

Sexual Harassment

**IN HIGHER EDUCATION
AND RESEARCH**

**A GUIDE FOR
INFORMATION
AND SELF-DEFENCE**



3rd edition



CLASCHES

Collectif de Lutte Anti-Sexiste Contre le
Harcèlement Sexuel dans l'Enseignement Supérieur

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The AVFT (*Association européenne contre les Violences faites aux Femmes au Travail* - European Association against Violence against Women in the Workplace) has supported the actions and demands of CLASCHES since its creation in 2002. It has provided training, skills, and advice on several issues related to sexual violence in higher education. This constant support is again apparent in the writing of this handbook, and we would like to thank the AVFT for their precious assistance. Through this shared work, this guide and the one published by the AVFT (*Violences sexistes et sexuelles au travail: faire valoir vos droits, 2^e édition*, updated in 2013) are two complementary documents that can be used to guide those concerned.

The members of CLASCHES would also like to thank the various people involved in writing this guide and more broadly in the activity of the association. In particular, this guide owes much to the knowledge shared by the founders of CLASCHES and the experiences and skills shared by the members of the *Cellule de veille et information sur le harcèlement sexuel* (CEVIHS) at Lille University 3. Many thanks also to the *Centre Hubertine Auclert* for its assistance and availability.

NOTE TO READERS

This handbook is based on the many testimonials CLASCHEs has received since its creation in 2002. CLASCHEs is often incorrectly perceived as an association exclusively targeted at students, which explains why the majority of these testimonials come from students or graduate students. Therefore, to a certain extent we have adapted the explanations provided here to the public that turns to us most often, which is also the public that has the least resources and information: students. But the reality of sexual harassment in higher education is not limited to this group alone, and members of staff also regularly turn to CLASCHEs for information and advice.

The use of the term “victim” is questionable in many ways because it is both stigmatising and limiting. However, it is a key legal term and this guide is designed as a tool for defence, and particularly legal defence. It therefore seemed consistent to use this term to refer to individuals faced with situations of sexual harassment.

Finally, this handbook has been written using gender neutral language whenever possible. However, as far as pronouns are concerned, we have chosen to use “they” for victims, to reflect the fact that victims are overwhelmingly but not exclusively female, and “he” for perpetrators, to reflect the fact that the majority of perpetrators are male.

LIST OF ABBREVIATIONS AND ACRONYMS

ATER :	<i>Attaché-e temporaire d'enseignement et de recherche</i>	Temporary research and teaching assistant
AVFT :	<i>Association européenne contre les violences faites aux femmes au travail</i>	European Association Against Violence Against Women in The Workplace
BIATSS :	<i>Bibliothécaires, ingénieur-e-s, administratifs/administratives, technicien-ne-s, personnels sociaux et de santé</i>	Librarians, engineers, and administrative, technical, health staff and social workers
CEVIHS :	<i>Cellule de veille et d'information sur le harcèlement sexuel</i>	Monitoring and Information Unit on Sexual Harassment
CFCV :	<i>Collectif féministe contre le viol</i>	Feminist Collective Against Rape
CHSCT :	<i>Comité d'hygiène, de sécurité et des conditions de travail</i>	Committee on Health, Safety, and Working Conditions
CNESER :	<i>Conseil national de l'enseignement supérieur et de la recherche</i>	National Council for Higher Education and Research
CNIDFF :	<i>Centre national d'information sur les droits des femmes et des familles</i>	National Information Centre on Women's and Family Rights
CNRS :	<i>Centre national de la recherche scientifique</i>	National Centre for Scientific Research
CNU :	<i>Conseil national des universités</i>	National University Council
CROUS :	<i>Centre régional des œuvres universitaires et scolaires</i>	Regional Centre for University and School Projects
EPSCP :	<i>Établissement public à caractère scientifique, culturel et professionnel</i>	Public scientific, cultural, or professional institution
EPST :	<i>Établissement public à caractère scientifique et technologique</i>	Public scientific and technical institution

ESR :	<i>Enseignement supérieur et recherche</i>	Higher education and research
FNSF :	<i>Fédération nationale Solidarité femmes</i>	National Federation for Solidarity with Women
IFSTTAR :	<i>Institut français des sciences et technologies des transports, de l'aménagement et des réseaux</i>	French Institute for Science and Technology of Transport, Development, and Networks
INRAE :	<i>Institut national de recherche pour l'agriculture, l'alimentation et l'environnement</i>	National Institute for Research on Agriculture, Food, and the Environment
INRIA :	<i>Institut national de recherche en informatique et en automatique</i>	National Institute for Research in Digital Science and Technology
INSERM :	<i>Institut national de la santé et de la recherche médicale</i>	National Institute for Health and Medical Research
IRD :	<i>Institut de recherche pour le développement</i>	Research Institute for Development
MCF :	<i>Maître-esse de conférences</i>	Permanent lecturer
MESR :	<i>Ministère de l'Enseignement supérieur et de la Recherche</i>	Ministry for Higher Education and Research
OPJ :	<i>Officier de police judiciaire</i>	Officer of the judicial police (investigating officer)
PF :	<i>Planning Familial</i>	Family planning
PR :	<i>Professeur-e des universités</i>	Tenured university professor
SUMPPS :	<i>Service universitaire de médecine préventive et de promotion de la santé</i>	University Preventative Medicine and Health Service
UFR :	<i>Unité de formation et de recherche</i>	Research and training unit
UMJ :	<i>Unité médico-judiciaire</i>	Forensic analysis unit

PREFACE

Like other forms of sexual violence, sexual harassment in higher education and research is a reality that is often misunderstood, and which only sporadically catches the public's attention because of political or legal circumstances or events in the media. When it is in spotlight like this, as an isolated event, the ensuing scandal masks how widespread it really is. Indeed the real extent of sexual harassment in higher education and research can only be seen in the testimonies and charges of victims, because as yet no quantitative research has been conducted on the subject, whether with students, administrative staff, or lecturers.

Higher education institutions seek to protect their image as sites of knowledge that are impervious to power relations, inequalities, discrimination, and above all, sexist and sexual violence. This stance is too frequently visible in the testimonies from the rare disciplinary procedures resulting from sexual harassment cases, involving intimidation of witnesses and experts, pressure on plaintiffs, misinformation and a total lack of public outcry, in violation of the obligation to publicly display rulings from the disciplinary committee (strangely this does not happen in cases involving cheating on exams...). It can even be seen in the law, which states that a public servant can be judged only by their peers, i.e. public servants of the same rank and status. The powerful corporatism of such a law is accentuated by the localism of procedures.

Moreover, the prevention and repression of sexual harassment in universities suffers from two persistent stereotypes. The first is the idea of "seduction" or "esprit gaulois", a kind of openly licentious or bawdy humour valued as a kind of wit in France. It is even associated with a kind of national character, by opposition to (and fear of) an American-style "war of the sexes", in which "a man cannot be alone with a woman in an elevator without being charged with harassment". Let us be clear: seduction requires reciprocity and consent, and the myth of the "war of the sexes" contributes to the minimization of the seriousness of sexual harassment.

Statistics from the rare studies that exist show that although on average between 40% and 60% of women are sexually harassed during their lives,¹ only a small minority press charges against their aggressor. For example, in the case of rape or attempted rape, only 20% of estimated victims press charges², and only a tiny proportion of those cases lead to sentencing.

Finally, it is important to note that the definition of harassment itself is not well understood. On one hand, events that in fact constitute sexual harassment are often classified as moral harassment (particularly because this is a charge that is more widely recognised as a “psycho-social” risk in the workplace). On the other hand, the term sexual harassment is frequently used to describe events or actions that in fact constitute other kinds of sexual violence. This makes it difficult for victims and witnesses to identify it.

Given this, how can we be surprised at the deafening silence that surrounds the issue of sexual harassment in higher education and research?

CLASCHES has been working with higher education and research institutions and with student associations and unions since 2002 to raise awareness and provide training on this issue. Each time, our observations are the same:

- Participants in our training sessions do not know how to define sexual harassment or sexual assault;
- They know next to nothing about the associated disciplinary, criminal, or civil procedures;
- They want to know how to help the victim, or how to react as a witness;
- Above all, in spite of their lack of knowledge, they all always have situations to tell us about, testimonies to provide, and victims that they send to us for help.

1 Maryse Jaspard, & al., *Les violences envers les femmes en France. Une enquête nationale*, La Documentation française, 2003. Enquête en Seine-Saint-Denis sur les violences sexuelles faites aux femmes au travail, 2009; http://www.souffrance-et-travail.com/media/pdf/Etude_Violence_Femmes_Travail_Seine_Saint_Denis.pdf. Statistics from the Haut Conseil à l'égalité femmes-hommes (HCE-fh) : <https://www.haut-conseil-egalite.gouv.fr/violences-faites-aux-femmes/reperes-statistiques/>

2 Insee/ONDRP/SSMSI, Survey report, “Cadre de vie et sécurité” 2019 - <https://bit.ly/3cbuAFR>

Today, awareness of the reality of sexual harassment is not reflected in the institutional media, or in statistics; it is the result of direct and indirect accounts, which often come too late in the eyes of criminal law.

This is why, when CLASCHEs was founded as a collective in 2002, it launched a petition that was rapidly relayed in the media. When it became a formal association the following year, CLASCHEs called on the ministers for Education and Higher Education to reform the legislative and regulatory texts and launch an awareness campaign. The only response was a circular in 2005³, which was short-lived.

In 2012, ten years after the creation of CLASCHEs, many feminist organisations protested against the immediate repeal of Article 222-33 of the Criminal Code on sexual harassment. At the time, we asked for reforms that we considered essential, and for a commitment from the Minister for Higher Education and Research to conduct a genuine information campaign, to raise awareness, and prevent sexual harassment. Although two circulars have been published since, most recently in 2015⁴, and minor modifications to disciplinary procedure have been introduced, the reforms needed to genuinely sanction aggressors have still not been undertaken.

This guide therefore sets out to provide information along with a legal and practical toolkit to better understand sexual harassment, to denounce it, and to fight it.

3 Circular n°05-333 of 21/10/2005: <https://bit.ly/3Pnbrid>

4 Circular n°2015-193 of November 2015: <https://bit.ly/3lyjUo3>

Chapter 1

WHAT IS SEXUAL HARASSMENT?



A. Definitions

In France, sexual harassment is defined as an offence under the Criminal Code (art.222-33, modified by the law of August 6, 2012, see box below), the Labour Code (art. L1153-1) and the General Statute for Public Servants (Law n°83-634 of 13/07/1983, art. 6-ter), elucidated by the circular of the Chancellery of August 7 2012. This law was further modified by the law of August 3, 2018 (law n°2018-703).¹

SEXUAL HARASSMENT

Sexual harassment is therefore defined as: any behaviour (comments, gestures, written texts, etc.) with sexist or sexual connotations repeatedly imposed upon a person (at least twice). The victim's refusal does not need to be explicit but may "be assessed by a judge on the basis of context and a range of relevant evidence leading to a conclusion of an objective lack of consent." (Circular of August 7, 2012).

To be considered sexual harassment, the behaviour must undermine the dignity of the person (including "language or behaviour of an overtly sexist, indecent, or obscene nature") or create a situation that "makes the victim's living, working, or housing situation unbearable" (Circular of August 7, 2012).

