SEXUAL HARASSMENT at the Work Place Research

FINAL REPORT
MALAWI HUMAN RIGHTS COMMISSION

SEXUAL HARASSMENT AT THE WORK PLACE RESEARCH REPORT
Acknowledgements

The Malawi Human Rights Commission (the Commission) would like to express its sincere gratitude to the following individuals, institutions and companies for their cooperation and support during the data collection exercise and subsequent production of the present report:

i. **Public Sector:**
   The following Ministries, Departments and Agencies: Labour, Skills and Innovation; Gender, Community Development and Social Welfare; Ministry of Justice and Constitutional Affairs; Health; Education; Agriculture; Homeland; The University of Malawi;

ii. **Private Sector**
   - The following sections in the selected districts: Market committees; Sex workers Associations; FPAM; Pastor’s Fraternal; Exploits University and business people and cooperatives
   The Commission would also like to thank the following Commissioners and officers from the secretariat for their dedication and commitment during the implementation of the activities being reported herein: Commissioner Stella Twea, Commissioner Dr. Bertha Sefu, Commissioner Baldwin Chiyamwaka, Ms. Habiba Osman, Mr. Winstin Mwafuliirwa, and all staff of Malawi Human Rights Commission.

Lastly, the implementation of the activities reported herein would not have been possible without the financial and technical support from the EU Chilungamo Project. The Commission, therefore, extends its appreciation to the EU Chilungamo for the financial and technical support provided.
Executive Summary

The study sought to explore the occurrence of sexual harassment (SH) at workplaces, with a specific focus on understanding prevalence, attitudes, reporting and dispute resolution mechanisms in selected institutions. The Commission expects that the data gathered will inform evidence-based programming on sexual harassment by all stakeholders.

Predominantly, the study employed qualitative approaches with quantitative approaches supplementing data relating to prevalence. Since the subject matter relates to human rights, the study further adopted a human rights framework with a participatory approach. The study collected secondary data through documentary review and primary data using individual interviews and focus group discussions. Quantitative data was analysed descriptively using SPSS while qualitative data was subjected to content analysis.

The study found that most people fully understand the phenomenon of SH, consistent with the current legal definition in GEA. However, the study observes that the legal definition of SH is defective for its emphasis on determining SH from the perspective of the perpetrator on whether a victim would feel intimidated or humiliated by the conduct of the perpetrator.

Data on experience and perception of SH has also confirmed that SH is perceived as being prevalent, with the most susceptible institutions being the service sector (e.g. education and health). This is despite the fact that
reporting remains very low; which can be attributed to a number of factors, including lack of effective dispute handling mechanisms. The majority of victims of sexual violence are women, often in lower social positions, with the highest perpetrators being men in higher ranks within institutions.

Further the study found that most managers / employer representatives are aware of laws prohibiting SH. The drawback is that their knowledge only relates to the legislative framework. There is little to no knowledge of the policy framework; and further people are not trained on SH issues, despite data pointing to the fact that training is an effective tool in reducing prevalence rates and encouraging conversations surrounding SH.

The study further shows that institutions do not do enough to protect victims and whistle blowers, and this could explain why reporting is low. Most institutions do not have policies guiding conduct and preventing sexual harassment and whistle-blower protection mechanisms. This is compounded by the lack of specialized committees within institutions to handle SH complaints.

There is also a lack of a comprehensive reporting mechanism and procedure. The study found that SH cases are treated like regular disciplinary issues and this has implications on the type of remedy that one can get. The lack of an enabling environment, in terms of policies and remedies means that people are deterred from reporting.

Another key finding was the lack of victim support systems within institutions and a lack of compliance with guidance provided by the Malawi Human Rights Commission (MHRC), which has a statutory mandate, to implement the Gender Equality Act, and the Ministry of Labour and other line ministries.

The sanctions and punishments are centred around the perpetrator with inadequate emphasis on victim support. Further, the punishment perspective means that offenders are not rehabilitated. This creates the likelihood of repeat offenders.

The study also found that authorities do not do enough on spot inspections to assess working conditions and general environments within institutions for their adherence with policy and legal framework on SH. This could be partly because the law has not developed guidelines for inspections related to SH.
Most of these issues are compounded by the lack of resources dedicated to the fight against SH within institutions. A perusal of budgetary allocation reveals that it is minimal, and a majority of institutions do not set aside budget funds for SH related programs. This means that intervention programs are not adequately undertaken in institutions leading to poor case handling systems.

Lastly, the study has found that monitoring and evaluation programs, despite being key to program formulation and policy evaluation, have not been undertaken with the required frequency to inform decision makers on how to appropriately respond to cases of SH.

Overall, and from a human rights perspective, these findings show that a number of rights have been affected. Key among the rights are the general right to work. And the right to access justice and effective remedies. Further to this, ancillary rights like the right to a safe working environment, privacy, and dignity, among others, are also being greatly affected.

Recommendations

In view of the above findings the study makes the following recommendations, categorised into law, policy and practice:

**Law**

The Ministry of justice and the Law Commission to amend the Gender Equality Act and Occupational safety and health legislation as follows:

- Amend section 6 of the Gender Equality Act to make it more victim centered by removing the perpetrator perspective that states “a responsible person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated”.

- The Gender Equality Act should be amended to include provisions on whistle blower and victim protection to facilitate, guide and encourage reporting of SH cases.

- The Gender Equality Act should be amended to enhance reporting mechanisms for increased access to dispute resolution mechanisms and effective remedies for victims.

- The Gender Equality Act should make definite and procedurally binding time lines for administrators and key stakeholders in the
different sectors within which sexual harassment cases should be resolved.

- The Gender Equality Act, should provide for more victim centered sanctions and remedies, and supplement the punishment aspect for perpetrators with a rehabilitative approach to eliminate repeat offenders short of dismissal.

- The Gender Equality Act should be aligned with the data protection laws related to confidentiality and information and record keeping within institutions.

- Occupational safety and health legislation should have clear mandates on inspection by authorities and have clear provisions on sexual harassment as one aspect of labour inspections.

**POLICY**

i. **Government in general**
   - To have political will in dealing with the issues of Gender based violence and sexual harassment in all sectors and at all levels

ii. **Ministry of Finance**
   - To meet at least the 1 percent budget requirement in funding the Ministry of Gender help in its programs and interventions
   - To adequately fund the Malawi Human Rights Commission in the enforcement of the Gender Equality Act

iii. **Ministry of Gender**
   - To work closely with the Malawi Human Rights Commission as per section 10 (a) of the Gender Equality Act
   - Together with Malawi Human Rights Commission, introduce policy direction making anti-sexual harassment trainings an essential aspect of institutions especially the workplace.
   - To provide policy guidance that reflect sector specific needs
iv. Ministry of Labour

- To include issues of sexual harassment in the inspection tool used by officers during inspection.
- Train the district labour officers and inspectors on sexual harassment

v. Ministry of Education

- In collaboration with Malawi Institute of Education, to add comprehensive deliberate topics on sexual harassment, human rights and gender in the curriculum at all levels during curriculum reviews.
- To develop a whistle blower policy on reporting school related gender-based violence.
- To widely disseminate the whistle blower policy in all schools at all levels in Malawi.
- To fully discipline teachers who are perpetrators of sexual harassment in schools.

vi. Ministry of Health

- To ensure that hospital Ombudsmen are trained on sexual harassment.
- To have deliberate programs sensitizing women on issues of sexual harassment during antenatal and under five clinics.
- To have a comprehensive course or topic on sexual harassment during medical personnel’s trainings colleges.

vii. Malawi Human Rights Commission

- MHRC should develop encourage institutions to train their employees on sexual harassment and establish safe platform for reporting procedure that implements the legal requirement under section 7(1)(vi) of the Gender Equality Act that working institutions should designate an external reporting mechanism for victims to compliment internal mechanisms.
- MHRC To encourage institutions to develop policy that will
translate the law into a workable victim centered sanction and focus on support for victims and rehabilitating offenders.

MHRC to continue reviewing institution’s policies to ensure they are meeting the standards

The MHRC should widely disseminate its guidelines on anti-sexual harassment as mandated under the Gender Equality Act.

MHRC to monitor the compliance of institutions on the DHRMD’s public policy after its dissemination.

viii. Department of Human Resource Management and Development (DHRMD)

- To widely disseminate the sexual harassment public policy in all the MDAs
- Encourage MDAs to comply with the policy

ix. Institutions

- Employers must develop comprehensive policies on inspection structure and organization specifying powers, duties and obligations of all authorities at all levels
- Sexual harassment policies in the institutions should emphasize on the importance of transparency in recruitment, remuneration, promotion and service provision to make managers more accountable and reduce quid pro quo harassment.

PROGRAM AND PRACTICE

i. Ministry of Gender

- The Ministry of Gender should intensify civic education programs aimed at bridging the knowledge gap as mandated by the GEA
- There is need for special rehabilitative programs targeting offenders to break the cycle of repeat offending and induce
mind set change.  
- To encourage institutions to work with the ministry and MHRC in achieving zero tolerance to sexual harassment.

ii. Malawi Human Rights Commission  
- Conduct effective monitoring on the operations and competence of the internal handling structures as the watchdog under the Gender Equality Act to check against administrators’ abuse of discretion.  
- Provide capacity building to institutions for people who handle sexual harassment cases through training and frequent awareness sessions.  
- The Malawi Human Rights Commission and ministry of Gender to ensure awareness on the gender budgeting both at national, institutional and departmental levels based on proper awareness tools that reflect the national and institutional economic and social realities.

iii. The Office of the Ombudsman  
- The office of the Ombudsman and the MHRC need to increase efforts in extending external support to victims of SH.

iv. Police  
- To train all officers in victim supporting units on sexual harassment complaints handling.

v. Institutions to:  
- Put in place effective response mechanisms and case handling systems in specific institutions, with adequate monitoring systems.  
- Make compliance with policy requirements mandatory, with sanctions where necessary for non-compliant institutions.  
- Introduction of frequent training and awareness sessions at national and institutional level.  
- Provide for orientations on the importance of victim centered support at institutional level for authorities who handle sexual harassment cases.
- Strengthen and enhance the modes of reporting to be more victim and whistle blower friendly in terms of protection and take into account social factors so as to encourage reporting

- Develop program intervention aimed at raising awareness of the existence and operationalization of formal dispute resolution bodies in all sectors

- Institutions must adapt the three levels of gender budgeting in allocation of funds at all projects. That is, analysis of the budget from a gender perspective, restructuring the budget based on gender analysis and mainstreaming gender as a category of analysis in the budgetary processes.

- Adequate resources must be allocated for capacity building of all people who handle sexual harassment cases in public and private institutions.

vi. **Donor community**

- To make development of sexual harassment report in institutions a prerequisite for funding

Ms. Scader Louis

Chairperson
TABLE OF CONTENTS

ACKNOWLEDGEMENTS 03

EXECUTIVE SUMMARY 04

LIST OF TABLES 13

LIST OF ABBREVIATIONS AND ACRONYMS 15

1. INTRODUCTION AND BACKGROUND 17

2. METHODOLOGY 20
   a. Qualitative and Quantitative Approaches 20
   b. Human rights, work and business 20
   c. Participatory Approach 20
      a. Literature Review 20
      b. Field study: Data Collection 21
      c. Sampling 21
   d. Sample size 22
   e. Data Analysis 22
   f. Research Sites 22
   g. Ethical Considerations 22

3. SAMPLE 23

4. RESULTS AND FINDINGS 26

5. ANALYSIS OF THE DATA AND DISCUSSION 68
   5.1. NATURE AND SCOPE OF SEXUAL HARASSMENT 68
   5.2. EXTENT AND PREVALENCE 73
   5.3. AWARENESS OF SEXUAL HARASSMENT: ATTITUDES AND KNOWLEDGE 76
   5.4. PREVENTION AND PROTECTION 79
   5.5. REPORTING: STRUCTURE, PROCEDURE AND COMPLAINTS MANAGEMENT 81
   5.6. DISPUTE RESOLUTION 87
   5.7. VICTIM/COMPLAINANT SUPPORT SYSTEM/REMEDIES 92
   5.8. SANCTIONS AGAINST OFFENDERS 96
   5.9. INSPECTION, DATA BASE AND RECORD KEEPING 98
   5.10. RESOURCES: FINANCIAL AND HUMAN RESOURCE 102
   5.11. MONITORING, EVALUATION AND COORDINATION 104

6. OVERALL CONCLUSION 106

7. SUMMARY OF RECOMMENDATIONS 109
<p>| Figure 1 | Sampled Districts |
| Figure 2 | Respondents' Gender Variation |
| Figure 3 | Rank And Position Of Respondents |
| Figure 4 | Employee’s Information |
| Figure 5 | Examples Of Sexual Harassment In Institutions |
| Figure 6 | Category Of Workers Vulnerable To Sexual Harassment In Institutions |
| Figure 7 | Category Of Workers Exposed To Sexual Harassment |
| Figure 8 | Complaints Of Sexual Harassment At Institutions |
| Figure 9 | Nature Of Complaints |
| Figure 10 | Perpetrators Of Sexual Violence In Institutions |
| Figure 11 | Prevalence Of Sexual Harassment In Institutions |
| Figure 12 | Incidents Of Sexual Harassment Per Institution |
| Figure 13 | Incidence Of Awareness And Trainings On Sexual Harassment |
| Figure 14 | Frequency Of Awareness Meetings |
| Figure 15 | Statistics Of The Number Of People Trained |
| Figure 16 | Gender Statistics Of The Number Of People Trained |
| Figure 17 | Impact Of Awareness Meetings |
| Figure 18 | Male Attitudes Towards Sexual Harassment In Institutions |
| Figure 19 | Female Attitudes On Sexual Harassment In Organizations |
| Figure 20 | Awareness Of Laws And Regulations Prohibiting Sexual Harassment |
| Figure 21 | Specific Laws And Regulations |
| Figure 22 | Protection Of Whistle-Blowers And Complainants |
| Figure 23 | Measures Put In Place To Prevent Sexual Harassment |
| Figure 24 | Frequency Of Anti-Sexual Harassment Policies In Institutions |
| Figure 25 | Frequency Of Adhering To External Anti-Sexual Harassment Policies By Institutions |</p>
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>GEA</td>
<td>Gender Equality Act</td>
</tr>
<tr>
<td>MHRC</td>
<td>Malawi Human Rights Commission (The Commission)</td>
</tr>
<tr>
<td>MoL</td>
<td>Ministry of Labour</td>
</tr>
<tr>
<td>The Ministry</td>
<td>The Ministry of Labour (The Ministry)</td>
</tr>
<tr>
<td>MoG</td>
<td>Ministry of Gender, Community Development and Social Welfare</td>
</tr>
<tr>
<td>MoEST</td>
<td>Ministry of Education</td>
</tr>
<tr>
<td>OSHWA</td>
<td>Occupational Safety, Health, and Welfare Act</td>
</tr>
<tr>
<td>LRA</td>
<td>Labour Relations Act</td>
</tr>
<tr>
<td>ICESCR</td>
<td>International Covenant on Economic, Social, and Cultural Rights</td>
</tr>
<tr>
<td>ILO</td>
<td>Convention Concerning the Elimination of Violence and Harassment in the World of Work (2021)</td>
</tr>
<tr>
<td>SH</td>
<td>Sexual Harassment</td>
</tr>
</tbody>
</table>
**DEFINITIONS**

**Employee:** any person, body corporate, undertaking, public authority or body of persons who or which employs an employee and includes heirs, successors and assignees of the employer, or (b) where appropriate, a former employer.

**Employer:** (a) a person who offers his services under an oral or written contract of employment, whether express or implied; (b) any person, including a tenant share cropper, who performs work or services for another person for remuneration or reward on such terms and conditions that he is in relation to that person in a position of economic dependence on, and under an obligation to perform duties for, that person more closely resembling the relationship of employee than that of an independent contractor; or (c) where appropriate, a former employee.

**Industry:** a specific group of similar types of companies.

**Perpetrator:** a person who carries out a harmful, illegal, or immoral act.

**Respondent:** a person who replies to something such as a survey or set of questions.

**Sector:** a large segment of the economy.

**Sexual harassment:** any form of unwanted verbal, non-verbal or physical conduct of a sexual nature, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person, would be offended, humiliated or intimidated.

**Victim:** a person harmed, injured, or killed as a result of a crime, accident, or other event or action.

**Whiste-Blower:** a person who comes forward and shares his/her knowledge on any wrongdoing which he/she thinks is happening in the whole organisation or in a specific department.
1. INTRODUCTION AND BACKGROUND

Sexual harassment has become a pandemic within institutions, in the employment sector and other service sectors, worldwide. It violates the law and the social values of society. It manifests itself in many ways and is not only limited to the physical exertion of force.

Sexual harassment has grave consequences as it impedes victims’ full participation in society. Victims can suffer significant psychosocial effects, including depression. It further negates a number of guaranteed rights including equality, development, and dignity among others. This can further lead to health complications, and further economic and physical injury.

SH impacts institutions and society at large in other profound ways, as it can reduce productivity at a workplace. The social stigma that accompanies SH makes many victims fail to report when they have been harassed. This is compounded by the fact that culture is in some cases enabling to behaviours constituting sexual harassment. Conventionally and in general discourse, it is enabled by precarious institutional conditions, normalization of gender-based violence, toxic institutional cultures, lack of active leadership, culture of silence and hierarchical societal orders.

In trying to deal with sexual harassment, it is important to first understand the normative content of sexual harassment, so as to place it on a scale of what is wrong with it. Further, it is equally important to understand the nuances of the causes, effects and specific categories of sexual harassment. This approach is important because it will then help decision makers, enforcers and victims to effectively place complaints of sexual harassment within fitting legal remedies.

The prevalence of sexual harassment in institutions has not been adequately explored, as such it is important to continue the dialogue on the subject. Furthermore, the enforcement mechanisms seem to be lacking, thereby requiring an in-depth study on the problems associated with the failures in order to control the occurrence.

Malawi has progressive laws relating to sexual harassment, as exemplified by the Gender Equality Act. The Gender Equality Act defines sexual harassment as follows:
a person commits an act of sexual harassment if he or she engages in any form of unwanted verbal, non-verbal or physical conduct of a sexual nature in circumstances in which a responsible person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated"

The law further creates institutions and enabling mechanisms to root out the problem. Just how far these laws translate to ground policy, regulations and enforcement is not adequately covered; as such it is important to have in-depth studies on the policies, interventions and further institutional mechanisms that deal with sexual harassment.

The starting point, on the institutional framework, is the Malawi Human Rights Commission (MHRC/the Commission) which is established under the Constitution with the primary mandate of protecting and promoting the human rights of all people of Malawi through investigations and resolution of cases of human rights violations. Its composition; specific powers, functions and duties; and operational modalities are further provided for in the Human Rights Commission Act. Sections 13 and 14 of the Human Rights Commission Act assign various duties and responsibilities on the Commission which among others include assisting in the formulation of programmes for the teaching of, and research in, human rights and where appropriate take part in their execution in institutions and other bodies, including workplaces.

