



**STUDY ON
*SEXUAL HARASSMENT IN THE WORKPLACE
IN THE GAMBIA***

**PREPARED FOR:
NATIONAL HUMAN RIGHTS COMMISSION**

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Rights in The Gambia.*



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ACRONYMNS

African Commission	African Commission on Human and Peoples' Rights
AU	African Union
BPA	Beijing Platform of Action
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CESCR	Committee on Economic, Social and Cultural Rights
CSO	Civil Society Organisations
ECOWAS	Economic Community of West African States
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
ILO	International Labour Organization
GBoS	Gambia Bureau of Statistics
GBV	Gender Based Violence
GC	General Comment
NGOs	Non-Governmental Organisations
NHRC	National Human Rights Commission
QDA	Qualitative Data Analysis
UDHR	Universal Declaration on Human Rights

FOREWORD

It gives the National Human Rights Commission (NHRC) much pleasure to collaborate with the United Nations Development Programme (UNDP) and the Office of the High Commissioner for Human Rights (OHCHR) through the Transitional Justice and Human Rights Project (TJHR Project) for the Research and Development of a Sexual Harassment in the Workplace Policy. This study, *Sexual harassment in the workplace in The Gambia*, was conducted by Dr. Satang Nabaneh. This followed an advisory note prepared by the NHRC on the subject and recommendations to initiate a national dialogue and preparation of a National Anti-Sexual Harassment Policy.

The National Human Rights Commission (NHRC) was created by an Act of Parliament in 2017 to promote and protect human rights in The Gambia. Specifically, section 12 (e) (ii) (iii) (iv) of the Act empowers the NHRC to undertake studies on matters concerning human rights, assist the Government in formulating appropriate policies to guarantee human rights, publish guidelines, manuals, and other materials to explain the obligations of public officials in the protection of human rights and adopt best practice guidelines and policies on human rights.

Sexual harassment, particularly against women poses a serious challenge to victims. It can affect the victim's self-esteem and dignity. Although sexual harassment often takes the form of men harassing women, it can also happen to men, women, boys, and girls in different contexts. At present, no law requires employers to adopt anti-sexual harassment policies in The Gambia. Therefore, employers largely rely on ordinary internal disciplinary proceedings in handling sexual harassment at workplaces which are not an ideal lasting solution to sexual harassment as they usually do not focus on the victims.

The findings of this study, which serves as the basis for the development of a comprehensive Sexual Harassment in the Workplace exposes the prevalence, magnitude, and factors that engender sexual harassment in the workplace, the absence of mechanisms to address the phenomenon, the effects on the victims and what measures and strategies could be put in place to make the workplace conducive, secure and protected for all people.

Emmanuel D. Joof
Chairperson
National Human Rights Commission

ACKNOWLEDGMENT

The timing for this study is quite apt as it comes against the background of the many challenges encountered by employees especially women in their workplaces.

The NHRC expresses its gratitude to the TJHR Project for its continuous commitment and support to the NHRC in particular seeing this laudable initiative through. We also acknowledge and greatly appreciate the active participation of the Expert Committee members who substantially contributed to the development of this document including Theresa Sagarr Diara, Gambia Chamber of Commerce and Industry; Alhagie Jeng, Bankers Association; Fatoumatta Sanneh, Department of Labour; Siaka Marong, Ministry of Gender, Children and Social Welfare; Ramou Sonko, UNFPA; Mariatou J. Newlands, Think Young Women; Fanta Jatta Sowe, Action Aid International The Gambia; Modou A.F Bahoum, Gambia Federation of the Disabled; Awa Peters and Ida Persson, UNDP Transitional Justice and Human Rights Project; and Commissioner Njundu Drammeh, Mansour Jobe, Sainey Bah and Aminata L.B Ceesay of the National Human Rights Commission.

Special thanks to the consultant Dr. Satang Nabaneh and her team for the exceptional work. The Commission wishes to acknowledge the contributions of Basiru Bah in the provision of research assistance, and the Centre for Research and Policy Development (CRPD) for conducting the survey.

We hope that the findings of this Study would bring about a public appreciation of the effects of sexual harassment on employees and others in the workplace, the enactment of comprehensive legislation against sexual harassment and more in-depth studies on sexual harassment in all sectors.

EXECUTIVE SUMMARY

This report provides detailed findings of an investigation into workplace sexual harassment focusing on the public sector, private sector and Non-Governmental Organisations (NGOs) in The Gambia. The analysis provides benchmark information on the nature and extent of workplace sexual harassment in a bid to establish suitable interventions (policies, systems and programmes) that will facilitate behavioural changes for the protection and mitigation against all forms of workplace sexual harassment.

Given the endemic problem of a general lack of information and data on sexual harassment in The Gambia, this study focuses on sexual harassment in the workplace. The study assesses the nature and magnitude of sexual harassment experienced by both females and male employees in the public, private and NGO sectors, with a goal of facilitating better protection measures.

Methods

A wide range of data collection methods were followed. Four tools were used to facilitate data collection for the study. This comprised of the desktop research, survey,¹ key informant interviews/organisational assessment, and Focus Group Discussions. The study used both quantitative and qualitative methods and techniques to baseline the nature and extent of sexual harassment in the workplace. For the survey, the primary consideration was to collect 150 responses (50 from the public sector, private sector and civil society respectively). However, due to a number of factors, the team was only able to randomly select and administer 123 questionnaires to workers in public, private and NGO sectors. The institutions were broadly in the following categories:

- Civil Service
- Private Sector (Including Banking and Financial; Retail and Textile and Information Communications and Technology)
- Civil Society Organisation
- Security Sector
- NGO/INGO
- International Organisations (including UN Agencies)
- Academia

¹ The study adapts the Australian Human Rights Commission's instruments on sexual harassment in the workplace. See Australian Human Rights Commission 'Everyone's business: Fourth national survey on sexual harassment in Australian workplaces' (2018).

- Informal sector (including nightlife industries such as restaurants, bars and nightclubs)
- Workers' unions

The employee survey collected baseline information on perceptions and knowledge on sexual harassment, personal experience, and reporting of the issue. From 25 January to 8 February 2021, trained enumerators administered the questionnaires to individuals in their workplaces as well as the availability of the survey online. The field team worked closely with the NHRC who prepared support letters that enabled the team to walk into various offices to randomly select respondents. The key informant interviews with selected key actors such as policymakers, NGOs, labour inspectors, and arbitration commissions provided insights on sexual harassment. Equally, two (2) Focus Group Discussions were organised with members of civil society and the private sector (through the Bankers Association comprising of Human Resources Managers of major banks). Both meetings took place via zoom, as time was too short and also to observe the COVID-19 guidelines and measures. A third FGD with members of trade unions was held in person while following all COVID-19 guidelines, and measures. The organisational assessment focused on policy availability, channels available for reporting and protection and prevention measures.

For the qualitative part of the study, desktop research focused on the identification of gaps in relevant laws, policies, and institutional frameworks was conducted. In addition, interviews with 15 key informants and organisational assessment were conducted with the head of institutions or their representatives in the three sectors. Equally, 3 FGDs were organised with members of civil society and the private sector, and with members of the trade unions.

The study is without limitations. Due to time and resources, the study is not a national one and therefore the findings, which might provide insights into the issue, cannot be generalised to the whole of The Gambia. However, attempts were made to have some employees from the rural areas participate through telephone interviews as well as completion of the organisational assessment from the Local Government Councils. Another limitation of the study is that it was not able to determine the economic impact or cost of workplace sexual harassment, that is, attaching a monetary value to the economic loss that the country, individual companies or organisations, as well as the employees, affected incurred due to effects of sexual harassment. In addition, given that the focus of the study is on the formal sector, the results are unable to reflect reality for women in the informal sector, which is a significant of the population.

Key Findings

a) Perception and prevalence and Nature of Sexual Harassment

An overwhelming majority (85%) of all respondents confirmed the prevalence or occurrence of sexual harassment in the workplace. On the occurrence of sexual harassment cases in the workplace, the study finds that 74% of workers indicate to have experienced sexual harassment. 80% of women experienced sexual harassment in the workplace in the last five years compared to men (67%).

b) Nature of workplace sexual harassment

The most common forms of workplace sexual harassment occurring in the past five years were:

1. Sexually suggestive comments or jokes that made you feel offended (17%)
2. Inappropriate staring or leering that made you feel intimidated (16%)
3. Repeated or inappropriate invitations to go out on dates (11%)
4. Intrusive questions about your private life or physical appearance that made you feel offended (9%)
5. Inappropriate physical contact (8%)
6. Indecent phone calls, including someone leaving a sexually explicit message on voicemail or an answering machine (7%); and
7. Sexual gestures, indecent exposure or inappropriate display of the body (6%)
8. Unwelcome touching, hugging, cornering or kissing (5%).

Workplace sexual harassment was most likely to occur at an individual's workstation or where they work. In the past five years, more than 60% of people who were sexually harassed at the workplace noted that this happened on more than one occasion.

c) Victims and perpetrators

The survey results indicate that people may experience workplace sexual harassment differently due to characteristics such as gender and age. Women were more likely than men to have been sexually harassed in the workplace in the last five years (56% of women compared with 44% of men). People aged 18–39 were more likely than those in other age groups to have been sexually harassed in the workplace in the past five years for both genders.

The study found that the majority of workplace sexual harassment in the past five years was perpetrated by men. Majority of respondents identified men (61%) as perpetrators of sexual harassment in the workplace, compared to women (39%). The data also indicates that 94% of female victims of workplace sexual harassment were sexually harassed by male perpetrators.

In the past five years, the majority of sexual harassment involved a single perpetrator (28%). The study results also indicate that sexual harassment, which occurred in the workplace was most often perpetrated by a co-worker who was more senior to a female victim, and a co-worker employed at the same level, for male victims.

d) Reporting Workplace Sexual Harassment

The majority of people who were sexually harassed in the workplace in the past five years did not make a formal report or complaint. However, people who made a formal report or complaint about workplace sexual harassment did so within a month (30%).

The most common reasons for not reporting workplace sexual harassment were that it was easier to keep quiet (27%) and that the reporting will be embarrassing (23% of female victims, 26% of male victims). The other reasons were that victims thought it would not change things, or that nothing would happen (6% of female victims, 16% of male victims), and they were not aware of how the complaint process worked or who to report to (21% of female victims, 28% of male victims).

Among those that did not report or make a complaint about workplace harassment, did not do so because it was easier to be quiet (27%) or that the reporting process will be embarrassing 19% (9% of female victims, 44% of male victims).

e) Outcomes

The most common outcomes were that the perpetrator:

- Apologised (21%)
- Was formally warned (17%)
- Was informally spoken to (10%)
- Faced no consequence (7%)

For victims made a report or complaint about the most recent incident of workplace sexual harassment, in terms of the outcomes for the complaint, 22%

stated that the harassment stopped; 19% received positive feedback. Female victims received both an apology and a positive feedback for making the complaint. This was similar to male victims.

f) The impact and cost of Sexual Harassment

The data shows that by and large, when employees experience workplace sexual harassment they feel extremely intimidated (40%), this translates into mental health and stress (29%). More women than men also said that the incident had impacted negatively on their self-esteem and confidence (24% compared to 3%). Male respondents are more likely to report that there were no long-term consequences for them (24%).

g) Policy and Systems Availability

The study indicates that on average, most organisations and companies do not have a policy on sexual harassment and are therefore non-existent. Thus, the systems and procedures necessary to facilitate reporting, punish perpetrators and address sexual harassment cases in the workplace are non-existent. In certain cases, Government and NGOs rely on general laws and policies on gender-based violence, including sexual harassment. There is need for companies and organisations to establish policy guidelines and establish clear procedures and systems for reporting and imposing penalties on perpetrators.

Conclusion

While the country has a plethora of laws that address gender-based violence, broadly including sexual harassment, the laws do not largely address sexual harassment in the workplace. In terms of available mechanisms and procedures to address sexual harassment in the workplace, there are only few Gambian institutions and organisations in the public, private and NGO sectors that have adopted a workplace anti-sexual harassment policy.

Recommendations

Based on the findings, the study makes the following recommendations:

Government

- Ratify of the ILO Convention No. 190 on Violence and Sexual Harassment adopted at the ILO General Assembly in June 2019 and popularise among the populace.

- Enact a comprehensive law that addresses sexual harassment and effectively implement.
- Formulate generic workplace sexual harassment policy to be adapted by public, private and NGO sectors.
- Put in place mechanisms for the effectively reporting of sexual harassment in the public sector
- Develop national capacities to prevent Sexual Harassment in workplace and general society.
- Undertake a comprehensive national study on sexual harassment in the workplace.
- Conduct nationwide study on the prevalence of sexual harassment to support law-making processes. For instance, questions on prevalence and experience of sexual harassment could be included in the upcoming census.

Private and NGO Sectors, including Workers' Union

- Formulate, adopt and implement anti-Sexual Harassment workplace policies and Code of Conduct.
- Train staff on prevention of sexual harassment and put in place the necessary mechanisms to facilitate reporting and investigation of cases
- Develop awareness raising materials on sexual harassment and popularise amongst staff
- Advocate for the ratification of the of the ILO Convention No. 190 on Violence and Sexual Harassment

CHAPTER 1: INTRODUCTION AND BACKGROUND TO THE STUDY

8.1 Background

Everyone has the right to work free from violence and harassment, including sexual harassment. There has been a growing awareness of the existence and extent of sexual harassment in the workplace worldwide that affects all sectors. Given the increasingly diverse workforce and organisational cultures related to equal opportunities and what is acceptable, the issue of sexual harassment is receiving much attention.² The International Labour Organization (ILO) Committee of Experts on the Application of Conventions and Recommendations (CEACR) includes sexual harassment in the context of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), as a particular form of discrimination on the basis of sex.³

Sexual harassment is recognised as a form of discrimination and violence against women and girls.⁴ According to the 2013 Gambia Demographic and Health Survey (DHS), 5% of people aged 15–49 have experienced sexual violence.⁵ Sexual violence in The Gambia, like in many countries around the world, remains unreported due to the stigma associated with it, victims and survivors' fear of being blamed for the abuse, distrust of authorities, poor reporting procedures, and other socio-cultural issues as well as lacunae in laws that protect against sexual violence.⁶ Sexual harassment is a common worldwide phenomenon.

In 2020, the World Bank in its 'Women, Business and the Law' report found that 50 out of the 189 countries studied had no specific legal provisions covering sexual harassment in employment.⁷ National legal and policy frameworks do not adequately address the issue of sexual harassment in The Gambia. The

² T Stephens and BK Repa *Sexual harassment on the job*, 4th edition (1998), 1.

³ International Labour Organization (ILO), *Discrimination (Employment and Occupation) Convention*, C111, 25 June 1958, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C111

⁴ See African Commission on Human and Peoples' Rights (African Commission), 'The Guidelines on Combating Sexual Violence and its Consequences in Africa' (2017), available at <https://www.achpr.org/legalinstruments/detail?id=4>.

⁵ Gambia Bureau of Statistics (GBOS) 'The Gambia Demographic and Health Survey 2013' (2014) 229

⁶ See generally, S Nabaneh '#IAmToufah Makes the Message Clear: We Will Not Wish the Rape Crisis Away' *Impakter* (24 July 2019), available at <https://impakter.com/iamtougah-makes-the-message-clear-we-are-not-going-to-wish-the-rape-crisis-away/>.

⁷ World Bank 'Women, Business and the Law 2020' (2020), 15, available at <https://openknowledge.worldbank.org/bitstream/handle/10986/32639/9781464815324.pdf>.

Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee) in its Concluding observations on the combined fourth and fifth periodic reports of The Gambia commended The Gambia for the enactment of the Sexual Offences Act while raising concerns that violence against women, such as sexual violence, remain widespread.⁸

While there is a dearth of data relating to sexual harassment in the workplace in The Gambia, studies indicate that it is a worldwide phenomenon.⁹ A recent study conducted by the Gambia Press Union (GPU) through the Women Journalists Association of The Gambia (WOJAG), and with funding from UNESCO, confirmed the prevalence of sexual harassment in the workplace in the media sector.¹⁰ The recent publication of the National Human Rights Commission (NHRC) also highlighted among other things the inadequacy of the legal framework in responding to allegations of sexual harassment and the absence of support services and systems for victims.¹¹

Currently, there are no national available statistics on the magnitude and prevalence of sexual harassment in The Gambia, but it has become clear from reports that sexual and gender-based violence has become a common practice in families, at the community level, in institutions and at the State level.¹²

Against this background, this *Study on Sexual Harassment in the Workplace* was conducted between January and February 2021, by the Gambia National Human Rights Commission (NHRC) with funding from the United Nations Peacebuilding Fund, through the UNDP and OHCHR.

8.2 Research aims and objectives

The overall aim of the research is to explore sexual harassment in the workplace, in both public and private sectors.

The study aims to:

⁸ UN Committee on the Elimination of Discrimination of All Forms of Discrimination Against Women (CEDAW) 'Concluding observations on the combined fourth and fifth periodic reports of Gambia' (24 July 2015), CEDAW/C/GMB/CO/4-5, para 22.

⁹ RL Siuta & ME Bergman 'Sexual harassment in the workplace' (2019) *Business and Management*, 1-27.

¹⁰ Gambia Press Union (GPU) 'Harassment and discrimination in media agencies in The Gambia' (2020).

¹¹ National Human Rights Commission 'Advisory Note on Sexual Harassment' (2019).

¹² Institute for Human Rights and Development in Africa (IHRDA) and The Gambia Centre for Victims of Human Rights Violations 'Sexual and gender-based violence in The Gambia: A handbook including stories of survivors' (2020) 6.

1. Identify gaps in relevant laws, policies, regulatory and institutional frameworks.
2. Examine the magnitude, nature and effects of sexual harassment in the workplace.
3. Generate recommendations that could be used to address sexual harassment in the workplace.

8.3 Research questions

The study aims to find answers to the following questions:

1. What are international and regional instruments and initiatives that have a bearing on the development of national laws and policies to address sexual harassment in the workplace?
2. How does the legal and policy framework protect employees against sexual harassment in the workplace?
3. What is the nature, magnitude and impact of sexual harassment in the workplace?
4. What are the circumstances or conditions that undermine reporting of sexual harassment in the workplace?
5. What are the organisational sexual harassment policy-making procedures?
6. What are the implications of the findings in addressing sexual harassment in the workplace?

8.4 Significance of the study

The study of sexual harassment in the workplace provides an opportunity to address a huge gap in current scholarship on the issue in The Gambia. This study attempts to contribute to existing knowledge, which would serve as a source of empirical literature for future studies in the related areas. The findings of the study provide insight into the nature, magnitude and prevalence of sexual harassment. While the results of the study do not indicate the size and extent of the problem in The Gambia as a whole, yet it is suggestive of the prevalence of the problem.

Finally, while this study cannot be generalized, the findings have utility for a more nationwide research, the development of a national policy and legal framework on sexual harassment as well as the establishment of other interventions to curb the practice. The findings can also further encourage or strengthen current policies of organisations to ensure more effective ways of tackling the problem of sexual harassment in the workplace.

8.5 Literature review

This section provides an outline of relevant research in the area of sexual harassment in the workplace in The Gambia.

Advisory Note

The National Human Rights Commission of The Gambia in 2020 published an advisory note on sexual harassment. The Note attempts to review the adequacy or otherwise of the laws of the Gambia on protection from sexual harassment. In particular, it noted the negative effects of sexual harassment on victims specially women¹³ and the need to put in place measures to protect victims from sexual harassment. The Note reviews various international treaties and domestic laws on the protection of persons from sexual harassment. However, the NHRC noted with concern the existing gaps that exist in the laws resulting to inadequate protection of persons especially women from sexual harassment.¹⁴ The Note recommended to the State to ‘ratify the ILO Convention No. 190 on Violence and Sexual Harassment adopted at the ILO General Assembly in June 2019 (and popularize as well)’ and enact a comprehensive sexual harassment policy among other things.

Handbook on sexual and gender-based violence in The Gambia

The Institute for Human Rights and Development in Africa (IHRDA) and the Center for Victims of Human Rights Violations in 2020 prepared and published a *Handbook on sexual and gender-based violence in The Gambia*.¹⁵ The publication is aimed at raising awareness on sexual and gender-based violence. The Handbook provides definitions of different forms of sexual violence including sexual harassment and gives a brief summary of some of the laws regulating sexual and gender-based violence. The Handbook also contains stories of survivors of sexual violence including one who was raped by a practicing medical doctor in the process of treating a patient. It also highlights the effects of sexual violence on victims especially the psychological effects. One of the suggestions that were advanced by the authors of this Handbook is to ‘embolden women and girls to speak out and to report cases either to the Police or Courts’. If this can be achieved, the drastic impact of silence on the fight against harassment can be significantly reduced.

¹³ National Youth Policy (2019-2028) 3.

¹⁴ NHRC (n 11 above)14.

¹⁵ IHRDA (n 12 above).

Study on sexual harassment in urban secondary schools in The Gambia

P Idoko *et al.* also conducted a study on sexual harassment in urban secondary schools in The Gambia, which highlighted the prevalence of sexual harassment in the selected area. Out of the 300 questionnaires that were administered, 293 were returned with 88 per cent of the respondents indicating that they suffered one form of sexual harassment or another.¹⁶ This highlights the incredibly high percentage of prevalence of sexual violence in these schools. This may include both staff and students (boys and girls alike) as victims. The study also indicated that girls were more likely to be victims compared to their male counterparts. The effects of this harassment on the victims are tremendous as victims report trouble sleeping, changing schools, self-hate, depression and absenteeism.¹⁷

Operational Human Resource Organisational Development (HROD) Policy (2019) and Whistleblowing Policy of ActionAid International The Gambia

Other institutions such as Action Aid International The Gambia (AAITG) also have some internal policies on sexual harassment. Its *Operational Human Resource Organisational Development (HROD) Policy (2019) Revised Edition* defines sexual harassment as the unwelcome physical, verbal or non-verbal conduct of sexual nature. It noted that it is important, when dealing with sexual harassment matters to consider the impact of the action rather than the intent of the accused. The document clearly prohibits sexual harassment and ‘all behaviour and interactions must conform with the respect for dignity of the person and Action Aid’s values.’

Manifestations of harassment can be in the form of abuse of authority or creating a hostile environment for the victim. Viewed from the position of the complainant, thus the intention of the perpetrator becomes irrelevant. Through this policy, AAITG punishes sexual harassment in the following ways: an imposed leave without pay, demotions and dismissal from service. In addition to the HROD Policy, AAITG has a Whistleblowing Policy (June 2019) which provides a mechanism for the enforcement of the organization's rules and principles as well as avenues for reporting suspected wrongdoing. This Policy aims to encourage whistle-blowers to feel confident about raising concerns about relevant wrongdoings; provides avenues for whistle-blowers to report relevant wrongdoings and receive feedback on any action taken; reassures whistle-blowers that they will

¹⁶ P Idoko *et al.* ‘Sexual harassment in urban secondary schools in The Gambia’(2025) 4/Supp.’ (*International Journal of Medical and Applied Sciences*, 130, available at http://www.earthjournals.in/ijmas_669.pdf.

¹⁷ As above, 137.

be protected from reprisals for making a disclosure in accordance with this policy; and displays the organisation's commitment to honest practices, and responsible conduct of its employees, partners and stakeholders, and to recourse should these not be adhered to. The Policy categorises sexual harassment under the wrongful acts and it provides for further sanctions or actions for any form of retaliation against whistle-blowers. For the purpose of natural justice, the Policy provides for an opportunity to be heard and also punishes malicious allegations or those geared towards making personal gains.

Policy Guidelines and Regulations on Sexual Misconduct and Harassment in Gambian Educational Institutions (2004)

The then Department of State for Education adopted a policy in 2004 to address sexual harassment in educational institutions. The policy is intended to provide a framework encompassing procedures and mechanisms to address sexual harassment and misconduct in the education system. The Policy, which is instituted to protect and support all students and personnel of the education system, recognises sexual harassment as 'a serious societal problem' that affects educational institutions at all levels. It applies to all educational institutions and settings in The Gambia and to all students, personnel in the education sector, and members of the public while on any property or premises of the educational system or other educational related settings.

The policy recognises sexual harassment as unwanted, non-consensual sexual behaviour, where one party imposes sexual attention on another unwilling party. It classified varied behaviours as sexual harassment including the following:

- Unwanted sexual advances
- Demands for sexual favours in exchange for favourable treatment
- Threats and demands to submit to sexual requests in exchange for obtaining or retaining any grades/scores
- Sexual invitations, propositions, suggestions, insulting, obscene comments or gestures or other verbal abuse of a sexual nature
- Graphic, verbal commentary about an individual's body, sexual prowess or sexual deficiencies
- Flirtations, advances, leering, whistling, touching, pinching, assault, coerced sexual acts or blocking normal movements
- Any behaviour that creates a hostile or humiliating atmosphere, e.g., criticism of the opposite sex in general

The Policy indicates that disciplinary action should be taken against sexual misconduct when there is sexual contact between any teacher or member of staff

working within the educational system and a student in the school system; between any member of the public and a student in the school system; and between any students within the school system. These penalties include being reprimanded, written record, withholding of promotion, temporary suspension with pay, reassignment, termination of appointment and dismissal or expulsion. Students may be reprimanded, referred for counselling, transfer to another school, suspended or expelled from school.

Generally, the Policy regards sexual harassment and misconduct as abuses of power and authority and a betrayal of trust. It acknowledges imbalance in power relations and status between the perpetrator and victim and thus argues that ‘where a teacher or member of staff engages in sexual misconduct with a student, the teacher/staff shall be held more responsible and, therefore, more culpable than the student, due to the position of relative power and status teachers/staff members hold.’ The Policy makes it mandatory for students, teachers, staff members of the educational system and all those in positions of authority to either report or take appropriate action on cases of sexual harassment or misconduct brought to their notice or known to them.

While this is the only policy adopted by any government sector, there is no indication that the policy is currently been implemented or have ever been revised and updated to address arising issues related to sexual harassment in the workplace.

Media reports

The print media has also raised alarm on the prevalence of sexual harassment in The Gambia. For example, *The Point* reported in October 2020 that sexual harassment is very common and that 86% of this is perpetrated by men.¹⁸ Writing on sexual harassment, the paper noted that the Gambia Press Union is combatting sexual harassment on different levels and have a legal practitioner to help prosecute perpetrators and counsel victims. This stance of the union will go a long way in preventing and addressing sexual harassment within that working environment.

8.6 Methodology

In seeking to answer the research questions, the study used both quantitative and qualitative methods and techniques. A wide range of data collection methods were used. The study combined doctrinal legal methods (such as reading laws and cases) with empirical work such as survey and interviews. Primary sources

¹⁸ CO Bobb ‘Sexual harassment very prevalent in The Gambia’ *The Point* (22 October 2020), available at <https://thepoint.gm/africa/gambia/headlines/sexual-harassment-very-prevalent-in-gambian-media>.

including the Constitution, laws, and policies were critically analysed. Primary data was generally generated through qualitative semi-structured interviews and organisational assessment with key informants including policy makers, heads of private and public institutions, women's and human rights organisations.

In order to understand The Gambia's existing obligations, global and regional human instruments were analysed. These data sources were primarily from the United Nations (UN), African Union (AU), and European Union (EU).

A broad range of secondary materials were also used extensively. These included government reports, survey and census data documents, among others, which are used throughout the study. Documents from non-state organisations were also widely used. Other secondary sources of data include scholarly works: academic books and journal articles as well as newspaper and other media materials. More details about aspects of the research methods are provided in chapter five.

8.7 Outline of chapters

The study is organised into five main chapters. Chapter 1 focuses on the general overview of the topic, outlining the introduction, background, aim and significance of the study.

Chapter 2 discusses the literature review, which primarily focuses on the topic of sexual harassment in the workplace. Literature relating to the definition, who the victim and perpetrators are, the cost and measures to combat sexual harassment in the workplace is discussed.

Chapter 3 focuses on the international and regional treaties including human rights treaties that have a bearing on the development of laws and policies to address sexual harassment in the workplace.

Chapter 4 describes and analyses the national normative framework addressing sexual harassment in the workplace.

Chapter 5 provides details on the research methods, highlighting the type of research, population, sampling procedure, and techniques used to analyse the data. It also gives an overview of some of the most salient ethical considerations that required great sensitivity, given the nature of the focus of this research. The chapter concludes with challenges encountered during the data collection and analysis processes.

Chapter 6 presents the most important findings that emerged from the empirical analysis.

Chapter 7 summarises the study. It discusses the implications of the findings. The chapter concludes by suggesting further research agendas and initiatives to address sexual harassment in the workplace.

CHAPTER 2: CONCEPTUALISING SEXUAL HARASSMENT IN THE WORKPLACE

2.1 Defining sexual harassment in the workplace

Sexual harassment is a complex issue, and a form of Gender-Based Violence (GBV).¹⁹ The European Union (EU) Directive 2006/54/EC, states that “harassment and sexual harassment are contrary to the principle of equal treatment between men and women and constitute discrimination on grounds of sex.”²⁰ There is no single definition pertaining to the definition of sexual harassment, however, there is guidance contained in several documents. For example, the International Labour (ILO) Convention 190 Concerning the Elimination of Violence and Harassment in the World of Work, 2019 recognises the right of everyone to a world of work free from violence and harassment.²¹ The Convention defines ‘violence and harassment’ in the work place to ‘include a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment.’²²

The CEDAW Committee in its *General Recommendation No 19 on violence against women* states that:²³

Sexual harassment includes such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demands, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable ground to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment.

¹⁹ JL Berdahl & C Moore ‘Workplace harassment: Double jeopardy for minority women’ (2006) 91(2) *Journal of Applied Psychology*, 426–436.

²⁰ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006L0054&from=EN> (2006) para 6.

²¹ International Labour Organization (ILO) ‘Violence and Harassment Convention’ C 190, (21 June 2019), available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190.

²² As above, art. 1.

²³ United Nations Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), General Recommendation No. 19, Violence against Women, XI session (1992) para 18.

The European Commission Code of Practice also states that:²⁴

The essential characteristic of sexual harassment is that it is unwanted by the recipient, that it is for each individual to determine what behavior is acceptable to them and what they regard as offensive.

The question this would address is whether a reasonable person, by normal standards of behaviour, would find the behaviour unacceptable? It is opined that the reasonable man test does not adequately provide redress to victims. As Bernstein notes, there is a male-centred approach implicit in the reasonable person test.²⁵ He states that:²⁶

a reasonable person standard implicitly denies that women and men are likely to react differently to sexual invitations, innuendo, teasing, or displays in the workplace.

Generally, any definition of sexual harassment that would require the application of the reasonable man test or a subjective test would likely belittle or minimise the harm of sexual harassment, especially on women as it paints pervasive behaviour as acceptable within professional relations. Its limitation lies in its gender-blindness or gender neutrality approach.

On the other hand, the ECOWAS Supplementary Act Relating to Equality of Rights between Women and Men for Sustainable Development in the ECOWAS Region defines sexual harassment as ‘any action (verbal, physical, gestural, psychological) exerted on a person who is under the authority of another, for the purpose of obtaining sexual favours, and without the consent of the victim.’²⁷

Within the context of The Gambia, section 2 of the Domestic Violence Act, 2013 defines sexual harassment, excluding married couples, as:

sexual contact without the consent of the person with whom the contact is made, repeatedly making unwanted sexual advances, repeatedly following, pursuing or accosting a person or making persistent, unwelcome communication with a person and includes:

(a) watching, loitering outside or near a building where the harassed person resides, works, carries on business, studies or happens to be

²⁴ European Commission ‘Recommendation and Code of Practice: Protection of the dignity of women and men at work’ 92/131/EEC (1991), art 2.

