

**Spotlight
Initiative**
*To eliminate violence
against women and girls*



**SITUATION ANALYSIS: REPORT ON ENGAGING THE PRIVATE,
PUBLIC, AND INFORMAL SECTOR ON ADDRESSING SGBV AND
SEXUAL HARASSMENT IN THE WORKPLACE.**

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2. Private Sector

- **Blantyre:** Southern Bottlers/ CASTEL, Universal Industries, Banja la Mtsogolo, OPTCHEM Fertilizer, Cold Storage, Bakers Pride, Robray Limited, PolyPlastics, SAWA Group, Blantyre International University, St Andrews International Academy and St Patricks Academy
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- **Mzuzu:** Grand Palace Hotel, Gender Governance Institute, Youth and Society Vision Fund and Evangelical Association of Malawi
- **Media Houses:** Zodiak Broadcasting Station (ZBS), Times TV & Radio, Nation Publications Limited, Blantyre Newspaper, Maziko Radio, Joy Radio, Capital FM. Radio Islam, Blantyre Synod Radio, Calvary Family Church Radio, Channel of All Nations Radio, Yoneco FM, Timveni Radio and TV, Angaliba Radio and Living Waters Church Radio.

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EXECUTIVE SUMMARY

In May 2021, Malawi Human Rights Commission under strategic outcome 2 of “Improved rights-based culture at all levels of the society”, implemented a series of activities which aimed at eliminating sexual harassment in the public, private and informal sectors. The activities were implemented with financial and technical support from UNDP through the Spotlight Initiative Programme. The main aim of the interventions was to mobilize SMEs and cooperatives of women employees and employers in the private sector, CBOs and CSOs, Magistrate/ Industrial Relations Courts, District Labor Officers and Journalists in spotlight districts to share experiences of SGBV and sexual harassment in the workplace and business sector. The interventions were implemented through five main activities namely: (1) situation analysis which aimed at collecting data in the three regions of Malawi to gather evidence of existing extent of sexual harassment and SGBV in workplace and business sector; (2) regional consultative meetings on sexual harassment in the workplace targeting the public, private and informal sectors; (3) development of guidelines which will provide general guidance to the public, private and informal sectors in eradicating sexual harassment (4) national consultative conference with policy makers and private sector stakeholders which aimed at formulating policy recommendations to combat sexual harassment in the workplace and business sector; and, (5) orientation of journalists from different media houses on sexual harassment. The interventions were implemented in the 6 spotlight districts of the country: Nsanje, Machinga, Dowa, Ntchisi, Mzimba and Nkhatabay.

Pillar 2 of the Spotlight Initiative (SI) aims at strengthening institutions to address SGBV, SRHR and HP. Among the institutions that are being focused on in this pillar include private higher learning institutions, private companies and local govt structures that include non-state actors. The interventions implemented by the Commission aimed at initiating engagement with these private companies/ institutions and policy makers in the integration of gender equality- especially SGBV, SRHR and HP.

Upon completion of the interventions under Pillar 2 of the SI, the Commission conducted a review and an analysis in order to ascertain and document achievements, challenges and lessons learnt. Specifically, the Commission wanted to identify key achievements, best practices, challenges and gaps of the previous interventions. The Commission further wanted to identify and document any

intended and unintended outcomes and impacts of the interventions, gather material for documentation of activities such as feature stories and document recommendations.

During the situational analysis exercise, data was collected through individual interviews and focus group discussions where 58 people were sampled for the discussions in the spotlight districts, the sample comprised of individuals from SMEs and cooperatives, women employees and employers in the private sector, CBOs and CSOs, Magistrate/ Industrial Relations Courts and journalists.

Results showed that there is a large knowledge gap on sexual harassment at workplace and business sector. About 70% percent of the cooperatives, journalists, district labour officers and Industrial Relations Court/ Magistrates have little knowledge of sexual harassment. This perceived knowledge gap has been singled out as one factor which hinders effective realisation of human rights and access to justice to victims of sexual harassment, and sexual gender-based violence in general. Furthermore, the interventions revealed that almost all institutions interviewed have no sexual harassment workplace policy document to assist fighting sexual harassment. Likewise, it was established that most institutions have existing sexual harassment reporting mechanisms and psycho-social support services to victims of sexual harassment.

During the implementation of the interventions, the Commission noted that lack of knowledge of gender related laws, specifically GEA is a big challenge. Many people are not aware of the laws that protect them from abuse and violation of their rights.

The Commission, following the findings of the study, recommends that:

- i. Public and Private sector institutions should develop response mechanisms such as sexual harassment policies which includes proper structures for reporting and handling sexual harassment related issues .
- ii. The Human Rights Commission should mobilize resources and embark on sexual harassment and its relevant laws orientation programs in the public, informal and private sectors.
- iii. Media house should develop sexual harassment workplace policies, but the Media Council of Malawi and MISA-Malawi should liaise to provide oversight on the handling of sexual harassment cases in the media industry.
- iv. All government organs and agencies and the private sector should fully enforce the laws and policies on sexual harassment.

- v. All government organs and agencies and the private sector should continuously train their staff on sexual harassment.
- vi. The Commission should set up a toll-free helpline for survivors of sexual harassment to lodge complaints.
- vii. The Media should take a leading role in sensitizing the public on the Concept of sexual harassment, and its impacts on the victims as well as the organization in the public, private and informal sectors.
- viii. District councils should ensure establishment of committees in the marketplace to address sexual harassment and other related sex discrimination.
- ix. Law enforcers such as the police should assist victims of sexual harassment without further re-victimization.
- x. Institutions, including branches should have gender focal persons in place in order to ensure that an organization or an institution mainstreams gender into their programs.
- xi. Development partners to require their sub-grantees, especially Civil Society Organizations, to have Sexual Harassment Workplace Policies and Gender Policies as prerequisites for funding.
- xii. Institutions with legal mandate to promptly and swiftly investigate alleged sexual harassment violations in order to facilitate access to justice to victims.

LIST OF ACRONYMS

CBOs	Community based organisations
CSOs	Civil society organizations
GBV	Gender Based violence
GEA	Gender Equality Act
ILO	International Labour Organization
IR	Industrial Relations Court
LO	Labour office
MBC	Malawi Broadcasting Corporation
MHRC	Malawi Human Rights Commission
MoGCDSW	Ministry of Gender, Community Development and Social Welfare
NABW	National association of businesswomen
SH	Sexual Harassment
SGBV	Sexual gender-based violence
SMEs	Small and medium enterprises
SI	Spotlight Initiative
SRHR	Sexual and reproductive health rights
TCs	Terms and Conditions
UNDP	United Nations Development Program
VAWG	Violence against women and girls
ZBS	Zodiak Broadcasting Station

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CHAPTER 1: INTRODUCTION

Sexual and Gender Based Violence (SGBV) and sexual harassment cases continue to feature highly in Malawi's public and private sector including schools. Women face SGBV as employees in the workplace or as employers in business. A case study on Gender Based Violence (GBV) in six private and public institutions¹ in Malawi (2015²) revealed that 41 percent of the employees faced sexual harassment in the workplace. Key findings included that among those who reported having experienced sexual harassment, 45 percent indicated that they did nothing about it, while 33 percent indicated that they reported the incident to management and 22 percent reported it to a friend. Recently, there have been several media reports indicating incidents of SGBV and sexual harassment in various workplaces.

The Gender Equality Act requires workplaces to develop gender policies and sexual harassment policies in order to safeguard women and girls in the workplace. Implementation of the Act was accorded to the Ministry of Gender, Community Development and Social Welfare (MoGCDSW) and the Malawi Human Rights Commission (MHRC). The implementation plan of the Act acknowledged the importance of supporting public and private sector workplaces to develop sexual harassment policies and other gender related policies. Under the National Plan of Action to combat GBV in Malawi, the private sector has been singled out for their role in establishing workplace gender friendly policies and interventions to support their employees.

The Spotlight Initiative (SI) programme is aimed at ending violence against women and children. The SI employs a multi-pronged approach: improving policy and legal frameworks; institution strengthening; elimination / transformation of harmful social norms; quality services; data availability and strengthening the women's movement.

¹ Sunbird Tourism Limited entities, Chancellor College, Minibus Owners Association of Malawi, Farmers Union of Malawi, Malawi Police Service, and National Organization for Nurses and Midwives

² Mellish, M., S. Settergren, and H. Sapuwa. 2015. Gender-based Violence in Malawi: A Literature Review to Inform the National Response. Washington, DC: Futures Group, Health Policy Project.

The role of the private sector in eliminating VAWG is critical but not yet explored to its fullest. With increased media reports of sexual harassment and abuse in workplaces including private sector organisations, the SI is well positioned to intervene on this matter.

Pillar 2 of the SI aims at strengthening institutions to address SGBV, SRHR and HP. Among the institutions that are being focused on in this pillar include private higher learning institutions, private companies and local govt structures that include non-state actors. While UNDP has been working with local govt structures and public universities on integration of gender issues it has not worked with private companies and universities on the same. This intervention aimed at initiating engagement with private companies/ institutions and policy makers in the integration of gender equality- especially SGBV, SRHR and HP. The intervention was implemented through UNDP partner organization the Malawi Human Rights Commission (MHRC).

This intervention was undertaken under Pillar 2 on Strengthening Institutions which is being led by UNDP and under *“Activity 2.1.1: Support public and private institutions including enforcement bodies to review strategies, policies, plans and/or programs to prevent and respond to VAWG, including SGBV/HP, and promote women and girls’ SRHR, including for women and girls facing intersecting and multiple forms of discrimination.”*

MHRC was best placed to coordinate the interventions given its vast experience working in the private sector and with female employers and employees through cooperatives and small and medium enterprises (SMEs) as well as its mandates and other responsibilities. The Commission’s further responsibility is drawn from the Gender Equality Act (GEA 2013). Under section 8 of the GEA, the Commission has powers to enforce its provisions. Section 9 further empowers the Commission to promote gender equality in Malawi and among other things, to monitor and evaluate policies and practices in the public and private sectors. Section 7 of the same act calls on government to ensure that employers in the workplaces develop and implement appropriate policies aimed at eliminating sexual harassment which is prohibited under section 6 of the GEA.