In 2013, Malawi enacted the Gender Equality Act (GEA), which aims at promoting gender equality and equal integration of men and women in all functions of the society. The GEA focuses on the following areas: sex discrimination, harmful practices, sexual harassment in the workplace; equality in education and training; employment; and sexual and reproductive health rights. Section 8 of the GEA provides that the Commission shall be responsible for the enforcement of the provisions of the Act. Sections 9 and 10 of the GEA have further given the Commission the following functions: to monitor and evaluate the policies and practices of Government Organs and the Private Sector; carry out investigation and conduct searches in relation to any gender issue on receipt of complaint or on its accord among others. Section 7 of the GEA empowers the Government to take active measures to ensure that employers have developed and are implementing appropriate policy and procedures aimed at eliminating sexual harassment in the workplace.
The European Union funded Technical Assistance Project provides technical and administrative assistance to the Government of the Republic of Malawi in their implementation of the ‘Chilungamo Programme’. Malawi Human Rights Commission (MHRC) is one of the beneficiary institutions of the five-year Chilungamo (Justice and Accountability) Programme under 11th European Development Fund since 2017.

It is within this context that, with support under the Chilungamo Programme, the Commission carried out a comprehensive research on sexual harassment at the workplace aimed at providing data on the extent and scope of sexual harassment experienced by both women and men at the workplace in Malawi. The Commission expects that the data gathered will inform evidence-based programming on sexual harassment by all stakeholders.

This report presents findings of the study, an analysis and discussion of the findings and makes recommendations based on the data and its interpretation. The report is thematic and focuses on 11 key themes: Nature and scope of sexual harassment (SH); extent and prevalence of SH; awareness (knowledge and attitudes); reporting; dispute resolution; victim support and remedies; sanctions; inspections; resources and monitoring and evaluation.
2. METHODOLOGY

a. Qualitative and Quantitative Approaches
The research approach was predominantly qualitative to the extent that it aimed at a thorough assessment of sexual harassment at the workplace for an in-depth understanding of not only incidents of sexual harassment but also the behaviour, characteristics, reporting, responses, protection and prevention of cases in diverse sectors, industries and environments. This was complimented by quantitative data that documented levels of incidents of sexual harassment and other related numerical data.

b. Human rights, work and business
Considering that sexual harassment in the workplace impacts on gender equality, right to work, human dignity and fair labour practices among the many labour rights, the study adopted a human rights approach that focuses on knowledge and capacities of duty bearers and rights holders and related institutional frameworks, systems and incentive / disincentive structures. A human rights framework also allows for an analysis that focuses on prevention, protection, promotion and realization of the rights at stake. This was located within discourses of work, business and human rights, appreciating how a human rights approach could actually lead to high productivity in business and service provision.

c. Participatory Approach
The study also adopted transformative participatory approaches to the extent that it allowed for participation of both employers, employees, customers /clients and related stakeholders (third parties to the employer –employee relationship) in the research. The participatory approach paid attention to attitudes and behaviours that interrogate dynamics in relationships and also potential lessons / best practices for transformative positive change.

d. Methods
a. Literature Review
The study started with desk research. A lot has been written on sexual harassment in general with other studies being more specific to
workplaces and a few focusing on Malawi. Desk research involved literature review to appreciate existing evidence and data and identify gaps in the literature. The literature review involved scoping and cataloguing of available literature and research reports on sexual harassment. The literature was organised thematically for a focused and systematic analysis and reporting. The focus was on context, diverse workplaces, date of publication, place of study and relevance. The major gap was on lack of a comprehensive country representative study that is detailed enough to deepen understanding on different aspects of sexual harassment at the workplace in different contexts and as it affects diverse players.

b. Field study: Data Collection

Data was collected using multiple methods. The first method involved individual interviews with selected individuals/key informants. Secondly, focus group discussions were held with selected groups of no more than ten people per FGD. Data collection tools included a questionnaire for individual interviews and an interview guide for the focus group discussions appropriate to each of the methods. The data frame and questionnaires are attached.

The data was collected by a team of Research Assistants with a supervisor for each team. The Research Assistants were oriented and trained in the adopted research methods, data analysis and ethics. They were also involved in pre-testing (piloting) of the research tools before the actual field work.

c. Sampling

The study took a purposive approach in sampling the participants/respondents in this study. The determinants in identification of respondents were based on the framework of investigation approaches identified above and included:

Demographic groups: gender, age, disability, employment status

Profiling of various players at the work place including employers, employees and third parties. Further profiling included potential perpetrators, victims/survivors (including staff, business partners, customers/clients) and bystanders.
Sector: Sectors sampled included: public, parastatals, private; urban, rural; domestic, work from home.

Industry: Agriculture, Education, Health, formal, informal economies including vendors and sex workers.

d. Sample size
The field research was conducted by a group made up of 3 teams with at least 3 Research Assistants and a supervisor for 10 days from 21st to 31st August 2022. It was estimated that 660 people would be interviewed. This was based on an average of 3 individual interviews per research assistant per day for ten days, so a total of 30 interviews per RA, multiply by 12 RAs, 360 respondents. Then 2 x FGDs, of an average of 5 people per FGD, per pair of RAs, per day for 10 days, making 300 respondents. Due to a number of challenges, the study managed to interview a total of 560 people in 12 districts. Research assistants recorded interviews manually, in writing, with the consent of the respondents.

e. Data Analysis
The study collected both qualitative and quantitative data, analysed using mixed approach. Qualitative data was analysed using content analysis in order to isolate issues thematically, based on the analytical framework discussed above. Quantitative data was analysed using SPSS. Data was managed by ensuring high levels of privacy and confidentiality.

f. Research Sites
The research was conducted in the three regions of the country for national representation within a period of one month. The specific districts were selected to cover the urban, rural economic divide; industrial divide and the level of vertical and horizontal gender segmentation of organizations. The study covered all the regions of Malawi with Mzimba, Mzuzu, Rumphi and Karonga representing the Northern Region, Lilongwe, Dedza, Kasungu, and Salima in the Centre, and Mangochi, Zomba, Thyolo and Blantyre in the Southern Region. The districts are shown in table form below in Figure 1.

g. Ethical Considerations
The research study followed ethical rules and respected privacy
and confidentiality in handling respondents and the data collected. Respondents were requested for their voluntary consent before taking part in the interview. They were assured of anonymity and confidentiality. The collected data was also be managed with privacy and confidentiality.

3. SAMPLE

Percentage representation by district

Survey tools were administered in the 12 districts and based on statistics of total administered survey done, Mzuzu had 13% of total of survey tools administered followed by Kasungu and Salima district with 11% respectively. 10% of tools were administered in Dedza district followed by Mangochi and Thyolo district with 8% respectively, 8% were administered in Zomba district, 7% in Karonga. 6% of survey tools were administered in each of the following districts Blantyre, Mzimba, Rumphi and Lilongwe. Figure 1 below summarizes the percentage representation by district.

FIGURE 1:
Sampled districts indicating survey tools administered as a percentage of total of survey tools administered
Percentage representation by sector

The study was carried out in various institutions which were categorised into thirteen different sectors namely Agriculture, Health, Education, Labour, Parastatal, Police and Security, Media, Community and NGO Initiatives, Religious, Markets/Business, Domestic workers and Sex workers. The majority of questionnaires representing 20% of total respondents were administered under education sector followed by health sector which is at 18%. Security registered 15% while agriculture had 13% of total respondents. Figure 2 below shows percentages of how questionnaires were administered.

![Figure 2: Percentage representation of respondents by sector](image)

Percentage representation by gender

Males formed majority of respondents with 53% of the total sampled respondents whereas females consist of 35%. The remaining 12% is for respondents whose gender was not recorded.
Representation based on respondent’s Rank / Position

Data was collected from various sectors in all sampled districts. The above graph gives specific statistics on key informants, from the most to the least interviewed positions in all sampled sectors. The position of Directors/Managers is the most interviewed position with 26% of total interviewed positions followed by Human resources manager with 21%, Police Officer in Charge with 14%, Head-teacher/Principal/Registrar with 13%, and junior officers at 10%. The majority of positions shared within the 2% category.

![Graph showing percentage representation of respondents by gender]

**Figure 3:** Percentage representation of respondents by gender

**Figure 4:** Representation of respondents in KII by rank/position
Overall, about 80% of males compared to 20% of females were interviewed across sectors. Though this is the case, if disaggregated by specific positions, data shows that 48% of females and 52% males in managerial positions were interviewed. This shows that males are dominating in managerial positions across sectors. In supervisory positions, the data shows that majority were women with 55% compared to males with 45%. In clerical positions, data shows the majority at 69% were women, compared to men at 31%. Lastly, data shows that there is a slight difference between females and males occupying general duty positions with females at 49% compared to males at 51%.

4. RESULTS AND FINDINGS

A. SCOPE AND NATURE OF SEXUAL HARRASMENT

1a. Understanding of sexual harassment

Overall, the common elements when discussing sexual harassment ranged from “making another person uncomfortable because of their biological sex, touching or verbally asking for sex, forcing a person into an activity or say things that they do not want to say, to dressing provocatively with intention to sexually provoke another person, and using positions to advance sexual demands to less influential persons.”
Most respondents defined sexual harassment in relation to women as victims whereas males as perpetrators as reflected in the views of the respondents below:

- **One respondent** said that sexual harassment is, “Nkhanza zomwe amapangidwa azimai kapena azibambo pa ntchito ngati kuchosedwa ntchito chifukwa chowakana chibwenzi abwana” = a form of abuse that females or males face at the workplace for example, being laid off from work for not giving in to be in a sexual relationship with a senior manager.

- **A female respondent** said “Kunyanja kumachitika za chisembwere kwambiri chifukwa azimayi amafuna kugulitsidwa nsomba mwansanga komanso motchipha” “Sexual activities happen a lot at lakeshore because women want to buy fish easily and at lower prices”

- **Another under respondent** from the education sector said this as an example of SH “Koma nde uli ndi chimbina chabwino.” “You have nice buttocks.”

- “Ine ndimapanga uhule, ndimagona ndi amuna kuti ndipeze ndalama. Nde iwe ukufuna nzikupasa ndalama yake yomweyi?” “I work as a sex worker, men sleep with me so that I get money. So you want me to be giving you the same money?” This was uttered by a lady when paying a domestic worker her salary.

- A sex worker said “My boyfriend forcing me to have sex whilst am menstruating is SH”.

- Another sex worker mentioned a client forced her to have sex and said to her “Izizi musamakanize ndi zaulele, cholinga akugone ulere”

- “Pastors sleep with choir members in church by force or lying to them that they are removing evil spirits by having sex” this was reported by a female under religious sector.

- The following comment was made under security sector “Mu police cell mukalowa munthu wamkazi amangokambilana ndi police officer kuti agonane kapena apange chibwenzi ndi cholinga chokuti amutulutse.” “Police officers negotiate with female inmates so that they have sex with them or get into relationships in order to be released”
1b. Examples of SH

Respondents identified a number of examples of SH. Some of these and the percentage frequencies with which they were identified are summarized in Figure 6.

![Chart showing examples of sexual harassment](chart.png)

**Figure 6: Examples of Sexual Harassment in Institutions**

The most commonly mentioned example of SH is inappropriate verbal remarks towards women with 21% followed by 18% of respondents mentioning physically touching women's private parts, 14% mentioned sex in exchange for employment/promotion, 11% of respondents mentioned forced sex/sexual abuse, 9% of respondents mentioned senior managers demanding sex from junior officers. Further data shows that 6% of respondents mentioned sex for grades where as some respondents mentioned women dressing provocatively with 5%, another 5% mentioned defilement followed by 4% of respondents who mentioned sexually looking at a woman in way that embarrasses a female person. The remaining respondents mentioning sexual advances, circulating nudes and saying demeaning words each respectively represent 2% of total respondents.

- Under agriculture some pointed out that “Azimai akuminula kwambiri” “Women put on very short skirts” and
“Akandiona ndavala chachifupi ma comment awo amakhala oipa monga ali ndi mbina yabwino zedi ” “Men make bad remarks like you have nice buttocks when they see us wearing short skirts”

“Khazikhazi tiye ku training ndi ma workshop ali nawe cholinga.” “Taking someone for meetings and trainings frequently because they have an intention for you” these sentiments were uttered by a lady under education sector.

Under religion, “A pastor asked a woman to take off her clothes during prayers”

A sex worker complained that “Amuna amatitenga ife kuti ndi mahule opanda ntchito” “Men call us sex workers and useless.”

Another sex worker said, “Even chiefs are at forefront harassing us”

A male boss telling a female domestic worker, “Uzingogonana ndi ine malipilo ako ndikukwezeru.” “You should be sleeping with me and I will raise your salary.”

Under health, a female respondent said “Mzibambo atha kugwililira mzimai koma chifukwa cha kuchepa mphamvu sangathe kuzipulumutsa.” “A man can rape a woman and it is hard for the woman to resist because she is overpowered.”

2a. Vulnerability to sexual harassment

The study also sought out to explore perceptions of respondents on categories of people most vulnerable to sexual harassment.

*Figure 7 below summarizes the views of respondents on this aspect.*

![Category of workers exposed/vulnerable to sexual harassment at institution](image)
Figure 7: Categories of workers vulnerable to sexual harassment in institutions

Data shows that 48% of respondents mentioned females employees as the category of workers most exposed to sexual harassment followed by 37% mentioning that junior staff/interns as those most vulnerable at the workplace. Apart from this, some respondents about 8% and 5% also mentioned that everyone, and females students respectively as those exposed or vulnerable to sexual harassment in educational institutions. Some respondents also mentioned hospital personnel and male employees with each accounting for 1% respectively.

2b. Reasons for vulnerability to sexual harassment

The study also explored the various reasons respondents attach to the vulnerability of some categories of victims of SH. Respondents gave various reason why certain categories of workers are more exposed or vulnerable to sexual harassment at an institution. Some of the reasons given are that such workers are underqualified and hold lower positions. This was mentioned by 21% of respondents, 15% said that such workers, who are mostly females, are considered inferior. Some respondents mentioned that men hold powerful position and they abuse such positions to sexually harass others, while some respondents, about 12%, mentioned that some are sexually harassed because they seek financial favours. About 10% of respondents mentioned seeking employment/promotion favours, and lower pay/wage as reasons why such category is vulnerable. About 5% of interviewed respondents mentioned nature of their work where as 4% of respondents mentioned poverty. The remaining 14% of respondents mentioned different reasons ranging from marital status, females biological makeup, being underqualified, females students fear of being failed, and lack of knowledge.

During one FDG, respondents indicated that males holding powerful position in various institutions often abuse their positions and demand sex in exchange or promise services or goods to females as narrated by one respondent that “wala wakakhumbanga kuti banigone wati kuti wanipenge malo,” = he requested that I should sleep with him in exchange for a piece of land.
Other respondents indicated that females are harassed because of their dressing since males are sexually aroused upon seeing revealing dressing thereby losing control ending up sexually harassing females. Further one female participant said “ineyo akandiona ndavala chachifupi, amandiyanfulira zoyipa, amati mbinayo ndiyabwino!” = Some men say all sorts of words that are demeaning in nature when I put on a miniskirt, such comment like your buttocks are attractive.

- Under agriculture some pointed out that “Azimai akuminula kwambiri” “Women put on very short skirts” and
- “Akandiona ndavala chachifupi ma comment awo amakhala oipa monga ali ndi mbina yabwino zedi ” “Men make bad remarks like you have nice buttocks when they see us wearing short skirts”
- “Khazikhazi tiye ku training ndi ma workshop ali nawe cholinga.” “Taking someone for meetings and trainings frequently because they have an intention for you” these sentiments were uttered by a lady under education sector.
- Under religion, “A pastor asked a woman to take off her clothes during prayers”
- A sex worker complained that “Amuna amatitenga ife kuti ndi mahule opanda ntchito” “Men call us sex workers and useless.”
- Another sex worker said, “Even chiefs are at in the forefront of harassing us”
- A male boss telling a female domestic worker, “Uzingogonana ndi ine malipilo ako ndikukwezera.” “You should be sleeping with me and I will raise your salary.”
- Under health, a female respondent said “Mzibambo atha kugwililira mzimai koma chifukwa cha kuchepa mphamvu sangathe kuzipulumutsa.” “A man can rape a woman and it is hard for the woman to resist because she is overpowered
B. EXTENT AND PREVALENCE OF SH

3 Complaints of sexual harassment in the past 24 months

Figure 8 below reports the frequency of registered complaints pertaining to SH in institutions.

![Complaints of sexual harassments in the past 24 months](image)

About 17% of respondents indicated to have received a range of between 1-5 complaints, followed by 2% who mentioned to have received a range of between 6-10 complaints within the past 24 months followed by 1% of respondents who mentioned that they received more than 16 complaints. However, the majority of respondents about 51% indicated that they never received any complaints of sexual harassment in their respective institutions in the past 24 months whereas some of them, about 29%, indicated that they do not know whether their institutions received a complaint or not.

Common forms of complaints lodged by sex workers include clients refusing to pay after sex and forced to have unprotected sex. In religious organisations most indicated verbal harassment as a common complaint. Money and goods/services in exchange for sex came out more under agriculture while verbal harassment was more prevalent in parastatals and education sectors. Demand for sexual relationship seems to be a big problem in markets and businesses. Sex in exchange for promotion or employment and circulating of nude pictures is a problem in the security sector.

Female students are the most complainants under education. Female employees who cannot stand against their bosses for fear of losing jobs are victimized under domestic workers and markets. Female sex workers themselves are also more victimized because they are exposed to drunkards due to the nature of their work. It is seen that female farmers are the most complainants in agriculture and female police officers seem
to be the majority complainants. Female patients/patients' attendants and female security officers are the most complainants under health. Men who are denied conjugal rights and men/women who are verbally harassed reported the most under religious institutions.

The reason males are the most perpetrators under sex workers is because they are usually drunk when meeting them. Senior male perpetrators seem to be the main perpetrators. This is so because men hold most senior position. Under religious sector, it is the male youth and senior male church administrators who turned out to be the perpetrators. This is so because men take advantage of their position in a society to harass women and because of the culture which has given them a false sense of entitlement to women and their bodies. Some ladies also dress inappropriately in church and men take advantage of the poor women.

Nature of the complaints

The study explored in depth the nature of the complaints that victims of SH usually report. Figure 9 gives a summary of the nature of the complaints.

Figure 9 – Nature of Complaints

24% of respondents indicated that they never received any complaint, 11% mentioned SH in form of senior managers touching private parts of a female junior worker, and 9% of respondents mentioned teachers touching private parts of a student. In addition, defilement, forced
sexual relationship, and male persons stalking female students was each mentioned by at least 7% of respondents. Teachers impregnating students, demanding sex in exchange for employment was respectively mentioned by at least 6% of respondents. Emotional abuse, and Head teacher forcing female teacher into sexual relationship was mentioned by at least 4% of respondents. The rest of the nature of complaints were each mentioned by 2% of respondents i.e. domestic abuse, touching female workers private parts, male teacher seeking sexual relationship with student, wife refusing conjugal rights, verbal harassing, and texting. 4% of respondents indicated that they do not know any nature of complaints.