Since the law of August 3, 2018, the repetition of language or behaviour by several people is also recognised as sexual harassment:

- In the first instance, individuals act in a concerted manner;
- In the second, they act successively and without concertation, but in full knowledge that their "language or behaviour constitute repetition".

This is the case of online harassment for example.

In addition, the law states that: "**Shall be assimilated to sexual harassment** the fact, even where there is no repetition, of using any form of serious pressure with the real or apparent aim of obtaining an act of a sexual nature."

This is what is frequently called "sexual blackmail", which is assimilated to sexual harassment: imposing sexual acts in exchange for employment, promotion, advantages, or inversely, to avoid sanctions.

¹ Please note: The English translation of legal texts provided in this guide have no legal force, they are provided here for informational and reference purposes only. Only the French versions of the texts appearing in the Journal officiel de la République française have legal force. See <https://www.legifrance.gouv.fr/>

The French Criminal Code provides that sexual harassment offenders face penalties of up to two years imprisonment and 30 000€ in fines. These penalties can be increased to three years imprisonment and 45 000€ fines where there are aggravating circumstances (a person abusing authority, or against a minor under the age of 15, or against a person whose vulnerability is visible or known to the offender, or committed via an online or digital medium).

SEXUAL HARASSMENT IN THE FRENCH CRIMINAL CODE

Criminal Code, art.222-33²:

I. Sexual harassment means repeatedly imposing on someone words or actions that have a sexual or sexist connotation, which either undermine his/her dignity by reason of their degrading or humiliating nature, or create an intimidating, hostile or offensive situation.

The offence also exists:

1° When these comments or behaviours are imposed on the same victim by several people, in concert or at the instigation of one of them, even though each of these people has not acted repeatedly.

2° When these comments or behaviours are imposed on the same victim, successively, by several people who, even in the absence of consultation, know that these comments or behaviours characterise a repetition.

II. Shall be assimilated to sexual harassment the fact, even where there is no repetition, of using any form of serious pressure with the real or apparent aim of obtaining an act of a sexual nature, whether for the benefit of the author of the action himself/herself or for that of a third party.

III. The facts mentioned in I and II above are punished by two years' imprisonment and a fine of 30,000 Euros. These sentences can be increased up to three years' imprisonment and a fine of 45,000 Euros when the facts are committed:

2 In French: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000037289662/

1. by a person who abuses the authority vested upon him/her by virtue of his/her duties;
2. against a minor under 15 years of age;
3. against a person whose particular vulnerability – due to age, illness, infirmity, physical or psychological disability, or pregnancy – is apparent or known to the offender;
4. against a person whose particular vulnerability or dependency resulting from a precarious economic or social situation is apparent or known to the offender;
5. by a number of persons acting as offenders or accomplices;
6. by the use of an online public communication service or by the means of a digital or electronic medium;
7. while a minor was present and attended;
8. by an ascendant or any other person having *de jure* or *de facto* authority over the victim.

Criminal code, art. 225-1-1³:

Shall be considered discrimination any distinction between persons because they have endured or refused to endure acts of sexual harassment, as defined in article 222-33, or testified on such matters, including in the case mentioned in I of the same article, if the language or behaviour were not repeated.

Finally, the Criminal Code also recognises as discrimination any distinction between people because they have endured or refused to endure acts of sexual harassment or because they testified on such matters. Thus, the Labour Code (art. L1153-2 and L1153-3) and the General Code of the Civil Service (art. L133-3) explicitly protect public service employees and agents against such discrimination in access to employment, career progression, or working conditions.

3 In French: <https://bit.ly/3z4bgmA>

OTHER SEXUAL OFFENCES

The law clearly distinguishes sexual harassment from other offences of a sexual nature. Although these other offences may occur in situations of sexual harassment, they have specific definitions :

- **Sexist acts (in the workplace):** the Labour Code prohibits any sexist acts, “defined as any act associated with the sex of a person, with the aim or effect of violating their dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.”
- **Offensive sexist behaviour (outrage):** the Criminal Code defines sexist offences (outrage) as the fact of “imposing on the victim any language or behaviour of a sexual or sexist nature that undermines their dignity due to its degrading or humiliating nature, or creates a situation that is intimidating, hostile or offensive.”
- **Sexist and/or sexual insults:** the Criminal Code sanctions all “non-public insults against a person or group of people because of their sex or sexual orientation”.
- **Sexual exhibitionism:** the Criminal Code sanctions any “sexual exhibitionism imposed on others in a place accessible to public view”
- **Sexual assault:** defined under the Criminal Code as “any sexual abuse committed with violence, coercion, threat, or surprise” in other words any touching imposed on the victim, in the genital area or any other area of the body considered intimate and sexual (genitals, bottom, breasts, thighs, mouth, etc.)
- **Rape:** the Criminal Code defines rape as “any act of sexual penetration of whatever nature committed against another person by violence, coercion, threat or surprise”. Any kind of non-consensual penetration (vaginal, anal, or oral) with a penis, a finger, or an object of any kind is therefore rape.

Furthermore, situations of sexual harassment may also involve other offences, such as:

- **Invasion of privacy:** the Criminal Code sanctions any public sharing of photos or audio-visual recordings that “undermine the intimacy or privacy” of the person appearing in these photos or videos, without their consent. For example, it prohibits the sharing of images of people online without their consent.
- **Telephone harassment:** the Criminal Code prohibits “repeated or malevolent telephone calls”.

KEY LEGAL REFERENCES (IN FRENCH)

Law on sexual harassment

- Law 2012-954 of August 6, 2012 on sexual harassment
- Circular of August 7, 2012 pertaining to the presentation of provisions of criminal law and criminal procedure of the law 2012-954 of August 6 on sexual harassment.
- Law 2018-703 of August 3, 2018 strengthening the fight against sexual and sexist violence.

Criminal Code

- Art. 621-1 on offensive sexist behaviour (outrage)
- Art. 222-16 on telephone harassment
- Art. 222-22 and 222-27 on sexual assault
- Art. 222-23 on rape
- Art. 222-32 on sexual exhibitionism
- Art. 222-33 on sexual harassment
- Art. 222-33-2 on moral harassment
- Art. 225-1-1 on discrimination linked to sexual harassment
- Art. 226-1 to 226-7 on invasion of privacy
- Art. R625-8-1 on sexual and/or sexist insults

Law of July 29, 1881 on the freedom of the media

- Art. 29 to 33 on public insults and defamation

Labour Code

- Art. 1142-2-1 on sexist acts
- Art. L1152-1 to L1152-6 on moral harassment
- Art. L1153-1 to L1153-6 on sexual harassment

General Code of the Civil Service

- Art. L133-1 on sexual harassment
- Art. L133-2 on moral harassment

MORAL HARASSMENT

Finally, situations of sexual harassment are frequently associated with moral harassment. But although these two situations may overlap, they are clearly differentiated in law. Thus, moral harassment of an employee is defined by the Criminal Code, the Labour Code, and the General Code of the Civil Service as being “repeated actions which have as their aim or effect a degradation in the workplace environment capable of harming the employee’s rights and dignity, damaging their physical or mental health and compromising their future career prospects”. Unlike sexual harassment, moral harassment does not cover actions that have sexual connotations.

FOR MORE INFORMATION

For more details about these different crimes and offences and the procedures involved, please see the guide put out by the AVFT (Association européenne des violences faites aux femmes au travail): *Violences sexistes et sexuelles au travail, faire valoir vos droits, 2^e édition*, updated, 2013 (in French).

B. A hidden reality

In the quantitative data that is available on violence against women, it is rare to find figures specifically on sexual harassment. There are still too few empirical studies today in France to have precise data on sexual harassment in the workplace, and there is even less on this phenomenon in higher education and

research. This lack of data contributes to keeping sexist and sexual violence invisible. But there are some data available that shed light on the extent of the phenomenon (see box below).

DID YOU KNOW?

There are too few studies on sexual harassment today. The national survey of violence against women in France (*L'enquête nationale sur les violences envers les femmes en France – Enveff*) was the first quantitative study conducted on this subject in France, in 2000. Its main contribution was to reveal the extent of sexual and domestic violence in this country. Young women (age 20-24) were the ones who reported the most kinds of violence in this study, and this included all kinds of violence (verbal, physical, and sexual assault) in all kinds of spaces (violence in public spaces, in the workplace, domestic violence). Although no study was conducted specifically on the university sector, Enveff showed that sexual harassment in the workplace, whether perpetrated by colleagues, superiors, or clients, primarily affects young female employees in a context of strong psychological pressure⁴. In the past few years, three studies have focused specifically on sexual violence in higher education.

In 2015, the study on violence and gender relations (*Violences et rapports de genre – Virage*) conducted by the French Institute for Demographic Studies (INED) included an aspect on universities. The initial results of this study are available online in a working document entitled "Violence in the context of university studies": <https://bit.ly/3nXENIs>

A collective publication presenting the different analyses of the data from the Virage study, including a chapter on violence in university education, was published in Spring 2020: *Violences et rapports de genre: Enquête sur les violences de genre en France*, coordinated by Elizabeth Brown, Alice Debauche, Christelle Hamel and Magali Mazuy, Editions INED.

4 See Maryse Jaspard, *Les violences contre les femmes*, Paris, La Découverte, coll. "Repères", 2005.

In 2020, the student organization Student Observatory of Sexist and Sexual Violence in Higher Education conducted a study which found that over the course of their degree, 5% of female students had been raped and 10% had been sexually assaulted⁵.

Finally, in 2020, the National Observatory of Student Life's survey on Students' Living Conditions included a series of questions on sexual and sexist violence for the first time since its first questionnaire in 1994. The study found that over the course of the academic year, 4% of female students and 2% of male students had been subjected to sexual harassment, and 2% of female students and 1% of male students had been sexually assaulted or raped by another student, a staff or faculty member⁶.

The invisibility of sexual harassment is reinforced by strong persistent stereotypes that deny or minimise its existence. These are omnipresent, belittling, globalising, homogenous, repetitive, rigid, “ready-made” ways of thinking that circulate constantly in the social world around us. They perpetuate a false vision of social reality and contribute to the production of inequalities between men and women.

Sexual violence, and particularly sexual harassment, is no exception to this. Numerous stereotypes on sexual harassment are quoted as examples throughout this guide. They lead to:

- the reversal of responsibility for violence so the victims are seen as having to modify their behaviour, clothing, or attitudes;
- delegitimising, undermining, or making victims feel guilty for wanting to condemn this behaviour;
- minimizing of the author's comments... in other words making them appear acceptable;
- making sexual harassment seem banal, or an ordinary part of “normal” workplace relations.

5 Rapport « Paroles étudiantes sur les violences sexuelles et sexistes », Observatoire étudiant des violences sexuelles et sexistes dans l'enseignement supérieur, octobre 2020 : <https://observatoire-vss.com/notre-rapport>

6 Observatoire national de la vie étudiante, Repères 2020, p. 16 : <https://bit.ly/3uM7t16>

STEREOTYPES

“SHE SHOULDN’T HAVE BEEN WEARING THOSE CLOTHES”

Very often, victims of sexual violence are seen as being responsible for the violence they experience. Through the clothes they wear, their behaviour, or their language, they are accused of having “provoked” their aggressor.

It is important to remember that there is only one guilty party – the aggressor.

The aggressor alone is responsible for his actions. Very often he is in a position of superiority or authority, either symbolic or hierarchical, and he is perfectly aware of what he is doing!

