Guide to Prevent and Address Sexual Harassment and other Forms of Workplace Violence against Women Maquila Workers in El Salvador

Prepared by Francisco Chicas for the Americas Group and Coalitions for Decent Work for Women (CEDM), August 2018

This document reflects the views of the author.
Context

Sexual harassment is a commonly occurring form of violence and discrimination against women that violates their human rights in the workplace.

While violence and harassment against women and men is a prevalent and persistent issue in many occupations and sectors, “it is particularly widespread in the apparel industry which employs a high number of women, often in lower-paid, low-power positions” (Fair Wear Foundation (2018) “Breaking the Silence, the FWF Violence and Harassment Prevention Programme” p. 3).

The sensitive nature of sexual harassment and fear of retaliation among workers contributes to sexual harassment being under reported. Workers who experience sexual harassment often decide not to report it due to fear of being stigmatized or retaliated against. Despite this, research in developing countries indicates that sexual harassment in the clothing industry is widespread and takes many forms (Fishman, Better Work Jordan).

El Salvador is no exception, where sexual violence affects women throughout their life cycle, the workplace and other spaces that should be safe and foster trust (ISDEMU). Faced with this problem, CEDM and the Americas Group are jointly addressing the problem in apparel maquilas in El Salvador. This guide is part of that effort, providing recommendations to suppliers, buyers and social auditors, on how to prevent, identify, report and deal with sexual harassment and other forms of workplace violence.

Men and women can experience sexual harassment or other forms of workplace violence; therefore, this document does not distinguish or exclude on the basis of gender. However, considering: 1) the unequal power relations between men and women; 2) the significant presence of women in the clothing industry in El Salvador; and, 3) that most cases of sexual harassment reported by the local authorities are against women (ISDEMU), this guide will focus mainly on women.
Chapter I: What is Sexual Harassment?

Sexual Harassment from a Gender Perspective

Sexual harassment is a form of violence and discrimination against women.

A gender approach to sexual harassment and other forms of workplace violence is important because women are less privileged than men in the [El Salvadoran] labour market (ORMUSA, 2013, p.14). Sexual harassment is based on unequal power relations. It is one of the clearest expressions of the unbalanced, hierarchical distribution of power between men and women, and reinforces the subordination of women (Tomei and Vega-Ruiz, 2007, p.147).

Internationally, violence against women was recognised as a form of discrimination for the first time in 1992 by the United Nations Committee for the Elimination of Discrimination against Women (General Recommendation 19).

In El Salvador, the Special Integrated Law for Women to Lead a Life Free of Violence (LEIV) recognizes seven types of violence: economic, femicidal, physical, psychological/emotional, property, sexual, and symbolic.

When sexual harassment or other forms of workplace violence occur against women, this is violence at work or workplace violence.

All forms of violence against women are a form of discrimination. There are several types of violence against women, one of them being sexual violence. Sexual harassment is an example of sexual violence. When sexual harassment occurs in the workplace, or as a result of an employment relationship, it is also a form of workplace violence. Other, non-sexual attacks against women carried out within the employment relationship, undermining women’s dignity and human rights (bullying, insults, threats or lower pay than for men doing the same job) are also workplace violence.
Summary of concepts

**Violence against women:** any act of gender violence that results or may result in physical, sexual or psychological harm to women, including threats of such acts, coercion or arbitrary deprivation of liberty, in public or in private (UN 1993)

**Discrimination against women:** any distinction, exclusion or restriction based on sex that intends or results in undermining or denying the equal recognition, enjoyment or exercise by women, regardless of their marital status, of their human rights and fundamental freedoms, in the political, economic, social, cultural, civil or any other sphere (UN 1979)

**Sexual Violence:** any conduct that threatens or violates a woman's right to voluntarily make decisions about her sexual life, including whether to have sex or any form of sexual/genital/sexual but non-genital contact, regardless of whether she is married to or has an intimate, social, work, friendship, familial or any other relationship with the aggressor. Sexual harassment is a form of sexual violence (LEIV 2011)

**Bullying:** any systemic or recurrent physically or psychologically hostile behavior in the workplace that is intended to isolate, intimidate or prevent workers from communicating with each other, and results in damaged to their reputation, undermining or devaluing of their work (LEIV 2011)

**Workplace Violence or Violence at Work:** any action, incident or behavior that is not reasonable conduct; in which the person is assaulted, threatened, or injured in the course of or as a direct result of their work (ILO 2003)
Definition of Sexual Harassment

This guide proposes the following definition of Sexual Harassment, based on the International Labour Organization (ILO) definition (ILO, 2017, p.11):

**Sexual Harassment is any unwanted conduct of a sexual nature, whether verbal, non-verbal, written or physical, which denigrates the dignity of the receiving person because it is offensive and creates an intimidating, unstable and offensive work environment.**

Traditionally, sexual harassment has two basic elements:

- **A request / proposal** with sexual content (verbal, written, graphic);
- **Rejection** of the unwanted sexual behaviour. Lack of an "explicit rejection" does not mean that the person accepts or is tolerating the behaviour. Silence or the lack of explicit consent should be considered a rejection.

Some authors (Instituto Valenciano de Psicología Sanitaria, 2013; Molero Manglano, 1999, p. 243) suggest a third element: persistence (i.e. sexual harassment is repetitive and systematic). However, this is often not the case, as the harassment may happen just once, for example, an unwanted touch or genital exposure.

Sexual harassment can occur in the family, community, as well as in social and work life. This guide emphasises sexual harassment in the workplace.

Types of Sexual Harassment in the Workplace

1. **Quid pro quo harassment** (sexual blackmail). Implies a threat to a worker -or group of workers- that forces them to choose between enduring unwanted sexual behaviour or to face a reduction in their benefits, rights, or working conditions (Bustamante Ruano, 2011, p.88).

This type of harassment can only happen when someone has sufficient power to offer, withdraw, or suppress: work benefits, labour rights, or working conditions. When such power exists and is used to compel acquiescence to sexual harassment, such actions, therefore, imply an abuse of authority.

This type of sexual blackmail can occur even before a worker is hired, i.e. during the recruitment or hiring process.
Lastly, it is important to note that sexual blackmail does not necessarily have to lead to a loss of benefits for it to be considered quid pro quo. For example, a sewing line supervisor who makes sexual propositions to a machinist on her line and threatens to have her transferred to a line with new workers who earn less in productivity bonuses if she doesn’t accept such advances. Although the worker is never transferred, the supervisor’s threat is enough for this to be considered quid pro quo harassment.

2. Environmental sexual harassment. In this situation, a worker is subjected to a sexually aggressive and therefore, hostile work environment (Bustamante Ruano, 2011, p. 89). The aggression could be from a supervisor (or supervisors), another worker, or group of workers.

Environmental sexual harassment doesn’t involve blackmailing someone with the threat of loss of benefits or working conditions. Rather, it involves a sexually charged environment that diminishes the worker’s dignity, on the basis that it creates an intimidating and hostile workplace. This type of sexual harassment is systemic.

Sexual harassment also has directionality depending on the status of the harasser (UNDP, 2014, p.22):

- **Horizontal Harassment**: abusive behaviour among co-workers;
- **Hierarchical Harassment**: the harasser uses their relative position of power over the victim.
### Types of Sexual Harassment and Associated Behaviour

<table>
<thead>
<tr>
<th>Type of Sexual Harassment</th>
<th>Associated Behaviour or Action</th>
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</table>
| Physical sexual harassment     | ✓ Excessive physical closeness  
                                  | ✓ Cornering someone               
                                  | ✓ Manoeuvering to get someone alone for sexual contact                                    
                                  | ✓ Deliberate and unsolicited physical contact, such as pinching, touching, rubbing, massage |
                                  | ✓ "Accidental" touching            
                                  | ✓ Attempted rape                   
                                  | ✓ Sexual coercion                  |
| Verbal sexual harassment       | ✓ Sexual or obscene comments, including unwanted flattery                                      
                                  | ✓ Offensive sexual jokes            
                                  | ✓ Making denigrating or obscene comments about someone                                     
                                  | ✓ Spreading rumours about someone’s sex life                                                
                                  | ✓ Asking or boasting about sexual fantasies or behaviour                                      
                                  | ✓ Unwanted comments about someone’s body or physical appearance                            
                                  | ✓ Talking about one’s own or someone else’s sexual behaviour                                
                                  | ✓ Repeated or rejected invitations to participate in social activities                      
                                  | ✓ Pressuring to go on a date                                                           
                                  | ✓ Requesting sexual favours or sexual activity                                         |
                                  | ✓ Sexually charged phone calls                                                        |
                                  | ✓ Whistling                                                                           |
| Non-verbal sexual harassment   | ✓ Lewd glancing                                                                      
                                  | ✓ Obscene hand signals, facial, or other bodily gestures                                
                                  | ✓ Exhibiting explicitly sexual drawings, photographs or other images                     
                                  | ✓ Sending or sharing sexually offensive or unwanted notes, letters, text messages or emails |
                                  | ✓ Communicating unwanted sexual content through social networks                          
                                  | ✓ Posting sexually explicit calendars                                                   |

*Source: Author’s design, with information from the Strategic Affairs Ministry, 2013.*
Factors that Encourage Sexual Harassment and other Forums of Workplace Violence

Organizational culture is key to whether or not there is violence in the workplace. Working conditions influence the type and quantity of sexual harassment and other workplace violence. Occupational health requires a decent working environment and fair working conditions to guarantee workers their dignity, health and safety (Bustamante Ruano, 2011, p. 140). Sexual harassment and other forms of workplace violence (psychosocial risks) hinder such conditions.

