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# SEXUAL HARASSMENT IN THE WORKPLACE AMONG POLISH MIGRANT WORKERS IN THE NETHERLANDS



**FAIRWORK**

## **Colophon**

Sexual harassment in the workplace among Polish migrant workers in the Netherlands

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## Introduction

Sexual harassment is one of the most common sexual violence delicts and affects a great number of people within the workplace. Unfortunately, this phenomenon is most probably as widespread as it is hard to do research about. In this study we want to present new information about this complex and delicate topic which will lead to new conclusions and recommendations.

Former studies have shown migrant women in precarious working conditions are at an increased risk of being sexually harassed. The focus of this study was on the sociocultural specifics regarding sexuality and sexual violence and their impact on the capacity of Polish migrant women to react assertively to sexual harassment.

## Legal framework

Sexual harassment is by law prohibited and is included in the **Dutch Equal Treatment Act** as prohibition on discrimination (based on sex). It is defined as 'a conduct of sexual nature which has the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment'. According to law, every behaviour of sexual nature that makes a person feel uncomfortable can be seen as sexual harassment and is therefore prohibited. The intention of the harasser is thereby of no importance.

Furthermore, in the Netherlands the **Act on Working Conditions** contains a positive obligation on employers to prevent and combat discrimination, and thereby also sexual harassment. Once a complaint was filed, it is the employer who needs to show evidence for granting a working environment free of discrimination, for instance by taking the victim's discomfort seriously. If the employer fails to do so, administrative fines can be given and the employer can be held liable for damages resulting from discriminating behaviour.

EU law has explicitly opted to consider sexual harassment as a form of sex discrimination. As a result of difficulties inherent in proving discrimination, **EU gender equality law** provides for a shift in the burden of proof. An alleged victim of discrimination has to establish before a court or other competent authority facts from which it may be presumed that there has been direct or indirect discrimination. It is, however, not the victim who has to show evidence that sexual harassment took place, but for the respondent to prove that there has been no breach of the principle of equal treatment.

As a matter of EU gender equality law, persons who have made a complaint or instigated legal proceedings aimed at enforcing compliance with the principle of equal treatment have to be protected against dismissal or any adverse treatment or consequence in reaction to their action.

However, besides the public being widely still uninformed about this topic, all of this was unknown to the respondents of this study. Unfortunately, it is to a considerable extent a lack of such information that reflects why many victims of sexual harassment have little chances for developing hope and be subsequently brave enough to reach out for help.

## Research results

Throughout the study we came in contact with 62 women. We asked them to fill out a structured form, written in their native language, and thus answer personal questions about their experiences with sexual violence, their perception on gender themes and their upbringing in Poland. Only 23 of those questionnaires were returned completely filled out. An analysis of the statements from those questionnaires allowed us to estimate which of those women were most accurate as respondents within this research. Finally, it was possible to meet nine of those women for long semi-structured narrative interviews.

All of the interviewed women are Polish migrants living in the Netherlands. Five of the respondents have a medium level education, four of them pursued a higher education. Nonetheless all those women were performing low skilled labour and enjoyed very little rights as employees in the moment they became victims of sexual harassment. We want to thank them for being brave and sharing their intimate stories with us.

### **Employment agencies**

In case of the women interviewed for this research, employment agencies created opportunities for the abuse of power by the employer, as it made the interviewed women extremely dependent and vulnerable. All of them were either hired by an employment agency or had no contract at all and were - with two exceptions- all working in the primary sector when the sexual harassment took place. All of them were in some way or another dependent and isolated, what in most cases went hand in hand with a very restricted knowledge about their (legal) capacity to act as victims of sexual harassment.

### **Variation in form, quantity and severity**

The sexual harassment experienced by the respondents within this research varied in form, quantity and severity. In Sonia's (30) case, accepting a sexual offer helped her into an employment just after she had lost her former job and was desperately looking for new work opportunities. For Kasia (38) such situation aroused when she was already working for a few months in a logistics company. After first being verbally assaulted by several colleagues again and again, one day she finally found help, even if not without a price. Her 'saviour', a director of operations, offered her security and transferred her into another sector, but only in return for sexual favours, whereupon she agreed. The sexual harassment of the remaining seven respondents took place during a longer period of time and in all cases gradually made the working environment result in an unpleasant, intimidating and humiliating place. Four of those women became victims of physical attacks in various forms (unwanted touching / unwanted hugs / a slap on the buttocks / a long, slow stroke of the buttocks with one finger, following the shape of it / attempted rape / rape). While Barbara (26) and Jolanta (21) were able to defend themselves immediately, a lack of action from the remaining women in this sample resulted in an almost unbearable working climate.