Through MHRC, evidence was gathered for use during consultations with policy makers and relevant stakeholders on addressing sexual harassment and other SGBV issues in the workplace or in business. The gathered evidence will be used to advocate for policy reform which should be driven largely by the private sector itself under the leadership of the Ministry of Labour, Ministry of Trade, Ministry of Gender, Community Development and Social Welfare and others. The UNDP gender equality seal was used as a guide in engaging the policy makers on looking into policies in workplace and business on issues of SGBV. To close persistent gender gaps in the workplace, UNDP is supporting public and private organisations to implement a Gender Equality Seal Programme, through which it recognizes these organizations for meeting specific standards to promote gender equality and empower women. UNDP provides partners with tools, guidance, and specific assessment criteria to ensure successful implementation and certification.

1.1 Rationale

SGBV costs high on the country's economic development by derailing productivity in both public and private sector. Furthermore, sexual harassment comes with multifaceted abuses such as emotional abuse, sex discrimination, loss of work or job opportunities, among others. Other people have lost job opportunities for refusing to give in to sexual harassment advancement by superiors or employers, although this is not clearly reflected in dismissal letters, just like in rape cases, evidence of sexual harassment in workplace is hard to be visible as it is usually done in private settings. Malawi Courts have recognized this predicament and held that it is necessary to investigate thoroughly any dismissals that could be related to sexual harassment in the workplace.

The Malawi Industrial Relations Court in the case of *Mrs. Phiri v Smallholder Coffee Farmers Trust*³ held that the evidence brought by the claimant revealed that although dismissal, sexual advancement was not provided as reason for the dismissal, the evidence brought by the claimant revealed that she was dismissed for refusing sexual harassment advances. The court held that sexual harassment in workplace advances sex discrimination. The court further stated that where the employer's reason for dismissal is not valid the court may lift the veil to find out from the

³ Matter no 70 of 2006

evidence what may have caused the dismissal. In the current case, by investigating into the evidence the court established that the claimant was wrongfully dismissed as she was dismissed for refusing sexual advances. The court ordered compensation for both unfair dismissal and sex discrimination. Cases like these are very common in the Malawi workplace and business sector and only a few of them see the proper court interventions. Usually, sexual advances are done in private and unrecorded settings, further, the lack of clear policies and guidelines to handle sexual harassment in the workplace and business sector, makes it difficult to access remedies.

In July 2020, the media was awash with reports of sexual harassment cases at Malawi Broadcasting Corporation where a lady came out in the open and claimed that she faced sexual harassment from the superiors.⁴ A policy brief by Malawi Irish Consortium revealed a lot of GBV cases in the workplace that are not reported to formal institutions such as the courts, police and within the institutions or institutional grievance structures.

The Gender Equality Act prohibits sexual harassment and obliges the government and Malawi Human Rights Commission to work with public and private sector institutions to ensure that the anti-sexual harassment policies are put in place to address SGBV in workplace and business places. MHRC therefore, coordinated the interventions to mobilize support from the relevant stakeholders to undertake the review of the existing workplace policies in line with the applicable anti-sexual harassment and anti-SGBV laws.

1.2 Objectives

The study was conducted to achieve the following objectives:

- i. To source evidence on sexual harassment in business and workplaces.

⁴ Catherine Kunje employee of MBC made revelations story available at <https://www.nyasatimes.com/addressing-sexual-harassment-at-mbc-and-workplaces-in-malawi/> accessed on 26 09 2020

- ii. To develop guidelines of anti-sexual harassment policies in public, formal and informal sector.
- iii. To formulate recommendations to address the gaps in the policies and legal frameworks on sexual harassment and SGBV in the workplace.
- iv. To advocate for the strengthening and reform of sexual harassment policies in the public, private and informal sector.

1.3 Expected outputs

The following were the expected outcomes:

- i. Situation analysis report on sexual harassment SGBV Gender Analysis.
- ii. Guidelines development for anti-sexual harassment policies in public, formal and informal sector.
- iii. Recommendations to improve the policy framework on sexual harassment in the workplace.
- iv. Public and private sector institutions to develop anti-sexual harassment policies.

CHAPTER 2: LITERATURE REVIEW

This section presents a review of literature on sexual harassment at workplace and business place. The literature review begins by discussing the context, types, forms, impacts and interventions of SH. The literature review winds up providing the conceptual framework employed in the study.

2.1. Context of sexual harassment

Sexual Gender Based Violence (SGBV) and Sexual harassment continues to be a major challenge in the world. About 1 in 3 women, around 736 million, are subjected to physical or sexual violence by both intimate partner and a non-intimate partner throughout their life time⁵. These have been harassed in various places such as work, home, business, and school. Sexual harassment at work place and business place have also become rampant over the years across the globe. People working as “taxi drivers, health care workers, teachers, social workers, domestics in foreign countries and people working alone, especially in late night retail operations, are at higher risk than others of experiencing such violence”⁶.

Sexual harassment is the unwanted verbal, non-verbal or physical conduct of a sexual nature in circumstances in which a reasonable person, having regard to all the circumstances, the other person would be offended, humiliated, or intimidated⁷. According to the International Labour Organization (ILO), sexual harassment is not only a safety and health problem but also a form of violence primarily against. The ILO further considers sexual harassment as a sex-based behavior

⁵ <https://www.who.int/news/item/09-03-2021-devastatingly-pervasive-1-in-3-women-globally-experience-violence> accessed on 17th June 2021

https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_007970/lang--en/index.htm accessed on 17th June 2021

⁶

⁷ Gender Equality Act 2013

that is unwelcome or unwanted and offensive to the receiver⁸. The word unwelcome or unwanted is very key as it is considered as unwelcome when the receiver does not accept it.

Malawi has also not been left out as it faces a lot of challenges on the same. Sexual harassment continues to be a major problem in the public, private and the informal sectors in Malawi. Section 6 of the Gender Equality Act (GEA 2013) prohibits sexual harassment in Malawi. Section 7 of the same act calls on employers to develop appropriate policy and procedures aimed at eradicating sexual harassment in the workplace.

Despite the high rate, just like in rape cases, evidence of sexual harassment in workplace is hard to be visible as it is usually done in private settings. Malawi Courts have recognized this predicament and held that it is necessary to investigate thoroughly any dismissals that could be related to sexual harassment in the workplace.

The Malawi Industrial Relations Court in the case of *Mrs. Phiri v Smallholder Coffee Farmers Trust*⁹ held that the evidence brought by the claimant revealed that although during dismissal sexual advancement was not provided as reason for the dismissal, the evidence brought by the claimant revealed that she was dismissed for refusing sexual harassment advances. The court held that sexual harassment in workplace advances sex discrimination. The court further stated that where the employer's reason for dismissal is not valid the court may lift the veil to find out from the evidence what may have caused the dismissal. In the current case, by investigating into the evidence the court established that the claimant was wrongfully dismissed as she was dismissed for refusing sexual advances. The court ordered compensation for both unfair dismissal and sex discrimination. Cases like these are very common in Malawian workplace and business sector, only a few of them seek the proper court interventions. Usually, sexual advances are done in private and unrecorded places, further, there is lack of clear policies and guidelines to handle sexual harassment in the workplace and business sector, which therefore makes remedies hard to access.

⁸ ILO Convention 190

⁹ Matter no 70 of 2006

In July 2020 the media was awash with reports of sexual harassment cases at Malawi Broadcasting Corporation where a lady came out in the open and claimed that she faced sexual harassment from the superiors.¹⁰ A policy brief by Malawi Irish Consortium revealed a lot of GBV cases in the workplace that are not reported to formal institutions such as the courts, police and within the institutions or institutional grievance structures.

2.2 Types of sexual harassment

There are 2 types of sexual harassment, namely a hostile work environment and quid pro Quo¹¹: In a hostile working environment, there is unwelcome conduct of a sexual nature which creates an uncomfortable work environment for some employees. Examples of this conduct include sexually explicit talk, sexually provocative photographs, foul or hostile language or inappropriate touching. In this case, the harasser's conduct negatively impacts the victim's work environment.

Quid Pro Quo (this for that/ exchange) denote the exchange is between employees, where one provides sexual favors in exchange for something else, such as favorable treatment in work assignments, pay or promotion. *Quid Pro Quo* sexual harassment occurs when employment decisions and conditions are based upon whether as employee is willing to grant sexual favors.¹²

2.3 Forms of sexual harassment

Siegel has described sexual harassment as a social practice that has lives institutional and semiotic lives¹³. This therefore occurs in different forms such as visual, verbal, and physical.

¹⁰ Catherine Kunje employee of MBC made revelations story available at <https://www.nyasatimes.com/addressing-sexual-harassment-at-mbc-and-workplaces-in-malawi/> accessed on 26 09 2020

¹¹ <https://www.eeoc.gov/laws/guidance/policy-guidance-current-issues-sexual-harassment> accessed on 17th June 2021

¹² ILO. 2012. *Giving globalization a human face. Report III (Part 1B)*. International Labour Conference, 101th Session, Geneva, para. 789.

¹³ Siegel, (2003) *Directions in Sexual Harassment Law*. FORTHCOMING YALE PRESS 2003

In terms of visual form, a person may harass another by exposing themselves or their bodies to another individual who does not appreciate the exposure. In addition, visual harassment can also be demonstrated through cartoons, drawings, pictures, messages, and video clips that are considered offensive and or insulting to the victim¹⁴.

Verbal form includes remarks or comments that are disrespectful insults or slurs may also be considered as verbal harassment towards an individual. Non- verbal forms involve actions such as expressions, gestures and paralinguistics. Physical form is exercised through unwelcome touching such as rubbing up against a person or physically interfering with another's movements or preventing another from completing their work.¹⁵

2.4 Impacts of sexual harassment

Both men and women, boys and girls can be both the victims and perpetrators of sexual harassment. However, not many people who have been harassed report due to different reasons such as fear of reprisals, inferiority, shame, denial, lack of information, feeling hopelessness and disbelief among others¹⁶. Sexual harassment has proved to have a number of impacts on people vocationally, physical, psychologically and health-wise.

