

MADA

Anti-sexual harassment policy

November 2018

Table of Contents

Acknowledgements

Executive summary

Section 1 | **Introduction**

1.1. Objectives

1.2. Methodology

Section 2 | **Definitions and terms**

2.1. Sexual harassment in the work environment

2.2. Abuse of authority or power

2.3. Victimization

2.4. Terms

Section 3 | **Adoption, uptake and maintenance**

3.1. Consensus building

3.2. Training and awareness

3.3. Communication strategy

3.4. Reporting

3.5. Maintenance and sustainability

List of references

Annexes

Annex 1 | **Procedural annex to anti-discrimination and anti-sexual harassment policies**

I. ACKNOWLEDGEMENTS

Mada's anti-harassment policies and anti-discrimination, along with the annex laying out procedural mechanisms, are based on policies developed by EIPR and made available to other institutions for their use. The following is EIPR's acknowledgements, which gives a sense of the process and research undertaken:

First, we would like to acknowledge Amnesty International's Bullying and Harassment Policy, 2013, from where we drew a lot of inspiration. Other agencies whose work we have learned and adapted include UNHCR, the International Centre for the Legal Protection of Human Rights, UNESCO, and ILO.

The overwhelming majority of publicly accessible anti-discrimination and/or anti-harassment policies were those published by educational institutions and governments, especially the Ontario Human Rights Commission, Ontario State Government (Canada). Sexual harassment in particular has been widely covered. However, there is a paucity¹ of comprehensive institutional anti-discrimination and harassment policies, among rights-based organizations aimed at creating inclusive, safe, just and equal work-spaces for all employees and associates.

A key challenge through our research process was related to accessing publicly available and published policies on anti-discrimination and anti-harassment, even

¹ The literature review for the anti-sexual harassment and anti-discrimination policies looked at a total of 12 anti-discrimination, anti-harassment, and anti-bullying Policies, across national human rights institutions, educational institutions, international organizations, and civil society (development and human rights organizations), and publications and academic thought on discrimination law, affirmative action, bullying and harassment. While there is exists a robust literature on discrimination law, evaluation of affirmative actions, and anti-harassment policies, especially within educational institutions, it was a challenge to source publically available policies and action plans on anti-harassment and anti-discrimination, by human rights organizations, especially at the national and regional level.

though multiple organizations have developed and institutionalized/operationalized, these policies internally. We hope that this process encourages like-minded organizations and collectives to share their work and strengthen our collective understanding and ability to identify and eliminate incidents of discrimination and harassment within our workspace, and increasingly beyond it.

This policy started as an anti-discrimination and anti-harassment (including sexual harassment) policy, and in the process of development, we decided that it was necessary to differentiate sexual harassment as a separate challenge to equity in the workplace, in order to highlight its two-fold nature both as a form of discrimination and of gender-based violence. This separation also aimed to ensure that both discrimination and sexual harassment are equally perceived as threats to workplace equity and safety.

II. EXECUTIVE SUMMARY

The anti-sexual harassment Policy has a three-fold purpose of:

- a) Preventing and minimizing incidents of sexual harassment
- b) Laying out institutional compliance and grievance mechanisms to tackle and resolves such incidents
- c) Influencing the institutional culture towards realizing zero-tolerance towards sexual harassment, among individuals and as a collective.

The policy has three sections and one annex. Section 1 provides a rationale behind the policy, our goals and objectives, Section 2 provides clarification and information on key terms and concepts, and Section 3 lays out a roadmap for the implementation of this policy. Finally, the annex lays out a complaints and redressal procedure, which is both formal and informal, along with recommended disciplinary actions and remedial measures.

Our goal is to promote an environment of safety, equality and inclusivity by ensuring that all employees are informed of and have access to the latest version of the institutional stance and policy on sexual harassment. Sexual harassment, overt or subtle, has far-reaching negative implications on the ability of and opportunity for individuals and/or groups of people to participate, engage, and contribute in a meaningful and effective manner, and consequently obstructing institutional progress. The principles of substantive equality² and non-discrimination are central to any system of human rights protection. This is evident from both the provisions of human rights instruments and the case law of their supervisory bodies.³ We maintain a zero-tolerance stance toward any form of sexual harassment and discrimination, intentional or accidental. Any such act/s shall not be tolerated, condoned or ignored.

Because institutions are dynamic entities that are continuously evolving and adapting, it is essential to continue revisiting, updating, adding and modifying this policy according to **ongoing learning** and the institutional and national context and environment.