Chapter 2

SEXUAL HARASSMENT IN HIGHER EDUCATION AND RESEARCH



A. Specificities

Although it is often associated with the world of business, sexual harassment also exists in education, academia, and research. It occurs within universities, prestigious colleges and *grandes écoles*, and in public and private research institutes.

STEREOTYPES

“THAT DOESN’T HAPPEN HERE”

It is often assumed that universities and *grandes écoles* are free of violence. Yet these spaces are not cut off from the social world and are subject to inequalities in power relations like anywhere else. Sexual harassment therefore exists in higher education as it does elsewhere. It is important to remember that all existing studies show that violence against women is found across all social categories to the same extent and in the same proportions.

The specific nature of higher education and research creates conditions that are favourable to both sexual harassment and its negation. Indeed, the relationship of dependency between a PhD student and his/her thesis supervisor, or co-supervisor, is particularly favourable to sexual harassment and violence. For example, the need to obtain the thesis supervisor’s support for many activities and procedures (whether administrative or professional: enrolment, re-enrolment, visa requirements, funding, publication authorisations, application for teaching roles, or casual teaching assistant (ATER) positions). The personal nature of teaching in the higher education context (personal thesis supervision for example) increases the risk of the abuse of power, and thus specifically the risk of sexual harassment.

Moreover, the specific nature of student life also involves risks. Collective student housing, “integration” weekends and parties, and hazing traditions (that continue to exist even though they are formally prohibited) constitute situations that may generate all kinds of sexist and sexual violence.

Yet the world of higher education and research has a reputation for being progressive, protected from sexism, particularly in its more violent expressions. This is belied by empirical studies and testimonies collected by associations that show that violence against women exists here in the same proportions as in any other socio-professional sphere¹. Even more than in other spheres, this reputation contributes to the denial of sexual and sexist violence in higher education and thus helps perpetuate the silence that surrounds it.

B. Aggressors' strategies

There is no set profile for aggressors. But we can say that those who perpetrate sexual harassment are often in a position of power over their victim(s). This may be a man over a woman, a professor over a student/grad student, a higher-ranking professor over a lower-ranking colleague, a professor over an administrative assistant, or someone with French nationality over someone of a different nationality.

Above all, aggressors set up strategies to ensure they can carry out and continue their actions with impunity. Even though each situation is unique, testimonies from victims also allow us to identify different kinds of recurring behaviour among aggressors.

¹ Maryse Jaspard & al., op. cit.

STEREOTYPES

“HE’S SICK!”

Sexual harassment is frequently brushed off or explained away by pathology (“he has a problem”, “he’s sick”, “he’s crazy”, “he’s struggling”), or the personal problems of the aggressor.

But this kind of explanation means aggressors are presented as not being responsible for their actions, while in most instances they are entirely aware of what they are doing. Indeed, the expert assessments conducted as part of criminal trials in this area show that these aggressors very rarely suffer from psychiatric disorders.

BEING ABOVE SUSPICION

Accounts suggest that aggressors are able to make themselves appear above suspicion. They are often seen by their professional entourage as men who are jovial, friendly, etc. Some of them even position themselves publicly – through discourses or even certain functions and responsibilities – as activists in the fight against sexual harassment.

They use these positions and attitudes to create conditions that would undermine the credibility of any accusations that might be levelled against them.

“At uni, lots of people thought he was a ‘bit heavy handed’ but it was cool to consider him ‘funny’, lots of people said he was their friend”. Cécile D.

STEREOTYPES

“HE CAN’T HAVE DONE THAT! EVERYONE KNOWS WHAT HE’S LIKE”

Aggressors often have a good reputation in their workplace, which serves to discredit the victim’s statement in the first instance. But there is no set profile for offenders.

Specifically, behaviour in public is not an indication of behaviour in private, where there are no witnesses. This can even be a useful strategy for aggressors; they place themselves above suspicion and thus hope to protect their impunity.

ESTABLISHING TRUST

Offenders may establish a relationship of trust with their future victims. An aggressor may initially appear nice, or establish a relationship of complicity and friendship by, for example:

- obtaining funding for a student’s research;
- praising the scientific abilities of a student (in their master’s research for example) or a colleague (as part of an appointment, or recruitment for example);
- create a friendly environment through meetings in “relaxed” places (cafés, restaurants), or private places (private home);
- mentioning non-professional subjects or discussing their private lives in a confidential or conspiratorial way.

“When I met Mr. Z. for the first time during my Master’s defence, he used his authority, his skill, and his network to exert his power over me and convince me what was best for my professional future [...] I admired this professor even more because he seemed to take particular care of his students [...] Then he contacted me by telephone a few days later, still as though he was helping me, and presented all the different ways he could help me succeed in my studies and my professional life.” Safia C.

DESTABILISING THE VICTIM

Once trust is established, aggressors seek to destabilise their victims by alternating between praise and denigration, often randomly and without justification. These denigrations/humiliations often take the form of comments, made in public or in private, discrediting the victim, and particularly their scientific abilities in the case of students, grad students or researchers.

“He stopped correcting my work and started going through another student [...] to denigrate what I’d done.” Stéphanie L.

ISOLATING THE VICTIM

Aggressors begin by orchestrating the physical isolation of the victim. To protect his impunity, the aggressor will often seek to minimise the presence of witnesses. Sexual harassment sometimes begins during individual meetings in closed spaces (offices or personal homes) for example.

The aggressor also often aims to socially isolate the victim, to prevent them from talking and to detract from their credibility as much as possible. Therefore, perpetrators of sexual harassment intentionally separate their victim from the group, by using:

- public humiliation;
- defamation campaigns to undermine the victim’s reputation (accusations of personal grudges, ambition, etc.);
- fostering competition with other students/grad students that are sometimes also victims of the same aggressor, to rule out any possibility of solidarity.

“He asked me to come in to see him on Saturday morning, when there is no one in the secretary’s office which separates his office from the rest of the uni.” Julie C.

INTIMIDATING AND PUNISHING THE VICTIM

When faced with resistance from victims, aggressors often react with intimidation, blackmail, and/or threats. Using his position of power, the aggressor often threatens his victims with repercussions if they refuse to submit to his pressure, and/or if they try to talk about what they have suffered. These

threats, which may sometimes be put into action, often impact the victim's future, and may involve things like blocking funding for research, job applications, publications, and so forth.

"After I sent him the bound copy of my thesis, my supervisor withdrew on a false and superficial pretext, saying that the thesis could not be defended as it was, in spite of the publications mentioned, the corrections, and summary observations he had previously made to it." Véronique A.

OTHER STRATEGIES

The strategies mentioned here are the most common. But each situation is unique, and it is possible that an aggressor adopts only some of these behaviours or uses other strategies. In all cases, however, he will seek to establish control over his victim, which helps maintain his impunity, and makes it difficult for the victim to escape.

C. The consequences of sexual harassment

Sexual harassment always has consequences for the victim, in the short term, but also in the medium and long term. The impact of an experience of sexual harassment may be felt in four main ways.

STEREOTYPES

"IT'S NOT SUCH A BIG DEAL"

Victims are often told that what they have experienced "doesn't matter". This kind of remark minimizes the importance of the events and actions that constitute sexual harassment, and reassures the aggressor in his actions, contributing to his sense of impunity.

But sexual harassment is an offence that has serious consequences for victims – it should never be minimised!

HEALTH

Sexual harassment has serious psychological consequences for victims, even many years after the event. This may take several forms, such as insomnia, difficulty concentrating, fear of being alone with another person, depression, etc. Sexual harassment can also result in significant physical consequences: nausea, fragile health, infections, etc.

Finally, victims may also develop addictions and substance abuse (alcohol, drugs, etc.).

“Over the last few years, and even today, I live in a state of constant stress, huge fatigue, and fear. I have been on anti-depressants for several years.”
Anissa D.

“I am very anxious when I have to have meetings or work interviews alone with my employer or superior.” Stéphanie L.

SOCIAL CONTACTS

Sexual harassment may also have consequences for victims' social relationships. Initially it affects the victims' ability to trust those around them and may lead the victim to become withdrawn. Some psychological troubles resulting from sexual harassment (such as depression) may also isolate them. Victims also often change their place of study or work to protect themselves from the actions of their aggressor, which further isolates them from their peers. Finally, those who confront or press charges against their aggressor are often met with hostility from some of their social circle, or colleagues, and are discredited.

Shame, guilt, fear, and mistrust may lead victims to withdraw from their activities and cut themselves off from their social life.

“Because of these blockages, I had to leave university. I left for Paris in a hurry [where she did not have housing].” Cécile D.

EDUCATION

Being a victim of sexual harassment has a serious impact on success in education and often leads to the abandonment, or temporary suspension of studies, exam failure and/or a need to change thesis supervisors.

“I did a research masters and then began a PhD [...]. I had to stop my PhD for various reasons but in particular because the atmosphere in his office was too uncomfortable: unnecessary touching as a sign of encouragement or paternalism, intrusive questions about my personal life or relationships, sexual innuendo, provocative conversations, etc.” Alice G.

PROFESSIONAL CAREER

Careers are also affected by sexual harassment. Firstly, victims who drop out during the year, or who decide to abandon their studies following an incident must generally lower their professional goals. Moreover, the fact that sexual harassment occurred at university seriously hampers the victim’s “vocation” for education and research. Finally, victims of sexual harassment also frequently have their careers blocked by their aggressors who are generally in positions of power over them and can prevent them accessing funding, publications, and recruitment.

Because women are more likely to be victims of sexual harassment than men, sexual harassment therefore prevents women’s access to education and then employment, and thus contributes to perpetuating professional and career inequalities between men and women.

“I was very surprised when I received the PhD defence report, written by him, and saw that it was very short and did not mention the topic and contributions of my thesis nor the discussions that had taken place. This was a very serious handicap when I was later applying for jobs through the National University council [CNU].” Marie C.



Chapter 3

DEALING WITH SEXUAL HARASSMENT



A. Identifying a situation as sexual harassment

Sexual harassment may be verbal, non-verbal, or physical.

The most frequent forms of sexual harassment are verbal and take the form of:

- “jokes”, sexual innuendo, comments on the victim’s physique, behaviour, or clothing;
- “advances”, invitations of a sexual nature or with sexual connotations;
- “questions”, intrusive questions and remarks about the victim’s sex life and unwanted “confidences” about the aggressor’s own sex life;
- “denigration” or negative comments about the victim’s partner or boy/girlfriend.

These forms of sexual harassment may also occur in writing (letters, SMS, email, pornography sent by email, etc.).

This may be associated with non-verbal signs of harassment that may be highly explicit: intense staring, leering or ogling, whistling, gestures with sexual connotations, showing pornographic images or objects, or the aggressor constantly imposing their presence on the victim.

Intrusive physical proximity, even without contact, can constitute sexual harassment, as can touching even when it is not explicitly sexual (a hand on a shoulder, or in the hair). This form of sexual harassment therefore includes intentional physical contact that is presented as being accidental, but also forced physical contact such as tickling, pinching, blocking against a wall, etc.

Any sexual touching, however, constitutes sexual assault, specifically non-consensual sexual contact, such as “kisses”, or touching on the bottom, thighs, breasts or genitals.

Very often, sexual harassment is the result of a combination of a number of these elements.

STEREOTYPES

“IT’S JUST A JOKE!”