Below are some risk factors, which alone cannot be considered workplace violence, but do increase its likelihood:

Circumstances that (alone or combined) can make workers vulnerable to workplace violence

1. Working with the public
2. Working with valuables
3. Working without full legal rights and social protection
4. Working with limited resources (insufficient equipment, lack of personnel)
5. Working unsociable hours (for example, evening work or night shifts)
6. Working alone or in relative isolation

* Source: Author’s design with information from the ILO (ILO, 2017, p.32)

Other factors that can increase the risk of sexual harassment and other forms of workplace violence include (ILO, 2017, p.31):

★ Poor work organization, including lack of clarity on rules and responsibilities
★ Poor task assignment
★ Unrealistic production goals
★ Poor communication
★ Poor work relationships
★ Discrimination

For example, if there are sewing machines on a production line needing repairs but the line’s production goals do not reflect this, this will generate stress among workers and between workers and supervisors. This stress, in turn, can open the door to sexual harassment because workers become vulnerable as a result of the pressure of unrealistic goals. Further, if there is a lack of training for supervisors in personnel management and
effective communication, they might behave inappropriately or abusively towards workers they supervise in ways that also could lead to verbal and psychological abuse.

**Where does sexual harassment take place?**
Sexual harassment can occur in a range of work-related situations, such as social events organized by the employer, end-of-year parties, business or social trips and meals with colleagues, on- or off-site trainings, or commuting on subcontracted transportation to and from work. These situations are all work-related, even if they occur during non-work hours or off-site.

Sexual harassment can also show up in emails, text messages and on social networks. It is important to consider that it can occur anywhere, including in cyberspace.

**Impact of Sexual Harassment and other forms of Workplace Violence**

**Personal:**
Workers who experience sexual harassment and other forms of workplace violence often suffer a negative impact on health and work performance, which often leads to monetary loss and negative impact on the household economy.

Deteriorating **mental health** due to stress and emotional trauma may manifest itself through a range of symptoms: anxiety, depression, nervousness, despair, helplessness, powerlessness, anger, disgust, and low self-esteem. Deteriorating **physical health** symptoms often appear as: sleep disorders, headaches, gastrointestinal problems, nausea, hypertension, and ulcers (Bustamante Ruano, 2011, p.153).

Expecting that sexual harassment will happen and trying to avoid or prevent it absorbs a worker’s mental energy and time. Defending oneself against potential or actual cases of harassment leads to lost time from lack of concentration and other psychological problems (CARE International, 2017, p. 47). Job insecurity is directly related to a worker’s inability to resist sexual harassment (Fishman-Better Work Jordan, 2012, p.7).

**Job prospects** may be seriously affected, and in the worst case scenario, victims may leave their employment. This is particularly serious for women, who face greater obstacles in securing and maintaining employment, being promoted, and advancing their careers. Sexual harassment, therefore, generates economic and personal problems, as workers life projects are thwarted (Bustamante Ruano, 2011, p.154). Women’s professional goals can be obstructed, as well as their ability to earn their living, both of which reduce their economic autonomy.

Workplace sexual harassment can also have a negative impact on **family relationships** and **friendships**, by affecting workers’ sense of identity, body-image and self-esteem. This can lead to tension and conflicts with domestic partners and other family members (Bustamante Ruano, 2011, p.154).
Work:
Sexual harassment directly affects company profits as it contributes to worker turnover, absenteeism, lack of motivation and productivity as a result of mental and physical health issues. This can happen to workers who are sexually harassed and to those who witness it (Bustamante Ruano, 2011, p.154).

Other forms of Workplace Violence
There are many other forms of violence in the workplace, including physical aggression, verbal or psychological abuse and mistreatment (ORMUSA, 2013, 0.14). The following behaviour constitutes workplace violence (non-exhaustive list):

<table>
<thead>
<tr>
<th>Physical Violence</th>
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<tbody>
<tr>
<td>✓ Aggressive gestures such as slamming doors or banging on tables</td>
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<tr>
<td>✓ Threatening to kill or injure somebody</td>
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<tr>
<td>✓ Punching, pushing, spitting, pulling hair or ears</td>
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<tr>
<td>✓ Pulling off another person’s clothes</td>
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<tr>
<td>✓ Damaging personal property</td>
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<td>✓ Stalking, following someone</td>
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<tr>
<td>✓ Extortion</td>
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<tr>
<td>✓ Placing a worker in an unsafe or insecure work environment</td>
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<table>
<thead>
<tr>
<th>Verbal Violence</th>
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</thead>
<tbody>
<tr>
<td>✓ Shouting, teasing or insults</td>
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<tr>
<td>✓ Nicknames</td>
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<tr>
<td>✓ Criticising someone or their private life</td>
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<tr>
<td>✓ Intruding on someone’s private life</td>
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<tr>
<td>✓ Refusing to work with someone</td>
</tr>
<tr>
<td>✓ Preventing workers from talking to someone</td>
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<tr>
<td>✓ Manipulating communications, e.g. lying about or denying a previous agreement</td>
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</table>

<table>
<thead>
<tr>
<th>Economic Violence</th>
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<tbody>
<tr>
<td>✓ Paying women workers less than male workers in the same job</td>
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<tr>
<td>✓ Reducing, withholding, delaying or confiscating wages, overtime, pension and social security contributions, or other legal benefits (vacation pay and bonuses)</td>
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<tr>
<td>✓ Unjustified pay deductions</td>
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<tr>
<td>✓ Arbitrary firings</td>
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<tr>
<td>✓ Refusing to settle in cases of unfair dismissal</td>
</tr>
<tr>
<td>✓ Denying overtime hours as a form of reprisal</td>
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</tbody>
</table>
Other Forms of Violence

- Assigning overtime hours arbitrarily or as a form of punishment or reprisal
- Nuisance making, e.g. shutting down the ventilation system, hiding work tools or personal property
- Offensive gestures such as turning one’s back on a worker, refusing to shake hands, not responding to a greeting
- Sighing, shrugging or eye-rolling

*Source: Author’s design with information from ORMUSA (2013) and the ILO (2003)

The workplace violence described above affects men and women. When it is against women, it is considered Gender Violence or Violence against Women. Other examples include:

- Non-compliance of maternity rights (maternity leave, time-off for doctor’s visits and breastfeeding);
- Mandatory pregnancy to start or remain in work;
- Refused time off to attend to family responsibilities, e.g. school events and
- Lack of work-life balance e.g. forced and excessive overtime

The last two points above pertaining to the balancing of work, personal and family life are particularly relevant given that the State of El Salvador has ratified the 1981 ILO Convention 156 on Workers with Family Responsibilities. As a result, the convention is considered to constitute law in El Salvador and implies a committed by the State to adapt its content and develop specific laws to ensure compliance. Despite the fact that the Convention is very general and does not include specific obligations for employers, it does suggest that employers should consider implementing some of the measures put forward by the ILO in Recommendation 165 of Workers with Family Responsibilities. Nonetheless, Art. 29 number 6(b) of the Salvadoran Labour Code does establish the obligation to provide paid leaves in certain circumstances that involve family responsibilities.

All of the above-mentioned types of workplace violence constitute psychological violence as they have moral and psychological implications.

Workplace Bullying (El Acoso Laboral)

This type of workplace violence has serious consequences for workers. Although bullying at work has happened for as long as people have worked, the concept and legal protection against it are relatively new, including in El Salvador. According to Romero Rodenas, bullying is:

(...) aggression that is known about and tolerated by the employer, carried out by either the employer or one of their employees. The aggression can include repetitive and ongoing actions or demands that discredit, delegitimise and
isolate the worker, with the aim of encouraging the worker to leave. This progressively erodes the worker’s dignity and possibly also their health.

The following are types of workplace bullying, according to the power relationship between harasser(s) and victim(s):

**Vertical bullying:** This is bullying between people of different workplace status. This can include ascendant bullying when one or more workers harass a superior, or more frequently, descendant bullying when managers harass subordinates.

**Horizontal bullying:** This occurs between colleagues of similar or equivalent status. For example, when a worker envies or mistrusts another worker.

**Mixed or complex bullying:** This can occur when a supervisor or manager joins a pre-existing case of horizontal bullying instead of putting an end to it.

**Discriminatory bullying:** This is when the bullying is based sex, age, race, nationality, religion, sexual orientation, gender identity, union membership, disability, health, political ideology, social condition, or origin. When this type of harassment is against women, it intersects with gender-based violence in the workplace.

Workplace bullying can include one or more of the above. It can also include one or more of the following (non-exhaustive list):

<table>
<thead>
<tr>
<th>Behaviour to discredit a worker</th>
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<tbody>
<tr>
<td>✓ Slander or rumours about a worker’s private life</td>
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<tr>
<td>✓ Ridiculing or laughing at a worker</td>
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<tr>
<td>✓ Making a worker appear mentally ill</td>
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<td>✓ Suggesting a worker take a psychiatric test</td>
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<tr>
<td>✓ Making fun of a worker’s health or disabilities</td>
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<tr>
<td>✓ Ridiculing a worker by imitating her mannerisms, voice and gestures</td>
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<tr>
<td>✓ Criticizing a worker’s political or religious beliefs</td>
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<tr>
<td>✓ Mocking or being sarcastic about a worker’s private life</td>
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<tr>
<td>✓ Laughing about a worker’s origin, nationality, union affiliation, sexual orientation, or physical appearance</td>
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<tr>
<td>✓ Commenting negatively about a worker’s work</td>
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<td>✓ Questioning or undermining a worker’s work</td>
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<tr>
<td>✓ Making faces or responding with silence to a worker</td>
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<tr>
<td>✓ Spreading false rumours</td>
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<tr>
<td>✓ Disciplining a worker disproportionately or when it’s not justified</td>
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<td>✓ Threatening a worker with dismissal or discipline</td>
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<tr>
<td>✓ Humiliating a worker</td>
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<tr>
<td>✓ Encouraging other workers to join in with the harassment</td>
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<tr>
<td>✓ Ignoring or dismissing complaints that a worker makes about any of the above</td>
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<tr>
<td>---</td>
</tr>
<tr>
<td><strong>Behaviour to discredit a worker’s performance</strong></td>
</tr>
<tr>
<td>✓ Assigning difficult, impossible or no work</td>
</tr>
<tr>
<td>✓ Assigning degrading or humiliating work</td>
</tr>
<tr>
<td>✓ Assigning more work than the person can do</td>
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<tr>
<td>✓ Keeping the worker confused about roles</td>
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<tr>
<td>✓ Minimizing the worker’s achievements, accentuating her mistakes</td>
</tr>
<tr>
<td>✓ Assigning work below a worker’s skill level</td>
</tr>
<tr>
<td>✓ Assigning work above a worker’s skill level</td>
</tr>
<tr>
<td>✓ Stopping the worker from using certain tools or equipment, or from having access to certain workplace areas, that she needs (to be in) for her work</td>
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Chapter II: How to prevent Sexual Harassment and other forms of Workplace Violence

Employers must ensure that their work environment is free of all forms of violence against workers. This is not just a moral responsibility, but also a legal responsibility. The El Salvador General Law for Risk Prevention obliges employers to have a Management Program to Prevent Occupational Risk, and to make sure that it includes action to raise awareness and prevent sexual harassment, violence against women, and other psychosocial risks.

