evidence that he was deliberately making my life and work difficult. However, when I shared the email with the human resources team, I was told that the statement was not evidence of harassment, but that it was a Biblical expression.... They did nothing about it, even after I said I was ready to move to any branch upcountry... so I gave up. With time he killed my energy and I just stopped fighting... But I think that someone finally heard my cry and pleaded on my behalf for human resources to move me. So, after six (6) very hard years of working with that man, I was moved to another branch. I worked in the new branch for eight (8) months, applied for a promotion, and got it.*

It should however be remembered that the lack of accountability creates impunity since the perpetrator is able to go unpunished for their crime.

Continuous existence of isolated work environments, whether due to the nature of the job or the location, can make employees susceptible to physical and psychological harassment. With no one to witness sexual harassment, harassers may feel emboldened, and victims might feel trapped or without recourse.

Availability of isolated roles like night-shift janitors, hotel housekeeping staff, late-night convenience store attendants, in-home care providers, and even workers in large warehouses often operate in settings where they can become isolated. Some industries, such as mining or rural teaching, can be isolated by nature and present similar obstacles. The lack of witnesses and the inherent vulnerability of these settings can lead to incidents of exploitation since there is usually no one to intervene.

Many workplaces have a culture of socialising, which occasionally involves the consumption of alcohol, whether it's at after-work happy hours, holiday parties, or events celebrating achievements. While these gatherings can boost team morale and foster camaraderie, they can also present risks linked to lowered inhibitions and

impaired judgment due to alcohol. Alcohol, while often seen as a social lubricant, can potentially reduce social inhibitions and cloud one's judgment. Alcohol can sometimes lead to inappropriate behaviour or comments that wouldn't occur in a sober setting. In such settings, some people may feel emboldened and assume alcohol gives them a free pass for reckless behaviour and [misconduct](#) .

Given their limited exposure to professional environments, some might misinterpret or remain oblivious to subtle forms of harassment. Not every act of harassment is overt, and the nuanced ones can often be the most damaging. A proper manifestation was portrayed in an article published by the New Vision<sup>119</sup>, Joy, who was an intern had this to say concerning her being sexually harassed at a media house:

*[I] never knew I was being harassed. Instead, I thought I was popular and associating with him. He always came to hug me and say many seductive words that I felt embarrassed. I feared to react harshly. Later, I regretted not being stronger and reporting him.*

This limited exposure where people have no clue as to what acts amount to sexual harassment has highly contributed to its continuous occurrence since they don't know that it should be reported.

#### **4.2 Effects of sexual harassment on the victims**

According to Grace Lubaale, Harriet Kebirungi & Godfrey Ejuu<sup>120</sup>, sexual harassment and violence has a very significant impact on its victims physical and mental in nature. For example Victims suffer injuries as a result of compulsion, which can result in a wide range sexual and reproductive health challenges, with both short- and long-term implications after assaults. Mental health repercussions can be as equally devastating as physical ones, and they can last a long time. Suicide, HIV infection, and murder either during the attack or later in 'honourable killings' are all possible causes of deaths linked to sexual violence as per Krug et al., 2002. These findings are consistent with those of McQueen et al. 2021, who found that sexual violence leads to physical, psychological, and social-health consequences. Also, as a result the net effects of

---

<sup>119</sup> UBC, 'Sexual harassment at workplace' (9th December, 2022) available at <https://youtu.be/9riyWPGIIH4> Accessed on 3rd May 2025

<sup>120</sup> Sexual Violence and Development Implications in Uganda Universities: The Case of Kyambogo University by Grace Lubaale,, Harriet Kebirungi & Godfrey Ejuu

sexual violence, many people have turned to drugs and alcohol as coping methods, which are equally harmful. Even Brooke 2017 confirms the aforementioned in his work, indicating that sexual harassment and violence has both immediate and long-term mental and physical health implications; frequently with severe and life-changing consequences. As a result of sexual harassment and violence, traumatic experiences and victimization in educational institutions significantly derails the victims' academic achievements and career progress in higher education. Furthermore, Mahlet, 2018 found that women survivors of sexual violence continue to experience unresolved and untreated trauma, restricted health care that prolongs their suffering, and financial challenges as a result of community stigma. Similarly because a member of their family has endured sexual harassment and violence and is struggling to cope, family members are also vulnerable to secondary traumatic stress, stigma, and humiliation. It was also discovered that after survivors confessed sexual harassment and violence experiences, relationships were frequently damaged in terms of faith/trust, separation if previously married, having children out of marriages or wedlock, and stigma on sexual harassment and violence new-borns. Also, victims of sexual harassment and violence like rape or defilement struggle to get marriage partners.

