

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

DISCUSSION: WHAT ARE THE INDIVIDUAL, ORGANIZATIONAL AND SOCIO ECONOMIC REPERCUSSIONS OF HARASSMENT?



SH → significant adverse effects on employees and the **organisation**:

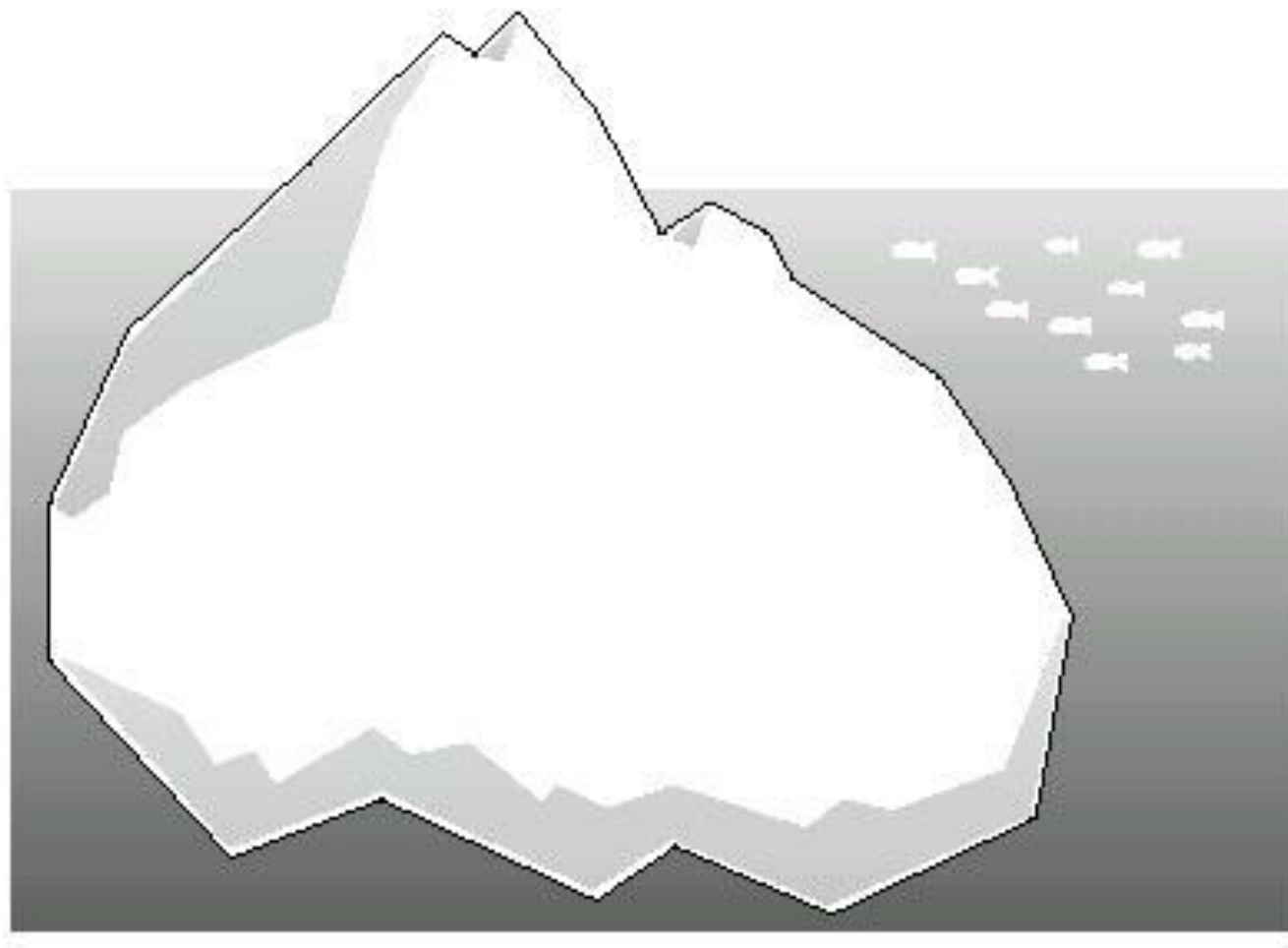
- Breakdown of team and individual relationships
- Less Commitment & Productivity
- Lost Time and Resources to treat with fallout
- Loss of public confidence and credibility