²⁵ A Bernstein ‘Treating Sexual Harassment with Respect’ (1997) 111 *Harvard Law Review* 445.

²⁶ As above, 465.

²⁷ ECOWAS ‘Supplementary Act Relating to Equality of Rights between Women and Men for Sustainable Development in the ECOWAS Region’ (2015), p.15, available at <https://www.cedg.ecowas.int/wp-content/uploads/Supplementary-Act-on-Gender-Equality.pdf>.

- (b) repeatedly making telephone calls or inducing a third person to make telephone calls to the harassed person, whether or not conversation ensues;
- c) repeatedly sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects or messages to the harassed person's residence, school or workplace; and
- d) engaging on any other menacing or threatening behavior.

This definition is broad as it encompasses the elements of the act being unwelcome, verbal or non-verbal, and physical contact. Generally, sexual harassment is unwanted, non-consensual sexual behaviour, where one party imposes sexual attention on another unwilling party.²⁸ It includes physical, verbal and non-verbal harassment. All sexual advances of any kind that take place without consent, including cases where either party is bribed or coerced into engaging in sexual behaviour, is deemed as sexual harassment. While sexual harassment against women and children remains pervasive in homes, communities, on the streets, workplaces and schools, the phenomenon is tacitly tolerated thereby encouraging impunity. The incidents of sexual harassment remain equally underreported due to stigmatisation and victim shaming and lack of protection and support systems in most workplaces including whistle blowing. Even though sexual harassment is prevalent in most countries and is regarded as a human rights violation, very few of them have comprehensive laws prohibiting sexual harassment in all places. National legal and policy frameworks are not only weak in defining and addressing sexual harassment but are also deficient in eliminating the phenomenon through the criminal justice system. The available policies, where they exist, suffer from major limitations in terms of their scope, implementation and enforcement.

Freedom from sexual harassment is a fundamental right associated with personal integrity and dignity. Sexual harassment is characterised by two elements: a hostile environment and *quid pro quo*, which translates to “this for that.”²⁹ On the one hand, *quid pro quo* involves the use of rewards and punishment from a senior person in an organisation to a subordinate.³⁰ Person in authority uses their position and power to ask for sexual favours by means of rewards or punishment. On the other hand, a hostile environment occurs as a result of persistent unwanted sexual attention, characterised by sexual jokes, comments and other behaviours

²⁸ Department of State for Education ‘Policy Guidelines and Regulations on Sexual Misconduct and Harassment in Gambian Educational Institutions’ (2004).

²⁹ See Revised ILO’s Declaration on Fundamental Principles and Rights at Work 2010), available at https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_467653.pdf.

³⁰ PA Grobler *et al* ‘A model for the management of sexual harassment in South African companies’ (2003) 12(1) *Management Dynamics* 36-46.

that make the workplace uncondusive, unwelcoming and unpleasant for the victims.³¹

While the Sexual Offences Act, 2013 (to be reviewed below) deals with sexual violence, it is silent on sexual harassment. The Domestic Violence Act 2013 limits sexual harassment to the domestic setting and does not recognise sexual harassment in marriage.

2.2 Victim and perpetrators of sexual harassment in the workplace

Women are more likely than men to experience sexual harassment.³² This finds premise in the notion that sexual harassment is about “power” that reinforces social inequalities.³³ Typically, sexual harassment is about humiliation and control. It doesn’t occur between equals but in most cases, the perpetrator has greater financial, physical or social power, including the power of reprisal than the victim with the power of reprisal. Studies show that the occurrence of sexual harassment is widespread at the workplace and that in the majority of cases women are harassed by men, although they are reluctant to complain or report for various reasons.³⁴ On understanding the drivers of sexual harassment, the starting point is to understand why men sexually harass women. As noted above, sexual harassment is not primarily motivated by sexual desires, but by power relations. This is largely due to societies being male-dominated and maintain existing power structures. As Date-Bah notes:³⁵

Sexual harassment has more to do with power relations than with sexual interest. For many, it is a form of oppression, victimization or intimidation based on relationships of power and authority. In some instances, abuse of power is linked to hierarchical rank, but in many countries, women’s groups, workers’ and employers’ organizations and government agencies link abuse of power with the traditional status of women in society and observe that when harassed, a person’s identity as a sexual being takes precedence over her identity as a worker.

³¹ D McCann ‘Sexual harassment at work: national and international responses’ (2005) *Conditions of Work and Employment Series No. 2. ILO Working Papers*.

³² JL Berdahl ‘Harassment based on sex: Protecting social status in the context of gender hierarchy’ (2007) 32(2) *Academy of Management Review*, 641–658.

³³ See M Galesic & R Tourangeau ‘What is sexual harassment? It depends on who asks! Framing effects on survey responses’ (2007) 21(2) *Applied Cognitive Psychology*, 189–202.

³⁴ See for example, PJ Foster & CJ Fullagar ‘Why don’t we report sexual harassment? An application of the theory of planned behavior’ (2018) 40(3) *Basic and Applied Social Psychology*, 148–160; LF Fitzgerald & LM Cortina ‘Sexual harassment in work organizations: A view from the twenty-first century’ In JW White & C Travis (eds.) *Handbook on the psychology of women: Perspectives on women’s private and public lives* (2017).

³⁵ E Date-Bah *Promoting gender equality at work: Turning vision into reality for the twenty-first century* (1996) 140.

Sexual harassment is an assertion of patriarchal attitudes within an organization. Patriarchy is “the systematic, structural, unjustified domination of women by men. It consists of those institutions, behaviours, ideologies, and belief systems that maintain, justify and legitimate male gender privilege and power.”³⁶ Power relations are rooted mainly in gender norms, economic and political status. Pulerwitz *et al* explain that gender-based inequalities are societal norms that result in men’s disproportionate power in relationships and society.³⁷ In *The Will to Change*, hooks further argues that:³⁸

Patriarchy is a political-social system that insists that males are inherently dominating, superior to everything and everyone deemed weak, especially females, and endowed with the right to dominate and rule over the weak and to maintain that dominance through various forms of psychological terrorism and violence.

Thus, a focus on power dynamics helps to understand the gendered dimension of sexual harassment in the workplace, drawing attention to those who benefit and those who suffer.

2.3 The cost of sexual harassment

Sexual harassment is associated with negative consequences. These are broadly on health, psychological and work performance, and economic loss. Victims may suffer from depression, low self-esteem, fear and anxiety. Victim’s physical well-being may also be affected, including effects such as physical injuries, high blood pressure, headaches and sleep problems.³⁹ At the workplace, sexual harassment may cause low performance rate and absenteeism.⁴⁰ The major consequence of sexual harassment is that it does not only counter affirmative efforts to enhance women participation in the labour market, but it also constitutes a human rights violation and a prohibited form of sexual violence. It also compromises the dignity, liberty, security of persons and freedom from discrimination of the victim.⁴¹

³⁶ T Braam & L Hessini, ‘The power dynamics perpetuating unsafe abortion in Africa: A feminist perspective’ (2004) 8(1) *African Journal of Reproductive Health*, 45.

³⁷ J Pulerwitz *et al* ‘Measuring sexual relationship power in HIV/STD research’ (2000) 42(7-8) *Sex Roles* 637-660.

³⁸ hooks *The will to change: Men, masculinity, and love* (2004) 17-18.

³⁹ See Sojo *et al* ‘Harmful workplace experiences and women’s occupational well-being: A meta-analysis’ (2016) 40(1) *Psychology of Women Quarterly*, 10-40. See also JD Norman *et al* ‘Sexual harassment in public medical schools in Ghana’ (2013) 47(3) *Ghana Medical Journal*, 128-136.

⁴⁰ See Merkin & MK Shah (2014) ‘The impact of sexual harassment on job satisfaction, turnover intentions, and absenteeism: Findings from Pakistan compared to the United States’ (2014) 3(1) *SpringerPlus* 215.

⁴¹ World Health Organization (WHO) ‘Global and regional estimates of violence against women: Prevalence and health effects of intimate partner violence and non-partner sexual violence’ (2013).

It has been argued that in order to fully understand the harm of sexual harassment, definitions of sexual harassment should also include ‘non-sexual’ forms of the act, which are gender-related, but not of a sexual nature. This allows for acts such as jokes and comments that are not explicitly sexual but contribute to a hostile work environment. This is encompassed in the European Commission Code of Practice, which defines sexual harassment as:⁴²

Unwanted conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work. This can include unwelcome physical, verbal or non-verbal conduct.

This definition reconceptualises sexual harassment and concentrates “on the question of power” which “is at the heart of sexual harassment.”⁴³ The term ‘sexual harassment’ would still be an appropriate legal term even if it entails ‘non-sexual’ forms of conduct.

⁴² European Commission (n 24 above) art. 2

⁴³ S Jagwanth *et al Women and the Law* (1994) 50.

CHAPTER 3: OVERVIEW OF INTERNATIONAL AND REGIONAL STANDARDS

At the regional and international levels, a range of standards to combat workplace sexual harassment have been adopted, including international human rights instruments. The Gambia has signed and ratified international and regional human rights instruments. These include International Covenant on Economic, Social and Cultural Rights (ICESCR),⁴⁴ the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW),⁴⁵ the Convention on the Rights of the Child (CRC),⁴⁶ the Convention on the Rights of Persons with Disabilities (UNCRPD),⁴⁷ and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)⁴⁸ and the relevant International Labour Organisation (ILO) Conventions.⁴⁹

At the regional level, these human rights instruments include the African Charter on Human and Peoples' Rights (African Charter),⁵⁰ African Charter on the Rights and Welfare of the Child (African Children's Charter),⁵¹ the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol),⁵² and the African Youth Charter (AYC).⁵³

⁴⁴ *International Covenant on Economic, Social and Cultural Rights* (1966) (ICESCR). Ratified to by The Gambia on 29 December 1978.

⁴⁵ *Convention on the Elimination of all Forms of Discrimination against Women* (1979) (CEDAW) especially part III. Assented to by The Gambia on 16 April 1993.

⁴⁶ *Convention on the Rights of the Child* (1989) (CRC) especially articles 23-32. Ratified by The Gambia on 9 August 1990.

⁴⁷ *Convention on the Rights of Persons with Disabilities* (2006) (UNCRPD). Signed by The Gambia on 30 March 2007 and ratified on 7 July 2015.

⁴⁸ *Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMW)*, especially articles 27-31. Signed by The Gambia on 20 September 2017 and ratified on 28 September 2018.

⁴⁹ The Gambia has ratified 8 of the fundamental Conventions. These are: *Forced Labour Convention*, 1930 (No 29); *Freedom of Association and Protection of the Right to Organise Convention*, 1948 (No 87); *Right to Organise and Collective Bargaining Convention*, 1949 (No 98); *Abolition of Forced Labour Convention*, 1957 (No 105); *Minimum Age Convention*, 1973 (No 138); *Worst Forms of Child Labour Convention*, 1999 (No 182); *Equal Remuneration Convention*, 1951 (No. 100); *Discrimination (Employment and Occupation) Convention*, 1958 (No. 111). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_INSTRUMENT_S.ORT,P11200_COUNTRY_ID:2.103226#Occupational_safety_and_health.

⁵⁰ *African Charter on Human and Peoples' Rights* (1981). Ratified by The Gambia on 8 June 1983.

⁵¹ *African Charter on the Rights and Welfare of the Child* (1990). It was ratified by The Gambia on 14 December 2000.

⁵² *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* (2003), ratified by The Gambia on May 25, 2005.

⁵³ *African Youth Charter* (2006), ratified by The Gambia on 30 April 2009.

This section provides an overview of a number of international and regional instruments that have bearing on the development of laws and policies to address sexual harassment in the workplace.

3.1 United Nations treaties

3.1.1 The UN Convention on the Elimination of all forms of Discrimination Against Women

This Convention was ratified by the Gambia in 1992 and it requires States Parties to take appropriate measures to eliminate discrimination against women by ensuring equality under the law, in governance and politics, the workplace, education, healthcare, and in other areas of public and social life. It prohibits discrimination on the basis of sex. In Article 2 of CEDAW, States Parties agreed to ‘condemn discrimination against women in all its forms’ and to ‘pursue by all appropriate means and without delay a policy of eliminating discrimination against women.’ Article 11 obligates States Parties to take appropriate measures to eliminate discrimination against women in the field of employment, including healthy and safety working conditions.

The provisions in CEDAW are not comprehensive enough in relation to violence against women generally, as the Convention predated widespread awareness of the issue of sexual harassment.

3.1.2 The Convention on the Rights of Persons with Disability (CRPD)

The Convention on the Rights of Persons with Disabilities (CRPD) was adopted in 2006 and it marked a paradigm shift towards disability rights.⁵⁴ The CRPD is the first legally treaty applicable to persons with disabilities. Article 16 of the CRPD guarantees protection from violence against every person with disability. Article 27 on work and employment provides that in recognizing the rights of persons with disabilities (PWDs), States should ensure just and favourable conditions of work including protection from harassment, and the redress of grievances.

3.1.3 UN Convention on the Rights of the Child (CRC)

The UN Convention on the Rights of the Child (CRC) provides for global protection of the rights of the child. Article 32 of the CRC obliges states to protect children

⁵⁴ AS Kanter ‘The promise and the challenge of the united nations convention on the rights of persons with disabilities’ (2007) 34 *Syracuse Journal of International Law & Commerce* 288.

from exploitation, abuse and exposure to conditions detrimental to their mental, moral and social development. It calls on States to legislate in this regard so as to give effect to the provision. The actions that can be taken by the States to give effect to article 32 include provision of appropriate regulation of the hours and conditions of employment and appropriate penalties or other sanctions to ensure the effective enforcement of the article.

Further, article 34 provides for States to undertake relevant legislative and other measures to protect children from abuse and exploitation. In particular, States are under obligation to punish the inducement or coercion of a child to engage in any unlawful sexual activity. These two provisions speak to the possibility of employers taking advantage of children under their employment or apprenticeship.

3.2 The International Labour Organization (ILO) Conventions

The International Labour Organization (ILO) has addressed sexual harassment in a range of instruments.⁵⁵ In 2019, The ILO *Convention 190 Concerning the Elimination of Violence and Harassment in the World of Work* and its accompanying *Recommendation No. 206* were adopted.⁵⁶ These are ILO's first comprehensive framework to prevent, remedy and eliminate violence and harassment in the world of work, including gender-based violence and harassment. The Convention recognises the right of everyone to a world of work free from violence and harassment, and sets out the obligation to respect, promote and realize this right.

The Convention provides protection for people in the workplace regardless of the type of contract or conditions of service so that interns, jobseekers, applicants and volunteers are protected.⁵⁷ The Convention calls on States to align their legal and policy frameworks with the general rights in the employment world such as the freedom of association, freedom from discrimination as well as the promotion of decent work.⁵⁸ Article 9 of the Convention specifically obliges States Parties to put in place and implement a comprehensive policy on sexual violence and harassment

⁵⁵ See for example, the International Labour Organization (ILO), 'Indigenous and Tribal Peoples Convention,' C 169, (27 June 1989), available at <https://www.minorityforum.info/en/document/oze34keuzgj1t08aoizoajor?page=1>.

⁵⁶ International Labour Organization (ILO), Violence and Harassment Convention, C190, 21 June 2019, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190.

⁵⁷ As above, art 2.

⁵⁸ As above, arts 5 & 6.

in the workplace. This should be done in collaboration with both employers and employee's representatives.

In addition to strengthening the legal and policy frameworks, the Convention requires States to constantly monitor the implementation of the policies and laws addressing sexual violence and harassment and establishing enforcement mechanisms such as courts, tribunals and investigation mechanisms. In order to protect the victims of sexual harassment, the identity and confidentiality of the victims should be protected as much as is practically possible.⁵⁹ Even though The Gambia is yet to ratify this Convention, its provisions on sexual violence and harassment in the workplace are helpful in contextualising the protection afforded to people in the workplace and the enforcement of these protection mechanisms.

3.3 African human rights treaties

3.3.1 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)

At the African region, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) defines violence against women to include 'all acts perpetrated against women which could cause psychological, sexual, psychological or economic harm.'⁶⁰ In ensuring that women enjoy their right to dignity, article 3(4) provides that States have a duty to "adopt and implement appropriate measures to ensure the protection of every woman's right to respect for her dignity and protection of women from all forms of violence, particularly sexual and verbal violence."

Amongst other measures, states parties undertake to adopt such legislative, administrative, social and economic measures as may be necessary to ensure the prevention and eradication of all forms of violence against women.⁶¹ Furthermore, the Maputo Protocol also mandates State Parties to establish accessible services for effective information and reparation for victims of violence against women.⁶² Importantly, article 12(1)(c) and (d) of the Protocol requires States Parties to specifically combat and punish sexual harassment in educational institutions and the workplace, and provide access to counselling and rehabilitation services to victims.

⁵⁹ As above art 10.

⁶⁰ Art 1(j) of Maputo Protocol.

⁶¹ Article 4(2)(b) of Maputo Protocol.

⁶² Art. 4(f) of Maputo Protocol.

Further, article 12(1)(c) and (d) are very important as they respectively provide for the protection of women, specifically girls from all forms of abuse such as sexual harassment in schools and other educational institutions and also provide counselling and rehabilitation services for women victims of abuse and sexual harassment. Article 12(1)(e) further puts an obligation on the Government of the Gambia to integrate gender studies and human rights education in all curricula of education. Furthermore, article 13(c) provides that States are obliged to ‘ensure transparency in recruitment, promotion and dismissal of women and combat and punish sexual harassment in the workplace’. Since treaty obligations must be respected by States, the principle of *pacta sunt servanda*,⁶³ continues to bind The Gambia to its obligations under the Protocol. This means that the Government is legally obliged to take positive measures to see to it that legislation and policies are put in place to fulfill these obligations. These obligations of the State are not limited to women working in the formal sector but extend to those working in the informal sector.⁶⁴

3.3.2 The African Charter on the Rights and Welfare of the Child

Primarily aimed at protecting children, the African Charter on the Rights and Welfare of the Child (African Children’s Charter) provides for a basic framework for states to domesticate and implement provisions of the charter domestically. The Charter is the first comprehensive regional children’s rights treaty specifically dedicated to the protection of children in Africa.

The Charter provides a clear and concise definition of a child as ‘someone below the age of 18 years.’ Article 3 of the African Children’s Charter guarantees the equal enjoyment of the rights and freedoms enshrined without discrimination on any basis, including sex. States are also enjoined to ensure that in all actions concerning children undertaken by any person or authority, the best interests of the child are the primary consideration. In addition, the Charter encompasses children’s right to life, freedom of expression, freedom of thought, conscience and religion, and the right to privacy.

For the purposes of protection from sexual abuse and harassment, articles 15 and 16 of the Charter protect children in workplace from child abuse and torture. Article 27 also obligates State to protect children from all forms of sexual exploitation and sexual abuse.

⁶³ Vienna Convention on the Law of Treaties, 1969, art. 26.

⁶⁴ Art.13(f) of the Maputo Protocol.

3.3.3 African Youth Charter

The African Youth Charter was adopted in 2006. The Charter provides a strategic framework for African States on youth empowerment and development at continental, regional and national levels. The Charter provides for rights, freedoms and obligations youth.

In addition to acknowledging the need to eliminate discrimination against girls and young women, article 23 of the Charter provides for the enactment and enforcement of legislation for the protection of women and girls from all forms of violence, genital mutilation, incest, rape, sexual abuse, sexual exploitation, trafficking, prostitution and pornography, This would cover all forms of sexual harassment including sexual advances to girls in learning institutions and at work have to be prohibited.

3.4 Sub-regional treaties

In 2015, ECOWAS adopted the ECOWAS Supplementary Act Relating to Equality of Rights between Women and Men for Sustainable Development, which all ECOWAS Member states to the promotion of gender equality and equity in all sectors through appropriate policy and legislative formulation and reviews as well as strategy alignment.⁶⁵

Article 23 on gender-based violence obligates Member States to adopt laws prohibiting all forms of gender-based violence and ensure their enforcement. Article 23(b) further requires States to bring perpetrators of gender-based violence, including sexual harassment before a court of competent jurisdiction and punished accordingly.

3.5 Consensus documents

Aside from these regional and international treaties, the following consensus documents including general comments, general recommendations, declarations, resolutions and general guiding principles reiterate and reinforce the need for States to take legislative and policy actions to enhance protection from sexual violence, including sexual harassment.

The Declaration on the Elimination of Violence Against Women defines violence against women under article 2(b) to include sexual harassment and intimidation

⁶⁵ ECOWAS (n 27 above).

at work.⁶⁶ This Resolution encourages the development of penal, civil or other administrative sanctions to eliminate violence against women (Art. 4(d-f)).

The Beijing Declaration and Platform for Action, 1995⁶⁷ serves as an important foundation in the general protection of the rights of women. Paragraph 178 of the Declaration recognises sexual harassment as a form of violence against women and as a form of discrimination, and calls on governments, employers, unions, and civil society to ensure that governments enact and enforce laws on sexual harassment and that employers develop anti-harassment policies and prevention strategies in workplace. Paragraph 113 of the Declaration also indicated that sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution is a form of sexual violence. The Declaration called on States to take effective measures to combat sexual harassment and condemned complacency of States in sexual harassment related matters.⁶⁸

International and regional human rights bodies have gone beyond these consensus documents in addressing sexual harassment through their general comments, general recommendations, and concluding observations. The ESCR Committee noted in *General Comment No 23* that all workers should be free from harassment including sexual harassment.⁶⁹ The Committee further stated that:⁷⁰

A specific definition of sexual harassment at the workplace is appropriate and legislation should criminalise and punish sexual harassment as appropriate. A national policy to be applied in the workplace, in both the public and private sectors, should include at least the following elements: (a) explicit coverage of harassment by and against any worker; (b) prohibition of certain acts that constitute harassment, including sexual harassment; (c) identification of specific duties on employers, managers, supervisors and workers to prevent and, where relevant, resolve and remedy harassment cases; (d) access to justice for victims, including through free legal aid; (e) compulsory training for all staff, including for managers and supervisors; (f) protection of victims, including focal points to assist them, as well as avenues of complaint and redress; (g) explicit prohibition of reprisals; (h) procedures for notification and reporting to a central public authority

⁶⁶ UN General Assembly, Declaration on the Elimination of Violence against Women, 20 December 1993, A/RES/48/104, available at <http://www.refworld.org/docid/3b00f25d2c.html>.

⁶⁷ Programme of Action of the International Conference on Population and Development, Cairo, Egypt, Sept. 5–13, 1994, UN Doc. A/CONF.171/13/Rev.1 (1995).

⁶⁸ This is similar to the call for action in the UN Resolution on Intensification of efforts to prevent and eliminate all forms of violence against women and girls: sexual harassment, 14 November 2018, A/C.3/73/L.21/Rev.1, available at <http://www.world-psi.org/en/first-un-resolution-sexual-harassment>.

⁶⁹ ESCR Committee 'General Comment No. 23 on the Right to just and favorable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights)' 27 April 2016, para 48, available at <https://www.refworld.org/docid/5550a0b14.html>.

⁷⁰ As above.

of claims of sexual harassment and their resolution; (i) provision of a clearly visible workplace specific policy, developed in consultation with workers, employers and their representative organizations, and other relevant stakeholders such as civil society organizations.

The CEDAW Committee has adopted several general recommendations on gender-based violence, that addresses sexual harassment.⁷¹ For instance, in its *General Recommendation No 19 on Violence against Women*, the Committee acknowledged that equality is difficult to attain when women face sexual harassment in the workplace.⁷² The Committee further obligated States to introduce legal and other measures to protect women from sexual harassment and other forms of violence of coercion in the workplace.⁷³

At the global level, the UN *Guiding Principles on Business and Human Rights (2011)* provides guidance for States and companies to prevent, address and remedy human rights abuses committed in business operations.⁷⁴ The guidelines help in the implementation of UN's 'Protect, Respect and Remedy Framework' within businesses. Grounded on State obligations to respect, protect and promote human rights, these guidelines lay down a framework for states and businesses to follow in order fulfil their international obligations.

The guidelines urge States to strengthen legal mechanisms to protect all people from violence and harassment, including in the world of work. Further, the Principles provide that businesses have a duty to respect human rights so that all forms of violence at work, including verbal and, or physical abuse and sexual harassment is prohibited. Businesses are also called upon to conduct gender-

⁷¹ See for example: UN Committee on the Elimination of Discrimination Against Women (CEDAW), *General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, 16 December 2010, CEDAW/C/GC/28, available at <https://www.refworld.org/docid/4d467ea72.html>; Committee on the Elimination of Discrimination Against Women (CEDAW), *General recommendation No. 35 on Gender-based Violence against Women, Updating General Recommendation No. 19*, (14 July 2017), CEDAW/C/GC/35, available at https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf; UN Committee on the Elimination of Discrimination Against Women (CEDAW), *General Recommendation No. 26 on Women Migrant Workers*, (5 December 2008), CEDAW/C/2009/WP.1/R, available at https://www2.ohchr.org/english/bodies/cedaw/docs/GR_26_on_women_migrant_workers_en.pdf; and UN Committee on the Elimination of Discrimination Against Women (CEDAW), *General Recommendation No. 24: Article 12 of the Convention (Women and Health)*, 1999, A/54/38/Rev.1, chap. I, available at <https://www.refworld.org/docid/453882a73.html>.

⁷² UN Committee on the Elimination of Discrimination, *General Recommendation No. 19: Violence against women*, 1992, available at https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_3731_E.pdf.

⁷³ As above, para 24.

⁷⁴ UN 'Guiding Principles on Business and Human Rights' (2011), available at https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr_en.pdf.

specific due diligence based on the nature of the investment or activity, the sector, national or local context, working conditions and women’s human rights. This will help businesses control and remedy possible breaches of anti-harassment policies and rules. In addition, principle 3 of the UN *Global Compact on Women’s Empowerment Principles* calls on States establish a “zero-tolerance policy towards all forms of violence at work, including verbal and/or physical abuse, and prevent sexual harassment.”⁷⁵

At the regional level, the African Commission adopted *Resolution 111 on the Right to a Remedy and Reparation for Women and Girls Victims of Sexual Violence (2007)*.⁷⁶ The Resolution condemns all forms of sexual violence against women and urges African States to criminalise all forms of sexual violence. Thus, in addition to implementing the provisions of the Maputo Protocol on sexual harassment, the Government of The Gambia is obliged to put in place mechanisms that will ensure the protection of women from sexual harassment in the workplace and ameliorate its effects.

The African Commission also adopted the Guidelines on Combating Sexual Violence and its Consequences in Africa (Niamey Guidelines) during its 60th Ordinary Session held in Niamey, Niger from 8 to 22 May 2017.⁷⁷ The premise of the drafting of the guidelines was based on Resolution 365 of 2017, which empowered the Special Rapporteur on the Rights of Women to develop such a guideline. Thus, the goal of the Niamey Guidelines is to guide and support the Member States of the African Union (AU) in effectively implementing their commitments and obligations to combat sexual violence and its consequences. The Niamey Guidelines are designed as a tool to offer a methodology to African States and to serve as the foundation for an adequate legal and institutional framework. They offer a set of practical, specific and concrete measures, and were developed pursuant to Article 45(1)(b) of the African Charter, which gives the African Commission a mandate to create and draft the principles and regulations relating to human rights, which African governments may use as the basis for their domestic legislation.

The guidelines further provide for an elaborate definition of sexual violence and strategies to eliminate the phenomena. It requires States to conduct campaigns to

⁷⁵ UN Global Compact & UNIFEM, Women’s Empowerment Principles: Equality Means Business, March 2010, available at https://www.un.org/en/ecosoc/newfunc/pdf/womens_empowerment_principles_ppt_for_29_mar_briefing-without_notes.pdf (last visited 15 November 2019).

⁷⁶ African Commission on Human and Peoples’ Rights, ‘Resolution 111 of 2007 on the Right to a Remedy and Reparation for Women and Girls Victims of Sexual Violence’ (2007), available at <https://www.achpr.org/sessions/resolutions?id=163>.

⁷⁷ Niamey Guidelines (n 4 above).

raise awareness, by paying particular attention to the most vulnerable populations, about the causes of sexual violence, the different forms it takes and consequences. These campaigns must address the root causes of sexual violence, combat gender-based stereotypes, raise awareness of the unacceptable nature of this violence, and help people to understand that it represents a grave violation of the rights of victims, especially those of women and girls. It also requires that States ensure protection of victims of sexual abuse or harassment through creation of reporting mechanisms with psychosocial support and access to medical and reproductive health.

Significantly, it requires that States ensure protection of victims of sexual abuse or harassment through creation of reporting mechanisms with psychological support and access to medical and reproductive health. The Guidelines also urge employers to implement a zero-tolerance policy to sexual violence generally and sexual harassment in particular. This covers both public and private sectors. Another important aspect of the Guidelines is its call for States to align their domestic legislation with their international obligations. This entails not only legislating on the various commitments but also putting in place policies to realise the aspirations of international obligations. The Guidelines also further encouraged prosecution in the absence of evidence corroborating the victim's testimony.

CHAPTER 4: LEGAL ANALYSIS OF DOMESTIC LAWS AND POLICIES

The Gambia has enacted a number of laws that address sexual violence and discrimination. This section presents an in-depth analysis of domestic laws and policies in The Gambia.

4.5 Laws

4.5.1 The 1997 Constitution of The Gambia

The 1997 Constitution of The Gambia does not explicitly have a provision against sexual harassment. One of the fundamental protections that must be provided for in the laws for the protection of persons from sexual harassment is the right to dignity,⁷⁸ as this is broad enough to provide protection from demeaning conduct such as sexual harassment. In this regard, section 28 of the Constitution provides for women to be ‘accorded full and equal dignity of the person with men.’ The provision also affords equal treatment between men and women. Since women suffer a disproportionately greater share of sexual harassment, this provision can be used as a shield to protect women from harassment through declarations and enforcement of the right by the courts. Further, section 33 of the Constitution provides for non-discrimination on grounds such as gender and for equality of all people before the law. Read together with section 28, the anti-discrimination provision provides for a cushion for the protection of women from sexual harassment.

Section 163 of the Constitution establishes the Office of the Ombudsman. The Ombudsman Act, 1997 subsequently set up the office of the Ombudsman as an independent public institution. The role of the Office of the Ombudsman is to ensure fair and good administration in government departments, and other public bodies.

Section 163 (1) of the 1997 constitution and section 3 (1) and (2) of the Ombudsman Act 1997 outline the functions of the Ombudsman. They are as follows:

⁷⁸ Niamey Guidelines (n 4 above).

- a) To investigate complaints of injustice, corruption, abuse of power, maladministration, mismanagement, discrimination and unfair treatment of any person by a public officer in the exercise of official duties;
- b) To investigate complaints concerning the functioning of the Public Service Commission, the administrative and security organs of the State, the Police Service and Prisons Service in so far as the complaints relate to the failure to achieve a balanced structuring of those services or equal access by all to the recruitment to those services or fair administration in relation to those services;
- c) To recommend appropriate action or steps to call for or require the remedying, correction and reversal of matters or instances complained of;
- d) To inform the complainant of the outcome of the investigation carried out.