Many incidents of sexual harassment are considered “jokes” or “vulgar humour”. But this kind of behaviour and comments create an environment that is hostile and degrading to those who are subject to them. That is why they are prohibited under sexual harassment law. Subjecting another person to comments and behaviour with sexual connotations is not a joke!

If you think you are suffering or have suffered from sexual harassment, but are not sure, here are some examples of behaviour that are indicative of it:

- he keeps insisting on going out with you despite your refusals;
- he puts his arm around you without your consent;
- he makes inappropriate comments, of an explicitly or implicitly sexual nature;
- he often comments on your appearance in a way that is inappropriate;
- he stares, or leers at you in a way that makes you feel uncomfortable;
- he forces you to look at pornographic images;
- he creates situations where he is alone with you;
- he asks you personal questions of a sexual nature, or asks you about your sex life;
- he tells you about his sex life;
- he tells you sexist or sexual “jokes” that make you uncomfortable;
- he does inappropriate or sexual things such as touch his penis, show his tongue etc. in your presence;
- he makes obscene or threatening phone calls in your presence.

If you have experienced any of the above situations, this constitutes sexual harassment.

B. What is the difference between seduction and sexual harassment?

If you are wondering whether what you are experiencing is harassment or seduction, that is not a good sign. A relationship of seduction feels positive. If there is any blame, guilt, anger, or sadness, or if you feel any humiliation or feel out of control, then the relationship is unequal. This is not a relationship in which one person tries to please the other, but a power relationship in which one person tries to impose themselves and dominate the other.

The argument is often made that the boundary between seduction and sexual harassment is blurry or unclear. But in reality, these are fundamentally opposite situations. Trying to make the victim and other people believe that the situation is one of seduction is a strategy used by an aggressor specifically to undermine the victim's credibility and guarantee his own impunity.

STEREOTYPES

“HE’S SUCH A LADY’S MAN!”

Sexual harassment behaviour is often equated with “seduction” or “chatting up”. The aggressor is thus considered as a “seductor” who “loves women”. But sexual harassment is not about seduction, or seeking to please the other, it is about domination. Aggressors ignore the integrity of their victims, their choices, their wishes, and their consent. Seduction is based on the respect and appreciation of the other, not on contempt for them!

C. What can you do?

What should you do if you are the victim of sexual harassment, or see someone else who is a victim? The advice that follows aims to help you react in the best way to stop the harassment. It also aims to give you the reflexes that will be useful in the processes that take place afterwards.

SAY NO

If you feel like your limits have been crossed or if you feel uncomfortable in a situation, you have a right to say so.

If you feel able to and it seems possible, you can express your refusal and your discomfort about the situation. This refusal can be expressed in different ways, both verbal and non-verbal. If the perpetrator does not change his behaviour, he is therefore explicitly going against the victim's consent. It is therefore clear that this is a situation of harassment and not a "joke," or a simple "blunder".

PROTECT YOURSELF

You should also take all necessary measures to protect yourself, beginning with avoiding situations where you might meet the aggressor, or for example only meeting him in public places.

You can also ask for help from a colleague or a friend. For example, you can ask them to be present when you are with the person who is harassing you.

More generally, it is important to not remain isolated and to talk about what you are going through with your colleagues, your friends, and your family. You can also turn to various support structures within the university or outside (see Chapter 4).

If you are an employee at the university, you may also be able to ensure your protection by obtaining leave from work from your doctor due to the impact of harassment on your physical and mental health.

Public servants also have the right to refuse to work if their working conditions present a serious and imminent danger to their health. They must declare this to the health and safety committee of their workplace (*Comité d'hygiène, de sécurité, et des conditions de travail*, CHSCT, see Chapter 5C).

COLLECT EVIDENCE

As much as possible, it is important to try to conserve elements that may constitute proof or build a case even if you are not planning to press charges immediately. Keep all records, particularly written ones (emails, SMS). You may also collect proof in the form of audio recordings (even without your aggressor's knowledge), for example, which can be used in criminal and disciplinary proceedings.

If you are not planning to press charges immediately, the French legal system allows you to record the events in the police logbook, known as filing a *main courante*, at a police station or *gendarmerie*. This constitutes a record of the events (for example a record of telephone calls that show the offender has called the victim a large number of times over a short period). Unlike formal charges, a *main courante* does not lead to further police action.

Another possibility, although an expensive one, is to have a bailiff attest to the events. It is also possible to have a statement written by a witness who makes a formal affidavit that is signed and dated (a template for this kind of written statement is given in the appendix).

Finally, you can also have a medical certificate produced by a doctor. This can document your account of sexual harassment, as well as the physical and psychological symptoms observed, treatments prescribed and the sick leave that resulted from these events.

Each of these elements will be useful to build a case if you later wish to press formal charges against your aggressor (see Chapter 5).

STEREOTYPES

“THERE’S NO EVIDENCE”

Often, victims and their supporters think that there is no proof of a situation of sexual harassment, or that there were no witnesses. Indeed, some perpetrators take precautions to make sure they only act when there are no third parties present. But this does not mean that the actions cannot be proved – proof can be compiled. On one hand, a whole range of elements may constitute proof: a detailed account of the events (see below), witness statements from people you confided in, statements from other victims, medical certificates, etc. You may also obtain audio recordings (which are accepted in criminal proceedings and can be used in administrative hearings). Finally, you alone are not responsible for compiling evidence. A criminal or administrative investigation proceeding may also collect evidence. All these elements together may constitute a body of corroborating evidence against the aggressor.

PROVIDING A DETAILED ACCOUNT

Writing down what happened can help you to find the words to describe what you have experienced.

It also constitutes an important element in a legal case if you do decide to press charges (see Chapter 5).

The goal of a detailed account is to establish a body of evidence. The perpetrators of sexual harassment are often careful to ensure their actions are not seen. Given that there are rarely direct witnesses to harassment situations, a detailed account of the events is very important in compiling a case.

To avoid problems with memory and the possibility of future denials, it is essential to write out what happened as soon as possible after the events, and include any information that might be important, such as the date, the time, and the sequence of events. This should be done for every incident.

- The account must be chronological and begin with the beginning of the situation, even if it does not seem to be directly linked to the violence that followed – for example behaviour that was initially seen as vaguely odd at the very beginning.
- The account must describe the violence very precisely, for example, not saying “rude remark” but specifically relating what was said in the exact wording.
- It must also recount the consequence of violence, particularly in terms of health, including depression, psychosomatic conditions resulting from stress, etc.
- It should also detail the actions taken by the victim, even if they are informal, for example talking to someone else about what happened, whoever that might be.

WHAT CAN I DO IF I’M A WITNESS?

It is essential to show support for the victim because the aggressor’s goal is to isolate them. It is important to remind them of the law to help the victim identify and name the situation as sexual harassment, and to recognise themselves as the victim in order to be able to take action. Listening, informing, guiding, and accepting to testify if the victim wishes to press charges are also ways of supporting them.

It is fundamental to not question their account of the events. Victims fear that they will not be believed, which constitutes a major obstacle to them coming forward. One of the fundamental problems of violence towards women is the silence that surrounds and helps to conceal it.

The strategies used by aggressors often exploit victims' feelings of guilt. Witnesses and people close to the victim can help to overcome the guilt produced by the situation of sexual harassment. It needs to be reversed by persuading the victim that they are not responsible for the situation, it is the aggressor's fault.

Finally, it is important to assist the victim in their procedures and where necessary inform them of possible action they can take. If you are a witness, you can:

- Submit the case to the president of the university/institution requesting it be referred to the disciplinary section;
- Make a declaration of events on the health and safety (CHSCT) register, with the victim's consent;
- Write a detailed account of the events you witnessed, dated and signed, and give it to the victim;
- Make a signed official statement regarding the elements the victim has related to you and/or your observations of the decline in the victim's physical or mental condition (see written statement template in appendix).

Chapter 4

WHO CAN YOU TURN TO FOR HELP?



If you are a victim of sexual harassment, there are people who can assist you, who can protect you, who can listen to you and help you with the action you might wish to take. While they are not all specifically trained in or familiar with the specificities of sexual harassment, they will still listen to you and guide you. Don't hesitate to contact them!

A. Health and social services staff

The health and social services staff at your university or your higher education or research institution can help you, provide psychological support, and listen to you. They can also provide first aid if necessary. They can guide you towards services, people, or associations that are able to support you further. With your consent they can also submit the case to the university president to begin disciplinary proceedings against the aggressor (see Chapter 5B).

The university service of preventative medicine and health (*service universitaire de médecine préventive et de promotion de la santé*, SUMPPS) at the university, or the CROUS social service, can provide medical care, counselling, and/or advice. Staff affected by sexual harassment should consult the social action service or preventative medicine service in their university.

B. The gender equality office

Within your higher education or research institution there may be an office for gender equality (*une mission d'égalité entre les femmes et les hommes*)¹. This office was made compulsory in French public universities under the law n°2013-660 on higher education and research, of July 22 2013².

The members of this office are specialised in questions of gender equality and will be able to guide and assist you in your action. They can also, with your agreement, submit the case to the University Presidency to undertake disciplinary action against the aggressor (see Chapter 5B).

1 Gender Equality officers are brought together in the collective CPED (Conférence permanente des chargé.e.s de mission égalité diversité): <http://cped-egalite.fr>

2 Law n°2013-660 of July 22 2013 on higher education and research.

In public institutions, offices for monitoring, information, and assistance for victims (*cellules de veille et d'écoute*) are now mandatory³. They may also exist in private schools. The members/staff in these offices usually include faculty members as well as health and social services staff (nurse, psychologist, etc.).

The office at your university may be helpful in preparing your actions, but you are by no means obliged to consult them if you wish to engage disciplinary proceedings against your aggressor directly (see Chapter 5B).

C. Associations

There are also associations that can help you. They may be student associations that can listen to you and make you feel less isolated. Your university may also house feminist associations, that will listen and guide you in your choice of actions. But often these associations are not familiar with situations of sexual harassment. You can also call on the European Association Against Violence Against Women in The Workplace (AVFT). The members of this association will be able to listen and help you with your procedures.

CLASCHES can also provide information about the possible actions available to you and the various people or services you can contact for assistance.

THE AVFT

The European Association Against Violence Against Women in the Workplace, *Association Européen contre les violences faite aux femmes au travail* (AVFT) was created in 1985. It is a feminist association not dependent on any political party, union, or federation of associations. It covers all forms of violence against women, particularly specialising in the denunciation of sexist and sexual violence in the workplace. Given this specificity, it works to ensure that employers fulfil their legal and jurisprudential obligations in terms of sexual harassment protection and security for employees.

³ Circular of March 9, 2018 relating to sexual and sexist violence in the public service: <https://bit.ly/3aBMXmE>
You can see a list of these institutions here: <https://bit.ly/3yGAB5a> or here : <https://bit.ly/3RJbsiP>

The AVFT provides its services free of charge and offers victims (whether men or women, adults or minors) telephone assistance, advice, and in-person support (particularly in dealing with employers, work inspectors, the courts, police, or the *gendarmerie*). It can also file for damages as a civil party alongside victims before the criminal courts and intervene in social or administrative procedures.

The AVFT is responsible for the parliamentary vote on the sexual harassment laws and the legislative reforms on defamation of character in 2010. It continues to act to improve the law. It also monitors the legislation and jurisprudence concerning violence against women in the workplace.