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

INALIENABLE

INTERDEPENDENT

T

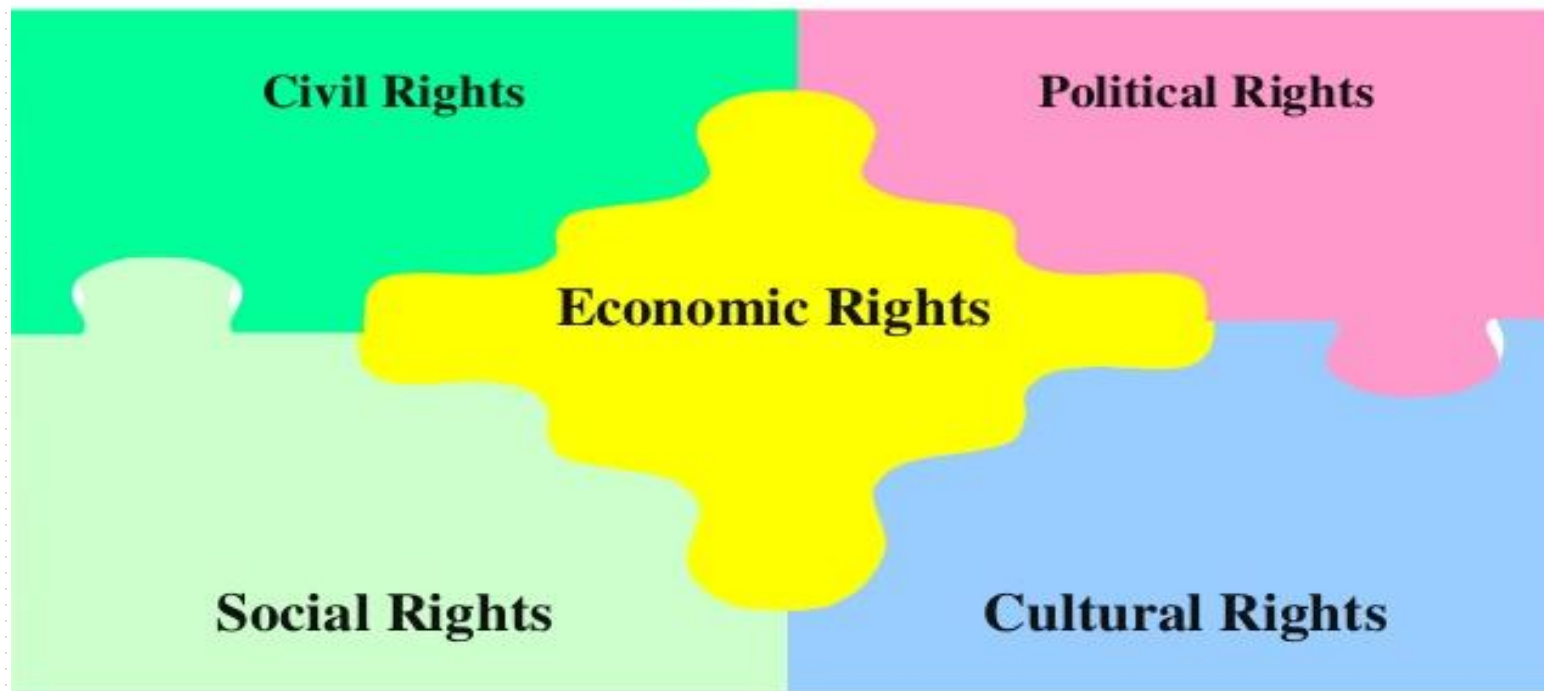
UNIVERSAL



SEXUAL HARASSMENT as a HUMAN RIGHT VIOLATION



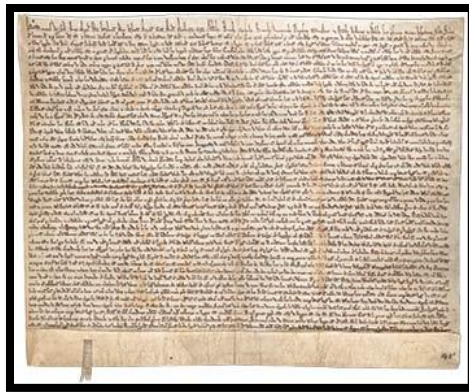
Five categories of Human Rights



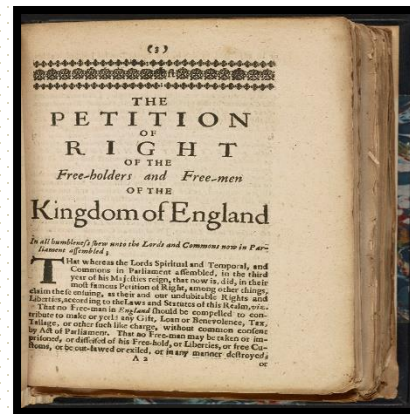
SEXUAL HARASSMENT as a HUMAN RIGHT VIOLATION

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

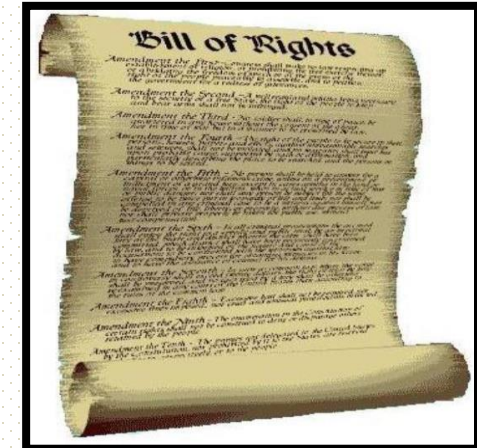
Magna Carta: June 1215



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

A rectangular box containing a snippet of the US Declaration of Independence in cursive script. The text reads: "We hold these truths to be self-evident, that all men are created equal,". The background of the box is a light beige color with a subtle texture, and the text is in a dark brown ink.