Even though there is no specific mention of sexual harassment in the Act, among the functions of the office under section 3 of the Act is to ‘investigate complaints of injustice, corruption, abuse of power, maladministration and unfair treatment of any person by a public officer in the exercise of his or her official duties.’ In the exercise of these functions, the Ombudsman can receive and investigate conduct that may amount to sexual harassment in the public workplaces. This is because sexual harassment is not only unjust but also an abuse of authority if it comes from a superior to a junior officer. Even though the Office is not judicial in nature, it can provide for accountability and a means to discipline public officers. After conducting an inquiry, the office submits its findings and recommendations to the President pursuant to section 13 of the Act for appropriate action.

4.5.2 The Criminal Code

The Criminal Code⁷⁹ is the principal penal legislation in The Gambia. Despite the presence of some undesirable colonial provisions,⁸⁰ the Code has undergone significant amendments to cater for emerging issues. It also maintains the possibility of punishing persons found guilty of offences against the Common law.⁸¹ It also has specific provisions criminalising assault and trespass on the bodily integrity of the person. Section 90(1) of the Criminal Code on abuse of office states:

A person who being employed in the public service does or directs to be done, in abuse of the authority of his or her office, any arbitrary act prejudicial to the rights of another, commits a misdemeanor.

⁷⁹ Act 25 of 1933 (as amended).

⁸⁰ See also HF Morris ‘A history of the adoption of codes of criminal law and procedure in British Colonial Africa, 1876-1935,’ 18(1) *Journal of African Law* (1974) 20-23.

⁸¹ See sec 2(a) of the Criminal Code.

While it can be deduced that perpetrators of sexual harassment in public workplaces can be prosecuted under this section, it is subjected to the approval of the Attorney-General.⁸² This presents a hurdle as bureaucratic procedures may prolong the prosecution or even prevent the same where the Attorney General declines to give his or her approval for whatever reasons. Equally, section 90 (1) is limited to the conduct of employees in the public service.

Further, section 126(1) of the Criminal Code also prohibits indecent assault on females. A person who is found guilty under this section is liable on conviction to imprisonment for a term of two years. In the same vein, Section 126(3) of the Criminal Code criminalises acts intended to insult the modesty of females either verbally or through gestures. It stipulates that any person who, using ‘any utterance, sound or gesture or the use of objects intending these to be heard or seen, or intrusion of the privacy of the woman, commits a misdemeanour and is liable on conviction to a term of one-year imprisonment.’ Since sexual harassment is a direct affront to the modesty or morality of persons, this section becomes relevant for prosecuting perpetrators. Looking at the various definitions of sexual harassment, it is reasonable to conclude that sections 90(1) and 126(1) can be relied on to prosecute perpetrators in line with the State’s positive obligations to protect human rights.

Chapter XXIV of the Code also prohibits assaults of various kinds. Of relevance, however, is sections 227 and 228 of the Code, which prohibit common assaults and assault causing actual bodily harm. Since sexual harassment can involve assault, these two provisions can be instrumental in prosecuting harassment which also involves physical bodily contact such as indecent touching, coercive sexual contact and other physical assaults. If it is assault occasioning actual bodily harm, a person adjudged to be guilty is liable for an imprisonment term of five years while common assaults carry just one-year imprisonment. If institutions and organisations are committed to bringing perpetrators to book, even in the absence of internal mechanisms, sexual assailants can be reported to the police for prosecution.

Harassment can also come in the form of stalking, pestering or intimidation of a victim. This may be done in an effort to compel the victim to do or abstain from doing a particular act. In this regard, section 243 of the Criminal Code is of relevance. Under sub-section b, ‘any person who persistently follows another person about from place to place’ without legal authority or intimidates another person commits an offence and is liable on conviction to a fine not exceeding 200 Dalasis or to imprisonment for a term not exceeding three months. Even though

⁸² Sec 90(3) of the Criminal Code.

this provision presents an opportunity to prosecute harassment through stalking or intimidation, the punishment is extremely light as 200 Dalasis can easily be paid by a convict. The court also has the discretion to give a lesser fine. The alternative to this punishment is a prison term of three months. Considering the impact that sexual harassment has on the victims, there is a need for the revision of the penalties attached to this crime.

4.5.3 The Women's Act, 2010

In order to domesticate the Maputo Protocol and CEDAW,⁸³ The Gambia enacted the Women's Act in 2010.⁸⁴ This legislation is the most elaborate law in the protection of the rights of women in The Gambia. The second part of the Act is entirely dedicated to the protection of the rights of women. As such, the basic rights to dignity, security of the person, secure and equal protection of the law, non-discrimination, are all protected. In particular, section 4 of the Act entitles every woman to the protection of her dignity. A generous interpretation of this provision covers a wide range of acts or omissions that may impact on the dignity of a woman. Principally, harassment and other indecent acts towards employees or other female colleagues at work may be a violation of this provision.

Further, section 6 of the Act provides for the protection of women against any form of physical, sexual, psychological or economic harm in private or public life. Sections 6(3) and 14 of the Act place a positive obligation of the Government of The Gambia to take appropriate measures to protect and promote the rights of women and to protect them from any form of violence or abuse. In fulfilling the obligations under these provisions, the State is required to not only put in place measures or policies against sexual harassment but also to prosecute perpetrators of this act. Part V of the Act makes provision for the protection of women in employment. Section 16 of the Act generally prohibits discrimination against women in employment. But since sexual harassment in the workplace fall within the things that women should be protected from under this part, female victims can rely on it for protection. Section 17 guarantees the right of every woman to free choice of profession and employment and to promotion and job security. Section 18 further provides for equal remuneration, and equal treatment in respect of value and quality of work. However, generally this part of the Act does not provide any specific protection from sexual harassment in the workplace. Similar to the Maputo Protocol, section 26(2)(d) further obligates the Government of The Gambia to provide counselling and rehabilitation services to women who

⁸³ See generally, S Nabaneh 'The impact of the African Charter and the Maputo Protocol in The Gambia' in Victor Ayeni (ed) *The impact of the African Charter and Maputo Protocol in selected African States* (, 2016).

⁸⁴ Act 12 of 2010.

suffer abuses and sexual harassment. The provisions of the Women's Act are enforceable before the High Court of The Gambia,⁸⁵ but owing to poor litigation before the courts, these provisions remain untested and largely unenforced.

Equally, although the Women's Act is a progressive legislation in terms of safeguarding the rights and welfare of women, it is however not suited to combat sexual harassment due to its lack of mechanisms such as appropriate psychosocial support for victims of sexual abuse and the fact that it does not explicitly mention or address sexual harassment in the workplace and other settings, and also subsumes sexual harassment as part of violence against women.

4.5.4 The Sexual Offences Act, 2013

The Sexual Offences Act, 2013⁸⁶ was enacted in order to amend the law and procedure relating to rape and other sexual offences in The Gambia. As noted by Nabaneh:⁸⁷

The Act addresses the most common sexual offences and provides for punitive measures. This Act provides protection against sexual crimes against all persons especially vulnerable groups, including women, children and people who are mentally and physically disabled. The Act is applicable to the crime of rape and other sexual offences.

It provides a much-needed adjustment in the trial and prosecution of sexual offences such as the abolition of the 'cautionary rule,' which required courts to treat the evidence of a victim of rape or sexual violence with caution in the trial of rape cases. Under this Act, 'a court shall not treat the evidence of any complainant in criminal proceedings at which an accused is charged with an offence of a sexual or indecent nature with special caution because the accused is charged with any such offence.'⁸⁸ This effectively abolished one of the impediments to prosecution of sexual offences which required the courts to be 'cautious' when hearing the testimony of a complainant. It also calls on governments on the continent to legislate on procedural processes that will protect victims of sexual violence. The Gambia has, through the Sexual Offences Act, 2013 made a significant stride in this direction when it abolished the cautionary rule, which required courts to treat with caution the evidence of victims of sexual violence. This is in line with the Niamey Guidelines, which calls on African States to legislate on procedural processes that will protect victims of sexual violence.

⁸⁵ As above, sec 12.

⁸⁶ Act 15 of 2013.

⁸⁷ Nabaneh (n 6 above) 82.

⁸⁸ Sec 7 of the Sexual Offences Act

It is important to note that the Act does not have specific provisions against sexual harassment in any form. Even under the interpretation section⁸⁹ of the Act, ‘sexual Act’ does not cover a good number of the forms of sexual harassment that are prevalent in workplaces.

4.5.5 Domestic Violence Act, 2013

The Domestic Violence Act, 2013⁹⁰ was principally enacted to provide protection for victims of gender-based violence in the domestic setting. The Act under section 2 defines sexual harassment as a sexual contact, excluding between husband and wife, without the consent of the person with whom the contact is made. Sexual harassment in the definition above includes watching, loitering around the victim, making unwanted phone calls, sending unwanted messages and engaging in any other form of menacing or threatening behaviour. This definition is not broad enough to cover a majority of the forms of sexual harassment given that the Act is enacted to combat domestic related gender violence and abuse in the domestic setting, Therefore, the application of the provisions is limited in scope. One of the aspects of work-related harassment that is provided for pertains to those that may be faced by house helps or domestic workers under section 16(1)(h) where house help is included in the definition of domestic relationship, hence protected from sexual harassment and violence by the employer or the employer’s family. Since section 15(c) of the Act defines domestic violence as including sexual harassment and intimidation, a house help is protected from harassment and domestic violence and sexual harassment of a house help is punishable under the Act. This provision is important because even the Labour Act, 2007, to be reviewed below, does not accord domestic workers any help in terms of labour rights and protection from sexual abuse. While the scope of this study does not cover the informal sector, the Committee on Economic, Social and Cultural Rights (ESCR Committee), overseeing the implementation of the International Convention on Economic and Social Rights (ICESCR), in *General Comment No. 23 on the Right to Just and Favorable Conditions of Work*⁹¹ have expounded on their rights. The Committee stated that:

The vast majority of domestic workers are women. Many belong to ethnic or national minorities or are migrants. They are often isolated and can be exploited, harassed and in some cases subject to slave-like conditions, notably for live-in domestic workers, frequently without the right to join trade unions nor the freedom to communicate with

⁸⁹ As above, sec 2.

⁹⁰ Act 14 of 2013.

⁹¹ ESCR Committee (n 69 above).

others. Due to stereotyped perceptions, the skills required for domestic work are undervalued and, as a result, it is among the lowest paid occupations.

In sum, domestic workers have the right to protection against abuse, harassment and violence.

In addition, section 4 of the Domestic Violence Act also establishes an Advisory Committee to monitor and make recommendations to the Government on domestic and gender-based violence. The Committee is mandated to conduct research on international and regional standards and developments for dealing with matters of gender-based violence. However, this Committee has not been set up. It is vital that advisory committee is operationalised to ensure effective oversight of the Act.

4.5.6 The Children's Act, 2005

This Act was enacted in 2005 in order to consolidate the laws governing children in The Gambia. In accordance with international laws governing children, the Act makes it mandatory for all institutions, in all matters regarding children, to make paramount consideration of the best interest of the child.⁹² In considering this best interest of the child, courts, institutions and any public or private body should take into consideration the child's physical and emotional wellbeing. While the Act does not have any specific provision, which protects children from sexual harassment in the workplace, it prohibits child abuse which it defines as 'contravention of the right of the child which causes physical or mental harm to the child' under section 2. Thus, the Children's Act 2005 broadly and generally protects children below the age of 18 years from sexual harassment in the workplace

Further protection is provided in section 41 of the Act, which prohibits any form of exploitative labour of children. However, since section 43 of the Act allows for children aged 16 and above to be involved in light work and section 51 legalises apprenticeship of children from 12 years and above, these children are at serious risks of harassment in these places. Thus, comprehensive domestic legislation and policy protecting these children are a necessity and an obligation on the State. Section 47 of the Act punishes contraventions of the provisions on protection of children against exploitative labour with a fine not exceeding 50,000 Dalasis or imprisonment term not exceeding three years. This makes it possible to institute legal action against perpetrators.

Additionally, one of most significant provisions protecting children from exploitation is embedded in section 58 of the Act. It provides for a general

⁹² Act 5 of 2005, sec 3.

framework against exploitation or any other form of conduct prejudicial to the interest of the child. It is therefore argued that that this blanket protection covers all forms of sexual violence including harassment that may be meted out on child employees by employers or other employees. Part V of the Act also places the main responsibility to protect and promote the best interest of the child on the Government⁹³ and also puts a duty on members of society to report any infringement of rights of the child to the authorities. Though commendable, these provisions are inadequate to properly protect children from sexual harassment and other abuses that may come their way in the workplace.

4.5.7 The Labour Act, 2007

The long title of the Labour Act, 2007⁹⁴ indicates that the legislation was enacted ‘to provide for the administration of labour, the recruitment and hiring of labour and for labour connected matters.’ Consequently, the industrial tribunal was created to hear and determine labour related matters. According to section 3, the Act is applicable to men and women workers alike except civil servants, the Army, Navy, Security Agencies, domestic workers and employee who is a member of the employer’s household living in the house of the employer. This provision excludes the protection of domestic workers, majority of whom are women and girls.

The Act is silent on the issue of sexual harassment in the workplace. Of its 146 substantive provisions, there is none on sexual harassment. Considering ILO’s strong stance against sexual harassment in the workplace, it is reasonable to expect that the Labour Act, which is the principal law regulating labour in The Gambia, should provide for protection of employees from sexual harassment in the workplace.

Recently there are efforts geared towards revision of the Act. The Draft Labour Bill 2020 is at the cabinet level. In the Draft Bill, section 180 on sexual harassment states that:

- (1) An employee is sexually harassed if his or her employer or a representative of that employer or a co-employee —
 - (a) directly or indirectly requests that employee for sexual intercourse, sexual contact or any other form of sexual activity that contains an implied or express —
 - i. Promise of preferential treatment in employment;

⁹³ As above, sec 66(1).

⁹⁴ Act 5 of 2007.

- ii. threat of detrimental treatment in employment; or
- iii. threat about the present or future employment status of the employee;

(b) uses language whether written or spoken of a sexual nature;

(c) uses visual material of a sexual nature; or

(d) shows physical behaviour of a sexual nature which directly or indirectly subjects the employee to a behaviour that is unwelcome or offensive to that employee and that by its nature has a detrimental effect on that employee's employment, job performance, or job satisfaction.

(2) An employer who employs twenty or more employees shall, after consulting with the employees or their representatives if any, issue a policy statement on sexual harassment.

(3) The policy statement required under subsection (2) may contain any term the employer considers appropriate for the purposes of this section and shall contain —

(a) the definition of sexual harassment as specified in subsection (1);

(b) a statement —

- i. that every employee is entitled to employment that is free of sexual harassment;
- ii. that the employer shall take steps to ensure that no employee is subjected to sexual harassment;
- iii. that the employer shall take such disciplinary measures as the employers deems appropriate against any person under the employer's direction, who subjects any employee to sexual harassment
- iv. explaining how complaints of sexual harassment may be brought to the attention of the employer; and
- v. that the employer will not disclose the name of a complainant or the circumstances related to the complaint of any person except where disclosure is necessary for the purpose of investigating the complaint or taking disciplinary measures in relation thereto.

(4) An employer shall bring to the attention of each person under the employer's direction the policy statement required under subsection (2).

The provision on sexual harassment in the Draft Labour Act, 2020 is quite progressive, if it is eventually enacted by the National Assembly. The need to revise the Act to include protection measures on sexual harassment is made even more necessary owing to anecdotal evidence on the prevalence of sexual harassment incidents in The Gambia.

Generally, while there are progressive laws, there have not been a court case relevant to the protection of persons from sexual harassment in the workplace. The lack of litigation has been attributed to general ignorance, fear of backlash, culture of silence from the people and stigmatisation.⁹⁵

4.6 National Policies

National policies contain action plans of the State in implementing targeted plans. States are encouraged to strengthen their action plans in order to properly combat sexual violence in all forms.⁹⁶ The Gambia has several policies in place targeting diverse sectors.⁹⁷ Despite the obligation to ‘implement effective and coordinated domestic public policy, focused on the rights of victims, to prevent and combat sexual violence and its consequences’⁹⁸, specific policy comprehensively addressing general sexual violence or specifically sexual harassment is not in place. This leaves employees looking to broad provisions and policies addressing the issue to seek redress, if any. Even though there is no policy specifically addressing sexual harassment in the workplace, the following selected policies bear some relevance.

4.6.1 The National Gender Policy, 2010-2020

The National Gender Policy of the Ministry of Women’s Affairs ‘provides a legitimate point of reference for addressing gender inequalities at all levels of government and by all stakeholders.’ The Policy, which attempts to increase awareness, participation and decrease stereotyping and discrimination, also caters for awareness creation on sexual harassment, and the creation of conducive environment for learning institutions to report abuse and sexual harassment.

The six themes covered by this policy are gender and education; gender and health; gender and sustainable livelihoods development; gender and good governance;

⁹⁵ NHRC (n 11 above) 6.

⁹⁶ ILO Convention 190 (n 56 above) art 4(2).

⁹⁷ For comprehensive policies of Government Ministries, see Department of Strategic Policy and Delivery ‘Compendium of government policies’ Vol 1 (2021).

⁹⁸ Niamey Guidelines (n 4 above) 67.

gender and human rights and poverty reduction and economic empowerment. Under these themes, the policy was aimed at among other things enactment of laws against all forms of gender-based violence by 2020.⁹⁹ If implemented properly, it would have fulfilled the Gambia's undertaking to combat gender-based violence.¹⁰⁰ The enactments on sexual violence and other sex related crimes do not adequately cater for sexual harassment in the workplace. Thus, the target for enacting adequate laws in the regards has failed.

4.6.2 The National Development Plan (NDP), 2018-2021

The National Development Plan (NDP), 2018-2021 represents the blueprint of the Government of the Gambia. The policy recognises, among other things, the continuing challenges that gender equality and women's empowerment continue to face in Gambian society. With the NDP, the Government's vision is for citizens to enjoy a standard of living and access to basic services to enable them to lead decent and dignified lives; youth, women, children realize their full potential, a nurturing and caring environment exists for the vulnerable; and there is an enabling environment for our private sector to thrive'. Even though there is nothing specifically addressing the issue of sexual harassment in the eight priority areas, the seven-complementing cross-cutting enablers in the NDP include 'Empowering the Gambian Woman to realize her full potential'. Under this head, the Government promises to embark on legislative reforms in order to enhance the participation and representation of women in decision making, gender equity and equality and gender-based programmes in order to reduce violence. As we have already seen above, sexual harassment is a form of sexual violence and an obstacle to women empowerment.

4.6.3 The National Youth Policy, 2019-2028

The National Youth Policy, 2019-2028 recognises the alarming rate of sexual harassment that youth particularly female youth in the workplace face. Physical violence and abuse and work exploitation also remains a major concern. In this respect, this National Youth Policy seeks to protect and promote the interests and aspirations of young women so as to restore their dignity and motivate them to contribute as equal partners in nation building. The Policy therefore seeks to eliminate all forms of discriminatory practices against the employment of females in all sectors of the national economy, in both public and private sectors. In order to achieve this, the Government has to put in place mechanisms to combat sexual

⁹⁹ Gender policy (2010-2020) 12.

¹⁰⁰ See the AU Solemn Declaration on Gender Equality in Africa (2004).

harassment in the workplace as it continues to disproportionately impact youth, especially young women.¹⁰¹

4.6.4 National Education Policy, 2016-2030

The National Education Policy, 2016-2030 provides a comprehensive roadmap for the education sector in the years covered. Even though there are separate Ministries responsible for basic and secondary education on the one hand and tertiary education on the other,¹⁰² this policy integrates both areas and deals with them as a single education sector. It recognises some of the obstacles that students, especially females, face. These include dropping out of school, and early marriages. The policy reiterates the need to use anti-harassment measures and the creation of disciplinary committees to take necessary measures against persons found wanting in sexual harassment and other punishable sexual conduct of persons within the education sector. Even though the policy did not specify its target group for the purposes of addressing sexual harassment in the sector, it is believed that it can be used to take disciplinary action against persons harassing students, teachers and other staff in the sector.

¹⁰¹ National Youth Policy (2019-2028) 23.

¹⁰² Ministry of Basic and Secondary Education and the Ministry of Higher Education, Research, Science and Technology respectively.

CHAPTER 5: RESEARCH METHODS

5.1 Inception Phase

During the inception phase, the research team employed a number of strategies to refine the study methodology. The consultant engaged with key staff member of the NHRC and conducted desk review. The meetings and engagement with NHRC were designed to reflect on the methodology and identify potential documents. Equally, given the sensitive nature of Sexual Harassment, the inclusions of sensitive topics were also discussed. Relevant information gathered was used to inform the research design and survey instruments.

This study was undertaken in three phases each with separate objectives. The first phase was the inception phase which involved refining the methodology; developing data collection tools and laying the groundwork for data collection. The data collection, which was the second phase saw the recruitment and training for field enumerators, collecting and processing of both quantitative and qualitative data. The third and final phase involved the analysis of data and drafting the report.

5.2 Study design

This study on sexual harassment in the workplace employed a mixed method approach, which involved the use of multiple methods to collect data and enhance validity and reliability of findings. The study collected 123 quantitative responses from individuals 18 and above and employed. Qualitative data was collected through key informant interviews and series focus group discussions. The data was triangulated to answer the main research questions that seek to understand awareness, prevalence, perceptions and attitudes towards workplace harassment in The Gambia. As the first major report on the issue of sexual harassment in workplace, an exploratory approach was adopted in order to gather as many relevant information as possible. The objective of the research design was to collect a baseline for future and more expansive studies.

Certain considerations including gender and inclusion of people from different workplace environment were given. However, due to time and scope of the assignment not all types of industries were considered.

5.3 Sampling

The quantitative data entailed random selection of individual respondents in workplaces visited by the trained enumerators from the 25 January to 8 February 2021. The field team worked closely with the NHRC who prepared support letters that enabled the team to walk into various offices to randomly select respondents.

The primary consideration was to collect 150 responses (50 from the public sector, private sector and civil society respectively). However, the team ended up administering 123 questionnaires. Employees that participated in the study were randomly selected representing these broad institutions or organisations:

- Civil Service
- Private Sector (Including Banking and Financial; Retail and Textile and Information Communications and Technology)
- Civil Society Organisation
- Security Sector
- NGO/INGO
- International Organisations (including UN Agencies)
- Academia
- Informal sector (including nightlife industries such as restaurants, bars and nightclubs)
- Workers' unions

5.4 Data collection

5.4.1 Quantitative method

The fieldwork procedures followed the generally accepted standards and ensured protection of confidentiality and minimized risks to respondents. Four (4) enumerators and one (1) supervisor were recruited and trained for a day. They were recruited from a pool of data collectors that the Center for Research and Policy Development have previously trained and conducted many national surveys.

The one-day training workshop for the enumerators and supervisors was held to familiarise them with the study's objective, the field protocols, respondent

selection procedure and the content of the questionnaire. The importance of voluntary participation, provision of informed consent and confidentiality were a key focus of the training. At the end of the day, the research instruments were pre-tested. Upon completion of the training, the enumerators were deployed to administer the questionnaires to workers in the three sectors: public officials, those that work in the private sector (for example banking sector) and those that are in civil society. The survey present questions aimed at determining the prevalence, nature, reporting and impact of sexual harassment for workers in these sectors (disaggregated by gender). This was done over an 8-day period.

The survey presented questions aimed at determining the prevalence, nature, reporting and impact of sexual harassment for workers in these sectors (disaggregated by gender). Questionnaires were either self-administered, completed online or trained enumerators interviewed participants in their places of work, see Annex 1. This was done over an 8-day period.

5.4.2 Qualitative methods

Interviews with 15 key informants were conducted with head of institutions or their representatives in the three sectors. Equally, 2 Focus Group Discussions (FGDs) were organised with members of civil society and the private sector, specifically the Bankers Association. Both meetings took place via zoom, as time was too short and also to observe the COVID-19 guidelines and measures. The first FGD had six participants from different youth and women organisations, who also hold full or part time positions at public or private organisations. Participants were selected based on the type of organizations they represent, and how well they can contribute to the discussion. They were asked a set of questions to gauge and analyse their understanding of the concept of sexual harassment and their views on the factors around it. The second FGD was organised with the support of the Banker's Association. The FGD also had six participants who were made of Human Resources Managers at major banks in the country. Structured Interview Guides (see Appendices x and x) were used for collecting data from target groups and key informants. For purposes of this study, the discussion interviews were conducted by trained researchers who took notes instead of recording given the sensitivity of the issue.

5.5 Data analysis

After the primary data was collected, it was inputted into excel and analysed through tableau. The data visualization tool was used to generate descriptive

frequency statistics such as percentages to summarise the key thematic areas¹⁰³ This mainly includes average percentages or summaries of possible events drawn from the filled questionnaires. The results are presented in graphical format.

For the key informant and FGDs data, content analysis was applied. The content analysis of the qualitative data was done in the following steps: transcribing, reading, coding, reducing, displaying. Transcripts based on the research questions were coded. Emerging codes were reviewed and refined for consistency. The data presented in this study is anonymised.

5.6 Ethical considerations

A letter of introduction was obtained from the NHRC that enabled the team to walk into various offices to randomly select respondents.

Participants were informed that the study was voluntary, and anyone could choose not to participate if they felt uncomfortable with the nature of the questions posed. They were assured that the information was treated with confidentiality. To ensure confidentiality, the participants' names or identities were not revealed. From 25 January to 8 February 2021, trained enumerators administered the questionnaires to individuals in their workplaces as well as the availability of the survey online.

Fieldwork was done while observing and ensuring standards of safety and adherence to COVID-19 guidelines and measures. The goal was to ensure that the field team, respondents, and the general public are protected by minimising exposure to the risk of infection that might be associated with our data collection activities.

5.7 Limitations of the study

There are notable strengths to this baseline study. We included a good sample size and trained experienced enumerators to collect data thus minimizing potential errors and biases. We obtained a considerable secondary data to help triangulate findings.

However, there are also several limitations to the study. These include the following:

¹⁰³ AG Mugenda *Social science research: Theory and principles* (2008).

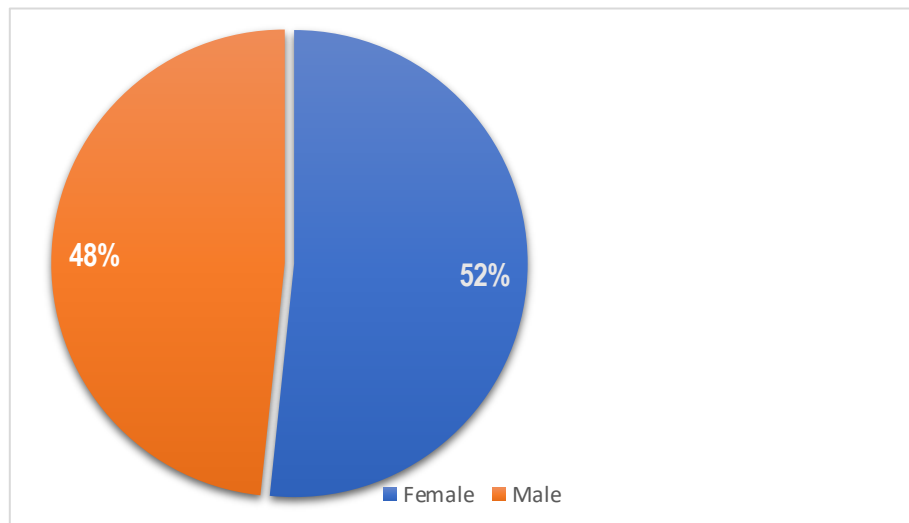
- The target sample for this study was 150 respondents (50 from the public sector, 50 from the private sector, and 50 from civil society), but only 123 were reached due largely to bureaucratic structures as well as the reluctance of respondents to participate in such sensitive research.
- Responses gathered on the survey were self-reported. Under-reporting of sensitive topics including own experience of sexual harassment may have occurred due to fear of disclosure or other reasons.
- Given the sensitiveness of the subject and how uncomfortable respondents can be, in some cases, there was a lower return rate of the questionnaires in some companies and organisations.
- The self-administration of the survey questionnaires also resulted in some respondents not completing some of the questions.
- Though the study discusses the impact and costs of sexual harassment in the workplace, it does not attach a monetary value to the costs discussed.
- Given that data was collected at a particular period it is impossible to assess changes over time.
- In addition, given that the focus of the study is on the formal sector, the results are unable to reflect reality for women in the informal sector, which is a significant of the population.
- While the data was also able to reveal the prevalence of sexual harassment in the workplace, however, it has limitations in revealing the prevalence level across all work sectors. For future research administering research tools to a sample population equally distributed across each institution will permit a deeper understanding of prevalence levels and behaviour within sectors.

CHAPTER 6: FINDINGS

6.1 Respondents Demographics

The quantitative study surveyed in total 123 individuals (48% Male and 52% Female). This is in line with population demographics as women constitute more than half of the Gambian population.¹⁰⁴ Figures 1-6 show the demographic characteristics of the survey respondents including gender, age, education, type of institution, employment status and level of management. Employee age groups (Figure 2) consisted of 18-64 years old with majority respondents (90%) aged between 18 and 39 (ages 18-29 at 60% while ages 30-39 at 29%). This corresponds to the country's youthful population with 64.1 per cent of the population being below the age of 24 and 38.5 per cent between the ages of 15 and 35.¹⁰⁵ Females constitute 52.4 per cent of the population.¹⁰⁶ Overall, a large majority of those interviewed have some level of education, a significant number (45%) are degree holders.

Figure 1: Gender of respondents



¹⁰⁴ Gambia Bureau of Statistics (GBOS) '2013 DHS Gender Report' (2014) 15-16.

¹⁰⁵ Gambia Bureau of Statistics (GBOS) '2013 Population and Housing Census: Youth Report' (2013) Vol 15, 3.

¹⁰⁶ The results from the 2018 GBOS' Gambia Labour Force Survey shows that the total population of The Gambia is 2.3 million of which 1.3 million are of the age 15 years and above and the 1 million are of the age 0-14 years. See, Gambia Bureau of Statistics (GBOS) 'The Gambia Labour Force Survey Report (GLFS) Analytical Report' (2018).