According to Wolor et al.<sup>121</sup> sexual harassment impacts depression but does not directly affect job satisfaction. Depression leads to lower job satisfaction and increases turnover intentions. Employees' perceptions of sexual harassment negatively affected their work–family enrichment through diminished organization-based self-esteem as per Chen et al. 2021<sup>122</sup>

Kheir et al. 2023<sup>123</sup> argued that in Sudan those who had been sexually harassed, 53% were psychologically affected. The most common psychological effect was the loss of desire for work (46.4%). Followed by fear and anxiety (21.7%). Sexual harassment at work can have a negative impact on employees' productivity and work performance.

---

<sup>121</sup> Wolor et al. (2024) / Universal Journal of Public Health. Sexual Harassment and Its Impact on Employees

<sup>122</sup> Chen et al. (2021) / Asia Pacific Journal of Management. Effects of sexual harassment on work–family enrichment: the roles of organization-based self-esteem and Polychronicity

<sup>123</sup> Kheir et al. (2023) / Pan African Medical Journal Prevalence of sexual harassment among female medical staff in four Khartoum State Tertiary Hospitals

Sexual Harassment experiences have been found to be associated with lower job satisfaction and a lower sense of safety as per Vargas et al., 2020<sup>124</sup>.

In his study, he found that increased experiences of harassment were independently associated with lower mental health, decreased job satisfaction, sense of safety, and increased turn-over intentions. And these factors may eventually lead to presenteeism by weakening concentration, decreasing work pace, and exhaustion according to Vara-Horna et al., 2023<sup>125</sup> whose study found that all aspects of presenteeism, including difficulty concentrating, distraction, concerns affecting work, slower work pace, tiredness or exhaustion, and lack of energy, were reported more frequently by those who had experienced workplace sexual harassment.

According to Carla Henry, family, and marital difficulties tend to arise in case husbands get to know that their wives were sexually harassed<sup>126</sup>. He hence attributes this to be one of the reasons why female employees who are sexually harassed end up keeping quiet concerning the harassment. When husbands get to know that their wives are victims of sexual harassment which is evident through their reporting or making a complaint, many of them tend to negatively react towards this and end up blaming their wives as a weak gender as they are considered, they are always expected to have attracted the harassment due to their dress code and through other ways. Some husbands also go on to break up with their partners in case they get to know that they had an affair with another man according to Carla.

Therefore, with a need to avoid all these family breakups, many female employees who are victims of harassment end up remaining silent as they wouldn't want their families to break up due to their husbands getting to know they had an affair with another man who in this case happens to be their employer.

According to research conducted concerning women's experiences in reporting sexual harassment cases, the fear of harsh and violent reactions from their families towards the employer who harassed them which would lead to Criminal charges against the

---

<sup>124</sup> Vargas et al. (2020) / Journal of Women's Health #MedToo: A Large-Scale Examination of the Incidence and Impact of Sexual Harassment of Physicians and Other Faculty at an Academic Medical Center

<sup>125</sup> Vara-Horna et al. (2023) / Heliyon Direct and indirect effects of workplace sexual harassment on the productivity of victims and witnesses: The preventive role of equitable management

<sup>126</sup> Carla Henry (May 2018) Spotlight on sexual violence and harassment in commercial agriculture Available at <https://www.ilo.org> [Accessed on 27th February, 2025]

employees as well was reported to have forced many female victims of sexual harassment to remain silent. For example, within this article, Mirembe, who had been once a victim of sexual harassment reported that when her family got to know about what had happened to her, they confronted and attacked the employer where as a result, he was able to open up a criminal offense against her from which she was arrested and detained during the lockdown. As a result, due to the desire to maintain peace by avoiding such attacks, many female employees end up being silent even when faced with sexual harassment as they would not want to experience reactions from their families to the employer which would affect them later.

