

# An Opportunity to Create Change

Report from the Commission on Sexual Harassment  
in the Performing Arts 2018



# Table of Contents

---

<b>Foreword</b>	<b>3</b>
<b>Summary</b>	<b>4</b>
<b>1. The Mission and the Commission's Composition and Working Methods</b>	<b>6</b>
<b>2. Background with Purpose and Starting Point for the Commission's Work</b>	<b>7</b>
<b>3. Previous Attention on the Issue of Gender Equality in the Performing Arts</b>	<b>8</b>
<b>4. Sexual Harassment in the Performing Arts Domain- Starting Points for the Commission's Analysis and Proposals</b>	<b>14</b>
Sexual Harassment is an Expression of Inequality	14
Legislation and other regulations regarding harassment	18
Who can one turn to in cases of sexual harassment?	26
An Ethical and Psychotherapeutic Perspective on Sexual Harassment	30
Survey on Sexual Harassment in the Performing Arts Industry	34
<b>5. The Commission's Analysis and Conclusions</b>	<b>48</b>
<b>6. The Commission's proposal</b>	<b>52</b>
An Opportunity to Seize	52
The Law is Clear	52
Suggestions	52
Need for further transparency	57
Concrete tips	58
<b>Bibliography</b>	<b>60</b>

---

---

# Foreword

In the autumn of 2017, a movement began in the United States' film industry which rapidly propagated to other countries and to industry after industry. The movement addressed a topic that had existed for a long time, and which had been relevant in various moments in history: sexual harassment. But suddenly, the belief spread that this time it could not be silenced. It was a break in the trend that became challenging and empowering. Sexual harassment had usually been trivialized, normalized, shamed, indulged, disregarded, obscured, defended, idealized and deemed inevitable. But the time had come to stop, scrutinize, and respond to that which, to this point, had been happening without being seriously challenged. The movement in Sweden also started in the cultural sector. Through the hashtag #tystnadtagnig, an arena emerged for those needing to share experiences, which became an inspiration for many other manifestations. All manifestations were discussed, analyzed and debated. It was impossible not to be affected, regardless of past experiences, insights and opinions.

The Commission Against Sexual Harassment was appointed by The Swedish Performing Arts Association (Svensk Scenkonst, and hereafter referred to as such) and The Swedish Union for Performing Arts and Film Teaterförbundet, and hereafter referred to as such) jointly and has worked independently for three months to try and map the situation in the performing arts domain and submit proposals for intervention. The work is now complete and our hope is that we have been able to map out a fair, albeit general, picture of what it is like to be an employee and manager in the performing arts today with regard to exposure to sexual harassment, and that the suggestions we offer can be used not only in cases of sexual harassment but also for preventing other types of harassment. The Commission's members have, on the basis of their specific expertise, contributed different perspectives on the issue of sexual harassment, and it is hoped that the various parts of the report can offer useful perspectives and proposals regardless of the industry or profession in which one is active.

The Commission would like to thank all of you who have contributed so generously with your time and your thoughts, and who have shared what are sometimes difficult experiences. The openness and strength that you have shown has been crucial for the Commission's work and has contributed in every way to the reliability of this report.

The Commission hereby submits the final report, and our mission is thus completed.

Stockholm: April 13, 2018

Anna Wahl  
Michael Bjerkhagen  
Maria Eka  
Kurt Eriksson  
/Carin Khakee

---

## Summary

In November of 2017, the employer organization Svensk Scenkonst (Swedish Performing Arts Association) and the trade union Teaterförbundet (the Swedish Union for Performing Arts and Film) decided to appoint a Commission Against Harassment in the Performing Arts. The appointment of the Commission was a consequence of the outcry against misconduct in the work environment and public testimonies regarding sexual harassment. The task of the Commission has been to review and analyse the factors underlying the culture of silence in the field of performing arts, and to propose measures to break this cycle. The Commission was also tasked with proposing measures to create long-term changes in attitudes that will lead to a complete halt to all forms of harassment.