As a training body, the AVFT also provides bespoke awareness-raising and training sessions (from a few hours to a few days), aimed at all the professionals concerned (police, gendarmerie, work inspection, occupational medicine, health workers, unions, businesses, local authorities, school and university institutions, etc.)

See, <http://www.avft.org>

D. Unions

Student unions or employee unions can also help you. They will be able to guide you in your administrative procedures and support you in the actions you take.

E. The Defender of Rights

The French Defender of Rights, *le Défenseur des droits*, the equivalent of an Ombudsman, is charged with ensuring that rights and freedoms are respected for all, especially in the fight against discriminations. You can appeal to the Defender of Rights if you are victim of sexual harassment but also if you challenge the refusal of the University Presidency to engage disciplinary proceedings, for example, or if you are discriminated against because you have

spoken out against your aggressor, or because you have testified against an aggressor.

You can appeal to the Defender of Rights using the form available online⁴. The process is straightforward and free.

The Defender of Rights will choose to examine the case or not, depending on whether it falls within his or her jurisdiction. If they do decide to take up your case, they will investigate on your behalf and suggest appropriate solutions.

4 <https://www.defenseurdesdroits.fr/en/saisir>



Chapter 5

WHAT ARE THE PROCEDURES?



There are different procedures that can be mobilised to make sure your aggressor is convicted. It is important to know, however, that these procedures can be long and difficult and their outcomes uncertain. For these reasons it is useful to be accompanied and assisted by people who are competent in these areas. However, these procedures can also help you to feel less isolated and to gain recognition for the fact that the harassment you suffered is both unjustified and illegal.

A. Criminal procedures

STATUTE OF LIMITATIONS ON SEXUAL HARASSMENT

For sexual harassment and sexual assault offences the statute of limitations to initiate proceedings is six years from the final incident, action, or comment¹. After that time, your complaint can no longer be received, but you can file it anyway². This procedure may lead to compensation, result in the conviction of an aggressor and thus spare potential future victims, and contribute to the fight against sexual harassment and its impunity more broadly. However, it is a choice that must not be made lightly on the individual level because it has consequences and it is a process that will continue over the medium to long term. We advise you to contact an association (see Appendix) and/or get advice from a lawyer.

Although it is important to make a rapid decision about possibly pressing charges, it is also important to take the time to think about this. But regardless of the eventual decision, you should begin collecting elements of evidence from the very first warning signs or incidents of sexual harassment (see Chapter 3C). Your decision will be made after weighing all the elements, taking into account the context and the development of the incidents, but your case will be stronger if you begin building it early on – regardless whether you proceed with criminal charges or not. It may be difficult or impossible

1 For rape, which is a crime (rather than a misdemeanour, *un délit*), the statute of limitations is twenty years. If the victim was a minor at the time of the crime, the statute of limitations is thirty years after her 18th birthday.

2 Testimonies of events that exceed the statute of limitations may still be associated with a case. It may therefore be useful to continue to condemn incidents after the prescription period is past. Because aggressors may act again, testimony from several witnesses may contribute to the case brought by someone later. Moreover, our experience has shown that one witness statement often gives rise to others.

to collect this evidence later for various reasons: faulty memory, lost contact with potential witnesses, etc.

DIFFERENT WAYS OF PRESSING CHARGES

Under French law, there are four ways of pressing charges.

A complaint filed at the police station or the gendarmerie (la plainte au commissariat de police ou à la gendarmerie), known as a “simple complaint”. This can take several hours and be followed by a medical examination by the medico-legal team (*urgences médico-judiciaires, UMJ*). You can ask someone to accompany you to this exam and your lawyer may be present when you file your complaint. The police officer may ask you questions to complete your account. You can refuse to answer if you consider they are not related to the reason for your complaint (questions about your private and/or sex life for instance).

Following this interview, the officer will provide you with a written statement that you will sign only if it corresponds to your oral deposition. It is possible to modify it or add further details before signing. The content of your complaint will be the basis for all further actions; the words you use, and the way you present the events all matter. This is why it is essential to have support and have someone come with you before filing your complaint to be able to prepare the interview with the judiciary police officer (*officier de police judiciaire, OPJ*).

The OPJ may proceed with preliminary investigations in addition to your statement, or wait for instructions from the judicial authorities, and then transfer your complaint to the local prosecutor, *the Procureur.e de la République* of the *Tribunal judiciaire* where the offence was committed.

A complaint made directly to the Chief Prosecutor of the Republic (la plainte déposée auprès du/de la procureur.e de la République) is also a “simple complaint”. This takes the form of a registered letter with acknowledgement of receipt that includes your complaint, duly dated and signed, as well as a copy of the documents in the casefile, addressed to the Chief Prosecutor (*le Procureur de la République*) at the *Tribunal judiciaire* of the town where the

offence occurred³. When your complaint is received, the Prosecutor may bring in the police or the *gendarmerie* to investigate.

The complaint with constitution of a civil party (*la plainte avec constitution de partie civile*) is a procedure that occurs if a simple complaint is dismissed by the Chief Prosecutor or if they fail to respond within three months. It is triggered by sending a registered letter with acknowledgement of receipt to the chief investigating judge (*juge d'instruction*) of the local Tribunal judiciaire. It is strongly recommended to have the wording of the letter approved by a lawyer before sending it, or have a lawyer write the letter with you.

Private prosecution (*la citation directe*) is an unusual procedure that consists in the accused being called to appear directly before the correctional court (*Tribunal correctionnel*) for trial.

³ To find the contact information for the relevant Tribunal judiciaire go to: <http://www.annuaires.justice.gouv.fr/>

STEREOTYPES

“THE POLICE WON’T BELIEVE ME”

Filing a complaint with the police can be a difficult decision to make and the police station can be an intimidating environment. On the one hand, the process of making a statement has a reputation for being an arduous ordeal, with police officers said to lack empathy, not really listen, or worse. On the other hand, the image of the plaintiff who lies, or seeks personal revenge for minor griefs is also a common cliché. Although we cannot rule out that these things may happen, both of these stereotypes have the effect of dissuading victims from filing a complaint. Their continued circulation contributes to the idea that sexual harassment is marginal and there is no point in defending one’s rights.

Before making a complaint, you can use the police’s online service to report a rape or sexual assault :

<https://www.service-public.fr/particuliers/vosdroits/R48395>

This instant messaging service allows you to chat anonymously with police officers who have received a special training on sexual violence. They can answer your questions about the process of filing a complaint and set up an appointment at a local police station.

A complaint can be lodged in any police station you may prefer. Once you are there, it is also possible to ask for another officer, if you feel uncomfortable or the offence is not recorded as you have asked. Without necessarily criticising the initial officer, it is legitimate to wish to speak to someone you feel comfortable with, and who makes you feel listened to. It is also possible to file a complaint directly with the Chief Prosecutor (*Procureur.e de la République*), by registered letter (see above).

Filing a complaint is followed by an investigation by the police or *gendarmerie*, the prosecutor’s decision (who receives the complaint or dismisses it), and the examination procedure which may last two to three years, then the trial.

EVIDENCE BEFORE CRIMINAL COURTS

In cases of sexual violence, it is accepted that the evidence of offences stems from a range of elements supporting the victim's testimony. Your statement is fundamental. The coherence and precision of the language you use in your initial statement and further hearings will make your complaint credible.

Inversely, your aggressor's contradictions and incoherencies, or if he is seen to act in bad faith, will work in your favour.

The procedures within your higher education institution or with the health and safety committee (see Chapter 5C) may also bring other victims of the same aggressor to light.

Evidence of sexual harassment and/or sexual assault may be provided using any means (see Chapter 3C): direct observations, confession by the aggressor, witness accounts, medical certificates, or recordings. Facts and circumstances (for example, repeatedly being asked into the aggressor's office without professional or pedagogical reasons, or being asked for coffee, or to his home, a non-acceptance of a doctoral contract, or unequal distribution of administrative tasks, etc.) may also indirectly help prove the reality of the facts and the aggressor's guilt.

B. Disciplinary procedures

In the case of a private higher education institution, victims may pursue criminal charges (see Chapter 5A), or bring their case before the Labour Tribunal (*le conseil de prud'hommes*, but only for employees who wish to dispute unfair dismissal, if that is the case), or they may present the case before the health and safety committee (CHSCT, see Chapter 5C). They may also ask for procedures outlined in the organisation's internal regulations to be applied.

In the case of a public higher education institution, independently of possible criminal penalties, disciplinary action can be taken against aggressors. Procedures depend on the type of institution the aggressor is attached to

(university, *grande école*, research centre, etc.) and their status (student, teacher-researcher, or support staff (BIATSS)).

For public institutions, there are two essential elements to take into consideration:

- Criminal proceedings and disciplinary proceedings are independent of each other: you therefore do not need to file a complaint with the police for a disciplinary procedure to be undertaken.
- Disciplinary proceedings give very little role to the victim because they do not involve complainants, and because the employer (here, the state) is the judge. For this reason, the victims are not always informed of the investigation, do not have a right to consult the case file, and are not necessarily informed of the outcome of the proceedings.

Circular n°2015-193 of November, 25 2015⁴ lays out the responsibilities of higher education and research institutions in terms of sexual harassment, particularly concerning disciplinary proceedings. You will find the references of the relevant specific legislation and regulations in it.

It is important to specify that, in any event, disciplinary proceedings are inequitable, and unfavourable to the victim from the outset, due to how they operate.

Direct prosecution is impossible. The victim has to request the intervention of a third party (university president, chancellor, rector, minister) who alone decides whether or not to refer the case to the disciplinary body (*la section/ commission disciplinaire*).

- The disciplinary body is responsible for both the investigation and the judgement. It is therefore the same people who examine, investigate, and eventually judge the case.
- The make-up of the disciplinary body depends on the status of the accused. The general principle is that the accused is judged by peers of at least equal rank. For example, a teacher will only be judged by teachers from their university (i.e. their colleagues). Students, on the other hand, will be judged by a disciplinary body in which all university positions are represented. The Fioraso law (n°2013-660 of July 22, 2013) only introduces the principle of gender equality into the disciplinary bodies of universities.

4 <https://bit.ly/3P5mzk8>

- As far as the sanctions the body can pronounce, there is no minimal punishment for sexual harassment offences.
- Decisions are made by the majority, and must be justified, and in theory published publicly (noticeboard, official newsletter). However, the body may decide to make this publication anonymous, and generally does so.
- The victim cannot appeal against the decision. Only the president, rector, or minister, as well as the accused may appeal. Moreover, when the accused is a teacher and is the only one to appeal, the appeal body cannot decide on a greater sanction than that initially handed down by the disciplinary body.

IF THE AGGRESSOR IS A STUDENT OR TEACHER AT A PUBLIC UNIVERSITY

The disciplinary body of a university can be called on to conduct the disciplinary investigation and potentially decide on sanctions against the aggressor. The appropriate disciplinary body is that of the higher education institution in question or the COMUE (Community of Universities and Institutions, *communauté d'universités et d'établissements*), where the offences occurred. If these incidents took place outside of a higher education institution, then it is the disciplinary body of the institution employing the accused (for teachers) or where they are enrolled (for students) that is called on.

It is important to note that in a ruling of February 27, 2019, the Council of State (*Conseil d'État*) indicated that if the offences occurred at an event connected with university life (student party, conference, private party, etc.) the disciplinary body of the accused's institution is competent to conduct the investigation if the events “threaten the order and good functioning of the institution”, i.e. if the events have “an impact on the climate between the students at the university or on the health and academic success of the victim.”⁵ In all cases, the disciplinary body is made up of members of at least equal ranking to the accused of the academic council of the particular university.