Scholars have described sexual harassment as an ever-present barrier to success in career and satisfaction for men and women.¹⁷ For example men and women both at business and work place

¹⁴ RTI International. 2016. *Conceptual Framework for Measuring School-Related Gender-Based Violence*. Washington, DC: U.S. Agency for International Development.

¹⁵ ibid

¹⁶ <https://www.psychologytoday.com/us/blog/the-compassion-chronicles/201711/why-dont-victims-sexual-harassment-come-forward-sooner> accessed on 17th June 2021

¹⁷ Wellness, C. R., Steel, P., & Lee, K. (2007). A meta-analysis of the antecedents and consequences of workplace sexual harassment.

have failed to succeed because of experiences in sexual harassment. This has therefore seen decreases in job satisfaction, withdrawals in both business and workplace and high turnovers, as well as poor working relationships that also affect the economic status of individuals as well as organizations¹⁸. SH in other cases has also led to absenteeism, loss of job or promotion and change in career goals as well as early retirement.¹⁹

In terms of physical and healthy impact, SH has seen a number of victims with Headaches, Gastrointestinal distress, Sleep disturbances, and nightmares, Lethargy, Dermatological reactions, Weight fluctuation, as well as Sexual problems, Phobias and panic reactions²⁰ Lastly, studies have also shown that victims of sexual harassment can deliberately engage themselves in self-harm, dissociation, suicide, trauma, and eating disorders as well as self-condemnation, depression, stress and panic attacks.

2.4 Interventions to eradicate SH

Both the government and non-governmental organizations have embarked on different strategies to eradicate sexual harassment. For example, the government has come up with laws that prohibit sex discrimination and sexual harassment.²¹ The Constitution of Malawi for example, under section 20 (i) prohibits any form of discrimination including sex discrimination. The GEA also prohibits sexual harassment in sections 4 through 6 and encourages employers to formulate sexual harassment policies in section 7.

Other institutions such as MHRC and UN agencies among others have implemented interventions aimed at eradicating sexual harassment. For example, MHRC through the gender equality unit has embarked on activities in training institutions on sexual harassment, the recent being L Gravum

¹⁸ Gruber, J. E., (2003). Sexual harassment in the public sector. In M. A. Paludi, & C. A. Paludi (Eds.), Academic and workplace sexual

¹⁹ MHRC (2021), MBC report on the alleged sexual harassment on MBC female employees.

²⁰ <https://www.usf.edu/student-affairs/victim-advocacy/types-of-crimes/sexualharassment.pdf> accessed on 17th June 2021

²¹ Constitution of Malawi (1994); GEA (2013)

Consult. In addition, it has also reviewed sexual harassment policies from different institutions including National Youth Council of Malawi. Furthermore, through UNDP under Spotlight Initiative members of the public have been oriented on sexual harassment.

In general, the development of a strong company policy that specifies in writing outlawed behaviors and penalties for their demonstration, establishment of grievance procedures for reporting, processing, and resolving complaints and a provision of sexual harassment training can help to eradicate sexual harassment in the public, private and informal sectors²².

Below is a representation of a conceptual framework on sexual harassment:

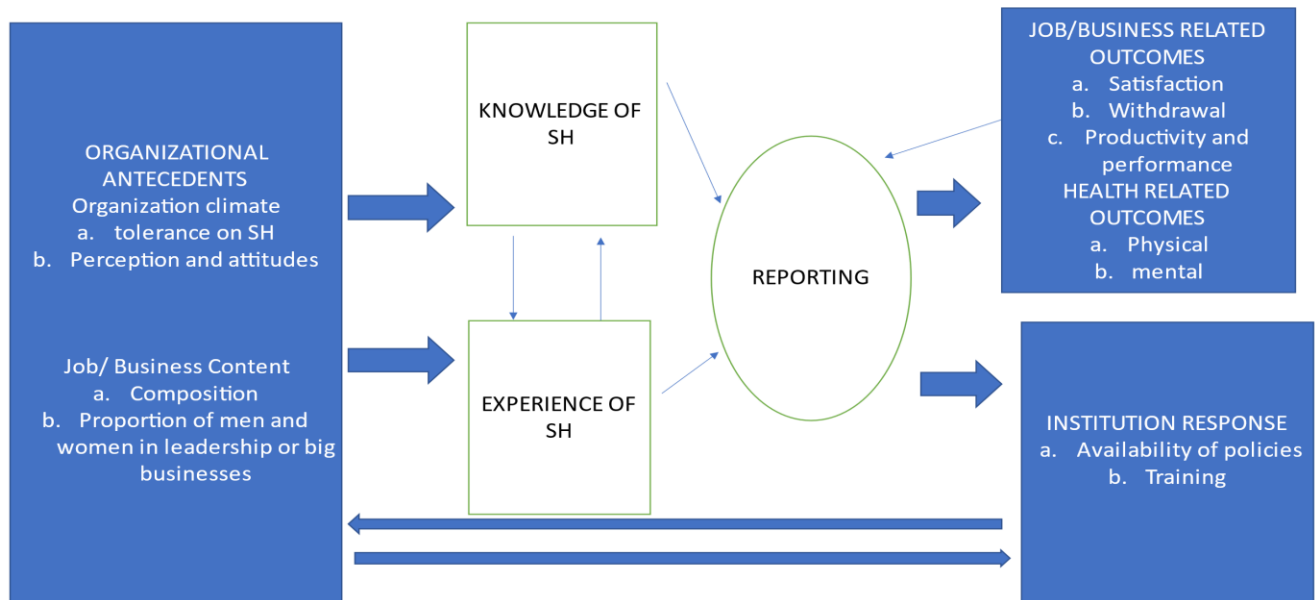


Figure 1: Conceptual framework for SH.

²² <https://www.ericdigests.org/1999-4/sexual.htm> accessed on 18th June 2021

This framework is based on the assumption that if there is capacity building and a positive response in organizations, the organization background and organization content can positively improve through the knowledge and experiences gained. As a result, issues of reporting and knowing what to do when harassed will reduce the negatives related outcomes for both organizations and victims.

CHAPTER 3: METHODOLOGY

This section discusses the methodology that was used in the study. It describes the research design, selection of the sample, data collection methods and instruments, data analysis techniques, the study's ethical considerations and credibility as well as trustworthiness of the study's findings.

3.1 Study/ activity design

The study employed concurrent mixed methods which helped to collect rich and complementary data. Qualitative data was used for making in depth- understanding of conclusions drawn through quantitative data. The activities were designed in 3 phases. The first phase was the situation analysis. In this phase, the Commission interacted with Small and Medium Enterprises (SMEs), Journalists and Cooperatives through focus group discussions and individual interviewees, furthermore, district labour officers and industrial relations court officials were engaged through key informant interviews.

The second phase was the guidelines development, where data and evidence gathered from the situation analysis was analyzed through the Thematic Content Analysis. The evidence was then used to develop guidelines for sexual harassment in the public, private and informal sector. See annex 1 for the guidelines.

The last phase was regional consultations, where the Commission intended to substantiate the data collected from the situational analysis and gather more evidence on the existing extent of sexual harassment in the public, informal and private sector as well as to validate the sexual harassment guidelines developed from the situational analysis. In addition, the Commission also intended to understand the challenges employers face in eliminating sexual harassment. These consultations were conducted simultaneously in the 3 major regions namely South, Central and North, where different institutions were invited to achieve the above-mentioned objectives. The Commission

also disseminated the report at a national dissemination conference with stakeholders in Lilongwe and trained 30 journalists from different media houses in Blantyre on Sexual Harassment.

3.2 Sampling

For all the activities, the Commission engaged participants as suggested by the Spotlight team. Nevertheless, the Commission made some additions and replacement of participants due to unavailability of the suggested participants as well as other factors, such as the interest of other participants. For instance, participants invited to the regional consultations requested sexual harassment training from the Commission. Furthermore, other participants have interfaced with the Commission in terms of receiving complaints from the institutions as in the case of KFC.

For the situation analysis, the Commission had 58 participants (19 for the North and south {7 men and 12 Women} and 20 for the central as it included the ILO (10 women and 10 men)). For the regional consultations, the Commission invited 16 institutions per region with 2 representatives per institution.

3.3 Data collection and instruments

Data was collected in the 3 regions of Malawi using a Focus Group Discussion guide with business men and women as well as journalists, Key Informant Interviews were conducted with one (1) official from Ministry of Labour Headquarters, and District Labour officers in the Spotlight districts. Furthermore, officials from Industrial Relations Court were engaged through the use of KII guide. Individual questionnaires were administered to business people.

3.4 Quality Control, Credibility and Trustworthiness of the Study's Findings

To achieve credibility and trustworthiness of the study's findings, several steps were put in place. Firstly, researchers were trained before the actual data collection. In addition, the instruments were trial tested to verify their validity and reliability to collect the required data.

This was achieved by revising the instruments basing on feedback from the trial testing exercise. In addition, the Commission ensured triangulation of data collection when developing the instruments. Lastly, it's worth noting that none of the researchers/ facilitator had a qualification lower than Bachelor's degree and they were vested in knowledge on issues of gender and human rights.

3.5 Ethical consideration

The Commission ensured that ethical issues were observed during data collection. This was achieved by seeking consent from participants before data collection, informing the participants about the purpose of the study, ensuring the confidentiality of the information that they were to provide and informing them about the exercise of data collection in advance. In addition, the interviews took place in a closed area for privacy's sake.

CHAPTER 4: FINDINGS AND DISCUSSIONS

Discussed herein are the findings from the situation analysis, guidelines development and regional consultations.

4.1 Situation analysis

This section presents findings from the situation analysis which was the major activity on the string of the implemented activities.