- "Kupita ku mabungwe obweleketsa ndalama amatikana poti ndife mahule tizabweza bwanji ndalapa popeza tilibe zochita zolongosoka". “Money lending institutions deny us the opportunity because we are sex workers who can’t afford to repay." Narrated one sex worker.
- “Response mechanism is a challenge because when we report to police they do not assist amangoti zamahulezo. You end up spending money on transport following up case to no avail" A sex worker reported.

5 Perpetrators of SH

<table>
<thead>
<tr>
<th>Perpetrators of SH</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Don’t know</td>
<td>7%</td>
</tr>
<tr>
<td>None</td>
<td>54%</td>
</tr>
<tr>
<td>Male Hospital Staff</td>
<td>7%</td>
</tr>
<tr>
<td>Male student</td>
<td>1%</td>
</tr>
<tr>
<td>Male Teacher</td>
<td>7%</td>
</tr>
<tr>
<td>Female Senior Staff</td>
<td>1%</td>
</tr>
<tr>
<td>Male Senior staff</td>
<td>24%</td>
</tr>
</tbody>
</table>

Figure 10 – Perpetrators of Sexual Violence in Institutions

24% of respondents indicated that male senior staff are the majority of perpetrators. Sector specific respondents also indicated male teachers and male hospital staff as perpetrators with each category being mentioned by 7% of respondents, the other 7% indicated that they do
not know who the perpetrators are. Some respondents mentioned male students and female senior staff as perpetrators, with each being mentioned by 1% of respondents.

- A male complimenting a woman to say “Koma uyu nde ali ndi chithakokomanso mabele abwino” under education sector.
- “There are cases where when a sex worker wants to start working as bar tender, the bar owner will ask to sleep with her in exchange for the job”

6a. Prevalence of sexual harassment

The question on prevalence of sexual harassment was measured using a scale of two extremes in perceptions i.e. very low and very high. 27% of respondents indicated not prevalent to mean that there are no incidences of sexual harassment happening in their institutions followed by 23% of respondents who indicated that it is very low. About 15% of respondents indicated that it is high, and somewhat high was indicated by 12%, and about 11% indicated that its minimal, followed by 6% somewhat low, and 4% mentioned that it is very high. 10% of them did not provide data.

During discussions with third party category of respondents, about
30% of interviewed Students / Patients/Guardian/ Clients/ Customers indicated that it is very low, and 12% reported that sexual harassment is high whereas another 12% indicated none since they have never experienced any case of sexual harassment. Furthermore, a minority of 7% and 5% reported that sexual harassment in their organisations/institutions is minimal and somewhat high respectively. Labour officers indicated that prevalence of sexual harassment is very low at 44% compared to 33% of respondent who indicated that prevalence is very high.

The study has revealed that a majority of respondents in agriculture and Sex workers find SH to be a very big problem while it is somewhat a problem in the Education, Health, Parastatal and Security sectors. Markets/Business and Domestic worker sectors seemed not to be sure about sexual harassment prevalence in their institutions.

6b. Sexual Harassment Prevalence per Organisation/Institution

Figure 12 – Incidents of Sexual Harassment per Institution

Hospital (private and public) and education sectors were each mentioned by 22% of respondents as sectors in which sexual harassment is most prevalent. About 18% of respondents indicated police and security sectors, 12% indicated parastatal. Agriculture and farmers
was each mentioned by 7% of respondents, 4% mentioned religious institutions, 3% mentioned business sector, markets and hotels and bar were mentioned by 2% of respondents and lastly, domestic workers and community initiatives was mentioned by 1% of interviewed respondents.

- “Wandigona wake kweni malo wandanipasa” You just had sex with me without giving me the promised piece of land
- “Men are perpetrators because of culture which has given them false sense of entitlement to women and their bodies” said a church lady.
- “Nthawi zambiri timapanga business titaledzera mowa nde tikaledzera azibambo amatha kutigona osaziteteza” “We usually do business while drunk which makes it easy for men to sleep with us without using protection.” narrated a sex worker.

**Awareness of Sexual Harassment: Knowledge and Attitudes**

### 7a. Awareness meetings or training on SH

![Do you conduct awareness meetings or training on sexual harassment?](chart.png)

The majority of respondents about 49% indicated to have conducted awareness meetings or trainings on sexual harassment followed by 46% of respondents who indicated that they do not conduct awareness meetings or trainings on sexual harassment. 5% of respondents indicated that they do not know if their institutions conduct awareness meetings on SH.
7b. Frequency of awareness meetings or training on SH

Majority of respondents about 30%, indicated that they never conducted awareness meetings or trainings on sexual harassment followed by 26% who indicated very often, and 21% said less often. Data analysis also shows that 15% of respondents did not provide information on this question and 8% indicated don’t know.

7ci. Availability of number of people trained

When considering gender aspects of trained people in sampled institutions, data shows that 2% of males and 4% of females are trained, though this is the case, majority of respondents indicated that they do not have anyone trained in their institution. 39% of respondents are not sure whether there are any statistics or not.
About 35% of respondents indicated that trainings or awareness trainings were organised by Local Organizations such as National Aids Commission (NAC), Pakachere, Manaso, Macro and YONECO, 24% said they were organised by the institution's management team, while 12% said the trainings were organized by International Organizations like Plan Malawi and Theatre for Change. Further, 8% of respondents indicated that such trainings were organised by Police, 6% and 2% asserted that they do not remember the organiser and do not know the organiser respectively. Data also indicate that from those who attended, 2% said the meetings were organised by the government through the Ministry of Health and Ministry of Gender respectively.

8 Impact of the meetings / training sessions

Figure 17 – Impact of Awareness Meetings

42% of respondents indicated that the impact of meetings/training sessions is that there is increased knowledge on anti-sexual harassment. 30% indicated that the training has resulted in no recorded cases of sexual harassment being recorded and 16% said that cases have reduced. 7% of respondents indicated that reporting has increased followed by 5% of them indicating that meetings/training sessions did not bring any impact and 1% of them indicated to have established ant sexual harassment policy in their respective institutions.
9a. Staff’s attitudes on sexual harassment (Male)

What are staff’s attitudes on sexual harassment in your organisation? MALES

- Staff are not well aware of SH & its consequences: 3%
- Few females workers on institution: 4%
- Teachers actively sensitising learners: 6%
- It’s still a private matter hence not reporting: 7%
- Non existence of SH: 9%
- People prefer not to talk about SH: 9%
- Don’t know: 12%
- Staff follow anti SH rules & regulation: 12%
- Staff are aware & don’t take SH seriously: 12%
- Staff are against SH: 28%

Figure 19 – Male Attitudes towards Sexual Harassment in Institutions

28% of interviewed male respondents indicated that male staffs are against sexual harassment followed by those who mentioned that some staff members are aware and don’t take it seriously, staff follow anti sexual harassment rules and regulations, and don’t know such respectively reported by 12% of respondents of each nature of attitude. About 9% of respondents respectively mentioned that males prefer not talking about sexual harassment, and that sexual harassment does not exist in their organisation. Some respondents, about 7% of the interviewed, indicated that some males still consider sexual harassment as a private matter hence not reporting when such incidents occur. In education, 6% of respondents indicated that teachers actively sensitise learners on sexual harassment followed by 4% of respondents mentioned the presence of fewer female workers as a reason why there are no or fewer cases of sexual harassment at their institutions. Despite data showing that males have knowledge of sexual harassment taking place in their respective institutions, some respondents about 3% of them believe that some males think that institutional staff are not well aware of sexual harassment and its consequences.

Participants argued to say even though they would go with evidence of sexual harassment to responsible officers, they would literary do nothing, as narrated by a participant that;
“Ndinapangidwako nkhanza diso langa ili ndi kasitomala yemwe amakana kulipira bilu yake, atandibvulaza iye anakana kulipila ndalama, komanso mwini wa Bala sanandithandizeko” = I was physically assaulted on my eye by a client who was refused to pay for my services, and the bar owner did not help at all.

• “Kale sitimadziwa kuti zimenezi ndi nkhanza koma chifukwa cha ukadaulo wa MACRO ndi YONECO tadziwano ndithu.” “We previously did not know that this is harassment until YONECO and MACRO came in to sensitise us.” Said a sex worker.

• “Ena mwa ife zinatithandiza kuti tisamasiye ana athu pawokha tifikafuna kuchoka koma tiziwasiya mmanja mwa munthu wamkulu yemwe timamkhulupilila makamaka mzimayi” “It has helped some of us to learn to leave our children under responsible people we can trust”

9b. Staff’s attitudes on sexual harassment (Female)

![Figure 20 – Female Attitudes on Sexual Harassment in Organizations](image)

Majority (34%) of interviewed females indicated that women talk against sexual harassment, 16% of them said that males do not take sexual harassment seriously. This is slightly higher if compared to what their female counterparts said. About 13% of respondents indicated that females follow rules and regulations e.g. reporting once harassed or playing by rules to prevent being harassed. There is a slight difference
with that of female higher compared to males. About 13% of interviewed respondents also indicated that they never recorded a case on sexual harassment, whereas 16% indicated that they do not have any idea on what is/are female’s attitude on sexual harassment with 6% of respondents expressing that they do not have any idea. Despite this, 6% of them indicated that they welcome punishment given for sexual harassment perpetrators. Some, about 3% of respondents, strongly indicated that it is wrong to harass others.

10a. Awareness of laws and regulations that prohibit SH

| Knowledge of laws and regulations that prohibit SH |
|------------------|------------------|------------------|
| Aware            | Not aware        | not sure         |
| 60%              | 37%              | 3%               |

**Figure 21 - Awareness of Laws and Regulations Prohibiting Sexual Harassment**

Majority of respondents regardless of gender or positions, indicated that they are aware of laws and regulations that prohibit sexual harassment in their organisations. This is represented by 60% of interviewed respondents. On the other hand, 37% of them indicated not aware. The remaining, 3% said they were not sure.
10b. Awareness of laws and regulations that prohibit SH

The Republic Constitution and Gender Equality Act are the most commonly known and mentioned laws prohibiting sexual harassment with each representing 31% of total interviewed respondents followed by 10% of respondents who mentioned MPSR. Some respondents mentioned Police Act, Employment Act and Institution’s code of conduct and ethics with each representing 7% of total interviewed respondents followed by 6% of them who mentioned Penal Code. Marriage and Divorce Act and Note awate were respectively mentioned by 4% of sampled respondents. Gender Policy and Human Rights Laws were also mentioned as laws prohibiting sexual harassment with each representing 3% of interviewed respondents. Labour Laws, Industrial Relations Act was each mentioned by 1% of respondents and another 1% indicated that they could not specifically the laws that prohibits sexual harassment.

- “Male students amaona ngati macheza” “Male students have normalised the behaviour”
- “Mchitidwe umenewu ndi woopsy a chifukwa azibambo sitidziwa kuti achokera kuti ndipo atha kutipha mu room atatigonagona” “Our job is very dangerous because we do not know the men we sleep with and they can even kill us in our rooms after sex.”
- “Most men take SH as normal to us sex workers and I don’t think this will ever end”
• “Tonse tinachilandila because we know anyone of us can be a victim due to the nature of our job and we protect each other.” Said a sex worker.

• “Pakanapanda chisembwere mukunenacho pa dziko lapansi sipakanakhala anthu. Alipo ana ena anabadwa kutsatila kugwililidwa kwamayi wawo ndipo anawo pano ndi mabwana.” “There would be no people on earth if there was no sex. Some people are exist as a result of rape and they are now rich people.” Said one male health personnel.

• A female domestic worker said men are to blame for perpetrating SH. “Chigololo sakakamizana ndipo chigololo chokakamizana sichikoma. Azibambo muphunzire kutseka ma zip anu” “Forced sex is not enjoyable. Men should learn to zip up their trousers.”

**PREVENTION AND PROTECTION**

11 Protection of complainants and whistle blowers

![Figure 23 – Protection of Whistle-blowers and Complainants](image)

Protection by keeping names of complaints and whistle blowers of sexual harassment confidential was mentioned by the majority of respondents representing 44% of sample total followed by 16% who mentioned that they do not provide any protection, 8% indicated that they transfer perpetrators, 4% indicated that they use suggestion box in which complaints are dropped in, in so doing they protect complainants. The remaining 28% of respondents indicated that they do not know of any protection mechanisms.
12 Measures to protect all staff from sexual harassment

When asked on measures in place to protect staff from sexual harassment, respondents provided various measures. Majority of them representing 19% of the total sampled respondents mentioned that newly recruited teachers/staff are oriented on sexual harassment. This is the case as one way of equipping them with knowledge so that they are not taken advantage over by old staff. About 13% of respondents also mentioned that they strictly apply institution’s anti-sexual harassment rules, 11% indicated by applying national anti-sexual harassment rules followed by 10% who indicated that they do not have measures in place. Though this is the case, 8% of respondents indicated that they often talk about sexual harassment during management meetings, also 7% indicated that they conduct awareness campaigns; another 7% indicated that they have clear and easier reporting channels that complainants can utilise. 6% of respondents indicated that they have in-house disciplinary committee that receives and handle sexual harassment complaints followed by 5% who indicated that they emphasise on employment terms and conditions. The remaining mentioned measures such as having gender committee in place that handles sexual harassment, demanding that opposite sex should not share sleeping/exchange room, involving the police to handle the case, and don’t know, each of
these was respectively mentioned by 4% of sampled respondents.

- “Nthawi zina amene amatipanga nkhanza zimenezi ndi asilikali nde timaopa kupanga report kuopa kuti atimena. Zinamuchitikila mzathu wina amene anatengana ndi msilikali kupita ku room. Anatchajana bwinobwinomo koma mamuna amangopangabe osathira nde mkaziyo atadandaula kuti watopa mamuna uja anamumenya mzathuyo.” “It is sometimes soldiers who harass us and we are afraid to report. It happened to one of our friends who had a soldier as a client in her room. The man kept on having sex without ejaculating and when the woman complained of being tired, she was beaten up.” Narrated a sex worker.

- “There is no protection. Police don’t take us seriously. They even ask us to fuel their vehicle for them to go and apprehend the perpetrator.” Said a sex worker.

13a. Availability of anti-sexual harassment policy or gender policy or any rules against SH

![Figure 25 – Frequency of Anti-Sexual Harassment Policies in Institutions](image)

On institution having specific anti-sexual harassment policy, gender or any rules and regulations against sexual harassment, 66% of respondents indicated that their institutions do not have any policy. This was followed by 20% acknowledging having such instruments. 6% of respondents indicated that such documents are still on development stage followed by 9% of respondents who reported not knowing whether they have specific anti-sexual harassment policy or gender policy or any rules against sexual harassment.
13b. **Specific anti-sexual harassment policy or gender policy or any rules against SH.**

Table 25 – Frequency of Adhering to External Anti-Sexual Harassment Policies by Institutions

For those who indicated to have anti-sexual harassment policy of gender policy or any rules against sexual harassment, 35% mentioned that they utilise Institution’s regulations followed by 14% of them mentioning Gender policy and 8% indicated that they relay on the Republican Constitution. Though this is the case, majority, about 43% of respondents, indicated that they do not know any specific anti-sexual harassment policies or any rules and regulations available in their respective institutions.

**14 Efforts to develop a sexual harassment policy**

Figure 26 – Efforts to develop Sexual Harassment Policy
Despite the majority of respondents indicating that they do not know of any documents in anti-sexual harassment, the data shows that 37% of respondents of total sample indicated that their institutions are making efforts to develop sexual harassment policy, whereas 28% indicated that their institution is not developing an anti-sexual harassment policies. 15% indicated that they do not know of such developments in their respective institutions whereas 20% was not asked this question because it is not applicable since they indicated to have had the policy as above.

**REPORTING: STRUCTURE, PROCEDURE AND COMPLAINTS MANAGEMENT**

<table>
<thead>
<tr>
<th>Sexual harassment case handling structure</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Church pastor</td>
<td>6%</td>
</tr>
<tr>
<td>Ombudsman</td>
<td>5%</td>
</tr>
<tr>
<td>Gender and human rights committee</td>
<td>6%</td>
</tr>
<tr>
<td>Director</td>
<td>7%</td>
</tr>
<tr>
<td>Institution line management team</td>
<td>10%</td>
</tr>
<tr>
<td>No structure</td>
<td>11%</td>
</tr>
<tr>
<td>Human resource officer/manager</td>
<td>12%</td>
</tr>
<tr>
<td>Police</td>
<td>14%</td>
</tr>
<tr>
<td>Discipline Committee on SH</td>
<td>28%</td>
</tr>
</tbody>
</table>

28% of total sampled respondents from various sectors indicated that they have a discipline committee on sexual harassment meaning, and this committee is the first point of contact in handling cases. There is a huge gap between the most mentioned and the handling structures mentioned such as police that was mentioned by 14% of respondents. 12% mentioned that they used the office of human resource office/manager, followed by 10% who mentioned that they utilise institution line management team. Some respondents about 7% of total sample mentioned directors, followed by 6% who respectively mentioned gender
and human rights committee and church pastor, and 5% mentioned Ombudsman.

16 Reporting cases of sexual harassment

16a. Ways of reporting

Figure 28 – Reporting Structures of Sexual Harassment cases

The majority of respondents representing 45% of those sampled indicated that they reported in writing and some about 33% indicated that they prefer verbal reporting, followed by 23% of respondents who indicated that they utilise both verbal and written reports when they want to report cases of sexual harassment.

The study has also revealed that 31% of interviewed Students/Patients Guardian/Clients/Customers preferred reporting cases of sexual harassment verbally and 4% of respondents preferred report by writing followed by 7% who indicated that they preferred utilising both writing and verbal reporting. Another 2% of them reported that they report by calling a Toll-free number.

- “Sometimes when we report to police asilikali aja mmalo motithandiza amatinyenganso potinamiza kuti nkhani yathuyo iyenda mwansanga kapena kuti itikomela." “Police officers sleep with us when we go to complain promising us help." Complained one sex worker
16b. To whom does one report cases of sexual harassment?

<table>
<thead>
<tr>
<th>To whom are SH cases are reported?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police</td>
</tr>
<tr>
<td>Senior Manager</td>
</tr>
<tr>
<td>Form Teacher/Head Teacher</td>
</tr>
</tbody>
</table>

Figure 29 – Authorities for Reporting Sexual Harassment Cases

The majority of respondents representing 79% from sampled institutions countrywide prefer to report to their senior managers, this is also the case in education institution where 60% of respondents confirmed this. This is the case especially when perpetrator is a lower cadre. Some respondents about 15% of those sampled indicated that they reported to the police for assistance.

17 Complaints handling of sexual harassment

Majority of respondents indicated that they prefer reporting to their senior manager when harassed especially when the perpetrator is a lower cadre. Though this is the case, reporting processes differ from one institution to another.