In its work, the Commission has acquainted itself with previous inquiries and reports as well as relevant legislation in the field. The Commission has considered the outcry that has taken place in the field of the performing arts and has systematized witness accounts and conducted structured interviews with various groups of individuals who are active in the field. The results of the survey conducted on behalf of Svensk Scenkonst, Swedish Union for Performing Arts and Film, Swedish Union of Professional Musicians and Swedish Musicians' Union has also provided an important basis for the work of the Commission.

The Commission has drawn a number of conclusions regarding the situation as it applies to sexual harassment in the performing arts. The Commission confirms that, while there is a clear hierarchy within the performing arts, it appears that informal power structures are allowed to dominate. This creates ambiguity in the work environment. The fact that certain individuals with "star status" become important to a production runs the risk of creating work environment problems if the employer fails to demonstrate clear leadership. Furthermore, it has been established that artistic freedom is used as an argument in favour of taking liberties at the expense of others. The fact that the performing arts are characterized by temporary working communities results in flawed work environment activities. The Commission believes that perhaps the greatest problem is the culture of silence that pervades the industry. This silence is not confined to the victim who does not dare to speak out, but also leads to a situation where those witnessing harassment do not dare to intervene. There is also a feeling among employees in the performing arts that employers fail to take responsibility for this issue, and lack knowledge and procedures to handle sexual harassment.

The Commission notes that there currently exists an opportunity for everyone within the industry to participate in creating change. The Commission would like to emphasize that the law is extremely clear with regard to sexual harassment: sexual harassment must not be allowed to occur. The Commission proposes a number of measures that can be taken to break the culture of silence and combat sexual harassment, but also identifies further tools that the performing arts can work with going forward.

These are our proposals:

- Increase knowledge and initiate change projects.
- Actualize guidelines and procedures.
- Create the preconditions for good leadership.
- Consider changes to collective bargaining and other agreements.
- Utilize a reparative process in order to move forward.
- Utilize the joint council as a hub for driving change work.

In conclusion, the Commission points out that it may be necessary to highlight additional areas as elements of all continuing dialogues in order to achieve widespread success in preventing sexual harassment; for example, knowledge about how these issues can be integrated into artistic study programmes, reviewing how organizations are governed, and deepening understanding of the underlying causes of the culture of silence.

---

# 1. The Mission and the Commission's Composition and Working Methods

In November of 2017, Svensk Scenkonst (the Swedish Performing Arts Association) and Teaterförbundet (The Swedish Union for Performing Arts and Film) decided to appoint a Commission on Harassment in the Performing Arts. The Commission's composition and complete mandates were published at a press conference on January 18, 2018.

Appointed as the President of the Commission was Anna Wahl, professor of gender, organization and management, and Vice-rector for Gender Equality and Values at the Royal Institute of Technology. Appointed as members were Michael Bjerkhagen, head of operations at the Stadsmissionen and pastor of the Royal Court Parish; Maria Eka, the Chief Adviser at the Administrative Court in Stockholm; and Kurt Eriksson, former head of law at the Swedish National Mediation Office. Government office administrator Carin Khakee was appointed the Commission's secretary.

The Commission's mission has been to examine and analyze the underlying factors of the culture of silence in the performing arts field and to propose measures to break it. The Commission has also been tasked with proposing measures for how the performing arts industry can create a long-term attitude change where no forms of harassment occur. The task has also included identifying obstacles and suggesting how these can be bridged.

In its work, the Commission has taken note of relevant legislation in the field, as well as previous studies, investigations, and reports. The Commission has also been in contact with representatives of those manifestations made within the domain of the commission's mission and taken note of a large number of testimonies, both those previously published and also those that have not been made public. The Commission has taken note of the results of the survey that Svensk Scenkonst, Teaterförbundet, SYMF (the Swedish Union of Professional Musicians), and the Musikerförbundet (the Musicians' Association) jointly enlisted Kantar Sifo to carry out. Furthermore, the Commission President and Secretary have conducted a number of structured group interviews with persons active in the performing arts field.