5 Decision of the Council of State n°410644 of February 27 2019: <https://bit.ly/3uMWQVr>

Beginning the procedure

Only the president of the university or higher education institution and the rector of the *académie*⁶ have the power to refer someone before the disciplinary body. The victim or a third party may, however, send a registered letter with acknowledgement of receipt to the university president to explicitly ask them to bring someone before the disciplinary body. The letter must outline the incidents the person is accused of (see the letter template in the appendix) and be accompanied by a file including the detailed account of the facts and any elements that support the accusation (witness reports, proof, etc.).

If the disciplinary body is called on but the impartiality of one or several of its members is thrown into question, the Education Code allows for the possibility of revoking them, as long as there is an “objective reason” to question their impartiality. Similarly, if there is an “objective reason” to question the impartiality of the disciplinary body as a whole, it is possible to have the investigation conducted by the disciplinary body of another university or higher education institution (see box below).

Finally, if the president of the university called on the disciplinary body but the latter was not constituted or did not make a decision within a period of six months, the president may refer the case to the National Council for Higher Education and Research (*Conseil national de l’enseignement supérieur et de la recherche, CNESER*) in its disciplinary form.

PROCEDURE FOR REVOKING A MEMBER AND RELOCATING THE DISCIPLINARY BODY

It is possible to challenge the impartiality of a member of the disciplinary body, or the body in its entirety, and to have either that member or the whole body replaced. However, the conditions required for such a change are complex and mean that the changes requested and obtained are random.

To have a member revoked, a request must be made in writing by registered letter addressed to the president of the disciplinary

⁶ The *académie* is similar to a regional school district responsible for implementing national education and higher education policy; it is managed by a rector who is appointed by the French President.

body or delivered to the secretary of the disciplinary body and receiving a receipt. This letter must outline the reasons for the request and include any supporting documents to demonstrate the “objective reason” for questioning the neutrality of the member. Once the request has been lodged, the disciplinary body will inform the person in question. Within a period of eight days, the person must either accept or refuse the request for revocation. If they refuse, the disciplinary body must rule on the request. If the impartiality of the whole disciplinary body is challenged, it is possible to request the case be referred to the disciplinary body of another institution. This request can only be made, however, by the accused, the president of the university, the rector of the *académie*, or the university mediator, within a period of fifteen days after receipt of the copy of the letter bringing the matter before the disciplinary body. This letter must be sent by registered mail to the CNESER disciplinary committee. It must outline the reasons for the request and include the document attesting to the “objective reason” for challenging the neutrality of the disciplinary body. The CNESER disciplinary committee has two months to make a ruling. The president of the disciplinary body and the applicant will both be notified of the decision.

During the procedure

Once the disciplinary body has been called, the accused will have access to their file and can receive assistance, at any time during the procedure. Inversely, the victim or victims are not informed of the progress of the procedure. Moreover, the examination and ruling are not open to the public.

The disciplinary body appoints an investigative commission (two people). Its only obligation is to summon the accused if he is a member of faculty; if the accused is a student, the commission can ask him to submit written observations. It is free to use any means to shed light on the case and can also hear statements from the victims as witnesses. It can also, as outlined in the circular from the Ministry for Higher Education and Research, call for the expertise of legal advisors or the gender equality office.

The investigative commission must submit a report to the president of the disciplinary body within a maximum period of two months. It is then the

responsibility of the president to set a date for the ruling. The texts do not stipulate a maximum period within which this date must be set.

During the hearing, the witnesses (including the victims) who have been summoned are heard in turn. The accused, and possibly their counsel, will be present and may question the witnesses (including the victims). The victims may be accompanied to the hearing by a third party of their choice⁷. At the end of the meeting, the members of the body will deliberate and, where applicable, decide on a penalty.

The ruling will be displayed in the university, but it can be made anonymous. The accused will be notified of the ruling, as will the university president and the rector of the *académie*. However, the victim or victims of the events will not be notified.

Appeal

If the accused is a student, the appeal must be lodged with the administrative court (*tribunal administratif*). For faculty members, only one kind of appeal is possible, to the CNESER disciplinary committee. Only the accused, the University President, or the rector can appeal the disciplinary body's ruling, within a period of two months. The victim, if they have been informed of the ruling of the disciplinary body, may only request the president or the rector appeal against the ruling. The president and/or the rector are under no obligation to respond to this request.

If an appeal is lodged, the CNESER disciplinary committee appoints an investigative commission (two people) who must submit a report within a maximum period of three months. If there is an "objective reason" to question the neutrality of a member of the commission, that person may be revoked. Once again, the victim is not involved in this procedure and does not have access to the file.

The outcome of the appeal will be sent to the Minister for Higher Education, the accused, and the rector of the *académie*. The decision will be published, anonymously, in the official higher education and research ministry newsletter (the *Bulletin Officiel de l'Éducation nationale*).

7 Art. L532-6 of the General Code of the Civil Service : <https://bit.ly/3O64Rfz>

THE CNESER

The National Council of Higher Education and Research (*Conseil national de l'enseignement supérieur et de la recherche, CNESER*) is an advisory body for the Minister of Higher Education and Research. It is made up of higher education and research staff, students, and business, political, and civil society leaders. It issues opinions on national higher education and research policy.

When it forms a disciplinary body, the “CNESER disciplinary committee”, it is the appeal board for the university disciplinary bodies. In its disciplinary form it is made up of lecturers and researchers who are of at least equal status as the person accused, and it is presided over by a Councillor of State (*conseiller-e d'État*)⁸.

For further information see:

<https://www.enseignementsup-recherche.gouv.fr/cid53497/le-conseil-national-de-l-enseignement-superieur-et-de-la-recherche-cneser.html>

IF THE AGGRESSOR IS A STUDENT OR TEACHER IN A HIGHER EDUCATION INSTITUTION (NOT A UNIVERSITY)

The rules that apply to students and teachers generally concern all scientific, cultural, or professional public institutions (*établissements publics à caractère scientifique, culturel et professionnel, EPSCP*), that is institutes and schools not associated with a university, the *écoles normales supérieures*, the *grandes écoles*, and French schools overseas.

However, the disciplinary rules of certain EPSCPs that are not universities are covered in specific texts that modify the general rules. See the texts referred to in the box on p. 60-63.

8 Education Code, legislative part, article L232-3 modified by laws of July 26 2019 and August 6 2019:
<https://bit.ly/3cd4JNM>

**IF THE AGGRESSOR IS A TEACHER OR HOSPITAL WORKER
IN A PUBLIC HIGHER EDUCATION INSTITUTION**

For teaching and hospital staff, there is the Council for the Hospital Civil Service (*Conseil Supérieur de la fonction publique hospitalière*).

Beginning the procedure

The Council for the Hospital Civil Service is conjointly called upon by the Minister for Higher Education and the Minister for Health.

The victim, or a third party may nevertheless address a letter, with acknowledgement of receipt, to one or other of the ministers explicitly asking for a disciplinary procedure to be undertaken. The letter must outline the facts the perpetrator is accused of (see letter template in appendix) and be accompanied by a file including a detailed account of the events, and any element supporting the accusations (witness statements, proof, etc.).

If the impartiality of one or several members of the disciplinary body is in question, it is possible to bring this to the attention of the ministers who can exclude that/those member/s from the disciplinary body.

During the procedure

The disciplinary jurisdiction appoints a rapporteur who can use any means to shed light on the event to produce their report. The victim may also be heard, but there is no obligation for this.

The accused has access to their file, but the victim does not. However, the hearing is public, except where the president of the jurisdiction has decided otherwise.

The ministers responsible for Higher Education and Health will be notified, as will the accused.

**IF THE AGGRESSOR IS A MEMBER OF THE SUPPORT STAFF (BIATSS)
IN A PUBLIC HIGHER EDUCATION INSTITUTION (UNIVERSITY,
SCHOOL, INSTITUTE, ETC)**

The acronym BIATSS refers to all the non-teaching staff in higher education institutions (librarians, engineers, administrative staff, technicians, health, and social workers).

The disciplinary procedures for BIATSS staff are outlined in the general dispositions of the civil service.

Beginning the procedure

The disciplinary procedure involving BIATSS staff can only be undertaken by the president of the institution. The victim or a third party can however send a letter with acknowledgment of receipt to the president explicitly asking for the disciplinary procedure to be launched. The letter must present the facts the person is accused of (see model in appendix) and be sent with a file including the detailed statement of events and any and all supporting material (witness statements, proof, etc.).

In view of the elements in the case, the president of the institution may decide to launch disciplinary proceedings. Depending on the agent's profession, they may call on the rector or on the Minister for Higher Education to bring together a joint administrative commission (*Commission administrative paritaire*) sitting as a formal disciplinary council.

During the procedure

Once the appropriate disciplinary body has been called upon, it begins investigating. The accused has access to their case file, but the victim does not.

Once the investigation has been completed, the disciplinary council meets. Half of its members come from staff representatives (of equal or higher rank to the accused), and the other half are representatives of the administration. The day of the disciplinary council meeting, the witnesses (including the victims) summoned will be heard in turn. The accused, and possibly their legal counsel, will be present and may ask questions of the witnesses (including the victims). At the end of the meeting, the council members deliberate and reach an opinion that is conveyed to the appointing authority for the accused (university president or minister). The latter decides on the sanction but has to justify their decision if it is different from the opinion of the disciplinary council. In specific circumstances, the accused alone may file a petition to reconsider (*recours gracieux*) or lodge an appeal with the administrative court (*tribunal administratif*). The decision may be made public.

IF THE AGGRESSOR IS A MEMBER OF STAFF AT A RESEARCH ORGANISATION

The disciplinary procedures against staff from public science and technology institutions (*établissements publics à caractère scientifique et technologique EPST*, specifically, the CNRS, INRA, INSERM, INED, IRD, INRIA, IFSTTAR and IRSTEA) are laid out in the general dispositions of the civil service.

Beginning the procedure

In EPSTs it is the president or director who begins the procedure by calling on the joint administrative commission (*commission administrative paritaire*) that sits as a disciplinary council.

The victim or a third party may nevertheless send a letter, with acknowledgement of receipt, to the president or director explicitly asking for the disciplinary procedure to be launched. The letter must present the facts the person is accused of (see letter template in appendix) and be accompanied by a file including a detailed account of the facts and any other elements to support the accusations (witness statements, proof, etc.).

If the president or director of the institution does not bring the case before the disciplinary body, it is still possible to request an appeal to the Minister of Higher Education and Research. If the latter considers that there is sufficient evidence, they can invite the president or director of the institution to exercise their disciplinary role.

During the procedure

Once the relevant disciplinary body has been called upon, it undertakes an investigation into the accusation. The accused has access to the case file, the victim does not.

Once this examination is completed, the joint administrative commission meets as a disciplinary council. Half of its members come from staff representatives (of equal or higher rank to the accused), and the other half are representatives of the administration. On the day of the meeting of the disciplinary council, witnesses (including the victim) may be heard in turn. The accused, and possibly their legal counsel, is/are present and may question the witnesses (including victims). Witnesses (and victims) may be accompanied during their hearing by a person of their choice (a lawyer, a union representative, a member

of CLASCHES, etc.). At the end of the meeting the disciplinary council members deliberate and form an opinion that is conveyed to the president or director of the institution. The latter then decides on the penalty but must justify their decision if it is different to the opinion handed down by the disciplinary council. In specific circumstances, the accused alone may file a petition to reconsider (*recours gracieux*) or lodge an appeal with the administrative court (*tribunal administratif*). The decision may be made public.