“Once any form of sexual harassment has happened, the victim or whistle blower reports or notifies the immediate senior person be it the head of department or head teacher in case of education institution. Reporting is either written or verbal. However, depending on the nature of sexual harassment, verbal reporting is preferred. Then the case is reported to the institution’s appointment and disciplinary committee that handles sexual harassment cases. In the absence of such committees, cases are reported to other external institutions for assistance which include the police, courts, or hospital. The appointment and disciplinary committee investigates and gives recommendations to the senior manager to act
on. When the perpetrator or complainant is not satisfied, they can seek for further redress e.g. reporting to police or courts. This is how complaints are handled." However, data shows that in some institutions, cases are referred to several departments within the institution and this prolongs the process. Some respondents indicated that they do not know how complaints of sexual harassment are handled in their institution after they have been reported such cases.

The only variation that emerged is that interviewed Students/Patient’s Guardian/Clients/Customers indicated that when they report to line manager, they do not act upon the complaint and the victim is never assisted. This did not come out during discussions with key informants probably since they are the same people to whom lower cadre workers report to.

The majority of interviewed officers indicated that there are no specific sexual harassment cases handling structures, but rather it can be handled depending on circumstances under which it occurs. Some interviewed officers provided a brief process followed in case handling. “Typically, the complainant or affected person reports to the District Labour Officer where the case is recorded for assessment whether it could be handled by labour office or other actors like the police and medical personnel. If established that the case does not fall within the mandate of labour office, then it is referred to other relevant offices for assistance. Once it is established that it falls within the mandate of labour office, then District Labour Officer takes statements followed by systematic investigations is done by Labour officer, if no mediation, and then the case is referred to police and court of law”. This procedure is almost similar to the one followed or mentioned during key informant interviews. It is clear that in all cases, senior managers are informed and investigations follow, the only variation is that labour officers also handle all forms of harassment emanating from labour related issues.
DISPUTE RESOLUTION

18 Dispute resolution bodies (both formal and informal)

![Dispute Resolution Bodies Handling Sexual Harassment Cases](image)

The majority of respondents are familiar with disciplinary committee mentioned by 39% of respondents as one of dispute resolution bodies available in their institution. This is followed by 17% of respondents who mentioned police, 13% mentioned Ombudsman /courts, sexual harassment committees was mentioned by 8% of sampled respondents, 6% mentioned the office of social welfare followed by 5% who mentioned school management. Civil service and ministry of labour was respectively mention by 4% and 2% of sampled respondents.

19 Resolution of sexual harassment cases

![Resolution of Sexual Harassment Cases](image)
68% of respondents indicated that they have never resolved or heard that a case of sexual harassment was resolved in their respective institutions. About 16% of respondents indicated that an average of one to five (1-5) cases of sexual harassment were resolved and 1% of respondents who respectively indicated that an average of six to ten (6-10), and from twenty six (26) and above cases of sexual harassment were resolved. There are several factors that contribute to having fewer cases being resolved, including that most cases go unreported, some perpetrators are senior managers, and that some people fear reprimand once they report a case.

20 Timeframe for resolving cases of sexual harassment

33% of respondents indicated that they never recorded any case of sexual harassment followed by 24% of them who indicated that they do not know the period taken to resolve such cases. Though this is the case, some respondents representing 20% from total sample indicated that there is not specific timeline for resolving cases and 18% of them indicated that it only takes less than a month to resolve such cases, followed by 4% who indicated that it takes 1-6 months, and 1% indicated that it takes a year.

Figure 32 – Timeframe for Resolving Sexual Harassment Cases
21 Effectiveness of the dispute resolution mechanism

![Graph showing effectiveness of dispute resolution mechanisms]

39% of total interviewed respondents indicated that the available mechanisms are very effective considering that they are able to see results within shortest period from the time they report a case. About 12% indicated that the mechanisms are somewhat effective because it takes time for them to see results, see perpetrator punished and also that available mechanisms are not effective especially when perpetrators are senior managers or influential persons. 3% of respondents indicated that available mechanisms are not at all effective. Though this is the case, 22% of respondents indicated that they are not aware of how effective available dispute resolution mechanisms.

VICTIM / COMPLAINANT SUPPORT SYSTEM AND REMEDIES

22 Victim support services

![Bar chart showing victim support services]

Figure 34 – Availability of Victim Support Services
Majority of respondents about 36%, indicated that victims are provided with counselling as a support service. However, dataset shows that institutions do not have qualified counsellors to offer such service. In this case, counselling is in a form of fellow staff or community members consoling and even advising the victim to either report the case or seek help e.g. medical help. Police is one of the readily available place where respondents indicated to report or seek support services; this was mentioned by 16% of interviewed respondents.

Generally, victims of sexual harassment e.g. rape are often advised to seek medical assistance. 10% of respondents indicated medical test as form of support services for victims of sexual harassment. 9% of respondents indicated that they engage parents and teachers association and mother groups to assist both the victim and deal with perpetrator. Some respondents, about 3% of respondents, indicated that the perpetrator is interdicted pending investigation. A considerable percentage of respondents about 27% of them indicated that they do not know the kind of support services given to victims of sexual harassment.

### 23 Remedies (both civil and criminal / internal or external)

<table>
<thead>
<tr>
<th>Remedies available for victims of sexual harassment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Involving the courts</td>
</tr>
<tr>
<td>Compensate the victim</td>
</tr>
<tr>
<td>Don’t know</td>
</tr>
<tr>
<td>Suspension, dismissal of perpetrator</td>
</tr>
<tr>
<td>Counselling the victim</td>
</tr>
<tr>
<td>Referred to hospital for medical assistance</td>
</tr>
<tr>
<td>Engage the police</td>
</tr>
<tr>
<td>Transferring the victim</td>
</tr>
<tr>
<td>Transfer the perpetrator</td>
</tr>
<tr>
<td>No remedy since no SH case recorded</td>
</tr>
</tbody>
</table>

Figure 35 – Availability of Remedies for Victims of Sexual Harassment

This study shows that 16% of respondents indicated involving the courts followed by providing the victim with counselling services and also engaging the police to assist, each of these were respectively mentioned by 15% of total sample population. 14% of respondents indicated that there are no remedies since no case of sexual harassment was recorded
in their respective institutions. In some instances, victims are compensated and some referred to hospital for medical assistance, this was respectively mentioned by 9% of target population. The medical assistance is in a form of tests, provision of PEP and EP (Emergency Pill). Dismissal of the perpetrator was mentioned by 7% of interviewed respondents followed by 2% of respondents respectively mentioning transferring the victim or the perpetrator. Despite recording various forms of remedies, some respondents representing 8% of sample total indicated that they do not know any remedy.

24a. External support in the fight against sexual harassment

![Figure 36 – External Support for the Fight Against Sexual Harassment](image)

Data shows that respondents mentioned various forms of external support in the fight of sexual harassment with education or sensitisation on sexual harassment as the common mentioned external support, about 33% of respondents. Another 33% indicated that there is no external support. Material and financial support was respectively mentioned by 13% and 5%. 16% of respondents indicated ignorance of any external support.
24b. Organisations providing external support in the fight against sexual harassment

Figure 37 – Organizations involved in the Fight against Sexual Harassment

On providing external support, 31% of interview respondents indicated police as the organisation that provides external support. 28% mentioned local organisation, followed by 11% who mentioned MHRC. The Ministry of Health and international organisation ranked fourth and was mentioned by 5% of sampled respondents followed by 4% mentioning ombudsman with ministry of education and labour each respectively mentioned by 1%. 12% of total sampled population indicated that they don’t know if their institution received external support in the fight against sexual harassment.

SANCTIONS AGAINST OFFENDERS

25 Sanctions / punishment against offenders

Figure 38 – Sanctions against Offenders
The majority of respondents at 35%, indicated dismissal or demotion as the form of sanction/punishment imposed on sexual harassment offenders. 22% of respondents mentioned giving strong warnings to the perpetrators followed by 11% who mentioned that the best punishment is to transfer the perpetrator and the other 11% indicated that there are no sanctions in place. 19% of respondents mentioned arrest of such perpetrators. Lastly, 3% mentioned that perpetrators are asked to pay fines.

26 Rehabilitative services for offenders that have been found guilty but are not dismissed

Data shows that 35% of respondents indicated that they do not have rehabilitative services offered to offenders that have been found guilty but are not dismissed followed by 31% who indicated that they provide counselling and guidance whilst 15% indicated that they issue warnings to such offenders. Though this is the case, 20% of respondents indicated that they do not know of any rehabilitative services because their institution has never registered any offenders.

INSPECTIONS DATA BASE AND RECORD KEEPING

27a. Frequency of labour inspections
50% indicated that labour inspection is not conducted at their institution followed by those who mentioned that such inspections are conducted twice or thrice a year respectively representing 5% each of the total sample. About 3% indicated that they are conducted once in a year. Analysis shows that there is a huge gap between those who indicated that no inspection is conducted and those who indicated that such inspection is conducted. 37% of respondents indicated that they do not know if such as to whether such inspection is conducted or not.

27b. Inspectors

More than half of sample population representing 52% indicated that no inspection was conducted in their respective institution followed by 25% of them who indicated that personnel from labour office conducted the inspection, and 6% indicated that such inspection was done by institution’s own personnel.
28 Labour inspections assessing how safe the work environment is with regard to sexual harassment

The majority of respondents indicated that labour inspections conducted in their respective organisation did not include assessing how safe the work environment is with regards to sexual harassment. Such responses were given by 36% of total interviewed respondents followed by 9% who acknowledge of such inspection-taking place in their workplace. Despite such acknowledgements, 24% of respondents expressed having no clue as to whether such inspections were done or not followed by 31% who did not provide information on this question because they do not conduct labour inspections.

29 Availability of records/ a database of complaints lodged and number of cases handled

The availability of records/ a database of complaints lodged and number of cases handled, was requested to ensure a systematic approach to dealing with sexual harassment cases. The data indicates that 17% of respondents have records while 52% have a database, leaving 31% unsure. This suggests a need for more comprehensive record-keeping and transparency in handling sexual harassment complaints.
52% indicated that they do not have records/database of complaints lodged and number of cases handled followed by 17% of them who acknowledged having such records, and 31% indicated that they do not know if such records exist in their institution.

RESOURCES: FINANCIAL AND HUMAN RESOURCE

30a. Budget line for gender and anti-sexual harassment

What is your budget line for gender and anti-sexual harassment to support implementation of anti-sexual harassment activities?

- 61% No
- 16% Yes
- 22% Don’t know

Figure 44 – Budget for Anti-Sexual Harassment Policy Implementation

Majority of sampled institutions do not have records or database of complaints lodged and number of cases handled. 61% of respondents indicated that they do not have a budget line for gender and anti-sexual harassment to support implementation of anti-sexual harassment activities, followed by 16% of them acknowledging that they have such budget. On the other hand, 22% of interviewed respondents indicated that they do not know whether their institution has a budget.

30b. Budget adequacy

Adequate Budget

- 6% Yes
- 34% No
- 14% Don’t know
- 46% N/A

Figure 45 – Adequacy of Anti-Sexual Harassment Activities’ Budget
34% of respondents with a budget on SH, indicated that the budget is not adequate followed by 6% who indicated that it is adequate and 14% reported they do not know if the available budget is even adequate. 46% did not provide data because they do not have budget for sexual harassment activities.

31a. Capacity of designated staff to investigate and handle sexual harassment cases

Figure 46 - Staff capacity to investigate and handle sexual harassment cases

The majority of respondents indicated that they do not have a budget line for sexual harassment. However, a follow-up question to find out on capacity of designated staff to investigate and handle sexual harassment cases at the workplace shows that 31% of respondents are trained. On the other hand, 29% have low capacity to investigate and handle sexual harassment cases at the workplace. About 22% of total sampled respondents said designated staff do not have the capacity. 18% indicated that they do not know whether their institution has the capacity to investigate and handle sexual harassment cases.
76% of respondents indicated that they need to be trained so that they can properly assist or handle cases of sexual harassment. Some respondents indicated that they need funding and material support represented by 15% and 9% respectively.

**MONITORING, EVALUATION AND COORDINATION**

**32a. Monitoring and evaluation system for sexual harassment**

The majority of respondents representing 59% indicated that they do not have monitoring systems in place, 13% indicated that they have monitoring system in place. However, 20% of respondents do not know if their institutions have monitoring systems in place.
32b. Description of what was/is monitored.

![Description of what is monitored](chart)

**Figure 49 – Scope and Focus of the Monitoring and Evaluation**

About 6% of respondents indicated that no monitoring is conducted in their institution followed by 2% and another 2% that indicated monitoring of labour related issues and sexual harassment cases respectively. Majority of respondents about 89% did not provide information.

![Who conduct monitoring and evaluation](chart)

**Figure 50 – Personnel Conducting the Monitoring and Evaluation**

71% of respondents indicated that there was no one to monitor institutions. Generally, institution’s own personnel conduct monitoring and evaluation at 16%. 12% indicated that they do not know who monitors their respective institutions.
32d. Why is it that M&E is not conducted

The reasons put forward when asked about reasons why institutions do not conduct monitoring were: that the institution does not have the capacity to conduct monitoring exercise, it never received or reported cases of sexual harassment, or that management never thought of setting up monitoring mechanisms. This was followed by those who mentioned that they do not know, represented by 1% of respondents. Majority of respondents about 97% did not provide information since most of the institutions do not conduct monitoring and evaluation.

33 Coordination with other institutions in

![Pie chart showing coordination with other institutions in the prevention of sexual harassment]

Coordinating with other institutions in the prevention of sexual harassment

- Co-
- No...
- Don’t know, ...

the prevention of sexual harassment

Figure 52 – Institutional Coordination for Prevention of Sexual Harassment

44% of respondents indicated that their institutions coordinate in the implementation activities. Coordinating partners included local or international organisation, Social Welfare office, Police, Courts, Public Affairs Committee, Civil Service Commission, Gender Office, Ombudsman, City Council, ESCOM, DIWA, LICO, FPAM, CAMFED, Church, YONECO, MHRC, Plan Malawi, UNESCO, World Bank and GIZ. The nature of coordination that was emphasised is that of assisting with enforcement measures, or providing training.

35% indicated that their respective institutions do not coordinate with other institutions in the prevention of sexual harassment. About 7% of
respondents did not provide information whereas 14% indicated that they did not know whether their institution coordinate with others in the prevention of sexual harassment.

GAPS, CHALLENGES AND SOLUTIONS

34 Gaps and/or challenges on zero tolerance against sexual harassment

Majority of respondents mentioned lack of knowledge especially on the technical expertise on how to handle cases of sexual harassment. This is followed by lack of external support that was mentioned by 17% of respondents, whereas lack of training and funding was each mentioned by 16% of respondents followed by 14% who mentioned lack of a policy on sexual harassment as one of the gaps and challenges.

- “Sitingathetse nkhalidwewu ngati anthu sakunena” “We cannot end this behaviour if people do not report.” Said a male health worker.

- “Nthawi zina amene amagwililira ana ndi azibambo omwe amayenera kuteteza anawo. Ndipo ife azimai sitinena kapena kuti kubisa makamaka akakhala kuti wapanga nkhanzazi ndi mamuna wathu amene amatisakila chakudya panyumbapo.” “Sometimes it is the men who are responsible to protect young
girls who rape them. Women do not report especially if it is their husbands who is the perpetrator.” Said one lady in health sector.

- One male respondent in health sector said most male are shy to report. “Achinyamata ambiri samanena kuopa kusekedwa akagwiliridwa. Ndamvapo achinyamata 4 atagwiliridwa kuchokera 2020 mpaka 2022.” “Most men do not report for fear of being laughed at. I have seen 4 cases where men have been raped from 2020 to 2022.”

![Figure 54 – Solutions to Challenges Hindering the Fight against Sexual Harassment](image)

The majority of respondents at 43% indicated civic education as solution. Civic education is needed to all actors involved e.g. from senior managers to the lowest cadre without leaving out any gender. Apart from civic education, respondents about 22% indicated providing adequate funding, 20% indicated providing training whilst 15% indicated that there is a need to have policy in place.

- “We pray that you should help us start businesses. Panopa takula uhule sukuyendanso. Tikapita kumudzi tikatani popeza tili ndi ana akufuna school fees.” “We pray that you should help us start businesses. We are growing old and our business is no longer profitable but we cannot go to our villages because we have children who need school fees. Reported a sex worker.
5. ANALYSIS OF THE DATA AND DISCUSSION

5.1. NATURE AND SCOPE OF SEXUAL HARASSMENT

The nature and scope of sexual harassment covers issues of conception and general understanding of SH, vulnerability and the power dynamics around SH.

- **Conception and Understanding of SH**
  
  One of the main issues coming out from the study is the definition and concept of sexual harassment. From the responses, it is clear that the majority of people have a general understanding of what constitutes sexual harassment. This data reflects the legal definition of sexual harassment under the Gender Equality Act. The scope of understanding is example based, consistent with the definition under the law. The conception is wide and covers a broad spectrum of sexual harassment from verbal abuse to outright coerced and unwanted sexual relationships. The data however, shows that SH is predominantly about women being sexually harassed by men.

- **Vulnerability and Power Imbalances**

  The study has revealed that it is mainly women in low ranking positions at the workplace who are more vulnerable to sexual harassment at the workplace. Corollary to this, the perpetrators are mainly men, mostly in high ranking positions; reflecting the gender imbalance of workplace power dynamics.

  There is a clear understanding of levels of vulnerability too. Most of the vulnerable groups are vulnerable to sexual harassment due to quid pro quo arrangements. The reasons given show the ugly nature of abuse of power and further reveal tokenism, relating to sex for favours including for promotions, remuneration and training opportunities.

  In sector specific circumstances, in the education sector for example, this relates to people in high positions; instructors, exploiting the students' needs to pass exams and leads to the “sex-for-grades” phenomenon.

  The first right that is affected based on the outcome of the study is the right to dignity of the person. This is provided for under section 19 of the Constitution and is an underlying principle and a foundational
basis of human rights. The bottom line is that dignity relates to the very essence of being human and its uniqueness and is inherent in every person. To this end, the very act of sexual harassment diminishes the core value of a person's humanity by making them a means to an end and not an end in itself, due to the emotional and psychological trauma and humiliation that comes with it.

The issues raised further have implications on the right to equality, non-discrimination, and equal protection before the law as provided under Section 20 as read with Section 24 of the Constitution, which guarantees equality of all persons and further that women shall be afforded full protection by the law to eliminate abuses. Sexual harassment in institutions is an aspect of discrimination based on sex and gender. From the issues, as a power balance issue and relating to tokenism, sexual harassment reinforces stereotypes about women’s abilities. This has implications on their careers and their lives in general thereby affecting their rights to equality and equal protection.

Thirdly, the right to fair and safe labour practices under Section 31(1) of the Constitution, which is supplemented by Section 13 of the Occupational Safety, Health and Welfare Act which mandates the employer to maintain an environment that is without risk to health and has adequate safeguards for welfare. The reading of this has implications on the right to economic activity under Section 29. As pointed out, the definitional concept of sexual harassment touches upon an element of humiliation and discomfort; where such is in regular occurrence, the victims will not feel safe and cannot freely engage in a livelihood.

Implications on Policy, Law, and Programs

The study reveals that at the heart of sexual harassment in institutions is power relations and abuse thereof. In an instance where the managers and other higher ups are tasked with implementing workplace sexual harassment policy and the complaints are channelled through them, it means that the execution and complaints handling will be compromised as the implementers are the perpetrators themselves.