The Commission held four meetings. A partial account of the assignment was made orally on February 19, 2018, to the chairmen of the boards of Svensk Scenkonst and Teaterförbundet. In addition, the members and secretariat of the Commission have had a number of different meetings with relevant actors and representatives of the area, and have attended seminars and lectures.

The Commission has decided to interpret the mission as referring to sexual harassment in the performing arts domain and not harassment in general. The short time span that comprises the assignment and the resources allocated have also been important limitations on the mission. The review and proposals cover the member organizations in Svensk Scenkonst and those who are active in these.

The Commission addresses its final report to its clients, Svensk Scenkonst and Teaterförbundet, which in turn have to pass on the proposals to their members.

---

## 2. Background with Purpose and Starting Point for the Commission's Work

### **#metoo and the Events of Autumn 2017**

Already in 2006, the term "metoo" was consolidated as a way of sharing experiences when women felt vulnerable. By expressing empathy, and with the aim of instilling courage and strength, the expression was formulated by Tarana Burke, who at that time aimed mainly at younger, non-white women.

In October of 2017, a number of well-known actresses in the media accused the American film producer Harvey Weinstein of sexual abuse. The actors believed that Weinstein used his power to commit the abuse when he demanded sexual services from women in order for them to be offered roles. Also included were charges that Weinstein used his power and influence in the industry to silence women. A few days after the allegations were published, actress Alyssa Milano encouraged all women who had been sexually abused to respond to her tweet with the words "#metoo." The post was made around lunchtime, and by the evening of the same day, this had been done 200,000 times. The post quickly gained global distribution, and, in Sweden, group after group joined different manifestations in a short time. Initially, the petitions included the cultural domain, but soon other areas of society were also involved.

On November 8, 2017, #tystnadtagning was published in Svenska Dagbladet. The petition consisted of a manifesto, demands for action, and hundreds of testimonies of harassment and sexual abuse in the performing arts domain; it was signed by over 800 actresses. In conjunction with the publication of the petition, the boards of Teaterförbundet and Svensk Scenkonst decided to conduct a survey among its members and appoint an independent commission with the task of producing proposals for how different forms of harassment can be prevented, noticed, and managed.

### **Starting Point and Purpose**

This is not the first time that attention has been directed to work environment problems in the performing arts domain, but this is the first time the problem has been noticed to such an extent and has gathered so many accordant voices. The Commission's point of departure has been to create, according to its mission, a picture of how widespread the problem is specifically in the realm of the performing arts. Due to constraints of time and resources, what is reported in the present report cannot be considered a comprehensive mapping that is representative on all points. It is also not a research study, nor does it claim to form a basis for decision-making for all types of interventions in the industry. However, the Commission's purpose has been to chart a number of conditions in the performing arts field and, based on the analysis of the data, make concrete proposals for initiatives that can be carried out by Svensk Scenkonst and Teaterförbundet, as well as by leaders and those active in the field.

---

### 3. Previous Attention on the Issue of Gender Equality in the Performing Arts

The issue of gender equality in the performing arts domain has been recognized previously in a number of different reports, accounts, investigations, reviews and initiatives. A summarized general selection of these is compiled below.

In 2005, Teaterförbundet and Svensk Scenkonst conducted a joint venture to try to get more women into executive management positions in the performing arts domain. A leadership and mentoring program for women was created and twelve people were approved.

In 2006, Teaterförbundet decided to establish an internal "checklist" so that a gender equality perspective would always be systematically included in collective agreement negotiations.

The same year, the actors department produced a "gender equality check" to use in the planning stage of a production.

