Frameworks to prevent and address workplace sexual harassment

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WHAT IS SEXUAL HARASSMENT?

“Unwelcome conduct of a sexual nature that makes a person feel:

- offended
- humiliated and/or
- intimidated

where a reasonable person would anticipate that reaction in the circumstances.”

(Australian HR Commission).
SEXUAL HARASSMENT

Sexual Harassment occurs:

1. Conduct is directly linked to the grant or denial of an economic benefit *(quid pro quo)*

   or where it can affect an employee’s work performance.

2. Conduct creates an offensive or even hostile environment.
WHAT DOES NOT CONSTITUTE SEXUAL HARASSMENT

Conduct that is not unwelcomed:

- Based on mutual consent
- Is culturally and socially acceptable
- Is not of a sexual nature
VERTICAL AND HORIZONTAL HARASSMENT

SH is not just limited to incidents between male bosses and female employees. Offenders could be:

- The same sex as the victim
- Supervisors
- Fellow Workers
- Customers
- Suppliers and Vendors

It can be of both:

- **vertical** power relationship (manager and employee)
- **horizontal** power relationship (employees at the same level)
DISCUSSION: WHAT ARE THE INDIVIDUAL, ORGANIZATIONAL AND SOCIO ECONOMIC REPERCUSSIONS OF HARASSMENT?

SH ➔ significant adverse effects on employees and the organisation:

• Lower job satisfaction
• Lower commitment/ Increased absenteeism
• Fear of retaliation if no system to report
• Violation of dignity
SH ➔ significant adverse effects on employees and the organisation:

• Breakdown of team and individual relationships
• Less Commitment & Productivity
• Lost Time and Resources to treat with fallout
• Loss of public confidence and credibility
WHAT DOES SEXUAL HARASSMENT LOOK LIKE?

1. Video: That’s Harassment

2. Exercise: Iceberg of workplace violence
SEXUAL HARASSMENT as a HUMAN RIGHT VIOLATION

What are Human Rights?

- Inherent
- Universal
- Inalienable
- Interdependent
SEXUAL HARASSMENT as a HUMAN RIGHT VIOLATION

Five categories of Human Rights

- Civil Rights
- Political Rights
- Economic Rights
- Social Rights
- Cultural Rights
SEXUAL HARASSMENT as a HUMAN RIGHT VIOLATION

Important Documents/ Milestones in the Development of HR in the English-Speaking World:

**Magna Carta:**
June 1215

**Petition of Rights:**
June 1628

**Bill of Rights:**
Dec 1689
SEXUAL HARASSMENT as a HUMAN RIGHT VIOLATION

Important Documents/ Milestones in the Development of HR in the English-Speaking World:

**US Declaration of Independence**
1776

We hold these truths to be self-evident, that all men are created equal,

**Declaration of the Rights of Man**
1789

Men are born and remain free and equal in rights. Social distinctions may be founded only upon the general good.
SEXUAL HARASSMENT as a HUMAN RIGHT VIOLATION

Important Documents/ Milestones in the Development of HR in the English-Speaking World:

<table>
<thead>
<tr>
<th>US Bill of Rights</th>
<th>14th Amendment</th>
</tr>
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<tr>
<td>1791</td>
<td>1868</td>
</tr>
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No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

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SEXUAL HARASSMENT as a HUMAN RIGHT VIOLATION

Important Documents/ Milestones in the Development of HR in the English-Speaking World:

United Nations Declaration on Human Rights (1948)

Article 7

ALL ARE EQUAL BEFORE THE LAW AND ARE ENTITLED WITHOUT ANY DISCRIMINATION TO EQUAL PROTECTION OF THE LAW. ALL ARE ENTITLED TO EQUAL PROTECTION AGAINST ANY DISCRIMINATION IN VIOLATION OF THIS DECLARATION AND AGAINST ANY INCITEMENT TO SUCH DISCRIMINATION.
SEXUAL HARASSMENT as a HUMAN RIGHT VIOLATION

Important Documents/ Milestones in the Development of HR in the English-Speaking World:

Convention for the Protection of Human Rights and Fundamental Freedoms (Rome 1950)

Article 14

Prohibition of discrimination:
The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

European Convention on Human Rights
INTERNATIONAL AND REGIONAL FRAMEWORKS: COMMITMENTS FOR PARLIAMENTARY OVERSIGHT

- CEDAW and the optional protocol (Signed 1979, Effective 1981)
- Beijing Declaration and Platform for Action 1995 (PFA)
- Convention of Belém do Pará
- SDG 5.2 Gender Equality
- CARICOM Model Protection against Sexual Harassment Bill

See Handout
DISCUSSION: IMPACT OF SOCIAL MOVEMENTS

#MeToo –

- a movement against sexual harassment and sexual assault.
- The movement began to spread virally in October 2017 as a hashtag on social media
- to demonstrate the widespread prevalence of sexual assault and harassment
#lifeinleggings –

- A Caribbean-wide movement started by Ronelle King who was assaulted while walking to work in Bridgetown, Barbados
- Posted on Facebook using #lifeinleggings
- Within a day, it took off, with women in Barbados recounting stories. By the next day, it island-hopped to Trinidad & Tobago and Jamaica
IN WHAT WAY CAN WE USE THESE MOVEMENTS FOR BENEFIT?