Section 1 | INTRODUCTION

1.1. Objectives

The purpose of this policy is three-fold:

- a) *Prevention*: Mada is committed to ensuring an inclusive, safe and equitable work environment for its staff members by reducing and progressively eliminating all instances of sexual harassment. Institutional preventive

² See InterRights, the International Center for the Legal Protection of Human rights, *Non-discrimination in International Law: A Handbook for Practitioners*. “Substantive equality refers to the notion that individuals in different situations should be treated differently. It encompasses two distinct ideas – equality of results and equality of opportunity. ‘Equality of results’ requires that the result of the measure under review must be equal. It recognizes that apparently identical treatment can, in practice, reinforce inequality because of past or ongoing discrimination or differences in access to power or resources. Under this approach, the effects as well as the purpose of a measure must be taken into account. ‘Equality of opportunity’ suggests that all individuals must have an equal opportunity to gain access to the desired benefit, taking into consideration their different starting positions. Equal opportunity aims to provide equal chances but not equal results.”

<http://www.interights.org/handbook/index.html/> (accessed July 4, 2015)

³ Ibid.

strategies set in place range from identifying, reviewing, and removing barriers to communication, awareness-generation, positively affecting behavioral and attitude change among staff members and stakeholders, and setting strong precedent against any instances of sexual harassment..

- b) *Compliance and remedial mechanisms*: Designing and operationalizing, formal and informal mechanisms and protocols to redress incidents of sexual harassment.
- c) *Motivating institutional culture and promoting organizational learning*: Tied in with prevention strategies, the third purpose of this policy is to affect and transform the attitudes and behaviors our staff members and stakeholders through the active and intentional focus on promoting organizational learning towards identifying, minimizing and eliminating incidents of sexual harassment, and identifying the structural and systemic root causes.

1.2. Methodology

This policy document was approached through a process of a literature review that brought together research on the dynamics of discrimination, harassment, bullying, intimidation, and abuse of power within the workspace, along with best practices on methods and strategies to respond to and eliminate such incidents, adopted by other like-minded institutions. We have drawn and adapted from international and national legal frameworks and conventions, the work of international organizations such as UNHCR, ILO, and the World Bank, educational institutions and universities, national human rights commissions, and from human rights organizations, such as Amnesty International. Additionally, the policy document draws on conversations with active civil society members in Egypt to ensure its relevance to recurrent forms of discrimination in the workplace in the Egyptian context.

Section 2 | DEFINITIONS

This section aims to provide clarity on what actions and behaviors constitute sexual harassment, and would thus not be tolerated on any account and be liable to action.

This section could also be useful to staff members and stakeholders who want to increase their awareness and understanding on the issue, especially for instances where there is confusion regarding an individual having a justifiable claim or not.

The descriptions provided below are based on human rights principles of equality, choice, justice and dignity.

2.1. Sexual Harassment in the work environment

a) **Sexual and gender-based harassment**⁴ includes, any form of behaviour, action and/or decision that is unwanted, un-reciprocal, inappropriate, offensive, and unacceptable, as perceived by the recipients/the recipients' point of view, which creates an intimidating, hostile, unstable or offensive workplace⁵ for an individual (man and woman) or a group. Engaging in sexist practices, same-sex harassment, including "same-sex heterosexual harassment," and both sexual conduct⁶ and sex-based behaviour⁷ constitute forms of sexual harassment.

⁴ - Sexual harassment is recognized as an affront to human dignity by numerous international bodies. For example, in its 1996 Special Survey on Convention No. 111, the Committee confirmed that it views sexual harassment as a form of sex discrimination against women in employment which undermines equality, damages working relationships and impairs productivity.

- International Labor Organization has identified the elimination of sexual harassment and violence as a priority gender issue in ILO. "Decent work for women: An ILO proposal to accelerate the implementation of the Beijing Platform for Action" (Geneva, March 2000), paper presented at the Symposium on Decent Work for Women, (New York, 5-9 June 2000)

- The committee set up under Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979, in its General Recommendation No.12, 1989 recognized sexual harassment as a form of violence against women. Furthermore, General Recommendation No.19 on violence against women, 1992, characterized gender-based violence as a type of sex discrimination and thus a breach of CEDAW. The Arab Republic of Egypt has been a signatory to CEDAW since July 16, 1980 (with reservations on Art. 16, 29, and a general reservation on 2).

- The World Conference on Human Rights (Vienna, 1993) identified violence against women, encompassing "sexual harassment and intimidation at work" as a human rights violation.