In 2006, the report *Plats på scen SOU 2006:42 (Places, please)* was submitted to the government. A committee had been commissioned in 2004 to propose how a gender and equality perspective can become an undisputed and influential force in the performing arts field. The report indicated that the committee can state with relatively great certainty that sexual harassment and harassment due to gender in the performing arts domain is a significant problem and a structural obstacle to increased gender equality. The Committee suggested, among other things, that the institutions should report back on how they work qualitatively to make the conditions for men and women at different levels in the organization equivalent. There were also suggestions that the institutions, initially, should be tasked with focusing on work to counter sexual harassment and gender harassment. The report also included proposals for the introduction of quotas for the repertoire, proposals that Statens kulturråd (the State Cultural Council) shall serve as the sector-responsible authority, and a qualitative equality objective for audience outreach. These proposals, however, were never implemented, but the government returned in 2007 with a campaign on gender equality in the performing arts based on the report. The campaign contained a task for the State Cultural Council, after consultation with the Arts Committee and the Equality Ombudsman, to conduct an in-depth analysis of gender equality in the performing arts field as a follow-up to the information presented in *Places, please*. Among other things, the professional conditions would be highlighted. The completed task was presented in 2009 in the report, *På väg mot jämställd scenkonst (Towards equality in performing arts)*. In addition, SEK 6 million was allocated for gender equality projects in the cultural field and the performing arts field.

In 2007 Teaterförbundet presented the report *Pappa, kom hem! (Daddy, come home!)* which contained a survey of technicians' opportunities to reconcile parenthood with a job that involves irregular working hours and work in evenings and on weekends. The report includes a mapping out of the situation, proposals for measures, and good examples that are highlighted.

In 2007, Teaterförbundet presented a report with statistics on the distribution of women and men within the Swedish performing arts industry during 2007. The report stated that the performing arts industry is not equal: the higher up in the hierarchy one goes, the more men there are. Where the re-

sources and prestige are, there also are the men. The women are in more economically challenging environments and are distant from artistic decisions. The report further declared that gender segregation counteracts the chances of achieving equality. The report was followed up in 2008.

In 2007, Teaterförbundet published its guide to gender equality, *I väntan på vadå? (Waiting for what?)*. It stated that gender equality is about fair conditions and that both women's and men's experiences and values should be able to influence an area. The guide specified that ending sexual harassment based on gender is a fundamental requirement. The script was a reflection on gender equality in the performing arts domain and contained concrete proposals for tools to achieve equality in the workplace.

In 2008, the project *Spark* was carried out as a collaboration between Teaterförbundet, Teatercentrum, and Danscentrum, and focused on gender and gender equality issues within the free performing arts.

In 2008, the Swedish Drama Association and the Center for Drama presented a report on theaters' routines and criteria regarding the recruitment of dramatists, with a particular focus on gender and gender equality.

From 2009 to 2010, Svensk Scenkonst, Teaterförbundet, and the Swedish Professional Music Federation (Sveriges Yrkesmusikerförbund) conducted a joint training program, *Development of artistic process, organization, and leadership from a gender and equality perspective*. The aim of the training was to give the highest managers increased knowledge of how the work on equality and gender aspects can be integrated into everyday leadership and give concrete tools for this work in artistic development.

In 2009, *Att gestelta kön (Shaping gender)* was published, which was a final report of the project with the same name. *Att gestelta kön* was an artistic and educational development project on gender perspective within Sweden's higher education for actors, musical artists, and mimers. The purpose of the project was to create knowledge about the artistic and pedagogical choices that are made in the work process in these programs to clarify gender and equality perspectives. The project is considered to have had great significance for the students who participated, and to have in part characterized the industry in terms of perspectives on equality and gender.

In 2010, Ekot (Swedish Radio's news desk) reported the results of a survey aimed at members of Teaterförbundet. The results showed that there were problems with sexual harassment and that female actors were particularly vulnerable. In almost every other case, there was a person in a managerial position who had committed the harassment. The survey was followed up with interviews with victimized women and men whose testimony was read by radio journalists in Ekot's news report.

