



International
Labour
Organization

STOP SEXUAL HARASSMENT AND VIOLENCE AT WORK

SMART GUIDE FOR WORKERS

Have you ever experienced unwanted
sexual attention in the workplace?
If so, you have likely experienced sexual harassment

Have you ever given sexual attention to
someone who does not want it?
If so, you have likely engaged in sexual harassment

SAY NO TO SEXUAL HARASSMENT AT WORK!
It is a violation of human rights and dignity!

Introduction

In the past there was little awareness about what is sexual harassment and violence in the workplace and society. Some people consider that exchanging sexual jokes between workers and bosses is just “workplace fun”. Others think that the victims of sexual harassment – most of whom are women – enjoy it deep in their heart, or deserve such treatment because of the way they are dressed. Some also think that saying NO to sexual harassment means they cannot flirt and make sexual jokes anymore. – So, what is sexual harassment and how can we put an end to it? We can all help stop sexual harassment if we **RESPECT** the **DIGNITY** of our co-workers, and act professionally towards each other.

This guide is intended to raise awareness about sexual harassment, encourage victims to seek help to end the problem, motivate offenders to stop their harassing behaviour, and encourage employers and managers to prevent and take action against it in workplaces.

1. What is sexual harassment at work?

Sexual harassment is **unwanted** and **unwelcome** conduct of a

sexual nature that makes a person feel offended, humiliated and/or intimidated. If someone related to your work makes you feel miserable or makes you think that you will get in trouble or lose your job if you do not give in to their sexual advances, or put up with their sexual remarks - these are forms of sexual violence and harassment! Sexual violence is any act of a sexual nature that is perpetrated against someone's will.

Sexual violence and harassment can take various forms such as:

- Touching
- Staring or leering
- Physical assault and rape
- Sexual jokes or remarks made verbally or in writing
- Invitations for sex or persistent requests for dates
- Intrusive questions about one's body or private life
- Derogatory comments about women
- Sexually explicit pictures in the workplace
- Sexually explicit emails or messages.



Sexual harassment is not about mutual attraction and love, it is about **ABUSE of POWER**. Sexual conduct only becomes harassment if it is **unwelcome** and **unwanted**. In other words, it is only harassment if the victim finds the conduct offensive and did not invite it. Sexual harassment is a serious form of sex discrimination at the workplace and is prohibited in international human rights and labour standards. It is a violation of the fundamental rights of workers, a health and safety problem, and an unacceptable working condition.

❖ **What are the two main types of sexual harassment?**

Sexual harassment can take two different forms: sexual blackmail (quid pro quo) or a hostile working environment:



- **SEXUAL BLACKMAIL** is conduct that makes a job benefit – such as a raise in pay, promotion or even continued employment – conditional on sexual favours.
- **HOSTILE WORKING ENVIRONMENT** is conduct that creates an intimidating, hostile or humiliating working environment for the victim of sexual harassment.

❖ **Who can be a victim of sexual violence and harassment?**

Anyone can be a victim. Victims can be young or old, rich or poor, married or single, and can range from managers to unskilled workers. Sexual harassment can also occur between managers, supervisors, co-workers, customers, clients or business partners. However, it most often occurs between people in unequal power relationships – such as older male supervisors and younger subordinate women. Usually victims are women who are harassed by men. However, sometimes men are sexually harassed by women. Men can also sexually harass other men and women can sexually harass other women.



NOTE! It is important to remember:

- The offender's intent does not matter. It is the recipient who determines whether the conduct is welcome or not.
- Even if a worker consents to sexual activity, it can be considered sexual harassment if he or she felt pressured to consent.

❖ Does sexual harassment only happen at the workplace?

NO! Sexual harassment at work can occur in almost every employment situation and relationship related to work.