Declaration of the Rights of Man

1789

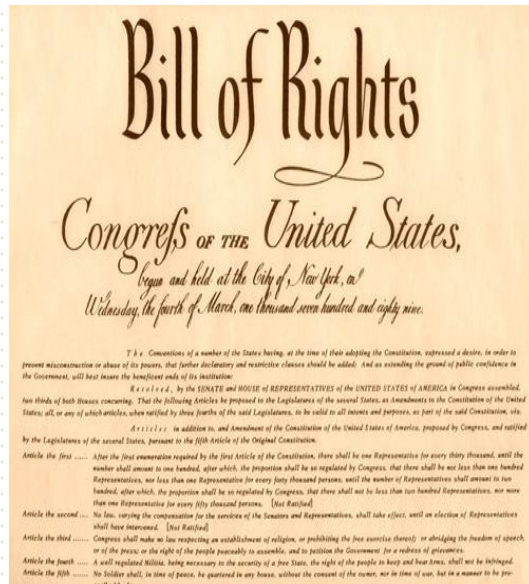
A rectangular box containing a snippet of the Declaration of the Rights of Man in a bold, black, sans-serif font. The text reads: "Men are born and remain free and equal in rights. Social distinctions may be founded only upon the general good." The box has a black border and a white background.

SEXUAL HARASSMENT as a HUMAN RIGHT VIOLATION

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

US Bill of Rights

1791



14th Amendment

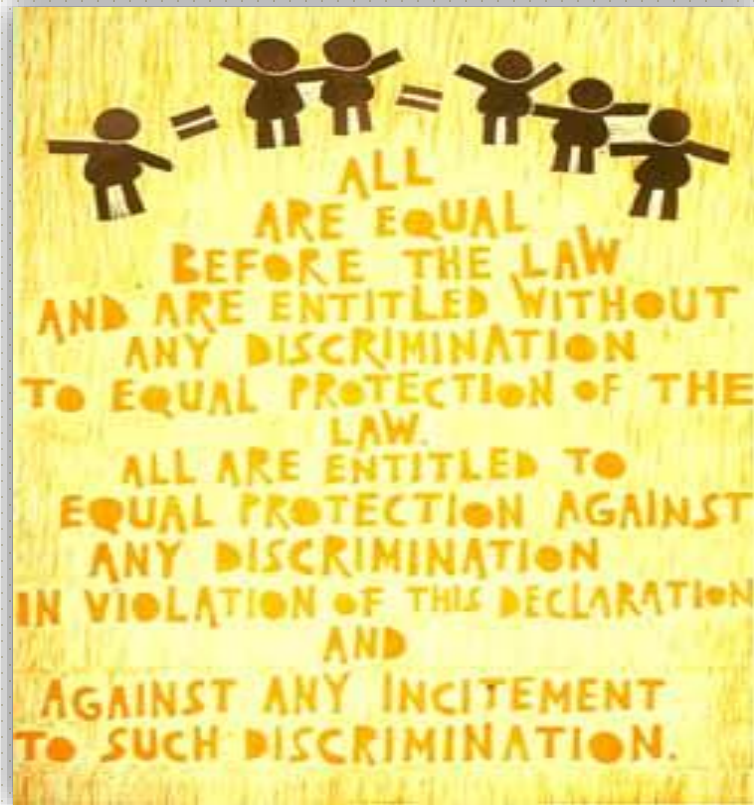
1868

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.

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



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

***European Convention on
Human Rights***

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.