In 2012, Teaterförbundet and Svensk Scenkonst set up a council for gender equality and equal treatment issues with the task of preventing and countering discrimination and promoting diversity in employment. This appears in the joint collective agreement regarding employees of publicly funded theater institutions.

In 2014, the Swedish Agency for Cultural Policy Analysis (Myndigheten för kulturanalys) presented the report *Bland förebilder och föreställningar: Jämställdhetsarbete på kulturområdet (Among role models and performances: Gender equality work in the cultural field)*, which was a follow-up report on a number of initiatives related to gender equality work in the field of culture. Central conclusions in the report were that it is important that commenced projects be strengthened and become long-term. Furthermore, it was pointed out that knowledge exchange is important in order to make proper decisions. The report also highlighted the importance of an intersectional perspective.

In 2017, the Swedish Arts Grants Committee (Konstnärsnämnden) presented a survey which included those who applied for grants from this committee and the Swedish Authors' Fund (Författarfonden), the majority being freelance. The survey showed, among other things, that female artists are subjected to sexual harassment to a much greater extent than men, and that it is more common for artists within dance and theater to be victimized than musicians or writers. According to this survey, it is also more common for harassment to come from a colleague than from a manager or others. The report also stated that many refrain from artistic activities because of sexual harassment. According to the survey, 3.5 percent of artists have been subjected to sexual harassment, which can be compared to Sweden's official statistics for the work environment wherein 2 percent report that they have been victimized by a manager or colleague and 6 percent by other people.

In 2017, a report from the Nordic Agency for Cultural Policy Analysis (Kulturanalys Norden) was presented which mapped gender distribution at the state-funded cultural institutions in the Nordic countries and which showed that there is an equitable gender distribution at these institutions, but that a larger proportion of the employed men are managers, though the number of female managers is increasing over time. The report also showed that there is a difference not only between men's and women's opportunities for power and influence via managerial posts but also via key artistic positions. The report declared that in the performing arts domain there is an equitable gender distribution between men and women with a slight preponderance of women.

### **The Performing Arts Domain in the Wake of #metoo**

In November 2017, after problems with sexual harassment in the performing arts domain were highlighted by the manifestation #tystnadtagning, the Swedish Minister of Culture and Democracy Alice Bah Kuhnke gathered the heads of the state performing arts institutions for discussions. Furthermore, central actors within the performing arts and film were invited to a meeting on November 21st with the aim of getting insight into measures that had been taken and for having a discussion on the need for further action. In December 2017, ten cultural policy steps were presented on account of #metoo. The program consisted of the following ten points.

1. Requirement that the national stages the Royal Dramatic Theater AB, the Royal Opera AB, and Riksteatern report to the government on how they make their work to counter sexual harassment visible.
2. Increased focus on countering sexual harassment in the film industry, and the Swedish Film Institute (Svenska Filminstitutet) shall specifically present a summary of how the goals of the film policy have been achieved, and how the work to achieve them has been undertaken, especially with regard to the work on strengthening gender equality in the film industry and counteracting sexual harassment.
3. The Swedish collaborative cultural model (Kultursamverkansmodellen) is to be highlighted as an important piece of the puzzle in the work against sexual harassment in the cultural sector as a whole. SEK 1.3 billion is to be allocated within the framework for the model, and in dialogue with the regional councils, the Swedish Cultural Council has been compelled to raise the issue of sexual harassment specifically.
4. Since several of the testimonies have dealt with how minors are subjected to harassment and abuse, it is specified that the Ministry of Culture, through dialogue, shall ensure that the national stages are familiar with the legislation that provides the possibility, in some cases, to gain access to extracts from the criminal records registry and even inquire as to whether they take advantage of that option.