Figure 2: Age of employee

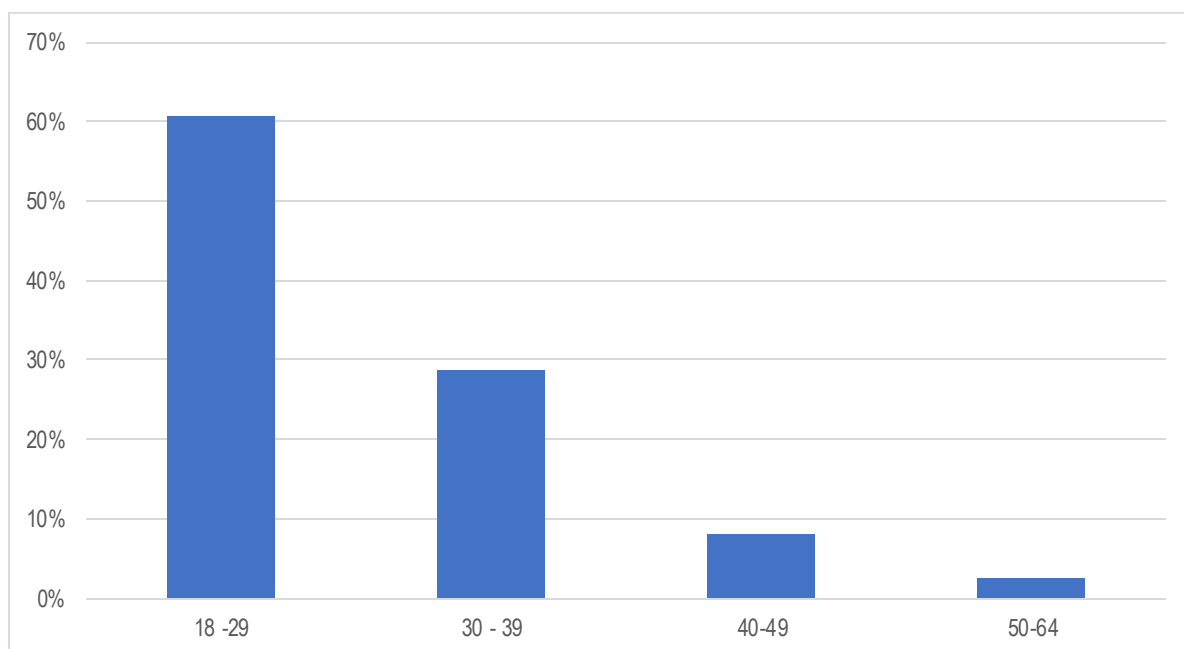
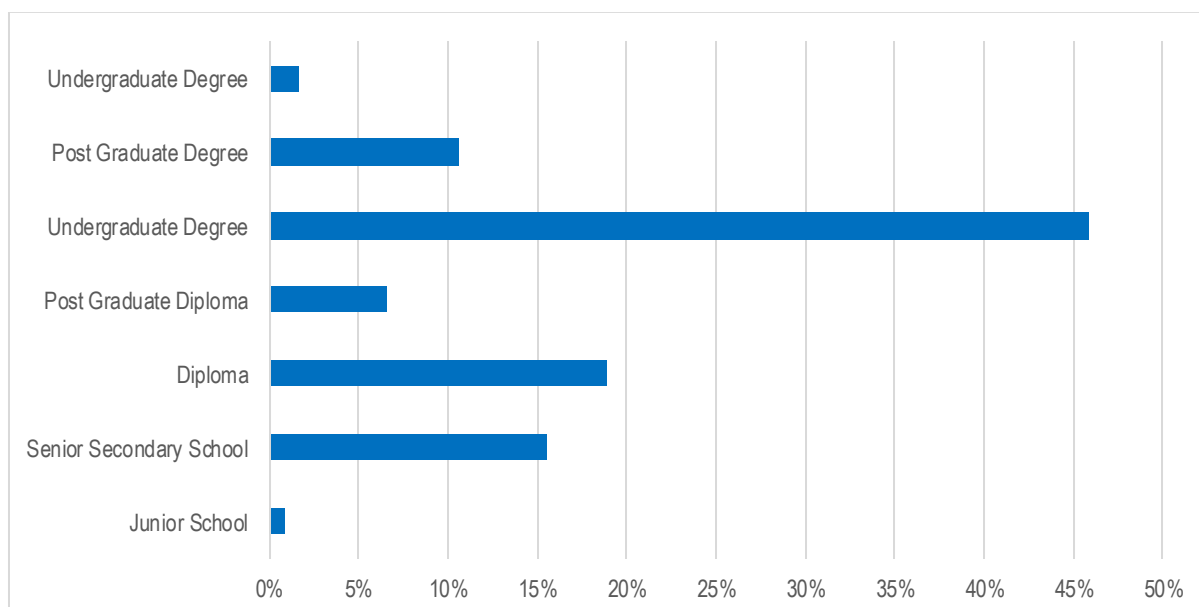


Figure 3: Employee education level



A large majority of respondents came from the private sector (37%) followed by civil service (33%) and civil society 7%. In terms of employment status and level of work, 80% of respondents are on full time work (see figure 6) and 55% are in mid-level management (see Figure 7).

Figure 4: Institutions/ Organizations

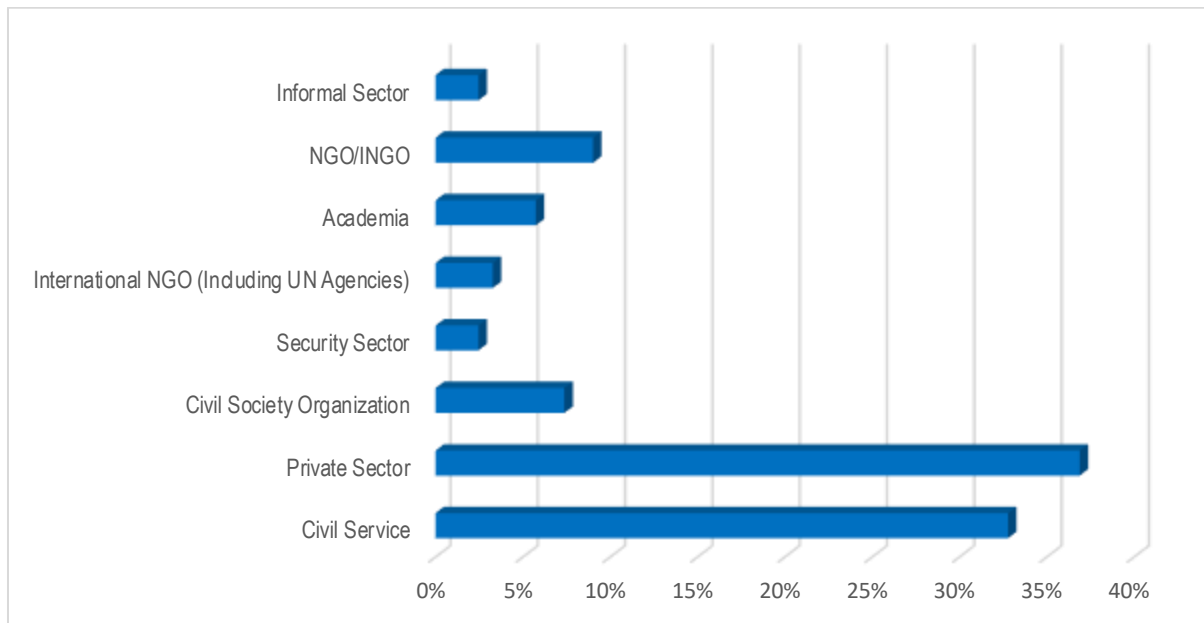


Figure 5: Employment Status

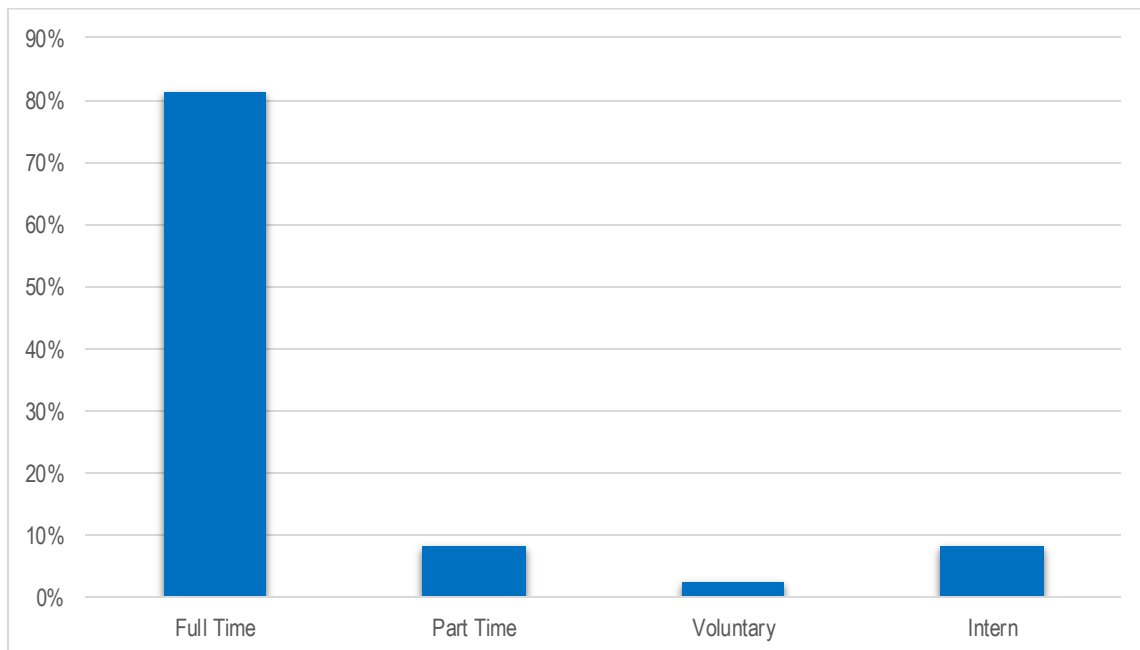
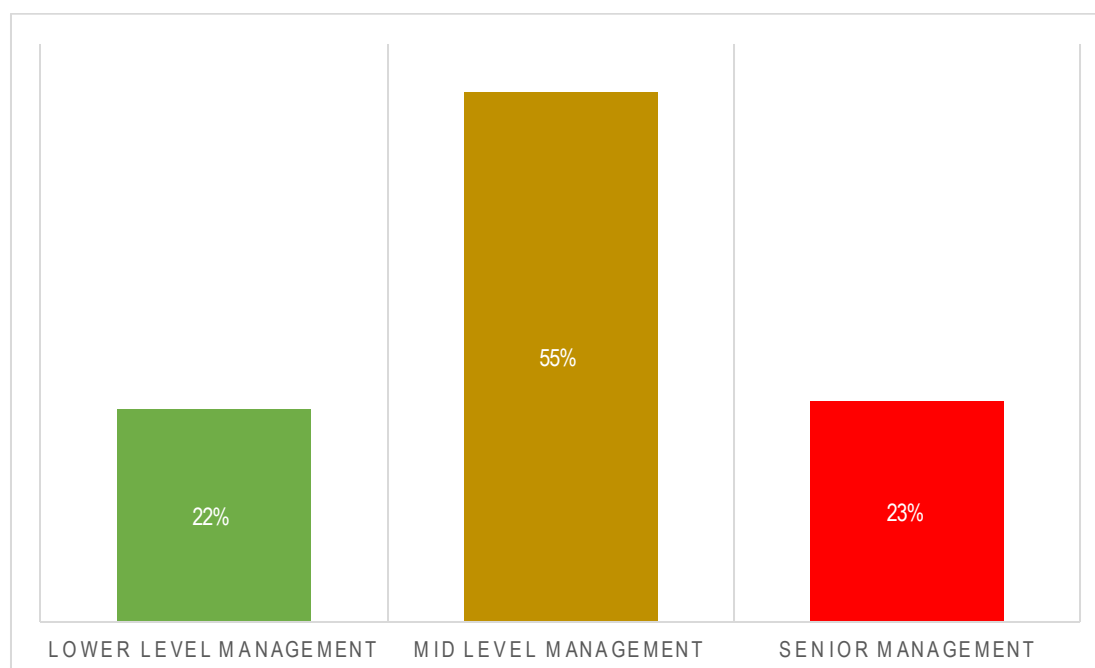


Figure 6: Employment level



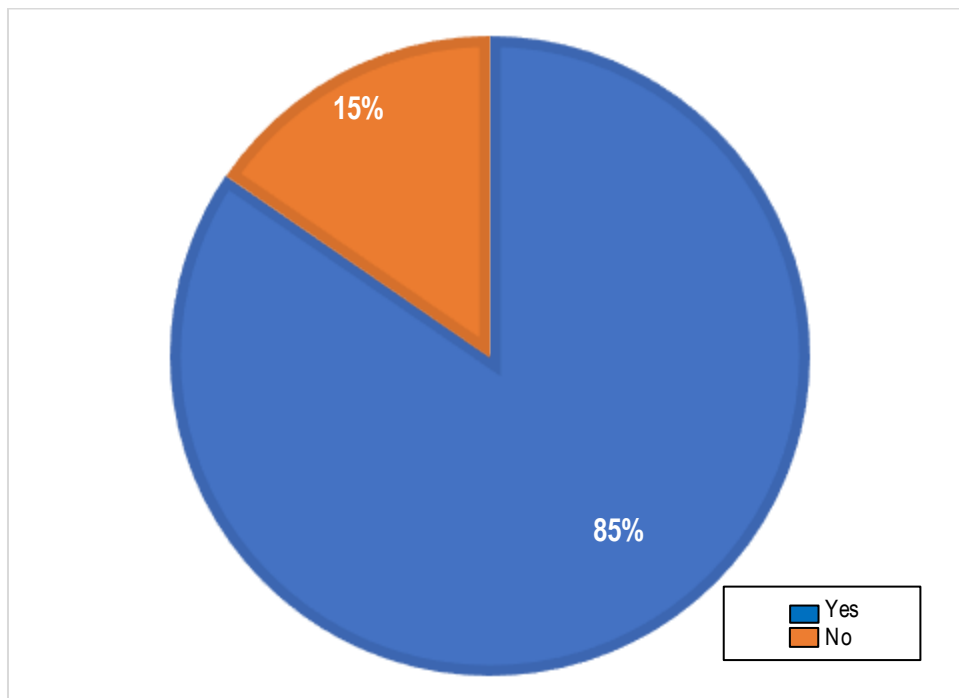
6.2 Perceptions on sexual harassment in the workplace

Respondents were asked to state whether sexual harassment was present in the workplace. The data reveal that an overwhelming majority (85%) of the respondents confirmed the presence of sexual harassment in the workplace (Figure 7). This evidence was corroborated during the focus group discussion where participants equally noted that sexual harassment is a “big problem in workplace in The Gambia mostly due to the absence of policies, or lack of adequate understanding and awareness of the concept by staff, especially for male colleagues.”¹⁰⁷

When asked under what circumstances sexual harassment occur in the workplace, respondents identified “Role Allocation” (58%), Promotion (55%) and, during application of employment (55%) as the most common situations that people usually exploit to sexually harass someone at the workplace.

¹⁰⁷ Participant in the CSO focus group

Figure 7: General employee perceptions on workplace sexual harassment



6.3 Experiences of sexual harassment in the workplace

6.3.1 Prevalence of workplace sexual harassment

On the rate of sexual harassment cases in the workplace, the study finds that 74% of workers indicate to have experienced sexual harassment. According to these results, approximately 3 in every 4 workers in the three sectors have experienced or are likely to experience sexual harassment.

In terms of gender, 80% of women experienced sexual harassment in the workplace in the last five years compared to men (67%).

Equally, 75% of the participants that attended the FGD with women led CSOs stated that, they have experienced or have witnessed sexual harassment in the workplace. Going by the participants' past and present places of work, participants explained that sexual harassment is more present in workplaces that have an equal gender ratio, or where there are more men than women staff. It can be concluded that gender, in addition to positions and income, is the greatest factor of sexual harassment in workplaces in The Gambia.

Figure 8: Prevalence of workplace sexual harassment

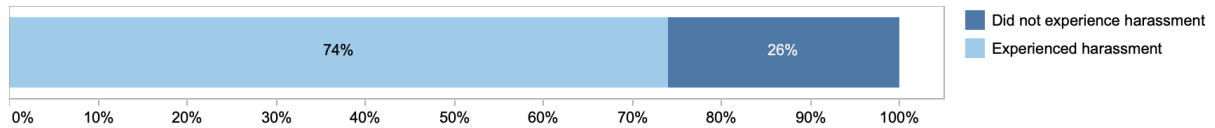
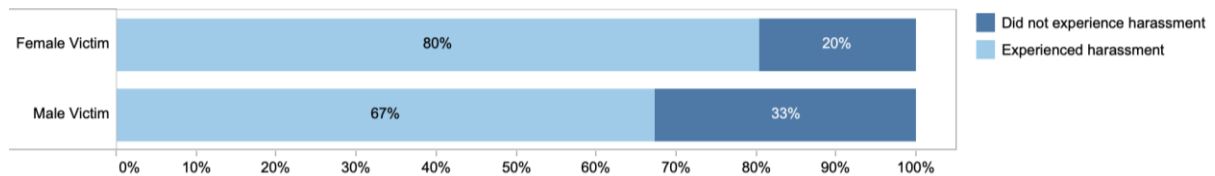


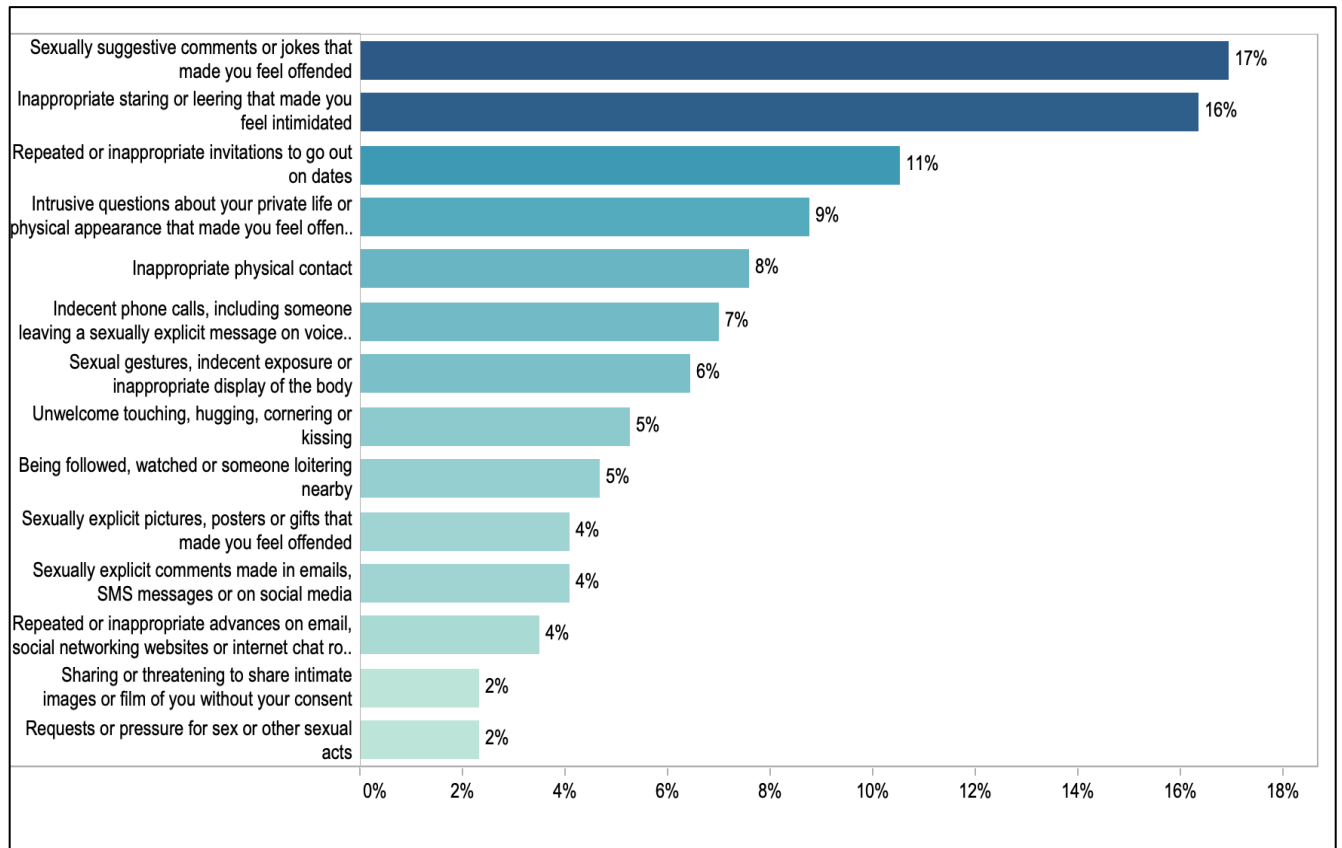
Figure 9: Prevalence of workplace sexual harassment by gender in the past five years



6.3.2 Nature of Workplace Sexual Harassment

Considering the nature of the sexual harassment cases that workers experience in the workplace, the study finds that in decreasing order the most common types experienced by employees include: sexually suggestive comments or jokes that made one feels offended (17%); inappropriate staring or leering that made one feel intimidated (16%); repeated or inappropriate invitations to go out on dates (11%); intrusive questions about one’s private life or physical appearance that made you feel offended (9%); inappropriate physical contact (8%); indecent phone calls, including someone leaving a sexually explicit message on voicemail or an answering machine (7%); sexual gestures, indecent exposure or inappropriate display of the body (6%); and unwelcome touching, hugging, cornering or kissing (5%).

Figure 10: The Nature of Experienced Workplace Sexual Harassment



6.3.3 Frequency of sexual harassment

Among those that experience sexual harassment, when asked whether their experience was one-off or whether it had occurred previously, 62.5% reported that sexual harassment “had occurred previously” while 37.5% said it was a one-off incident.

Figure 11: Frequency of sexual harassment

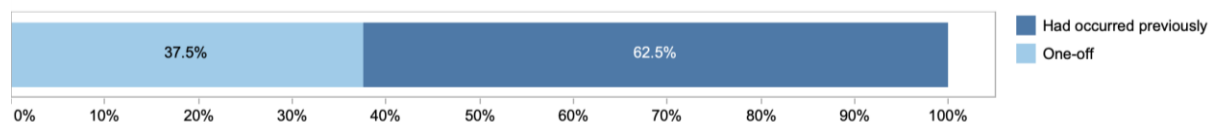
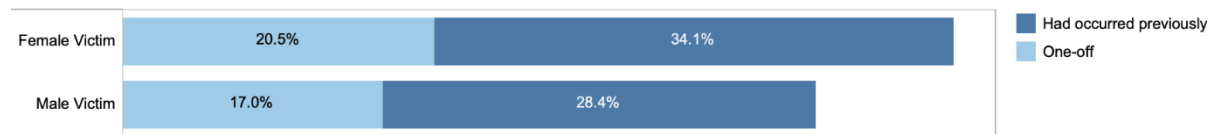


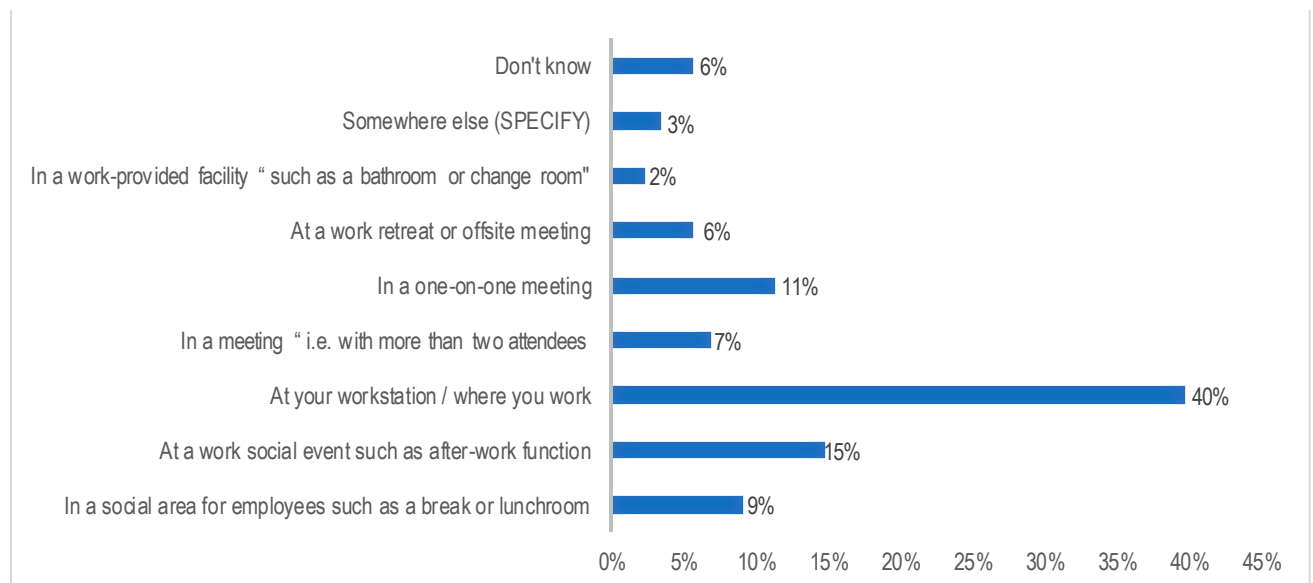
Figure 12: Frequency of sexual harassment (by gender)



6.3.4 Location of workplace harassment

When asked about the location of the most recent incident, 39% reported that they were sexually harassed in their workstation, while 15% started that it occurred in a work provided facility.

Figure 13: Location of the most recent incident



6.4 Victims and perpetrators of sexual harassment in the workplace

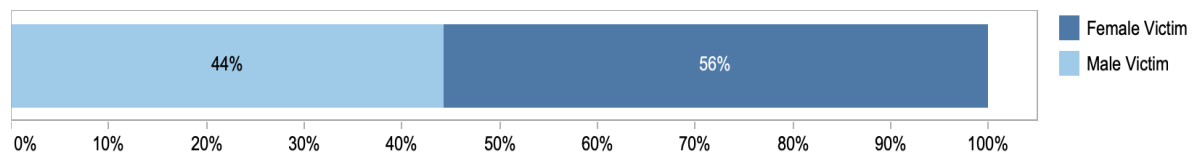
Respondents were asked a number of questions about who experiences sexual harassment in the workplace (victims/survivors) and who perpetrates sexual harassment in the workplace.

6.4.1 Who experiences workplace sexual harassment?

(a) Gender

Women were more likely than men to have been sexually harassed in the workplace in the last five years (56% of women compared with 44% of men). The data does indicate that males are also victims. Discussion from the FDGs with Human Resources Managers of major banks formed a consensus that while both males and females can be victims of sexual harassment, cases that they have dealt with involved female victims.

Figure 14: Victims of sexual harassment in the workplace (by gender)



(b) Age

People aged 18–29 or 30–39 years (67% and 26% respectively) were more likely than those in other age groups to have been sexually harassed in the workplace in the past five years for both genders.

Figure 15: Age of victims of sexual harassment in the workplace

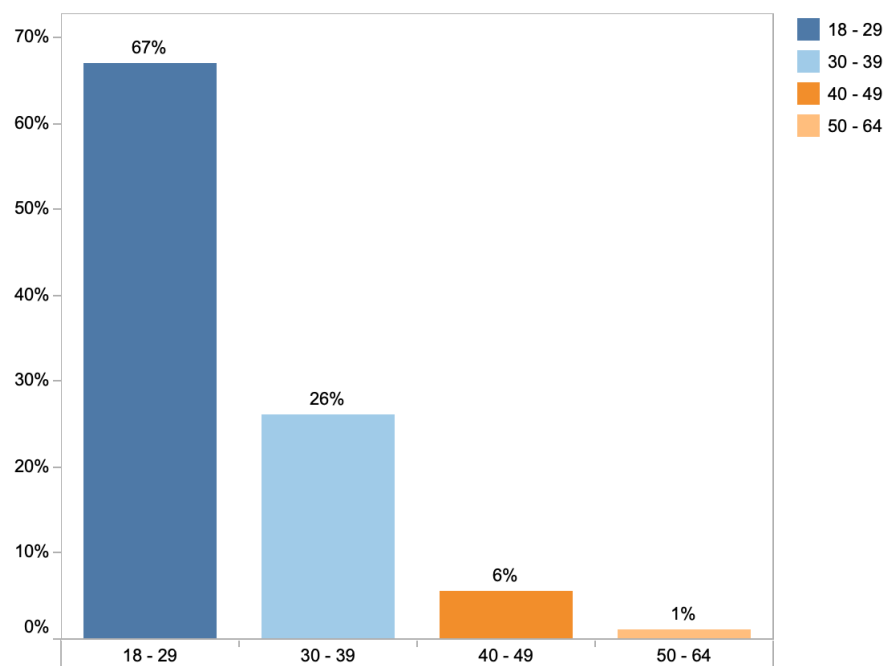
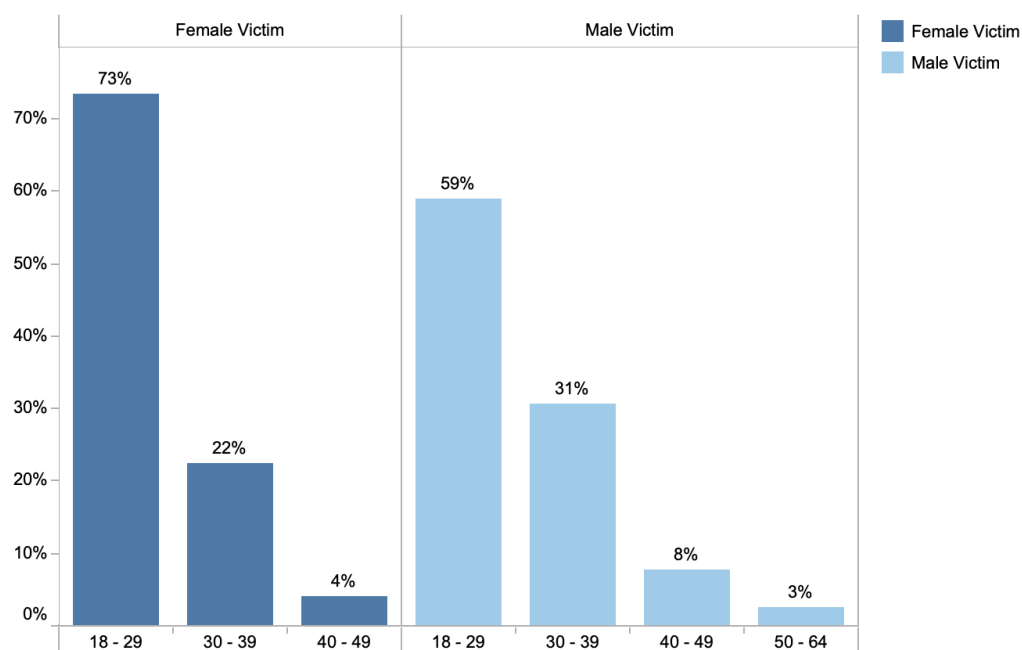


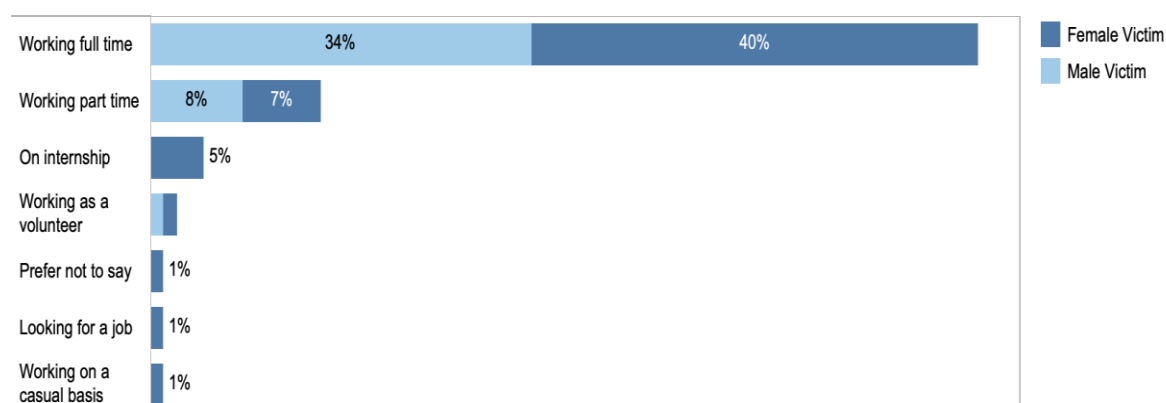
Figure 16: Age of sexual harassment in the workplace (by gender)



(c) Employment status

At the time the survey was conducted, full time employed women were more likely to experience sexual harassment (40%) than men employed on a full-time basis (34%). Conversely, 5% of women on internship were likely to be sexually harassed at work, which might be due to predicament of non-permanency of their jobs.