- Create Public Awareness of the Issue
- Opportunity for Dialogue/ Social Conversation
- Catalyst to advocate for change
### CARICOM - Model Sexual Harassment Bill 1996

<table>
<thead>
<tr>
<th>CARICOM Model Bill</th>
<th>Equal Opportunity Act</th>
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<tbody>
<tr>
<td>Makes SH in EMPLOYMENT unlawful</td>
<td>YES</td>
</tr>
<tr>
<td>Makes SH in EDUCATION unlawful</td>
<td>YES</td>
</tr>
<tr>
<td>Makes SH in ACCOMMODATION unlawful</td>
<td>YES</td>
</tr>
<tr>
<td>Makes SH in the provision of GOODS &amp; SERVICES unlawful</td>
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</tr>
<tr>
<td>Has a mechanism for RECEIVING COMPLAINTS</td>
<td>YES</td>
</tr>
<tr>
<td>Makes it unlawful to VICTIMISE someone who has lodged a complaint</td>
<td>YES</td>
</tr>
<tr>
<td>Has a mechanism for INVESTIGATING COMPLAINTS</td>
<td>YES</td>
</tr>
<tr>
<td>Can COMPEL Respondent to PROVIDE INFORMATION</td>
<td>YES</td>
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## CARICOM - Model Sexual Harassment Bill 1996

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<td>Can PROSECUTE Respondent for a CRIMINAL OFFENCE if they do not provide information as requested</td>
<td>YES</td>
</tr>
<tr>
<td>Can CONCILIATE Complaints after Investigation</td>
<td>YES</td>
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<tr>
<td>Creates a TRIBUNAL to hear and adjudicate on UNRESOLVED COMPLAINTS</td>
<td>YES</td>
</tr>
<tr>
<td>(Equal Opportunity Tribunal or ‘EOT’)</td>
<td></td>
</tr>
<tr>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Tribunal proposed by CARICOM is NOT a Superior Court, but it is given the power to punish for contempt. It is chaired by an Attorney with 10 years experience appointed for 2 years</td>
<td></td>
</tr>
<tr>
<td>EOT is a SUPERIOR COURT OF RECORD chaired by a JUDGE</td>
<td></td>
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CARIBBEAN LEGISLATION ON SEXUAL HARASSMENT

- Belize and Barbados have enacted stand-alone legislation:
  - Belize - Prevention Against Sexual Harassment Act Cap 107 - passed August 1996
  - Barbados - Employment Sexual Harassment (Prevention) Act 2017 - assented December 2017

- Guyana expressly protects against sexual harassment in their anti-discrimination legislation:

- St Lucia and Bahamas make sexual harassment a crime:
  - Bahamas - Sexual Offences and Domestic Violence Act Cap 99 - section 26
  - St Lucia - Criminal Code Chap 3:01 section 139

See Handout
CARIBBEAN LEGISLATION ON SEXUAL HARASSMENT

TRINIDAD AND TOBAGO:

– Constitution Chap. 1:01
– Equal Opportunity Act Chap. 22:03
– Common law and decisions of the Industrial Court
– Occupational Safety and Health Act Chap. 88:08
– Sexual Offences Act, Chap: 11:28
LEGISLATION ON SEXUAL HARASSMENT

CANADA

- Canada Labour Code: see part 3
- Canadian Human Rights
- Canada Criminal Code
- Bill C65 - received Royal Assent in October 2018 and will come into force in 2020
Consider:

A Legal System is great, but by itself, is not enough to drive the change to reduce or eliminate sexual harassment.
• See examples of ‘Parliamentary Codes – sexual and/or gender based harassment
• Must Read: Inter Parliamentary Union “Sexism, harassment and violence against women in Europe’.
SOLUTIONS AND GOOD PRACTICES IN PARLIAMENTARY INSTITUTIONS IN THE REGION

• Strong and strictly enforced laws on gender equality, harassment and violence against women
• Strengthening internal mechanisms in parliament
• Standing orders and codes of conduct
• SH policy and complaint settlement procedures and investigation mechanisms
• Parliamentary codes of conduct with respect to SH: the examples of Costa Rica and Canada
• Disciplinary sanctions against the perpetrators.

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For more information, please check “Guidelines for Employers in Trinidad and Tobago” a handbook published by the Commission to inform employers, prospective employers and the general public about things like:

- Anti-discrimination law in the specific area of employment;
- Prohibited practices in employment;
- Ways in which to avoid the practice of discrimination and actions contrary to the Act;
- What an employer can expect if a complaint is made against them.

Guiding principles for parliamentary protocols and codes of conduct:

- Consistency with national laws
- Definitions, scope of application and subjects covered
- Training/awareness-raising
- Accountability and monitoring
TOWARDS THE CREATION OF WORKPLACES FREE OF SEXUAL HARASSMENT

• A clear and concise policy
• Training
• Open-door claim policy
• Keeping your people and organization safe
• Exhibit leadership on this issue
• Close gaps in gender equity
• Cultivate a culture of support and respect

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DISCUSSION:
Strategies that can be implemented voluntarily in parliamentary offices to promote workplaces that are inclusive and free of violence

EXERCISE:
Consensus building on priority actions to achieve workplaces free of violence and discrimination
Ms. Harry worked as a Media Officer in the Parliament of San Pedro. She was part of a team that organized a community outreach event hosted at the parliament on 16th September 2018. She said that a community member who had contributed to the event's organization as well, Mr. Alan, came up to her and made a number of romantic advances towards her. She said that she refused these advances, and later on, reported the incident to the Deputy Clerk. The Deputy Clerk contacted Mr. Alan, who denied the allegations. The Deputy Clerk of the House subsequently spoke to Ms. Harry and asked her not to tell anyone. She also reported the incident to her manager, who told her not to exaggerate. Ms. Harry then had to attend another media/public event with Mr. Alan. She was warned by other co-workers that management had intimated that they were not going to keep her on. As of this date she is no longer employed with the Parliament.
https://www.youtube.com/watch?v=25afmeqi8Gk
Neval Chatelal & Machel Montano - Wonders of this World (Remake)
Director: Cowin Thorpe (Dori Productions)
Editor: Cowin Thorpe

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