



NAVIGATING SEXUAL HARASSMENT IN THE WORLD OF WORK

1. INTRODUCTION

Sexual Harassment in the workplace is still with us despite several efforts to stop it. While the vast majority of these cases are brought by women, men too experience sexual harassment and abuse in the workplace. It is an issue, surrounded by a culture of stigma and silence that often goes unnoticed or never reported.¹ A 2024 survey by the European Institute for Gender Equality (EIGE) revealed that 31% of women face workplace harassment, rising at 42% for those aged 18 to 29.²

As a labour centre, the **Central Organisation of Free Trade Unions (COFTU)** vision remains to secure a just and prosperous society where workers are socially and economically emancipated. We safeguard the interests of free and independent trade unions,³ promote harmonious labour relations, and relentlessly advocate for the observance of labour standards.⁴

Pursuant to this mandate, COFTU addresses a dual employment crisis. First, employers frequently fail to protect genuine victims by ignoring statutory safeguards. Second, employers increasingly weaponise "sexual harassment" policies. They use them to bypass due process, unfairly dismiss workers, or unlawfully police consensual workplace romances.

This paper provides an authoritative framework to standardise sexual harassment procedures. It relies on **ILO Convention No. 190 (C190)**, the **Employment (Amendment) Act, 2025**, the **Employment (Sexual Harassment) Regulations, 2012**,⁵ and a comprehensive jurisprudence.

¹ Betty Ndagire, 'The secrecy shrouding sexual harassment at work' (Daily Monitor; 6 June 2023)

² European Institute for Gender Equality, Eurostat and EU Agency for Fundamental Rights, 'EU Gender-based Violence Survey' (EIGE, 2024)

³ Article 4 of the COFTU Constitution (2004),

⁴ Article 5 of the COFTU Constitution (2004),

⁵ Statutory Instrument 15 of 2012

2. DEFINITION & SCOPE

a) *Definitions*

Section 6 of the Employment Act Cap 226, defines sexual harassment by its "**unwelcome**" nature. It includes direct or indirect requests for sexual activity containing implied or express promises of preferential treatment or threats of detrimental treatment.⁶

Furthermore, **Regulation 5 of the Employment (Sexual Harassment) Regulations** expands this scope. It explicitly prohibits the dissemination of sexually explicit voicemails, emails, graphics, or downloaded materials in the workplace.

Crucially, Uganda's legal framework aligns with **Article 1(1)(a) of ILO Convention No. 190 (C190)**, which defines violence and harassment as a "*range of unacceptable behaviours and practices... that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm.*"

The **Employment (Amendment) Act, 2025** fundamentally shifts Uganda's legal landscape to domesticate ILO C190 in the following ways:-

- Previously, only large entities were regulated. The 2025 Act amends Section 6(4) of the principal Act, now mandating: "***Every employer shall have in place measures to prevent sexual harassment at the work place.***"
- The new **Section 6A** prohibits intimidation, bullying, degrading public tirades, deliberate insults, and the withholding of basic work necessities.
- Harassment is no longer confined solely to sexual misconduct. Psychological and economic abuses are now statutory offenses.

b. *Threshold for proof for various manifestations*

Because of the grave nature of these offenses, Ugandan courts demand strict proof. Mere allegations are insufficient.

- The burden lies heavily on the claimant to prove, on a balance of probabilities, *that the conduct was sexual, unwelcome, and pervasively impacted employment.*⁷

⁶ Regulation 2 of the Employment (Sexual Harassment) Regulations, 2012

⁷ *Carolynn Atukunda v. Micro Uganda & Emmanuel Mwanja*, Labour Dispute Claim No. 291 of 2014

- There must be cogent proof of the *actual content of the communications or corroborative evidence of unwelcome advances*.⁸

3. CAN A JUNIOR HARASS A SUPERIOR?

Historically, sexual harassment was viewed strictly as a top-down abuse of power. However, modern courts definitely hold that harassment is directionless. It can be bottom-up (junior to superior) or lateral (across departments).

The Kenyan case of *Mark Ngugi Mwaura v G4S Kenya Limited*,⁹ illustrated this perfectly. A junior female guard engaged in a consensual relationship with a regional manager. Post-breakup, she maliciously attempted to extort him, falsely claiming he sired her child, and orchestrated his unfair dismissal by alleging harassment. The Court astutely ruled:

"A sexual relationship for personal gain, and a false allegation that the Claimant fathered her child, are classic cases of the Lady sexually harassing the Man."

The Court's position confirms that sexual harassment hinges on *unwelcome conduct* and *harm*, not merely hierarchical dominance. A junior employee who blackmails, falsely accuses, or creates a hostile environment for a superior is entirely culpable.