Figure 17: Employment status at time of workplace sexual harassment (by gender)

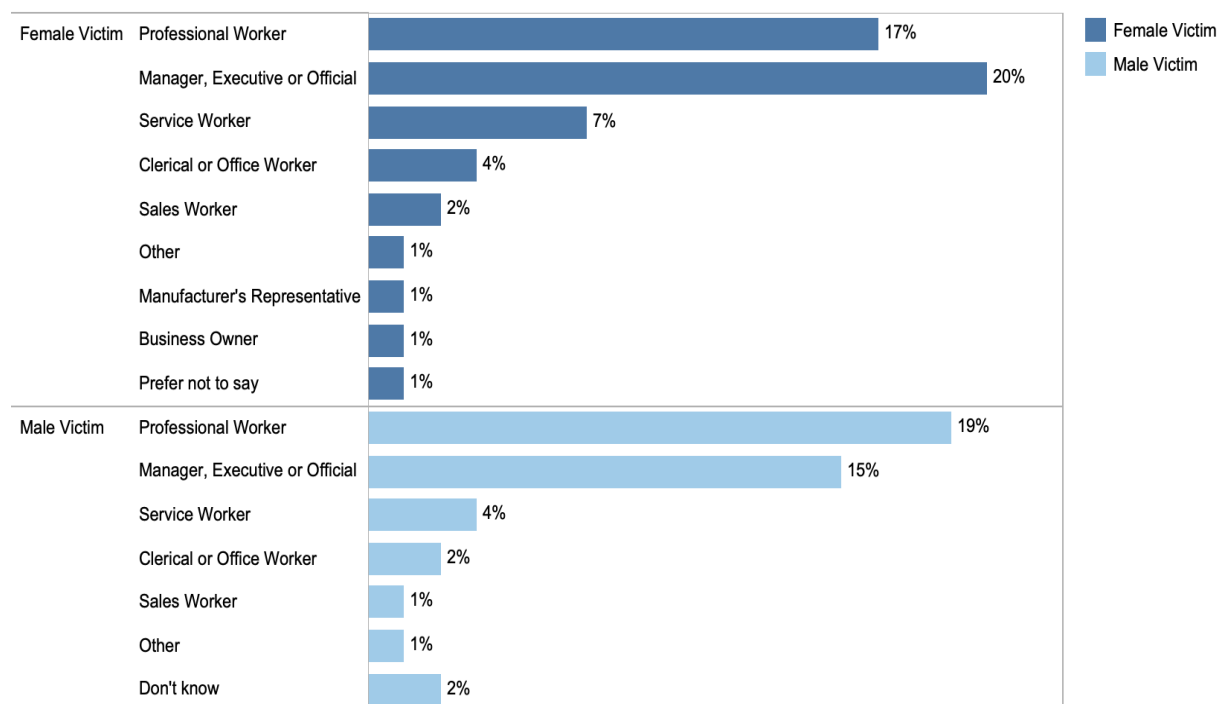


(d) Occupation

Victims of sexual harassment were clustered within five main occupational groups. The data gives an indication that sexual harassment in the workplace occurs across all occupations. The dominant occupations are:

- professional workers: 19% of male victims and 17% of female victims
- manager or executive: 15% of male victims, 20% of female victims
- clerical or office worker: 2% of male victims, 4% of female victims
- service workers: 4% of male victims, 7% of female victims
- sales workers: 1% of male victims, 2% of female victims

Figure 18: Occupation at time of sexual harassment (by gender)

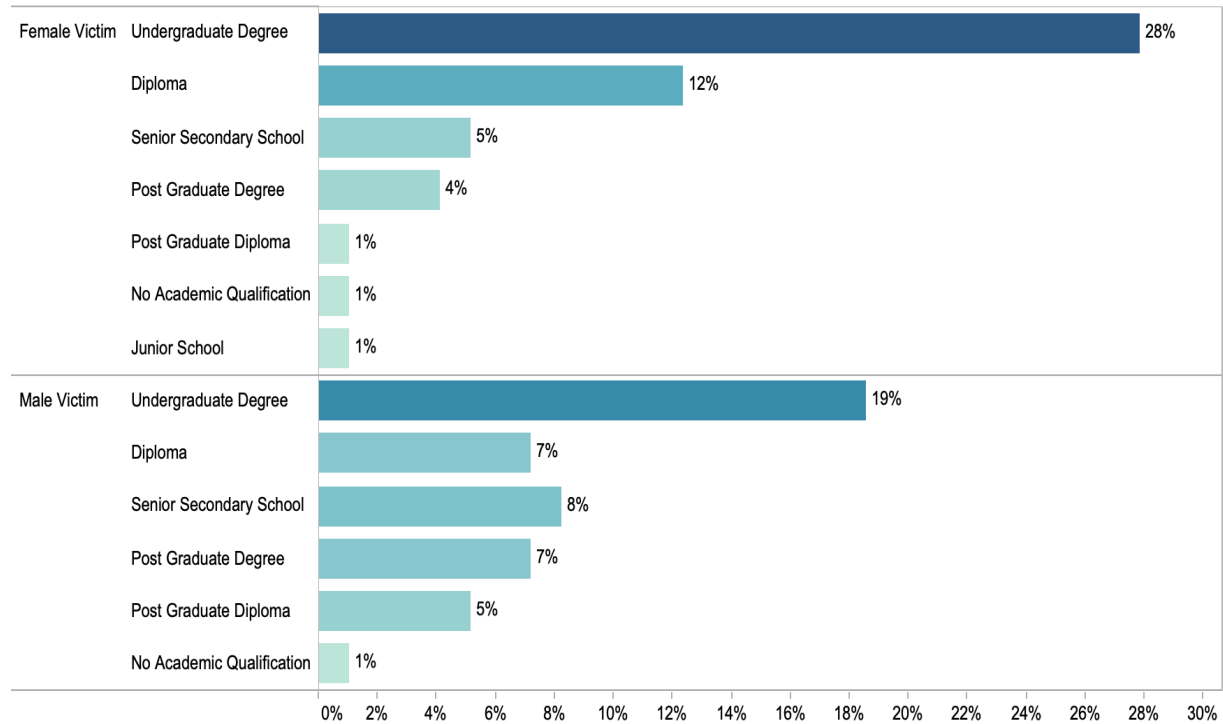


(e) Educational background of victims

The study finds that people with undergraduate degrees (28% for female victims, and 19% for male victims) were more likely than those in other educational categories to have been sexually harassed in the workplace in the past five years. The reason for this might be related to the occupation at time of sexual harassment as highlighted above. For instance, majority of the female victims of this study are

professional workers and those who are in much higher levels of their organisations such as managers and middle level officers.

Figure 19: Educational background of victims of sexual harassment (by gender)



(f) Sector

The data also shows that the highest number of victims are found in the civil service and private sectors. This finding suggests that sexual harassment is slightly higher in the private and public sectors than it is in the NGO sector. This broadly reflects the makeup of the Gambian workforce. Further analysis shows that there is a higher percentage of male victims (44%) compared to female victims (29%) in the public sector. However, there is a higher number of female victims (35%) in the private sector.

Figure 20: Victims of sexual harassment by sector

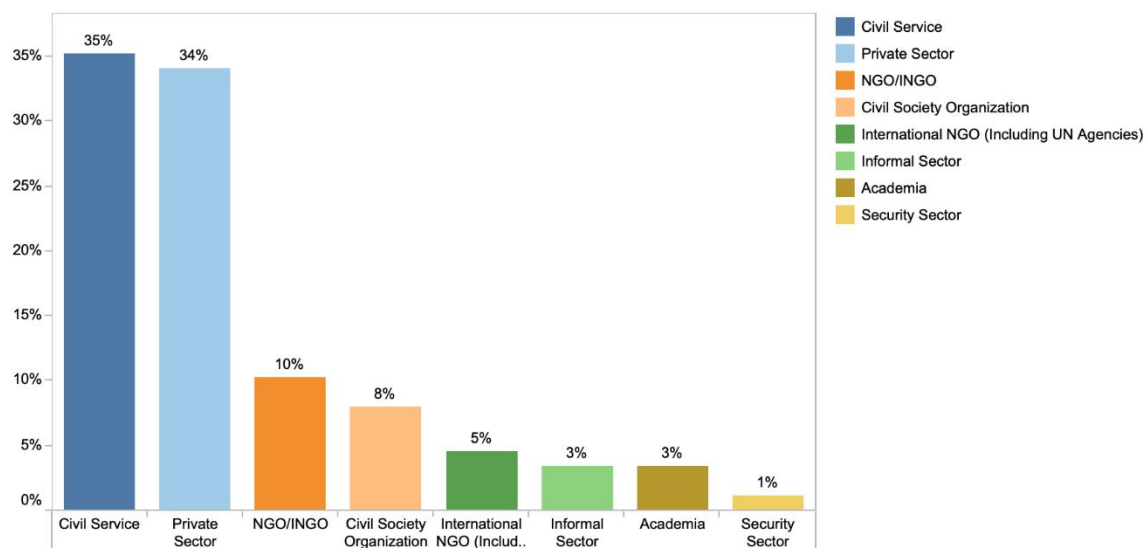
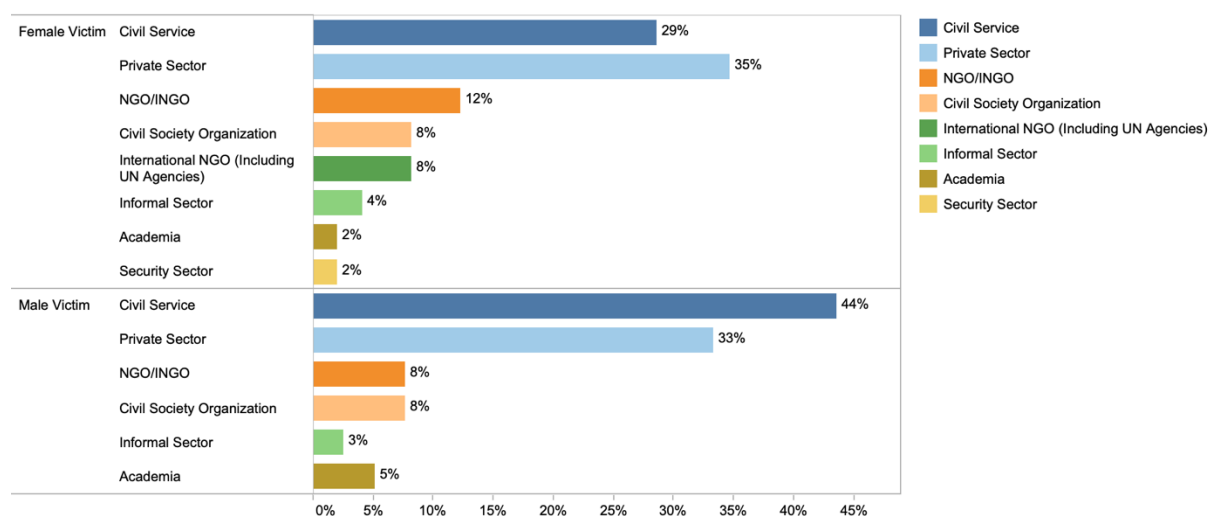


Figure 21: Victims of sexual harassment by sector (by gender)



6.4.2 Who perpetrates workplace sexual harassment?

(a) Gender of perpetrators

Majority of respondents identified men (61%) as perpetrators of sexual harassment in the workplace, compared to women (39%). The data also indicates that 94% of female victims of workplace sexual harassment were sexually harassed by male perpetrators.

Similarly, participants in the FGD as well as those in the key informant interviews noted that men are the main perpetrators of sexual harassment.

Generally, the study finds that opposite sex harassment is the most typical form of workplace sexual harassment even though same sex harassment does happen, but at a much lower rate (6% female harassers of female victims, and 19% male harassers of male victims). This result should not necessarily indicate the prevalence of homosexuality in the workplace, but rather that of a hostile work environment.

Figure 22: Gender of all perpetrators of workplace sexual harassment

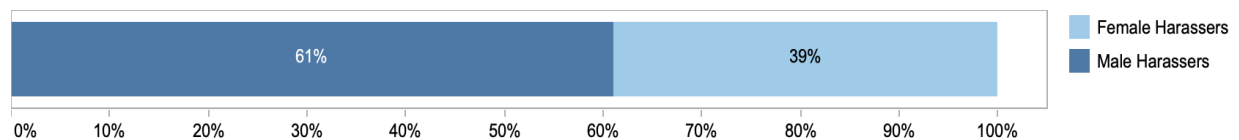
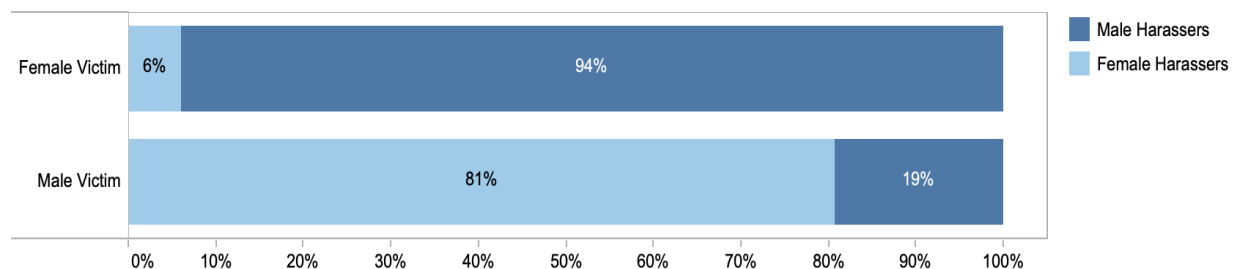


Figure 23: Gender of all perpetrators of workplace sexual harassment (by gender of victim)



(b) Number of perpetrators

In the past five years, the majority of sexual harassment involved a single perpetrator (28%).

- 49% of female victims were sexually harassed by one or more perpetrators.
- 41% of male victims were sexually harassed by one or more perpetrators.

Figure 24: Number of perpetrators involved in most recent sexual harassment

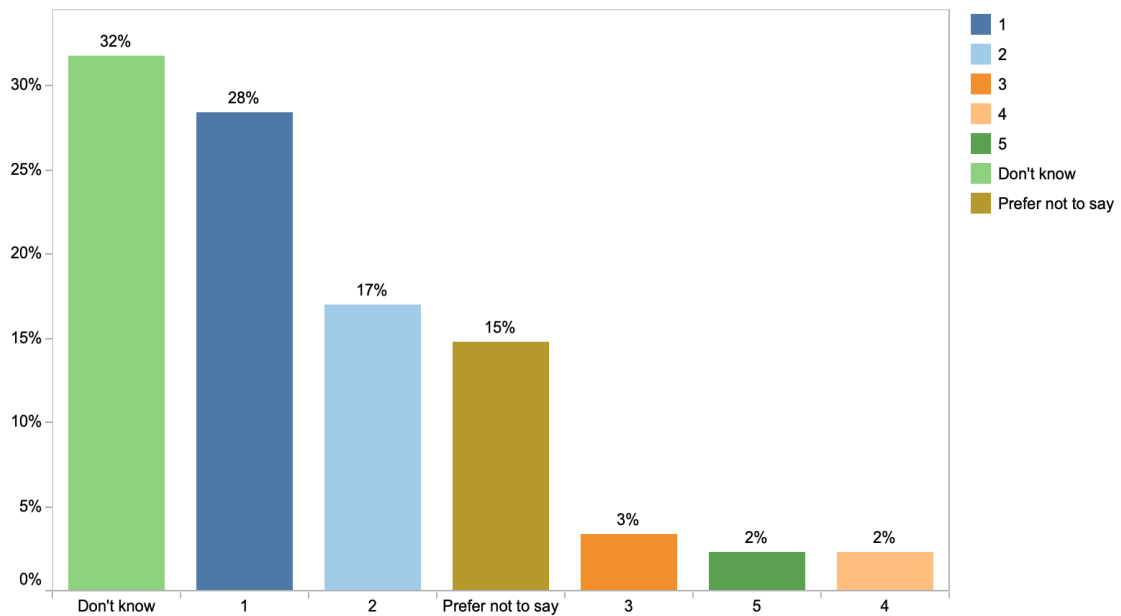
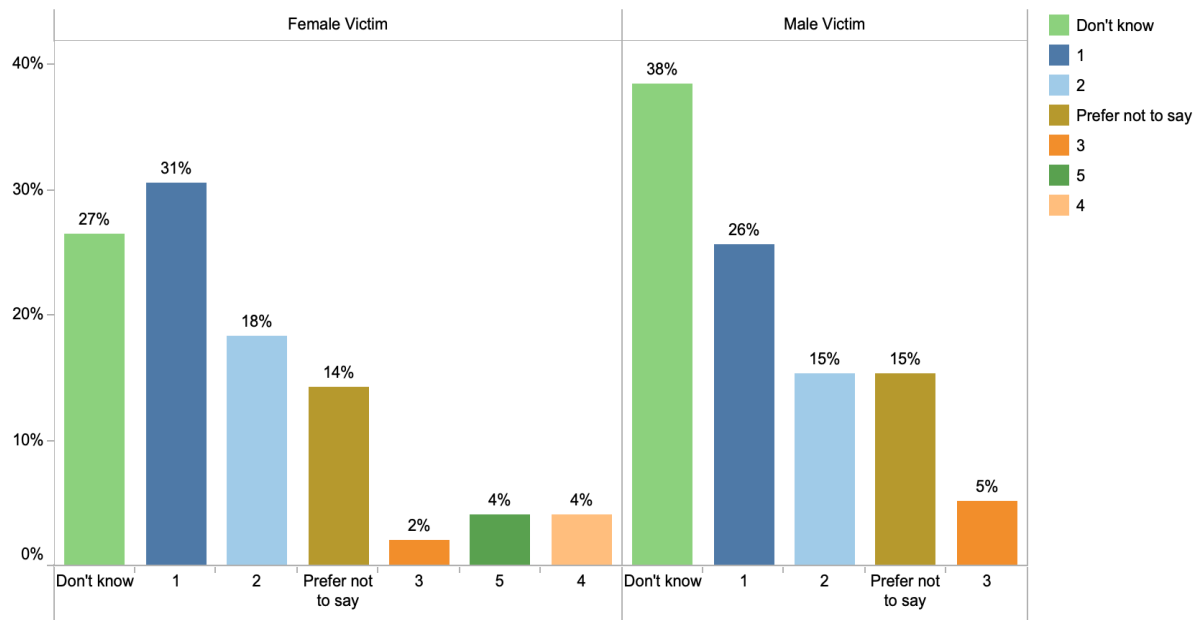


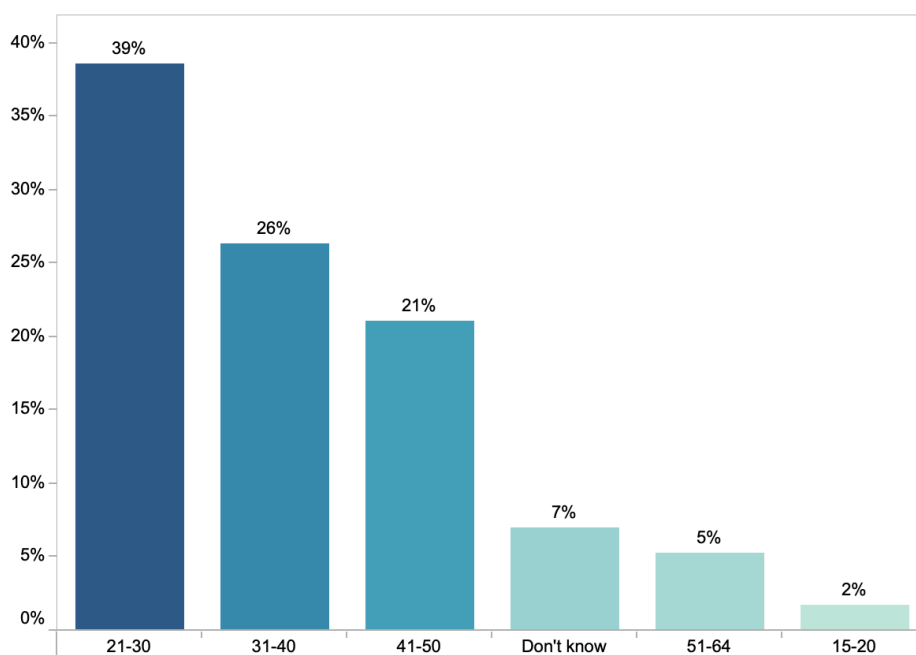
Figure 25: Number of perpetrators involved in most recent sexual harassment (by gender of victim)



(c) Age

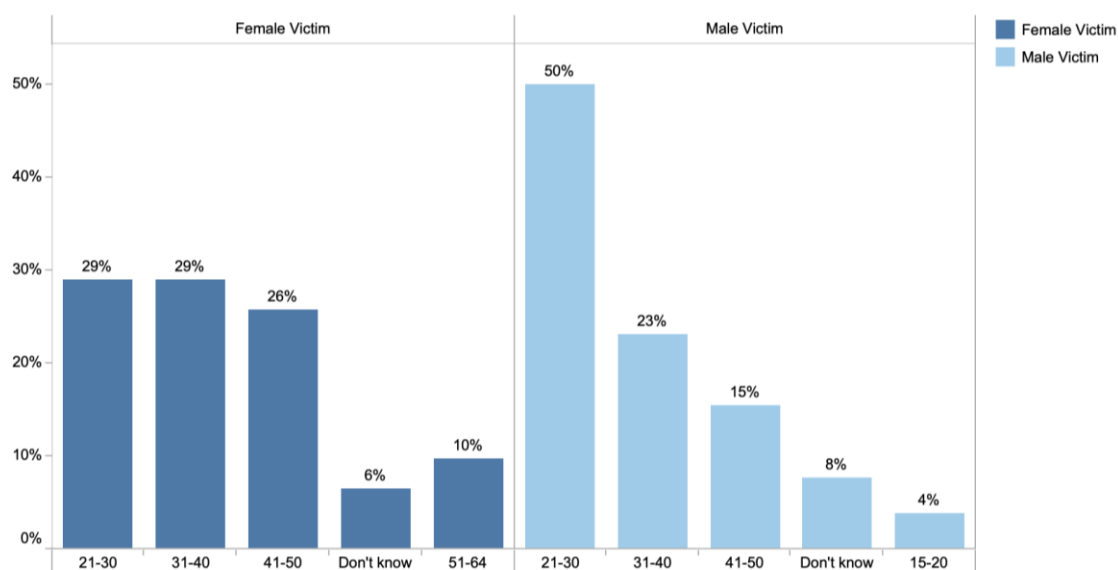
In terms of age, the perpetrator was most commonly aged 21-30 years (39%) followed by those between 31-40 years (26%) and closely by ages 41-50 (21%).

Figure 26: Age of Harasser at the workplace



For female victims, the primary harasser is between the age groups (18-39 and 30-39) at 95% and for male victims, their primary harassers were in that same category as well.

Figure 27: Age of Harasser at the workplace (by gender)



(d) Relationship of perpetrator to victim

Sexual harassment which occurred in the workplace in the past five years was most often perpetrated by a co-worker who was more senior to a female victim, and a co-worker employed at the same level, for male victims.

For female victims, the most common relationships to the perpetrator were:

- a co-worker who was more senior than the victim (22%)
- a co-worker on the same level as the victim (19%)
- a client or customer (16%)
- the victim's direct manager or supervisor (14%)

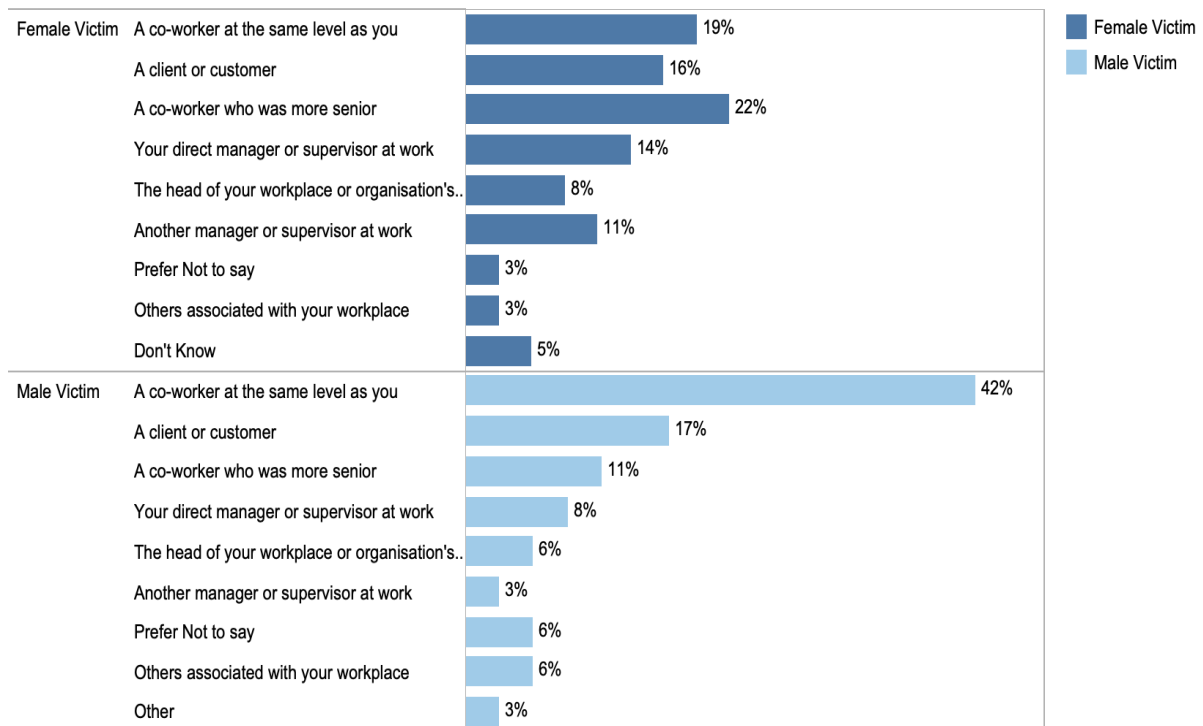
For male victims, the most common relationships to the perpetrator were:

- a co-worker on the same level as the victim (42%)
- a client or customer (17%)
- a co-worker who was more senior than the victim (11%)

When these results are analysed by gender, we find that:

- men were more likely than women to be sexually harassed at work by a co-worker at the same level (42% and 19% respectively);
- women were more likely than men to be sexually harassed at work by a co-worker who was more senior (22% and 11% respectively); and
- Both women and men were likely to be sexually harassed at work by a client or customer at a similar rate (16% and 17% respectively).

Figure 28: Relationship of single perpetrator to victim (by gender of victim)



(e) Typical Characteristics of Perpetrators

Major characteristics that make up the typical perpetrator of sexual harassment in the workplace involving female victims:

- Male harassers (94%),
- Mostly older: between the ages of 31 and 40; and 41-50 (Figure 27),
- Occupy a more senior position than the victim.

While there are younger harassers (21-30 years) at 29% involving female victims, if one connects the variables mentioned above, one would typically be an older male with a more senior position of power. This is in line with the literature and above discussion about how sexual harassment not only reinforces inequality but is about power.¹⁰⁸

Major characteristics that make up the typical perpetrator of sexual harassment in the workplace involving male victims:

¹⁰⁸ See Chapter 2 of this report.

- Female harassers (81%)
- Mostly younger as they are between the ages of 21-30 years (50%)
- Co-workers on the same level (junior/mid-managerial)

6.5 Reporting and seeking support in relation to workplace sexual harassment

6.5.1 Reporting of workplace harassment

When sexual harassment happens in workplaces, typically, there should be existing channels for victims to report cases, these include to immediate supervisors and human resources managers or officers. The survey results, however, indicate that the majority of people who were sexually harassed in the workplace in the past five years did not make a formal report or complaint. When asked whether they formally reported the incident, 78% of people who experienced sexual harassment stated that they did not make any formal complaints, while only 20% made formal complaint and 2% of the respondents preferred not to say. In terms of gender, female victims are more likely to report harassment (27%) compared to their male counterparts (12%). Nevertheless, the rate at which sexual harassment cases are reported is very minimal.

The low reporting of cases was also confirmed during the FGD with Bankers Association and the women FGD. Two participants in the discussion with the Bankers reported that they only had 2 cases of reported harassment while there was none reported in the other banks.

Figure 29: Formal report or complaint of workplace sexual harassment

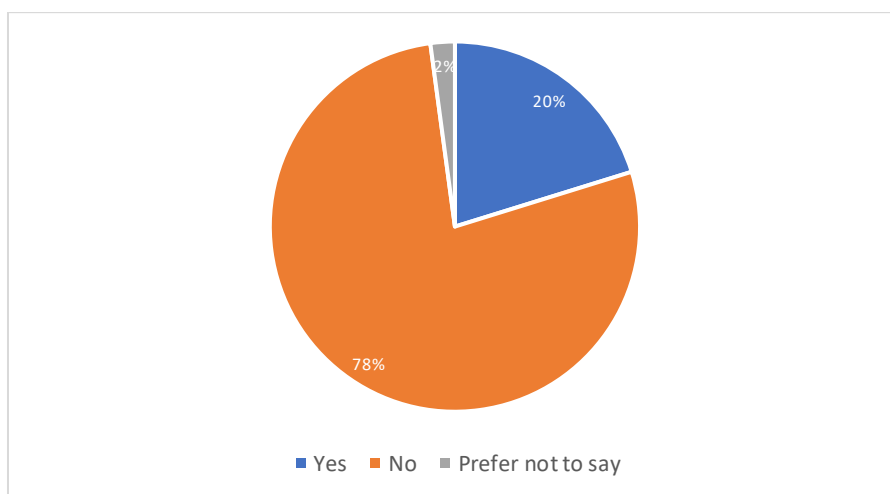
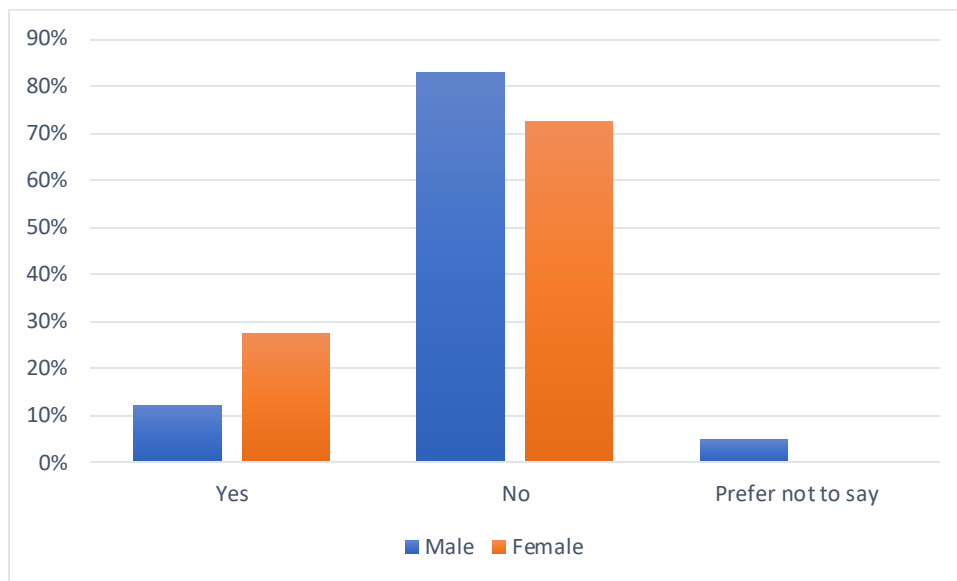


Figure 30: Formal report or complaint of workplace sexual harassment (by gender)



6.5.2 Channels for reporting workplace sexual harassment

The data indicate that individuals are more likely to report incidents of sexual harassment in the workplace to a co-worker than direct supervisor or head of institution or company. Women are more likely to report incidents of sexual harassment to their co-workers (59%) than to their direct manager or supervisor (25%). In the public sector, victims are more likely to report the incident to a co-worker (19%), which is also applicable for the private sector (11%). Reporting to the Human Resources Manager happens in NGO/INGOs and the private sector. In the private sector, women victims are also more likely to report to human resources managers (12%).