4.1.1 Knowledge of Sexual Harassment

4.1.1.1 Definitions and examples

The activity assessed the knowledge and understanding of sexual harassment in both the business and employment sector. About 95% of the participants in the business sector failed to explicitly define sexual harassment and limited it to forced sexual intercourse as opposed to the broader scope which includes unwanted verbal, non-verbal or physical conduct of a sexual nature that creates an intimidating, hostile atmosphere, degrading or offensive environment. It was therefore established during this assessment that people in the business sector have very little knowledge of sexual harassment. The exercise also revealed that people in the small and medium enterprise business have no or little knowledge of laws or policies prohibiting sexual harassment in the country. However, despite this gap in knowledge, the participants in the business sector indicated that they are aware that offenses such as rape or defilement are punishable by law and some perpetrators have been sentenced while others have paid hefty fines.

Conversely, about 65 % of the participants from formal employment sector were able to correctly define sexual harassment. Although the remaining 35% of the participants was not able to provide a complete definition of sexual harassment, they were able to provide examples covering almost all elements of sexual harassment.

Despite the formal sector having a higher knowledge on the definition, in some cases, both the formal employment and the business sector confused sexual harassment with rape or sexual relationship between a man and a woman. For instance, some men and women in the formal sector defined it as follows:

“It’s when you want to get promoted or get good things after sleeping with a man”

Others had to say this:

“It is an act of abuse which involves doing something sexual which is not consensual”

Conversely, men and women in the business sector defined sexual harassment as;

“Having sexual intercourse with a woman or girl against her will or through force or the threat”.

Others defined it as,

“A sexual activity between people of opposite sex, working in the same place or doing the same business”.

In terms of examples of sexual harassment, about 80% of both the formal and business sector were able to provide examples, despite their challenges in defining it. The table below shows some of the examples.

No.	Examples by the formal sector	Examples by the business sector
1	Touching someone’s private parts.	Sexual coercion of women.
2	Using un appropriate language that is sexual in nature.	Promising to give them a shop to run their business or capital for business.
3	Rape.	Asking for sexual favours with promises to give them cheap or free items.

4	A boss asking a junior to have sex with him in exchange for promotion or other opportunities.	Being beaten to give in to sexual activities.
5	Making remarks about somebody's body and telling sexually offensive jokes that make the other person uncomfortable	Unwanted touch e.g. (performed by men when transporting goods or coming from buying goods).
6	Defilement.	Verbal abuse and jokes of sexual in nature e.g., "you have big boobs/buttocks.
7	Forcing you to do things you are not interested in.	Being sexually harassed by female business women whenever they travel to purchase items within and outside of Malawi.

Table 1: Examples of SH at business and workplace

Despite ably mentioning the examples, other participants especially in the business sector provided their examples using scenarios and cases that amounted to sexual harassment, a development that indicated their knowledge of sexual harassment despite not knowing the exact definition. For example, one woman gave this scenario:

“It is like you have gone to the field to sell your goods and you are new at the place. Now, the chairperson is telling you to sleep with him so that you can be given space to put your goods”

Also, one man had to say this:

“Like when you are selling fish, then a woman will come and ask you to give her the fish on credit. When you ask her to pay you back the money she just says, *tingotherana* ‘just sleep with me so that I should not pay you and you will also not pay me’.”

In terms of knowledge of laws and policies prohibiting sexual harassment, the activity established that the Key informants’ knowledge was limited to a few laws which address sexual harassment indirectly. About 95% mentioned the employment act and the labour relations act. 5% managed to mention the GEA and the Constitution. Nevertheless, about 25% of the journalists managed to mention the constitution and the GEA. This can also be attributed to the issue of exposure in their work. In general, the assessment revealed that the level of knowledge of sexual harassment issues depended on the level of literacy of the respondents.

The formal sector, proved to be more knowledgeable in terms of the definitions, examples as well as laws and policies of Malawi that prohibit sexual harassment. This might be alluded to the fact that about 90% of the participants in the formal sector have attended formal education up to tertiary level and have a vast work experience. In addition, due to the nature of their job, they interact with people of different levels and classes, therefore, they are more exposed to the larger world than the ones in the business sector who are confined to their business routine.

4.1.1.2 Causes of sexual harassment

When asked about the causes of sexual harassment at both workplace and business place, a number of issues emanated. Below is a chart of emerged issues.

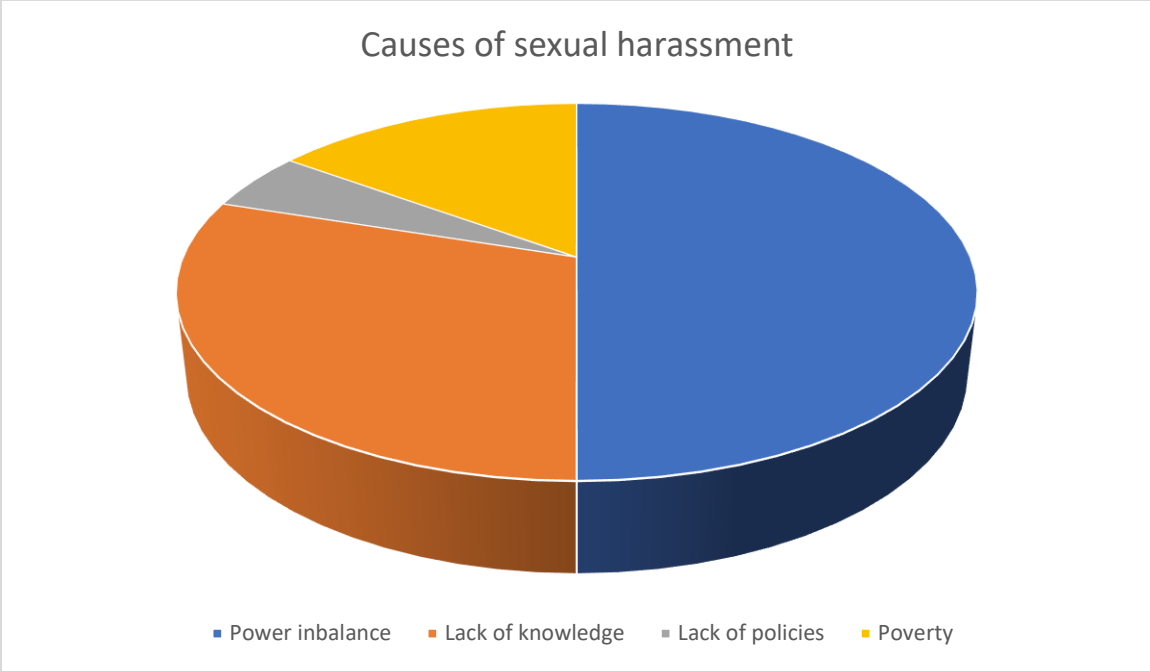


Figure 2: Causes of SH.

The study found that one of the major causes of sexual harassment is the power imbalance within an organization, institution, or business place. Senior employees, most of whom are men, as well as those who own big businesses in markets or those in leadership positions, abuse their power and authority by harassing women. Women are likely to fall victim because those who resist fear to lose their jobs or business opportunities.

The study also revealed that lack of knowledge and understanding of what counts as sexual harassment in both business places and formal employment sectors is another contributing factor. People in both sectors have limited knowledge on sexual harassment. The Commission established that women are usually harassed because they lack knowledge of what sexual harassment entails, the forms as well as existence of laws governing the same. This means that women are harassed without realising that it is harassment, likewise men harass women unknowingly, while others take advantage of the knowledge gap that exists among women.

Lack of anti-sexual harassment policies and enforcement was found to be another contributing factor. The study revealed that all the formal employment offices and the business places targeted had no anti-harassment policies or procedures to deal with sexual harassment. Some were not sure whether they had sexual harassment workplace policies due to the fact that their offices in Mzuzu, Nkhatabay and Mzimba do not have human resource officers, as they are based only at their head offices in Lilongwe or Blantyre. As such, they also stated that they do not have specific measures in place to handle cases of sexual harassment. Therefore, an office or business place where there are no rules or procedures to address sexual harassment or where issues of sexual harassment are not clearly discussed is likely to perpetuate a culture of acceptance, where people become comfortable with sexual harassment. Some of these offices include the Industrial Relations Court and media houses.

Poverty, desire for promotions, fear of job loss as well as men using their powers and authority wrongly are other factors contributing to sexual harassment. On promotions, men, especially those in senior positions demand sex from female employees as a precondition for promotions or job security.

4.1.1.3 Victims and perpetrators

About 90% of all the participants in the formal and business sector revealed that the most common victims of sexual harassment are women. The majority of women are on the receiving end as most of them are not in leadership positions. Even in the business sector, they are usually involved in running small scale businesses and so those in leadership positions such as editors, managers, chairpersons, and directors, the majority of whom are men, are often involved as perpetrators of sexual harassment in both the business and workplace environment.

In addition, the Commission also established that interns and newly recruited female employees are more vulnerable targets of perpetrators of sexual harassment. Due to the high unemployment rates in the country. Further, interviewees stated that some women and girls succumb to sexual

advances of their supervisors or managers. The effects for some have included stress and mental anguish in being involved in such practices.

4.1.2 Experiences of sexual harassment in the work and business places

All participants from both business and employment sectors acknowledged the existence of sexual harassment in the two sectors and described it as a problem. Participants in the business sector acknowledged that sexual harassment is a problem as it takes away their right to do business freely and peacefully. Women participants stated that they are constantly chased by men, customers and business partners who demand sexual favours. To be allocated a business space within a market for example, women participants claim that sometimes men in authority request for sexual favours. In other cases, some women are asked to bow down to sexual favours in order to be granted contracts or to be paid quickly. They explained that some women have withdrawn from businesses just to have peace of mind at home. Consequently, their economic well-being is compromised. One woman had this to say:

“I won a contract to supply maize at one of the prisons in the country, they took time to pay but I was still supplying. When my time to receive payment came. The boss told me that I have to sleep with him so that the payments can be processed quickly. I denied and just left without collecting my money as I could not accept what he wanted”.