THE MAIN LEGAL TEXTS RELATING TO DISCIPLINARY PROCEDURES (IN FRENCH)

General regulations for the public service

- General Code of the Civil Service, Art. L125-1 and Art. L530-1 to L533-6.
- Decree n° 82-451 of 28 May, 1982 relating to joint administrative commissions (*commissions administratives paritaires*).

BIATSS staff in public higher education institutions

Public science and technology institution (EPST) staff (CNRS, INED, INRAE, INRIA, INSERM, IRD)

- Decree n° 84-961 of 25 October, 1984 relating to the disciplinary procedure concerning state public servants.
- Decree n° 86-83 of 17 January, 1986 relating to the general provisions applicable to contract workers of the State, articles 43 and 44.

Research staff at the CNRS (research institution)

- Circular n° CIR122436DRH last modified 14 May, 2020 (published in the Official CNRS Bulletin of May 2020).

Teaching staff and students at universities

- Education Code, legislative part, article L712-6-2, article L952-8 (for teaching staff), and regulatory part, article R712-8, articles R712-9 to R712-46 (for teaching staff), articles R811-10 to R811-42 (for students) : relating to the disciplinary bodies within academic councils.
- Education Code, regulatory part, articles R232-23 to R232-48: relating to the CNESER sitting as a disciplinary body.

Teaching staff and students at Cultural Scientific and Professional Institutions (EPSCP, excluding universities)

- Education code, regulatory part, articles R712-9 to R712-46 (for teaching staff) and R811-10 to R811-42 (for students), subject to the specific regulations below.

Institutes and Schools (excluding universities)

- Education Code, regulatory part article R715-13
- Decree n° 2006-1545 of December 7, 2006, article 9: relating to the disciplinary procedures for teaching staff at the National School for State Public Works.

Écoles Normales Supérieures

- Education code, regulatory part, article R716-3.
- Decree n° 2013-1140 of December 9, 2013, articles 22 to 24: relating to disciplinary procedures for students and teaching staff at the *École Normale Supérieure*.
- Decree n° 2011-21 of January 5, 2011, articles 19 and 20: relating to disciplinary procedures for students at the *École Normale Supérieure Paris-Saclay* (formerly ENS Cachan).
- Decree n° 2012-715 of May 7, 2012, article 15-1: relating to disciplinary procedures for teaching staff at the *École Normale Supérieure de Lyon*.

Grands établissements – Elite institutions

- Education Code, regulatory part, article R717-11.
- Decree n° 2014-838 of July 24, 2014, article 20: relating to disciplinary procedures for teaching staff at the *Collège de France*.
- Decree n° 2014-1679 of December 30, 2014 articles 20 and 21: relating to disciplinary procedures for students and teaching staff at *CentraleSupélec*.
- Decree n° 2012-1223 of November 2, 2012, articles 24 and 25: relating to disciplinary procedures for students at the *École Nationale Supérieure d'arts et métiers*.
- Decree n° 90-269 of March 21, 1990, article 17: relating to disciplinary procedures for students at the *Institut de physique du Globe de Paris*.
- Decree n° 92-25 of January 9, 1992, articles 31 and 32: relating to disciplinary procedures for students at the *École nationale supérieure des sciences de l'information et des bibliothèques*.
- Decree n° 2001-916 of October 3, 2001, title IV: relating to disciplinary procedures for teaching staff and students at the *Museum d'histoire naturelle*.

French schools (écoles) overseas

- Education Code, regulatory part, article R718-4.
- Decree n° 2011-164 of February 10, 2011, title III, chapter II: relating to disciplinary procedures for members of French schools overseas.

Administrative public institutions (établissements d'enseignement supérieur à caractère administratif)

Ex: most Institutes of Political Studies (Sciences Po) and some engineering schools. For a complete list, see Education Code, Art. D741-1 to D741-12.

- Education code, regulatory part, Art. R741-3.
- Education code, regulatory part, Art. R712-9 to R712-46 (for teaching staff) and R811-10 to R811-42 (for students).

***Ecoles nationales supérieures d'architecture* (Schools of Architecture)**

- For students, see Decree n° 2018-109 of February 15, 2018, relating to national superior schools of architecture, article 23.
- For teaching staff, see Decree n° 2018-105 of February 15, 2018, relating to the specific status of faculty members at national superior schools of architecture, article 28.

Art schools

- For students at one of the ten National Superior Art Schools (*Écoles nationales supérieures d'art* - ENSA), see Article 18 of the December 23, 2002 decree with the school's statutes.
- For students at one of the 35 regional superior art schools (*Écoles supérieures d'art* - ESA), see the school's internal regulations (*règlement intérieur*).

Teaching and hospital staff

- Education code, legislative part, article L952-22.
- Decree n° 86-1053 of September 18, 1986
- Education code, legislative part, article L 952-23-1, only for teachers of general medicine.

C. The Health, Safety, and Working Conditions Committee (CHSCT)⁹

Each higher education institution, whether public or private, has its own Health, Safety and Working Conditions Committee (CHSCT, *Comité d'hygiène, de sécurité, et des conditions de travail*). This committee aims to contribute to the protection of staff and students including against the risk of sexual harassment.

A workplace health and safety register is available to all users and agents who may record incidents they consider problematic for safety and working conditions. This register is normally kept at the reception of the institution, which is where it can be consulted and/or filled in.

By recording a situation of sexual harassment that you have experienced or witnessed in the CHSCT register, you are informing the staff representatives on the health and safety committee of the existence of a dangerous situation.

The texts then require them to alert the head of department concerned, who must immediately conduct an investigation with a staff representative and make the necessary decisions. In this instance it is the responsibility of the president of the institution to call on the disciplinary body.

D. Mediation

Mediation consists in proposing an arrangement between two opposing parties, thus aiming to “stop the sexual harassment”. Certain institutions may propose mediation procedures following accusations of sexual harassment.

CLASCHES is opposed to this procedure for the following reasons:

- mediation equates sexual harassment to a conflict when it is in fact an act of violence;
- it maintains contact between the aggressor and his victim(s) in the workspace and/or relationship, which may give rise to and/or perpetuate pressure on the victim(s);

⁹ In 2022, the CHSCT and the Technical Committee (*Comité Technique* - CT) are to be merged into a new committee known as the University Social Committee of Administration (*Comité Social d'Administration* - CSA). A specific CSA subcommittee will take over the responsibilities of the CHSCT in January 2023.

- it obscures other potential avenues for redress;
- it does not impose sanctions on the aggressor, which can only minimise the seriousness of sexual harassment.

Moreover, mediation procedures do not provide “compensation” for victims of sexual harassment and sexual violence, but they do (re)open their wounds by imposing confrontation with an aggressor the victim has often fled. There is no “compensation” for damages suffered, such as for example the fact that victims often leave university, drop out of their studies, or when they have continued and found someone else to supervise their work they are often obliged to change institutions or cities. These procedures in fact consolidate the aggressor’s feeling of impunity given that he receives a “pardon” that has no legal legitimacy.

“Mediation” procedures cannot under any circumstances replace disciplinary hearings. Given the seriousness of the events, the president of the institution where they occurred must accept their responsibility in the decision-making procedure and call a disciplinary commission. However, encouraging an individual, or even the aggressor, to contact complainants not only inevitably tends to minimise the seriousness of the accusations but also suggests that justice can be done through informal procedures which may be decided and organised by the accused himself. This tends to minimise the fact that the actions in question are illegal.

However, if you are struggling to have your rights recognised within your higher education institution you can call on the national level or academic mediator¹⁰. Mediation can only take place if the “disagreement persists” and appearing before the mediator is free.

E. The Administrative Tribunal

Administrative tribunals are competent to rule in situations where public service agents or users contest decisions made by the administration. Since 2019, they also have become the relevant appeals court for disciplinary rulings when the accused is a student.

.....

Concretely, in terms of sexual harassment, you can bring a case before the administrative tribunal if, for example:

- as a student, you wish to lodge an appeal against the penalties decided by the disciplinary council of your institution;
- as a member of staff (except teaching staff), you wish to lodge an appeal against the decision of the director/president of your institution (or the appointing authority for your profession);
- as a member of staff you contest decisions concerning your work situation (transfers, sanctions, etc.) made by the administration following your denunciation of a sexual harassment incident that you witnessed or experienced;
- as a member of staff, your administration refused to provide you functional protection;
- as a member of staff or a student the president or director of your higher education institution did not call on the disciplinary body following your request;
- as a member of staff or a student, no investigation was conducted following your declaration on the health and safety register of the CHSCT.

You can ask for a contested decision to be annulled, and/or apply for compensation for harm suffered.

The deadlines for submitting an appeal before the administrative tribunal are very short; it must be submitted no more than two months after the notification of the decision. If you challenge a decision that has not been notified (for example if the disciplinary body was not called following your request, but you have had no notification of that decision), a lack of response within a period of two months is considered a refusal. It is therefore from that date that you have a two-month period to appeal to the administrative tribunal.

An appeal to the administrative tribunal is submitted via a written request (with an official fiscal stamp) in which the specific decision that is challenged is presented and the facts are laid out. It must include a copy of all supporting documentation and be submitted to the court registry (*greffe du tribunal administratif*) or sent by registered mail with acknowledgement of receipt.

You can undertake this procedure alone or with the help of a lawyer. The case will be studied by a judge. This procedure is essentially conducted in writing.

F. Can I be sued for defamation or libel?

When accusations are made or about to be made, aggressors often respond by threatening to sue the victim for defamation, or false accusations.

This strategy is intended to make the victims abandon their accusations out of fear of legal attacks. Yet it is important to know that most aggressors do not actually undertake such proceedings. Moreover, if a case for defamation and/or false and malicious accusations is made, the risks are relatively minor.

Defamation cases can only be lodged within three months of the incident, which enables the victim to be rapidly protected from this kind of response. If a case for defamation is brought, you must demonstrate that you have acted in good faith. It is highly likely that the documents and evidence you have compiled will substantiate your allegations, showing they are based on real events and not on a desire to do harm. The chances that a defamation case will be successful are therefore relatively low.

The risk of being found guilty of false and malicious accusations is also very low. For a guilty ruling to be found, not only would your accusations of violence have to be demonstrably false, but you would also have to be proved to have acted in bad faith, i.e. to have knowingly lied. It is exceedingly rare that there are no elements at all that demonstrate the complainant's good faith.

Conviction for false or malicious accusations is quasi-systematic in cases where the ruling results in an acquittal or a dismissal with the finding that "the offence was not committed". But rulings on acquittal or dismissal are always made on the grounds of "insufficient evidence", "inadequately characterised offence", or the "benefit of the doubt". To date, we know of no sexual harassment case where the ruling stated that the "offence was not committed".

HOW CAN YOU GET INVOLVED?

Become an activist

- Join CLASCHES and participate in our actions!
- Contact CLASCHES to organise a training session at your higher education institution for students and/or staff, by contacting your unions or local associations who work on the issue of sexist and sexual violence.
- Set up a local branch of CLASCHES (contact us to find out how!)
- Fight against the invisibility of sexual harassment in higher education and research by spreading information on sexist and sexual violence (such as this guide, or the tools created by feminist associations listed in the appendix). CLASCHES can email you copies of this guide, as well as posters and stickers, free of charge.