Also, as mentioned in Chapter 1, employers benefit from a harassment-free workplace because sexual harassment and other forms of workplace violence have a direct impact on profits due to worker turnover, days lost to absenteeism, and related productivity drops due to demotivated or sick workers.

Buyers and clothing export companies can also help eradicate and prevent sexual harassment and other forms of workplace violence. Below are some minimum actions they, and employers, can take:

**Guide for suppliers (employers)**

1. Develop and implement gender focused sexual harassment prevention programs, following international standards on sexual harassment. This would mean that at a minimum, the employer prepares written policies and procedures and allocates staff and other resources for their implementation. The policy should emphasize zero tolerance for harassment and other forms of workplace violence, and must be endorsed by senior management.

   Ensure that disciplinary procedures, usually outlined in the Workplace Rules, are designed to deter and appropriately punish sexual harassment and other forms of workplace violence. This is particularly important when there are aggravating circumstances such as a recurring problem, a high number of impacted victims, the victim is already in a vulnerable position (such as a disabled person) or the prevalence that the aggressor is higher up in the hierarchy of the company.

2. Provide separate training on sexual harassment for workers, supervisors and managers, and communicate the policy in ways that all employees understand what sexual harassment is, how it manifests, its negative impact on workers and the company, and applicable discipline.
There should be separate trainings for workers, supervisors and managers, so that everyone feels comfortable asking questions and commenting. Trainings should be arranged for groups of 20-25 people to ensure they are effective.

Employers must ensure that workers, managers and supervisors gain a broad understanding of sexual harassment, can identify it, and understand how it can be "normalized" or considered insignificant. This is often the case with flirting, whistling, lascivious glances, gestures or comments with sexual innuendo or sexist comments.

Trainings should be interactive, for example, with role-playing, so that workers can learn about different forms of sexual harassment by simulating real situations.

In addition to training, there should be active and constant communication regarding sexual harassment and other forms of workplace violence being forbidden. Examples might include:

- Handouts distributed to people who participated in trainings to reinforce key points.
- Posters placed in areas accessible to workers, for example, in the bathrooms, canteen, or changing area. Posters should stress zero tolerance of sexual harassment
- Short talks by supervisors.
- Campaigns promoting a harassment-free workplace and celebration of relevant dates such as International Women's Day or the International Day for the Elimination of Violence against Women.

Awareness raising programs can help workers identify and report cases of sexual harassment in other areas of their lives, such as in the family or other social spaces. In this way, employers can make an enormous contribution to worker’s lives beyond the workplace.

### People who participate in trainings should learn at least the following:

1. What sexual harassment is and how to identify it.
2. That all forms of sexual harassment are prohibited, including those that are culturally accepted or "normalised", such as giving women complements or whistling at them.
3. That people who report sexual harassment are not to blame and will be supported by the employer and other workers.
4. What confidential internal channels for reporting sexual harassment exist and how to use them.
5. That disciplinary measures will be taken on all confirmed cases of sexual harassment.
6. How employees can contact other institutions to report sexual harassment.
3. Review production goals and adjust them when they are unrealistic to avoid creating inappropriate pressure on workers. Constant high pressure to produce encourages sexual harassment and other forms of workplace violence, because it generates a work environment where workers are vulnerable.

ILO Better Work Program research in Jordan found that workers were up to 5% less concerned about sexual harassment in factories where managers recognize stress and supervisors’ capacity to manage workers. In Haiti, Better Work Program research found there is a 50% higher probability of workers feeling concerned about sexual harassment in factories where that have daily production goals (Better Work, 2014, p. 3-4).

4. Develop confidential and accessible mechanisms for workers to report possible cases of sexual harassment and other forms of violence in the workplace. Communication and ongoing training should be provided to workers, supervisors and managers to publicize the available reporting mechanisms, how to use them, and ways to escalate the claims if they are not resolved by the person who initially receives them.

5. Provide management training on monitoring, dealing with, and following up on sexual harassment cases, in accordance with international standards on sexual harassment and other forms of workplace violence.

Possible reporting mechanisms

**Non-confidential:**
1. Suggestion boxes
2. Direct channel to immediate supervisor
3. Open door policy with human resources management and/or general management
4. Access to union leaders
5. Communications Committees in which women workers participate

**Confidential:**
6. Work climate surveys
7. Email or hotline to human resources
8. Email or hotline to compliance at the factory or HQ
9. Email or hotline to a subcontracted company.
When a company has been subcontracted to receive worker complaints, it is important that the employer ensures confidentiality, particularly for complaints about sexual harassment and other forms of workplace violence.

Employers should stress a preference for confidential mechanisms for reporting sexual harassment or workplace violence. Regardless of how workers file their complaints, it is most important to ensure that workers help to prevent all forms of workplace violence by reporting all cases immediately if they suspect there might be cases of harassment or abuse.

It is also important that the various complaints mechanisms are private and confidential, and that complaints are acted on immediately.

6. Strengthen supervisors’ people management skills with training on teamwork, interpersonal relationships, appropriate discipline, assertiveness, and management of emotions. Supervisors must be able to distribute workloads equally, without discrimination, and to motivate their team members in constructive ways.

7. Annual confidential work environment surveys (of all employees or a representative sample). There should be questions on sexual harassment and other forms of violence both in the workplace and on the commute to work. If risks are identified for the commute, companies can coordinate prevention efforts with the local authorities.

8. Strengthen the capacities of Occupational Health and Safety Committees. The Salvadoran General Law for the Prevention of Workplace Risks defines sexual harassment and other forms of workplace violence as “psychosocial risks”, i.e., they affect both the work environment and workers health. This means that Occupational Health and Safety Committees (mandatory in all workplaces with more than 15 workers) must address workplace violence.

Occupational Health and Safety Committee members should receive ongoing training on sexual harassment and other forms of workplace violence so that they can identify and report cases. Committee members should also periodically inspect and interview random samples of workers to determine the risk of sexual harassment and other forms of workplace violence.

9. Consider creating Sexual Harassment Committees, which can receive reports and deal with possible cases of sexual harassment. This has been done in Bangladesh and India, and while not common in the Americas, could be possible.

In India and Bangladesh, workers from different areas/departments participate in these Committees, and women workers are active in them. In unionized factories, unions must be represented in them. It would also make sense to include members of Occupational Health and Safety Committees. The employer should seek advice externally on how to do this, and how to provide training for workers who will be on the committees.
10. Build a healthy organizational culture, by defining workplace rules and responsibilities, so that preferential and discriminatory treatment is discouraged. Employers should have policy and procedures to manage hiring, promotions, job transfers, termination, distribution of overtime, and calculation and payment of bonuses to avoid making decisions arbitrarily, possibly leading to sexual harassment as a form of blackmail. For example, establish clear rules for mechanics on how to prioritize sewing machine repair (by order of request, or by importance for production) to avoid situations where mechanics sexually blackmail workers, or to avoid stress and possible backlogs due to the slow-down of work. Having clear rules also applies to criteria for quality of production. Without them, supervisors could allege a worker is producing poor quality work if she has refused sexual advances.

Finally, establish well-functioning communication channels for workers, and ensure an adequate physical environment to work in (e.g., ergonomic equipment, decent temperature, lighting and levels of noise) to avoid stressing workers unnecessarily.

11. Restrict body searches. It is common practice in the clothing industry to pat down workers at the beginning and/or at the end of each day. This could lead to sexual harassment. Employers should implement a policy to do this only when there is legitimate reason. They should also ensure that body searches are:
   - non-invasive (no genital touching);
   - done in private; and
   - conducted by trained personnel of the same sex as the worker.

12. Encourage workers to participate in cultural and sporting activities to relieve stress. Encourage workers to also invite their family members to these events. Let workers leave work early in order to participate.

13. Conduct evaluations of sexual harassment prevention programs on an annual or semi-annual basis. Establish key performance indicators such as: number of cases of sexual harassment or workplace violence reported per period; number of resolved cases; number of people trained; number of trainings for supervisors and managers; and results of training evaluations.

As far as possible, data should include worker’s gender, position, age group, marital status, sexual orientation, union membership, pregnancy or breast-feeding status, and disabilities. Such information must only be used for assessing the impact of workplace violence and never to discriminate against workers.
Guide for buyers

1. Develop zero tolerance policies for sexual harassment and other systematic workplace violence, such as verbal abuse as a way of managing production. This could be part of a Code of Conduct, an anti-harassment/abuse policy, a guide for suppliers on social compliance, or a supplier statement of intention to comply with labour and health and safety norms.