Similarly, male participants argued that they have been greatly affected by sexual harassment as some businesses have hit a down fall. Men contended that in most cases, women customers take their items on credit but fail to pay during the agreed period and deliberately display sexual gestures to the man so as to stimulate his sexual desires. Furthermore, men also pointed out that female business counterparts always wanted to save and raise enough capital. As a result, whenever they go for a business trip, women avoid spending on food and accommodation but instead make requests with sexual connotations on their male counterparts to arrange and pay for their food and accommodation. A male participant had this to explain:

“Amakupempha mwachikondi komaso mokukopa kuti uwagulire malo ogona ndi zakudya tikapita ku filudi, ndiye popeza ife amuna sitimakhalira kutengeka, timangolorera ndipo pamapeto pake timagona nawo. ‘Women ask you in an enticing manner to buy food and pay for their lodging bills, when we go to the field since we men are not strong enough to resist such invitations, we pay for them but sleep with them in return’”

Just like in the business arena, it was also established that sexual harassment is a problem in the employment sector. Female participants claimed that sexual harassment in the workplace brings both physical and psychological suffering to its victims, who are mostly women of lower grades. They claimed that those working in offices experience sexual harassment whilst others received reports that a fellow employee or a lady involved in business has been sexually harassed. These women face discrimination from different opportunities whenever they refuse to give in to the sexual demands of the perpetrators. They further claimed that sexual harassment demeans their education skills as they are not given the opportunity to display them if they had ever denied sexual advances by their superiors. Nevertheless, none of the men interviewed stated that they had ever encountered sexual harassment or heard of their fellow man being harassed by a woman.

4.1.2.1 Forms of harassment encountered

Despite different experiences of sexual harassment in the business and workplace, a number of forms were highlighted as either experienced by the participants or witnessed. Three forms were highlighted among others namely, physical, verbal, and visual form. Nevertheless, verbal form was the one that was expressed more seconded by physical and lastly visual form.

Examples of the verbal form included comments that were sexually in nature or satirical in nature that demeaned and challenged the victim’s self-esteem physically. For example, one woman lamented that she was embarrassed by one customer who used to buy her goods one day through his comments. The customer equated her to the snacks she was selling. She had this to say:

“Ndiye ungakometu ngati mandazi ako ukugulitsawa (You can perform better in bed and be sweet like the snacks that you are selling).”

The lady explained that the customer was also making those remarks while he was wrinkling his one eye on her. Other comments included the following: “you have big boobs and buttocks”, “you are a machine”, you are beautiful like items you are selling” and “you have a portable structure”.

Physical form was reported in cases where victims were actually beaten because they refused to accept sexual requests. In other cases, issues of fondling and touching were common. In terms of visual form, others bemoaned of being sent pornographic pictures on social media platforms such as WhatsApp and Facebook, while others stated that they have received text messages that are sexually in nature. The chat below summarizes the forms.

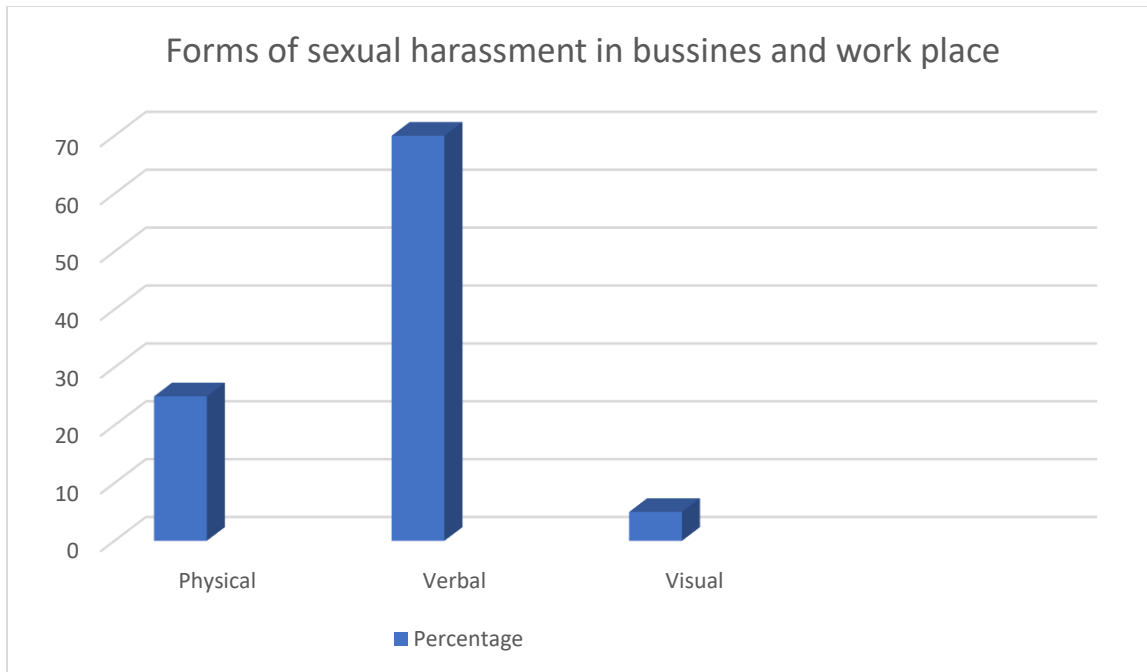


Figure 3: Forms of SH

Based on the findings on the forms, it was noticed that culture, lack of awareness and fear among others contribute to sexual harassment. For example, due to socialization processes, our culture has normalized other behaviors that are bad. Women have been regarded as a second class and sex

objects²³, where speaking bad about a woman is not an issue despite legislation such as the Penal code that talks about “insulting modesty of a woman.”²⁴”

4.1. 3 Reporting

On reporting sexual harassment cases, about 98% of the respondents at both in the business and employment sector indicated that most victims do not report cases of sexual harassment. Different reasons for non-reporting of sexual harassment related cases were put forward by respondents. In the first place, the participants in all categories agreed that victims fail to report due to lack of clear understanding or awareness of what constitutes sexual harassment. Due to this perceived gap, respondents contended that people believe that sexual harassment is normal and part of everyday life which cannot be reported anywhere.

Secondly, it was established that both in the work and business places, there were no clear and functional reporting mechanisms and structures for reporting sexual harassment cases. In the business sector, it was found that in the marketplace for example, different committees that deal with different issues were established but most of those are dormant. Furthermore, among these committees no single committee was meant to deal with issues concerning sexual harassment. Similarly, in the workplace, participants pointed out that there are no clear guidelines and policies used in dealing with reported cases of sexual harassment.

The third reason for non-reporting was job security and the risk of losing opportunities. The study uncovered that in the employment sector, the perpetrators of sexual harassment are mostly supervisors and top executives/officials with authority. In this case, victims believe that if they report the sexual assault they have suffered, they would be at risk of losing their job or other opportunities such as promotion, study visits, salary increments and field trips. An example in this regard was given in Dowa where the labour office had handled a case in which a lady was

²³ Simone De Bouvier

²⁴ Penal Code

dismissed from employment in the construction sector for allegedly denying giving in to the sexual demands of her supervisor. In the business sector it was noted that victims fear losing business opportunities, customers, or business places.

The fourth reason for non-reporting of sexual harassment cases was fear of reactions by their spouses that might result in marriage breakdowns. For example, a woman from a cooperative in Machinga was fondled by a gynaecologist during a scan and did not report the issue because she feared her husband would say she was the one who initiated the process. As a result of this, it was noted, most survivors of sexual harassment suffer in silence.

The other reason is that women fail to report because they fear public condemnation. Respondents stated that the society condemns victims of sexual harassment and accuse them of being “loose” and “prostitutes”. In some cases, victims are usually blamed to have caused the perpetrator to sexually harass them due to their way of dressing and their conduct. Considering this kind of condemnation and accusations from society, victims opt to remain quiet whenever they experience harassment.

As to why other concerned people don't report on behalf of victims, respondents argued that in most cases the allegations of sexual harassment emerge as mere rumours, which is mostly hidden by the victims and when pursued to extreme, nothing tangible is ever established as it lacks evidence to substantiate it. For example, a discussion with men in Nkhatabay revealed that such cases are hidden by the victims only to be discovered when the victim has been dismissed or a disagreement has ensued between the harasser and the victim on a different issue altogether. It is during these discussions that women bring allegations of sexual harassment against the harasser.

4.1.4 Training

The study revealed a huge capacity gap in terms of sexual harassment trainings. Almost 98% of the participants have never undergone any specific training on sexual harassment issues.

About 10% of the participants in business sector in the cooperatives, such as National Association from Businesswomen (NABW) stated that although they have not received any training on sexual harassment, issues of sexual harassment are discussed at their meetings where for instance, they are told to dress in an appropriate manner when conducting their businesses to avoid being sexually assaulted by men. The District Labour Officers and officials from the Industrial Relations Court, however, indicated to have been oriented on sexual harassment during their annual conference just as one of the topics but not in detail. Due to the nature of their job, about 50% of the journalists indicated to have come across the issues of sexual harassment, but still indicated not to have undergone a proper training.

4.1.5 Organizational Response to Sexual Harassment

4.1.5.1 Availability of policies or related documents

The activity also assessed institutional response to sexual harassment. It was established that 90% of the institutions that were reached did not have any response mechanisms in place, such as a Sexual Harassment Policy and other mechanisms to assist the victims in addressing issues of sexual harassment.

In terms of workplace policy on sexual harassment, the activity established that there is also a huge gap with regard to the availability of the policies. In this regard, participants in the employment sector pointed out that there is no separate policy specifically on sexual harassment, but the issue is partially covered in the institutions' Terms and Conditions of Service (TCS). For example, Nkhoma Synod Radio and Radio Islam indicated that they had some guidelines on sexual harassment. The District Labour Officers and Industrial Relations Court officials indicated that in the absence of the tailor-made mechanisms on sexual harassment, they would apply clauses in the Terms and Conditions of Service in handling cases of sexual harassment. On the other hand, the Cooperatives and market committees did not have any reference point in that regard.

On the possibility of developing a sexual harassment workplace policy, only 5 % of the participants indicated to have heard of plans to develop in their institutions while the rest were not sure if plans are there. In the business sector there is no single evidence of the availability or plans for development of a policy.

