



The EU Mutual Learning Programme in Gender Equality

Preventing sexual harassment


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Dealing with sexual harassment: the Italian experience

Claudia Pecorella

University of Milano-Bicocca (IT)

Abstract

In the fight against sexual harassment, Italy currently needs a step change, because actions undertaken until now to raise awareness on this issue don't seem to have had a great impact: data show a still high number of sexual harassment and a low rate of complaints. Stereotypes and prejudices remain widespread in the population as well as among professionals who deal with victims or perpetrators (judges, doctors, psychologists, social workers etc.) or are involved in the achievement of gender equality (like teachers, journalists, and politicians). The legal system seems adequate to discourage the most serious forms of sexual harassment, but we are still waiting for a new specific crime for occasional harassment in the public spaces and in the digital world. It's time to go beyond guidelines, agreements, and declarations of intent: knowledge of sexual harassment issue should become a requirement, among others, to be employed in public institutions and mandatory training should be introduced for public employees. Moreover, it would be necessary to actively engage private organisations in the prevention of sexual harassment making it profitable in terms of costs saving or competitiveness.

1. How Italy faces sexual harassment

1.1 The estimated extension of the phenomenon: national victimisation surveys

What we know about sexual harassment mainly depends on victimisation surveys, periodically carried out by the National Institute of Statistics (ISTAT). The #MeToo Movement didn't receive great attention in Italy and public denunciations by victims backfired.

Sexual harassment has been investigated within the sample survey dedicated to gender violence which has been realised in 2006 and then repeated in 2014, including a representative number of foreign women. Confronting the results of the two surveys, a *reduced frequency* of sexual harassment by strangers emerges, although violence

in general appears *more serious in its expressions* (68,3% of cases of sexual violence are rapes)¹.

More specifically, sexual harassment (including online) is being investigated within the survey on Citizen's safety, which in 2015-2016² has been for the first time addressed to men too (questions on sexual blackmail in the workplace were instead reserved for women). Data show that 43,6% of female and 18,7% of male population experienced this kind of misconduct throughout life, including sexual violence (15,9% and 3,6% respectively). Harassers are mainly men (in 97% of cases against women and in 85,4% of cases against other men). Sexual harassment has decreased over time and sexual violence is halved over approximately 20 years (from 5,7% in 1997-1998 to 2,7% in 2015-2016). On the contrary, sexual blackmail is stable as well as the very high number of victims who didn't speak to anyone in the workplace about what happened (from 81,7% in 2008-2009 to 80,9% in 2015-2016). Online harassment, through indecent proposals and nasty comments posted on the Internet, has affected 6,8% of women and 2,2% of men.

1.1.1 Local academic investigations

Two recent academic investigations, realised with the Equal Opportunities Committee (CUG) of the Universities involved (Trieste and Milano-Bicocca), focused, respectively, on sexual harassment at the university³ and street harassment⁴. Beyond the findings – in line with expectations – it is important to draw the attention to the suggestions for a better prevention of the phenomenon given by the respondents, mainly students: they asked for a wider discussion of this topic and awareness-raising activities at the University as well as a specific, even mandatory, training course addressed to professors and administrative staff.

1.2 The legal framework

On the labour law front, harassment and sexual harassment in the workplace are covered as a form of discrimination by the Equal Opportunities Code (Law n. 198/2006) which provides safeguards and sanctions, including the nullity of the discriminatory dismissal. Moreover, «prevention of sexual harassment» has been added to the duties of the employer to guarantee «moral and physical healthcare» in the workplace. With this aim, employers should organise, together with workers trade unions, appropriate education, and awareness campaigns (Law n. 205/2017).

¹ ISTAT, *Violenza sulle donne 2006, 2014*.

² This kind of [investigation](#) has been realised in the years 1997-1998, 2002 and 2008-2009. The [results](#) of the last one, on a sample (50.350) of men and women between 14 and 65, has been published in 2018.

³ P. Romito and M. Feresin (eds.), *Le molestie sessuali*, Carocci Faber, 2019.

⁴ R.R. Valtorta, C. Sparascio, R. Cornelli and C. Volpato, *Street harassment and its negative psychological outcomes in an Italian university population*, in *Psicologia sociale* (XVII), n. 2, 2022, 243. The survey included few questions on experiences of harassment at the university.