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



DISCUSSION: IMPACT OF SOCIAL MOVEMENTS



#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



DISCUSSION: IMPACT OF SOCIAL MOVEMENTS



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

CARIBBEAN LEGISLATION ON SEXUAL HARASSMENT



CARICOM - Model Sexual Harassment Bill 1996

<u>CARICOM Model Bill</u>	<u>Equal Opportunity Act</u>
Makes SH in EMPLOYMENT unlawful	YES
Makes SH in EDUCATION unlawful	YES
Makes SH in ACCOMMODATION unlawful	YES
No	Makes SH in the provision of GOODS & SERVICES unlawful
Has a mechanism for RECEIVING COMPLAINTS	YES
Makes it unlawful to VICTIMISE someone who has lodged a complaint	YES
Has a mechanism for INVESTIGATING COMPLAINTS	YES
Can COMPEL Respondent to PROVIDE INFORMATION	YES

CARIBBEAN LEGISLATION ON SEXUAL HARASSMENT



CARICOM - Model Sexual Harassment Bill 1996

<u>CARICOM Model Bill</u>	<u>Equal Opportunity Act</u>
Can PROSECUTE Respondent for a CRIMINAL OFFENCE if they do not provide information as requested	YES
Can CONCILIATE Complaints after Investigation	YES
Creates a TRIBUNAL to hear and adjudicate on UNRESOLVED COMPLAINTS	YES (Equal Opportunity Tribunal or 'EOT')
No 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	EOT is a SUPERIOR COURT OF RECORD chaired by a JUDGE

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:
 - Guyana - Prevention of Discrimination Act Chap 99:09, section 8 - passed October 1997

- 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

DISCUSSION: HOW TO STRENGTHEN COMPLIANCE WITH NORMATIVE FRAMEWORKS?



Consider:

A Legal System is great,
but by itself, is not enough
to drive the change to reduce or eliminate sexual harassment.

APPROACHES TO THE PREVENTION OF SEXUAL HARASSMENT IN THE PARLIAMENT AS A WORKPLACE



- See examples of 'Parliamentary Codes – sexual and/or gender based harassment
- Must Read: Inter Parliamentary Union “Sexism, harassment and violence against women in Europe’.
- Study Report 2016
<https://www.ipu.org/resources/publications/reports/2016-10/sexism-harassment-and-violence-against-women-parliamentarians>
- Study Report 2018
<https://www.ipu.org/file/5472/download?toKen=PjtucdkS>

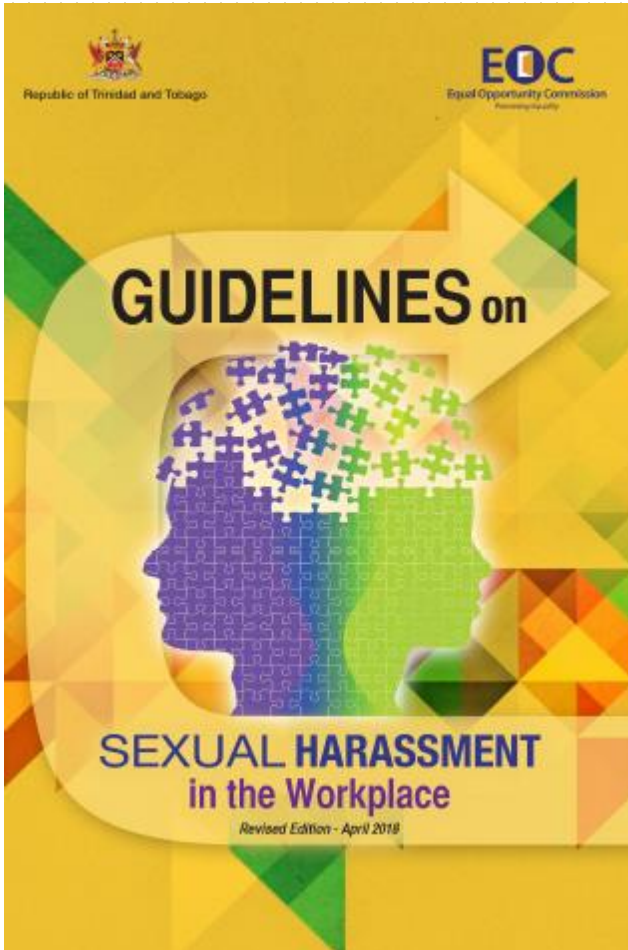


SOLUTIONS AND GOOD PRACTICES IN PARLIAMENTARY INSTITUTIONS IN THE REGION



- 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.

SOLUTIONS AND GOOD PRACTICES IN PARLIAMENTARY INSTITUTIONS IN THE REGION



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.

A free copy can be downloaded from the Commission’s website at:

http://www.equalopportunity.gov.tt/sites/default/files/Guidlines%20on%20Sexual%20Harrassment_Revised.pdf

SOLUTIONS AND GOOD PRACTICES IN PARLIAMENTARY INSTITUTIONS IN THE REGION



PRESENTATION AND DISCUSSION:

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

TOWARDS THE CREATION OF WORKPLACES FREE OF SEXUAL HARASSMENT



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

CASE STUDY FOR DISCUSSION



- **Complainant:** Ms Adrianna Harry
- **Employer:** Parliament of San Pedro

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=25afmegi8Gk>

Neval Chatelal & Machel Montano - Wonders of this World (Remake)

Director: Cowin Thorpe (Dori Productions)

Editor: Cowin Thorpe

#ParlAmericasGEN