4.1.5.2 Complaint handling mechanisms

The study established that no tangible action was taken on cases that were reported to the institutions. It was further noted that these cases are not given the necessary attention and the victims are usually shouted at or are further harassed verbally for reporting such cases. For example, one of the journalists from MBC revealed that she reported to a number of people both in the institution and outside the institution but was never assisted. According to her, she once reported to the human resource officer but was embarrassed with the response as she had this to say:

“Ndinauzidwa kuti ‘ndiwe chakudya ukuyenera kudyedwa’ (I was told that, I am food, and I must be eaten”.

This statement implies that the victim is supposed to be harassed because she is a woman. When she took the matter to elder women in the institution, the response she got was;

‘Umasekerela mabwana kwambiri iwe, nde umafuna azingokuyang’ana?’ (you are too friendly with the bosses, what else did you expect them to do?)

She further went further to state that her relatives advised her to take care and avoid the harassers. The foregoing experience by this journalist and the statements by all the interviewees shows that generally, no logical remedies are provided to victims of sexual harassment both in the employment and the business sector. Nonetheless, others reported to have been helped after reporting to elder women at their institutions.

At the labour offices, it was established that they handle cases that are reported initially as labour issues such as unfair dismissal, issues of remuneration and demotion at the workplace. However, in the course of investigations if it turns out to be a sexual harassment issue, it is referred to other institutions. For instance, if a complainant is exposed to unfair labour practices after rejecting sexual demands from supervisors/superiors, they refer the case to social welfare committee, police or other relevant institutions depending on the gravity of the case. However, they make follow ups and monitor the case.

4.1.5.3 Psychosocial support

It was noted that 100% of the institutions that we interacted with do not provide psychosocial support to the victims. However, for the district offices they depend on the police through the Victim Support Unit (VSU) for counselling, where they also refer some cases if they are sexual harassment in nature. In other places such as the media houses, they depend on older women or men at the institution for psychosocial assistance, but there are no proper structures in place.

4.2 Guidelines development

The second activity involved the development of the guidelines for sexual harassment in the public, private and informal sector.

4.2.1 Background to the guidelines

Sexual harassment continues to be a major problem in the public, private and the informal sectors in Malawi. Section 6 of the Gender Equality Act (GEA 2013) prohibits sexual harassment in Malawi. Section 7 of the act calls on employers to develop appropriate policy and procedures aimed at eradicating sexual harassment in the workplaces. A situation analysis study on sexual harassment conducted by the Commission in May 2021, revealed that in both formal and informal

employment in the public and private sectors have no clear guidelines or policy documents to help eradicate sexual harassment.

The absence of these guidelines and policy documents prompted the Commission in the exercise of its mandate under sections 8, 9 and 10 of the GEA, to develop the present guidelines to act as a general reference tool for employers in both public and private bodies as well as the business sectors in eradicating sexual harassment in the workplace. In developing these guidelines, the Commission affirms that sexual harassment is a violation of human rights as it creates an intimidatory and discriminatory work and business environment while violating the victim's right to human dignity. These guidelines, therefore, express the Commission's commitment in ensuring that sexual harassment in public, private and the informal sectors is eliminated and that rights guaranteed by the Constitution are upheld and enjoyed by everyone regardless of status.

4.2.2 Goal and Objectives

4.2.2.1 Goal

The main goal of the guidelines is to act as a general reference tool for employers in the public and private sector in eliminating sexual harassment in work and business places.

4.2.2.2 Objectives

- i. To raise awareness and sensitize the public on the concept of sexual harassment.
- ii. To provide guidance on the legal framework on the prohibition of sexual harassment in Malawi.
- iii. To provide practical guidance to the public, informal and public the sector on how to create a sexual harassment free environment.

The guidelines were developed from the findings of the situation analysis and were informed by the international, regional, and national instruments on gender and women’s rights. More information can be found in the draft copy of the guidelines. However, brief points of the guidelines are attached herein as annex 1.

4.3 Regional consultations

In line with the mandate that the Commission, regional consultations in the Southern, Central and Northern region were conducted as a third activity.



Figure 4: regional consultation in Lilongwe.

4.3.1 Objectives of the meetings

4.3.1.1 main objective

The main objective of the Consultation meeting was to generate information on the extent of sexual harassment in the workplaces.

4.3.1.2 Specific objectives

The specific objectives of the consultation meetings were as follows:

- i. Orient participants on the Gender Equality Act and Sexual harassment.
- ii. Solicit inputs on the draft Guidelines on Sexual Harassment in the work and business places.
- iii. Generate feedback from participants following the presentations to feed into the reports and the guidelines.

4.3.2 General Findings

Findings were similar to the ones in situation analysis. However, the following were the general findings from the consultations:

- a. It was noted that sexual harassment is a problem in various institutions because cases are rarely reported to management because there is no clearly defined reporting mechanism put in place.
- b. About 20% of the institutions have a sexual harassment policy, 10% have it in draft form whilst 70% do not have it. In the absence of the policy, there are measures put in place to address issues of sexual harassment included in their code of conduct and terms and conditions of service.

4.3.3 Lessons Learnt

The following are some of the lessons learnt from the regional consultative meetings:

- a. Most people are not aware of their rights as it was learnt that some people experience sexual harassment without knowing and they suffer in silence.
- b. In the workplaces, people of authority such as managers are in the fore front victimizing their subjects through sexual harassment; and they hinder them from accessing justice by threatening to dismiss them or demote them from their jobs.
- c. Stakeholders from other institutions such as hospitals had to be part of the invited participants in order for them to respond to questions and concerns that directly affect their offices on sexual reproductive and health rights.
- d. Cases of sexual harassment are still rampant in the workplace and in communities.
- e. Most institutions do not have sexual harassment policies or guidelines on sexual harassment at their workplaces.



Figure 5: Participants for the regional consultation in Mzuzu.

4.4 National Conference

The national conference was held on 23rd June 2021 in Lilongwe. Its main purpose was to disseminate the situation analysis report and probe further for input in the draft guidelines.

4.5 Training of the journalists

The training was conducted on 29th June 2021 and targeted 30 journalists from different media houses.

5. General challenges in eradicating sexual harassment

The following were noted as challenges that hamper the fight against sexual harassment in both the formal and the informal sectors:

- i. Inadequate knowledge and awareness of relevant laws. As already pointed out in this report, knowledge levels of sexual harassment and the relevant laws such as the Gender Equality Act amongst those that were interviewed is very low. This could also mirror the general Malawian populace.
- ii. Inadequate knowledge on reporting pathways. The lack of knowledge of sexual harassment and the relevant laws has also impacted on the knowledge of reporting pathways for sexual harassment offences. Most Malawians as indicated in this report are not aware of the avenues for reporting sexual harassment in the country.
- iii. Most institutions do not have sexual harassment policies hence there is lack of clearly defined reporting mechanisms on sexual harassment.
- iv. There are no clear guidelines to follow when handling cases of sexual harassment especially in the marketplace where sexual harassment has been normalized.
- v. Most victims choose to suffer in silence by not reporting cases of sexual harassment because they are afraid of retaliation from the perpetrators.
- vi. In cases where others report there is no political will to help the victims.

- vii. Acceptance of sexual harassment as a norm for both men and women means sexual harassment will continue to be perpetuated as being normal and not a form of SGBV.
- viii. Low literacy levels among the public.
- ix. A cultural norm whereby men usually regard women as inferior and can be easily harassed.
- x. Not aware of the role of MHRC and other relevant stakeholders in eradicating sexual harassment.

6. Activity Strengths

- i.** Availability of financial resources to implement the activities.
- ii.** Availability of human resource.
- iii.** Despite short implementation time frame activity objectives were successfully achieved.

7. Activity Challenges

During the implementation of the activities, the Commission faced the following challenges:

- i. Activity implementation time frame was short, thereby officers worked under pressure.
- ii. Some of the participants on the original list were not found thereby inconveniencing officers though replacements were found.
- iii. Other participants invited during the regional consultations were not in attendance. Therefore, it indirectly affected the program.
- iv. Some participants that were booked for the interviews gave late apologies and it affected the program.

CHAPTER 5: CONCLUSIONS AND RECOMMENDATIONS

The Commission implemented a series of activities which aimed at eliminating sexual harassment, with the help of UNDP through the Spotlight Initiative Programme. The main aim of the interventions was to mobilize the workplace and business sectors to share experiences of SGBV and sexual harassment in their respective places. Specifically, the interventions focused on data collection for situation analysis in the three regions of Malawi to gather evidence of existing extent of sexual harassment and SGBV in workplace and business sector, regional consultative meetings on sexual harassment in the workplace targeting the public, private and informal sectors as well as development of guidelines which will provide general guidance to the public, private and informal sectors in eradicating sexual harassment, national consultative conference with policy makers and private sector stakeholders aimed at disseminating the findings and solicit further input from the policy makers on the developed guidelines. Lastly, orientation of media personnel on the sexual harassment as a wrap up activity. The interventions were implemented in the 6 spotlight districts of the country: Nsanje, Machinga, Dowa, Ntchisi, Mzimba and Nkhatabay.

5.1 Major Findings

- i. About 95 % of participants in the business sector failed to explicitly define sexual harassment while 65 % of participants from formal employment sector were able to correctly define sexual harassment. This can be attributed to the literacy levels as well as exposure.
- ii. About 80% of both business and workplace participants were able to give examples of what constitutes sexual harassment. However, a good number confused it with rape and defilement.
- iii. Only 5% of the participants in the business sector managed to mention laws that prohibit sexual harassment and sex discrimination. On the other hand, 50% of the participants at workplace managed to mention some. Nevertheless, about 75% were

- limited to the Employment Act and the Constitution, while 25% also mentioned the GEA.
- iv. On overall knowledge, the workplace sector was more knowledgeable about SH than the business sector.
 - v. Four main causes of SH were prominent namely: power imbalance, lack of knowledge, lack of policies and poverty. Power imbalance outweighed all.
 - vi. It was revealed that 90% of the victims are women and 90% of the perpetrators are men.
 - vii. Both men and women have experienced sexual harassment
 - viii. Three forms of SH were highlighted namely: verbal, physical and visual. Verbal harassment outweighed the other.
 - ix. About 98% of the victims do not report the cases. The following were the reasons:
 - Lack of a clear understanding or awareness of what constitutes sexual harassment.
 - No clear and functional reporting mechanisms and structures for reporting sexual harassment cases.
 - Job security and the risk of losing of other opportunities.
 - Fear of reactions by their spouses that might result in marriage breakdowns.
 - Fear of public condemnation.
 - x. about 98% of all the participants have never been oriented on SH.
 - xi. about 90% of the institutions that were reached, did not have any response mechanisms in place, such as a Sexual Harassment Policy and other mechanisms to help victims address issues of sexual harassment.
 - xii. About 90% of the institutions use conditions of service as they don't have sexual harassment policies.
 - xiii. There are no proper complaints reporting and complaints handling structures in most of the institutions.