1.2.1 The criminal response while waiting for an offence of sexual harassment

As GREVIO underlined in its Evaluation Report, there is still a lack of a specific criminal provision on sexual harassment as requested by art. 40 of Istanbul Convention and, most recently, by the Violence and Harassment Convention 2019 (No. 190) of the International Labour Organisation (ILO), which Italy ratified in 2021. Proposals for the introduction of a specific crime of sexual harassment are now pending in Parliament⁵, however sexual harassment can be prosecuted through different provisions of the Criminal Code, some of which could be a real deterrent for their high sanctions:

- the crime of sexual violence (art. 609-bis), which doesn't distinguish between rape and sexual assaults, being applicable every time a sexual act (involving a body contact) is imposed to another person. Although the law still requires violence or abuse of authority, the Supreme Court considers the lack of consent sufficient, as requested by the Istanbul Convention (art. 36)⁶, as well as the abuse of a "private" authority, like that of an employer, or a hierarchical superior⁷;
- crimes of habitual nature such as stalking (art. 612-bis), which is punished with a more severe sanction if realised in the form of cyberstalking, and ill-treatment in the family (art. 572), which applies to harassment committed in a family-type working environment. Both crimes may be applied jointly or alternatively (e.g., in case of lack of body contact) to sexual violence;
- the crime of (improperly called) "porno revenge" (art. 612-ter), introduced with Law n. 69/2019, which punishes the spread without authorisation of sexually explicit images or videos of others.

Faced with this legal framework⁸, the new criminal provision should be limited to occasional harassment (verbal or non-verbal) in the public spaces, as well as in the digital world, where victims receive undoubtedly less protection than in other contexts, such as the workplace. For this kind of harassers, who are probably unaware of the serious consequences of their behaviours, the threat of a criminal sanction may have a significant deterrent effect; on the other hand, extending to the new crime the opportunity to attend an educational path as an alternative to prison - as required for other crimes by art. 165 - could lead to good results.

1.2.2 Beyond the norms: stereotypes and prejudices among professionals

Legal provisions are not sufficient when professionals who must apply them are not adequately trained, and stereotypes and prejudices are widespread among them.

⁵ [AA.SS. 655, 1597 and 1628](#), even if they probably will not be discussed in a short time.

⁶ Cassazione Sez. III, 9 March 2016, n. 49597; Cassazione Sez. III, 19 June 2018, n.52835.

⁷ Cassazione, Sezioni Unite, 16 July 2020, n. 27326.

⁸ Other less serious crimes are sometimes used to prosecute sexual harassment, such as Defamation, Private violence and Harassment or public nuisance (art. 595, 610 and 660 of the Criminal code).

Several times criminal and civil proceedings have been brought to the attention of the ECHR and the State has been condemned for the re-victimisation of injured women⁹. A complaint addressed to the CEDAW Committee by the victim of a sexual violence led to the same result¹⁰. Judge's advisors are not different, as emerged from an empirical survey on psychologists¹¹.

Case law on sexual harassment, especially in the workplace, shows how important is the awareness and recognition of the problem by judges, considering that bystanders – who usually are not available in cases of domestic or sexual violence – often deny that facts happened once in the courtroom, being afraid of the consequences of a different statement on their employment status.

2. The university's contribution in awareness-raising activities

2.1 New specific courses within university education: a tangible result of a worthy investment

In the field of education, the prevention of any form of discrimination, including sexual harassment, is carried on through national guidelines (Law n. 107/2015)¹² aimed at primary and secondary schools. However, attention should be paid also to university students who still need to be trained on this topic, as emerged from the academic investigations mentioned before. In this perspective, since 2019 a regional Administration (Regione Lombardia) publishes on yearly basis a call for training activities on gender equality and discrimination, to be developed in public and private universities of the region. As a result, many courses in different areas (law, sociology, psychology, medicine) have been funded, filling a gap (unfortunately not in an institutional way yet) in the vocational training of professionals who will deal among others with victims or perpetrators of sexual harassment.

2.2 UN.I.RE: University Network against gender violence

In conjunction with this experience, which seems unique at national level, the understanding of the crucial role that University may play in this field, promoting research and development together with training, led to the creation of a network

⁹ ECHR, J.L v. Italy (27 May 2021); D.M. and N. v. Italy (20 January 2022); Landi v. Italy (7 April 2022); De Giorgi v. Italy (16 June 2022); S.M. v. Italy (7 July 2022).