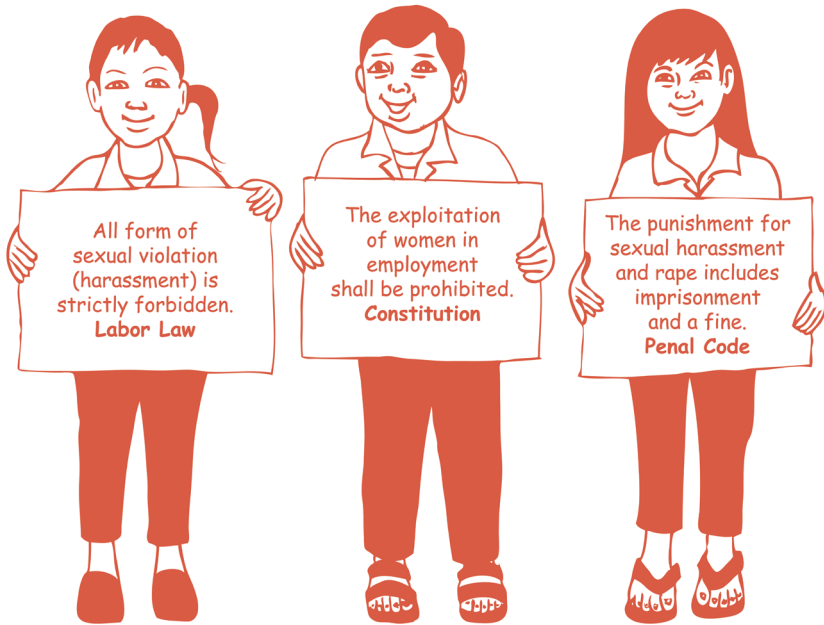
For example, it can occur:

- On the way to and from work
- At a social event organized by the employer
- During business trips

- At a client or customer's premises
- At training events, business lunches or dinners
- During promotional campaigns or public relations events
- Through work-related phone calls or electronic communications such as email or social media.

❖ What if the harassment is not sexual?

Other forms of discriminatory harassment include, for example, discrimination based on race, social origin or HIV infection. Taken together, Cambodia's Constitution, the Labour Law, the laws on the rights of people with disabilities and those living with HIV or AIDS laws, and the Penal Code make it unlawful in Cambodia to discriminate against workers based on the prohibited grounds of: race, colour, sex, creed, religion, political opinion, birth, social origin, membership of a workers' union or the exercise of union activities, disability, and HIV and AIDS. Harassment can also take the form of **workplace bullying**: repeated negative attacks on the personal and professional performance, or reputation of a person or group of persons. Employers should find out if harassment occurs in their workplaces and stop it from happening.



❖ What does Cambodian law say about sexual harassment?

Cambodia's legal provisions against sexual harassment are not yet well-developed and need improvement. The Labour Law prohibits "all form of sexual violation (harassment)", but a clear definition and provisions for preventing and addressing sexual harassment at the workplace are lacking. The Penal Code only prohibits the most serious forms of sexual violence and harassment, and has its limits with regard to the burden of proof.

Sexual harassment- and rape-related provisions in Cambodian legislation	
Sexual harassment under the Labour Law	“All employers and managers of establishments in which child laborers or apprentices less than eighteen years of age or women work, must watch over their good behavior and maintain their decency before the public. All form of sexual violation (harassment) is strictly forbidden.” <i>(1997 Labour Law , Article 172).</i>
Sexual harassment under the Penal Code	“Sexual harassment is an act that a person abuses the power which was vested to him/her in his/her functions in order to put pressure again and again on other persons in exchange for sexual favour. The sexual harassment is punishable by an imprisonment of between 6 (six) days to 3 (three) months and a fine of between 100,000 (one hundred thousand) Riels and 500,000 (five hundred thousand) Riels”. <i>(2009 Penal Code, Article 250).</i>
Rape	“All acts of sexual penetration, of any kind whatsoever, or an act of penetrating any object into sexual organs of a person of either the same sex or different sexes by violence, coercion, threat or surprise constitutes a rape: The rape is punishable by an imprisonment from 5 (five) to 10 (ten) years. Legality of sexual intercourse is determined from the age of 15 (fifteen) years old.” <i>(Penal Code, Article 239).</i>

2. How can employers address sexual harassment at work?

Employers have a vested business interest in preventing sexual harassment as it lowers workers' productivity and hurts profits. The most effective weapon against sexual harassment is

PREVENTION. And, when harassment does occur, employers must have measures in place to **REDRESS** the problem: to determine if offensive conduct took place, to support the victim, and to stop the offensive behaviour.

❖ **Preventive measures**

- **Establish a policy against sexual harassment**

All employers, whether small or large, should establish a policy to address sexual harassment at work. The policy should explain clearly what sexual harassment is and state that it will not be tolerated. It should also explain the process for making a complaint if sexual harassment occurs.

BUT it is not enough merely to establish a policy. The key to preventing sexual harassment is to make sure that all managers, workers and anyone who interacts with the workplace know about the policy and understand that there is **ZERO TOLERANCE** for sexual harassment.