### **Perception of gender roles**

In Poland, women are often already from an early age being prepared for their future role as social and family-oriented people. This could be confirmed in intimate talks with the interviewees about their lives as women in Poland and their perception of gender roles. The interviews demonstrated that all of them experienced a female specific treatment when growing up. Kinga (26) states having felt treated differently by her parents and surrounding, just because she was a girl:

*Well of course I felt it, every day I did. I was treated differently than my little brother. He could do silly things, be naughty. It was always quickly forgotten. Because he is a boy, no? He was generally left in peace most of the time. [...] I had to meet higher expectations [...]. Always have good grades, but also just be... "good" [...]. My whole life I had to meet demands placed upon me like on an adult, but at the same time I could only enjoy the rights of a child. You know what that means, right? That means I had as good as no rights at all. (Kinga, 26)*

Although most of the interviewees had experienced some kind of discrimination based on sex from an early age, they barely question specifically female unfairness. Further inquiries showed that the discrimination of women in the Polish society appears to be some sort of widespread incontestable normality. A crucial part in such 'normalisation process' is the binding of the female society members to their body specifics, which reveals a conservative setting significantly influenced by the Catholic Church. At home, school, church - the society teaches Polish women to be sacrificing, submissive and unproblematic and therefore supplies them with characteristics opposite to assertiveness.

An important element in the image of women, characterized by tradition and Catholic ethics, are the so-called passive virtues, such as obedience, piety, modesty, optimism, submission. Catholicism doesn't value active virtues like independence, development of one's own personality, social skills [...]. Polish women are passive, even when it comes to their rights. Educated within a cult of obedience and self-sacrifice, their main activity is to perfect their nurturing virtues (Środa 1996: 75).

### **Influence of the Roman Catholic Church**

8 out of 9 respondents confirmed that the Catholic Church has had a substantial impact on their lives. Furthermore, a certain attitude could be revealed that considers women generally as morally superior to men. The latter being understood as the 'worse' of the two sexes, driven by instinct and aggressive emotions, seems to be a broadly accepted fact. However, such strong connection of the social gender to the biological sex is problematic, as it can lead to a 'natural' justification of the perpetrators' behaviour.

### **Reactions to harassment**

Looking at the reactions of the interviewees to sexual harassment, two can be described as assertive and successful, while seven are classified as passive and defenceless. Out of those seven respondents who reacted evasive or not at all, five didn't perceive their situation as sexual harassment - or chose not to do so. Although they have felt uncomfortable around their perpetrator, most of them could only in hindsight classify the occurrence as sexual harassment, for example when an initially 'only' verbal attack escalated into a physical one. Besides perceiving different social roles for both sexes, all of the interviewed women are deeply convinced that women are by nature more sensitive, emotional and caring than men. With a cultural background that makes them believe women are generally more sensitive and emotional, the Polish women of this sample questioned themselves when being verbally or nonverbally harassed and chose to ignore such behaviour until worse harassment took place.

### **No escape**

Under discussion of the underlying facts to this behaviour, they explained that not only were the advances of the perpetrators simply not taken seriously, but often the women also just didn't want to 'make problems'. 7 out of 9 respondents perceived their situation as either unchangeable or too integrated in complex dependencies to really believe in and count on efficient support from outside. Ilona, Kasia, Ania and Sonia for instance left their families back in Poland and can't risk to lose their jobs, as they have certain (financial) responsibilities towards their relatives. The fear of losing their employment and the fear of not being taken seriously intensify one another and result in the decision of the victim to not react at all.