Make your voice heard

Whether you have been a victim of sexual harassment or have witnessed it, either recently or in the past, and regardless of the outcome and consequences of the incident, you can share your experience with us. **Any information you share will remain confidential, will only be used with your agreement, and will be systematically rendered anonymous.** By testifying about your experience, you help to provide an overview of the situation of sexual and sexist violence in higher education and research in France, and thus help to make that violence more visible and fight against it. You can write to us on our website or send your testimony to clasches@gmail.com

Support us

You can help support CLASCHES' work financially, either as an individual or a collective with a status as a legal entity (an association, non-profit, etc.), go to <https://clasches.fr/noussoutenir/>

APPENDIXES

LETTER TEMPLATES FOR COMPLAINT AND WITNESS STATEMENTS

NOTE: The following templates are translations of the French letter templates that can be found in the French version of this guide. They are provided for information purposes only. Any letters to French institutions or authorities will need to be written in French (see the French language guide for the equivalent templates).

WITNESSES

Template for a statement to be written by hand (art. 202 Civil Procedure Code). The witness statement must respect the official format and be sent with a photocopy (recto-verso) of the witness's ID card.

I undersigned [full name]

Born on [birthdate]

Residing at [full residential address]

Currently working as [current profession]

[if you are a relative, an associate, or an employee of one of the parties, mention this here]

Solemnly certify the veracity of the following events:

[provide a detailed description of the comments, gestures, or actions you have witnessed, that you have been informed of, or that you have personally witnessed, directly related to the complaint]

I am aware that this statement may be used in a court of law, and I am aware that I may be subject to prosecution for any act of false testimony.

Signed at city] *Date.* [date]

Signature

LETTER FOR A REQUEST FOR A DISCIPLINARY PROCEDURE

This model can be adapted according to the regulatory context and the recipient.

Dear Sir/Madame President

I wish to draw your attention to the fact that I have been subject to sexual harassment by [name of aggressor] who is a ATER/MCF/PR in [discipline] in the UFR [number]/doctoral school [number].

[provide a precise description of the comments, gestures, or actions you have been subject to.]

These events have had a severe negative impact on my mental health and my well-being, as well as on the quality of my work and my results.

[If relevant, add: Other students confronted by the same situation as me, with the same person, have abandoned their studies/ their thesis.]

These facts constitute an offence under article 222-33 of the Criminal Code. This is why I formally request that you bring the matter before the disciplinary body outlined in article L712-6-2 of the Education Code, by virtue of your responsibility for staff and users of the institution (article 712-2 of the Education Code) and in keeping with the powers awarded you under article R712-29 of the Education Code.

I request the disciplinary body be convened on this matter.

I draw your attention to the fact that if you do not make a decision or find a solution to put a stop to [name]'s behaviour, I will be obliged to withdraw from my studies/ my PhD contract/ my teaching contract in this institution. [Where relevant, add: and I will be obliged to turn to the Prosecutor of the Republic/ the Defender of Rights for assistance].

I also reserve the right to bring this matter before the administrative tribunal.

I thank you for intervening in this matter.

Yours sincerely,

Signature

USEFUL CONTACTS

NUMBERS TO CALL:

3919 – Violences femmes info

This is a free number accessible in France, from a landline, 24 hours 7 days a week.

This number was set up by the National Federation for Solidarity for Women (see FNSF below); it is dedicated to women who are victims of violence.

0 800 05 95 95 – Viols-femmes-informations

This is a free number in France from a landline, accessible Monday to Friday from 10am to 7 pm.

The hotline is staffed by the Feminist Collective Against Rape (see CFCV below) which provides support, counselling, and information.

USEFUL ADDRESSES AND CONTACT INFORMATION:

AVFT – Association européenne contre les violences faites aux femmes au travail (*European Association Against Violence Against Women in the Workplace*)

The AVFT is an independent feminist association that defends workers' rights and human dignity.

51, blvd Auguste Blanqui, 75013 PARIS
(only by appointment)

Ph: 0145842424 (Monday from 2pm to 5pm, and Tuesday and Friday from 9.30am to 12.30pm)

www.avft.org

CFCV – Collectif féministe contre le viol (*Feminist collective against rape*)

Organised as a national network, this collective focuses its activity on information/ awareness raising and the organisation of focus groups. It also provides a telephone hotline for victims (see above).

<http://www.cfcv.asso.fr>

CLASCHES

clasches@gmail.com
www.clasches.fr

EN AVANT TOUTES

An organization working primarily with women, youth and LGBTQIA+ to raise awareness about sexual and sexist violence. It operates an instant messaging website where victims can chat with professionals who can assist them.

Website: <https://enavanttoutes.fr/>
Instant messaging service: <https://commentonsaime.fr/> (Monday to Saturday from 10am to 9pm)

FNCIDFF – Fédération nationale des centres d'information sur les droits des femmes et des familles *(National centre for information on the rights of women and families)*

Network of information centres working to provide women with access to the law, fight against sexist discrimination, and promote gender equality.

www.infofemmes.com

FEMMES SOLIDAIRES

(Women's Solidarity)

Network of local popular feminist associations.

femmes.solidaires@wanadoo.fr
www.femmes-solidaires.org

FNSF – Fédération nationale Solidarité femmes *(National Federation for Solidarity for Women)*

This is a federation of 65 feminist associations who share the goal of fighting violence against women, and which provide a telephone hotline for victims (see above).

fnsf@solidaritefemmes.asso.fr

Ph: 01 40 33 80 90

www.solidaritefemmes.org

NOUS TOUTES

#NousToutes is a community of feminist groups fighting sexual and sexist violence by organizing marches, petitions, workshops, awareness campaigns both online and IRL, etc.

<https://www.noustoutes.org/>

#NousToutes provides a list of contacts for victims:

<https://bit.ly/3Oc2B6f>

OBVSS – Observatoire étudiant des violences sexuelles et sexistes dans l'enseignement supérieur (*Student Observatory of Sexual and Sexist Violence in Higher Education*)

OBVSS conducts surveys on sexual violence in higher education and organizes events to raise awareness about this issue.

<https://observatoire-vss.com/>

LE PLANNING FAMILIAL
(*Family Planning*)

Family Planning works with government to ensure the reproductive rights of women are recognised and protected (access to contraception, abortion) and to fight for the eradication of sexist violence.

www.planning-familial.org

SOS HOMOPHOBIE

A feminist organization fighting homophobia and transphobia. It develops awareness campaigns, offers workshops for schools and businesses, publishes reports, and offers legal and support services for victims.

<https://www.sos-homophobie.org/>

Hotline: 01-48-06-42-41 (Monday to Friday 6pm-10pm, Saturday 2-4pm, Sunday 6-8pm)

Instant messaging: <https://www.sos-homophobie.org/chatecoute> (Thursday 9-10.30pm, Sunday 6-7.30pm)

USEFUL RESOURCES

- ANEF, CLASCHEs, CPED,
Le harcèlement sexuel dans l'enseignement supérieur et la recherche. Vade-mecum à l'usage des établissements, 2nd Edition, 2017.
- AVFT, *Violences sexistes et sexuelles au travail : faire valoir vos droits*, 2nd Edition, 2011.
- AVFT, *Violences sexistes et sexuelles au travail : guide à l'attention des employeurs*, 2nd Edition, 2015.
- CFCV, *Viols, agressions sexuelles : Faire valoir vos droits*, Edition 2018.
Link : <https://cfcv.asso.fr/wp-content/uploads/2018/02/Livret-juridique-2018.pdf>
- Collective NCNM, *Notre corps, nous-mêmes*, Éditions Hors d'atteinte, Collection Faits & Idées, New edition, 2020.
- Caroline De Haas #NousToutes, *En Finir avec les violences sexistes et sexuelles : manuel d'action*, Robert Laffont, 2021.
- Irene Zeilinger, *Non c'est non. Petit manuel d'autodéfense à l'usage de toutes les femmes qui en ont marre de se faire emmerder sans rien dire*, Zones, 2008.
15€ in print, or free to read at:
<https://www.editions-zones.fr/lyber?non-cest-non>

CLASCHES has produced a poster campaign to raise awareness on this issue. These posters are available to download in colour or in black and white from the website:

<https://clasches.fr/agir/#toggle-id-5>

To obtain free paper versions of these posters (A3) or stickers from this campaign (A5), contact us at:
clasches@gmail.com

“CAN’T YOU TAKE A JOKE?”

NO.

IMPOSING SEXUAL COMMENTS OR
BEHAVIOUR ON ANOTHER PERSON IS A
FORM OF VIOLENCE.

SEXUAL HARASSMENT IS AN OFFENCE,
NOT A JOKE.

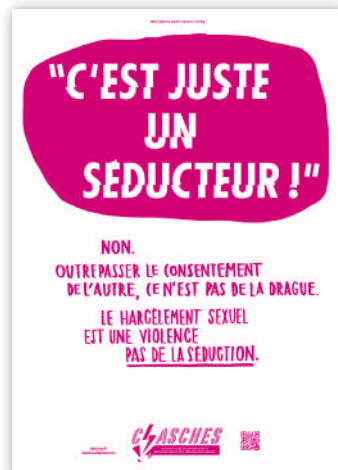


“HE’S JUST A LADIES’ MAN!”

NO.

IGNORING CONSENT IS NOT FLIRTING.

SEXUAL HARASSMENT IS VIOLENCE,
NOT SEDUCTION.



"YEAH, EVERYONE KNOWS..."

...BUT NO ONE DOES ANYTHING.

SEXUAL HARASSMENT HAPPENS
HERE TOO.

DON'T BE COMPLICIT.

**"WHAT, HERE?
THAT DOESN'T HAPPEN HERE!"**

YES, IT DOES.

SEXUAL HARASSMENT IS NOT
JUST IN THE STREET.

DON'T CLOSE YOUR EYES TO IT.

**"SHE SHOULDN'T HAVE BEEN
WEARING THOSE CLOTHES!"**

NO.

ANY WOMAN CAN BE A VICTIM OF
SEXUAL HARASSMENT, REGARDLESS OF
WHAT SHE IS WEARING.

THE ONLY PERSON AT FAULT IS THE
AGGRESSOR.

**"AH OUI,
TOUT LE MONDE
LE SAIT !"**

... MAIS PERSONNE NE FAIT RIEN.
ICI AUSSI,
LE HARCELEMENT SEXUEL
EST UNE REALITE.
NE SOYONS PLUS COMPLICES.



**"ICI ?
ÇA
N'EXISTE
PAS !"**

SI.
LE HARCELEMENT SEXUEL
NE S'ARRÊTE PAS
AUX PORTES DE CET ÉTABLISSEMENT.
NE FERMONS PLUS LES YEUX.



**"ELLE N'A QU'A
S'HABILLER
AUTREMENT"**

NON.
N'IMPORTE QUELLE FEMME
PEUT ÊTRE VICTIME DE HARCELEMENT
SEXUEL.
IL N'Y A QU'UN SEUL COUPABLE,
LE HARCELEUR.



clasches@gmail.com

www.clasches.fr

Booklet design:

Marie Jolu-Planques - www.marieplanques.fr

Illustration: Julie Guillot

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