The World Bank's "Women, Business and the Law 2018" report found that 59 out of 189 economies had no specific legal provisions covering sexual harassment in employment.<sup>1</sup> More broadly, the ILO in its 2016 meeting of experts noted that gaps in legal protections relating to violence and harassment in the world of work include: lack of coherence in laws; lack of coverage of workers most exposed to violence; and an overly narrow definition of "workplace." It also observed that criminal justice approaches are not sufficient for responding to sexual harassment and bullying and that an employer's general duty to protect the health and safety of workers often excludes protection from violence.

The analysis of the legal and policy framework on sexual harassment showed glaring gaps in dealing with sexual harassment. For example, the Employment (Sexual Harassment) Regulations, 2012 which is the instrument charged with enumerating on SH and recommending penalties limits the application of sexual harassment policies to workplaces that have at least 25 employees, which leaves a large swathe of Ugandan workplaces unprotected.

## **Conclusion**

There are various solutions that have been come up with to combat the evil of sexual harassment but I will not be completely done away with if no solutions to its causes have been come up with and therefore its effects will continue to be experienced by the victims.

## **CHAPTER FIVE.**

### **RECOMMENDATIONS AND CONCLUSION**

#### **5.0 Introduction**

This study was guided by a set of research objectives and questions which generated responses and recommendations that are determined in this chapter. The major aims of this study were to gain a comprehensive overview of the forms and frequencies of sexual harassment; identify factors that have allowed it to persist and ways forward through which it can be curbed; identify the relevant laws combating the practice and to also assess the level of submission to these laws by the relevant stakeholders.

#### **RECOMMENDATIONS**

I recommend for the Government must use the available research evidence, and commission further research, to understand the causes of sexual harassment and design work to prevent it. This work should include a long-term, evaluated programme of public campaigns to tackle the attitudes that underpin sexual harassment.

I recommend for there to be workplace training. There should be implementation of mandatory training programmes for all employees including supervisors on recognizing and preventing sexual harassment, and on the importance of bystander intervention. This would help in doing away with the notion of people do not know what acts amount to sexual harassment. As flagged by Powell, Sandy and Findling in 2015, the recommended content, delivery method and style of training needs vary between organisations, however it is evident across the literature that staff training should be encouraged.<sup>127</sup>

However, Any training should adhere to the nine characteristics set out by Nation. it should be comprehensive, of sufficient length and duration, based on theory, administered by an expert, encourage positive relationships, delivered at a suitable

---

<sup>127</sup> Powell, A., Sandy, L., & Findling, J. (2015). Promising Practices in Workplace and Organisational Approaches for the Prevention of Violence Against Women. Report prepared for Our Watch. Melbourne, Australia: Our Watch, p. 18

time, relevant to the socio-cultural and organisational culture, evaluated for effectiveness<sup>128</sup>

It is my humble suggestion that the public should be educated about the definition of sexual harassment, its impact and how to prevent it. This should be done by developing comprehensive educational materials and awareness campaigns that elaborately define sexual harassment .

For students, I would recommend the integration of sexual harassment prevention into the school curricula to educate young people about healthy relationships, consent and respective behaviour

There should be fostering of respectful interactions which can be done by; challenging harmful norms by encouraging individuals to call out sex jokes, inappropriate comments and other forms of disrespectful behaviour and the leaders and role models in workplaces should take it upon themselves to demonstrate respectful behaviour and set a positive example.

I suggest that emphasis should be put on implementation of robust legal and organisational behaviour. Confidential reporting mechanisms should be put in place for those who have been sexually harassed to ensure that the victims are safe and supported in coming forward.

I recommend that as a way of fighting sexual harassment, there should be collection and analysing of data on sexual harassment incidents on a yearly basis. This can be used to identify the trends and the areas that need improvement in order to end sexual harassment.