Another critical implication relates to law. Sexual harassment has not been given a conceptual guidance under the legal
framework, to the extent that it is largely example based. The problem is compounded by the fact that the second part of the definition focuses on the perpetrators perspective of what they would reasonably think would humiliate or discomfort the victim. This is problematic, as the standard through the lens of a reasonable perpetrator skews the perception to the extent that the perpetrators view may be distorted.

Another implication focuses on the program. It is clear that the law is very elaborate and exemplary in providing that every workplace and institution should have a comprehensive anti-sexual harassment policy, and tasks government with the positive duty to ensure institutions adhere to this. The results on scope show that government, through the Commission, which is a main duty bearer under the GEA is not actively monitoring and sanctioning institutions, which fall short of the statutory standard. This further points to a lack of translation from law to policy and specific program formulation on the ground.

The definition of sexual harassment and the scope of its understanding is critical in developing responses to SH. Section 6 of the GEA prohibits sexual harassment in all its forms; and according to the Act “a person commits an act of sexual harassment if he or she engages in any form of unwanted verbal, non-verbal or physical conduct of a sexual nature in circumstances in which a responsible person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated”. The problem with the definition is that it is example based approach, without a conceptual grounding. It is not responsive enough to cover for instances which are not within that spectrum of examples. However, this is mitigated by the fact that the spectrum is wide enough from verbal instances all the way through to physical manifestations. This is also consistent with the study findings, and points to the fact that people have a good understanding of what constitutes sexual harassment.

Sexual harassment is systemic, it does not happen out of fleeting circumstance and desire. It is driven by social forces. The study reveals that at the heart of it are gendered power imbalances and therefore, it cannot be separated from the general incidence of gender based violence.
Men in powerful positions are the majority perpetrators against women in low positions. This is a manifestation of the fact that men hold far more positions of power than women. This trickles down to how cases are handled. This creates a tolerant culture to sexual violence in institutions, creating hostile working environment for women, and preserves pervasive status quo.

This shows that the problem of SH is multifaceted with a strong interaction between sex, gender, and power. This is in line with what Uggen & Blackstone argued that authority acts as a protective factor exempting women in higher positions from unwelcome contact with men; leaving those on the lower level more vulnerable to the suggestive gaze of men in power.

This problem is indicative of the general power and gendered imbalances across the community. The gendered and hierarchical cultures that organizations create end up facilitating coercion and exploitation, and a clear understanding of this as a permeating issue is critical to understanding the scope of sexual harassment.

The basic pattern shows that women are the major victims of sexual harassment, with some variations. This points to the problem of conceptualization at legal and policy level, since the law is couched in a general manner, and yet the problem of SH is gendered as it predominantly affects women. This calls for a gendered approach and context specific interventions.

Further to this, there seems to be a general malaise in terms of translating legal and policy requirements to effective and visible procedures and programs on the ground. For example the requirement of parallel reporting mechanisms by the GEA is not fully implemented, which could alleviate some of the problems that arise as a result of co-worker or boss-junior harassment incidences. This problem could be a compounding of abdication of duty from the duty bearers. A discussion, which has been succinctly laid out in the Reporting: Structure, Procedure and Complaints Management and Inspections: Database and Record Keeping sections of this report.
Recommendations

Legal Clarity

As pointed out above, the law is couched by focusing on the perpetrators perspective. This has the potential of adversely impacting on complaint handling mechanisms, especially where the perpetrator would defend their actions as not reasonably harmful or humiliating.

- As such Section 6 of the GEA should be amended to be victim centred and censure conduct that the victim finds offensive, humiliating and intimidating.

- GEA should also be amended to include a section that recognises that although both men and women require protection from violence at the workplace, special measures to protect women, especially the most vulnerable consistent with Section 13 of the Constitution.

Putting Systems in Place for Transparency

This directly speaks to the need to curb the quid pro quo instances. There needs to be transparent systems in place relating to assessment of workers, recruitment of staff, discipline and remuneration to avoid abuses of power since harassment is sometimes conceptualized as quid pro quo harassment.

- Workplace rules and practice should be transparent and accountable on recruitment, promotion, assessment and disciplinary measures.

Effective Response Mechanisms

Further to this, organizations should develop adequate and effective response mechanisms. As pointed out, where the perpetrators are the decision makers, it makes it difficult for women to report sexual harassment.

- As such, there needs to be developed parallel reporting mechanisms or direct links, with easy and accessible procedures to regulators, watchdogs, and central authorities, including the MHRC. These mechanisms need adequate and visible publications.
5.2. EXTENT AND PREVALENCE

Key Issues

The study reveals that there is a perception that a majority of people, especially women, have been sexually harassed in their respective institutions in one form or the other. However, the reporting is still very low, as most respondents stated that they had not received many, or any, complaints in a period of over 24 months. This shows that despite the occurrence of sexual harassment and discernible victims, people are still reluctant to report.

Vulnerability

From the nature of complaints, it is clear that the majority of complainants, from the few who choose to report, are women or in lower ranks. Men are in minority when it comes to the complaints on sexual harassment. This shows that the disadvantaged people within specific communities are more prone to sexual harassment at in all the sectors. The nature of the harassment further speaks to the fact that it cuts across the spectrum of harassment ranging from verbal to physical harassment.

Gender Divide

From the study, it is clear that a majority of perpetrators are male who hold higher positions. This points to the general reference to sexual harassment as a subset of gender-based violence within the community, as such cannot be separated from the general discourse when formulating interventions. Expanding the scope of SH within the discourse of gender-based violence and ensuring that all forms of violence at the workplace are dealt with is therefore key to ensuring a comprehensive response to SH.

Service Sectors more Susceptible to Sexual Harassment Instances

The data points to the fact that sexual harassment is more prevalent in service sector institutions, both private and public. This is the case because of the large number of staff that they have and consistent with the vulnerability perspective, the victims end up being the clients who have sought services from the said institutions and
aligns with the quid pro quo as some service providers demand favours in exchange for service.

One key right affected with the issues raised is the right of access to justice under section 41(2) of the Republican Constitution. A key component of the right is “access”. This relates to availability of systems, procedures, and locations where a person can seek recourse. This access further entails absence of barriers and impediments to accessing the said systems. As pointed out, it is clear that reporting is very minimal; this could point to a lack of systems in place at institutions or impediments to accessing justices, one of which could relate to intimidation and lack of protection for whistle blowers (a discussion in Prevention and Protection section).

Closely related to this, is the right to an effective remedy under section 41(3) as read with section 46(3) & (4) of the Constitution. An effective remedy is one which is available, accessible, and capable of addressing the wrong at hand and if there are no impediments in accessing it. This right envisages the availability of an adequate and satisfactory remedy to deal with a wrong suffered. In cases of sexual harassment, this means that the handling structures are available with clearly laid out procedures.

**Right to Work**

The right to work is guaranteed under Section 29 of the Constitution of the Republic of Malawi. It has been given a comprehensive scope under Article 6 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) which Malawi is signatory to. The ICESCR General Comment No. 18 provides that the ICESCR explicitly develops the individual dimension of the right to work through the recognition in article 7 of the right of everyone to the enjoyment of just and favourable conditions of work, in particular the right to safe working conditions. This means that the right to work is closely connected to the right to fair and safe labour practices under Section 31(1) of the Constitution. From the issues raised, the right is greatly compromised where people live in an intimidating environment where they live in constant fear of being harassed.

**The Right to Development**

This right is guaranteed under Section 30 of the Constitution; and guarantees everyone to enjoy socio-economic, social, cultural,
and political development, with women being given special consideration. As pointed out; sexual harassment is more prevalent in the services sector, meaning that women cannot access services, including security, social, education, health among others freely due to rampant sexual harassment by instructors, health personnel and other service providers. This further cuts across other rights enshrined in the constitution.

**Implications on Law, Policy, and Programs**

The issues identified point to a lack of comprehensive reporting mechanism. This could have the potential of skewing the results as low reporting can easily be translated to low prevalence and extent, and further distort required intervention policies. This points to the fact that there is a lack of implementation of the law and policies on sexual harassment.

Further to this, lack of institutional datasets pointing to case handling mechanisms and outcomes could further lead to low knowledge on the extent of the problem in the specific institutions. There is a gap in the law relating to how institutions deal with information and data relating to occurrence of sexual harassment.

Another glaring implication relates to the generality that the law placed on and emphasized in reaction to sexual harassment. As pointed out, it cannot be separated from the general gender-based violence discourse and indicators point out that its majority females in lower ranking positions who suffer sexual harassment at the hands of men in high positions. This means that the law is not context specific in developing its interventions.

The data shows that a systematic review of the prevalence and extent of the phenomenon of sexual harassment has gaps in it because of lack of adequate reporting. Despite the lack of complaints lodged, one cannot conclude that incidences of sexual harassment are minimal. This owes to the fact that most people have reported to have been harassed before in one way or another. This to an extent states that there are impediments or discouraging factors to reporting.

A close perusal shows that the perpetrators are mostly men in high positions of power. This partly helps to explain why reporting and
complaints are minimal. This is so because the complaints could be channelled through the same people who are perpetrators or potential perpetrators making it difficult for victims to adequately spell out their grievances; and further compromise handling of complaints to afford victims adequate remedies.

Recommendations

- As pointed out, the policies are there, but their implementation on the ground is the one that is inadequate. To this end, to curb the phenomenon of underreporting, there is need for dynamic systems to be put in place to make sure institutions are compliant with complain handling mechanisms and further reporting structures that do not have impediments so that victims should access the necessary redress. This will also help in having accurate data of complaints lodged to tally with the incidences. This requires aggressive programs on the part of institutions.

- Supplement the Law with Gender Specific and Responsive Interventions: The law is too general, and this does not reflect the reality of sexual harassment on the ground. To that extent, the law should have further mechanisms of reflecting the reality that it is mostly women, who are disadvantaged that are mostly sexually harassed. The law should be able to take cognizance of this, and take into account some positive discriminatory measures to accurately reflect the situation and better protect women through gendered responses.

5.3. AWARENESS OF SEXUAL HARASSMENT: ATTITUDES AND KNOWLEDGE

Key Issues

- Lack of Training on Sexual Harassment Awareness
  The data points to the fact that trainings are largely relative and there is no separating the occurrence of awareness sessions and the lack of trainings. With other respondents pointing to the fact that they have no knowledge of any trainings that takes place relating to awareness on sexual harassment either internally, or externally for their institutions.
Even the gender variance is evenly poised between men and women that have some form of awareness sessions on sexual harassment.

- **Lack of Consolidation**
  The study reveals that trainings are largely effective in changing people’s perceptions. However, the worrying trend is that largely, there are no follow up trainings, and further no further trainings. Most people undertake one training and this is hardly sufficient for people to build on experiences and reflect upon their knowledge and attitudes. This makes the trainings seem like routine and by the way sessions, and not a key component in consolidating human rights and eliminating gender-based violence in institutions.

- **Attitude Shift**
  Data shows that the trainings are largely effective as most people report that the trainings have increased their knowledge and awareness on sexual harassment. The study further reveals that most people’s attitudes have changed amongst those that attended trainings. It is also very important to note that amongst this population, there has been increased reporting and decreased occurrence of sexual violence. This points to the fact that the trainings are an effective part in creating awareness and leading to prevention and protection from workplace sexual harassment.

- **Lack of Acknowledgment as a Serious Problem**
  The worrying trend with general attitude is that most people, a majority of whom are men, do not take sexual harassment as a serious issue and threat to human rights to the extent that they trivialize it. This refers back to the laxity in conducting awareness sessions, as for those that attended trainings, the attitude and awareness are largely positive.

- **Knowledge of the Legal Framework**
  There is a high and consolidated knowledge and awareness of the legal framework surrounding sexual harassment. The respondents know that there is legal rules prohibiting sexual harassment and
regulating workplace conduct, and they were able to mention statutory provisions. The worry is that they seem focused on the legislative framework and are not aware of the policy and program interventions emanating from those legislative measures.

The right to a safe work environment stems from ILO Convention No. 155 of 1981, and it is inseparable from the right to work and freedom of association. The basic idea is that at the minimum, institutions should adopt programs that make the environment and conditions of work safe; this is on the basis that workers are among the most vulnerable. This safe environment includes one free of sexual harassment so that women and vulnerable groups can exercise their right to work freely.

Implications on Law, Policy, and Programs

The ILO Convention 190 provides for institutions to provide trainings relating to sexual harassment at their workplaces so that everyone is aware and has free conversations surrounding sexual harassment in institutions. This means that the policy is not adequately adhered to. Further, it means that the law is there, it just needs to be translated into policy and practice on the ground.

This could be the reason why most respondents only know about the statutory framework, and not the specific policies that regulate workplace conduct. This is so because there are not many programs and intervention practices to keep people in the know about rules and policies.

From the data, it is clear that trainings and awareness sessions are proving very effective in shifting the attitudes of people and providing the much needed awareness on issues surrounding sexual harassment in institutions. This has also translated to lower or no cases of sexual harassment in the institutions where the trainings were had. This speaks to the attitude and perspective problem as a key contributing factor to prevalence of sexual harassment; such that any programs designed to shift people’s attitudes would go a long way in reducing the prevalence rate and making workspaces and service institutions a safe place for people.
Further to this, there is clear evidence that people have knowledge about laws regulating conduct and prohibiting sexual harassment. However, most of this knowledge is restricted to legislative framework, without the requisite policy frameworks. This points to a lack of policies on the ground, or lack of sensitization on the policies surrounding sexual harassment. These policies, if adhered to strictly have the potential of translating the law to workable programs on the ground.

This is highlighted by the fact that most men do not acknowledge sexual harassment as a serious problem in their specific institutional setups, when a majority of the respondents point out that they have been harassed before in one way or another. This is due to the treatment that sexual harassment is given in institutions, with outright lack of priority. This is exemplified by the lack of appropriate training, the lack of policy interventions and other programs.

**Recommendations**

- **Introduction of Frequent Training and Awareness Sessions**

  Trainings, where they occur, are highly effective. However, the frequency and extent is wanting. To that end, there is need for policy intervention that would make it a requirement for sexual harassment training at recruitment stage, and further frequent refresher courses to consolidate the knowledge. This would greatly have an impact on the numbers and prevalence of sexual harassment.

**5.4. PREVENTION AND PROTECTION**

**Key Issues**

- **Lack of Protection of Victims and Whistle Blowers**

  The issue arising from the study shows that even though some institutions protect whistle blowers and complainants, the mechanisms in place are lax to an extent. This is indicative of the fact there are poor complaint handling and management systems that end up exposing the complainants and the whistle blowers.
Furthermore, the mechanisms in place do not adequately protect victims or contribute to the lessening of cases, as sometimes as a way of protecting whistle blowers, the perpetrators are just transferred to other duty stations and posts. This means that victims and whistle blowers are still vulnerable to reprisals.

- **Poor Systems in Place to Emphasize on Sexual Harassment**
  A cross section of the data reveals that some people are given orientations at the entry point into the individual institutions. However, sans this, it is clear that there is not enough emphasis in institutions relating to sexual harassment to prevent its occurrence and protect the vulnerable populations identified. This is especially endemic in the service sectors where the client turnover is high and there are a lot of workers.

- **Lack of Policy and Programs in Institution**
  This has been a running theme in the study. Most institutions do not have specialized and institution specific policy statements and programs targeting anti-sexual harassment. Further to this, not many institutions take heed to the national anti-sexual harassment policy to such an extent that the prevalence is high as there are not protection and prevention mechanisms. This is exacerbated by the fact that most institutions do not further have specialized gender and/or anti-sexual harassment handling committees, as most cases are channelled through to generic disciplinary committees, which have no capacity to deal with such issues. This is the case because of lack of specific policies on the ground.

  It is essential that it is in the interests of people who report incidences of sexual harassment to have their issues resolved in a timely and effective manner. The nature of protections afforded in the institutions sampled is lacking, as the punishments sometimes relate to transferring perpetrators, which cannot be an adequate remedy.
Implications on Law, Policy and Programs

Without specific whistle-blower and complainant protection mechanisms, it is difficult to have accurate reporting mechanisms, as people would fear reprisals from perpetrators if they were to report where their identities are likely to be revealed. This has implications on reporting and points to lack of comprehensive whistle-blower protection mechanisms.

Recommendations

The line ministries should develop sector specific complainant/whistle blower protection policy and ensure that it is publicized in the institutions and among its officers who handle complaints. This can be done through programs like orientations, and periodic trainings for such officers. This will also require the MHRC to take an advisory role on the development of the policy and programs.

5.5. REPORTING: STRUCTURE, PROCEDURE AND COMPLAINTS MANAGEMENT

Sexual harassment handling structures:

Issues

• Extent of reliability of internal structures in handling sexual harassment cases

• Unavailability of sexual harassment handling structures in some institutions.

The key right at stake here is the right of access to justice under section 41 of the Constitution. At the minimum core the right entails that there is the availability of systems, procedures, information and locations used in the administration of justice i.e. (disciplinary committees, Constitutional bodies i.e. Ombudsman, Malawi Human Rights Commission etc. as well as the Courts); that the structures are functional in terms of their competence or jurisdiction at law to adjudicate over a matter and that they are effective in the sense that there are capable of offering adequate legal remedies. Where the structures are not available at all then the aspect of accessibility as a component of the right of access to justice is defeated. Further, the overreliance on the internal administrative structures in handling sexual harassment cases brings
into question the issue of the extent of competence of the structure to handle cases when the criminal threshold of sexual harassment cases is considered. Ultimately, this affects the effectiveness aspect of the remedies provided as to whether they adequately and satisfactorily address the wrong suffered by the victim.

**Implication on policy, law, and program**

The data reveals a policy implementation gap from what is provided in the general Constitutional and statutory legal framework for administrators to incorporate competent structures into their institutional sexual harassment handling structures.

Reporting forms the inception point of dealing with sexual harassment cases. The presence of handling structures is key to offering victims of sexual harassment with a readily available avenue to redress. These structures ought to be sufficiently predisposed to offering an effective remedy. While it is appreciated that internal sexual harassment structures form an integral part to the overall structure, an over-reliance on such structures raises a serious implication. The internal structures themselves may be prone to abuse. In such structures it is the administrators that have the discretion to decide whether the nature of a case warrants it to be dealt internally or to be referred to external structures as the police or courts. Due to factors such as undue influence, coercion and collision etc, an administrator may abuse their discretion by deciding to deal internally with a serious sexual harassment case requiring the attention of more competent public law body. In such case the remedy is unlikely to be effective.

**Recommendations**

- A policy incorporation and implementation program by administrators of external structures into the internal sexual harassment handling structures
- MHRC should develop a sector based responsive sexual harassment handling structure.

Since sexual harassment cases cut across diverse spheres i.e. schools, workplaces, businesses etc. (e.g. NCHE Higher Education Policy specific to higher education institutions). One handling structure fits all approach
may not be ideal. There is need for a comprehensive but a sectoral responsive reporting and complaints handling system which takes into account the peculiar demands of each sector in respect to sexual harassment cases.