- **Effectively communicate the policy against sexual harassment**

Employers should ensure everyone knows about the policy:

- ✓ Officially launch the policy and provide regular reminders and updates at staff meetings.
- ✓ Distribute copies of the policy to all workers in languages they can read, or with easy to understand diagrams and pictures for workers with little education. Discuss the policy with all new workers and management during orientation.
- ✓ Request all workers, including contractors and sub-contracted workers, to sign a copy of the policy, acknowledging that they have read and understood it.
- ✓ Display the policy on notice boards throughout the workplace.



- **Ensure management understands their responsibility**

In order to prevent sexual harassment employers should:

- ✓ Provide regular training to all staff and management specifically aimed at eliminating sexual harassment from the workplace.
- ✓ When hiring managers, ensure they know how to deal with sex discrimination and sexual harassment as part of their duties.
- ✓ Review managers' effectiveness in dealing with harassment and discrimination during performance appraisals.
- ✓ Remove offensive, sexually explicit or pornographic materials from the workplace, including posters, calendars, material on computers and shared through social networking.

- ❖ **Addressing complaints of harassment**

It is an employer's responsibility to respond to complaints of sexual harassment, to protect victims, to stop offensive conduct and take disciplinary action. In order to effectively handle complaints, employers should:

- Designate responsible and impartial senior workers, including at least two women and one man, to investigate and resolve complaints. Ensure that they are trained and given appropriate time to fulfill this duty.
- Immediately conduct an unbiased and fair investigation by speaking with the person making the complaint, the alleged offender, and any witnesses.
- Keep the information from both the victim and offender confidential. Do **NOT** gossip about it with your friends, family, other managers or workers. REMEMBER: Everybody is innocent until proven guilty.
- Assure the person making the complaint that he or she will not be subject to retaliation for making the complaint.
- Inform the person making the complaint of the investigation results and the steps that will be taken to address the problem.
- If harassment is proven, discipline the offender (by issuing a warning, suspension, termination, etc.) and provide an appropriate remedy to the victim (which may include an apology, counseling, compensation, etc.).

- If the two parties can no longer work together, transfer the offender to another position or part of the workplace, **NOT** the victim.

3. How can you stop sexual harassment?

REPORT IT!

More silence means more victims. Too often sexual harassment is not reported because victims feel ashamed, are afraid no one will believe them, or are afraid of being fired or called a troublemaker. Some victims quit their jobs without saying anything, which leaves the offender free to harass others.

The most important thing you can do if you are harassed is to **SPEAK UP** and **SAY NO!**



- Do **NOT** keep silent. If possible, tell the offender right away that you do not like the sexual jokes, compliments or invitations. Remain polite but make it clear that you want this conduct to stop. Don't ignore it and hope the problem will just go away. It will not go away by itself and may get worse.
- If you are too afraid to say **NO**, first talk to your friends, family or co-workers. Tell them what happened and discuss how to let the offender know that the behaviour is unwelcome.
- If the harassment continues, ask for help to resolve the problem:
 - ✓ Tell your supervisor about the harassment, and if he or she is the harasser or does not help you, then go to their supervisor or another supervisor whom you can trust and tell them about the situation.
 - ✓ Talk to your trade union representative or seek advice from a women's or human rights organization or a legal aid centre.
- If the harasser does not stop the unwelcome behaviour, start to keep notes on what the offender is saying and what your response is, and record the time and place. You may need these notes later to have a record and help prove what happened.

- If you see others being harassed, share what you know about the law and encourage them to speak out and take action. Help the victim(s) in telling the offender(s) to stop. Offer other support to them and act as a witness if needed.
- Don't accept that sexual harassment is inevitable or is a joking matter. Support actions that seek to prevent sexual harassment. Ask your employer if the company or office has specific policies against harassment. If not, work towards getting one established.

4. How can unions stop sexual harassment?

Trade unions should ensure that their members are sensitive to the problem of sexual harassment, create a climate to discourage it, and encourage victims to seek help when it occurs:

- Help establish a policy against sexual harassment in the unions and in workplaces through discussions and meetings with union members and with the management.
- Educate members about sexual harassment by inviting speakers, holding workshops and disseminate information on the issue.

- Train union leaders and stewards on how best to handle sexual harassment grievances.
- Conduct a survey among members to determine the extent of the problem in the workplace.
- Negotiate language against sexual harassment in collective bargaining agreements, including procedures to deal with violations. Make sure that workers are allowed to file initial complaints with someone other than an immediate supervisor, who may be the offender.