I strongly recommend that bystander intervention should be highly encouraged in all institutions. According to the [EEOC](#) and [other researchers](#), training bystanders to recognize sexual harassment and learn skills to intervene could have the potential to change workplace cultures. When everyone is silent, offensive and harassing behavior can become normalized. So giving people tools and strategies to have regular conversations about defining appropriate behavior, to recognize and call out

---

<sup>128</sup> Nation, M., Crusto, C., Wandersman, A., Kumpfer, K. L., Seybolt, D., Morrissey-Kane, E., & Davino, K. (2003). What works in prevention: Principles of effective prevention programs. *American psychologist*, 58(6-7), 449-456, p. 452.

interruptions that tend to [silence women and minority groups](#), to speak out or to take action to show which behaviors are out of bounds—either directly or indirectly, verbally or nonverbally, in the moment, or at a later time—can be a powerful way to change culture.

In the wake of the #MeToo movement, researchers like those at the [Prevention Innovations Research Center](#) at the University of New Hampshire and others are seeking to translate the bystander approach to prevent sexual harassment at work. “Bystander intervention is not about approaching women as victims or potential victims, or men as perpetrators, or potential perpetrators, rather, it’s leveraging the people in the environment to set the tone for what’s acceptable and what’s not acceptable behavior,” said Jane Stapleton, co-director of the Prevention Innovations Research Center.

## **Conclusions**

Addressing workplace sexual harassment requires a coordinated approach involving timely reporting of its occurrence by the complainant, clear definitions of what amounts to unwelcome conduct or advances, and employer obligations to ensure that all parties, including the perpetrator, play an active role. Employers must act swiftly and effectively upon receiving complaints, implement the preventive measures, and provide a supportive environment for the victims. Complying with statutory obligations and taking proactive steps can foster a safer, comfortable and more respectful workplace, protecting the dignity and rights of all employees. The ongoing challenge is to ensure that policies are not only in place but are also actively enforced thereby creating a culture where sexual harassment is neither tolerated nor overlooked

## **BIBLIOGRAPY**

### **CASES**

Bandat v De Kock and Another ZALCJHB 342

Carolyn Atukunda v Micro Uganda & Emmanuel Mwanja LDR No. 291 of 2014

CNR v FITM & Anor KEELRC 82 (KLR),

K v Right to Care NPC ZALCJHB 182

Magoba Editor v Tusker Mattresses (U) Ltd LDR No. 243 of 2015

National Union of Metal Workers of South Africa and Another v Passenger Rail Agency of South Africa 1 BLLR 90 (LC)

Uganda v Peter Matovu criminal session no. 146/2001

### **STATUTES**

The 1995 constitution of Uganda as Ammeded.

The Employment (Sexual Harassment) Regulations

The Employment Act cap 226

### **BOOKS**

Catherine A. Mackinnon “The Logic of Experience: Reflections on the Development of Sexual Harassment law” Geo LJ 90,813

### **JOURNAL ARTICLES**

Berg, D. R., Lonsway, K. A., & Fitzgerald, L. F. (1999). Rape prevention education for men: The effectiveness of empathy induction techniques. *Journal of College Student Development*. As cited in Fenton et al. (2016), p. 27

Campbell, H., & Chinnery, S. (2018). What Works? Preventing & Responding to Sexual Harassment in the Workplace. Retrieved from: <https://www.care.org.au/wp-content/uploads/2018/12/STOP-Rapid-Review.pdf>, p. 9.

Carol B. and another, "What's the problem represented to be?" (2010) *Mainstreaming Politics: Gendering Practices and Feminist Theory* 111

Carol B. and another, "What's the problem represented to be?" (2010) *Mainstreaming Politics: Gendering Practices and Feminist Theory* 111.

Catherine A. Mackinnon "The Logic of Experience: Reflections on the Development of Sexual Harassment Law" *Geo LJ* 90, 813 the preventive role of equitable management

Chen et al. (2021) / *Asia Pacific Journal of Management*. Effects of sexual harassment on work-family enrichment: the roles of organization-based self-esteem and Polychronicity

Experiences of sexual Harassment against in the world of work of Uganda by Akina mama wa Afrika

Haley, M. (2019) "Champion for Women's Sexual Rights and Safety in Workplace" *19 New Views on Gender* 37-3

*Industrial Law Journal*, 1989: 755-762

Kapila, P. (2017) "Theoretical perspectives to sexual harassment of women at workplace." *International Journal of Humanities and Social Science Invention*