Figure 31: Reporting channels

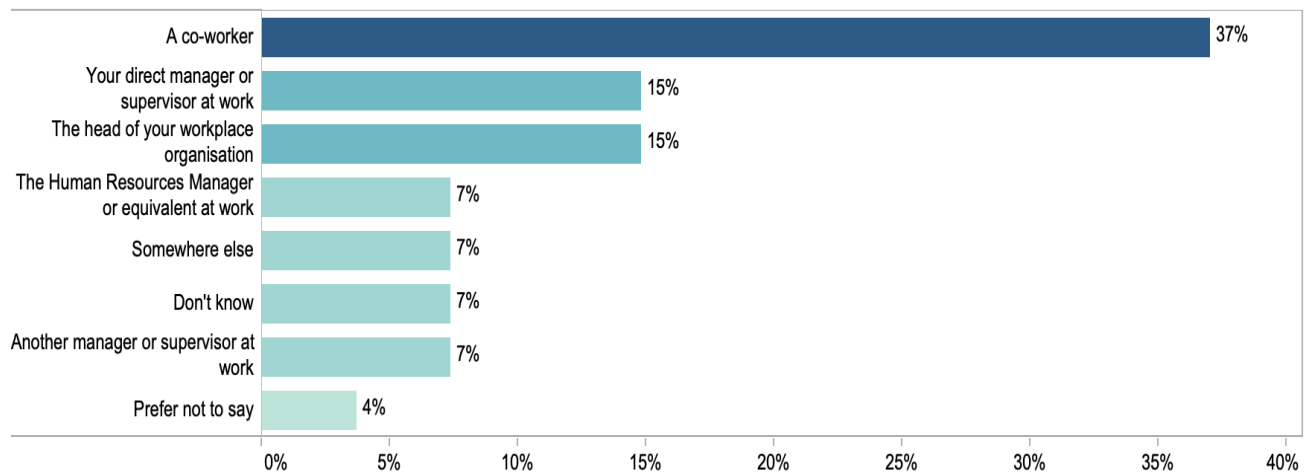
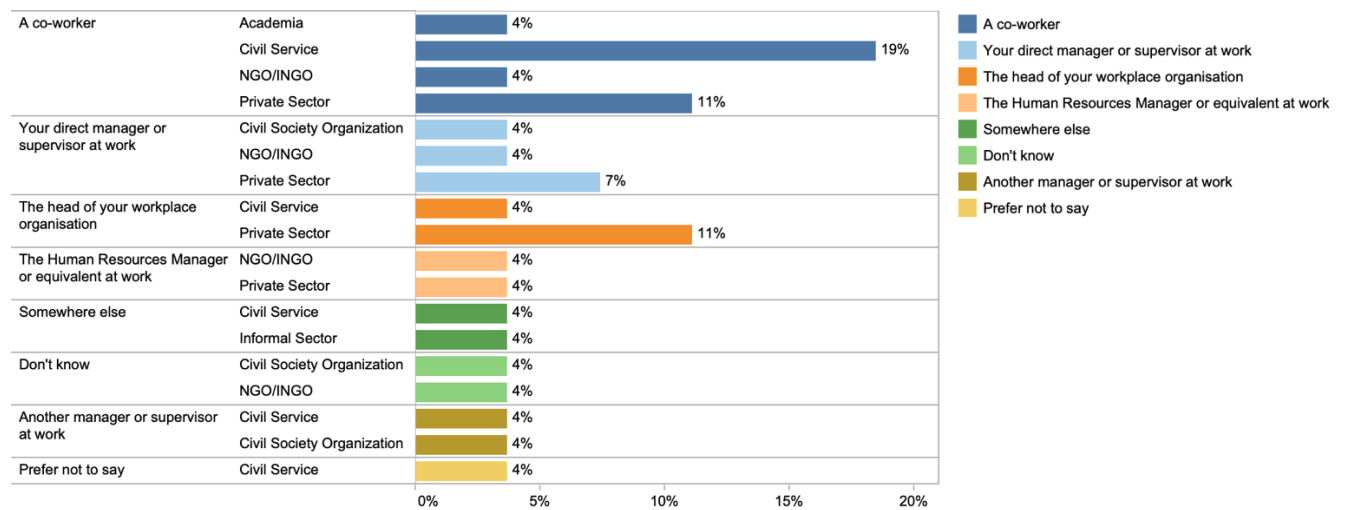


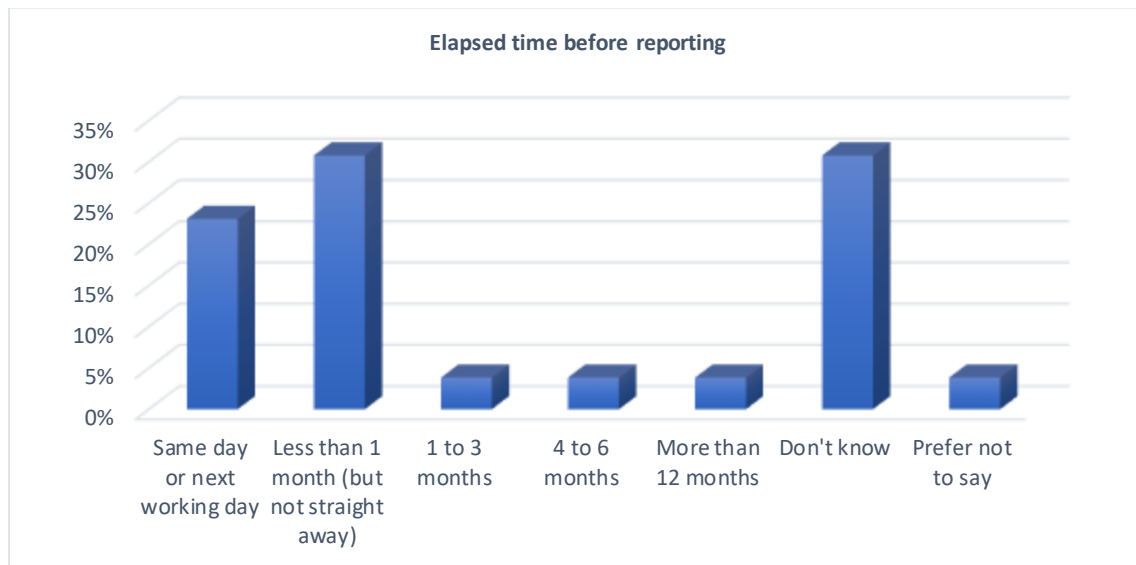
Figure 32: Reporting channels (by sector)



6.5.3 Time taken to make a report or complaint

When asked about the length of time it took to make formal complaints, 3 out of 10 (31%) respondents said that they reported within a month. Equally, 31% of the respondents said they do not know exactly how long it took to make the formal report.

Figure 33: Elapsed time before report or complaint was made (by gender of victim)



6.5.4 Reasons for Not Reporting Workplace Sexual Harassment

Among those that did not report or make a complaint about workplace harassment, did not do so because it was easier to be quiet (27%) or that the reporting process will be embarrassing 19% (9% of female victims, 44% of male victims).

Other common reasons for not reporting were that:

- they thought it would not change things, or that nothing would happen (6% of female victims, 16% of male victims).
- they were not aware of how the complaint process worked or who to report to (21% of female victims, 28% of male victims).
- their family, friends or co-workers advised them not to make a complaint (18% of female victims, 8% of male victims).

The data also shows the differences between female and male employees for why they did not report workplace harassment. A greater number of men thought that nothing would happen or come out of it (16%), do not know the complaint process (28%).

During the FGDs for Human Resources Managers of Banks, they opined that the main reasons why a majority of employees do not typically report might be due to fear of reprisal, including being fired or blacklisted; stigma (especially when married); and belief that reporting is not useful as perpetrator occupies positions

of power or influence. For individuals in the NGO sector, in addition to these factors, lack of suitable system of reporting also contributes to low reporting. In essence, due to low reporting, there is a perception that sexual harassment is not an endemic ‘problem’ and it is regarded as a norm or an accepted behaviour that is part of the organizational culture.

Figure 34: Reasons why did not report workplace sexual harassment

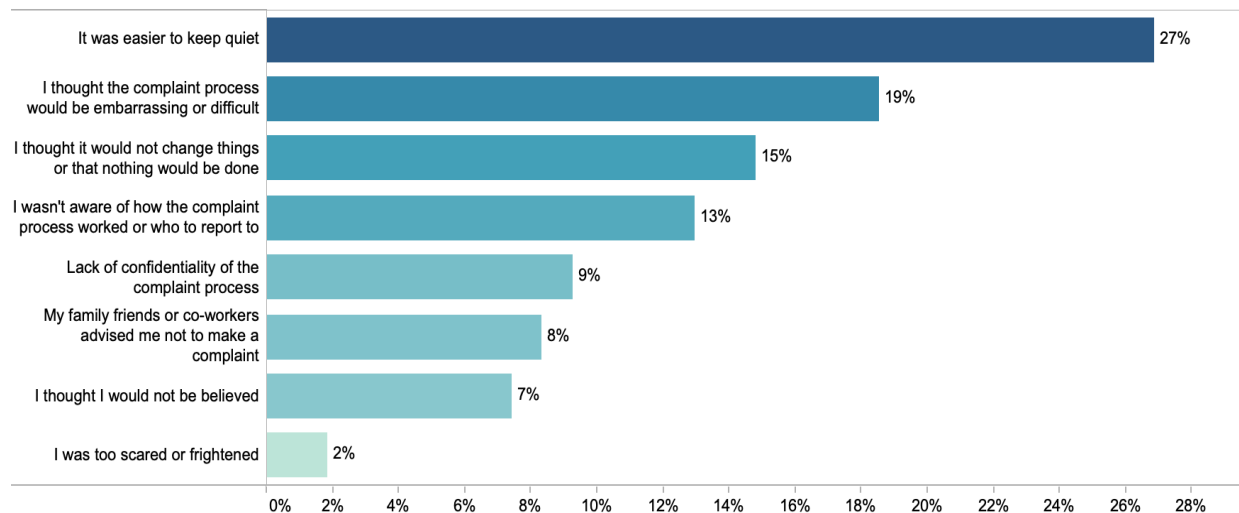
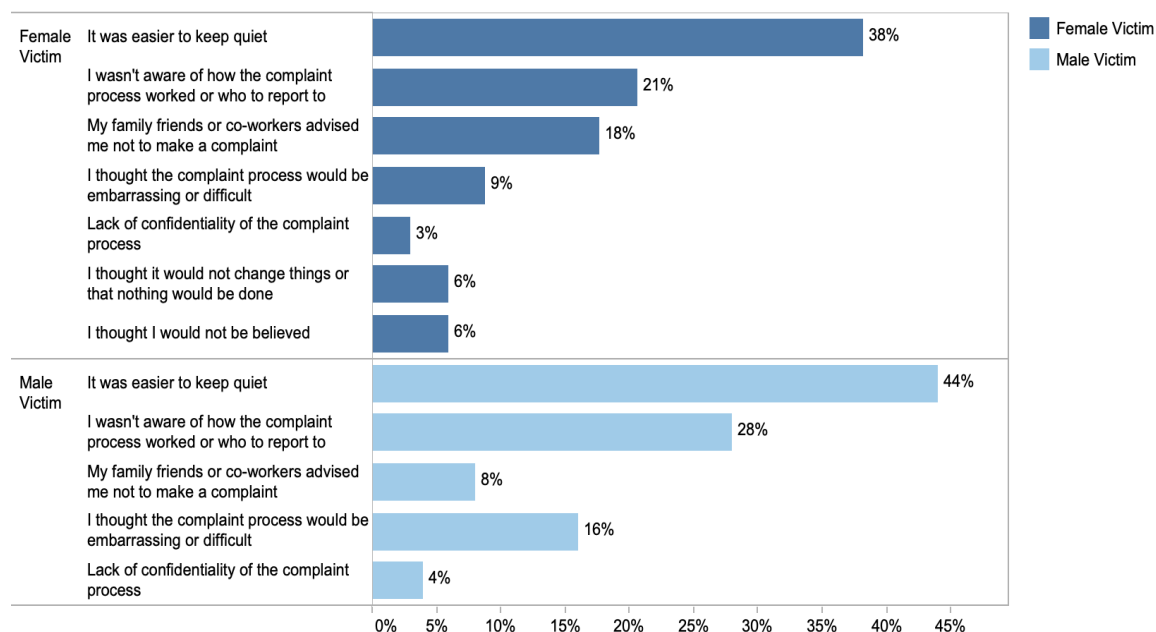


Figure 35: Reasons why did not report workplace sexual harassment (by gender of victim)



Other reasons for why they did not seek support or make a report, majority of female respondents stated that they did not report because they were afraid of obstacles to their career goals (39%) compared to their male counterparts (15%). They also feared that people would think they were overreacting (20%). The motivation for not reporting among men was usually related to fear of negative consequences for their offenders (27%) or that people will consider them overreacting (24%).

It is important to also note that 17% of female victims indicated that they took care of the problem themselves. The actions taken by these individuals were: avoiding the harasser or ignoring the incident, and verbal warning to not repeat the action. It is also interesting that a female victim from the NGO sector noted that she would “dress appropriately” in respond to inappropriate staring and leering that made her feel intimidated.

6.5.5 Outcome for victim

For those who had made a report or complaint about the most recent incident of workplace sexual harassment, in terms of the outcomes for the complaint, 22% stated that the harassment stopped; 19% received positive feedback. Female victims received both an apology and a positive feedback for making the complaint. This was similar to male victims.

Figure 36: Outcome for victim after report or complaint

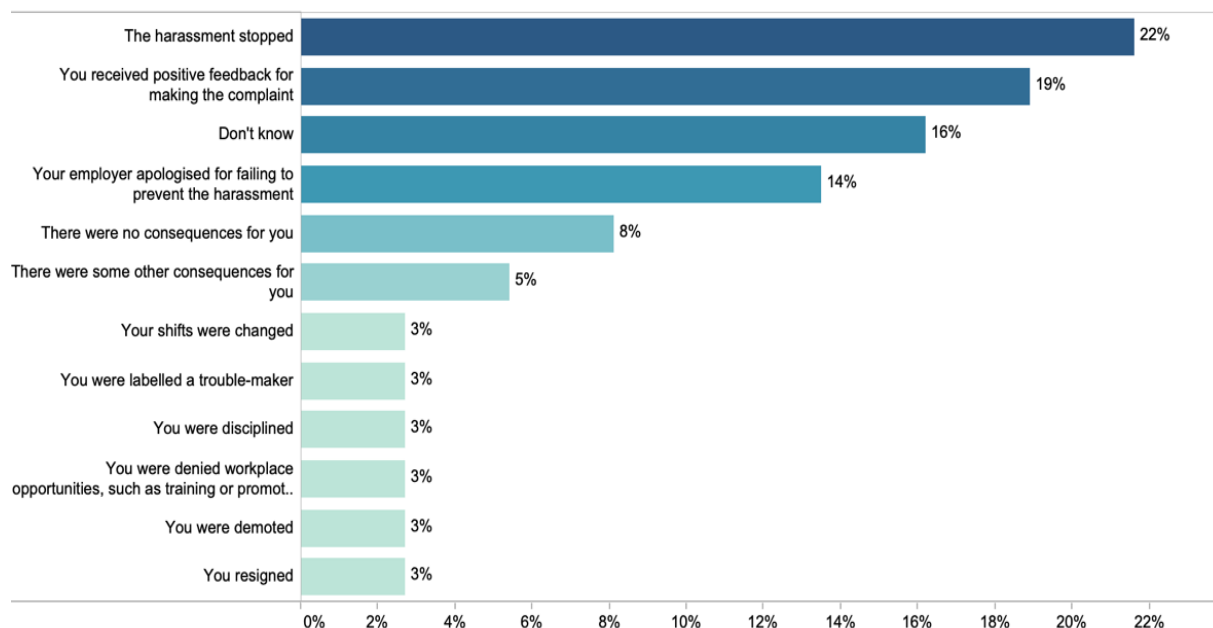
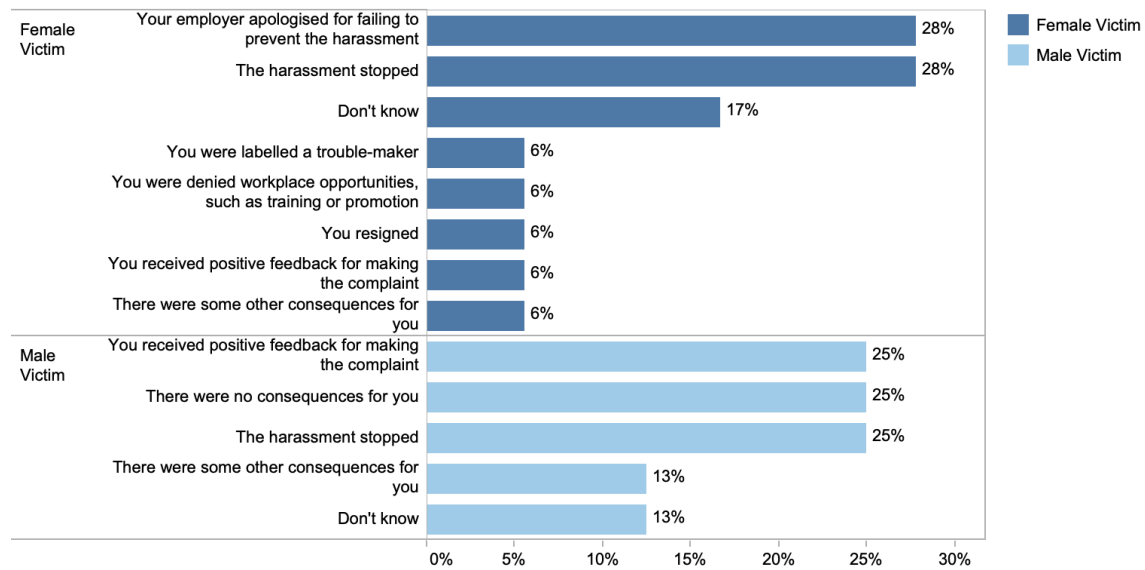


Figure 37: Outcome for victim after report or complaint (by gender of victim)

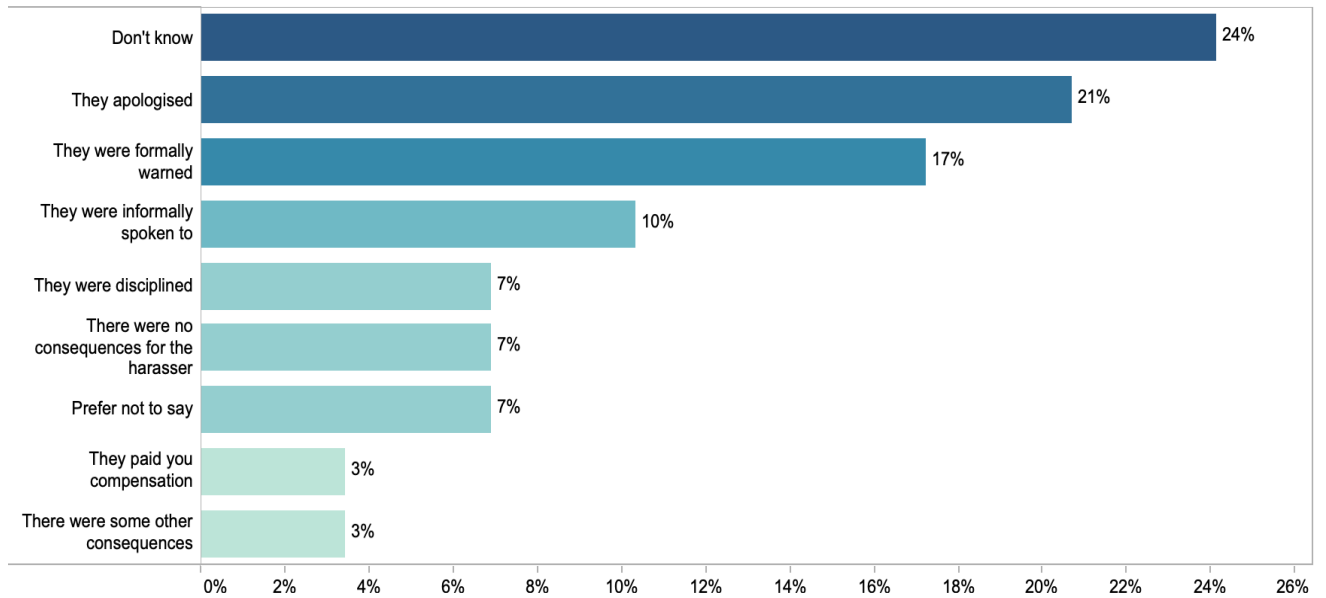


6.5.6 Outcome for perpetrator

A high percentage (24%) noted that they did not know the whether the perpetrator faced any consequences. The most common outcomes were that the perpetrator(s):

- Apologised (21%)
- Were formally warned (17%)
- Were informally spoken to (10%)
- No consequence for the perpetrator (7%)

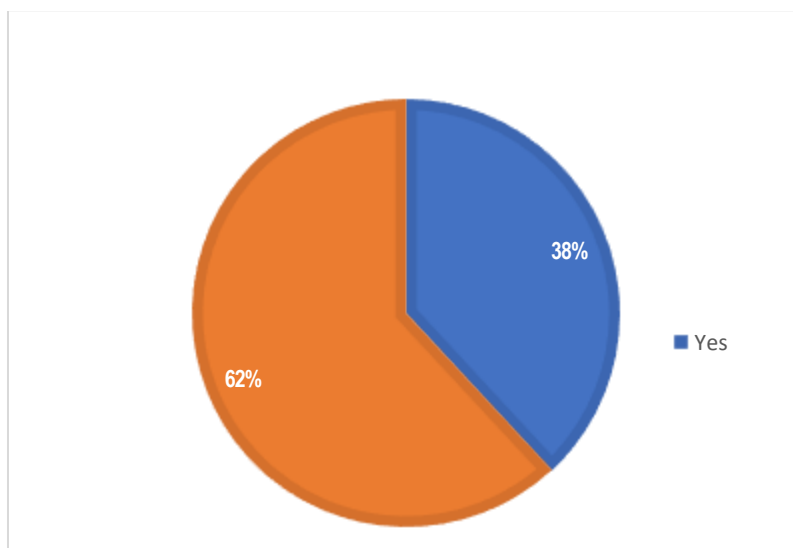
Figure 38: Outcomes for perpetrators of report or complaint (by gender of victim)



6.6 Witnessing workplace sexual harassment

38% of respondents noted that they have witnessed sexual harassment of another person at their workplace over the past five years.

Figure 39: Witnessing or hearing about sexual harassment of others in the workplace



- The most common reasons for why bystanders to sexual harassment do not take action include the following:
- 22% believed that it was not their responsibility,
- 20% did not believe that it was serious enough to intervene, and
- 12% were worried about the negative impact on their career or safety for taking action when they witness sexual harassment.

For female victims (16%), the main reason for a witness not taking action was that it was not their responsibility, while for men, they didn't think it was serious enough to intervene.

Figure 40: Reasons for bystander not taking action after witnessing sexual harassment in the workplace

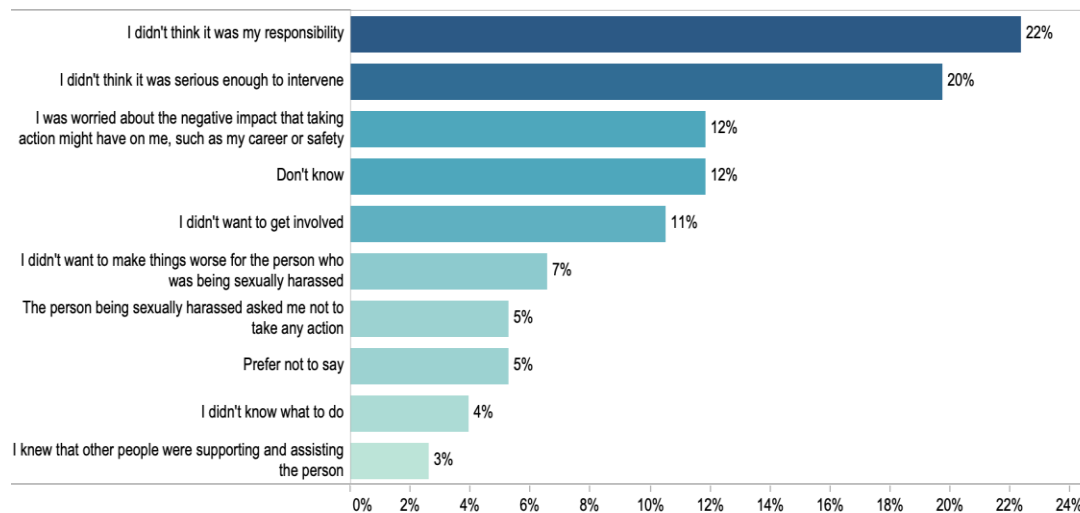
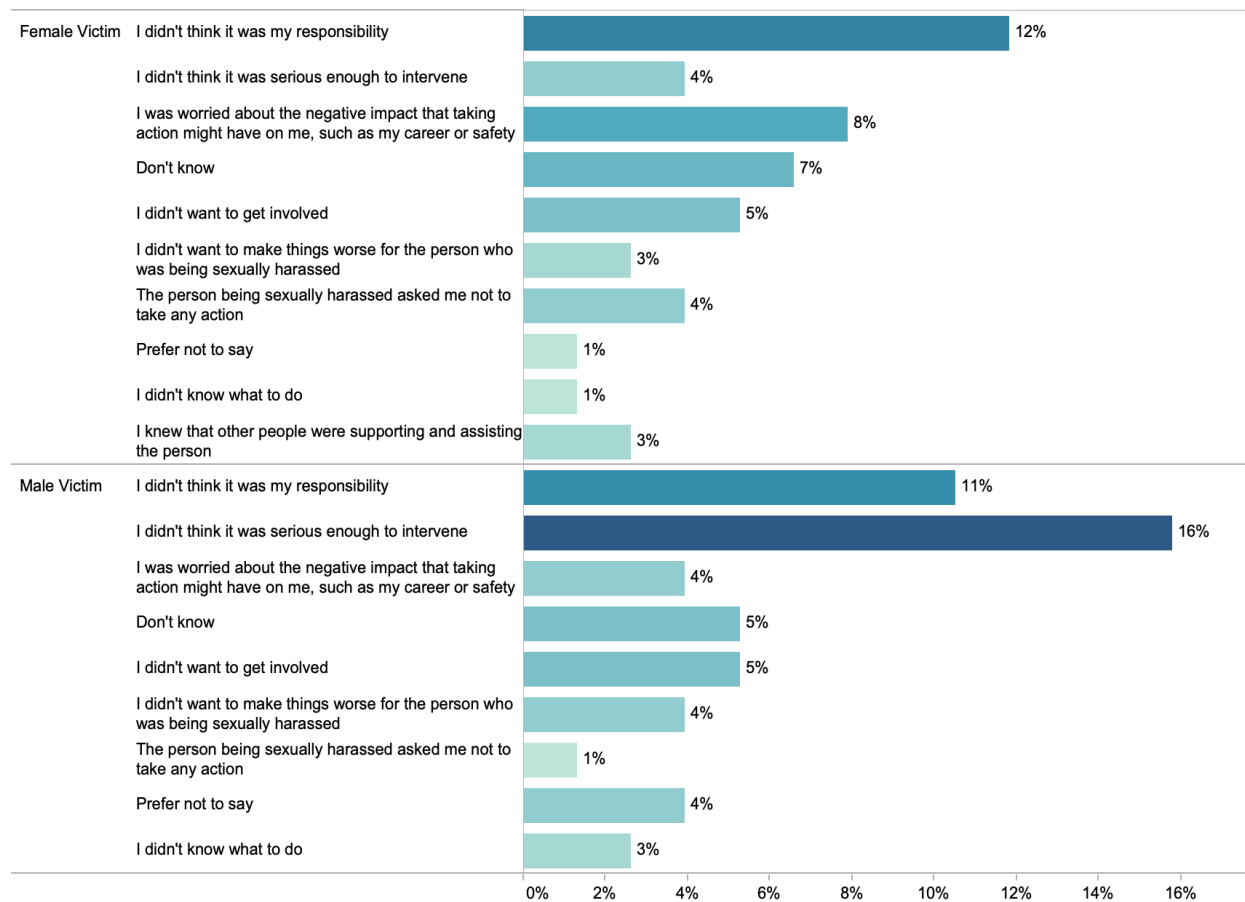


Figure 41: Reasons for bystander not taking action after witnessing sexual harassment in the workplace (by gender of victim)



6.7 Impact and cost of sexual harassment in the workplace

6.7.1 Degree of offence

Those that reported that they were harassed but did not feel intimidated at all (10%) was lower than the number who said that the most recent incident had made them extremely intimidated (40%).

Male victims (22%) are likely to report that they were not intimidated compared to women (4%). Women reported higher levels of feeling extremely offended and intimidated (47%) as a result of workplace sexual harassment than men (25%).