5. At regular intervals, the Minister for Culture and Democracy shall conduct follow-up discussions with the Chairman and CEO of the Royal Dramatic Theater AB, the Royal Opera AB, and the Riksteatern, where the Minister expects reports of action plans, their results, and continued development.
6. The Swedish Film Institute shall receive funding for arranging an international seminar at the 2018 Cannes Film Festival focused on gender equality in the film industry, with a specific mandate to focus on sexual transgressions.
7. The Minister for Culture and Democracy shall bring together the industry's actors during the Folk och Kultur convention in Eskilstuna to share good examples and lessons, and address the issue at the Nordic Cultural Political Summit in Malmö in May of 2018.
8. At the beginning of 2018, the Ministry of Culture will gather representatives from all the authorities and institutions to general meetings with the aim of sharing good experiences with the work after #metoo, and also getting common information on current legislation and how it affects their own operations.
9. The Government allocates additional resources to the Equality Ombudsman in order to be able to increase supervision according to the Discrimination Act. This is due to the fact that employers obviously lack knowledge about the requirements of the law.
10. The Government intends to review the question of how the Discrimination Act can be more effective against harassment.

In January of 2018, Helene Hellmark Knutsson, Sweden's Minister of Higher Education and Research, invited universities and colleges that offer arts programs to join a conversation about transgressions and sexual harassment within arts education at the college level.

The Equality Ombudsman has announced that special supervision will be exercised for the media and cultural sectors in 2018.

On March 6<sup>th</sup> of 2018, representatives of #metoo manifestations within 65 different categories submitted seven common action proposals for an equal and safer society to Åsa Regnér, the Minister for Gender Equality at that time. Also included here were the manifestations in the performing arts domain. The action proposals were as follows:

- Use the #metoo manifestations' expertise in government investigations.
- Invest in education for sex, cohabitation, and consent.
- Introduce a national whistleblower function for all the schools in the country.
- Mandate compulsory education units on sexual violence.
- Increase investment in support and treatment.
- Strengthen the requirements for active measures and reporting at work.
- Investigate more reports of sexual harassment in the workplace.

Other countries such as Norway and the UK have raised the issue in reports or initiated reviews since it received special attention in late autumn of 2018. These will not be described further here but can serve as a basis for future studies.

## **Initiatives from Svensk Scenkonst and Teaterförbundet**

Svensk Scenkonst is an industry and employer association within music, dance, opera and theater whose purpose is to consolidate activities in the performing arts domain in order to utilize and promote shared interests. Svensk Scenkonst was established in 1943 and today the organization has 111 members. The members consist mainly of publicly funded performing arts institutions (theaters, orchestras, opera houses and dance companies, etc.), private theaters, and non-profit associations that arrange performing arts or work to preserve interests in a particular area. Svensk Scenkonst engages in consultancy and education in, among other things, labor law and copyright, and it monitors and addresses industry issues that are important to the performing arts. Svensk Scenkonst also signs collective agreements and certain industry agreements, and assists its members in negotiations and court disputes with employee organizations and interest groups. When #tystnadtagning published its declaration, which was followed by several other appeals in the performing arts domain, Svensk Scenkonst members gathered together and started a project aimed at highlighting the issues raised from an employer perspective and providing support in the ongoing work to combat harassment.

Teaterförbundet is a trade union in the stage and film industry. Its members are professional, artistic, technical, and administrative staff within Swedish performing arts, film, radio, TV and cinema. The union organizes performers as well as creators, both employees and the self-employed. Teaterförbundet was founded in 1894 and today organizes about 8,400 members. All members of the union belong to professional departments. Those members who are employed at an institutional theater also belong to a local department. Additionally, there are branches of the labour union based on employer affiliation. The union has a president which, together with other board members, is elected at the national assembly every fourth year. Professionals from different areas of the union's field of activity sit on the federal board. The union also has a secretariat with a general secretary subordinate to the board, which, together with other officials, assists members and the board. Teaterförbundet signs collective agreements, provides advice, assists the members in disputes, offers training courses, and conducts advocacy within the union's scope of activity. When several appeals within the occupational categories of Teaterförbundet's members were made public in the wake of #metoo, the union took the initiative to support members in different ways.