Kheir et al. (2023) / *Pan African Medical Journal* Prevalence of sexual harassment among female medical staff in four Khartoum State Tertiary Hospitals

Krug, E.G., Dahlberg, L.L., Mercy, J.A., Zwi, A.B., & Lozano, R. eds. (2002). *The world report on violence and health*. Geneva, World Health Organization. *The Lancet*, 360, 1083-1088, p. 1084

Louise Jackson, 'Making Sexual Harassment History' [2021]

McLaughlin H, Uggen C, Blackstone A. the economic and career effects of sexual harassment on working women. *Gender and society*

Michau, L., Horn, J., Bank, A., Dutt, M., & Zimmerman, C. (2015). Prevention of violence against women and girls: lessons from practice. *The Lancet*, 385(9978), 1672-1684, p.1676

Nation, M., Crusto, C., Wandersman, A., Kumpfer, K. L., Seybolt, D., Morrissey-Kane, E., & Davino, K. (2003). What works in prevention: Principles of effective prevention programs. *American psychologist*, 58(6-7), 449-456, p. 452

Powell, A., Sandy, L., & Findling, J. (2015). Promising Practices in Workplace and Organisational Approaches for the Prevention of Violence Against Women. Report prepared for Our Watch. Melbourne, Australia: Our Watch, p. 18

Robert D, (2015) the Legal Evolution of Sexual Harassment 241-254

Seaman, J.A (2005) "Form and function in sexual harassment law: biology, culture, and the spandrels of Title VII." *Ariz. St. LJ* 37 321

Stella Sheema and others (May 2021) Uganda's response to sexual harassment in the public health sector; from dying silently to gender transformational HRH Policy, available at <https://www.researchgate.net> [Accessed on 5th march, 2025]

UN Women (2018). Towards an end to sexual harassment: The urgency and nature of change in the era of the #MeToo, p. 1-44

Vara-Horna et al. (2023) / *Heliyon* Direct and indirect effects of workplace sexual harassment on the productivity of victims and witnesses:

Vargas et al. (2020) / *Journal of Women's Health* #MedToo: A Large-Scale Examination of the Incidence and Impact of Sexual Harassment of Physicians and Other Faculty at an Academic Medical Centre.

Wendy Pollack, *Sexual Harassment: Women's Experience vs. Legal Definitions*, 13 *HARV. WOMEN'S L.J.* 35, 69 (1990)

Wolor et al. (2024) / *Universal Journal of Public Health*. Sexual Harassment and Its Impact on Employees

## **ONLINE ARTICLES**

Carla Henry (May 2018) Spotlight on sexual violence and harassment in commercial agriculture Available at <https://www.ilo.org> [Accessed on 27th February, 2025]

Centre for Women, Peace and Security ‘ Violence against women’ available at <https://blogs.ise.ac.uk>

Constitutionalnet, “Constitutional history of Uganda” (International idea, 2016) available at <https://constitutionainet.org> accessed on 15<sup>th</sup> march 2025

Economic and Social Council , General Comment no.23 : Article 7 of the ICESCR (Right to just and favorable conditions at work), 54th session, adopted on 16th June, 2015 <https://www.ohchr.org>treaty>bodies>

Mywage.org Uganda (21st May 2023) what is the economic cost of Sexual Harassment at workplace? Available at <https://mywage.org>labourlaw>fairtreatment> [Accessed on 6th march, 2025]

UN women, available at <https://www.unwomen.org> published in 2016

## **COMMAND PAPERS AND LAW COMMISSION REPORTS**

Government Equalities Office (2019 July, 19). Seminar 4: Gender Norms and Sexual Harassment in the Workplace. Seminar hosted by the Government Equalities Office Workplace and Gender Equality (WAGE) Research Programme

Nabwire Ritah, ‘A critical analysis of the law against sexual harassment in Ugandan prisons’(2019) available at <https://ir.kiu.ac.ug>

Rachel A. A critical analysis of the rights of workers in Uganda in the Context of labor laws. Kampala International University,2016.Deserrtation

The Ministry of Health. (2018) ‘Guidelines to implement the policy on prevention and response to sexual harassment available at <https://health.go.ug> . Accessed on 17th February, 2025