- Additionally, verbal, behavioral, phone and online forms of sexual harassment are recognized as a crime under Egyptian Law, where the perpetrator can be charged under Article 306(a) and Article 306 (b) of the Penal Code. However, it must be noted that the current national legal definition of harassment is limited and ambiguous. Mada will use this policy as a reference to what constitutes discrimination and harassment.

⁵

http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_371182.pdf

⁶ Sexual Conduct: forms of behaviors that are explicitly sexual and can range from sexual comments, jokes to sexual violence. (International Labor Organization, same as above).

⁷ Sex-based behavior: constitutes behavior that is subtler, including inaccurate criticism, transfers, and/or obstruction.

The term “unwanted” places the right of judgement whether a certain behaviour constitutes harassment or not with the individual (victim). The motive of the “harasser” is irrelevant. The term further highlights this “purpose and effect” that makes it clear the behaviour can amount to harassment in the absence of any deliberate intention to discriminate. However, the conduct in question must “reasonably be considered as having that effect.” This phrase ensures a degree of balance between the victim's subjective perception of the treatment and an objective, reasonable viewpoint.

Sexual harassment is addressed both as an aspect of gender discrimination and as a form of violence against women.⁸ It encompasses physical, non-verbal, and verbal interactions,⁹ including the creation of a hostile work environment through conduct, behaviour, policies or structures that create a work environment that is unwelcome, unsafe and offensive. It includes a whole host of sexually harassing behaviour that doesn't involve sexual blackmail.¹⁰ Quid pro quo harassment includes instances in which a job benefit (can include a promotion, opportunity, pay-rise, or even continuing employment) is dependent on the victim acceding to demands to engage in some form of sexual behaviour.”¹¹

Below is a further elaboration of the types of behaviors, actions, and/or decisions that constitute sexual harassment:¹²

8

http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_travail_pub_2.pdf

⁹ Has been adapted from the criteria provide by the International Labor Organization.

¹⁰ Ibid.

11

http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_travail_pub_2.pdf - Page 18

¹² Gender-based and sexual violence encompasses a wide variety of abuses, including rape, sexual threats, exploitations, humiliation, assaults, molestation, domestic violence, incest, involuntary sex work (sexual battering), torture, unwanted or noxious insertion of objects into genital openings, and attempted rape. We also consider female genital cutting, premature marriage as forms of sexual and gender-based violence.

- Physical: Includes all forms of unwelcome and non-consensual physical contact from intentionally touching, caressing, pinching, hugging to sexual assault or rape. This policy defines consent as the positive non-coerced engagement in a specific physical act from all parties involved and who are in a state that makes them capable of giving consent. Physical sexual harassment also includes using explicit or implicit job-related threats or rewards to solicit sexual favors.
- Non-verbal: Unwelcome or sexually suggestive gestures, suggestive body languages, indecent exposure, repeated winks, leering, inappropriate staring, stalking or unwelcome display of pornographic materials.
- Verbal: Socially and culturally inappropriate and unwelcome comments with sexual overtones, persistent proposals and unwelcome requests or persistent personal invitations to go out. This includes comments on an employee's appearance and physical characteristics, background, personal life and/or choices, and/or sex, mannerisms, sexual orientation or gender identity; condescending or paternalistic remarks; or suggestive or offensive remarks or innuendoes about members of a specific gender. These actions can take the form of verbal conversations, electronic or non-electronic correspondence.

While sexual harassment is overwhelmingly experienced by and directed towards women, it is not limited to them. Numerous studies and reports have documented and point to harassment experienced by men. Discrimination and harassment is usually carried out against the most vulnerable and marginalized groups, which include but are not limited to, young people, ethnic or religious minorities, and people with non-conforming sexual orientation or gender identity, both men and women.

b) **Retaliatory harassment** is when a person/s who complains or takes part in an investigation is harassed or discriminated against.

2.2 Abuse of authority or power

In the context of this policy, abuse of authority or power encompasses the improper use of a position of influence, power or authority against another person overtly or subtly to approach them sexually, which would deny them the right of freely declining the approach. This is particularly serious when a person uses his or her influence, power or authority to improperly influence the career or employment conditions of another, including but not limited to appointment, assignment, contract renewal, performance evaluation or promotion.

2.3 Victimization

Includes treating someone or threatening to treat someone less favorably because they have made a complaint or are believed to have made a complaint of sexual harassment. Victimization shall not be tolerated.

2.4. Terms

This policy is applicable across the workplace, i.e. where “work is performed” and locations where “work-related business is conducted.” It provides protection and procedural access to Mada staff members and stakeholders. The policy is also applicable outside of the workplace in cases where both parties were Mada staff members during the time when the incident in question took place.

