Sexual Harassment in the Workplace:

From Hashtags to Transformative Action
Center for Occupational and Environmental Health

- Protecting workers and communities from environmental health hazards through teaching, research, and service. -
LOHP’s mission is to:

- promote safe, healthy, and just workplaces
- build the capacity of workers and worker organizations to take action for improved working conditions
• Livestream and recording: https://www.facebook.com/UCCOEH/

• Questions or comments? Please use Q&A or chat section
Agenda

• What’s new? An overview
  Alejandra Domenzain, Program Director,
  UC Berkeley Labor Occupational Health Program

• What is sexual harassment, and what are employers’ responsibilities? What laws protect workers?
  Jennifer Reisch. Legal Director, Equal Rights Advocates

• What resources are available? How can we change workplace culture?
  Elena Dineen, Staff Attorney, Futures Without Violence
What’s new?
“In today’s atmosphere, there would be more people who would understand my story, who would believe my story.”

“It’s a matter of public concern…. not our personal burden to bear.”

Anita Hill, speaking at a panel coordinated by the National Women's Law Center, Dec. 2017
1. **Structural analysis of risk factors**
   - Isolation
   - Power dynamics in the workplace
   - Economic structures
   - Male dominated industries
   - Culture of the workplace
   - Lack of accountability; retaliation
2. Focus on low-wage workers
A #MeToo moment for the poor and powerless

Low-Wage Workers Aren’t Getting Justice for Sexual Harassment

Despite the #MeToo movement, poor women often find that speaking out against abuse at work is too costly.

The marginalized voices of the #MeToo movement
Farmworkers

Cultivating Fear
The Vulnerability of Immigrant Farmworkers in the US to Sexual Violence and Sexual Harassment

RAPE IN THE FIELDS

HUMAN RIGHTS WATCH

FRONTLINE
Janitors

The Perfect Storm:
How Supervisors Get Away with Sexually Harassing Workers Who Work Alone at Night

Helen Chen, Alejandra Domenzain, and Karen Andrews
Labor Occupational Health Program — University of California, Berkeley
MAY 2016

RAPE ON THE NIGHT SHIFT
JANUARY 16, 2018
Food processing and restaurant
Raising the Floor for Supply Chain Workers: Perspective from U.S. Seafood Supply Chains

WAGES AND WORKING CONDITIONS IN ARKANSAS POULTRY PLANTS

The Northwest Arkansas Workers’ Justice Center
February 1, 2016

RESEARCH AND WRITING SUPPORT
Nine Eber, Jessika Halpenny-Finerty, and Saru Jayaraman
The Food Labor Research Center, University of California, Berkeley
Hotel housekeepers

Domestic workers
TEMPORARY WORK

PERMANENT ABUSE
reality check

seventeen million reasons
low-wage workers need strong protections from harassment

NATIONAL WOMEN'S LAW CENTER

ENDING GENDER-BASED VIOLENCE IN THE WORLD OF WORK IN THE UNITED STATES

In a Day’s Work
The Fight to End Sexual Violence Against America’s Most Vulnerable Workers
Bernice Yeung
3. Analysis of intersections

- Race
- Immigration status
- Gender expression
- Socio-economic background
4. Platforms for survivors to share their stories

5. Critical mass of survivors speaking up encourages others, normalizes it
6. Campaigns - internal and external
ONE FAIR WAGE

For All Workers
7. Survivor-centered solutions

- Third parties
Milk with Dignity Agreement
Survivor-centered solutions (continued)

Ways to document without reporting; to file anonymous reports

Trauma-informed approaches

Restorative justice
#Our Turn: Sexual Harassment Action Network

Taking back workplaces for respect and justice.
#OurTurn Action Plan includes:

- **Webinars:** Network members will learn and develop collaborative strategies
- **Working groups:** Provide a vehicle for advancing priority campaigns and educational efforts;
- **Listserve:** Keep members informed and promote sharing of resources and tools;
- **Web-based resource clearinghouse:** will provide members with concrete tools to take action in their communities;
- **Annual assembly:** A space to review achievements, revise objectives and promote further collaboration
- **Public engagement component:** Organize meaningful opportunities for the public to learn about and support workplace and public policy campaigns and access resources.
info@nationalcosh.org
Elena Dineen,
Staff Attorney for Programs
Futures Without Violence
About FUTURES

For more than 30 years, FUTURES has been providing groundbreaking programs, policies, and campaigns that empower individuals and organizations working to end violence against women and children around the world.
About Workplaces Respond

Workplaces Respond to Domestic and Sexual Violence: A National Resource Center (Workplaces Respond) educates and builds collaborations among workplace and non-workplace stakeholders – employers, worker associations, unions, and anti-violence advocates – to prevent and respond to domestic violence, sexual harassment and violence, trafficking, stalking, and exploitation impacting the workplace.

The project is a public-private partnership led by Futures Without Violence, and funded by the U.S. Department of Justice’s Office on Violence Against Women (OVW).
Creating Workplaces Free from Domestic Violence, Sexual Harassment & Violence, and Stalking

Workplaces Respond provides resources, training, and technical assistance to employers, survivors, co-workers, and advocates to prevent and respond to domestic violence, sexual harassment & violence, trafficking, and stalking impacting the workplace.

Visit the Resource Library

www.workplacesrespond.org
1 in 3 women ages 18 to 34 has been sexually harassed at work.

81% surveyed had experienced some form of verbal harassment in the workplace.

