



The EU Mutual Learning Programme in Gender Equality

Tackling sexual harassment

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Tackling sexual harassment in Spain

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1. Country Context

A high concern exists in our context related to the increasing number of young victims that are suffering sexual harassment in different contexts. The global study led by WHO (2016) found that Spain is one of the countries where youth are suffering more online harassment, and specifically sexual harassment (WHO, 2016). Another study focused on cyberbullying explains that online harassment affects up to 66,7% of girls, and the average age of victims is between 12 and 13 years old, although cases of 9 year old victims are detected (Fundación ANAR & Fundación Mutua Madrileña, 2017). On the other hand, one significant data is on young women aged 16-24 who have experienced more psychological violence (47,1%) than women aged 25 and over (De Miguel-Luken, 2015).

One-step forward for improving the current situation is the fight against sexual harassment in all public spaces. As our French and Danish colleagues do, we agree on the fact that this statement needs to be integrated in both online and offline spaces. Actually, the struggle against sexual harassment needs to be implemented in all areas, focusing on the educative system, on zero violence since early childhood until higher education. In fact, there was a big struggle for breaking the silence in Spanish universities, which have allowed keeping the silence during many years. The creation of the *Solidarity Network of Victims of Gender Violence at Universities* and its recognition by the *Spanish Observatory on Gender Violence* has been a decisive and very positive step forward. In terms of legal framework, it is relevant to highlight the contribution of the “Organic Law 1/2004, of the 28th of December, on Measures of Integral Protection against Gender Violence [*Ley Orgánica 1/2004, de 28 de diciembre, de Medidas de Protección Integral contra la Violencia de Género*]¹”, which meant a step forward to treat this social concern from a global perspective. Nevertheless, several problems came from not considering the international scientific evidences; for instance, the fact of identifying gender violence with a stable partner or ex-partner. The first consequence of this error was not to consider as such, dating violence or other types of sexual harassment. The second consequence stated on the action of convincing youth that falling in love leads to sexual violence. The Law established that gender violence is caused by partners and ex-partners, from stable relationships. The dominant debate on its elaboration targeted those stable relationships considering that dating was free of gender

¹ Organic Law 1/2004, of the 28th of December, on Comprehensive Protection Measures against Gender Violence [*Ley Orgánica 1/2004, de 28 de diciembre, de Medidas de Protección Integral contra la Violencia de Género*]. Available at: <https://www.boe.es/buscar/act.php?id=BOE-A-2004-21760>

violence. Based on this Law, many programmes were founded in order to safe teenagers from falling in love (blamed as the prelude to stable relationships and then to violence) and encouraging them to date. Several scholars have presented evidence that both stable relationships and dating could include or not gender violence, what is leading to the overcoming of this second consequence. The political impact of a research on gender violence within Spanish universities (Valls et al., 2016), lead to overcome a third consequence leading the legal inclusion of Universities as spaces where there was Gender Violence and actions against it were necessary; this was conducted in the LAW 3/2007² and the LAW 4/2007³.

Furthermore, it is necessary to point out further work done since then, now set on the consensus among politicians for agreeing a National Pact against Violence against Women [*Pacto Nacional contra la violencia machista*]: it considers, among other debates, sexual harassment and gender violence as occurring in different spaces and not only among partners. In addition, one of the scientific contributions that is necessary to be included in this State Pact is the Second Order of Sexual Harassment (SOSH), which is the one suffered by those people who support victims. It is impossible to overcome the direct sexual harassment without overcoming SOSH (Vidu et al., 2017).

2. Policy debate

This section includes, first, a list of updated information and comments regarding legislation, plans and strategies, statistics and data, campaigns, as contributions from Senior Advisor to Government Delegate for Gender-based Violence, Pilar Vilaplana - *Ministry of Health, Social Services and Equality*. Following this part, a current debate in Spain is presented.

Regulatory framework:

Criminal Code, title VII, art. 184 “Crimes against sexual freedom and indemnity” [*Delitos contra la libertad e indemnidad sexuales*]. Under the reform carried out in the Penal Code by the Organic Law 1/2015, of March 30th [*Ley Orgánica 1/2015, de 30 de marzo*], new criminal types related to gender violence are introduced: a) the crime of **harassment or stalking** [*el delito de hostigamiento o acecho*] (article 172 ter) and b) the crime of **“cyber bullying”** [*el delito de “ciber acoso”*] (section 7 of article 197).

