WHAT IS WORKPLACE SEXUAL HARASSMENT?

This resource explains what counts as sexual harassment under the law and what that means.

Workplace sexual harassment is illegal under provincial, territorial, and federal human rights and workplace safety laws.

What does the law consider to be workplace sexual harassment?

Workplace sexual harassment is unwelcome sexual or gendered comments or conduct that could make, or is reasonably perceived to make, an employee feel offended, intimidated, or humiliated. This can include a poisoned work environment and can happen outside of the physical workplace.

It is illegal even if it happens only once or is part of a workplace culture that makes jokes about sex or gender. It does not matter whether the person intended to offend or thought their behaviour was harmless; if it has this effect, it is still illegal.

What does that *actually* mean?

- **Unwelcome** means not wanted, not invited, not consented to, not acceptable
- **Sexual or gendered** means the behaviour relates to someone's sex or gender
- **Comments** means verbal remarks or spoken words
- **Conduct** means physical behaviour, like touching; also includes non-verbal actions and behaviour online, by text, or phone
- **Reasonably perceived** means a neutral person would agree that the conduct is wrong
- **Poisoned work environment** means the workplace has a culture of sexual or gendered jokes, displays, comments (e.g., the workplace feels unsafe, hostile, or unhealthy; sexual or gendered jokes, displays, or comments become normal)



Important to Know!

Sexual harassment isn't always about sexual behaviour. It can also be about unequal treatment based on gender or someone misusing their power. It happens when a person in authority uses sex or gender to embarrass, intimidate, or control an employee.

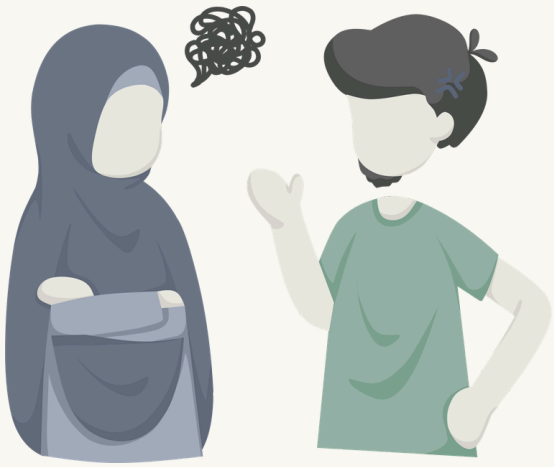
But also...

Sexual harassment doesn't only come from a manager or supervisor. It can also come from coworkers at the same level, people you supervise, outside contractors, or clients. It all still counts as sexual harassment.

Sexual harassment against Muslim women includes sexual or gender-based words or actions that are also tied to their race and religion. This kind of harassment often looks different from what other women experience.

Examples of behaviour that the law considers to be sexual harassment:

- **Comments about how you look** *(e.g. what you wear, your hijab, your niqab, telling you to cover up more, telling you to cover up less)*
- **Comments about marital status** *(e.g. your married life, being a single mother, wanting to marry you, nobody wanting to marry you)*
- **Negative comments about women's status in Islam** *(e.g. women being inherently inferior to men in the religion, narratives about "saving" oppressed women from the religion)*



- **Actions of a sexual nature that are not directed at a particular person** like displaying or posting sexually offensive materials
- **Inappropriate** staring, leering, whistling, or asking for hugs
- **Romantic or sexual attention from someone in a position of power** when you feel you can't say no without hurting your job

- **Continuing to pursue a romantic relationship** after you have said no, even if you first agreed
- **Sexual jokes, insults, threats, rumours, or name-calling**
- **Gender-based comments** including comments about a person's sexual orientation, gender identity or gender expression
- **Physical contact such as** touching, patting or pinching
- **Comments that put women down** or question their capabilities (e.g. women are worse than men, unsuited for some jobs, less intelligent, have no humour, are submissive)
- **Sexual assault**, meaning when someone touches another person in a sexual manner without consent



Examples of what sexual harassment can look like in the workplace for Muslim women:

Nadia and Huda are Muslim coworkers. Huda wears a hijab and Nadia does not. A coworker compares them, tells Huda to stop wearing her hijab to be "beautiful" like Nadia, and says no one will want to marry her. The coworker also calls Nadia "beauty queen." Huda and Nadia are still given the same opportunities, the same projects that allow for growth, and good performance reviews like their other non-Muslim coworkers. Both Huda and Nadia are facing workplace sexual harassment.

Your manager one day texts you in the evening that you are so beautiful and he would love to get to know you better. You reply thank you and say you are married. Your manager apologizes. The next evening, your manager again texts you in the evening asking what you are doing. You mention you are tired and just finished making dinner. He replies that if you were married to him, he would appreciate you more than your husband does. You reply thank you. This goes on for two weeks. You feel uncomfortable but don't tell him to stop because you are afraid of losing your job. Even if you do not say no and the conduct is not at the workplace, this is workplace sexual harassment.

A Muslim restaurant manager repeatedly criticizes a Muslim waitress who doesn't wear a hijab, commenting on her clothing, saying she should cover her hair and saying she looks "loose." He makes these remarks during an after-hours card game with coworkers and also sends texts and voicemails about it to those coworkers. Even though the waitress was not there and this conduct was not at the workplace, this is workplace sexual harassment.

Examples of what tribunals and courts in Canada have found to be sexual harassment in the workplace:

- An unhappy employee spread rumours about his female director, saying she is having an affair with the company president and only succeeded by “sleeping her way to the top.”
- A supervising police sergeant kept criticizing a young woman constable’s work and repeatedly called her “Mrs.” instead of “Constable” in front of other colleagues.
- During interviews for articling positions at a law firm, a senior partner walked by and pointed to a female candidate, telling a female hiring team member, “Hire her. She’s easy on the eyes.” This was sexual harassment toward both the candidate and the hiring team member.



- A single mother endured unwanted sexual comments and conduct from her supervisor, entering a sexual relationship out of fear of job loss. She did not say no to him and did not report his conduct. After her employer transferred her to a different location, she told her supervisor to stop, but he sexually assaulted her. When she reported the harassment, both were fired. The sexual assault and the prior relationship was non-consensual, forced by her fear of unemployment. It was illegal for the employer to have fired her.
- A young woman was subjected to unwanted advances and physical contact by her employer, a man significantly older and a friend of her family. This began with the employer inviting her to a late-night boat trip, then another incident where he drove her to a secluded spot and asked questions about her dating life, and then a work-related trip where he engaged in unwanted physical contact and expression of romantic feelings. The tribunal noted that the employer’s dual role as a family friend and employer had a large negative impact on the young woman.



- A female building superintendent was sexually harassed and threatened by two male tenants. When she reported it, her employer dismissed it as a “criminal issue” and told her to go to the police. She went on medical leave from the stress and was then fired. The court ruled this was sexual harassment and that the employer failed to keep her workplace safe. The court said the employer should have had a policy, given training, installed security cameras, set up a way to make complaints, investigated the incident, and taken steps to protect her safety.

For more information:
Visit our website: ccmw.com/wish

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Canadian Council of Muslim Women (CCMW)
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