

# The globalization of the sexual harassment crises

## Marie Mercat-Bruns



This training session is funded under the 'Rights, Equality and Citizenship Programme 2014-2020' of the European Commission.

## Introduction

- **Broad societal awareness in the world about the pervasiveness of sexual harassment in the workplace in the wake of the #metoo movement.**
- **Silence breakers through social networks emerged in different countries including Europe.**
- **Focus mostly on employment sector.**
- **Has this crisis implied more visibility on the limits of sexual harassment law in the workplace around the world?**
- **Accusations sparked more litigation or retaliation?**
- **Impetus for law reform?**
- **The scope of law reform?**
- **The impact on business practices: assessment of tools (scope and challenges)**

## Outline

- 1) The rise of social awareness of sexual harassment around the world through social media
- 2) Visibility of limits to sexual harassment in laws, culture responses and practices
- 3) Impetus for law reform: what direction?
- 4) Tools emerging for better enforcement and mechanisms of inclusion and a look to the future of the global movement

## The rise of social awareness of sexual harassment around the world through social media

- Broad societal awareness in the world about the pervasiveness of sexual harassment in the workplace in the wake of the #metoo movement.
- Silence breakers through social networks emerged in different countries including Europe.

Broad societal awareness of sexual harassment in the world after #metoo

After news articles on allegations of several women accusing American film producer Harvey Weinstein of sexual misconduct, an actress Alyssa Milano used the hashtag #metoo which had been coined first by civil rights activist Tarana Burke twelve years ago to form a group of sexual assault survivors (Girls for Gender Equity)

**A series of events in the United States ....** More recently the **Nobel Peace Prize** awarded to Denis Mukwege and Nadia Murad to end sexual violence as a weapon of war and armed conflict.

Me too.

Suggested by a friend: "If all the women who have been sexually harassed or assaulted wrote 'Me too.' as a status, we might give people a sense of the magnitude of the problem."



### Alyssa Milano

✓ @Alyssa\_Milano

If you've been sexually harassed or assaulted write 'me too' as a reply to this tweet.

9:21 PM - Oct 15, 2017

•52.7K

•90.4K people are talking about this

Silence breakers  
through social networks  
emerged in different  
countries including  
Europe : different  
sectors of economy

Spurs similar movements all across the globe: examples

**FRANCE** Before the #metoo was used widely, French journalist Sandra Muller reacts in New York using the hashtag « **Name your pig** » on **October 13 2017: encourage other women to express their indignation, their experience, talk about their story**

**GERMANY** Film industry director Dieter Wedel

**SWEDEN:** Swedish Foreign Minister Margot Wallström suffers sexual assault at European meeting. Biggest Swedish women's movement since women secured the right to vote almost a hundred years ago. Stories of assault and harassment from women across the arts, law, media, sports and politics.

**ITALY:** #Quellavoltache (the time when...): movie industry

**SPAIN:** #YoTambien 5#metoo, music, TV, fashion industry

**Brazil:** #Delataseporco or #EuTambém (metoo)

**CHINA:** hashtag #MeToo has so far appeared more than 77 million times on Weibo (academics, writers, charity founder, journalist)

**SOUTH KOREA:** #metoo; work of female lawyer named Lee Eun-eui on sexual harassment in the workplace. Harassment in political arena and entertainment

Tweet français

**Sandra Muller** @LettreAudio

**#balancetonporc** !! toi aussi raconte en donnant le nom et les détails un harcèlement sexuel que tu as connu dans ton boulot. Je vous attends.

- **Sandra Muller@LettreAudio**
- " Tu as des gros seins. Tu es mon type de femme. Je vais te faire jouir toute la nuit" Eric Brion ex patron de Équidia **#balancetonporc**
- **17:13 - 13 oct. 2017 · Manhattan, NY**
-

## Reaction in the European Parliament

- **October 25, 2017:**
- The European Parliament member from Germany and Green Party politician Terry Reintke had already described in September how she had been a victim of a sexual attack in the German city of Duisburg.
- In the aftermath of the #MeToo debate, the EU Parliament decided to deal with similar occurrences within its walls. The legislature passed a resolution: **Combating sexual harassment and abuse in the EU European Parliament resolution of 26 October 2017 on combating sexual harassment and abuse in the EU (2017/2897(RSP))**
- **It recalls the texts banning violence against women and harassment**
- **And condemns the conduct: Zero tolerance and the fight against sexual harassment and sexual abuse in the EU**