“Zero tolerance” means such behaviour is absolutely and rigorously prohibited, and will not be permitted or tolerated under any circumstance, with no exception. Engaging in this behaviour will lead to appropriate discipline.

2. Communicate the policy of zero tolerance for sexual harassment and other forms of workplace violence to suppliers. This could be at the start of the business relationship (when buyers share their Code of Conduct) or during the initial evaluation of a potential new supplier. Ideally, buyers should not begin a new business relationship, and end ongoing relationships with suppliers, when workplace violence is systemic, and inform the supplier of the decision.

3. Encourage suppliers to develop internal programs to prevent sexual harassment and other forms of workplace violence. To the extent possible, provide technical assistance so that programs have a gender perspective and follow international standards, UN and ILO guidelines. Consider sharing this guide and other similar ones with suppliers.

4. Ensure that managers, supervisors and workers at factories are trained on sexual harassment and other forms of workplace violence. If there is already training, ensure that it has gender and human rights perspectives for the whole workforce, and happens at least annually.

5. Identify and eliminate practices that contribute to suppliers having work environments that encourage workplace violence (e.g., large production orders with short delivery times). Pressure from buyers can lead to abusive discipline as a way to increase productivity. At a minimum, buyers should develop responsible purchasing policies and procedures for their supply chains.

Ideally, employers should involve trade unions and local and/or national Civil Society Organizations (CSOs) in the design and implementation of these recommendations. For example, employers could ask local women's organizations to provide sexual harassment training to workers.
Buyers should also develop mechanisms so that suppliers can report anything that negatively affects working conditions, without fearing a negative evaluation or termination of the business relationship.

6. Ensure that internal and external auditors look for sexual harassment and other forms of workplace violence and risk indicators. Buyers should make sure there is adequate time during an audits to do so.

Buyers should let auditors know their expectations regarding sexual harassment and other forms of workplace violence, and train them appropriately. All workers should be interviewed during social compliance audits and should have a way of contacting the buyer and reporting reprisals after being interviewed.

Buyers that subcontract external companies for their social compliance audits, should make their expectations explicit regarding auditing sexual harassment and other forms of workplace violence, and should monitor the quality of the audit random on-site checks.

7. Make it safe and confidential for workers at factories to report sexual harassment at any time, regardless of whether the factory has been audited or not.

8. Engage with local CSOs and workplace unions to understand of the scope and characteristics of sexual harassment where suppliers are located. Once additional understanding is obtained, develop joint actions and engage with other stakeholders.

**Additional Recommendations**

1. Buyers that have licensees should ensure their active involvement
2. Inform suppliers about the economic impact that violence in the workplace can have for companies, due to high turnover, absenteeism, sick leave and demotivation.
Appendices for Chapter II

Appendix 1: Model Policy

Source: Author’s own design using information from Workplaces Respond, 2014 and Fair Wear Foundation-ILO 2016

<table>
<thead>
<tr>
<th>[Factory Name]</th>
<th>Policy against Sexual Harassment and other forms of Workplace Violence</th>
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<tr>
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I. Policy Statement
[Company Name] is committed to ensuring a work environment free from sexual harassment and other forms of workplace violence against men and women. Sexual harassment and other forms of violence against workers of this company will be considered Zero Tolerance behaviour and therefore not permitted or tolerated under any circumstances, considering that they are an affront to human dignity, damage human rights, and may be illegal.

II. Objectives
1) Recognize that sexual harassment and other forms of workplace violence can occur at work and affect both men and women.
2) Recognize that our employees have the right to a work environment free of violence.
3) Establish the company’s unequivocal commitment to prevent, eradicate, and address cases of sexual harassment and other forms of workplace violence.
4) Establish that the company is committed to ensuring a healthy and safe working environment for all of its employees, and an organizational culture conducive to that.

III. Definition and Scope of Sexual Harassment and Workplace Violence
Sexual harassment: all unwanted conduct of a sexual nature, whether verbal, non-verbal, written or physical, which negatively affects workers dignity by creating an intimidating, unstable and offensive work environment.
[Company Name] recognizes that sexual harassment can affect both men and women, however, when it affects women, it is a form of gender-based discrimination.
[Company Name] also recognizes that sexual harassment can be between two or more men, two or more women or between men and women. It can also occur between co-workers, workers and managers, or workers and supervisors.
Sexual harassment involves one or more instances of physical, verbal and non-verbal behaviour. Examples include:
Physical: unwanted physical contact (pinching, touching, rubbing), excessive physical closeness, deliberate cornering, attempted rape, sexual coercion.
**Verbal:** obscene sexual comments (including compliments), sexual jokes, spreading rumours about a worker’s sex life, describing or requesting information about a workers sexual fantasies or behaviour without her knowledge or consent, commenting on a workers appearance, making ongoing and unwanted invitations to date, whistling.

**Non-verbal:** leering, obscene hand or facial gestures, obscene gestures with other parts of the body, showing a worker sexual images, sexually charged text messages, emails or comments on social networks.

**Workplace Violence:** any unreasonable work-related behaviour, action, or event, which leads to a worker being assaulted, threatened, or injured.

  Workplace violence includes physical, verbal or psychological mistreatment or abuse, including harassment. This may happen between co-workers, between managers and workers, or between supervisors and workers under their supervision.

**IV. Responsibility**

Human Resource Managers are responsible for implementing this policy. General Managers, Occupational Health and Safety Managers, supervisors and Heads of Department may also be designated specific responsibilities.

**V. Scope**

This policy applies to all employees without exception, including senior management, and extends to all subcontractors, clients and visitors to the workplace.

**VI. Reporting Sexual Harassment and other forms of Workplace Violence**

Any worker who believes she has experienced sexual harassment or any form of workplace violence has the right to report the incident(s) using existing complaints mechanisms and communications channels.

  Any worker who witnesses or knows of sexual harassment or other workplace violence on- or off-site must report it using existing complaints mechanisms and communications channels.

**VII. Confidentiality and No Retaliation**

[Company Name] is committed to dealing with all complaints in the strictest confidentiality, following procedures to guarantee anonymity. [Company Name] will not retaliate in any way against workers who have complained about sexual harassment and/or other forms of workplace violence.

**VIII. Related documents**

1) Procedures for dealing with sexual harassment and/or other forms of workplace violence
2) Complaints: policy and procedures
3) Discipline: policy and procedures

*(Author’s note: This point needs a broader conceptual definition of sexual harassment, specific procedures and deadlines for receiving, investigating, following-up with, and remedying complaints.)*

**IX. No discrimination**

This policy applies to all employees without exception, distinction or unreasonable and unjustified restriction based on sex, race, nationality, religion, political ideology, union membership, sexual orientation, gender identity, social condition or origin, or disability.

**X. Respect for the law**

This policy will be applied at all times in accordance with the Constitution, domestic laws, regulations, decrees, ordinances and any other applicable legal norm.
Annex 2: Case study 1

The Human Resources Manager of “Good Fashions” trained workers from different departments for the first time on sexual harassment. Previously, sexual harassment had been dealt with in a general training on Codes of Conduct. The new training gave explanations of different types of sexual harassment and explained to workers how to report cases confidentially.

A few days after the training, Human Resources received several complaints that a supervisor in the sewing area had made inappropriate sexual comments to a worker he supervises. Human Resources launched an internal investigation and interviewed all employees in that production area, including the supervisor and the alleged victims. The interviews were conducted individually and were confidential. The investigation confirmed the cases of sexual harassment, resulting in the supervisor being let go.

Lessons Learned:
• Workers need specific training on sexual harassment in order to identify cases in the workplace
• Workers can play a proactive role in preventing and eradicating sexual harassment
Chapter III:
Dealing with Sexual Harassment and other forms of Workplace Violence

Guide for suppliers

Sexual harassment and other forms of workplace violence do happen, despite efforts to prevent it. It is essential that employers have appropriate systems in place to deal with it.

Women workers who take the risk of reporting any type of workplace violence can be re-victimized if their employer does not respond adequately. Companies must develop response systems that are sensitive to the needs of victims, have a gender and human rights perspective, and are aligned with internationally recognized standards.

Companies should develop protocols for dealing with cases of sexual harassment and other forms of workplace violence. Below are some initial steps that companies can take (with or without a protocol) to ensure that victims of workplace violence are given appropriate support.

When the employer knows which worker has filed a complaint:

1. Express your commitment to support her/him.
   
   Once management knows there is an allegation of sexual harassment or workplace violence, the designated person/team should meet with the alleged victim and communicate the company’s commitment of support to investigate and resolve the case. Management should also emphasize that the complaint will be taken seriously, will be handled confidentially, and that all necessary measures to protect against reprisals, to address any injury and appropriate reparations will be taken.

   The first contact with the alleged victim is crucial to the success of the company’s subsequent intervention. During the initial meeting, the designated person/team should ensure that the alleged victim feels supported and comfortable to provide more details.

   In cases involving physical injury, the company must immediately provide first aid and/or refer the person to a medical centre. The company must also tell the worker which institutions they can go to for psychological assistance and legal advice, irrespective of the internal company investigation that will be initiated. The recently reformed El Salvador Labour Code (January 2018) establishes that victims of any form of gender-based violence
are entitled to paid leave for time off work due to the physical, psychological and/or legal impact of violence.

2. **Attempt to understand her/his version of events.**
Immediately after expressing company commitment to support the alleged victim, ask her/him if they are comfortable providing more details, or if they would prefer to discuss at another time and place. Respect the will of the worker. Regardless of the time and place in which s/he agrees to speak, the designated person/team should consider the following:

- Be empathetic and create trust. This will make it easier for the worker to describe details and express their feelings.
- Try to minimize her/his fear of speaking out, by stressing the importance of not being silent, and that violence is never justified, at work or in general. Communicate that it is not her/his fault.
- Allegations of sexual harassment should be dealt with in a serious, intendent and effective way.
- Maintain an unbiased attitude, supporting and validating what the worker is saying.
- Pay attention and show interest in everything the worker says. If possible, avoid taking notes during the interview.
- Answer all of the worker’s questions and concerns, without influencing their opinion or changing their intentions.
- Avoid pressuring the worker to provide details if they are uncomfortable doing so (name of the aggressor/s; where, when and how the incident happened; under what circumstances; possible witnesses).