- Convince and work with employers to conduct joint training programmes.
- Act effectively to protect union members when sexual harassment does occur, by offering support, investigating and filing appropriate complaints and grievances.
- Ensure that the employer has an anti-sexual harassment policy that is prominently posted or otherwise effectively communicated to all workers. If the employer has no formal policy, raise the issue in labour-management meetings and help develop one.
- Disseminate information on informal and formal complaints procedures.

5. QUIZ:

How well do you know your rights?

- 1. Question:** If no physical touching occurs can it still be sexual harassment?

Answer: **YES!** Sexual harassment can take various forms including: staring or leering; sexual jokes or remarks made verbally or in writing; unwanted invitations for sex or persistent requests to go out on dates; intrusive questions about one's body or private life; derogatory language about women or gender stereotypes; sexually explicit pictures in the workplace or sexually explicit emails or messages.

2. Question: Are employers only responsible for the actions of workers, but not for the conduct of non-workers who are present in the workplace?

Answer: **NO!** Employers are responsible for protecting workers from harassment by workers, as well as non-workers, such as customers, vendors, and suppliers.

3. Question: When sexual comments and jokes are passed around the workplace, is this considered to be "sexual blackmail" or a "hostile working environment"?

Answer: This type of conduct can create an intimidating, humiliating or hostile working environment.

4. Question: Is it possible for a consensual relationship to turn into a sexual harassment claim?

Answer: **YES!** Even if a worker consents to sexual activity, it can be considered harassment if he or she felt pressured to consent.

5. Question: It is possible for members of the same sex to sexually harass each other?

Answer: **YES!** Most victims are women who are harassed by men. However, sometimes men are harassed by women, men harass other men, and women harass other women.

6. Question: If you are being sexually harassed, must you first complain to your supervisors, even if they are the ones who are harassing you?

Answer: **NO!** If you do not feel comfortable or safe addressing the problem with your supervisor, go to someone you can trust. You can seek help from higher up or go to your union, a women's or human rights organization or a legal aid centre for advice and assistance.

6. Where to seek help and assistance

If you need help in solving discrimination or harassment related problems or want to know what your rights are, contact one of the following organizations for advice and assistance:

Focal Person / Name of organization	Contact Information
Mrs. Tep Kimvannary Cambodian Confederation of Trade Unions (CCTU)	House no.263, Sangkat Boeng Pralit, Khan 7 January, Phnom Penh Telephone: 012 884 057 Email: cctu@online.com.kh
Mrs. Heng Chenda Cambodian Labour Confederation (CLC)	House no.2-3G, Street 26BT, Sangkat Boeng Tompun, Khan Meanchey, Phnom Penh Telephone: 012 40 83 60 Email: clc.cambodia@online.com.kh
Mr. Kim Chan Samnang National Union Alliance Chamber of Cambodia (NACC)	House no.18MG, Sangkat Toekthlar, Khan Sen Sok, Phnom Penh Telephone: 012 417 357 Email: NaccCambo007@yahoo.com
Mr. Sreang Narith Cambodian National Confederation For Laborer Protection (CNCLP)	House no.252, Street 2, Preak Tanous village, Sangkat Chak Angreleu, Khan Meanchey, Phnom Penh Telephone: 012 63 67 66 Email: cnclp_info@yahoo.com

Focal Person / Name of organization	Contact Information
Mrs. Yang Sophorn Cambodian Confederation of Unions (CCU)	House no.25QEo, Street 173, Sangkat Tuol Svayprey, Khan Chamkamorn, Phnom Penh Telephone: 012 880 039 Email: ccupro.assist@yahoo.com
Mrs. Morm Nhim National Independent Federation Textile Union of Cambodia (NIFTUC)	House no.18, Street Northbridge, Sangkat Toekthlar, Khan Sen Sok, Phnom Penh Telephone: 012 824 640 Email: niftuc@gmail.com
Mrs. Sam Sreymom Free Trade Union of Workers of Kingdom of Cambodia (FTUWKC)	House no. 16A, Street 376, Sangkat Boeng Keng Kang 3, Chamkamorn, Phnom Penh Telephone: 012 212 812 Email: ftuwkc@gmail.com
Mr. Sophorn Tun, National Coordinator ILO Joint Projects Office	ILO Joint Projects Office: Phnom Penh Center, Building F, 2nd Floor, Concor Sihanouk and Sothea Boulevard, Phnom Penh, 12301 Telephone: 023 220 817 Email: phnompenh@ilo.org



For further information on gender equality and decent work promotion in Cambodia, see:

- “Your RIGHT to equality and non-discrimination at work - Smart guide for workers”
- “Your RIGHT to maternity protection - Smart guide for workers”