- **Staff members** include any individual who is employed full or part-time. This includes paid and unpaid staff and consultants, temporary and probationary, casual and contractual staff, interns/apprentices, volunteers and contractors.
- **Stakeholders** includes all person/s, collectives, and organizations ranging from partners, institutional clients, participants during events and vendors engaging with Mada on a short- or long-term basis.

- **Workplace** includes any department, portfolio, branch or unit established, owned, controlled, affiliated, wholly or substantially supported by Mada. It also encompasses external venues and spaces that are accessed by a staff member or stakeholder either as a representative of the organization, or to which they have been invited due to their employment status or professional association. These would include but are not limited to conferences, meeting and trainings (external and internal), interviews and other work-related communications, official travel, work-related social gatherings for work colleagues, staff members, and stakeholders.
- **Complainant** is the person/s highlighting an incident of discrimination or harassment, formally or informally.
- **Respondent** is the individual or group against whom the allegation of discrimination or harassment has been made.

Section 3 | ADOPTION AND UPTAKE

(Suggested Recommendations)

3.1. Consensus building

Before the policy is finalized and set into motion, it must be shared with and agreed on by staff members, in order to get their input, recommendations, and buy-in for the policy and its vision. The process of consensus-building should be inclusive and transparent, including individuals across a range of positions and identities, who can speak to the relevance, applicability, and responsiveness of this policy, based on a varied set of experiences and lived realities. This process also constitutes a crucial first step in generating awareness about its objectives and use.

3.2. Training and awareness

Increasing levels of information and understanding are fundamental to creating behavioral and attitude change. The vision of this policy can only be realized if staff members and stakeholders have a shared understanding of what constitutes sexual harassment, its root causes and negative impacts, and the appropriate response mechanisms at the individual and institutional level. This requires staff members and the leadership of the institution to take ownership of and initiative towards generating awareness on these issues. Below is a suggested list of spaces and times, where these activities can be implemented:

- Annual staff retreats, staff trainings, and staff meetings
- Induction trainings during induction phase for new staff members, during which new member has a complete, language-appropriate, updated copy of this policy, including annexes
- Institutional training and workshops
- Informal staff dialogues, reading and discussion groups
- Email and posters
- Providing a listing of verified helplines, response services, and counseling centers to all employees
- Training and sensitization of senior staff, managers and board members

3.3. Communication Strategy (Distribution and Dissemination of the Policy)

3.3.1. Internal

Communication and dissemination of this policy is central to ensuring that staff members and stakeholders are aware of their roles and responsibilities; the procedures and guidelines that can be accessed and invoked; and the institutional stance on sexual and gender-based harassment. The policy should be accessible and thus be available in English and Arabic, printed and digital form, and updated on a regular basis.

3.3.2. External

The anti-sexual harassment policy shall be released and made publicly available ~~via a collective press release by EIPR and partners.~~

3.4. Reporting

Low rates of reporting are not necessarily indicative of low levels of sexual harassment. We encourage staff members and stakeholders to report all observed or experienced cases of sexual harassment. Additionally, the number of documented cases should be analyzed within the present context, taking the reality of under-reporting, informal resolutions, and impact of the new system into account.

3.5. Maintenance and Sustainability

This includes continuously updating and revising the provisions in the policy to ensure relevance, applicability and efficacy. Additionally, we hope that all staff members take initiative in ensuring that all employees (old and new) are knowledgeable of and well-versed with the latest version of the policy.

List of References

- Amnesty International, anti-harassment policy.
- Amnesty International, sexual harassment policy.
- Preventing sexual and gender-based harassment
<http://www.ohrc.on.ca/en/policy-preventing-sexual-and-gender-based-harassment-0>.
- Fredman, Sandra, Background Paper for the World Development Report 2013, 'Anti-Discrimination laws and work in the developing world: A thematic overview', <<https://openknowledge.worldbank.org/handle/10986/12129/>>, accessed on June 26, 2015.

- UNHCR, policy on harassment, sexual harassment and abuse of authority, April 2005.
- UNESCO, anti-harassment policy.
- International Labor Organization, “The elimination of discrimination in respect of employment and occupation,” and “Guidelines on sexual harassment prevention at the workplace.”
- Ontario Human Rights Commission, anti-discrimination and anti-harassment Policy,
http://www.ohrc.on.ca/sites/default/files/A%20policy%20primer_Guide%20to%20developing%20human%20rights%20policies%20and%20procedures_2013.pdf/