Organic Law 3/2007, of the 22nd of March, for the Effective Equality of Women and Men [*Ley Orgánica 3/2007, de 22 de marzo, para la igualdad efectiva de mujeres y hombres*]: Article 7 distinguishes, notwithstanding the supplies of the Penal Code, between sexual harassment and harassment based on sex.

² Organic Law 3/2007, of the 22nd of March, for the Effective Equality of Women and Men [*Ley Orgánica 3/2007, de 22 de marzo, para la Igualdad Efectiva de Mujeres y Hombres*]. Available at: <https://www.boe.es/buscar/act.php?id=BOE-A-2007-6115>

³ Organic Law 4/2007, of the 12th of April, of Universities [*Ley Orgánica 4/2007, de 12 de abril, de Universidades*]. Available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-2007-7786>

Organic Law 1/2004, of the 28th of December, on Comprehensive Protection Measures against Gender Violence [*Ley Orgánica 1/2004, de 28 de diciembre, de Medidas de Protección Integral contra la Violencia de Género*]: regarding the violence exerted on women by those who are or have been their partners.

Law 4/2015, of the 27th of April, on the Statute of the victim of crime [*Ley 4/2015, de 27 de abril, del Estatuto de la víctima del delito*].

Law 35/1995, of the 11th of December, on Aid and Assistance for Victims of Violent Crimes and Against Sexual Freedom [*Ley 35/1995, de 11 de diciembre, de Ayuda y Asistencia a Víctimas de Delitos Violentos y Contra la Libertad Sexual*].

Plans and strategies:

National Strategy for the Eradication of Violence against Women 2013-2016, which contains some measures related to sexual harassment as a form of violence against women: measures 42, 79, 181, 182 and 270. For more information, see: http://www.violenciagenero.msssi.gob.es/planActuacion/estrategiaNacional/docs/Estrategia_Nacional_Ingles.pdf

II National Strategy for the Eradication of Violence against Women 2018-2022 (in process). The contributions of the final evaluation report of the Strategy 2013-2016 will be taken into account. Measures contemplated in the State Pact for Gender based Violence [*Pacto de Estado para la Violencia de Género*] will be also considered, among them, those relating to sexual violence and harassment in particular.

State Pact of Violence against Women (2017): on the 28th of September 2017, this State Pact was approved by the Congress of Deputies. It includes 213 measures, among others: to establish training on prevention in schools, to involve universities' Units of Equality (considering the opportunity to carry out prevention campaigns in University Campuses, particularly addressing sexual aggressions on "dating"); to prepare materials, campaigns and action protocols that lead to the need of establishing safe and informational points on sexual violence in public spaces; to expand the concept of gender violence to all types of violence against women, according to the ones included in the Istanbul Convention, which contain violence and sexual harassment.

Additional relevant resources:

Website of the Government Delegation for Gender Violence:

<https://www.msssi.gob.es/en/organizacion/ministerio/organizacion/SEssi/dgvgF.htm>

It constitutes itself a useful resource.

016 Helpline card: free confidential helpline offering information on different subjects related to gender-based violence victims, during 24/7, in 52 languages: <http://www.violenciagenero.msssi.gob.es/en/informacionUtil/recursos/telefono016/home.htm>

Guide to the Rights of Victims of Gender-based Violence: For more information, see: <http://www.violenciagenero.msssi.gob.es/informacionUtil/derechos/home.htm>

Macro Survey on Violence against Women 2015: it contains two different chapters (chapter 2 and 14) regarding sexual violence: <http://www.violenciagenero.msssi.gob.es/violenciaEnCifras/macroencuesta2015/Macroencuesta2015/home.htm> This Survey is not translated into English, but a report, in English, on its main results it is available at this link: http://www.violenciagenero.msssi.gob.es/violenciaEnCifras/macroencuesta2015/pdf/SPAIN_SURVEY_ON_VAW_2015.pdf (Government Office against Gender based Violence)

8th Annual Report by the National Observatory on Violence Against Women 2014 (the 2015 Annual Report is not available in English, yet): http://www.violenciagenero.msssi.gob.es/violenciaEnCifras/estudios/colecciones/pdf/Libro_23_VIII_Informe2014_ingles.pdf

Government campaigns against gender based violence <http://www.violenciagenero.msssi.gob.es/sensibilizacionConcienciacion/campañas/violenciaGobierno/home.htm> (in Spanish)

App “LIBRES”: it is a smartphone app mainly for women who suffer or have suffered from gender violence, but also for any person who detects in their environment a possible situation of mistreatment or abuse: <http://www.violenciagenero.msssi.gob.es/informacionUtil/recursos/appLibres/home.htm> (in Spanish)

2.1. Contributions to the Policy debate

The current debate in Spain on this *State Pact of Violence against Women* will be closer to the European approach on sexual harassment. In this sense, it will be more inclusive. International scientific evidences show that sexual harassment is also highly presented in dating violence (Sabina, Cuevas, & Cotignola-Pickens, 2016; Tapp & Moore, 2016) and hook up situations (Fortunato, Young, Boyd, & Fons, 2010), and youth are suffering this type of sexual harassment on these situations. The need for reinforcing bystander intervention based on community approach for stopping this sexual harassment is another point to be considered as well as the Second Order of Sexual Harassment.