- There is need for adequate monitoring on the operations and competence of the internal handling structures by the MHRC as the watchdog to check against administrators abuse of discretion

**Reporting procedure**

**Key issues:**

- Preferred mode/method of reporting incidents of SH
- Victim and whistleblower protection

The right to privacy is provided under section 21 of the Constitution. One of the minimum thresholds of the right to privacy is that it protects one’s reputation, honour and identity. Paragraph (c) makes reference to interference with private communications as an infringement of the right. The Human Rights Committee has held in that regard that communication privacy is intended at upholding the integrity and confidentiality of correspondence. Confidentiality of identity is thus a key component of the right to privacy. A reporting mechanism whose procedures seriously compromise the confidentiality of victims and whistleblowers is unlikely to be effective in dealing with sexual harassment cases. The data has revealed that some persons prefer writing as a method of reporting as it offers higher probability of protection. Verbal reporting on the other hand somehow compromises the protection of whistleblowers and victims alike for fear of reprimands. That raises key privacy issues. This also compromises other rights such as right to a safe working environment (section 31) as well as freedom of expression and access to justice discussed above.
Implication on law, policy or program

The issues point to a gap in policy intervention to develop reporting procedures that are secure and adequate in protecting victims' and whistle blowers' identities.

A secure procedure that protects the identities of reporting personnel ensures that affected parties and whistleblowers have an incentive to report as many incidents of sexual harassment as possible. It is also a means of equalizing the power dimensions between the usually more powerful perpetrators at the expense of the less powerful victims. A victim is empowered by having to lodge a complaint against a powerful perpetrator without fear of falling into jeopardy through a reporting procedure that secures their identity.

The data has revealed that the current procedural modes of reporting offer few options to which a victim or whistleblower can utilize in that respect. The options largely alternate between writing and verbal. Further to that amongst the options only writing seems to be more secure to protect the victim. This poses a serious implication. This mode is better suited to sectors where literacy is high i.e. schools, formal working sectors etc. than the informal sectors where literacy levels are generally i.e. estates. This has the effect therefore of discouraging reporting of victims or whistleblowers who may wish to have their identities protected using the said secure mode of reporting.

Recommendations

• The MHRC should develop a reporting procedure policy that implements the legal requirement under section 7(1)(vi) of the Gender Equality Act that working institutions should designate a person outside the line of management to whom victims of sexual harassment may approach in confidence for advice and counselling

• Program interventions to strengthen and enhance the current modes of reporting in the procedure that they become more victim and whistleblower friendly in terms of protection and take into account the literacy and social factors
• Increase the procedural modes of reporting beyond the traditional verbal-writing divide i.e. toll free lines.

The third focus area is to whom are cases of sexual harassment reported

Issue
• Power dimensions i.e. reporting of sexual harassment largely influenced by rank of perpetrator.

The key right affected in this regard is the right to equal and effective protection under the law in the general realm of equality and non-discrimination under section 20(1) of the Constitution. Further, section 7(1)(d)(iii) of the GEA obliges to protect employees against victimization and retaliation for lodging grievances. By only protecting victims reporting against perpetrators who are of low cadre at the expense of reporting against perpetrators of senior rank affects the equal and effective protection of every person.

The fourth focus area was the complaints management mechanism

Key Issues identified:
• Procedural inadequacies in the complaints handling structures
• Technical barriers in the system procedures
• System inefficiency to assist victims

The right to an effective remedy is provided under section 41(3) as read with section 46(3) & (4) of the Constitution. An effective remedy is one which is available, accessible, and capable of redressing the wrong at hand. Further, there must be no impediments including procedural obstacles in accessing the remedy. Under the spectrum of international human rights law, the idea of effective remedies does not preclude non-judicial remedies—such as administrative appeals and reviews and national human rights institutions. This right thus envisages the availability of an adequate and satisfactory remedy to deal with a wrong suffered. The data reveals that most institutions do not have a set procedure relating aspects such as appeal or review. A system that does not
provide for adequate procedures is unlikely to provide a remedy that satisfactorily deals with the wrong at hand. For institutions that had such avenues it was indicated that the cases are usually referred to many departments which usually prolongs the process hence being a technical barrier to obtaining an effective remedy.

**Implications on policy, law and program**

The findings point to an inadequacy in policy in setting out how the complaints management mechanism of sexual harassment cases are to function. The absence of sexual harassment specific policies in institutions is a failure to implement the legal requirement under section 7(1)(d) (ii) of the GEA which obliges employers to deal seriously, expeditiously, confidentially with all allegations of sexual harassment in their institutions.

Lack of a defined procedure on how the complaints should be handled in most structures means that there is uncertainty, inconsistency and non-uniformity in the procedure followed. There are therefore no definite follow up procedures relating to appeals, reviews or time limits within which the cases should or are expected to be dealt with. This in part emanates from the fact that most of the utilized structures are informal and largely administrative in nature and operation. For the most part, therefore, sexual harassment issues are dealt with informally and with little or no overarching supervisory mechanism from the mainstream formal establishments. The supervision may relate to issues of efficiency and effectiveness of such structures and the extent to which formal laws are taken into account in the process. The absence of anti-sexual harassment specific policies in most institutions which would easily set out the said procedures further compounds the problem.

**Recommendations**

- Administrators of institutions should develop and maintain a definite but simple and adequate complaint management mechanism in terms of the procedures to be followed when managing cases.
- An enforcement policy mechanism specifically for administrators on their duty to develop and maintain a reporting and complaints mechanism that is effective. In that regard formal training initiatives
are key to retrenching and imprinting this duty on the relevant stakeholders

- There is need also that the handling mechanisms be handled by people who are well trained and the composition take into account factors such as gender and disability to be more inclusive.

5.6. DISPUTE RESOLUTION

Focus Area: Availability of dispute resolution bodies handling sexual harassment cases

Key issues

- Accessibility (formal and informal) bodies
- Sector variations on choice of dispute resolution bodies

The right of access to justice and effective remedy as well as equal and effective protection under the law under section 41 and 20(1) of the Constitution entail accessibility, adequate and fitting redress as well as equality are at the core of the respective rights. The data has revealed sector disparities in terms of choice of dispute resolution bodies. A majority of the respondents are familiar with internal bodies such as disciplinary committees etc as opposed to external bodies i.e. Ombudsman and Courts. This then has an impact on the adequacy of the remedies that are obtained from the two bodies. In turn, it is unlikely that victims from the different sectors may obtain the same level of effectiveness in terms of protection under the law as envisaged under section 20 of the Constitution.

Implication on law, policy, and program

Technicalities in the law may be an attributive factor in the accessibility of formal resolution bodies. The issue of standing for example may be problematic as regards whistleblowers capacity competence to initiate dispute resolution proceedings. The implication is that the law is overly rigid in terms of technical demands and therefore needs relaxing. Further, lack of knowledge and information about the existence and operations of formal resolution bodies may also be a contributing factor and that points to an awareness programs intervention gap.
Accessibility forms a critical aspect of the right of access to justice. This is in respect to the procedures that may be involved in its pursuit as well as availability of information about the existence of the relevant institutions and bodies. A bulk of the disputes are handled by the informal dispute resolution bodies. Other than simplicity, some reasons may be attributed to the complexity of procedures in most formal dispute resolution bodies. Another reason may go to an information and knowledge gap about the existence of a particular dispute resolution body and its mandate of operations. Victims may also want to avoid publicity and exposure by avoiding the mainstream resolution mechanisms. In that respect therefore the availability aspect of the right of access to justice is affected.

**Recommendations**

- The law needs to be amended relaxing the legal and technical requirements to improve accessibility to external dispute resolution bodies for sexual harassment victims and whistleblowers.
- There is need for programs intervention aimed at raising awareness of the existence and operationalization of external dispute resolution bodies in all sectors.
- Reinforcing ‘safety shields’ strategies to as much as possible avoid the publicity of victims of sexual harassment in the formal bodies.
  
  For example, section 71A of the CP & EC empowers a court to make an appropriate order aimed at protecting the privacy of a victim of a sexual offence when giving evidence. A strategy akin to this may be employed when dealing with sexual harassment victims.

**Resolution of reported sexual harassment cases**

**Key Issues**

- Lack of reporting
- Power imbalance
- Lack of follow up procedures for victims on case management and disposal
Section 41(3) of the Constitution and the attendant statutory legal framework, envisages a system where there is a final settlement of legal issues and access to an effective remedy when rights guaranteed under the Constitution are violated. The gaping reality between the reported cases and the concluded cases or follow up procedures mean that the overall dispute resolution is inefficient and ineffective to provide the necessary remedies needed.

**Implication on policy, law, and program**

The law as well as policy guidelines and standards enjoin dispute resolution structures to disposal of cases to the satisfaction of all parties. The delinquency in the resolution of disputes therefore points to a practical implementation problem of such legal and policy requirements by the existing dispute resolution bodies.

Underreporting of sexual harassment cases which in turn leads to fewer cases being resolved points to a lack of institutional and policy safeguards in dispute resolution mechanisms that guarantees security and personal welfare to the victims of sexual harassment when faced with cases involving senior personnel.

This has a further impact on personal liberty. This connotes the freedom of an individual to pursue a course of action without fear of impediments and reprisals. Policies to ensuring that a person’s security in terms of either their job or status (i.e. student) is well protected when they have suffered sexual harassment at the hands of very duty bearers in their institutions and they wish to make a complaint against them are necessary to secure that liberty. When victims of sexual harassment fail to do so for fear of being ridiculed, side-lined, fired or expelled altogether then this has a negative impact on the zeal and will to report such malpractices. The safeguards are even more important when the power imbalance and unequal relations between victims of sexual harassment and their perpetrators is considered.

**Recommendations**

- Practical interventions by human rights watchdog bodies such as the MHRC aimed at ensuring that institutions are resolving sexual harassment cases.
For example, requiring that an institution records any sexual harassment related dispute in a designated record book for a periodic audit on the progress of the case by the MHRC.

- Strengthening the victim and whistle blower protection mechanisms to encourage culture of reporting which would result in most cases being resolved
- Develop and maintain victim friendly case resolution follow up procedures to empower victims to insist on their right to an effective remedy

Focus area: Limitation period for handling sexual harassment cases

Issues identified

Timelines and procedural inadequacies in handling sexual harassment cases: The effectiveness of a remedy is dependent on how quickly it responds to and addresses the wrong suffered. A prolonged and dragged handling of a sexual harassment case may fail to adequately compensate the damage suffered by the victim hence an abridgment on the right to an effective remedy.

Implications on law, policy or program

The law lacks definite time limit requirements within which a sexual harassment cases are to be resolved. There is therefore a gap in the law. In handling sexual harassment cases, time is of essence. Time is of critical importance in relation to Issues such as evidence as well as witnesses. Victims may also get discouraged and refuse to proceed with pursuing the case if the cases take too long to be resolved. Further to that where cases are resolved within shorter and reasonable periods, the healing and restoration process for victims is also likely to begin sooner. All these considerations tend to affecting the effectiveness of the remedy the victim secures in respect to the wrong suffered. Undefined or long time limits for resolution of disputes also act as a stumbling block or barrier to accessing justice for it is generally understood that justice delayed is justice denied. The right of access of justice is also affected in that regard.
Recommendations

• The law in terms of the GEA should make definite and procedurally binding time lines on administrators and key stakeholders in the different sectors within which sexual harassment cases are to be resolved.

Effectiveness of dispute resolution mechanisms

Issues

• Length of time taken to resolve sexual harassment cases
• Influence/power implications of perpetrator on effectiveness of mechanism

The data reveals that resolving disputes within the shortest period registers a high level of satisfaction in terms of effectiveness of the dispute resolution mechanism. It follows therefore that the longer it takes for a system to resolve cases the less effective it is to give a proper remedy as required by law. Further, it has been revealed that the mechanisms are less effective where the perpetrator involved are influential persons or managers. That power imbalance consideration means that while the system is likely to be effective in respect to victims whose perpetrators are of a lower cadre, there would inequality in respect to the protection given to victims whose perpetrators wield power and influence. That compromises the right to equal and effective protection under the law.

Implications on law, policy or program

Effectiveness of a dispute resolution mechanism is largely an issue of practice i.e. how cases are being handled and disposed of by the relevant stakeholders. There is therefore a practical implication on the system’s effectiveness.

Recommendations

• Incorporation of practical safeguards into the handling of sexual harassment cases i.e. making provisions for recusal in cases of manifest bias and conflict of interest by a decision maker.
• Time limits procedural requirements (refer to recommendation in preceding focus area)
5.7. VICTIM/COMPLAINANT SUPPORT SYSTEM/REMEDIES

Focus area: Victim Support Services for Sexual Harassment Victims

Issues
- Lack of qualified personnel to offer victim support counselling services
- Lack of Knowledge about existence of victims support services

Two key rights affected by the above issues are right to an effective remedy and right of access to justice. Having a qualified personnel is a prerequisite to obtaining the appropriate counselling services by a victim of sexual harassment. This speaks volumes as to whether or not the remedy obtained by the victim is adequate. Where therefore qualification of personnel offering counselling services to victims in the system is in great doubt the right to an effective remedy is affected. Further, the data revealed that a considerable number of respondents are not aware of any support service given sexual harassment victims. Lack of knowledge in turn has an adverse effect on the right of access to justice.

Implication on law, policy or program

Lack of qualified counselling personnel as well as the knowledge gap on the existence of victim support services point to a problem of programs implementation in terms of training and awareness initiatives by duty bearers i.e. Administrators.

Given that counselling is the most common victim support service provided, issues of qualification of counsellors are very important. Lack of qualified counsellors to offer counselling as a support service has a serious impact on the victim support system. Such system is rendered inefficient to cater for victims needs and support as it is inconceivable that in such an arrangement the support offered would be fitting and proper and one that resonates with the harm suffered by the victim. Further, lack of knowledge about the victim support services is as good as the services being non-existent and therefore a denial of both justice as well as an effective remedy.
Recommendations

- Need for capacity building for people who handle sexual harassment cases.
  This would involve rigorous training exercises to build a qualified personnel system that is ably and sensitively responsive to sexual harassment issues.
- Ramping up of awareness and civic education programs aimed at bridging the knowledge gap between victims and existence of victim support services.

Focus area: Remedies available for victims of sexual harassment cases

Issues

- Element of enforceability of remedies
- Lack of knowledge about available remedies

The effectiveness of a remedy is dependent on whether it offers prospect of success. Enforceability offers a prospect whether a remedy will be successful or not. Accordingly, lack of assurance that a remedy given will be enforceable means that the remedy is defective hence ineffective. Where that prospect is dependent on whether the remedy has been given in a formal or informal system then it means that the right to an equal and effective protection under the law is in jeopardy.

Implication on law, policy or program

There is legal gap on enforcement of remedies given in internal victim support services.

Remedies without any force of enforcement are a nullity. Remedies have to be insisted on the perpetrator by obligation and not as a matter of choice. For that to happen there is need for adequate backing of the law in all spheres within which they are granted. The discussion as to lack of awareness about available remedies resonates more or less with the one on the lack of knowledge of victim support services in the preceding focus area. Suffice to say, a victim may resort to less fulfilling remedy when a more fitting remedy would have addressed their case had they known of its existence. The right to an effective remedy is affected in that case.
Recommendations

• The law should be amended within hierarchical and qualified boundaries so as to arm the remedies given by all resolution bodies, whether internal or external, with the necessary enforcement power

• The recommendation on ramping up awareness campaigns in respect to the preceding focus area applies here as well.

Focus area: External support available for the fight against sexual harassment

Issues

• Lack of external support in terms of materials and finances

• Institutional non-allocation of funds or budgetary support for the fight against sexual harassment

Where there is lack of support in terms of material and financial external support, it is unlikely that there would be available, functional and effective sexual harassment institutions which impacts on the right of access to justice and an effective remedy.

Implication in law, policy or program

Sexual harassment policies generally overlook the issue of both internal and external financial and material support in the fight against the vice. There is therefore a policy gap in question.

A victim support system that is not well-funded is not likely to effectively handle cases. Issues of training of staff and hiring of expatriates in that respect require resources. This also extends to the actual handling of the cases from investigation to disposal. The need for external support in institutions cannot therefore be overemphasized. Further, there is need that the institutions themselves commit their own resources into a separate fund in that same respect. Where an institution fails to do that it not only has an impact on the fight but it also reveals the institutional attitude about sexual harassment issues.
Recommendations

- Developing a comprehensive policy mechanism aimed at increasing outside material and financial support by revealing the far-reaching consequences of sexual harassment across sectors.

Focus area: Organisations providing external support in the fight against sexual harassment

Issues

- Extent of involvement of Constitutional and Human Rights Bodies as external bodies in the fight against sexual harassment.

Right of access to justice is affected where bodies tasked with supporting and protecting victim’s rights are less involved in that process. The data has revealed negligible percentage or inadequate involvement of both the MHRC and the office of the Ombudsman in the external support for the fight against victims of sexual harassment.

Implication on law, policy or program

There is a practice enforcement flaw in the Constitutional Bodies’ duty to render external support to institutions in the fight against sexual harassment.

The right to access of justice entails that bodies given the mandate to insist on its realisation and protection are duly in exercise of the same. This is to enable those affected to have as much access to justiciable remedies as possible. The data has indicated that it is the police that provides most of the external support to victims. The problem with that is that not only is the police itself tainted in incidents of sexual harassment of its own but also it is unlikely to be of effective assistance in all spheres. That calls for such bodies as the MHRC to take up its mandate as failure to do which amounts to an abdication of duty.

Recommendations

- The office of the Ombudsman and the MHRC need to enhance efforts in extending external support to as many victims as possible.
5.8. SANCTIONS AGAINST OFFENDERS

Focus area: Sanctions imposed on sexual offenders

Issues

• Victim centred sanctions
• Adequacy and effectiveness of imposed sanctions

Sanctions that focus wholly and exclusively on the offender ignoring the victim are unlikely to adequately address the harm suffered thereby jeopardising the right to an effective remedy.

Implication on law, policy and program

There is an overemphasis of punishing the offender in the laws and policies dealing with resolution of sexual harassment disputes. This in turn has influenced and translated to what obtains in practice. The implication is therefore on all three aspects.

Remedies are meant to restore the victim as much as possible to their original position before the harm occasioned. This points both to the fact that the remedy focuses on the victim as much as it focuses on the offender. That factor also determines the adequacy of the remedy given. The data however reveals that the sanctions imposed almost exclusively focuses on punishing the offender and ignores the victim. While the victim may gain some satisfaction via those sanctions, it is unlikely to be adequate to impact directly by virtue of the harm suffered. This therefore impacts on the right to an effective remedy which has to be adequate i.e. punish the offender as well as address the harm suffered by victim directly on them.

Recommendations

• The need to amend the law and the attendant policy requirements to include victim centred sanctions such as compensation and apologies against offenders of sexual harassment in the general realm of sanctions against offenders
Focus area: Sexual harassment offender-rehabilitative services

Issues Identified

The major issue relates to lack of rehabilitative mechanisms against offenders who have been found guilty of sexual harassment. The data has revealed that most offenders are given punitive sanctions i.e. dismissals, demotions, transfers etc. but there is lack of rehabilitative measures to reform them for their actions.