Cosmopolitan Survey
Top Ten Things

Victims – Employers – Unions – Men

Can Do Right Now to Address Sexual Harassment in the Workplace

10 Acciones Principales Para Enfrentar Al Acoso Sexual en el Sitio de Trabajo

En Español
Sample Tools: Assessing Climate

**Workplace Climate Surveys**

The best prevention-oriented climate surveys are anonymous, confidential, and explore workplace culture and environment in order to identify employee needs, gaps in response, and workplace expectations.

**Assessment Categories**

Click each category for more information & sample questions

**Prevalence**

Frequency, nature & impacts of workplace sexual harassment & violence

**Equity**

Belief in access to equal opportunity & fair treatment. Identifies that underpinnings of misconduct.

**Accountability**

Belief and confidence that the process protects victims & strives to eliminate harassment
Prevention requires a year-round, holistic approach.

• Consistent awareness-raising activities;
• Effective, evaluated trainings including bystander intervention trainings;
• Assessments of workplace climate;
• Peer networks;
• Confidential complaint procedures;
• Updated policies and resources available for employees;
• Close gaps in gender equity; and
• Accountability and Enforcement.
Worker-led Solutions for Accountability and Enforcement

Pilot Site: Immokalee, Florida

- Coalition of Immokalee Workers
- Fair Food Standards Council
- Vida Legal Assistance
- Pacific Tomato Growers
- FUTURES
Questions?
Jennifer Reisch

Legal Director of Equal Rights Advocates since September 2012

Helped pass the strongest equal pay law in the nation, the California Fair Pay Act of 2015 (SB 358)

Represented thousands of low wage and immigrant workers challenging sex discrimination and sexual harassment, including retail workers in *Dukes v. Wal-Mart*, shipyard workers in *Aviles v. BAE Systems Norfolk Ship Repair*; janitorial worker in *Bojorquez v. ABM Industries, Inc.* (case resulting in $812,001 verdict, featured in *Rape on the Night Shift* documentary)

Named to Daily Journal Top 75 Labor & Employment Lawyers in California, 2015-2017

Recognized in Super Lawyers as Rising Star in employment litigation, 2009-2012

Adjunct Professor, U.C. Hastings College of the Law (2009-2013), USF School of Law (2007)

Appointed to serve on *California Pay Equity Task Force* and the *DFEH Task Force on the Prevention of Sexual Harassment in the Workplace*.

Helped to found the Ya Basta! Coalition to support janitorial workers in their fight to end sexual violence and harassment, serves on DIR Advisory Committee on the Property Service Workers Protection Act (AB 1978)
About Equal Rights Advocates

Legislative Advocacy

Strategic Litigation

Community Education

Advice & Counseling
Sexual harassment: a short history

Sexual harassment has been around for centuries…

But only recently recognized as a form of unlawful discrimination

Yet from 1976 to 2016…

The Results of a 1976 Survey of Women About Sexual Harassment At Work Remain Virtually Unchanged In 2017

Which of the following have you experienced with male co-workers or supervisors?

- Leering or ogling: 51%
- Sexual remarks or teasing: 64%
- Sexual hints or pressures: 43%
- Touching, brushing, pinching, etc.: 34%
Sexual Harassment: Common examples

What Classifies Sexual Harassment

- Assault
- Staring
- Honking
- Whisteling
- Stalking
- Verbal Comments
- Groping
- Sexist Comments
- Noises
- Kissing
- Comments
Sexual Harassment: Legal definitions

Quid pro quo

(This for that)
- Someone in a position of **power**
- Who demands a sexual **favor**
- In exchange for a **benefit** or for not imposing a negative **consequence**

Hostile work environment

- **Unwelcome** conduct
- Of a sexual nature or based on **sex** or gender
- So **severe or pervasive** that it affects terms and conditions of employment so as to create a **hostile or abusive work environment**
## Sexual Harassment: What laws protect workers?

### California:
- **Fair Employment & Housing Act (FEHA)**
  - 1+ employee (for SH)
  - Interns, volunteers, contractors covered
  - Prohibits discrimination based on sex + gender, gender ID & expression
- Enforced by DFEH

### Federal:
- **Title VII of the Civil Rights Act (Title VII)**
  - 15+ employees
  - Prohibits discrimination based on sex
- Enforced by EEOC
Sexual Harassment: What Duties Do Employers Have?

- **DO NOT DISCRIMINATE** against any employee or applicant based on sex!

- **DO NOT RETALIATE** against any employee who reports, objects to, or helps another employee exercise rights with respect to sexual harassment.

- (in California) **TAKE REASONABLE STEPS TO PREVENT** sexual harassment and retaliation
  - Policy against discrimination that includes (and defines) harassment
  - Clear procedure for employees to report, complain
  - Notice to employees and supervisors

- **PROMPTLY INVESTIGATE & EFFECTIVELY RESPOND**
  **Even if behavior doesn't meet legal definition**

- (in California) **TRAIN SUPERVISORS** - at least two hours once every 2 years
Sexual Harassment: Resources for workers & advocates

For workers:

• Equal Rights Advocates, Know Your Rights: Sexual Harassment at Work (English)

• Equal Rights Advocates, Conozca Sus Derechos: Acoso Sexual en el Trabajo (Espanol)

• DFEH Workplace Sexual Harassment Pamphlet

For worker advocates & organizers:

• Equal Rights Advocates, Sexual Harassment in the Workplace Toolkit for Advocates & Organizers

• National Women’s Law Center, Six Ways Unions Can Help Prevent and Address Sexual Harassment at Work

• National COSH - Sexual Harassment Action Network Resources
Sexual Harassment: Resources for employers

- DFEH Workplace Harassment Guide for California Employers
- National Women’s Law Center, Ten Ways Your Company Can Help Prevent Harassment in the Workplace
- Workplaces Respond, Resources for Employers