## 2) Limits of past sexual harassment laws, cultural responses and practices

- Challenges: 3 examples of countries
- Enforcing the laws on sexual harassment, sexual assault and sex discrimination
- Challenge of bringing a claim and proving it: his words against mine (in France, narrow definition of sexual harassment (quid pro quo harassment/sexual favors) until a law of 2012 which, under the influence of EU law added hostile environment harassment)
- **France:** historically, bigger focus on bullying (gender neutral moral harassment); discrimination law constructed outside of harassment law. 2015/2016 laws on prevention of sexist acts; sexual harassment as a professional risk
- **Confusion in practice** between different forms of sexual misconduct:
  - Sexual assault, rape (criminal code)
  - Sexual harassment in its two forms (quid pro quo and hostile environment)
  - Sexism considered separately in the law; prohibition of harassment based on sex only since 2008
- **US:** (after Meritor v. Vinson, Oncale) sexual harassment linked to discrimination law (defense of employer: through compliance and complaint procedures)
- **South Korea:** before no comprehensive harassment law: just Gender Equal Employment Act (art. 12) and only if evidence of physical touch. Sexual assault or rape sanctioned in Penal Code

## Culture responses and practices

- **France:** Reaction by a group of « visible » women (C Deneuve, journalist, writers) : the right to be « disturbed », or sexuality harassment- Response from French feminists. Response by Minister Schiappa
- **Italy:** It's sexual McCarthyism, censorship
- **Japan:** limited reaction
- **Sweden:** Strong equality movement
- Reaction in some middle eastern countries (Egypt)
- General Resistance to « political correctness » and victimization
- **South Korea:** reference to the « Pence » rule limiting work with female colleagues

## Accusations sparked more litigation or retaliation?

- France: **Rise** in claims and cases:
- **Since October 13 2017, this informal reporting which can be detailed on the pigs can also just stay on the internet ; « they don't really conform to the judicial process, but « express a need » . The DA can prosecute on his own or after a request :**
- **So it is not enough if that person says I have been assaulted by this person, but if that person says : I have been assaulted by this person who works here, that is more detailed. The DA can prosecute or not, a feminist NGO locally can ask DA to prosecute indicating what was written (so it is not just the survivor)**
- But rise in **defamation** claims against survivors including Sandra Muller who started the movement in France
- #Name your pig opened up the debate, made it visible and investigations: studies, books came out and surveys)
- But Isolation of victims in rural areas (Report Le Monde)

### 3) Impetus for law reform: what direction?

- **President Macron's speech Nov 2017: equality: major national cause.** France's gender equality minister, Marlene Schiappa, introduced new legislation aimed at fighting sexual violence and street harassment. (Law August 3 2018 on sexual and gender based violence/also protects minors and against cyber harassment) Reflection does not expand to systemic discrimination linked to sexual harassment/reference to hostile situation (not environment). Still strong hold of the idea of dignity of worker rather than discrimination component of harassment.
- **New California Law:** reform of law to expand rights of victims (Law Oct 1 2018/sexual harassment prevention training and education) to all (non supervisors too) in companies with 5 or more employees by Jan 1 2020; so even to seasonal workers (intersectional claims of more vulnerable women in certain workplaces (restaurants, farm workers), law prohibition of settlement agreements that prevent disclosure of information on sexual harassment (Sept 2018).

### 3) Impetus for law reform: what direction?

- **New Swedish Law May 24 2018: a new law saying that sex without consent is rape, even when there are no threats or force involved.** negligent rape and negligent sexual abuse, carrying a maximum prison term of four years.
- **June 1 2018: New South Korean law:** more training, protection of victims, employer's obligation to investigate, confidentiality of complaint

#### 4) Tools emerging for better enforcement and equality measures?

- Sexual harassment Task Force Report (EEOC)
 

Stop symbolic rules in companies: widen scope of training to all employees (not just supervisors), external complaint procedures, enforcement mechanisms (how to get bystanders to take action in the workplace)
- Work on systemic sex discrimination (glass ceiling, sex segregation in jobs)
- Inclusive measures: affirmative action measures actually reduce risk of harassment (critical mass argument, V. Schultz)
- Collective bargaining agreements on prevention of sexual harassment measures link harassment to an objective risk for health and security of workers

#### Conclusion

- What does the future hold around the world?
- The bubble has burst but will there be transformative changes in legal frameworks, access to justice and enforcement?
- Sexual harassment part of a broader issue of cross-cultural equality? Same sex harassment (increase in certain countries of homophobic acts)
- The role of gender mainstreaming and global monitoring of companies and public institutions