Figure 42: Degree to which victim felt offended or intimidated

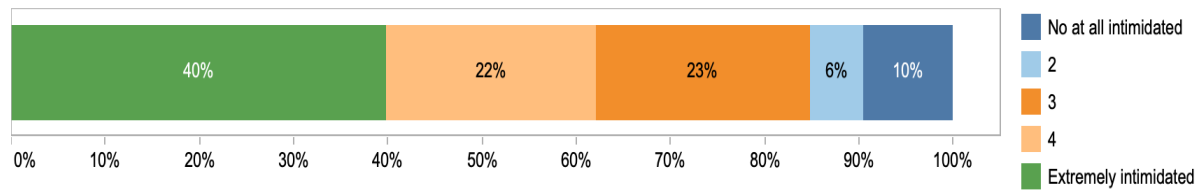
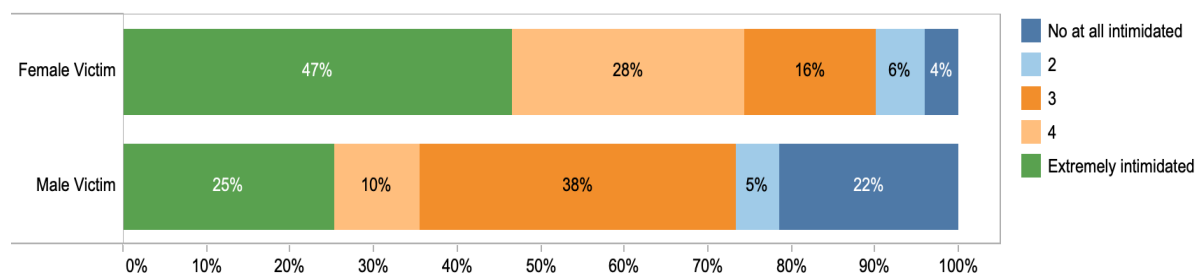


Figure 43: Degree to which victim felt offended or intimidated (by gender of victim)



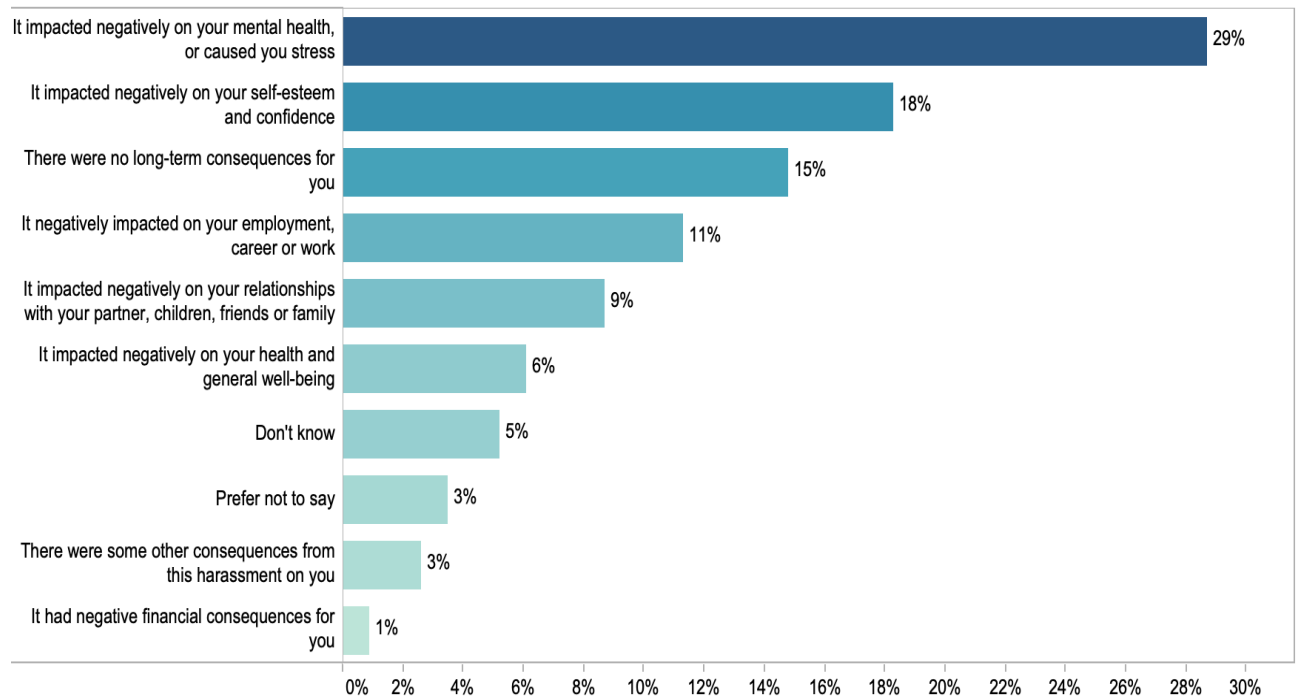
6.7.2 Impact of workplace harassment

Those who had been sexually harassed in the workplace in the last five years were asked to indicate what the consequences of the most recent incident had been for them. 20% of people said that there were no long-term consequences for them as a result of the harassment.

Generally, people who experienced sexual harassment identified the following negative consequences:

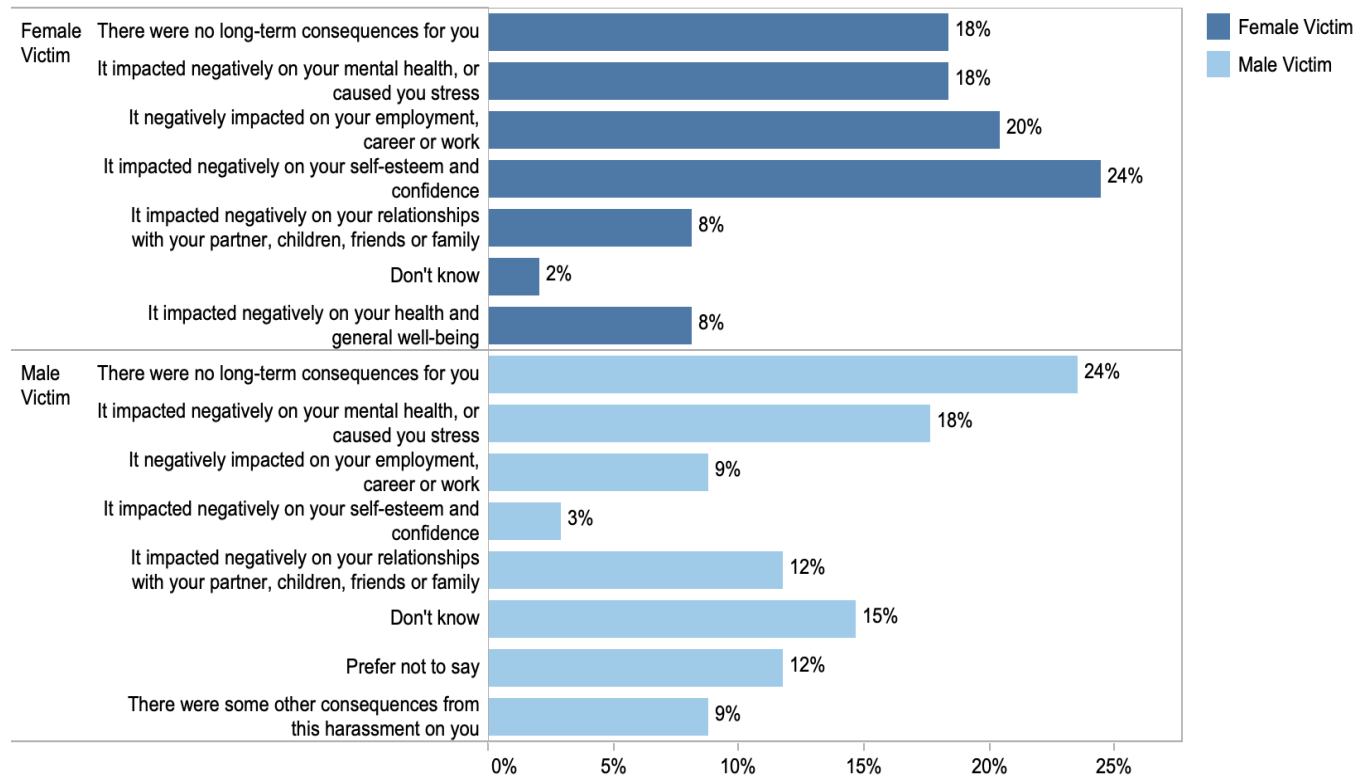
- it impacted negatively on their mental health, or caused them stress (29%)
- it impacted negatively on their self-esteem and confidence (18%), and
- it negatively impacted on their employment, career or work (11%).

Figure 44: Consequences of most recent incident of workplace sexual harassment



In terms of gender, women were more likely to report negative impact on their mental health (18%), and self-esteem and confidence (24%). For women, it also impacted on their employment or work (20%) compared to male counterparts (9%). Male respondents are more likely to report that there were no long-term consequences for them (24%). Nevertheless, a significant number suggested that harassment does affect their mental health as well (18%).

Figure 45: Consequences of most recent incident of workplace sexual harassment (by gender of victim)



6.8 Focus Group Discussions (FGDs)

6.8.1 Women's Rights Organisations

Understanding the concept of sexual harassment

The FGD was held virtually on 6 February 2021 and had six participants from different youth and women organisations, who also hold full or part-time positions in public or private organisations. Participants were selected based on the type of organisations they represent. They were asked a set of questions to gauge and analyse their understanding of the concept of sexual harassment and their views on the factors which engender it. At the start of the FGD, the participants were requested to share their understanding of the term 'sexual harassment' in words or sentences. Many of them defined sexual harassment as unwanted or unwelcome actions towards people where the actions have sexual connotations to them.

The most commonly mentioned words in defining the term sexual harassment were "inappropriate" and "sexual", and they were shared from the context of a professional environment. 75% of the participants that attended the FGD either experienced or witnessed instances of sexual harassment in their workplaces, or other workplaces as per behaviours that they considered inappropriate in a professional setting. The most common occurrence includes verbal sexual harassment from male to female colleagues or physical harassment from female to male colleagues.

Regarding which gender is more likely to be a target for sexual harassment in the workplace, most of the participants said it is the female employee. Most of them also believe that when colleagues have a more jovial relationship outside of the office, they find it difficult to act professionally and thus sexually harass each other. A female participant stated:

'Personal intimate relationships are mostly replicated in professional space even when they are inappropriate in that place...'

Vulnerability and targets for sexual harassment in workplaces in The Gambia

The participants expressed that sexual harassment is a big problem in workplaces in The Gambia mostly due to the absence of policies, or lack of adequate

understanding and awareness of the concept by staff, especially for male colleagues. Going by the participant's past and present places of work, they explained that sexual harassment is more present in workplaces that have an equal gender ratio, or where there are more men than women staff. The FGD participants argued that gender, in addition to positions and income, is the greatest factor of sexual harassment in workplaces in The Gambia. One of the participants, who works in the public sector shared that "Most of the time, the lack of consequences for sexual harassment increases vulnerability as staff feel that nothing will come out of it when reported so people will not waste their time." Some of the participants also held the belief that the department in which one works within an institution can also determine how safe and friendly it is, coupled with the gender composition of the unit as well. Evidently, this showed that there is limited safety in workplaces in The Gambia.

Factors that prevent people from reporting incidents of sexual harassment in workplaces in The Gambia

The participants believe that in workplaces that have sexual harassment policies, there still might be instances where the necessary steps are not taken when sexual harassment occurs or that they are not reported at all. Some of the factors that were mentioned are listed below:

1. Fear of retribution: All of the participants believed that most people do not report sexual harassment cases because they are afraid of what would happen to them in their workplaces or jobs due to the power dynamic between perpetrators and victims.
2. Lack of understanding and awareness also leads to non-reporting of cases, as certain behaviours are not necessarily seen as sexual harassment thus victims often disregard or dismiss it.

In response to these factors, the participants suggested the following for institutions to consider ensuring that all cases of sexual harassment are reported:

- Employers should ensure that the people who take or file reports are different depending on who the perpetrator is. One of the participants who worked at a Non-Governmental Organisation shared that, "In my former place of work, the Human Resource staff take reports for cases of sexual harassment between staff of the same level; when it is between a staff and their boss, then there is a separate committee that handles those".
- It was also recommended that frequent training should be organised to make sure that people understand the consequences of going against the workplace policies and ethics and also on sexual harassment policies

available for people to understand sexual harassment behaviours and how to report them i.e., the processes and procedures. Sexual harassment awareness training should also be incorporated into the induction training for new staff, so they are aware of its existence and how that particular workplace deals with it.

Suggestions and recommendations for the Anti-Sexual Harassment Policy for Workplaces in The Gambia and NHRC

The FGD participants indicated that they would like to see the following in the anti-sexual harassment policy:

The FGD participants indicated that they would like to see the following in the sexual harassment in the workplace policy:

- A zero-tolerance clause and rigid consequences for violations because sexual harassment in workplaces is a frequent occurrence;
- Policies should be clear, simple and contain explicit strategies for dissemination and popularization. In addition, it must explicitly state clear behaviours of sexual harassment which leave no grey areas for doubts.
- consider independent or separate groups of people who handle or takes reports of sexual harassment in workplaces depending on who the victims or perpetrators are;
- explicit procedures regarding the reporting of incidents and where to report depending on who the perpetrator is, and less tedious processes with rigid complaint mechanisms and processes;
- Incorporation of frequent training into the induction trainings for all staff and stated in the policy;
- The NHRC to ensure that the policy is enforceable by the workplaces, especially private companies and also for government offices that already have policies in place. Therefore, the policy should explain how it will be used by institutions.

Overall, the participants had a good understanding of sexual assault and very positive opinions towards it. 100% of the participants agreed that sexual harassment was never the victim's fault. For the rest who shared a different view, they expressed that people [especially women] are pressurised and forced to do certain things due to the positions they hold or seek, or oftentimes also because of their lack of understanding of sexual harassment.

6.8.2 Trade Union Members

On Friday, 19 of March 2020, the research team engaged eight (8) representatives from the Federation for Gambia Construction and the Workers Union- a coalition of various unions from five (5) trades interested in devising ways for workers in the Gambia to enjoy an environment characterized by better working conditions, rights' protection and a dignified living when they reach the statutory age. Participants included union leaders and other general trade unionists. The meeting was held at the Faculty of Law, University of the Gambia, Kanifing. The discussions began with a general questioning on the meaning of sexual harassment in workplaces.

On the existence of sexual harassment in the workplace, one of the participants, part of the leadership, opined that serious and professional workers ought to be able to distinguish "work" from "love." He stressed that:

"Work is not about love and romance. It is more about delivering the goods for socio-economic development."

Participants at the event also elaborated on the pace of Sexual Harassment in places of work and the ferocity with which the waves spread. As noted by one of the participants:

"We have a lot of court cases, but most will end up being settled amicably. These cases are linked to sexual harassment and interestingly, they happen to both males and females."

Intending to identify behaviors and actions that are attributable to sexual harassment in the workplace, the discussions also took a shift, allowing participants to shed light on incidences experienced and their understanding of this phenomenon. It was observed that such examples happen and are often showcased by employers who leverage their power to victimize both their male and female employees. Giving an account of a case that was brought before him to mediate, a participant shared:

"One of our secretaries encountered the same with a principal of a school who invited her severally to his room showing her movies of romance and sex. The lady had to quit the job because of the seductive and illegal behaviors of the principal of which she found harassing and disturbing."

Furthermore, participants discussed how these behaviors relate to the deteriorating micro-economic conditions which have made most employees susceptible to sexual harassment. A female participant also opined that:

"lack of employment opportunities causes people to be subjected to sexual harassment."

She added that with the debate of trying to pinpoint the major fueling factors, poverty equally becomes an inherent accompanying problem.

Assessing the environment of workplaces in the country in aspects of security for employees with emphasis on the female workers, the feedbacks of the discussions confirmed that from a holistic perspective, civil servants- both men and women, have more robust security over their jobs than those that are rendering their services in the private sector. To substantiate this, it was argued that in the private sector, people face various forms of insecurity.

"Annual leave is a constitutional right for people and we have cases of overtime, work leave, amongst others still dragging in the courts."

On vulnerability to sexual harassment, the participants opined that it could also stem from the lack of adequate and good credentials by a worker as the possession of this, many stressed at the convergence, will prevent cases of sexual harassment in places of work. Nonetheless, gender disparities and weaknesses were also identified by participants as being part of the most notable causal factors. Another noted that:

Gender weaknesses mostly suffered by female employees owe their existence to the social order and norms being the reason why female employees shy away from reporting sexual harassment cases.

The following recommendations were made by the participants moving forward:

- Ratify ILO Convention No 190
- Awareness-raising should be intensified through mass media and other available platforms of communications. Issues of sexual harassment and matters relating to violations of workers' rights at times are not quite understood by both employees and employers.
- Trade unions must advance education among their members and the general public on the conduct and the expectations in the employer-employee relationship.

6.8.3 The Banker's Association

The FGDs, through the Banker's Association, was held on 10 February 2020 via zoom with Human Resources Managers from six major banks in the country.

Participants shared their companies' commitment to achieving gender equality and ensuring zero tolerance of their institutions. This is manifested in participation in the Gender Equality Seal Certification Programme designed by the UNDP. The GCCI acts as the lead institution for the Gender Equality Seal for Private Sector Programme.

The Gender Equality Seal Certification Programme assists public & private institutions to ensure that their workplaces are fair and equitable, for a productive and innovative workforce, while enhancing efficiency & promoting accountability – with higher rates of women in non-traditional sectors & leadership roles.

On perceptions of sexual harassment, the participants noted that sexual harassment does occur, however, there is work needed to be done in terms of training and awareness of what constitutes sexual harassment. Phrases such as “my love, my darling, my wife” are routinely used in such settings and these are in some cases unwanted and unwelcomed thereby making it behaviours that constitute sexual harassment.

On the handling of sexual harassment cases and procedures in place, most noted that there have not been many reported cases, for instance, the only case received was four years ago with the victim being female. Another noted that they dealt with 2 cases in the past 4 years. The victims were women. In one of the cases, a female employee was verbally harassed by her male counterpart.

On the handling of sexual harassment cases and procedures in place, most noted that there have not been many reported cases; for instance, one Human Resource Manager revealed that they receive only one case from a female employee about four years ago. Another Manager noted that they dealt with 2 cases in the past 4 years and the victims were women. One of the cases involved a female employee who was verbally harassed by her male counterpart.

In terms of procedures, there is both a formal system as well as anonymous reporting. A participant noted that in one of the cases, they had to create an ad-hoc committee for the disciplinary hearing, and action was taken accordingly,

which was a suspension. The participants noted that underreporting is mainly because people do not know what constitutes sexual harassment.

On the reasons or factors which might prevent victims from reporting sexual harassment cases, the participants noted that in most cases, the alleged perpetrator is someone more senior and in a position of power to the victim. They indicated that there are general unequal power relations between perpetrators and victims which results in fear of repercussion and reporting the case, and actions might not be taken seriously which might put victims in an uncomfortable position. Also given the Gambian societal context, victims, mainly women, are fearful of the likely stigma given non-assurance of confidentiality. As a result, they just prefer to keep quiet.

Another participant noted that:

“The stigma associated with sexual harassment especially for women who are married [is more challenging] if the information goes out to the matrimonial home and likely have the possibility of causing problems.”

On the way forward, participants suggested that there is a need to organize workshops and training for staff on what is expected from them, what is allowed and not allowed. There has also been the general push to encourage staff to report anonymously as third parties when they witness sexual harassment in the workplace. In general, awareness levels have to be raised so that sexual harassment policies in the workplace can be implemented to ensure protection for all employees.

Participants argued that companies need to be serious about making gender equality a reality to ensure the recruitment of women in management positions and prioritising resources to ensuring a conducive environment free from violence including sexual harassment.

6.9 Actions to combat sexual harassment in the workplace

Several questions were asked on mechanisms and procedures to address sexual harassment in the workplace (Figures 46-48)

50% of all respondents noted that they do not have knowledge sexual harassment policy or complaint procedure in the workplace. An overwhelming 83% did not receive any training on sexual harassment in the workplace. For trainings for sexual harassment by sector, 75% of those in the public sector; 80% of civil society organisations; 86 % of private sector and 67% of NGOs/INGOs have not received training in sexual harassment in the workplace. Given that international NGOs including UN agencies have procedures in place, 75% noted that they have undergone training in sexual harassment.

Figure 46: Knowledge of sexual harassment policy or complaint procedure in the workplace

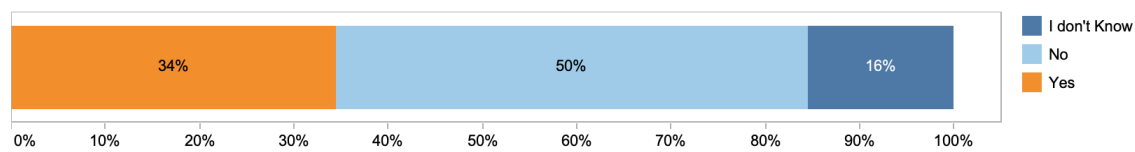


Figure 47: Sexual harassment training in the workplace received

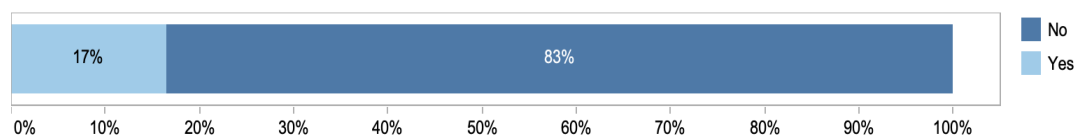
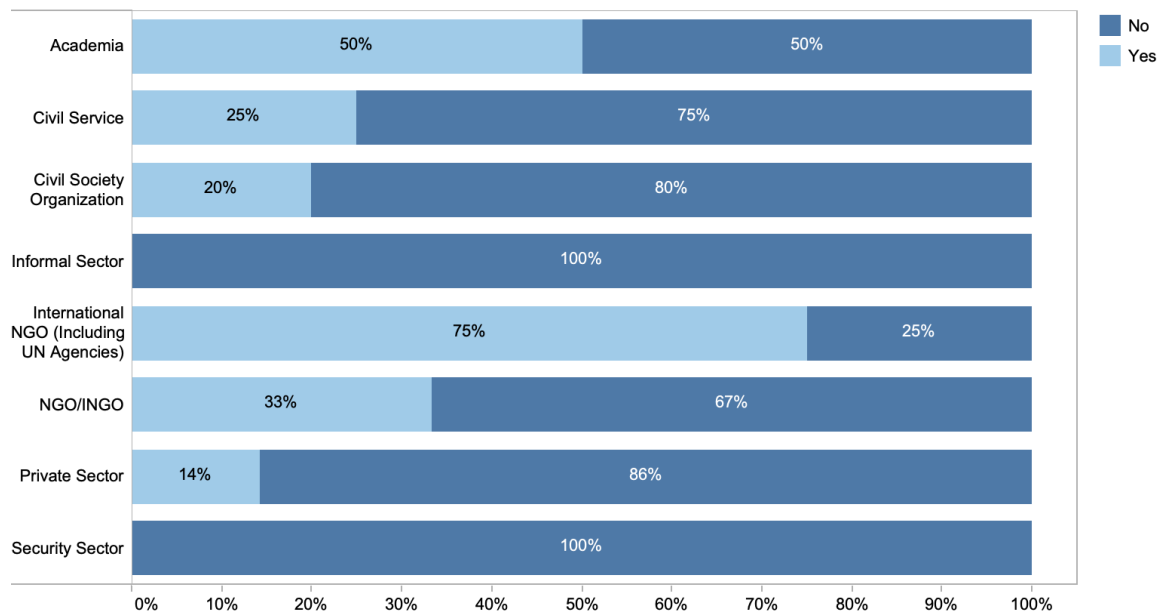


Figure 48: Sexual harassment training in the workplace received (by sector)



On gauging their knowledge on whether there is any legislation that prohibits sexual harassment in The Gambia, more than half indicated that they know of the existence of such a law. 90% noted that they were not satisfied with the enforcement and implementation of legislative provisions that address sexual harassment.

Figure 49: Knowledge of sexual harassment legislation

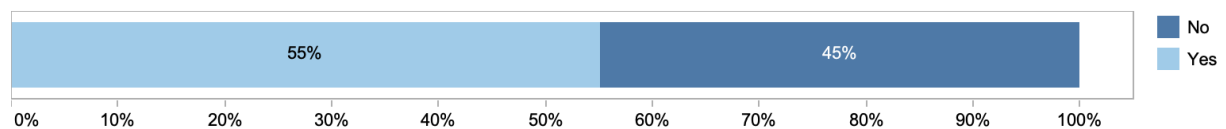
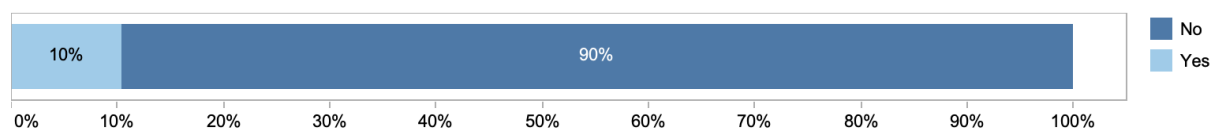


Figure 50: Satisfaction with the enforcement and implementation of legislation addressing sexual harassment



6.10 Institutional Assessment

In workplaces, sexual harassment could happen to anyone (male or female). Evidence from the survey data has shown an almost equal number of female and

male respondents reported that have been sexually harassed by a colleague. Among workers that reported that they were harassed, a significant number indicated the negative impact it has had on their mental health or self-esteem. In the workplace, these effects could have a negative impact on performance and productivity as well as the general wellbeing of the victim and, also extending to his or her family. The fear of reprisals, as well as the culture of silence or belief that one may be able to handle the situation, are not helping as it ends up normalizing the situation. In the Gambia, evidence from the survey also shows that co-workers, while being the biggest perpetrators, are equally the largest group that victims report harassment to. The fact that the abuse is reported within the same group and hardly to managers, except in extreme cases, makes it difficult for management to address the situation or make sexual harassment in the workplace a priority.

To understand how institutions deal with cases of sexual harassment we conducted key informant interviews with 15 institutions cutting across public, private, and civil society. Some of the institutions interviewed are also tasked with the responsibility of addressing workers' complaints serving as arbitration commissions. In the selected institutions, we were interested in the availability of sexual harassment policy or available alternative systems dealing with sexual harassment; where available, the level of awareness by staff; reporting mechanisms, and actions taken by the institution to protect the staff.

6.10.1 Availability of Sexual Harassment Policy and other Systems

With the prevalence of sexual harassment in the workplace, it is expected that institutions will take the necessary steps to safeguard against any form of unwanted encroachment or harassment by staff on other staff. However, evidence has shown that out of the 15 institutions interviewed for this study, only 4 have a sexual harassment policy. The institutions with sexual harassment policies are Gambia Press Union (GPU), ActionAid-The Gambia (AAITG), Gambia Teacher's Union (GTU), and Network Against Gender-Based Violence (NGBV). One reason why these institutions have a policy dealing with sexual harassment can be largely attributed to the nature of their work as well as link with the broader donor community. None of the government institutions or local authorities or most of the independent institutions like the Ombudsman do not have a policy on sexual harassment. However, the NHRC has a Code of Conduct that clearly spells out sexual harassment and its prohibition, with sanctions identified.

6.10.2 Policy Awareness

Through the organizational assessments, in most of the institutions under review with no policy, there is limited awareness-raising including staff training on sexual harassment. In institutions where a policy is available, such as AAITG and NGBV, efforts are taken to ensure that staff is aware of it. Through training, the staff is constantly reminded about the impact and consequences of sexual harassment, and how to report and take action when they witnessed or are victims of harassment.

6.10.3 Reporting Mechanism

In the institutions with sexual harassment policies, there naturally also exist reporting mechanisms that staff can use to make a formal complaint when they want to. While some institutions like AAITG and GPU have very flexible reporting mechanisms, for NGBV any report relating to sexual harassment must be reported in written form. In such an instance and given the cultural sensitivities of sexual harassment, many might prefer not to report since it also involved writing.

6.8.9 Staff Protection

Evidence from both the survey and Focus Group Discussions have revealed that sexual harassment is not only prevalent but is also very common in the workplace, albeit with little effort to address it. Equally, the key informant interviews also reveal that sexual harassment is a major problem in workplaces. Yet, only a few organisations have declared that they have sexual harassment policy to address the phenomenon. Institutions with the right policies and frameworks have gone to the extent of training key staff in some instances senior management to support the implementation of sexual harassment policy or provide support to victims.

CHAPTER 7: CONCLUSION

7.1 Conclusion

The study aims to understand the nature and magnitude of sexual harassment in the workplace with a focus on the public, private and NGOs sectors in The Gambia. The study first assesses the experience of employees of sexual harassment in the workplace, followed by the examination of the support systems available when sexual harassment occurs. It shows the prevalence of sexual harassment in the workplace, with women as the predominant victims, the factors or drivers that exacerbate sexual harassment, and the absence of workplace sexual harassment policy in the public, private and NGO sectors. A useful future research agenda would entail conducting a national survey and sector-based studies to provide insights and an overview of the trends and patterns around sexual harassment in specific industries and its gender dimensions. Such analysis can be used as a basis to explore policy options and develop considerations for expanding and promoting the prevention of sexual harassment.

The findings of the study will support and inform legal and policy reform, systems development, capacity building, and awareness-raising on sexual harassment in the workplace. While the country has a plethora of laws that address gender-based violence, broadly including sexual harassment, the laws do not largely address sexual harassment in the workplace. For example, the 1997 Constitution prohibits discrimination and protects the dignity of the person. Other legislation such as the Women's Act 2010 also protects women from violence, which is defined to include physical, emotional, psychological, economic, and sexual harm. The Criminal Code also has some provisions which prohibit assault of various kinds. However, apart from the Domestic Violence Act 2013, which prohibits sexual harassment in the domestic setting, the provisions in all the other legislation are not only scanty but also unsuitable for the fight against sexual harassment in the workplace.

In terms of available mechanisms and procedures to address sexual harassment in the workplace, there are only a few Gambian institutions and organisations in the public, private and NGO sectors that have adopted a workplace anti-sexual harassment policy. The majority of institutions, organisations and companies do not have clear policies and procedures in place to deal with sexual harassment.

Thus, an overwhelming majority supports institutions or companies having in place a policy against sexual harassment in the workplace, and which is effectively enforced as well. Comprehensive legislation that addresses sexual harassment.

Figure 51: Support for adoption of institutional policies against sexual harassment

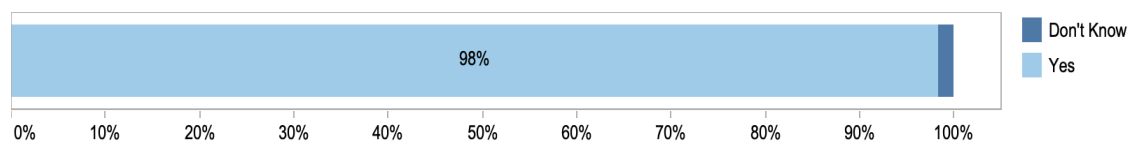
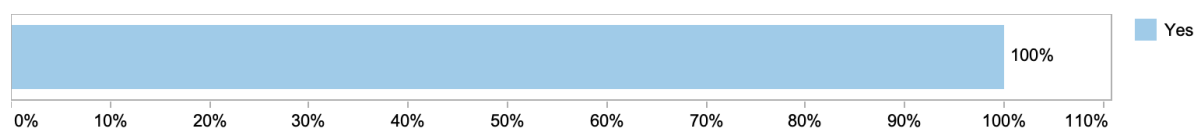


Figure 52: Support for enactment of a comprehensive legislation that addresses sexual harassment



7.2 Recommendations

Based on the findings, the study makes the following recommendations:

Government

- Ratify of the ILO Convention No. 190 on Violence and Sexual Harassment adopted at the ILO General Assembly in June 2019 and popularise among the populace.
- Enact a comprehensive law that addresses sexual harassment and effectively implement.
- Formulate generic workplace sexual harassment policy to be adapted by public, private and NGO sectors.
- Put in place mechanisms for the effectively reporting of sexual harassment in the public sector
- Develop national capacities to prevent Sexual Harassment in workplace and general society.