- xiv. There is a lack of tangible action taken on cases that were reported to the institutions for those who report.
- xv. There is a lack psychosocial support structures for the victims of sexual harassment in the institutions.

5.2 Guidelines

Guidelines were developed and the draft has been attached on annex 1.

5.3 Recommendations

Due to the above findings, where there is glaring gap on issues of sexual harassment in Malawi, further efforts should be dedicated to ensuring institutional mechanisms are put in place aimed at addressing issues of sexual harassment in all sectors. The following recommendations have been therefore made:

- i. Institutions should develop response mechanisms such as the sexual harassment policies in all sectors which shall have proper structures for reporting and handling sexual harassment related issues.
- ii. The Human Rights Commission should mobilize resources and embark on sexual harassment and its relevant laws orientation programs in the public, informal and private sectors.
- iii. Media house should develop sexual harassment workplace policies, but the Media Council of Malawi and MISA-Malawi should liaise to provide oversight on the handling of sexual harassment cases in the media industry.
- iv. All government organs, agencies and the private sector should fully enforce the laws and policies on sexual harassment.
- v. All government organs and agencies and the private sector should continuously train their staff on sexual harassment.

- vi. The Commission should set up a toll free helpline for victims to lodge complaints on sexual harassment.
- vii. The Media should take a leading role in sensitizing the public on the Concept of sexual harassment, and its impacts on the individual victim as well as the organization in the public, private and informal sectors.
- viii. District councils should ensure establishment of committees in the marketplaces to address SH and other related sex discrimination.
- ix. Law enforcers such as the police should assist victims of sexual harassment without further re-victimization.
- x. Institutions, including branches should have gender focal persons in place to ensure mainstreaming of gender into their programs.
- xi. Development partners to require their sub-grantees, especially Civil Society Organizations, to have Sexual Harassment Workplace Policy and Gender policies as prerequisites for funding.
- xii. Institutions with legal mandate should promptly and swiftly investigate alleged sexual harassment violations in order to facilitate access to justice for victims.

Annex 1: Sexual harassment guidelines in the Public, Private and Informal Sector

1. All sectors should acknowledge that it is their legal as well as moral responsibility to provide a sexual harassment free environment.
2. All sectors should adopt a sexual harassment policy which should include a detailed definition of sexual harassment. Furthermore, the policy should include.:
 - Readily available adequate procedures to deal with the problem and prevent its occurrence.
 - An explanation of penalties that perpetrators should be given.
 - Outline of the procedures to be followed when lodging a complaint on sexual harassment.
 - Readily available persons to offer psychosocial services to victims of sexual harassment.
3. Communicate the policy and other relevant information.
4. Constitute a complaint handling mechanism to effectively resolve the complaints and establish a committee responsible for handling cases of sexual harassment. The committee should constitute both men and women drawn. Members should also be trained or oriented on sexual harassment.
5. Establish a step-by-step procedure in reporting and processing of complaints with the appropriate timeframe for each step. It is not necessary to be sure or to have proof before reporting a concern, as long as the concern is in good faith.
6. Allegations made in bad faith, which include malicious or seriously reckless allegations, however; shall be deemed to be a form of misconduct.

7. All complaints of sexual harassment must be promptly investigated by a gender balanced investigation team. Appropriate and immediate disciplinary action must be taken if sexual harassment has been established.
8. Ensure confidentiality during the process of the investigation and safeguard the complainant.
9. The number of people who are informed about any reported complaint should be kept to a minimum, although other persons believed to be vulnerable and likely to become victims may be informed of the disclosing person's concerns.
10. Members, including managers, should not take it upon themselves to investigate allegations to obtain proof before reporting. All good faith concerns or suspicions must be reported.
11. Workplace members should actively identify and report risks in their workplace programs that they genuinely believe could present a risk of sexual harassment.
12. Placement of a suggestion box in strategic areas in the work and business places where victims can freely and anonymously lodge their complaints.
13. Reports received from anonymous sources may be assessed by the complaints handling committee and may lead to an investigation, if they include sufficient detail to allow for independent corroboration of the information provided.
14. All sectors should be committed to ensuring that effective Training measures are continuously developed and implemented.

15. All sectors should conduct prospective Staff Screening, Staff Monitoring and Provision of References. This will minimize the risks of hiring someone who might engage in sexual harassment or retaining someone who might be engaged in sexual harassment, or of facilitating the hiring by another employer of Staff found to have committed sexual harassment.
16. Conduct awareness and sensitization programs on sexual harassment at regular intervals to equip people with knowledge on how to prevent and eradicate sexual harassment.
17. Encourage men and women to speak out on issues of sexual harassment, which helps in changing people attitudes towards the issue.
18. Ensure protection against retaliation to complainants, whistle blowers, witnesses, complaint committee members and other employees involved in prevention and complaints resolution.
19. All sectors should ensure provision of professional Psychosocial Support services to victims of sexual harassment in their work environment. One or two members of the complaints handling committee should be trained in Psychosocial support.
20. Evaluate the effectiveness of the existing mechanism for preventing and handling sexual harassment.

Annex 2: summary of experience on sexual harassment

- a. A journalist who works for MBC revealed that she experienced multiple forms of sexual harassment within a period of two years since joining the institution. These took the form of remarks of a sexual nature and unwanted and persistent invitations which most times were not work related. She was also subjected to gestures of a sexual nature, lustful staring of some parts of her body, receiving messages which were sexual in nature and was coerced to have sex while promising her promotions. These forms of harassment were not only perpetrated by senior persons in the institution but also colleagues or peers from outside the institution. Another journalist stated that female journalists, mostly graduates from MIJ face sexual harassment upon being employed.
- b. Allegations of sexual harassment were also made happening at Sana Supermarket in Mzuzu where female employees are sexually harassed by their supervisors but most of them remain silent due to the need to make a livelihood.
- c. In Nkhatabay, a woman who worked in the market as a cleaner was taking young girls working in the market to sleep with her husband because she was claiming that she was tired having sex with her husband since she is growing old, so to keep her marriage she would do that. The matter was reported to the police and the man was arrested but the woman fled and to date, her whereabouts are not known.
- d. In the business sector specifically in Ntchisi and Dowa women complained of being subjected to sexual harassment when they go to buy items for sale, especially in the lorries. They were being touched on some parts of their body such as breasts without their consent, sexual coercion, verbal remarks of sexual in nature, gestures of sexual nature, lustful staring and unwanted invitations of sexual in nature. In addition, Owners of big businesses such as restaurants and bars are fond of

employing ladies and forcing them to have sex as a pre-condition for promotions, job security or certain favours including salary increments or business opportunities

- e. In Mzimba, a certain man approached two businesswomen who were waiting for transportation to a market place to sell and order tomatoes. The man approached these women and asked them to help him and instead escort him to where they were ordering onions, and promised them that if they would do that, he will give them money. He promised to give each one twenty thousand if they escort him. Upon hearing that, the women considered the offer as an opportunity that would enable them to order some more tomatoes to sell compared to what they had already ordered but this was all a lie. Since it was almost night time, they decided to sleep and proceed the following morning but things didn't go as agreed. The man booked one room for all three of them. One of the women refused the arrangement and left the lodge, whilst the other one remained behind. The man ended up raping her and stealing her belongings and the little money she had left to use for transport. The Police took up the case.

Annex 3: data collection instruments



SEXUAL HARASSMENT IN THE WORKPLACE

INDIVIDUAL INTERVIEWS

The Malawi Human Rights Commission (the Commission), under the UNDP- Spotlight Initiative (SI) programme is conducting a research on sexual harassment at workplace and business place. The programme is aimed at ending violence against women and children. The SI employs a multi-pronged approach: improving policy and legal frameworks; institution strengthening; elimination / transformation of harmful social norms; quality services; data availability and strengthening the women's movement. On the other hand, the Gender Equality Act requires workplaces to develop gender policies and sexual harassment policies in order to safeguard women and girls in the workplace.

The Commission is now collecting data for situation analysis in the three regions to gather evidence of existing extent of sexual harassment and SGBV in workplace and business sector. The evidence will be used to develop a comprehensive report on the subject and be a foundation for an advocacy strategy with key policy makers and private sector stakeholders on SGBV and sexual harassment. In addition, the Commission, wants to understand how prevalent sexual harassment is in the workplace/ business place and whether employers do address harassment with policies, training and acting on complaints. Your participation in the survey will help us gauge where

employers need to improve, speaking out would provide support to organizations in reducing workplace sexual harassment. Thank you.

SECTION A: BIODATA

Name of Interviewee	
Profession/occupation	
Name of Organization	
Contact details	Phone: _____
	Email: _____
Date of interview	
Interview location	
Age	
Gender	
Religion	
Years in business/employment	

SECTION B: KNOWLEDGE

1. Have you ever heard of sexual harassment? If yes please define it

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2. What are the examples of sexual harassment?

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3. Who can be the victim of sexual harassment?

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SECTION C: EXPERIENCE

4. Sexual harassment is “any form of unwanted verbal, non-verbal or physical conduct of a sexual nature that creates an intimidating, hostile, degrading or offensive environment. This can include physical contact, invasion of personal space, suggestive remarks, unwanted comments on dress and appearance, jokes of a sexual nature or the display of sexually offensive material in a public space”.