*(Prepared by the author with information from the World Health Organization, 2014 and the Dominican Republic’s Public Health Ministry, 2010)*

It is also important that the designated person/team inform the complainant about:

- Steps the company will take to deal with the case, without making promises about the outcome;
- Public or private institutions where the alleged victim can seek medical, legal or psychological attention.

As mentioned in Chapter II, the employer must train staff responsible for dealing with sexual harassment or other workplace violence on the proper way to interact with victims, and in how to resolve their cases. Training must cover the above steps and be conducted by a third party.
As recommended by General Recommendation 24 of the ILO Committee for the Elimination of Discrimination against Women, additional areas the designated person/team must consider when dealing with alleged victims, include:

- Getting the full consent of the alleged victim for all steps of the process and ensure s/he knows about all company decisions and action;
- Respecting the alleged victim’s dignity;
- Guaranteeing confidentiality and anonymity at all stages;
- Considering the alleged victim’s needs and perspective.

There must also be a guarantee to not make the victim go back over the facts. The designated person/team must ensure that all possible information is obtained in the first statement, given how painful or uncomfortable it may be for the worker to report the facts again (Junta de Castilla y León, 2010, p.32).

When the alleged victim is a woman, care must be taken to ensure that at least one of the staff who deals with her case is also a woman.

Always avoid having the alleged aggressor or third parties present during the interviews with the alleged victim, unless s/he requests that a family member, union representative or co-worker be present. Similarly, we do not recommend bringing the alleged victim together with the alleged aggressor for any interviews, even if they both consent.

3. Adopt measures to prevent retaliation.

Before starting an investigation, adopt measures to prevent any possible kind of reprisal by the alleged aggressor(s). Primarily, these measures should prevent contact between the alleged victim and alleged aggressor (to avoid further harassment, and/or retaliation). Physical separation may be necessary.

Move the alleged aggressor to a different work area, taking into consideration the alleged victim’s opinion. Article 24 of the El Salvador Special Comprehensive Law for a Life Free of Violence and Discrimination for Women establishes that "the employer will respond to women’s requests for temporary or permanent relocation of their place of work (...) and reorganization of their schedules (...). [i]n cases where they find themselves in cycles of violence and complaint processes"

The employer may also order that the alleged aggressor not approach the alleged victim on company premises.

In no case should precautionary measures affect the pay, benefits or working conditions of the alleged victim reporting sexual harassment or workplace violence.
The employer must allow the alleged victim to take paid leave for medical, legal or psychological assistance, if they want to, as per the latest reforms to the El Salvador Labour Code.

4. Investigate the allegations.
The employer should have a written procedure for investigating sexual harassment and other forms of workplace violence. This can be part of a protocol to address this type of workplace violence.

Ensure the investigation is prompt and that the alleged victim(s) gets a fast response. Reasonably short deadlines are recommended for: i) initiation of the investigation after receipt of the complaint (1-2 days); ii) time to collect evidence (3-7 days, depending on complexity); iii) communication of the final resolution to the parties, (4-8 days after the complaint was filed).

To the extent possible, gather the following information:

- Interview the alleged aggressor(s);
- Witness statements from the alleged victim(s) or other worker(s) who has/have complained;
- Interview all workers (or a representative sample) in the same area or department of the person reporting the incident;
- Review video or audio recordings;
- Review emails between the alleged aggressor and the alleged victim(s);
- Messages, photographs or other files sent through social networks;
- Handwritten notes;
- Medical and/or psychological opinions from relevant government agencies;
- If sexual harassment or workplace violence has lead to the dismissal, demotion or transfer of alleged victim(s) to another position, review personnel files (performance evaluations, cause for dismissal, demotion or transfer); and
- If sexual harassment or workplace violence has lead to discipline, review disciplinary procedures (for evidence and criteria).

- At all stages of the investigation, assume the innocence of the alleged aggressor.
- Implement a non-retaliation policy for workers who witness harassment or provide testimony during the investigation, and inform them of how to report reprisals.
- Ensure one-on-one interviews for witnesses and potential informants.
- Do not demand that the alleged victim(s) provide evidence of the alleged aggression. Ask about possible witnesses, documents, recordings or photographs that can serve as evidence, but never dismiss a case because the alleged victim cannot provide such evidence.
5. **Adopt a final resolution and communicate it to the parties.**

The investigation's conclusion must be documented, confidential, and communicated verbally, directly and privately to the parties (alleged victim(s), alleged aggressor(s)).

6. **Apply appropriate discipline.**

If the complaint is found to be totally or partially true, appropriate discipline must be applied, as per the company's Internal Regulations.

Discipline must be **fair, progressive, reasonable, objective, transparent, applicable to all employees, and exclude sanctions that are discriminatory or harmful to human dignity.**

In determining discipline, consider the following (Ayuntamiento de Valencia, 2011, p.13):
- Whether the aggressor is a repeat offender;
- If there were two or more victims;
- Whether the aggressor has intimidated or retaliated against the victim;
- Whether the aggressor had decision-making power over the victim at work;
- If the victim(s) has a disability;
- If the victim(s) suffered medically recognised psychological or physical distress;
- If the harassment happened during hiring; and
- Whether pressure or coercion was used against the victim, witnesses or other workers at work or in their homes, in an attempt to alter the course of the investigation.

If the investigation determined that no sexual harassment or workplace violence occurred, **the complainant must be given the opportunity to appeal the decision** to a higher level within the company.

If the complainant(s) decide not to appeal, or the appeal reaffirms the decision they must be allowed to request transfer to a job with the same pay and conditions.

Discipline must always be documented in the aggressor’s personnel file.

If, due to complexity of the case or difficulties in obtaining evidence it is not possible for the investigation to come to a definitive conclusion, the employer may request that appropriate public institutions get involved. This is only in exceptional circumstances, since the employer has the primary responsibility to respond to sexual harassment and workplace violence. The employer may to go the:
- Office of the Attorney General of the Republic;
- National Civil Police;
- Justice of the Peace;
- Ministry of Labour and Social Security;
- Specialized Courts for a Life Free from Violence and Discrimination for Women.
*False complaints.* If the company investigation determines unequivocally that the allegations were false and made in bad faith, the complainant should receive appropriate discipline.

7. Reparation for the victim.
If workplace violence led to a worker’s dismissal or a reduction their pay or conditions of employment, pay and conditions must be retroactively restored to the level previous to the violence.

If discipline did not result in dismissal, the aggressor and victim must be separated at work, with the victim deciding if s/he wants to be transferred. Under no circumstances should the victim’s pay and working conditions be negatively affected (Ayuntamiento de Valencia, 2011, p.14).

For example, if a supervisor dismissed a worker who refused sexual advances, the worker must be retroactively reinstated to the same job, or one with equivalent pay, benefits and other conditions. The worker can decide if s/he wants to return to their job or not, and if so, the supervisor must be transferred to another work area if s/he has not been dismissed.

Recent amendments to the El Salvador Labour Code establish the employer’s obligation to provide the victim with paid leave if they need time off due to the physical, psychological and/or legal implications of gender-based violence. Paid leave must be part of the reparation of damages, and include paid time off for mental health care.

8. Rehabilitate the aggressor (when they have not been dismissed).
Examples of rehabilitation include: i) mandatory sensitivity training from an external organization that covers the adverse impact of gender violence or workplace violence; and ii) mental health treatment. For awareness-raising training, employers can refer the aggressor to the Attorney General’s Office (PGR) or the Salvadoran Institute for Women’s Development (ISDEMU).

9. Verify corrective action and rehabilitation, and safeguard against repetition.
The employer should conduct a root cause analysis of sexual harassment or other workplace violence, and then implement appropriate corrective measures. For example, if supervisors in a sportswear factory are verbally abusing workers to get them to meet production goals, production organization needs to be addressed (e.g. production goals reviewed and adjusted, training for supervisors on how to manage workers, review of the machinery maintenance program).
When the aggressor is not dismissed but sexual harassment has been confirmed, ensure that the victim can return to work in appropriate conditions and will not face additional violence. Monitor the victim’s wellbeing through regular (e.g. weekly) interviews, and ensure that their immediate supervisor keeps a watch out for their behaviour.

There should be sufficient follow up to check that the aggressor is not being violent again. Conduct random and regular interviews with workers in the aggressor’s work area.

10. **Verify the legal implications of the violence and determine appropriate legal action.**
Some forms of sexual harassment, physical abuse, or workplace discrimination are crimes, and in such cases the employer must inform the authorities and file a formal complaint with the General Prosecutor’s Office of the Republic, the National Civil Police, the Justice of the Peace, or the Specialized Courts for a Life Free of Violence and Discrimination for Women. Employers should seek legal advice to determine which cases should be reported to the authorities.

11. **Document all cases.**
Keep a record of each complaint. Include the following (Junta de Castilla y León, 2010, p.35):

- Date the complaint was filed;
- Name of the alleged aggressor, position and department where they work;
- If the complaint was not anonymous, information about the person filing (name, position and department where he/she works);
- If the complaint was not anonymous, profile information (sex, age, marital status, sexual orientation, union membership, disabilities, pregnancy, whether breastfeeding or not);
- Details of the incident (whether sexual, verbal, physical or psychological, place and date);
- List of witnesses;
- Investigation procedures followed;
- Staff who took part in the investigation;
- Conclusion of the investigation;
- Discipline implemented;
- Reparations and rehabilitation; and
- Referrals to government offices.