4. WORKPLACE ROMANCE

If two employees couple up, does it amount to sexual harassment? In the *G4S Kenya Limited case*,¹⁰ the Court provided a definitive standard distinguishing consensual coupling from harassment:

- As long as consenting adults work together, romantic relationships are inevitable. A relationship only crosses into sexual harassment if the advances are *unwelcome*.
- Blanket non-fraternisation policies that seek to "police the affairs of the heart" are unconstitutional. They violate an employee's inherent right to privacy and freedom from degrading treatment, protected under **Articles 24 and 27** of the Ugandan Constitution.¹¹

⁸ *Magoba Editor v. Tusker Mattresses (U) Ltd Labour Dispute Reference No. 243 of 2015*

⁹ *Cause E232 of 2021* [2024] KEELRC 2248 (KLR)

¹⁰ *supra*

¹¹ *The Constitution of Uganda, 1995*

- If a supervisor and a subordinate engage in a consensual relationship, the acceptable legal standard is to address it strictly as a **Conflict of Interest**, not sexual harassment. Employers must manage this via transfers or disclosure policies rather than terminating employees under the draconian guise of harassment.

5. EMPLOYER OBLIGATIONS & DISCIPLINARY DUE PROCESS

The obligation to combat sexual harassment rests absolutely on the employer.¹² However, employers cannot use the severity of an allegation to bypass natural justice.

A. Statutory Duties of the Employer

Under the **Employment (Sexual Harassment) Regulations, 2012**, employers are strictly required to:

- Adopt a written policy and provide a copy to all employees.¹³
- Post the policy and the names of committee members conspicuously.¹⁴
- Designate a gender-sensitive person to handle complaints.¹⁵
- Establish a **Sexual Harassment Committee** to investigate complaints.¹⁶

In *Carolynn Atukunda v. Micro Uganda*, the Industrial Court severely faulted the employer because, although a policy existed in their HR manual, they failed to establish the mandated Committee. Failure to provide a functional reporting mechanism renders the employer vicariously liable for the hostile work environment.

B. The Right to a Fair Hearing

Employers cannot execute "ambush" dismissals to protect corporate PR.

- In *Martin Kasasira v. Yalelo (U) Ltd*,¹⁷ the Court ruled that an email exchange with a CEO does not constitute a disciplinary hearing. Similarly, in *Karanzi Nafutari v. Kampala International University*,¹⁸ rushing an employee into a hearing with one day's

¹² Article 9 of ILO C190, the Employment (Sexual Regulations) 2012, new Section 6(4) of the Employment (Amendment) Act, 2025

¹³ Regulations 3 and 4

¹⁴ Regulation 6

¹⁵ Regulation 8

¹⁶ Regulation 10

¹⁷ (Labour Dispute Reference No. 296 of 2022)

¹⁸ (Labour Dispute Claim No. 05 of 2022)

notice, without sharing the investigation report, violates Section 65 of the Employment Act and renders the dismissal procedurally unlawful.

- No double jeopardy. In *Emin Pasha Ltd v. Soedi B Barigye*,¹⁹ the Court clarified that an acquittal in a criminal court does *not* bar an employer from taking internal disciplinary action. The civil standard of proof applies independently of criminal proceedings.

C. Exhaustion of Statutory Remedies

- In *Amos Mwase v. Total Energies EP Uganda Ltd*,²⁰ internal appeals and statutory interventions must be exhausted before seeking Judicial Review. Furthermore, *The AIDS Support Organisation (TASO) v. Dr. Kenneth Mugisha*,²¹ dictates that Labour Officers must strictly adhere to procedural rules choosing either conciliation or adjudication, but not unlawfully conflating the two.

6. KEY TAKEAWAYS FOR ALL ACTORS

For Employers

- Adopt, display, and enforce a Sexual Harassment Policy and establish a Committee immediately, regardless of your workforce size.
- Update HR manuals to cover non-sexual intimidation, bullying, and psychological harm in strict compliance with Section 6A of the Employment (Amendment) Act, 2025 and ILO C190.
- Stop terminating employees for consensual romances. Manage these via "Conflict of Interest" frameworks.
- "Ambush" dismissals are unlawful. Afford every accused employee a fair, impartial hearing with adequate notice and the right to cross-examine.

For Employees and Trade Unions

- Due to strict evidentiary burdens, preserve cogent evidence (emails, texts, witnesses) and report grievances formally.

¹⁹ (Labour Dispute Appeal No. 10 of 2019)

²⁰ (Misc. Cause No. HCT-00-CV-MC-0054-2026)

²¹ (Labour Dispute Appeal No. 008 of 2022)

- Superiors, juniors, and lateral peers can all be perpetrators. Report any unwelcome conduct immediately.

For Labour Officers and the Industrial Court

- Protect victims from retaliation by acknowledging the clandestine nature of harassment (ILO C190), while fiercely guarding the procedural rights of the accused against frivolous or extortionist claims.
- Do not combine conciliation with adjudication during dispute resolution.

7. CONCLUSION

As COFTU, we demand total adherence to these legal thresholds. Sexual harassment, intimidation, and workplace violence must be aggressively rooted out of Ugandan workplaces. However, this must be achieved through lawful, evidence-based, and procedurally fair mechanisms that respect the dignity, privacy, and constitutional rights of all workers.

AUTHOR

*Babagye Napoleon
Legal Assistant*

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