In late autumn of 2017, Svensk Scenkonst and Teaterförbundet decided jointly to appoint a commission against harassment in the performing arts domain and to conduct surveys among both Teaterförbundet's and Svensk Scenkonst's members in order to map the occurrence of harassment in the fields of the performing arts. This report is the final report of the Commission.



---

## 4. Sexual Harassment in the Performing Arts Domain - Starting Points for the Commission's Analysis and Proposals

The following sections describe the starting points for the Commission's conclusions and proposals. Initially, an account is made of research on sexual harassment. Subsequently, there is an account of current legislation and regulations and the limits of the law. Then follows a summary of ethical and psychotherapeutic aspects of sexual harassment. This section also describes the results of a survey of employees and employers, as well as results from a classification and analysis of testimonies, and the content of structured group interviews.

### Sexual Harassment is an Expression of Inequality

What is sexual harassment? How are we to understand what the #metoo movement is all about? What should we do? The power that swept in with the #metoo movement showed that the time was ripe for asking all these questions and for really listening to the answers. A seriousness had arisen prompting conversations that just a few months earlier had been impossible. How should we interpret the fact that the movement became so prominent and strong in Sweden? In international media, perceptions arose of Sweden as a country where sexual harassment ravaged in incomprehensible ways. Many asked whether the broad engagement indicates that the situation is worse here.

The probable interpretation is rather that a progressive policy of increased gender equality laid the foundation for a general shared awareness that inequality exists and that it is a matter of power imbalance. Gender research—which has, among other things, contributed with theories of power—has influenced equality politics' overall goal setting that women and men should have the same power to shape society and their own lives. Sexual harassment becomes completely incomprehensible as a phenomenon if it is not interpreted as an expression of inequality and power imbalance. It is through knowledge of how inequality is expressed in society and in organizations that sexual harassment becomes understandable. Like other forms of discrimination that we have grown to understand as signs of inequality—such as salary differences, unequal representation in positions of influence, and an uneven sharing of care responsibilities—sexual harassment is an expression of inequality. There is also inequality expressed in power over thinking: the prerogative to interpret history, science, culture and the whole understanding of ourselves and the world. Who decides what is important and what is unimportant? What is good and what is bad? Who has interpreted whether sexual harassment should be taken seriously or not?

### Control and Domination

Catharine MacKinnon, a legendary American feminist, described sexual harassment in 1979 as a manifestation of an overall patriarchal system in which men dominate women. Anneli Andersson, in her doctoral dissertation at Uppsala University in 2007, described in a similar way gender-abusive treatment as a form of violence against women in order to create and maintain control and dominance. In this perspective of sexual harassment, violence can be interpreted as an ongoing process of abuse and violation, both physical and mental, in order to profess superiority. And what then does sexuality mean in this context? To reconnect to Catharine MacKinnon (1982), sexual harassment can be interpreted as depriving someone of their own sexuality, their own sexual subject, through the indignity, “that which is most one's own, yet most taken away.”

## Arguments for Gender Equality

It is a certainty that sexual harassment should not occur in any form; this is established in legislation. Another issue that is often discussed in the context of sexual harassment is why we wish to have equality. Why is gender equality desirable? What arguments exist and how do they vary in different contexts? In many workplaces, the argument is of crucial importance for the commitment to gender equality work. In research on change management in organizations, it is usually stated that without the support of management and without a clear answer to the question "why?" from management, gender equality work encounters significant resistance. The argument shifts for different types of industries and businesses, e.g. it can be about embracing competence, increasing quality, or contributing to profitability. It can also be about creating better work environments, sustainability, or greater inclusion. For some organizations, the argument is about human rights, increased democracy, or the spread of power and influence. It may be about including other experiences and perspectives, creating credibility with important groups, or increasing creativity and innovation. The arguments are many, and they often shift depending on the type of inequality that is in focus. Each sector has its key concepts and values. Which argument can support work that establishes zero tolerance for sexual harassment in the performing arts? Physical integrity—having control over your own body and where the boundaries are for your own value and dignity—is at the center of this argument. The fact that art, as well as science, should be free is for many a basic requirement in a democratic society. The argument for refuting sexual harassment within the performing arts must therefore address thoughts about free creation and free art.