When the employer does NOT know which worker has filed the complaint.
Victims of sexual harassment and other forms of workplace violence have the right to file anonymous and confidential complaints. Because of fear, shame and possible stigmatization, workers may choose to complain anonymously. This may make it difficult for the employer to investigate, but there are steps that can be taken to protect workers.
If the name and work area/department of the alleged aggressor are reported, the employer can investigate as described above, excluding interviewing the alleged victim. If this is this case, the conclusion of the investigation can only be communicated to the aggressor.

If the name and/or work area/department of the alleged aggressor are not reported, the employer should invite all workers to file complaints with the authorities, communicate company support to the workers, and make it clear that such violence will not be tolerated and that discipline will be applied as per Internal Regulations and applicable laws. Posters can be placed in bathrooms, dining halls and other common areas.

**Additional recommendations:**

- If sexual harassment or other forms of violence have occurred outside the workplace, for example, to and from work, at home or in the community, inform victims about which authorities and organizations they can file complaints with and be supported by.

- Request support from independent experts and organizations to design and implement management systems for dealing with sexual harassment and other forms of workplace violence, and to help with investigations. A directory of relevant public institutions and non-governmental organizations in El Salvador is included in the appendices (p.61-65).

- When factories are unionized, union leaders should participate in the design and implementation of the management systems for dealing with sexual harassment and other forms of workplace violence.

**Guide for buyers**

As with prevention, buyers can be proactive in handling cases of sexual harassment or other forms of workplace violence in their supply chains.

Establish mechanisms for receiving complaints that include:

1. Social compliance audits (internal and as part of external programs in which the buyer participates, such as, the Fair Labor Association (FLA);
2. Complaints filed directly with the buyer by a worker, group of workers or union;
3. Complaints via third parties, such as the FLA or the Worker Rights Consortium (WRC).

If the problem is detected in a social compliance audit, there are two possible scenarios:
1. Sexual harassment or other workplace violence IS included in audit reports.  
Some workplace violence, such as verbal abuse by supervisors, can be verified by auditors via testimony from a representative sample or significant percentage of workers. In such cases, audit reports and corrective action plans should indicate noncompliance. The buyer in these cases must ensure that the corrective action plan for the supplier factory is thorough and adequate, to eliminate the problem and prevent its recurrence.

The buyer must therefore:

🌟 Ensure that the corrective action plan addresses root causes. If the audit report does not include root causes, the buyer must encourage the supplier to identify root causes and eradicate them.

🌟 Include immediate and sustainable action. For example, direct intervention with the alleged aggressor, regular staff management training, training on company policy to prevent harassment and abuse, discipline, and monitoring the supervisor’s behaviour.

🌟 Assign responsibility for implementing the corrective action plan within established deadlines.

Follow-up. The buyer should monitor implementation of the corrective action plan, requesting periodic updates and evidence from the supplier. The buyer should also conduct verification audits (e.g. every six months or year) appropriate to the severity of the findings.

2. Sexual harassment or other workplace violence is NOT included in audit reports.
Auditors may find isolated cases where one or a few workers report sexual harassment or other workplace violence, or the type of harassment or violence may be particularly severe. Such cases are generally not included in audit reports, in order to protect workers from possible retaliation. Auditors may not have time to obtain sufficient evidence to verify allegations. However, allegations should not be ignored or dismissed.

In such cases, auditors should report the problem to buyers separately from audit reports.

Summary of criteria for not including sexual harassment/workplace violence in audit reports (but where the buyer will be notified in a separate communication):

🌟 Only one person has complained, and no other sources corroborate;

🌟 A small group of workers has complained or testimonies contradict the complaint;

🌟 Auditor(s) could not corroborate allegations through other sources due to lack of time or availability;

🌟 Auditor(s) felt complainants risked being identified by management; and

🌟 Auditor(s) considered retaliation was possible.
Finally, factory management may challenge audit findings on sexual harassment or other workplace violence. In such cases, the buyer can take the following steps:

**When findings are not included in audit reports, or when findings are challenged by management:**

**Step 1: Contact the auditor.** The buyer should contact the auditor(s) as soon as possible to get as much information as possible. Relevant questions may include:

- What exactly happened? What type of workplace violence is alleged? Who allegedly did it? What jobs are they in? Who are the presumed victim(s)? When did it happen? Was it an isolated incident or systematic? In which work area(s) or department(s)? Did victims report it to management? Does management know? Has management dealt with the problem? What are the root causes? Have victims filed complaints? Have legal proceedings begun?

**Step 2: Talk to the worker(s) who have complained.** Buyers should request contact information from the auditor(s) for the worker(s) who reported the sexual harassment or other workplace violence. If there is no language barrier, the buyer should establish immediate communication with them. If the buyer has representatives in-country, they can plan to meet or talk by phone with the worker(s) who complained.

If the buyer does not have staff who speak Spanish but is a member of the FLA, it can request that the FLA in Latin America contact the worker(s). If the buyer is not an FLA member, it can request communications support from the auditors who reported the problem.

**Step 3: Report to senior staff and appropriate departments.** Buyers should discuss cases internally with CSR staff, senior management, and other relevant departments, such as, legal and/or sourcing.

If the buyer has an internal protocol for cases, it should be followed.

**Step 4: Inform factory management of findings and request investigation and corrective actions, if verified.** This is a delicate but necessary stage. The buyer must be clear and careful in reporting the problem to factory management. The communication should include the following:

- Details of the alleged incident(s): date(s) and place(s), work area or department; who is accused. Names of alleged victim(s) must never be disclosed, nor must any other information that might identify who made the report (for example, the worker’s position, disability status, pregnancy or breastfeeding, union membership or position).
Urge management to take the allegations seriously, secure management commitment to deal with the case responsibly, objectively and promptly.

Suggest guidelines to investigate the situation. For example, share the steps for suppliers (above).

Emphasize the importance of preventing reprisals.

Agree to a reasonable time frame concluding the investigation.

Urge management to remedy any non-compliance that is found.

Offer remote support and assistance.

The buyer should first email this information and requested actions and then arrange a phone meeting to explain to factory management.

Throughout the internal factory investigation, the buyer must be in contact with the worker(s) who complained, to ensure they are not retaliated against and/or dismissed. The results of the investigation should be shared with the worker(s), union or third parties who reported the problem.

The factory's internal investigation can be done by a third party hired for that purpose.

Where non-compliance is found, a corrective action plan must be prepared and agreed on by the supplier and the buyer. The buyer should monitor implementation in verification audits.

**Step 5: Conduct a special investigation.** If factory management is not willing to investigate, or if the results are considered unreliable, the buyer can initiate a special investigation, or propose that the supplier arranges one. The buyer should give the factory the opportunity to conduct its own internal investigation and remedy all non-compliance first.

Criteria for selecting who should do the investigation:

- Investigator(s) is independent and external (no direct business or family relationships with the supplier);
- Investigator(s) has knowledge and experience in investigating cases of sexual harassment or other workplace violence, and have a gender focus;
- Investigator(s) speaks the workers’ language;
- At least one investigator is a woman;
- Workers who reported the incident(s) accept the investigator(s); and
- Factory management has no legitimate reason to veto the investigator(s).

FLA buyers can request FLA support to identify an appropriate investigator(s).

Once the investigator(s) is selected, the buyer should prepare terms of reference in consultation with the worker(s), union or third parties that reported the problem (to determine what the investigation should cover).
The results of the buyer’s external investigation should be shared with the worker(s), union or third parties that reported the problem.

**Step 6: Corrective action and monitoring.** A corrective action plan must be developed by the supplier and buyer to deal with non-compliance where it was found. The buyer should monitor its implementation via verification audits.

The corrective action plan should be shared with the worker(s), union or third parties that reported the issue, and they should have the opportunity to provide suggestions and express their opinion regarding the plan.

**When allegations of sexual harassment or other workplace violence come to light via worker or union complaints, or by the third-party (FLA, WRC) reports:**

In these cases, buyers can follow steps similar to those described above, with some adjustments:

- Contact the organisation that is reporting the problem to get as much information as possible.
- Request that the organisation provide contact information for the worker(s) who have complained. If worker contact information is forthcoming, follow the steps above, from Step 2. If there is no worker contact information, proceed from Step 3.
- If it is necessary for the buyer to launch a special investigation, ensure that the organization reporting the problem speaks to the investigator(s) prior to the factory visit.
Steps for buyers in cases of complaints of sexual harassment in their supply chains

1. Reported finding(s) during social audit
   - Findings included in audit report
   - Finding(s) challenged by the factory
   - Finding(s) not included in the auditor report but reported to the buyer in a separate communication
   - Buyer contacts auditor for more information

2. Finding(s) reported to the buyer by workers, unions or third parties
   - Buyer contacts workers, the union or third parties
   - Internal communication with other departments of the buyer
   - Communication with factory management and request to investigate and resolve the case
   - Buyer satisfies with investigation
   - Special investigation commissioned by the buyer
   - Buyer not satisfied with the investigation
   - Follow-up (monitoring?)
   - Closure of case
   - Correction through remediation plan and follow-up by buyer
Appendix 1: Case Study 2

Following a social compliance audit commissioned by a buyer client at the clothing manufacturing factory "Textiles Last Fashion", the buyer was informed that the factory's Production Manager had sexually harassed at least three workers, who no longer worked at the factory. The buyer immediately informed the supplier’s management team, which decided the following day to carry out an investigation to determine the seriousness of the complaints and if there were other potential victims.

The supplier pulled together a hybrid team consisting of one factory representative and two independent external investigators. During the opening meeting of the investigation, the team described the methodology that would be used, and its confidentiality and non-retaliation policies to management.

The investigation included a review of documentary evidence, a facility tour and on and offsite worker interviews, including with former workers. The documentary review included the files on dismissals over the previous 12 months and worker turnover statistics.