- Undertake a comprehensive national study on sexual harassment in the workplace.

Private and NGO Sectors, including Workers' Union

- Formulate, adopt and implement anti-Sexual Harassment workplace policies and Code of Conduct.
- Train staff on prevention of sexual harassment and put in place the necessary mechanisms to facilitate reporting and investigation of cases
- Develop awareness raising materials on sexual harassment and popularise amongst staff
- Advocate for the ratification of the of the ILO Convention No. 190 on Violence and Sexual Harassment

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APPENDICES

8.1 Annex 1: Survey questionnaire on Sexual Harassment in the Workplace in The Gambia

Dear Respondent,

We are conducting an important survey on behalf of the National Human Rights Commission of The Gambia. This study investigates the incidence and nature of sexual harassment both in and outside the workplace and in the process of looking for work.

The survey will take approximately **15 minutes** for most people and the information provided will be used for research purposes only. Your answers will remain strictly confidential. They will not be able to be identified in any way in the results.

This is an important study of the prevalence and impact of sexual harassment. Firstly, I would like to read the definition of Sexual Harassment. I'd like to assure you that your answers to these questions are completely confidential.

“Sexual harassment is an unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which, in the circumstances, a reasonable person, aware of those circumstances, would anticipate the possibility that the person would feel offended, humiliated or intimidated.”

Q1. Would you like to participate?

1	Yes	CONTINUE TO Q2
2	No	TERMINATE THE INTERVIEW

If No, please do not proceed with the interview

Q2. Is your gender...

1	Male	
2.	Female	
3	Other	
4	Refused (DO NOT READ)	

Q3. What is your age?

1.	18-29 years	
2.	30-39 years	

3.	40-49 years	
4.	50-64 years	
5.	65+	
6.	Refused (DO NOT READ)	

Q4. What is your highest educational qualification?

1.	Junior school graduate	
2.	Senior school graduate	
3.	Diploma	
4.	Postgraduate Diploma	
5.	Undergraduate Degree	
6.	Postgraduate Degree	
7.	Doctoral	
8.	No academic qualification	

Q5. Which type of Institution/Organization do you work for? Please specify below

1.	Civil Service	
2.	Private Sector	
3.	Civil Society Organisation	
4.	Security Sector	
5.	NGO/INGO	
6.	International Organisation (including UN Agencies)	
7.	Academia	
8.	Informal sector	

Q6. What is your employment status in the institution/organization?

1.	Full time	
2.	Part time	
3.	Casual	
4.	Temporary	
5.	Intern	If '3' please skip to No.8
6.	Voluntary	If '3' please skip to No.8
7.	Freelance	If '3' please skip to No. 8

Q7. What managerial level are you in the institution/organization?

1.	Senior management	
2.	Middle Level management	
3.	Lower Level management	

Q8. What are the kinds of situation that people usually exploit to sexually harass co-workers in your workplace? Please rank in order of prominence:

	Situation	Rank
1	Work trips	
2	Late night shifts	
3	Need for promotion	
4	Application for employment	
5	Role allocation in the workplace	
6	Any other-----Please specify below and rank	

Q9. Is there any form of sexual discrimination in the following areas in your workplace? Tick as many as apply.

1.	Promotion	
2.	Salaries	
3.	Role allocation	
4.	Sponsorship on study leave	
5.	Attendance at workshops, seminars, conferences, etc.	
6.	Pregnancy/maternity	
7.	Employment	

Q10. Which, if any, of the things mentioned in **Q9 above** happened to you at work, at a work-related event or while looking for work?

1.	touching, hugging, cornering or kissing	
2	staring or leering	
3	Sexual gestures, indecent exposure or display of the body	
4	Sexually suggestive comments or jokes	
5	Sexually explicit pictures, posters or gifts	
6	Repeated or inappropriate invitations to go out on dates	
7	Intrusive questions about your private life or physical appearance	
8	Physical contact	
9	someone following, watching or loitering nearby	
10	Repeated or inappropriate advances on email, social networking websites or internet chat rooms by a work colleague	
11	Requests or pressure for sex or other sexual acts	
12	Actual or attempted rape or sexual assault	
13	indecent phone calls or voice messages	
14	Sexually explicit comments in emails, SMS messages or on social media	
15	Repeated or inappropriate advances on email, social networking websites or internet chat rooms	
16	Sharing or threatening to share intimate images or film of you without your consent	
17	Any other unwelcome conduct of a sexual nature that occurred online or via some form of technology (SPECIFY) _____	

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Q11. You've mentioned that you experienced the following behaviours at work or at a work-related event or while looking for work in the last 5 years. Can you please tell me which of these happened to you most recently?

1	Unwelcome touching, hugging, cornering or kissing	
2	Inappropriate staring or leering that made you feel intimidated	
3	Sexual gestures, indecent exposure or inappropriate display of the body	
4	Sexually suggestive comments or jokes that made you feel offended	
5	Sexually explicit pictures, posters or gifts that made you feel offended	
6	Repeated or inappropriate invitations to go out on dates	
7	Intrusive questions about your private life or physical appearance that made you feel offended	
8	Inappropriate physical contact	
9	Being followed, watched or someone loitering nearby	
10	Requests or pressure for sex or other sexual acts	
11	Actual or attempted rape or sexual assault	
12	Indecent phone calls, including someone leaving a sexually explicit message on voicemail or an answering machine	
13	Sexually explicit comments made in emails, SMS messages or on social media	
14	Repeated or inappropriate advances on email, social networking websites or internet chat rooms	
15	Sharing or threatening to share intimate images or film of you without your consent	

Q12. Was this sexual harassment you experienced most recently (Q.11) a one-off, or had it occurred previously at that same place of work?

1.	One-off	
2.	Had occurred previously	

Q13a. At the time of the most-recent incident, were you working full-time, part-time, looking for work or something else?

1.	Working full time	
2.	Working part time	
3.	Looking for a job	
4.	On internship	
5.	Working on a casual basis	
6.	Working as a volunteer	
7.	Don't want to tell	

Q13b. When the most recent incident occurred, were you...?

1	In a social area for employees – such as a break or lunchroom	
2	At a work social event – such as after-work function	
3	At your workstation / where you work	
4	In a meeting – i.e. with more than two attendees	
5	In a one-on-one meeting	
6	At a work retreat or offsite meeting	
7	In a work-provided facility – such as a bathroom or change room	
8	Somewhere else (SPECIFY) (Don't read if any of the above is stated)	
9	Don't know (DO NOT READ)	
10	Refused (DO NOT READ)	

Q13c. How many people were directly involved in subjecting you to this most recent incident?

1	Record	
98	Don't know	
99	Prefer not to say	

IF 2 OR MORE HARASSERS AT Q13C, OR DON'T KNOW OR PREFER NOT TO SAY, GO TO Q15A

IF ONE HARRASSER AT Q13c, ASK Q14

Q14a. Was the harasser male, female or another gender? **SINGLE RESPONSE – DO NOT READ**

1	Male	
2	Female	
3	Another gender	
98	Don't know	CONTINUE

99	Prefer not to say	CONTINUE
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Q14b. About how old was the harasser? **SINGLE RESPONSE – INTERVIEWER NOTE: READ LIST IF REQUIRED**

1	15-20 years	CONTINUE
2	21-30 years	CONTINUE
3	31-40 years	CONTINUE
4	41-50 years	CONTINUE
5	51-64 years	CONTINUE
6	65+ years	CONTINUE
98	Don't know (DO NOT READ)	CONTINUE
99	Prefer not to say (DO NOT READ)	CONTINUE

Q14c. Was the harasser...

SINGLE RESPONSE – INTERVIEWER NOTE: READ OUT UNTIL SELECTION MADE

1	The head of your workplace or organisation – such as the CEO, business owner or similar	
2	Your direct manager or supervisor at work	
3	Another manager or supervisor at work	
4	A co-worker who was more senior	
5	A co-worker at the same level as you	
6	A client or customer	
7	Someone else associated with your workplace	
97	Anyone else (SPECIFY) _____	
98	Don't know (DO NOT READ)	
99	Prefer not to say (DO NOT READ)	

IF 2 OR MORE HARASSERS AT Q13C, OR DON'T KNOW OR PREFER NOT TO SAY, ASK

Q15A. Were any of the harassers...?

MULTIPLE RESPONSE – INTERVIEWER NOTE: READ OUT

1	Males	
2	Females	
3	Another gender	

98	Don't know (DO NOT READ)	
99	Prefer not to say (DO NOT READ)	

Q15B. Were any of the harassers in the following age groups?

MULTIPLE RESPONSE – INTERVIEWER NOTE: READ OUT. IF RESPONDENT UNSURE ABOUT AGE OF HARASSERS, ASK FOR THEIR BEST ESTIMATE

1	15-20 years	
2	21-30 years	
3	31-40 years	
4	41-50 years	
5	51-64 years	
6	65+ years	
98	Don't know (DO NOT READ)	
99	Prefer not to say (DO NOT READ)	

Q15C. What was the relationship of the various harassers to you? Were any of them...

MULTIPLE RESPONSE – INTERVIEWER NOTE: READ OUT ENTIRE LIST

1	The head of your workplace or organisation – such as the CEO or business owner	
2	Your direct manager or supervisor at work	
3	Another manager or supervisor at work	
4	A co-worker who was more senior	
5	A co-worker at the same level as you	
6	A client or customer	
7	Others associated with your workplace	
97	Anyone else (SPECIFY) _____	
98	Don't know (DO NOT READ)	
99	Prefer not to say (DO NOT READ)	

ASK IF EXPERIENCED SEXUAL HARASSMENT AT WORK IN LAST 5 YEARS

SINGLE RESPONSE – INTERVIEWER NOTE: DO NOT READ

Q15D. Did anyone else see this most recent incident of harassment?

1	Yes	
2	No	

98	Don't know (DO NOT READ)	
99	Prefer not to say (DO NOT READ)	

IF NONE ELSE SAW THE INCIDENT OR THEY DON'T KNOW, PREFER NOT TO SAY OR REFUSED (CODES 2 OR 3 OR 4 IN Q8d) GO TO Q16A

Q15E. Who were the people who saw it happen? Were any of them...

MULTIPLE RESPONSE – INTERVIEWER NOTE: READ OUT ENTIRE LIST

1	The head of your workplace or organisation – such as the CEO or business owner	
2	Your direct manager or supervisor at work	
3	Another manager or supervisor at work	
4	A co-worker who was more senior	
5	A co-worker at the same level as you	
6	A client or customer	
7	Others associated with your workplace	
97	Anyone else (SPECIFY) _____	
98	Don't know (DO NOT READ)	
99	Prefer not to say (DO NOT READ)	

Q15F. Did anyone who saw you being harassed try and intervene?

SINGLE RESPONSE – INTERVIEWER NOTE: DO NOT READ

1	Yes	
2	No	
3	Don't know	
4	Prefer not to say	

Q15F1. Did anyone who saw the harassment do any of the following...?

MULTIPLE RESPONSE – INTERVIEWER NOTE: READ OUT ENTIRE LIST

1	Talk to the harasser about the incident	
2	Report the harassment to your employer	
3	Talk to you about the incident	
4	Offer advice to you	
96	Take any other action (SPECIFY)	
97	None of these (SINGLE)	
98	Don't know (DO NOT READ)	

99	Prefer not to say (DO NOT READ)	
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Q16A. On a scale of 1 to 5, where 1 means not at all offended and 5 means extremely offended, overall how offended did the most recent incident of work-related harassment make you feel?

SINGLE RESPONSE – INTERVIEWER NOTE: REPEAT SCALE IF NECESSARY

Not at all offended				Extremely offended	Don't know (DO NOT READ)
1	2	3	4	5	6

Q16B. On a scale of 1 to 5, where 1 means not at all intimidated and 5 means extremely intimidated, overall how intimidated did the most recent incident of work-related harassment make you feel?

SINGLE RESPONSE – INTERVIEWER NOTE: REPEAT SCALE IF NECESSARY

Not at all intimidated				Extremely intimidated	Don't know (DO NOT READ)
1	2	3	4	5	6

Q16C. Thinking about the consequences of the most recent incident on you, would you say:

MULTIPLE RESPONSES – INTERVIEWER NOTE: READ OUT ENTIRE LIST RANDOMISE ORDER OF ITEMS 1 TO 6

1	It negatively impacted on your employment, career or work	
2	It had negative financial consequences for you	
3	It impacted negatively on your relationships with your partner, children, friends or family	
4	It impacted negatively on your self-esteem and confidence	
5	It impacted negatively on your health and general well-being	
6	It impacted negatively on your mental health, or caused you stress	
7	There were some other consequences from this harassment on you (SPECIFY)	
8	There were no long-term consequences for you	
98	Don't know (DO NOT READ OUT)	
99	Prefer not to say (DO NOT READ OUT)	

Q17. Thinking about your workplace at the time of the most recent incident, would you say that this type of behaviour was very rare, rare, occurred sometimes or was common?

SINGLE RESPONSE – INTERVIEWER NOTE: READ OUT. REPEAT SCALE IF NECESSARY

1	Very rare	CONTINUE
2	Rare	CONTINUE
3	Occurred sometimes	CONTINUE
4	Common	CONTINUE
98	Don't know (DO NOT READ)	CONTINUE
99	Prefer not to say (DO NOT READ)	CONTINUE

Q18. Did you make a formal report or complaint about the most recent incident of sexual harassment?

SINGLE RESPONSE – INTERVIEWER NOTE: DO NOT READ

1	Yes	CONTINUE
2	No	GO TO Q12
3	Prefer not to say	GO TO Q12

IF RESPONSE TO Q18 IS CODE 2 OR 3, GO TO QUESTION 19:

Q18A. To which of the following did you report the incident to?

MULTIPLE RESPONSE – INTERVIEWER NOTE: READ OUT

1	The head of your workplace organisation – CEO, business owner	
2	Your direct manager or supervisor at work	
3	Another manager or supervisor at work	
4	The Human Resources Manager or equivalent at work	
5	An Equity or Sexual Harassment Contact Officer at work	
6	A co-worker	
7	A union or employee representative	
8	A lawyer or legal service	
9	The National Human Rights Commission	
10	The office of the Ombudsman	
11	The Police	

97	Somewhere else (SPECIFY) _____	
98	Don't know (DO NOT READ OUT)	
99	Prefer not to say (DO NOT READ OUT)	

Q18B. What was the time period between when the harassment began and when you first reported it?

SINGLE RESPONSE – INTERVIEWER NOTE: READ OUT

1	Same day or next working day	CONTINUE
2	Less than 1 month (but not straight away)	CONTINUE
3	1 to 3 months	CONTINUE
4	4 to 6 months	CONTINUE
5	More than 6 months	CONTINUE
97	Prefer not to say (DO NOT READ)	CONTINUE
98	Don't know (DO NOT READ)	CONTINUE

Q18C. Has your complaint been finalised yet?

SINGLE RESPONSE – INTERVIEWER NOTE: DO NOT READ

1.	Yes	
2.	No	
98.	Don't know (DO NOT READ)	
99.	Refused (DO NOT READ)	

IF FINALISED (CODE 1 AT Q18C), ASK

Q18D. How was your complaint finalised?

MULTIPLE RESPONSE – INTERVIEWER NOTE: READ OUT

1	Between your organization's head and you	
2	Between your direct manager or supervisor and you	
3	With another manager or supervisor at work	
4	With your union's involvement	
5	With the involvement of the National Human Rights Commission or to the Police Station	
6	By your legal representative/lawyer	
7	In Court	

97	In some other way (SPECIFY) _____	
98	Don't know (DO NOT READ)	
99	Prefer not to say (DO NOT READ)	

Q18E. How long did it take to finalise your complaint? Was it...

SINGLE RESPONSE – INTERVIEWER NOTE: READ OUT

1	Same day or next working day	CONTINUE
2	Less than 1 month (but not straight away)	CONTINUE
3	1 to 3 months	CONTINUE
4	4 to 6 months	CONTINUE
5	7 to 12months	CONTINUE
6	More than 12 months	CONTINUE
98	Don't know (DO NOT READ)	CONTINUE
99	Prefer not to say (DO NOT READ)	CONTINUE

Q18F. Did any of the following things occur as a result of your complaint?

MULTIPLE RESPONSES – INTERVIEWER NOTE: READ LIST. DO NOT READ “THERE WERE NO CONSEQUENCES FOR YOU” IF SELECTED ANY OF CODES 1-15

RANDOMISE ORDER OF ITEMS 1 TO 14

1	Your employer apologised for failing to prevent the harassment	
2	Your employer paid you compensation because of the harassment	
3	The harassment stopped	
4	You received positive feedback for making the complaint	
5	Your shifts were changed	
6	You were transferred	
7	You resigned	
9	You were dismissed or lost your job	
10	You were demoted	

11	You were disciplined	
12	You were denied workplace opportunities, such as training or promotion	
13	You were ostracised, victimized, ignored by colleagues	
14	You were labelled a trouble-maker	
15	There were some other consequences for you (SPECIFY)	
16	There were no consequences for you (SINGLE)	
98	Don't know (DO NOT READ)	
99	Prefer not to say (DO NOT READ)	

Q18G. Did any of the following things happen to your {harasser / harassers} following your complaint?

MULTIPLE RESPONSES – INTERVIEWER NOTE: READ OUT. DO NOT READ “THERE WERE NO CONSEQUENCES FOR THE HARASSER” IF SELECTED ANY OF CODES 1-9 ABOVE

RANDOMISE ORDER OF ITEMS 1 TO 8

1	They were disciplined	
2	They were formally warned	
3	They were informally spoken to	
4	They were transferred	
5	They had their shifts changed	
6	They resigned	
7	They apologised	
8	They paid you compensation	
9	There were some other consequences for the harasser (SPECIFY)	
10	There were no consequences for the harasser	
98	Don't know (DO NOT READ)	
99	Prefer not to say (DO NOT READ)	

Q18H. Did any of the following happen at your organisation as a result of your complaint?

MULTIPLE RESPONSES – INTERVIEWER NOTE: READ OUT. DO NOT

READ “THERE WERE NO CHANGES AT THE ORGANISATION” IF SELECTED ANY OF CODES 1-4 ABOVE

1	Your employer developed or changed the existing policy on sexual harassment	
2	Your employer changed a practice or procedure – for example, the complaints procedure.	
3	Your employer implemented training or education	
4	There were some other changes at your organisation following your complaint (SPECIFY)	
5	There were no changes at the organisation following your complaint (SINGLE)	
98	Don't know (DO NOT READ)	
99	Prefer not to say (DO NOT READ)	

Q18I. On a scale of 1 to 5, where 1 means not at all satisfied and 5 means extremely satisfied, how would you rate the overall process of dealing with your complaint?

SINGLE RESPONSE – INTERVIEWER NOTE: REPEAT SCALE IF NECESSARY

Not at all satisfied				Extremely satisfied	Don't know (DO NOT READ)
1	2	3	4	5	6

Q19. Did you seek any {other form of} support or advice about the most recent incident of sexual harassment?

SINGLE RESPONSE – INTERVIEWER NOTE: DO NOT READ

1	Yes	
2	No	
3	Prefer not to say	

IF RESPONSE TO Q19 IS CODE 2 OR 3, GO TO QUESTION 19B:

Q19A. Did you seek support or advice from any of the following?

MULTIPLE RESPONSE – INTERVIEWER NOTE: READ OUT

1	Friends or family	
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2	The head of your workplace or organisation – such as the CEO or business owner	
3	Your direct manager or supervisor at work	
4	Another manager or supervisor at work	
5	The Human Resources Manager or equivalent at work	
6	An Equity or Sexual Harassment Contact Officer at work	
7	A co-worker more senior than you	
8	A co-worker or peer at the same level as you	
9	A union or employee representative	
10	A lawyer or legal service	
11	National Human Rights Commission	
12	A counsellor or psychologist	
13	The internet (including search engines such as Google and Yahoo)	
14	A community-based or religious service	
15	The Office of the Ombudsman	
16	The Police	
97	Somewhere else (SPECIFY) _____	
98	Don't know (DO NOT READ)	
99	Prefer not to say (DO NOT READ)	

IF DID NOT MAKE COMPLAINT (CODE 2 AT Q11) OR DID NOT SEEK SUPPORT (CODE 2 AT Q12) ASK Q12b

Q19B. People decide not to seek support or make a complaint for many different reasons. Which of the following were reasons why you did not make a report or complaint about the most recent incident of sexual harassment?

MULTIPLE RESPONSE – INTERVIEWER NOTE: READ OUT. DO NOT READ “NONE OF THESE” IF SELECTED ANY OF CODES 1-8 ABOVE

1	I wasn't aware of how the complaint process worked or who to report to		
2	My family friends or co-workers advised me not to make a complaint		

3	It was easier to keep quiet		
4	I thought I would not be believed		
5	I thought the complaint process would be embarrassing or difficult		
6	I thought it would not change things or that nothing would be done		
7	Lack of confidentiality of the complaint process		
8	I was too scared or frightened		
9	I was threatened		
97	None of these (DO NOT READ OUT) (SINGLE)		
98	Don't know (DO NOT READ OUT)		
99	Prefer not to say (DO NOT READ OUT)		

Q19B1. And which, if any, of the following are reasons why you did not {seek support or advice/seek support or advice or make a report or complaint/make a report or complaint} in relation to the most recent incident of sexual harassment?

MULTIPLE RESPONSE – INTERVIEWER NOTE: READ OUT

N	I thought I would be blamed		
O	I thought people would think I was over-reacting		
P	I thought I would get fired		
Q	I was afraid for my career aspirations		
S	I feared negative consequences for the person or people who harassed me		
T	I moved to another place of work		
U	The person or people who harassed me were already being dealt with		
V	I didn't think it was serious enough Why did you think it was not serious enough? (SPECIFY) _____		
W	Took care of the problem myself How did you take care of it? (SPECIFY)		
X	Any another reason (SPECIFY) _____		

Q20. What was your occupation at the time of the most recent incident of sexual harassment?

SINGLE RESPONSE – INTERVIEWER NOTE: IF NECESSARY, READ OUT

1	Professional Worker – lawyer, doctor, scientist, teacher, engineer, nurse, accountant, banker, marketing, musician, social worker	CONTINUE
2	Manager, Executive or Official – in a business, government agency, NGO or other organization	CONTINUE
3	Business Owner – such as a store, factory, plumbing contractor, etc.	CONTINUE
4	Clerical or Office Worker – in business, government agency, or other type of organization – such as a typist, secretary, postal clerk, telephone operator, data entry, bank clerk, etc.	CONTINUE
5	Sales Worker – clerk in a store, door-to-door salesperson, sales associate	CONTINUE
6	Manufacturer’s Representative – outside sales person, sales representative	CONTINUE
7	Service Worker – policeman / woman, soldier, immigration officer, customs officer, fire officer, waiter or waitress, maid, nurse’s aide, attendant, barber or beautician, fast-food	CONTINUE
11	Technology professional – web designer, network administrator, systems engineer, programmer, systems analyst, Internet, IT	CONTINUE
97	Other (SPECIFY) _____ (DO NOT READ)	CONTINUE
98	Don’t know (DO NOT READ)	CONTINUE
99	Refused (DO NOT READ)	CONTINUE

THE NEXT QUESTION IS ABOUT ANY SEXUAL HARASSMENT OF ANOTHER PERSON THAT MAY HAVE OCCURRED AT ANY OF YOUR WORKPLACES OVER THE LAST 2 YEARS

Q21. Have you...

MULTIPLE RESPONSE – INTERVIEWER NOTE: READ OUT

		YES	No	Don’t know	Prefer not to say
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1	Observed or witnessed such sexual harassment yourself?				
2	Heard about it directly from a person who was sexually harassed				
3	Heard about it from people other than the person who was sexually harassed				

IF WITNESSED OR HEARD ABOUT HARASSMENT (CODES 1 to 3) ASK

Q22. Now I would like you to think about the most recent incident of sexual harassment you witnessed or heard about at your workplace. Did you take any action in relation to the most recent incident of workplace sexual harassment that you witnessed or heard about?

SINGLE RESPONSE – INTERVIEWER NOTE: DO NOT READ

1.	Yes	
2.	No	
3.	Prefer not to say	

IF WITNESSED OR HEARD ABOUT SEXUAL HARASSMENT AND TOOK ACTION (CODE 1 AT Q22), ASK

Q22a. Which of the following actions did you take after witnessing or hearing about this most recent incident of sexual harassment? Did you...

MULTIPLE RESPONSE – INTERVIEWER NOTE: READ OUT

		1	2	3	4
		Yes	No	Don't know	Prefer not to say
A	Speak with the harasser				
B	Report the harassment to your employer				
C	Talk with or listen to the victim about the incident				
D	Offer advice to the victim				
E	Take any other action (SPECIFY) _____				

Q23. Did any of the following things occur as a result of you taking action in relation to this most recent incident of sexual harassment?

MULTIPLE RESPONSE – INTERVIEWER NOTE: READ OUT

RANDOMISE RESPONSE ITEMS 1 TO 9

1	You received positive feedback for making the complaint	YES/NO/DK/PFNS
2	You were disciplined	
3	You were transferred or changed shifts	
4	You resigned	
5	You were dismissed	
6	The harassment stopped	
7	You were demoted	
8	You were ostracised, victimised, ignored by colleagues	
9	You were labelled a trouble maker	
10	There were some other consequences for you (SPECIFY)	
11	There were no consequences for you	

ASK IF WITNESSED OR HEARD ABOUT HARASSMENT BUT DID NOT TAKE ACTION (CODE 2 AT Q22)

Q24. People may decide not to take action after witnessing sexual harassment for many different reasons. For each of the following, please indicate whether or not it was a reason why you decided not to take any action about the most recent incident of sexual harassment you witnessed?

MULTIPLE RESPONSE - READ OUT

RANDOMISE RESPONSE ITEMS 1 TO 8

1.	I didn't want to make things worse for the person who was being sexually harassed	
2.	I was worried about the negative impact that taking action might have on me, such as my career or safety.	
3.	I didn't think it was serious enough to intervene	
4.	I didn't think it was my responsibility	
5.	I knew that other people were supporting and assisting the person	
6.	I didn't know what to do	
7.	I didn't want to get involved	
8.	The person being sexually harassed asked me not to take any action	
9.	Any other reasons (please specify)	
10.	Don't know (DO NOT READ OUT)	

11.	Prefer not to say (DO NOT READ OUT)	
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Now, just a few questions about your current situation...

Q25. If you needed any information about sexual harassment, which of the following would you be likely to go to...

MULTIPLE RESPONSE – INTERVIEWER NOTE: READ OUT

		YES	No	Don't know	Prefer not to say
A	Friends or family				
B	Social media				
C	The Internet, including search engines such as Google or Yahoo				
D	The head of your workplace or organisation				
E	Your direct manager / supervisor				
F	Another manager or supervisor at work				
G	The Human Resources Manager or equivalent at work				
H	The Sexual Harassment Contact Officer/Focal Point at work				
I	A co-worker more senior than you				
J	A co-worker or peer at the same level as you				
K	A union or employee representative				
L	A lawyer or legal service				
M	The National Human Rights Commission or Office of the Ombudsman				
N	Department of Labour				
O	The library				
P	A counsellor or psychologist				
Q	Other (SPECIFY) _____				

Q26. Do you know if your organisation/institution has any policy or internal complaint procedure regarding sexual harassment at your workplace?

1.	Yes		
2.	No		Skip to Q28
3.	I don't know		Skip to Q28

Q27. Have you ever received any training on your organization's complaints procedures or policy on sexual harassment at the workplace?

1.	Yes	
2.	No	

Q28. Have you ever received any training on sexual harassment in the workplace?

1	Yes	
2	No	

Q29. Do you know any legislation in the Gambia that prohibits sexual harassment?

1.	Yes		
2.	No		Skip to Q31

Q30. Do you think the provisions of the legislation are adequately enforced or implemented?

1	Yes	
2	No	

Q31. Do you agree that every organisation or institution should have in place a policy against sexual harassment in the workplace and which is effectively enforced?

1	Yes	
2	No	
3	Don't know	

Q32. Do you agree that there should be a comprehensive legislation that addresses sexual harassment in The Gambia?

1	Yes	
2	No	
3	Don't know	

Thanks very much for taking part in this interview. Your responses would help us in our work.

8.2 Annex 2: Focus Group Discussions (FGDs) Guide

1. What is your understanding of the term ‘sexual harassment’?
2. What kind of behaviours or actions would you classify as sexual harassment? Do you believe that sexual harassment is generally a problem in the workplace? Why yes or no?
3. How friendly and safe is your work environment for employees, especially female employees? Let us discuss
4. What factors make people vulnerable to sexual harassment?
5. What reasons or factors prevent victims from report sexual harassment? What measures should organisations and institutions (workplaces) put in place to encourage reporting of sexual harassment?
6. How are sexual harassment complaints addressed in your organisation/institution?
7. If you were a victim, would you report it, why not?
8. What can you say about the level of awareness of employers and employees on the existence of sexual harassment in the workplace, the forms of sexual harassment and what actions to take when it occurs?
9. What measures should organisations and institutions put in place to prevent sexual harassment in the workplace?
10. What specific issues would you want to see included in the workplace anti-sexual harassment policy?

8.3 Annex 3: Organisational assessment guidelines¹⁰⁹

Name of Participant: _____

Name of Organisation/Institution: _____

Gender: _____

Position/Title in the Organisation: _____

1. Availability of Sexual Harassment Policy

- a) How is sexual harassment defined by the organisation?
- b) Does the Organisation have a sexual harassment policy? How old is the policy? How often the organisation reviews its policy?
- c) What is the content of the policy as far as protection of employees from sexual harassment?

Or Absence of a Policy

- a) What other systems or policy guidelines have been established for managing sexual harassment in the organisation?
- b) Does the organisation have a complaint / grievance policy or guidelines

2. (If the policy is available) Policy Awareness

- a) Are the employees aware of the policy?
- b) How are these policies communicated to employees?

3. Reporting

- a) Does the organisation have any guidelines or procedures for reporting sexual harassment?
- b) What are the procedures that exists for reporting sexual harassment?
- c) How many cases of sexual harassment have been reported to you in the last 12 Months? Over the last 5 years;
- d) In your reported sexual harassment cases who often are the victim in terms of sex and positions
- e) What type of sexual harassment is more prevalent in the organisation?

4. Staff protection

- a) What legal protection is in place for employees that have been harassed?

¹⁰⁹ Culled from Baseline report 'Sexual harassment in the workplace in Swaziland: A focus on the private sector and Non-Governmental Organisations UNDP (2018)

- b) How does the organisation manage or deal with cases of sexual harassment?
- c) Does the organisation have trained personnel or referral system - to support employees that have been sexually violated?
- d) What is the role of the Trade unions/Industrial Tribunal in cases of sexual violation?