*Have you ever read a report about rapes in Poland? [...] They blame the women! Why she getting so drunk, why is she walking around dressed like that, they explain why it is obvious that something like that happens. And I'm talking about how press deals with the really hard cases [...] And now imagine I'd go to my supervisor and say I'm not feeling well at work because some colleague is hitting on me all the time. I would have been laughed at, probably thrown out after a while. I cannot afford to attract such attention on me, I can't risk it. (Karolina, 26)*

### **Shift of responsibility**

A significant majority of the sample believes that a woman should be always aware of her feminine charms and handle them with great care. Such an attitude comes along with the opinion about women to actively have to avoid sexual harassment and can result in a certain evasion of the responsibility from the perpetrators. This also led to the conclusion of some of the respondents that women were jointly responsible for being sexually harassed:

*Of course, there are some to blame! Some girls will specifically use their femininity to reach their goals and well, stupidly from a certain point are not able to control the situation anymore. They play with fire and burn their fingers! Well ok, some others are simply not careful enough. I speak from experience. In the end, I was also nothing but foolish. (Irena, 26)*

Being aware of such mentality, a Polish female victim knows that if she complains about sexual harassment, she might be found guilty herself of having incited the other person to harass her sexually.

### **Misunderstanding**

Kasia (38) and five others understand sexual harassment as a phenomenon conditioned by a sexual desire and so believe that men are acting instinct-driven and simply 'lose their control' when becoming perpetrators:

*Men are just irresponsible. We women always think about everything, the consequences of our actions. And men, well, they are allowed to do everything anyway. Of course, there are those who can behave and control themselves. But I guess when there comes along a very attractive and exotic woman... they simply can't physically resist. They just have to grab us and give us a slap on the butt, they just can't help it! (Kasia, 38)*

Although sexual harassment in the workplace as a form of violence has significantly more to do with dominance, control and power than sex, only three respondents interpreted it that way.

### **Limited access to information**

A socio-cultural perspective on sexual harassment revealed furthermore that Polish women generally lack a sense of justice as victims of sexual violence and therefore are unaware of the rights they could actually claim. A certain (mistrustful) attitude towards legal regulations among Polish people is not uncommon and can be partly explained with historical events, but also current political occurrences in Poland. As a result, certain legislations often represent rather a theoretical framework in which the Polish people do not actually believe in.

Besides those sociocultural aspects, an incapacity to react assertively can be partly explained by a language barrier and a hereto related limited access to information: almost none of the interviewees knew about the - compared to Poland - increased rights and better possibilities for defence as sexually harassed employees in the Netherlands.

## Recommendations

With the rising presence of sexual harassment in the global media, society has been again made aware that this problem concerns many - if not everybody - and is nowhere near elimination. This research was performed in summer 2017, whereby the actual field work could be carried out within the restricted period of three weeks. For that the results of this study show tendencies within what can be called the tip of the ice berg.

While every situation is different, it can be assumed that talking about sexual harassment is not easy for the victims. Fighting for their cause, they have to first conquer shame, fear and submission. It is however even harder for people to explain themselves and entrust their intimate stories in a foreign language. Unfortunately, **the few institutions and organisations dealing with sexual harassment in the Netherlands hardly ever provide help in any other language than Dutch**. The lack of the necessary language skills puts migrants in a vulnerable position and in case of sexual harassment represents an additional obstacle for the victims to reach out for help. Only two respondents reacted assertively to the sexual harassment and took action against it by filing (in)formal complaints. Those two were the only ones that were in a relationship with a Dutch man when the harassment took place, and therefore had a better access to information about their rights.

The less options they see, the more victims of sexual harassment are willing to accept their situation, often with the consequence of severe psychological and physical damages. Besides not knowing the legal framework concerning their own situation, an inability to define certain behaviours as sexual harassment is keeping victims from reacting assertively. Therefore, **better information about the own rights as an employee in the Netherlands as well as an improved knowledge about sexual violence in all its forms** can already be a powerful help tool for victims of sexual harassment.

Although there are cultural specifics that keep many of those women from reacting in an assertive way, the same barriers of defence can be assumed also for women and men of other sociocultural backgrounds. On that account, **an overall awareness of (legal) capacity to act as a victim of sexual violence in the Netherlands** must be created and strengthened in the future.

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