Equal and effective protection of the law. The non-discrimination clause under the Constitution seeks to extent its protection to all sundry; victims and offenders alike. Where the system therefore ignores the plight of the offenders in as far as rehabilitation is concerned the right to equal and effective protection is compromised.

Implication on Policy, law or program

The general legal framework on the handling of sexual harassment cases focuses on provision of remedies to the victim and almost invariably ignores the reformation of the offender. Neither the Constitution at the general level nor the GEA in particular makes provision for structures that would facilitate the rehabilitation of a perpetrator found guilty of sexual harassment for a possible re-integration into the system and society as a whole. This points to a gap in the law itself.

A system of handling sexual harassment issues that is overly concerned with retribution and deterrence of the offenders is unlikely to be effective. This would be in two dimensions. Firstly, instead of dealing with the actual factors i.e. prejudices, harmful cultural and societal attitudes as well as socialization etc. undue attention would be on the offender who also in a way is a victim of the said influences and mentioned factors.

Secondly, such system would also be looked at as a reflection of anger and systematic targeting of a particular group than actually a remedial structure meant to correct the situation. This may even indirectly perpetrate some sort of retaliatory acts of sexual harassment as an equalizing or balancing factor.

Recommendations

• Enacting provisions in the GEA that focus on the rehabilitation and reform of the offender
• Adopting a comprehensive approach in dealing with sexual harassment cases.
This essentially means not just focusing on the victims but also taking steps to engage with the offenders so as to deal with the underlying causes of sexual harassment.
• There is need for special rehabilitative programs targeting offenders aimed at breaking the cycle of repeated offending and transformation.

5.9. INSPECTION, DATA BASE AND RECORD KEEPING

Mandate, Scope and Purpose of Labour Inspections

Key Issues
• Mandate of labour inspection
• Scope of labour inspection
• Purpose of labour inspections

The mandate, scope and purposes of labour inspections impacts the right to dignity provided for under section 19(1) of the Constitution. This right entails that human beings should not be treated in a manner that degrades and humiliates them, treated as inferior in status to others, made subject to the arbitrary will of others, and deprived of control over their own lives. Another right negatively affected is the right to safe labour practices guaranteed by section 31 of the Constitution. This right entails that workers must be protected from injury to health arising from the workplace or in the course of their employment.

Implications
The LAW adequately provides for the mandate of inspectors citing the Ministry responsible for labour, through the labour office and the Malawian Human Rights Commission as duty bearers under section 6 of the employment Act and sections 8 and 9 of Gender Equality Act respectively. This mandate subjects all employers in all sectors; public and private, and in all types of employment; formal and informal. In practice, however, where labour inspections are conducted, they are focused in the industrial sector excluding the informal employment.
sector such as markets and sex worker workplaces such as bars and public institutions that offer services like schools and hospitals. Further, law and policy do not provide that the scope of labour inspections shall include conditions of work relating to sexual harassment. The law only provides for the inspection of plants and machinery and the prevention and regulation of accidents.

Lack of a properly defined scope and purpose of labour inspections creates an environment where people are not protected from sexual harassment. Where inspections include the conditions of work relating to violence at work including sexual harassment, proper interventions are made to address gaps in law and policy which hinder zero tolerance to sexual harassment initiatives. This requires that inspections be done in all sectors, public and private, and in formal and informal workplaces.

Recommendations

- The law (Occupational Safety and Health Act) must be amended to explicitly broaden the scope of inspection to include all conditions of work relating to sexual harassment
- The Malawi Human Rights Commission must extend its watchdog role to ensure inspections are conducted effectively and across all sectors.

Structure and Organisation of Labour Inspection Systems

Issue:

- Structure of the National Labour Inspection System

The right to safe labour practices places the duty on the state to ensure that this right is protected and enjoyed by all citizens. In addition to the state’s obligation, an employer has the duty to establish systems, procedures and mechanisms for monitoring and promoting occupational safety.

The duty to ensure the enjoyment of the right to safe labour practices lies on the state. The central authority of the state includes that standards of labour inspections are adhered to at institutional level. Central authority overseeing inspection also ensures coordination
among inspecting authorities which effectively promotes zero tolerance to sexual harassment. It further promotes coordination among institutions which avoids multiplicity of inspection thereby efficiently utilising the minimal resources available. However, law and policy does not provide for the structure and organisation of labour inspection system where a central authority oversees all labour inspections conducted by other inspectorate bodies.

Recommendations

• The law must be amended to provide for a National Inspection System where the central inspection authority to oversee all labour inspections.
• MHRC guidelines must provide for a comprehensive inspection structure for organisations, specifying powers, duties and obligations of inspectors at all levels.

Labour Inspectors’ Status and Careers

Issue:

• Independence and Impartiality of Labour Inspectors

The right to fair labour practices guaranteed under section 32(1) of the Constitution relates to all aspects of the employment relationship ranging from recruitment, probation and confirmation to trainings, promotions, disciplinary procedures, remuneration, increments and other employment benefits, and termination of employment and is applicable to all workers including inspectors.

Implication

The law provides for general conditions of work which assures fair labour practices that cut across all forms of employment under the employment Act and it specifically creates an offence of obstructing a labour officer under section 20 of the Act. However, there is a gap in implementation of these standards on terms and conditions of work of labour inspectors, most of whom are considered as lacking independence to effectively carry out their mandate.

Lack of independence and impartiality of labour inspectors affect the
quality of inspection they conduct. They are prone to corruption and dishonesty which affects the quality of inspections and reports. It is important that the labor inspector’s conditions of work are adequately regulated because zero tolerance to sexual harassment significantly depends on the process of inspection and quality of reports.

Recommendations

• The Ministry of Labour and the Human Rights Commission must put in place strategies that will monitor and support labour inspectors to make sure they work in an independent and impartial manner.

Enforcement Measures

Issue

• Availability of potential penalties relating to employers’ noncompliance.

Victims of sexual harassment’s right to an effective remedy guaranteed by section 41(3) of the Constitution is affected non compliance to set standards and practices. This right entails that there should be an effective remedy available for violations of human rights. An effective remedy is one that is available, accessible, and capable of redressing the violation at hand, or preventing the occurrence or continuation of the violation.

Implications

Redress powers of labour inspectors provided for under section 9 of the Employment Act does not provide remedies related to sexual harassment at workplace. It only relates to remedies related to unsafe plants and machinery and other conditions relating to accidents in workplace.

Since the law does not provide for the scope of labour inspections to include conditions of work relating to sexual harassment, the same is reflected in the remedies that these inspectors have powers to provide. The orders that inspectors make are limited to plants and machinery and not to sexual harassment conditions of work. Lack of labour inspectors orders or remedies against employers’ noncompliance in creating a safe working environment free from sexual harassment violates the right
to effective remedy of victims of sexual harassment because future abuse is not prevented.

**Recommendations**

- Law and policy must be amended to include conditions of work relating to sexual harassment within the scope of labour inspections which must include remedies that inspectors may provide relating to breach of employers duty to create a safe environment free from sexual harassment using a range of actions and to effectively coordinate with employers and workers and their representatives to secure compliance.

---

### 5.10. RESOURCES: FINANCIAL AND HUMAN RESOURCE

**Financial Resources**

**Issue:**

- **Gender Responsive Budgeting**

  The right to Safe Labour Practices puts the duty on the state to ensure that this right is protected and enjoyed by all citizens. In addition an employer has the duty to establish systems, procedures and mechanisms for monitoring and promoting occupational safety. Victims of sexual harassment’s right to an effective remedy guaranteed by section 41(3) of the Constitution is affected by financial resources. This is because an effective remedy should be available, accessible, and capable of redressing the violation at hand, or preventing the occurrence or continuation of the violation.

**Implications**

The National Gender Policy has given the Ministry responsible for finance the responsibility to allocate adequate financial resources for the implementation of gender activities. However, there is a gap in practice as the resources allocated are not adequate. Financial resources for implementation of sexual harassment related activities are also not adequate at institutional level in relevant Ministries and institutions.
Successful implementation of law and policy provisions that ensure zero tolerance to sexual harassment tremendously rely on the availability of resources. Law and policy provisions may be adequate but if adequate resources are not available to put law and policy in action, zero tolerance to sexual harassment cannot be achieved. This may result in high cases of sexual harassment which violates workers’ right to safe labour practices and the right to an effective remedy.

Recommendations

- The Malawi Human Rights Commission must ensure awareness on the gender impact of budgeting both at national, institutional and departmental based on proper awareness tools that reflect national and institutional economic and social realities.

- All institutions must adapt the three levels of gender budgeting in allocation of funds at all projects. That is, analysis of the budget from a gender perspective, restructuring the budget based on gender analysis and mainstreaming gender as a category of analysis in the budgetary processes.

- Government and all institutions must be made accountable for their gender and sexual harassment budgetary commitments.

Human Resources

Issue

- Capacity Building

The law and policy adequately provides for capacity building in achieving zero tolerance to sexual harassment. Under the GEA, Section 9 and 10 sets out powers and duties of the Malawi Human Rights Commission in relation to gender equality. These powers and duties include developing working relationships with international partners, civil society organizations and non-governmental organizations devoted to protecting and promoting gender issues. The duties of these partners include sensitization campaigns and other interventions aimed at prevention and responding to sexual harassment in institutions. The National Gender Policy also provides
for awareness and training by assigning tasks to different ministries and institutions. However there is a gap in implementation due to lack of resources. There is a need for competence in handling sexual harassment cases as it encourages reporting and achieves deterrence. Competence in handling sexual harassment cases also avoids re-victimization of victims of sexual harassment, ensures victim support and ensures effective remedies for victims. Lack of resources for capacity building in handling sexual harassment issues affects reporting and prevention of sexual harassment because of the incompetence in the handling of the cases.

**Recommendations**

- Adequate resources must be allocated for capacity building of all those who handle sexual harassment cases in public and private institutions.
- Efficiency in utilising resources must be encouraged.
- Training programmes must be evaluated for relevance and impact.

### 5.11. MONITORING, EVALUATION AND COORDINATION

**Monitoring and Evaluation**

**Issue**

Effective guiding Principles of Monitoring and Evaluation

An employer has the duty to establish systems, procedures and mechanisms for monitoring and promoting occupational safety.

**Implications**

At national level, the Gender Equality Act and the National Gender Policy provide for monitoring and evaluation aimed at achieving zero tolerance of sexual harassment. Section 9 and 10 sets out powers and duties of the Malawi Human Rights Commission in
relation to gender equality which include, among others, monitoring and evaluation the policies and practices of governmental and nongovernmental institutions. However, there is a gap to the extent that the principles of monitoring and evaluation are not eraborated in the law and policies.

Guiding principles of monitoring and evaluation ensure effectiveness of the monitoring and evaluation process. They ensure adequate budget so that high quality and appropriate monitoring and evaluation approaches are built into programme design from the start. A gender-responsive approach is adopted by integrating analysis of gender and power relations and using inclusive, empowering methods of monitoring and evaluation and use of methods and tools that encourage active participation.

Recommendations

• The MHRC Guidelines on SH must provide for comprehensive principles and best practices on monitoring and evaluation of sexual harassment activities which shall reflect the socio-ecomonic realities of the country. Institutions must be compelled to adhere to the standards of that policy.

Coordination

Issue

• Organised multi-disciplinary cross-agency approach for responding to gender inequality and sexual harassment.

At a national level, the law and policy provide for the coordination among institutions in projects and activities aimed at achieving zero tolerance to sexual harassment both in private and public sector. The National Gender Policy, different partners, ministries and organizations have been given different tasks relating to the prevention and responding to sexual harassment. These include the Office of the President and Cabinet, Ministry of Finance, EPD, Ministry of Gender, The National Assembly and other institutions. The policy has assigned different tasks to these entities which is aimed at prevention and responding to sexual harassment.
Under section 10 of the Gender Equality Act, the Malawi Human Rights Commission is mandated to develop working relationships with international partners, civil society organizations and non-governmental organizations devoted to protecting and promoting gender issues.

Coordination ensures effective zero tolerance to sexual harassment. It ensures that the standards put in place are applied across all sectors. It also promotes efficiency because it prevents multiplicity of processes which address issues of limited resources. It is therefore important that coordination must be achieved in implementing law and policy for effectiveness and efficiency.

**Recommendations**
- Adequate resources must be allocated to the Malawi Human Rights Commission to ensure that coordinating strategies are achieved.
- Institutions must be compelled to work with the Malawi Human Rights Commission and other institutions in achieving zero tolerance to sexual harassment.

**6. OVERALL CONCLUSION**

The study was aimed at exploring the phenomenon of sexual harassment at the workplace with a specific focus on the understanding of prevalence, attitudes, reporting mechanism and dispute resolution mechanisms within such institutions.

The study has found that most people fully understand the nature of sexual harassment, and its legal definition. This is despite the argument that the legal definition of SH is defective in conceptual grounding and for its emphasis on determining SH from the perspective of the perpetrator.

Furthermore, the study has confirmed that sexual harassment is prevalent, with the most susceptible institutions being service institutions. However, reporting remains low which can be attributed to a number of factors, including dispute handling mechanisms.

It is clear that most managers are aware of laws prohibiting sexual
harassment. The problem is that their knowledge only relates to the legislative framework. There is little to no knowledge of the policy framework; and further people are not trained on sexual harassment issues, despite the fact that training has proven to be an effective tool in reducing prevalence rates and encouraging conversations surrounding sexual harassment.

The problem is further compounded by the fact that institutions simply do not do enough to protect victims and whistle blowers, and this could explain why reporting is low. Most institutions do not have policies guiding conduct and preventing sexual harassment and whistle-blower protection mechanisms. This trickles down to lack of specialized committees within institutions to competently handle complaints.

Further, there is a lack of a comprehensive reporting mechanism and procedure. Sexual harassment cases are treated like regular disciplinary issues and this has implications on the type of remedy that one can get. The lack of effectiveness of the system and remedies further means that people are deterred from reporting.

Another key finding was the glaring lack of victim support systems and remedies within institutions and inadequate guidance from the watchdogs including MHRC to implement the Gender Equality Act, and the Ministry of Labor and other line ministries.

The system is sanctions focused around the perpetrator with limited emphasis on the victim being supported. Further, the punishment perspective means that offenders are not rehabilitated. This creates the likelihood of repeat offenders in their next stations.

The study also found that authorities do not do enough on inspections to assess working conditions and general environment within institutions for their adherence with policy and legal framework on SH.

Another key problem arising is that there are inadequate resources dedicated to the fight against sexual harassment within institutions. A perusal shows that the budgetary allocation is minimal, and a majority of institutions do not set aside budget funds for the program. This means that intervention programs are not adequately undertaken in institutions leading to increased prevalence rates and poor case handling systems.
Lastly, the study has found that monitoring and evaluation programs, despite being key to program formulation and policy evaluation, have not been undertaken adequately in order to inform decision makers on the necessary indicators to help them make informed policy and program decisions.

From a human rights perspective, these findings show that a number of rights have been affected. Among them is the general right to work, to which the other rights speak to. Another key right impacted is that of access to justice and effective remedies. Further to this, ancillary rights like the right to a safe working environment and the right to privacy that have been greatly impacted.

The majority victims of sexual violence are women, often in lower positions socially, with the highest perpetrators being men in higher ranks within institutions. In defining sexual harassment, and its enabling environments, it is important that the law and policies have to be responsive enough to respond to this social phenomenon and reality and ensure that policies are women friendly and women centered.

Sexual harassment is rooted in attitudes and it is exacerbated by power relations. It is more prevalent in institution including education sector and the employment sector. Unless there is enough and vigorous adoption of sensitization within the workplaces, the legal framework alone is not enough to shift people’s attitudes towards sexual harassment. Institutions need to develop their own policies and intervention programs on dealing with sexual harassment, at the root of which is the prevention and ultimate eradication of SH through a cultural shift.

In order to achieve this, an ecosystem and route for remedies should be in place that is specifically targeted at dealing with sexual harassment and gender-based violence, because sexual harassment cannot be separated from the general discourse of gender-based violence and violence in general. Consequently, institutions need to put in place mechanisms that are able to root out the culture of violence in general and its subsets including gender-based violence and sexual harassment.

The key is to change the attitudes and culture within institutions by developing a comprehensive general anti-sexual harassment policy, which will be adopted and adapted by institutions to meet their specific sector needs. The law should be responsive and facilitative for institutions
to commit resources and personnel to dealing with the scourge of sexual harassment at the workplace within their specific institutions.

7. SUMMARY OF RECOMMENDATIONS

Short Term

- The Ministry of Labour should develop systems / guidelines for enhancing transparency in recruitment, service provision, remuneration and promotion in public and private institutions.
- MHRC should develop sector specific and / or update regulations and guidelines on sexual harassment.
- All workplaces should increase orientation programmes on changing people’s attitudes and perceptions towards sexual harassment in institutions.
- Workplaces should develop safe and effective complaint handling mechanisms that do not compromise identities and rights of victims and whistle blowers.
- MHRC should enhance monitoring on the operations and competence of the internal handling structures within institutions.
- Specific institutions should strengthen the victim and whistle blower protection mechanisms to encourage culture of reporting incidents of SH.
- Ministry of Labour should enhance institutional inspections by authorities sector specific watchdogs and the Labour Office inspectors.
- Workplaces should develop functional data base and record keeping programs within institutions.

Medium Term

- MHRC and the Ministry of Justice should champion amendment of Section 6 of the GEA to make the definition of SH conceptually victim centred.
- MHRC should develop comprehensive policy / guidelines that
will provide for alternative reporting structures within institutions as required by the law

- Specific institutions should enhance institutional sexual harassment handling mechanisms that will adequately capture and record data within institutions
- Specific institutions to develop institutional level anti-sexual harassment programs and practices
- Specific institutions to put in place comprehensive dispute resolution mechanisms creating specialized bodies and laying down case handling procedures.
- Specific institutions should enhance capacity building for people who handle sexual harassment cases.
- MHRC should develop awareness and civic education programs aimed at bridging the knowledge gap between victims and existence of victim support services.
- Ministry of Labour should develop a policy that makes it mandatory for institutions to devote resources to anti-sexual harassment programs
- MHRC should develop a model monitoring and evaluation tool encompassing principles of monitoring and evaluation of sexual harassment.

**Long Term**

- MHRC, Ministry of Gender and Ministry of Justice should champion the development of workplace whistle-blower protection laws
- Constitutional bodies (e.g., MHRC, Office of the Ombudsman) to heighten interventions and provide support for anti-sexual harassment programs
- MHRC, Ministry of Gender and Ministry of Justice should facilitate adoption of new law that focuses on the victim and is compensatory and rehabilitative in nature
- MHRC and the Ministry of Labour should facilitate an amendment of the law to explicitly provide for scope of inspection which shall include all conditions of work relating to sexual harassment
MALAWI HUMAN RIGHTS COMMISSION (MHRC)

SEXUAL HARASSMENT AT THE WORK PLACE

DISTRICT LABOUR OFFICE

(INSPECTIONS, DISPUTE SETTLEMENT AND REGULATOR)

Date: ..............................................................................................................................................

