

# **Sexual Harassment in labour contexts: an overview of international legal instruments and the role of labor courts**

Teresa Bravo\*

United Nations Dispute Tribunal- Geneva

From a normative point of view, discussions on sexual harassment and sexual violence tend to be monopolized by criminal law and criminal legal experts. However, legal issues regarding this subject are far from being a monopoly of criminal law. In fact, labor law can also give a huge contribution to a more comprehensive approach of these phenomena and to broaden its legal scope. In labor contexts, the victim's economic dependency and the hierarchical roles played both by employers and employees, explain much of the dynamics of sexual abuse and constitute a particular fertile ground for sexual abusers.

However, sexual harassment in labor contexts is still a hidden and roughly known reality. The legal instruments available are difficult to implement and labor courts usually don't deal with these issues as victims tend not to present charges against their offenders.

The scope of my intervention is to present an overview and to discuss the enforceability of legal instruments on sexual harassment in the field of international labor legislation by taking into account the sociological features of this issue in the labor world.

I intend to draw a global picture of the existing normative instruments in this area and to evaluate its applicability both at an European and international level, as well as, the role played by legal actors in the prevention and sanctioning of sexual harassment in labor contexts.

I will take my practical experience as a labor judge in the Lisbon's Labor Court as a starting point in order to demonstrate that after six years of a daily experience in the legal field, I was never confronted with a complaint of sexual harassment in the labor context. On the other hand, when I have worked in the criminal court, I was often confronted with rape and sexual abuse cases.

Consequently, does this mean that sexual harassment in the context of labor relationships doesn't exist at all?

Which factors can explain the absence of this phenomenon in labor courts?

The best way of testing the effectiveness of legal instruments is to look carefully at the daily routine of courts and the working practice of legal actors: I call this the "reality test". The reality test means that if a legal instrument is not commonly used and dealt with by victims

and offenders, ultimately, it won't be of much use and demonstrates the inadequacy of the legal system to fulfil the citizen's needs.

Finally, I would like to highlight three major points:

- sexual abuse and sexual harassment are not an exclusive phenomena of criminal law;
- labor relationships are a fertile ground in which these issues can be identified;
- labor law and labor courts can play an important role regarding the prevention and sanctioning of sexual abuse.