- **Understanding why SOSH is a social concern.** When experts ask why people do not report more sexual harassment cases, the answer is that they receive more attacks instead of protection once they report, and those people who dare to support them, they also receive attacks. Thus, the question is how public institutions, etc. can ensure the protection of victims and victims' supporters. Teenagers, youth and adults report more when they trust and feel sure that they will be supported. Indeed, their friends and colleagues provide more support when they also feel sure they will be protected.

- **Socialisation of attractiveness towards non-violent models.** Results obtained from research projects on preventive socialisation of gender violence have evidenced that the dominant model of socialisation (in traditional media and social media) that links attraction to violence promotes gender violence (Gómez, 2015). Knowing this, adults have an important role in preventing sexual harassment and socialising children and teenagers into the attraction free of gender violence, making egalitarian and non-violent models the desirable and attractive ones.
- **Models of Masculinities are a key factor in the socialisation that either prevents or perpetuates sexual harassment.** Scientific evidence has distinguished among three masculinity models of attraction. Dominant Traditional Masculinities (DTM) and Oppressed Traditional Masculinities (OTM), together reinforce the type of socialisation that links attraction to violence; New Alternative Masculinities (NAM) contribute to preventing and overcoming gender violence (Castro & Mara, 2014). NAM are the ones that link the language of ethics and desire in the same person, as they are egalitarian and non-violent as well as attractive and desirable. Besides shifting the attraction towards egalitarian and non-violent models, adults must provide all kinds of public spaces free of violence, and it is important to do so since the early childhood. No kind of violence or harassment can be tolerated under any circumstances. It is very important to create safe spaces that go from the early childhood to universities, but not only in the educational field: in the street, at home, in bars and night clubs... everywhere.
- **Debate on freedom of expression towards the protection of sexual harassment victims.** 9 years ago, in 2008, European minors demanded media implication on the prevention of online sexual harassment at the International Youth Advisory Council organised in London⁴. They explicitly demanded the mass media's implication in offering tools to report and block harassers, as well as their institutional implication. Nowadays, in our context, we find that there are media that support victims, but also other private and public media that protect harassers and those who attack the victims, sheltered under the freedom of expression. This debate, however, has been solved for a long time in research and the social world of prevention of sexual harassment: support to the victims is more relevant than the “right of freedom of expression” of the media whenever this expression serves to blame victims and protects harassers. For instance, from Columbia University, the leader university on Journalism promotes advise on how to do media coverage of sexual harassment news where ethical commitment with the victim is a crucial element, for instance by avoiding any question that can blame the victim, protecting their integrity, and requesting their feedback about the news before publishing it, being accurate and contrasting information in a rigorous way⁵.

⁴ For more information, see: <https://www.ceop.police.uk/Media-Centre/Press-releases/2008/International-Youth-Advisory-Congress-Key-recommendations/>

⁵ For more information, see: <https://dartcenter.org/content/conducting-interviews-with-survivors-sexual-and-gender-based-violence-by-witness>

- **Debate on the contribution of the media against sexual harassment.** This debate still exists, but in other international forums, it is already solved. The media need to integrate mechanisms of prevention and reporting of sexual harassment in their products although, most of them do have mechanisms; society is claiming improvements for guaranteeing a better protection. Another line is that the media also need to take commitment to generate alternative audio-visual products that promote a type of narrative discourse where attractiveness is linked to non-violent models (Villarejo, 2017), as well as promoting a narrative discourse that supports victims instead of blaming them.