¹⁰ [CEDAW Committee](#), 20 June 2022, A.F. v. Italy (148/2019)

¹¹ [M. Feresin, M. Santonocito and P. Romito](#), *La valutazione delle competenze genitoriali da parte dei CTU in situazioni di violenza domestica: un'indagine empirica*, in [www.sistemapenale.it](#), Osservatorio sulla violenza contro le donne 3/2021.

¹² Ministero dell'Istruzione, dell'Università e della Ricerca, [Educare al rispetto: per la parità tra i sessi, la prevenzione della violenza di genere e di tutte le forme di discriminazione](#).

among Italian Universities (UN.I.RE), which is now assuming a European dimension¹³.

3. Reflecting on the Danish and Dutch Practices

3.1 Measuring sexual harassment

The best way to measure sexual harassment – notoriously underreported - is probably through victimisation-surveys like those realised in Italy by ISTAT, which collect data interviewing a representative sample of the investigated population. Low expensive investigations carried out through online questionnaire – such as the street harassment survey mentioned before - don't guarantee a high number of respondents and their representativeness among different clusters. They may be useful, however, to collect information from a specific group of people working, studying, or living in the same place; the (relative) small number of interviewed allows the use of open-ended questions, to discover feelings, opinions, and suggestions, otherwise difficult to detect. In any case, it is important to avoid the expression “harassment” or “violence” until it is used for the first time by the interviewed, presenting instead a list of conducts (“unpleasant experiences”) which are expressions of them.

3.2 National action plan and guarantee of its implementation

The drafting of a national action plan to assure an integrated and coordinated approach seems an essential step in the fight against sexual violence and sexual harassment. Italy created in 1997 the Office of the Ministry of Equal Opportunities within the Council Presidency, giving to it the coordination of any intervention regarding gender equity and gender violence. Since 2015, the Department of E.O. coordinated a national three-year strategic plan of actions. To guarantee effectiveness to what planned, strategies must include detailed information about their implementation (who will do what, by when and with how much money). However, the success of planned strategies will depend on the expertise and dedication of people and professionals involved, whose training in this field is essential.

4. Suggestions for a more effective prevention

4.1 Knowledge of sexual harassment issue: a required test to gain employment in public institutions

To implement a lasting cultural change, in addition to already existing and still planned awareness-raising campaigns, awareness of sexual harassment issue should become, for any public officers, as important as the knowledge of the Constitution. To this purpose, it should be included among the requirements necessary to take part in

¹³ See <https://unire.unimib.it>.

competitions for an employment in public institutions, such as schools, universities, hospitals, army, courts, social services, prisons, etc. In this perspective, education on mutual respect and gender equality should become more binding (and more important from the point of view of teachers and students) in the formative years, including university.

4.2 Training on sexual harassment issue: a mandatory task for public employees and a strategic challenge for private organisations

At the same time, training of public employees already recruited should become mandatory too, to avoid that the efforts made in other areas are undermined. In this way, the lack of competence on sexual harassment and sexual violence among professionals dealing with victims and perpetrators could be also remedied, at least for all those working in public institutions. Such an initiative, if promoted at European level would have more chance to be welcomed, especially if training on this topic would become necessary to access EU funding¹⁴.

Concerning the world of organisations, which cannot be obliged to training activities, noteworthy is the idea of making prevention of sexual harassment profitable for them. Italian legislation offers an example, giving the chance to private enterprises to receive tax relief and advantages in the awarding of funding once they get the Certification of Gender Equality for having implemented policies to reduce the gender gap (Law n. 161/2021). A similar approach should be adopted with all kinds of organisations, associations, and agencies, offering them advantages in terms of cost saving or competitiveness for the active engagement in the prevention of sexual harassment.

¹⁴ About the need «to ensure the implementation of a strong and effective action plan against sexual harassment in the interest of prevention and support and mandatory training for all staff and Members [of the European Parliament] on respect and dignity at work so as to ensure that a zero-tolerance approach becomes the norm», see the European Parliament resolution of 26 October 2017 on combating sexual harassment and abuse in the EU (2017/2897(RSP)), § 17.