The investigation concluded that: 1) former workers had been sexually harassed; 2) the supplier had deficient human resource management systems, meaning that hiring, promotion, overtime and dismissal decisions were subjective, leading to quid pro quo sexual harassment.

The supplier took some steps to correct the problem and prevent reoccurrence: 1) staff who committed or tolerated the sexual harassment were disciplined; 2) workers who were fired as a result of the sexual harassment were reinstated; 3) protective measures against reprisals were adopted; 4) a human resource management system was implemented (including policies and procedures for hiring, promotion, overtime and termination); and, 5) a robust complaints system was developed.

Subsequent to the implementation of these measures, the company noted a significant reduction in worker turnover and no new cases of sexual harassment have been reported.

Learned lessons:

★ Buyer audits can help detect and remedy sexual harassment
★ Deficient human resource management systems can contribute to sexual harassment
★ It is crucial to the investigation of sexual harassment to ensure that victims and witnesses are protected against reprisals
★ Independent external auditors are key to successfully investigating sexual harassment
★ Dealing with sexual harassment contributes to lowering worker turnover rates, which can in turn help improve productivity.
Chapter IV: Guide for social compliance auditors to audit for sexual harassment and other workplace violence

It can be difficult for social audits to uncover harassment and abuse. For example, time for worker interviews is often limited, and there are lots of issues that have to be covered. Social compliance audits can still be useful; however, for identifying sexual harassment or other incidences of workplace violence. Below are some recommendations for social compliance auditors to identify sexual harassment and other forms of workplace violence more effectively.

Red Flags
Auditors should pay special attention to management and worker attitudes, behaviour and circumstances, and note that these may encourage sexual harassment or other workplace violence. For example, auditors should look for the following:

1. During the review of documentary evidence
   ✽ Deficient human resource management systems, for example, deficient policies and procedures for recruitment, hiring, promotion, termination, overtime, and bonuses.
   ✽ Deficient policies and procedures on sexual harassment, abuse, or other workplace violence.
   ✽ Lack of training materials for workers, supervisors, and management on sexual harassment, workplace violence, and other risks. Training materials do not have examples of sexual harassment, don’t explain that some culturally "accepted" behaviour constitutes sexual harassment (e.g. unwanted compliments, whistles), don’t stress zero tolerance for harassment, or don’t explain internal and external complaints mechanisms for workers to report sexual harassment or other workplace violence.
   ✽ No systems for managing complaints (policy, procedure, reporting, investigating, follow-up, resolution, and communication).
   ✽ No confidential complaints mechanism.
   ✽ Records of complaints show significant incidents of sexual harassment, verbal abuse or other workplace violence.
   ✽ No Occupational Risk Prevention Management Program (required by Article 8 of the El Salvador General Law for the Prevention of Workplace Risks), or the existing system does not include awareness-raising and prevention of violence against women, sexual harassment or other risks.
   ✽ High worker turnover rate.
2. During the On-Site Tour

- Managers or supervisors making sexist or demeaning comments, including jokes about women, when talking to the auditors (e.g. flirting with or complimenting an auditor or worker).
- Sexist or objectifying advertising (symbolic violence), particularly where men are working (e.g. nude or semi-nude calendars in the mechanic's shop, which are prohibited by Article 9(g) of the El Salvador Special Integrated Law for Women to Lead a Life Free of Violence (LEIV)).
- Any staff making sexually explicit jokes.
- Workers who are anxious or nervous when certain supervisors or managers approach them.
- Worker who cry or are obviously sad, angry, or uncomfortable.

Auditors should interview workers who appear anxious, sad, or uncomfortable.

3. During management Interviews

- Lack of personnel management and communication training for supervisors and managers.
- Lack of training on sexual harassment, gender based violence and related training for supervisors and managers.
- Managers are disrespectful towards women or all workers (making sexist, discriminatory or offensive comments).

4. During worker Interviews

- Workers say that sexist jokes are made in the factory.
- Workers say they have not been trained in sexual harassment, violence against women, workplace violence and other risks.
- Despite training, workers show little or no understanding of what sexual harassment is, or of how to report workplace violence.
- Workers do not trust the complaints mechanisms.

Some of the examples above constitute non-compliance with buyer or multi-stakeholder initiatives (e.g. absence of policies and procedures, training and complaints mechanisms). Others violate domestic law (e.g. absence of a system to prevent and manage risks, lack of training on sexual harassment and other risks, and symbolic violence). All of these cases must be reported as non-compliance.

Other issues, such as high worker turnover, managers’ sexist attitudes, or workers’ lack of trust in complaints mechanisms, are not non-compliance issues in themselves, therefore, they are often excluded from audit reports. But their presence should alert auditors to the possible existence of sexual harassment or other workplace violence.
Worker Interviews
Worker interviews are the main source of information for sexual harassment and other workplace violence. The way they are conducted is crucial.

Creating trust. Auditors must empathize with the workers they interview. They can do this by:

- Being friendly, greeting the worker warmly, preferably with a smile;
- Breaking the ice with small talk, asking how the worker is doing, commenting about the weather or about how busy the worker seems to be, or by mentioning their skill/expertise;
- Avoiding technical or foreign language and concepts;
- Explaining at the beginning of the interview (to promote trust building) that the audit is for the benefit of the workers, that the buyer and auditors want to improve conditions, and that everything will be handled confidentially;
- Establishing eye contact with the worker, avoiding closed questions in questionnaires, and avoiding note-taking during the interview;
- Avoiding wearing overly formal clothes and ostentatious accessories, such as jewelry or expensive watches. The worker should see auditors as equals who can understand their reality;
- Ending the interview, by sharing contact details with workers so that they can report any retaliation as a result of the interview.

When a worker reports sexual harassment or other workplace violence:
- Listen carefully, empathize.
- Don’t be prejudiced, validate workers voices.
- Stress that the audit is intended to help workers.
- Stress that the interview is confidential.
- Don’t interrupt the worker, try to get as much information as possible (names of aggressors, where, when and how the incident happened, under what circumstances, possible witnesses, etc.).
- Request permission to inform the buyer, if necessary.
- Explain whether findings will be reported to management and/or the buyer.
- Get the worker’s contact information (phone number), and let them know that the buyer or someone on the buyer’s behalf may be in touch.
- Don’t generate false expectations about the outcome of the case; for example, avoid mentioning this interview will resolve the case.
- Ask workers in the same area or department to identify other possible victims and/or witnesses.

Other recommendations for auditors
Interview low performance workers and ask them how they feel at work, if there is any situation that makes them uncomfortable.
Auditors should be ready to interpret what workers describe. For example, workers may "normalized" some forms of sexual harassment (e.g. unwarranted “compliments” or flirting). If workers say they do not think there is sexual harassment at work, but say that flirting is common, auditors should take note, and inquire further.

**Managing information in the final audit meeting and audit report**

If noncompliance due to sexual harassment or other workplace violence has been found, and is backed up with sufficient evidence, auditors should let management know during the closing meeting and include the finding in the preliminary and/or final audit report.

Auditors should provide as much information as possible, without ever compromising workers’ confidentiality. At a minimum, auditors should review the following with management:

1. What constitutes sexual harassment and workplace violence: types and examples of incident (words, phrases or gestures used).
2. What are the frequency of incidents, and whether they have stopped or not.
3. What areas or departments are involved.
4. What are the position(s) of the alleged aggressor(s).

If auditors believe that management might retaliate against workers who were interviewed, they should not report findings during the final meeting or include them in the preliminary and/or final audit report. Instead, they should report the problem directly and separately to the buyer.

Noncompliance should not be reported in the final audit meeting or be included in the preliminary and/or final audit report, in the following cases:

- Only one worker has brought forward the complaint and there is nothing to corroborate the allegation;
- Only a small group of workers has raised the issue, or there is contradictory evidence;
- Auditors did not have time, or otherwise couldn’t corroborate the allegations;
- Auditors believe that management will be able to identify workers who reported the issue.

Instead, auditors should report the issue directly and separately to the buyer.

**Final recommendations for auditors**

- Before the audit, auditors should understand relevant protocols and procedures regarding sexual harassment and other workplace violence.
- If the report can include "non-compliance risks", auditors may include red flags that did not become "non-compliance findings". For example, if workers reported that co-workers make sexual jokes, but that they don’t feel offended by that. This will depend on the reporting requirements for each buyer and audit program.
Appendix for Chapter IV

Appendix 1: Sample worker interview questions:

Introduction:
1. Do you like working here?
2. Is your supervisor male or female?
3. How long has s/he been your supervisor?

Whether sexual harassment or other workplace violence exists:
4. Has another worker ever made you feel uncomfortable?
5. Has a supervisor or manager ever made you feel uncomfortable?
6. Have you experienced or witnessed other workers being the target of sexual or suggestive comments, including unwanted compliments, jokes, looks, and whistling?
7. Are interactions between males and females respectful?
8. Does your supervisor treat men differently when there are women present?
9. Have you ever reported sexual harassment or abuse to the company?
10. If yes, did the company resolve the issue?
11. Did you report the case outside the company?

Training, Communication and Knowledge of Complaints Mechanisms:
12. Do you know what sexual harassment is? Have you had sexual harassment training?
13. Have you been trained on abuse and other forms of workplace violence?
14. Has management explained what to do if you experience sexual harassment or other forms of violence or abuse?
15. What mechanisms exist for reporting abuse or sexual harassment?
16. Would you feel comfortable talking with your supervisor about sexual harassment?

Other forms of workplace violence:
17. Does the company ever refuse or limit your requests for time off?
18. Has the company ever paid you incorrectly, late, or not at all? (Including overtime pay?).
19. Has the company ever paid your vacation or end of year bonus incorrectly, late, or not at all?
20. Do you have the opportunity to work overtime?
21. Is overtime allocated fairly and objectively?