3. Learning

The scientific community has developed a series of evidence that clearly state the importance of coordinated action of all fields and the creation of spaces free of violence in order to fight sexual harassment. Such evidence needs to be considered when developing action programmes that aim at preventing sexual harassment. **By looking at evidence achieved from the results of research projects, we are able to, first, know the scope of the problem and the reason behind it and, then, to find different preventive actions that need to be taken in order to tackle it.** Nevertheless, some barriers have been identified on this issue. One of them is that some preventive programmes are based on occurrences that have not been derived from the results of research projects. This is one of the barriers that must be avoided through the coordination of different ministries. Scientific evidence on sexual harassment indicates that part of the causes of sexual harassment is the language of ethics disassociated from the language of desire. The language of ethics is that which distinguishes among what is good or bad among teenagers, what is convenient for them and what will hurt them.

However, prohibitive language has been known to be a disaster among teenagers for a long time. In other words, it is widely known that not only is prohibiting what is bad for teenagers useless (Ybarra, Mitchell, Finkelhor, & Wolak, 2007), but that it only makes the problem bigger, as what is forbidden or bad is what they desire most. Hence, sexual harassment cannot be tackled through the language of ethics only, it needs to be linked to the language of desire, as this is the one that raises attraction and desire among teenagers and reinforces the models that generate sexual harassment. As the results of several research projects have revealed, if we want to contribute to overcoming this issue, it is necessary to do so from the language of ethics and the language of desire together in order to shift attraction and desire towards models that do not generate sexual harassment. For instance, as the Denmark document says, it is good to tell the young girl adolescents not to send naked photos because it is bad for them, but it is not enough. It is important to tell them what the people they send the photos to comment about them and about others, and how this action decreases their beauty. Therefore, it is not enough to tell them what is bad for them, but they need to understand that there is an alternative, which is more attractive and desirable.

Therefore, it is important to create action programmes that are based on scientific evidence, and as such, evidence tells us to orientate them through the link of the language of desire and of ethics. Another important aspect when creating action programmes is to do so with teenagers themselves, to take their voices into account, as we know that the language of ethics from adults to teenagers does not obtain results, but the language of desire among teenagers does, so we should do it with them.

Another aspect to be considered in the fight against sexual harassment is social media and other relevant online communication apps. If we want spaces free of violence in society, we must create them online too. One of the spaces where teenagers suffer most harassment is online, and the interactions they have in such virtual spaces affect the ones they have in real life. Creating spaces free of violence is our responsibility as adults; we must generate a safe environment for teenagers and future generations.

4. Conclusions and recommendations for fighting sexual harassment

- **SOSH must be included as a key element in the fight against sexual harassment in all public spaces, both online and offline**, from all fields (educative, political and social). The first step is public recognition of this type of violence, as well as a clear rejection positioning. One of the ways that teenagers can acquire this type of behaviour is for them to see that adults from different fields (schools, universities, media, institutions, enterprises) have a clear positioning against this type of violence.
- **Prevention programmes of sexual harassment from early childhood including kindergarten, primary school, high school and university** must be based on scientific evidence. Such programmes cannot be oriented from ethic conceptions only, but also from the language of desire, referring to violent people as cowards, and referring to those who support victims and who suffer violence as brave. This type of language must be included in all educative stages and all social fields (enterprises, leisure spaces, the street, the Internet, hospitals, etc.), as without the link of the language of desire and the language of ethics we cannot make progress in the eradication of this type of harassment. The link of the language of desire and of ethics must also be included in audio-visual productions, both in the cinema and the increasing video games business. We highlight the need for these programmes to be based on scientific evidence rather than occurrences, as has been demonstrated, for instance, that being in love with a non-violent person becomes a preventive factor of gender violence instead of a causal one, as some speeches have tried to present, as well as promoting new alternative masculinities.
- **Special importance for preventing online sexual harassment has been placed in the media**, whether it is social media, traditional mass media, or other enterprises that work online. Society is claiming to improve mechanisms of report and protection that already exist but are not enough. Another contribution is to

recognise the work of those journalists or media producers who are committed to supporting victims of sexual harassment and are doing a rigorous job, including international contributions most significantly related to the coverage of sexual harassment. In our context, we find that there are media that support victims but others that protect harassers and those who attack the victims, sheltered under the freedom of expression. This debate, however, has been solved for a long time in research and the social world of prevention of sexual harassment: support to the victims is more relevant than the right of freedom of expression of the media whenever this expression serves to blame the victim and protects harassers, as the aforementioned example of Columbia University. Moreover, in the case of minors, there is a consensus on the defence that guaranteeing minors' safety and freedom is above the freedom of expression of any mass media.

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ⁱ Spanish Government Office against Gender-based Violence (Ministry of Health, Social Services and Equality). For more information, see: <http://www.violenciagenero.msssi.gob.es/en/home.htm> (English version - only sections' titles are translated, but many PDF documents are in English).