Have you ever experienced the sexual harassment?

- a. Yes
 - b. No
 - c. Not sure
5. Which other experiences have you ever faced on the below situations?
- a. Unwanted touching
 - b. Verbal remarks of a sexual nature (including jokes) directed towards you or in your presence
 - c. Gestures of a sexual nature, including exposure of any private parts
 - d. Lustful staring at you or a part of your body
 - e. Messages of a sexual nature sent to you via e-mail, direct messaging or on social media
 - f. Obscene images in the workplace including calendars, desktop screens and posters
 - g. Stalking - online or physically
 - h. Sexual coercion: where a person promises or hints at enhanced career prospects in return for a sexual favour, or threatens adverse career impact if you do not respond favourably
 - i. Persistent and unwanted invitations of a sexual nature

- j. Sexual assault or rape (note that this is criminal and you have the right to report to the police)
6. Who sexually harassed you? (Tick all that apply). Proceed to Question 8 if you have not been sexually harassed.
- a. My boss or a senior person in the organization
 - b. A person outside the organisation but may have influence over me/ the organisation's performance, such as client, contractor, funder or regulator.
 - c. A colleague who is my peer
 - d. A subordinate
 - e. I don't know
 - f. Other, specify

SECTION D: ACTION TAKEN OR REPORTING

7. What did you do when you were sexually harassed at work/ business place? tick all that may apply.
- a. I kept quiet
 - b. I told the harasser that was wrong
 - c. I reported to the HR/ other bosses
 - d. I told a colleague
 - e. I left the work/ business
 - f. I told my spouse
 - g. I told my relatives

h. Other
specify.....

8. Have you ever reported incidences of sexual harassment? If yes to who?

9. What was the reaction or action taken after reporting?

10. If you did not report sexual harassment to relevant authorities, please indicate why.

- a. I feared retaliation by my harasser
 - b. It may impact my career
 - c. No one will believe me
 - d. I do not want to relive the trauma
 - e. The harasser is in a powerful position and may influence Human Resources/Management
 - f. I will be blamed
 - g. I don't want to get the harasser into trouble
 - h. No point as Management is not going to act anyway
- Other, specify.....

11. If you have witnessed workplace sexual harassment, what did you do? Tick all that apply.

- a. I have not witnessed workplace sexual harassment
- b. I kept quiet
- c. I intervened on the spot
- d. I told the harasser later that his/her conduct was wrong
- e. I reported it within the organization

- f. I reported it to the authorities
- g. I supported the sexually harassed person in bringing the case up within the organisation/through court
- h. I offered the sexually harassed person my support in private but without escalating it
- i. Other specify

SECTION E: TRAINING

12. Have you received any orientation or training on sexual harassment in your work/business place /cooperatives? If so, what topics did you cover?

SECTION F: ORGANISATION’S RESPONSE

13. What does your organisation have in place to address sexual harassment? Tick all that apply.

- a. A Policy on Sexual Harassment
- b. A clear No-Retaliation Policy (this can be within Sexual Harassment or Whistleblowing Policies)
- c. Training on sexual harassment for all employees including senior management
- d. An occasional talk on sexual harassment
- e. A clear process to report sexual harassment
- f. Special training for those in Human Resources/relevant department to handle sexual harassment cases
- g. Mandatory training during orientation/onboarding
- h. A reporting hotline
- i. None of the above/not aware
- j. Other, specify



FOCUS GROUP GUIDE

The Malawi Human Rights Commission (the Commission), under the UNDP- Spotlight Initiative (SI) programme is conducting a research on sexual harassment at workplace and business place. The programme is aimed at ending violence against women and children. The SI employs a multi-pronged approach: improving policy and legal frameworks; institution strengthening; elimination / transformation of harmful social norms; quality services; data availability and strengthening the women's movement. On the other hand, the Gender Equality Act requires workplaces to develop gender policies and sexual harassment policies in order to safeguard women and girls in the workplace.

The Commission is now collecting data for situation analysis in the three regions to gather evidence of existing extent of sexual harassment and SGBV in workplace and business sector. The evidence will be used to develop a comprehensive report on the subject and be a foundation for an advocacy strategy with key policy makers and private sector stakeholders on SGBV and sexual harassment. In addition, the Commission, wants to understand how prevalent sexual harassment is in the workplace/ business place and whether employers do address harassment with policies, training and acting on complaints. Your participation in the survey will help us gauge where employers need to improve, and how Speak out would provide support to organizations in reducing workplace sexual harassment. Thank you.

SECTION A: BIODATA

Name of Interviewee				
Profession/occupation				
Name of Organization				
Contact details	Phone: _____			
	Email: _____			
Date of interview				
Interview location				
Age range	18 to 25	26 to 35	36 to 45	45 and above
Gender				
Religion				
Years in business/employment	6 months to 2 years	3 years to 5 years	6 years to 10 years	over 10 years

SECTION B: KNOWLEDGE

1. According to your understanding, how do you define the term “sexual harassment”?

2. What are the examples of sexual harassment?

3. What do you think leads to sexual harassment in the workplace, business setup and in society at large?

4. Who are the most common perpetrators of sexual harassment in your respective work/businesses place cooperatives?

5. who are the most common victims of sexual harassment in your respective work/businesses place cooperatives?

6. Are you aware of any policies and laws prohibiting sexual harassment in Malawi? If so mention them

SECTION C: EXPERIENCE

7. Do you think sexual harassment is a problem in your work/business's place /cooperatives? If yes explain to what extent.

8. Have you ever heard people at your work/businesses place cooperatives complaining about sexual harassment experiences? If yes, what was it about?

9. Have you ever witnessed or heard sexual harassment at your cooperative? If yes, what kind of sexual harassment?

10. Have your businesses once hit a downfall because you failed to oblige to give in to sexual demands? Please explain.

SECTION D: REPORTING

11. Are people free to report sexual harassment cases? If not why?

12. Where do you report cases of sexual harassment in your cooperatives?

13. What assistance have you or a colleague received after reporting cases of sexual harassment?

SECTION E: TRAINING

14. Have you received any orientation or training on sexual harassment in your cooperatives?
If so, what topics did you cover?

SECTION F: AVAILABILITY OF SEXUAL HARASSMENT POLICY

15a. Does your cooperative have a sexual harassment policy? If yes, has it been beneficial in addressing sexual harassment issues, Explain.

b. if not, are there plans in the nearby future to develop a sexual harassment policy?

c. What channels do you use in reporting sexual harassment?

d. In the absence of sexual harassment policy, what other remedy are there to address issues of sexual harassment?

16. Does the institution offer psychosocial services to the victims of sexual harassment? If yes, how have they benefitted?

17. In your opinion, what are the best ways to eradicate sexual harassment in the workplace.



KEY INFORMANT GUIDE

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The Commission is now collecting data for situation analysis in the three regions to gather evidence of existing extent of sexual harassment and SGBV in workplace and business sector. The evidence will be used to develop a comprehensive report on the subject and be a foundation for an advocacy strategy with key policy makers and private sector stakeholders on SGBV and sexual harassment. In addition, the Commission, wants to understand how prevalent sexual harassment is in the workplace/ business place and whether employers do address harassment with policies, training and acting on complaints. Your participation in the survey will help us gauge where employers need improve, and how Speak out would provide support to organizations in reducing workplace sexual harassment. Thank you.

SECTION A: BIODATA

Name of Interviewee	
Profession/occupation	
Name of Organization	
Contact details	Phone: _____
	Email: _____
Date of interview	
Interview location	
Age	
Gender	
Religion	
Years in business/employment	

SECTION A: KNOWLEDGE

1. According to your understanding, how do you define the term “sexual harassment”?

2. what are the examples of sexual harassment?

3. Are you aware of any policies and laws prohibiting sexual harassment in Malawi? If so mention them

SECTION B: EXPERIENCE AT WORKPLACE

4. who is responsible for handling/ receiving cases of sexual harassment at this institution?

5. a) Are victims of sexual harassment forthcoming to report cases?

b) If not, what do you think are the reasons

6. How many cases of sexual harassment have you received at this institution in the last 12 months?

7. How have the victims been assisted?

8. How was the perpetrator reprimanded?

SECTION C: INSTITUTION'S RESPONSE TO SH

9. What measures has the institution put in place to eradicate sexual harassment?

10. a) Does your institution have a sexual harassment policy? If yes, has it been beneficial in addressing sexual harassment issues, Explain.

b) if not, are there plans in the nearby future to develop a sexual harassment policy?

11. Does the institution offer psychosocial services to the victims of sexual harassment? If yes how many have benefitted? If no what are the plans

12. Are you aware of any policies and laws prohibiting sexual harassment in Malawi? If so mention them

13. Have your staff received any orientation/ training on sexual harassment? If yes what topics were covered?

SECTION D: CHALLENGES

14. what have been some major obstacles in eradicating sexual harassment in the workplace?

SECTION E: SOLUTION

15. What do you think can be the solutions to the challenges you have explained in 14?

REGIONAL CONSULTATION QUESSTIONNAIRE

1.1.Gender related Tools

1. Does your organization have any gender related policy? State details

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2. State if your company has any SGBV policy

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3. State and outline details if your company has sexual harassment policy

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4. If there is any existing gender related policy, have you ever conducted any review has been done and in line with the Gender Equality Act?

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5. Have you revised your business targets in line with gender related goals under SDGs 2030 or AU agenda 2063?

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1.2.Capacity assessment

6. Does your company have any gender focal points?

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7. Has anyone in the company or all have been trained in gender mainstreaming or any gender trainings?

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8. What gaps are there in terms of capacity of personnel?

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9. Do you have any gender programmed or policy plan in your organization?

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10. If yes, do you have an action plan? State timeframe.

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11. What are the focus components of the programmed?

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1.3.Resource support

12. Would the company contribute to any intervention on SGBV?

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13. State if the company will put any contribution in review or development of the gender SGBV and sexual harassment policies under the spotlight initiative program

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1.4.Approaches

14. What would the company propose to be the best way of addressing the existing gaps?

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