Workplaces with high worker turnover:
22. Do you know anyone who has left the company? If yes, do you know why they left?
Chapter V: Legal Framework for Sexual Harassment and other Forms of Workplace Violence

International Legal Framework

Philadelphia Declaration (1944)
Establishes the International Labour Organization’s (ILO’s) purpose, principles, and obligations. Maintains that peace can only be achieved with social justice. Human beings, without distinction, deserve to live freely, with dignity and security, and able to guarantee their own wellbeing and development. Equality of educational and professional opportunities is mandatory.

ILO Convention 111 on Discrimination (job and employment)
Protects women against sexual harassment on the basis of equal opportunities and equal treatment. Ratified by El Salvador in 1995, obliging the State to create equality at work policy and anti-discrimination legislation. Discrimination is defined in Article 1 as: "any distinction, exclusion or preference based on race, skin color, sex, religion, political opinion, nationality or social origin that denies or diminishes equal opportunities or treatment in employment and profession (...) ".

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
Discrimination against women in all spheres of life. By way of Article 11, States commit to eliminating workplace discrimination against women by ensuring equal rights. Discrimination arises from inequality, in this case, unequal power relations at work, which disadvantage women. El Salvador, having ratified CEDAW, must eliminate all forms of discrimination against women, including sexual discrimination.

Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belém do Pará")
One of the broadest instruments for women's rights, and the basis of others: the right to live a life free of violence (Article 3). Women's rights are human rights: the right to life, physical safety, mental and moral integrity, equal legal protections, dignity, etc.

Although Article 2 only mentions physical, sexual and psychological violence within the family, the community, or by the State, it is relevant to the workplace because it details a series of rights, including: women’s right to freedom and security, equal legal protection, freedom from all forms of discrimination, and fair working conditions. It also prohibits the State from justifying abuse against women on the basis of "custom, tradition or religion ",

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which is important in El Salvador where human rights violations are often justified as "custom".

El Salvador Legal Framework

Constitution [Constitución de la República]
The Salvadoran Constitution states that humans have rights (Article 1). From the workplace perspective, Article 2 recognizes the right to physical safety, moral integrity, security and work. Inequality diminishes other constitutionally recognised rights. The right to work (Article 37) does not fulfil its social function if there is inequality.

Criminal Code [Código Penal]
One of the most serious forms of workplace violence is sexual harassment, as it violates the right to sexual freedom and the principle of sexual consent (Article 165 of the Criminal Code). Unwanted non-verbal sexual conduct is a crime.

Other forms of workplace violence that can be considered criminal include: Art. 154 (Threats); Art. 177 (Slander); Art. 178 (Defamation); Art. 179 (Injury); Art. 184 (Violation of Private Communications); Art. 244 (Infringement of Working Conditions and Rights); Art. 246 (Labour Discrimination); Art. 247 (Coercion in the Exercise of Trade Union Freedom or the Right to Strike); Art. 278 (Infringement of Security and Hygiene Measures); Art. 292 (Action Against the Right to Equality).

Special Integrated Law for Women to Lead a Life Free of Violence (LEIV) [Ley Especial Integral para una Vida Libre de Violencia para las Mujeres]
Defines workplace violence, which is extremely useful for establishing jurisprudence and for women who are unfamiliar with the terminology. Defines sexual harassment more broadly than the Criminal Code. For the first time, Salvadoran legislation defines workplace harassment as behaviour that intends "to isolate, intimidate or destroy the communication networks of a worker, damage their reputation, discredit or hinder their work".

Recognizes women’s rights and mandates the State to enable a life free of violence. For example, Article 24 concerning the Labour Ministry states that there must be "awareness and prevention of workplace violence that limits workers access to work, promotions, pay or training." Article 25 obliges the State to establish Institutional Centres for Specialist Care for Women (UIAEM).

General Law for the Prevention of Workplace Risks [Ley General de Prevención de Riesgos en los Lugares de Trabajo]
Article 7 recognizes sexual harassment as a psychosocial risk. Article 8.10 obliges employers to establish programs that "Manage the Prevention of Occupational Risks" that include awareness raising and prevention of violence against women and sexual harassment.
Law on Equality, Equity and Eradication of Discrimination against Women
[Ley de Igualdad, Equidad y Erradicación de la Discriminación contra las Mujeres]
Obliges the State to develop and implement policy to prevent and eradicate sexual harassment, workplace harassment and other forms of workplace violence (Article 25).

Law on the Organization and Functions of Work (LOFST) [Ley de Organización y Funciones del Sector Trabajo (LOFST)]
Regulates the administrative procedures for the protection of labour rights under the Labour Ministry. Specifically, the law establishes procedures for conciliation before the General Directorate for Labour, and labour inspection through the General Directorate for Inspection. Workers employed in the private sector can access mechanisms from these two offices.

Labour Code
Article 29, number 5 notes that the employer has the obligation to safeguard workers, abstaining from treating them poorly both in words and in deeds. Article 30 prohibits the employer from discriminating against workers in relation to their union rights, race, color, sex, religion, political opinion, nationality or origin (numbers 5 and 12), and also to reduce, directly or indirectly paid salaries, or reduce or refuse the payment of benefits provided to workers, except when there are legal reasons to do so (number 10).

The Labour Code also prohibits the employer from requiring women who have applied to work to undergo prior exams to determine if they are pregnant, or requiring them to present medical certificates as a prerequisite for being hired (Article 30 number 13). The same prohibition is established in this code for demanding HIV tests as a prerequisite for hiring or discriminating against workers with HIV/AIDS (Article 30 numbers 14 and 15).

Finally, it is important to mention the latest reforms to the Labour Code in 2018. The employer is required to provide paid leaves to women who need to take time off work due to legal or administrative tasks related to a legal case or because they are physically or psychologically unable to work as a result of any type of violence they experienced.

The above mentioned reforms are also incorporated into Article 29 number 5, the prohibition of sexual harassment, harassment in the work place and other forms of violence and discrimination against women. These reforms were published in the Official Gazette on February 27, 2018 and came into effect on March 8.

Legal processes that can be used in cases involving sexual harassment and other crimes of a sexual nature with legal consequences for the employer.

The annexes to this document-guide include a list of public institutions and non-governmental organizations that provide advice and legal accompaniment in cases involving sexual harassment.
There are two available institutional processes for victims of sexual harassment and other workplace attacks of a sexual nature to seek justice and reparation: the Administrative route and the Legal route.

The **Administrative route** is simple and involves the filing of a complaint at the Ministry of Labour and Social Welfare, which then carries out a workplace inspection. The outcome of the inspection may include a fine if sexual harassment is proven to have taken place.

This route is not the most effective in cases involving attacks of a sexual nature; nonetheless, it can be complementary to the next route, which is the legal route.

The **Legal route** involves criminal processes that can be initiated by way of a complaint filed at any of the following offices: Public Prosecutor of the Republic; National Civil Police; Justices of the Peace; Ministry of Labour and Social Welfare; and Specialized Tribunals for a Life Free of Violence and Discrimination for Women.

The Public Prosecutor of the Republic is responsible for initiating criminal action. It prepares the complaint, pushes it through the corresponding courts, presents all the evidence, and represents the victim or victims throughout the entire process. In other words, if the complaint is brought to any of the previously mentioned offices, the cases will always be brought to the attention of the Public Prosecutor of the Republic, which will then initiate a legal process at the respective courts.

The Public Prosecutor is the entity in charge of initiating the legal processes given that sexual harassment is categorized as a crime according to Article 165 of the Criminal Code.

If the sentence confirms that sexual harassment took place, the aggressor is sentenced to prison for somewhere between 3 to 5 years; although the sentence may be longer if there is an aggravating circumstance; for example, if the victim is under 15 years of age. In addition to the prison sentence, the person responsible for committing sexual harassment may be required to pay damages to the victim for the consequences they experienced because of the harassment.

The Public Prosecutor can also manage other crimes of a sexual nature contemplated in the Criminal Code, such as Rape (Art. 158), Rape of a Minor or of Someone Incapable of Consent (Art. 159), Other Sexual Attacks (Art. 160), Sexual aggression involving a minor or disabled person (Art. 161), Rape and Aggravated Sexual Assault (Art. 162), Statutory Rape (Art. 163), or Diverse Sexual Acts with a minor between 15 and 18 years of age (Art. 166).

In all of these cases, the sentences for the offender include prison plus a civil liability charge; in other words, the restitution of the victim for damages, and harm caused by the attack. The applicable laws pertaining to civil liability are found in Articles 114 and 127 of the Criminal Code.
With the creation of the Specialized Courts for a Life Free of Violence and Discrimination for Women, at the end of 2016, these new courts are assigned jurisdiction to hear crimes of a sexual nature such as: Incitement, Promotion and Circulation of Sexual or Erotic Activities by way of information technology or electronically, Distribution of Pornography or Violent Activity against Women (Articles 44 and others from the Special Integrated Law for a Life Free of Violence for Women).

If a crime falls under the Criminal Code and the Special Integrated Law for a Life Free of Violence for Women, the crime should fall under the Specialized Jurisdiction for a Life Free of Violence and Discrimination for Women.

The sentences for crimes of a sexual nature, which fall under the specialized jurisdiction, are between three to 10 years, except for Violent Activities against Women that are sanctioned with a fine that can range from two to 25 minimum wage salaries of the commercial and service sectors.
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**Interviews**
- Representatives from two civil society organizations (women’s organizations)
- Two union leaders from the two union federations
- Two representatives from two supplier factories
- Four representatives from four brands
- Six social auditors (two independent auditors and four from a private auditing firm
- One representative from the Specialized Tribunals for a Life Free of Violence and Discrimination for Women (Court of Inquiry).
Focus Groups
- Five workers and maquila union leaders affiliated with one union federation