Time: (Start and finish)....................................................................................................................

District: ...........................................................................................................................................

Institution: ........................................................................................................................................

Interviewer: ......................................................................................................................................

Respondent(s): ...............................................................................................................................

Position (Description): ....................................................................................................................

Male or Female.................................................................................................................................

*INTRODUCTION

*CONFIDENTIALITY / PRIVACY

*CONSENT

*If question is not applicable indicate why.
A. SCOPE AND NATURE OF SH
1. What is your understanding of sexual harassment? Give examples

B. EXTENT AND PREVALENCE OF SH
2. What are the most common forms of sexual harassment from reported cases? Against who?

3. Who are the perpetrators?

4. How prevalent is sexual harassment (in which organisation / institution? Why? *(Perception on how big sexual harassment is an issue)*

C. AWARENESS OF SH: KNOWLEDGE AND ATTITUDES
5. What is your source of information on sexual harassment?

6. What are staff’s attitudes on sexual harassment in institution that you inspect? *(Male / Female)*

Which laws and regulations that prohibit SH are you aware of?

D. INSPECTIONS DATA BASE AND RECORD KEEPING
7. How often are labour inspections conducted? At which institution? By who?

8. Do the labour inspections include assessing how safe the work environment is with regard to sexual harassment?

9. Are there records/ a data base of complaints lodged and number of cases handled by the labour office on SH? If not, why?
PREVENTION AND PROTECTION
10. How are complainants and whistle blowers protected by your office after reporting cases of sexual harassment?

E. REPORTING: STRUCTURE, PROCEDURE AND COMPLAINTS MANAGEMENT
11. Describe the sexual harassment case handling structure at the Labour office. (Who or which body / committee)

DISPUTE RESOLUTION
12. What dispute resolution bodies are available in handling sexual harassment cases, both formal and informal?

How effective is the dispute resolution mechanism?

F. VICTIM / COMPLAINANT SUPPORT SYSTEM AND REMEDIES
13. What victim support services are available for sexual harassment victims?

14. What remedies are available for victims of sexual harassment? (Both civil and criminal / internal or external)

15. What external support is there in the fight against sexual harassment? From who or which organisation)

G. SANCTIONS AGAINST OFFENDERS
16. What sanctions / punishment are imposed on sexual harassment offenders?

17. What rehabilitative services are there for offenders that have been found guilty but are not dismissed?

H. RESOURCES: FINANCIAL AND HUMAN RESOURCE
18. Is there a budget line for gender and anti-sexual harassment to support inspection or handling of anti-sexual harassment activities? Is it adequate? If no budget, why?
19. What is the capacity of designated staff to inspect or handle sexual harassment as a health and safety issue at the workplace? If low, what needs to be done?

I. GAPS, CHALLENGES AND SOLUTIONS

20. What are the gaps and/or challenges you are facing in ensuring zero tolerance to sexual harassment at the workplace? (list down, probe more information on each point)

21. What are the solutions to the challenges?

END

THANK YOU!

*EXIT FORMALITIES
MALAWI HUMAN RIGHTS COMMISSION (MHRC)

SEXUAL HARASSMENT (SH) AT THE WORK PLACE

“THIRD PARTIES”

(STUDENTS / PATIENTS GUARDIAN/ CLIENTS/ CUSTOMERS)

Date: ...................................................................................................................................................

Time: (Start and finish) ............................................................................................................................

District: ................................................................................................................................................

Institution: ...........................................................................................................................................

Interviewer: ...........................................................................................................................................

Respondent(s): ....................................................................................................................................

Position (Description): ............................................................................................................................

Male or Female......................................................................................................................................

*INTRODUCTION

*CONFIDENTIALITY / PRIVACY

*CONSENT

*If question is not applicable indicate why.
A. SCOPE AND NATURE OF SEXUAL HARASSMENT (SH)
1. What is your understanding of sexual harassment? Give examples

2. Have you ever experienced sexual harassment at your institution? Explain how and by who.

3. Has anybody you know ever experienced sexual harassment at this institution? Explain

B. EXTENT AND PREVALENCE OF SH
4. What are the most common forms of sexual harassment? Against who?

5. Who are the perpetrators?

6. How prevalent is sexual harassment in your organisation / institution? Why? *(Perception on how big sexual harassment is an issue)*

C. AWARENESS OF SH: KNOWLEDGE AND ATTITUDES
7. What is your source of information on sexual harassment?

8. What are staff’s attitudes on sexual harassment in this institution? *(Male / Female)*

9. Which laws and regulations that prohibit SH are you aware of?

D. PREVENTION AND PROTECTION
10. How are complainants and whistle blowers protected after reporting cases of sexual harassment?
E. REPORTING: STRUCTURE, PROCEDURE AND COMPLAINTS MANAGEMENT
11. Describe the sexual harassment case handling structure at this institution. (Who or which body / committee)
________________________________________________________________________
________________________________________________________________________

12. How does one report cases sexual harassment? To whom?
________________________________________________________________________
________________________________________________________________________

13. How are cases of sexual harassment handled after they have been reported, (from reporting, investigation to resolution and appeals)?
________________________________________________________________________
________________________________________________________________________

F. DISPUTE RESOLUTION
14. What dispute resolution bodies are available in handling sexual harassment cases, both formal and informal?
________________________________________________________________________
________________________________________________________________________

15. How effective is the dispute resolution mechanism?
________________________________________________________________________
________________________________________________________________________

G. VICTIM / COMPLAINANT SUPPORT SYSTEM AND REMEDIES
16. What victim support services are available for sexual harassment victims?
________________________________________________________________________
________________________________________________________________________

17. What remedies are available for victims of sexual harassment? (Both civil and criminal / internal or external)
________________________________________________________________________
________________________________________________________________________

18. What external support is there in the fight against sexual harassment? From who or which organisation)
________________________________________________________________________
________________________________________________________________________

H. SANCTIONS AGAINST OFFENDERS
19. What sanctions / punishment are imposed on sexual harassment offenders?
________________________________________________________________________
________________________________________________________________________
20. What rehabilitative services are there for offenders that have been found guilty but are not dismissed?

________________________________________________________________________

________________________________________________________________________

I. INSPECTIONS DATA BASE AND RECORD KEEPING

21. How often are labour inspections conducted at your institution? By who?

________________________________________________________________________

________________________________________________________________________

22. Do the labour inspections include assessing how safe the work environment is with regard to sexual harassment?

________________________________________________________________________

________________________________________________________________________

23. Are there records/a data base of complaints lodged and number of cases handled? If not, why?

________________________________________________________________________

________________________________________________________________________

J. RESOURCES: FINANCIAL AND HUMAN RESOURCE

24. Is there a budget line for gender and anti-sexual harassment to support implementation of anti-sexual harassment activities? Is it adequate? If no budget, why?

________________________________________________________________________

________________________________________________________________________

25. What is the capacity of designated staff to investigate and handle sexual harassment cases? If low, what needs to be done?

________________________________________________________________________

________________________________________________________________________

K. GAPS, CHALLENGES AND SOLUTIONS

26. What are the gaps and/or challenges you are facing in accomplishing zero tolerance to sexual harassment? (list down, probe more information on each point)

________________________________________________________________________

________________________________________________________________________

27. What are the solutions to the challenges?

________________________________________________________________________

________________________________________________________________________

END

THANK YOU!

*EXIT FORMALITIES*
**SEXUAL HARASSMENT STUDY**

**21ST - 31ST AUGUST 2022**

**RESEARCH SAMPLE FRAME**

$^* =$ FGD

<table>
<thead>
<tr>
<th>DAY</th>
<th>DISTRICT</th>
<th>SECTOR</th>
<th>INTERVIEWS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Key Informant: Management</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Individual Worker / Staff</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>$^*$ FGD Workers / Staff</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>3$^{rd}$ Party Indiv. or</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>$^*$ FGD</td>
</tr>
<tr>
<td>2 days</td>
<td></td>
<td></td>
<td>1st/RA</td>
</tr>
<tr>
<td>/ Dist</td>
<td></td>
<td></td>
<td>1 RA</td>
</tr>
<tr>
<td>TRAVEL</td>
<td></td>
<td></td>
<td>2 x RAs FGD</td>
</tr>
<tr>
<td>Districts 1 and 2</td>
<td></td>
<td></td>
<td>2$^{nd}$/RA</td>
</tr>
<tr>
<td>Day 1</td>
<td>Urban</td>
<td>Education (Tertiary)</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Public</td>
<td>1*</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1st/RA</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Private</td>
<td>1*Students</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Domestic workers</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Private</td>
<td>1*</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Health</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Private</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Or Parastatal eg ESCOM</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Labour office</td>
<td>1</td>
</tr>
<tr>
<td>Day 2</td>
<td>Rural</td>
<td>Agriculture</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Public</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Private-farm / estate</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Retail &amp; Trade: market</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Vendors, Sex workers</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>shops etc</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Religious institutions</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Private</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Customers</td>
<td>1</td>
</tr>
</tbody>
</table>

**Notes:**
- FGD = Focus Group Discussions
**GUIDE / INSTRUCTIONS**

1. **2 – 3 Individual interviews each Research Assistant Per Day =**
   Total, minimum per RA 16 to 24 interviews in 8 days for each Research Assistant
   Total per team: 80 interviews ...minimum ( half of which should be KII)

2. **3 FGDs per team per day (1 per pair) ( FGD of 6 to 12 people per FDG (Mixed male and female) =**
   3 x 8 days =
   Total FGDs per Team: 24

3. The above Sample frame offers a guide on mix of interviews to be conducted. This will vary depending on grounded realities. However, the overall total mix must be maintained ie a minimum of 2 interviews / FDG for each sector in at least 2 different districts.

4. **Supervisors:**
   Will be expected to lead, manage and monitor the team:
a. Collect enough copies of questionnaires and FGD Guide x 4 (KII, Workers FDG, Third Parties and Labour Office), including electronic copies dated 19/08/22
b. Have a copy of the Research Sample frame, Introduction letter, Consent form and letter of Notice of Research/appointment
c. Confirm logistical support for the team
d. Book appointments in advance
e. Share tasks among RAs on a daily basis
f. Review all Reports every day and provide guide where necessary
g. Hold briefing/reflection meetings and write minutes of meeting
h. Secure all field notes and submit to MHRC within a day of returning from the field together with the minutes and cover note.
i. All reports must be numbered: Initials of Researcher and serial number from 1

5. Research Assistants:
   a. Be familiar with the study through orientation, pilot study and review meetings
   b. Conduct interviews as guided, meeting or exceeding expectation in 1 & 2 above
   c. Submit detailed and legible reports: Reports can be submitted in handwritten or typed form (preferably typed, especially for FGD) on a daily basis
   d. FDG Reports should include quotations, indicate M for male and F for female for the quotations, show consensus, different views or other differences in opinion based on gender, age, disability, etc
   e. Consult with the supervisors at all times
   f. Be a team player, respectful of all members
g. Dress decently and modest
h. Be punctual
i. Observe all ethical requirements of the research

For queries or discussion please contact: MHRC Contact person (Debra) and Consultant (Ngeyi) 0995186690
MALAWI HUMAN RIGHTS COMMISSION (MHRC)

SEXUAL HARASSMENT (SH) AT THE WORK PLACE

KEY INFORMANT

(MANAGEMENT – EMPLOYER REPRESENTATIVE)

Date: ........................................................................................................................................................................

Time: Start and Finish..................................................................................................................................................

District: ........................................................................................................................................................................

Institution: ...................................................................................................................................................................

Interviewer: .................................................................................................................................................................

Respondent(s): ............................................................................................................................................................

Male or Female

Rank(s) / Position: .......................................................................................................................................................

*INTRODUCTION

*CONFIDENTIALITY / PRIVACY

*CONSENT

SECTION A: EMPLOYEES INFORMATION *(Ask in advance)*

<table>
<thead>
<tr>
<th>CATEGORY (Adapt as appropriate)</th>
<th>NUMBER OF FEMALES</th>
<th>NUMBER OF MALES</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of employees</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employees in managerial positions</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employees in supervisory position</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employees in clerical positions</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employees in general duties positions</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
SECTION B: SEXUAL HARASSMENT

A. SCOPE AND NATURE OF SH
1. What is your understanding of sexual harassment? Give examples

2. Which category of workers is more exposed/ vulnerable to sexual harassment at your institution? Why?

B. EXTENT AND PREVALENCE OF SH
3. How many complaints of sexual harassment have you had in the past 24 months?

4. What was the nature of the complaints?

5. Who were the perpetrators?

6. How prevalent is sexual harassment in your organisation / institution? Why? *(Perception on how big sexual harassment is an issue)*

C. AWARENESS OF SH: KNOWLEDGE AND ATTITUDES
7. Do you conduct awareness meetings or training on Sexual harassment? How often? Are statistics on number of people trained available? *(If available provide the statistics {male / female by rank}, if not available why)*

8. What has been the impact of the meetings / training sessions?

9. What are staff’s attitudes on sexual harassment in your organisation? *(Male / Female)*
10. Which laws and regulations that prohibit SH are you aware of?

D. PREVENTION AND PROTECTION
11. How are complainants and whistle blowers protected?

12. What measures have you put in place to protect all staff from sexual harassment?

Do you have a specific anti-sexual harassment policy or gender policy or any rules against SH elsewhere? Specify (If yes, get a copy)

13. If there is no policy, are there any efforts to develop a sexual harassment policy?

E. REPORTING: STRUCTURE, PROCEDURE AND COMPLAINTS MANAGEMENT
14. Describe your sexual harassment case handling structure. (Who or which body / committee)

15. How does one report cases of sexual harassment? To whom?

16. How do you handle complaints of sexual harassment after they have been reported, (from reporting, investigation to resolution and appeals)?

F. DISPUTE RESOLUTION
17. What dispute resolution bodies are available in handling sexual harassment cases, both formal and informal?

How many cases of sexual harassment have you resolved in the past year?

How long does a case of sexual harassment take to be resolved, from the reporting date?
How effective is the dispute resolution mechanism?

G. VICTIM / COMPLAINANT SUPPORT SYSTEM AND REMEDIES
18. What victim support services are available for sexual harassment victims?

19. What remedies are available for victims of sexual harassment? (Both civil and criminal / internal or external)

20. What external support is there in the fight against sexual harassment? From who or which organisation?

SANCTIONS AGAINST OFFENDERS
21. What sanctions / punishment do you impose on sexual harassment offenders?

What rehabilitative services do you have for offenders that have been found guilty but are not dismissed?

H. INSPECTIONS DATA BASE AND RECORD KEEPING
22. How often are labour inspections conducted at your institution? By who?

Do the labour inspections include assessing how safe the work environment is with regard to sexual harassment?

23. Do you have records/ a data base of complaints lodged and number of cases handled? If not, why?

I. RESOURCES: FINANCIAL AND HUMAN RESOURCE
24. Is there a budget line for gender and anti-sexual harassment to support implementation of anti-sexual harassment activities? Is it adequate? If no budget, why?
25. What is the capacity of designated staff to investigate and handle sexual harassment cases? If low, what needs to be done?

________________________________________________________________________
________________________________________________________________________

MONITORING, EVALUATION AND COORDINATION
26. Is there a monitoring and evaluation system for sexual harassment? (if yes ask for a description of what is monitored and by who, if no ask why?)
________________________________________________________________________
________________________________________________________________________

27. How do you coordinate with other institutions in the prevention of sexual harassment?
________________________________________________________________________
________________________________________________________________________

GAPS, CHALLENGES AND SOLUTIONS
28. What are the gaps and/or challenges you are facing in accomplishing zero tolerance to sexual harassment? (list down, probe more information on each point)
________________________________________________________________________
________________________________________________________________________

29. What are the solutions to the challenges?
________________________________________________________________________
________________________________________________________________________

END

THANK YOU!

*EXIT FORMALITIES
MALAWI HUMAN RIGHTS COMMISSION (MHRC)

SEXUAL HARASSMENT AT THE WORK PLACE

(WORKERS: FOCUS GROUP DISCUSSION)

Date:
Time:
Place:
District:
Organisation / Institution
Facilitator:
Recorder:

*INTRODUCTION

*CONFIDENTIALITY / PRIVACY

*CONSENT

<table>
<thead>
<tr>
<th>NUMBER OF FEMALES / POSITIONS</th>
<th>NUMBER OF MALES / POSITIONS</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


# SEXUAL HARRASSMENT AT WORK

## SCOPE AND NATURE OF CASES

1. What is your understanding of sexual harassment? Give examples
2. Which category of workers is more exposed/ vulnerable to sexual harassment in your organisation? Why? (Probe by gender, disability, age etc)

3. What measures are there to protect staff from sexual harassment?
EXTENT AND PREVALENCE OF CASES

4. To what extent is sexual harassment a problem at your workplace?
5. What are the common forms of complaints of sexual harassment? (Probe by who...staff, customers etc)

6. Who are the major complainants? Why?

7. Who are the common perpetrators? Why?
LEVEL OF AWARENESS: KNOWLEDGE, ATTITUDES AND IMPACT

8. How many of you have attended awareness meetings or training on Sexual harassment? Where? By Who?

9. What has been the impact of the meetings / training sessions?
10. What are people’s attitudes on sexual harassment in your organisation? (Management and staff by gender)

11. What laws or regulations are there on sexual harassment?
PREVENTION AND PROTECTION MEASURES

12. How are complainants and whistle blower protected after reporting cases of SH?

13. Do you have an anti-sexual harassment policy at your workplace?

14. Do you have a Gender Policy at your institution?
DISPUTE RESOLUTION

15. What dispute resolution bodies are available in handling sexual harassment cases, both formal and informal?

16. How long does a case of sexual harassment take to be resolved after it has been reported, from the reporting date?
Victim / Complainant support system and remedies

17. What victim support services are available for sexual harassment victims?

18. What remedies are available for victims of sexual harassment? (civil, criminal, internal, external)

19. What external support is there in the fight against sexual harassment? From who or which organisation)
Sanctions against Offenders

20. What sanctions / punishment do you impose on sexual harassment offenders?

21. What rehabilitative services do you have for offenders found guilty but not dismissed?
Inspections Data base and record keeping
  22. How often are labour inspections conducted at your institution? By who?

  23. Are the inspections helpful in reducing cases of sexual harassment?

Resources: Budget and human resource
  24. Is there a budget line for gender and anti-sexual harassment to support implementation of anti-sexual harassment activities? Is it adequate? If no budget, why?

  25. What is the capacity of designated staff to investigate and handle sexual harassment cases?
Monitoring, Evaluation and Coordination

26. Is there a monitoring and evaluation system for the sexual harassment?

27. Is there coordination with other institutions in the prevention of sexual harassment?

Gaps, challenges and Solutions

28. What are the gaps and/or challenges you are facing in accomplishing zero tolerance to sexual harassment? (list down, probe more information on each point)
29. What are the solutions to the challenges?
Printed with financial support from the European Union through the Chilungamo Programme