## A Staircase of Violations

Research on sexual harassment in organizations has touched on many different issues. Overall, there is a significant amount of research-based knowledge as to what sexual harassment is, what different expressions exist, how common it is in different industries and professions, and what different reactions are common among those who are affected by it or those who witness it. The definition of sexual harassment is that it is harassment of a sexual nature, such as comments, words, touching, looks, unwelcome compliments, and innuendo. It can be degrading and deriding generalizations that violate someone's dignity. It is crucial that the behavior be undesirable. The one who is subjected to it decides what is undesirable, and whoever does the harassing must understand that the behavior is undesirable. There is thus an obligation to inform the one who is harassing that the behavior is perceived as offensive, if it is not entirely obvious. In 1995, Ninni Hagman described a six-step staircase which was then widely used by many in the work against sexual harassment. This has been appreciated recently as a clarification of what sexual harassment is, and as a reminder of the importance of the stairs themselves. The seemingly innocent unwanted compliments, staring at body parts, and the routine sexist jokes contribute to the normalization of a culture wherein sexual harassment is accepted. This normalization enables and normalizes coarser violations and physical abuse.

## Suppression Techniques

Berit Ås, a Norwegian politician and professor of social psychology, identified "master suppression techniques" in the dominant culture. This was based on her and other female politicians' experiences of resistance and subtle violations. The violations were difficult to point out and therefore difficult to respond to. By putting words on these attacks it will be easier to handle them and different strategies have subsequently emerged to address and counteract suppression techniques. The actions listed below are considered to be the master suppression techniques:

- Making invisible and ignoring. For example, a woman says something at a meeting but the meeting continues as if the opinion was never offered.

- Ridiculing. For example, expressions in comments, mockery and jokes
- Withholding information. For example, making decisions without involving everyone, or a reluctance to provide information on how something is related to, for example, gender equality
- Double binding. For example, women are expected to assert themselves, but they may not be loud. Whatever they do is wrong.
- Heaping blame and shame, such as structures that cause the blame to fall automatically on the woman even if she is the victim of an infraction or a crime
- Objectifying. For example, women are not seen as full-fledged individuals, but as things to look at
- Force and threat of force. Many women are afraid of being exposed to violence, which means that they constantly use strategies to avoid being targeted.

Although suppression techniques can be used against anyone, they are often particularly easy to use against people who are affected by social power structures, such as women, LGBTQ people, people with minority ethnic backgrounds, and people with disabilities.

### **Guilt and Shame**

Those affected often feel a sense of guilt and therefore often downplay the gravity of the trespass. It is not unusual for the victim to defend the harasser and try to find excuses for the behavior. Rather than confronting or reprimanding, the victim usually reacts by trying to avoid the person or people committing the harassment, refusing to allow the harassment to have an affect, or simply laughing it off. Feelings of shame and guilt are common in connection with gender equality work in general. Many men feel accused when inequality is discussed, and often end up in a defensive position. Women often feel guilt-ridden too, because they feel as if they are accusing men indirectly merely by referring to discrimination and harassment. Sexual harassment is even more agonizing and shameful than other forms of discrimination. Those who witness harassment also become uncomfortable, and prefer to look away because they do not know how to react. Shame spreads in the room, and silence takes over. It has been said that cultures of silence are an explanation for why sexual harassment is so common and at the same time so unacknowledged in the performing arts (as in many others industries). Everyone knows, but nobody does anything. Or some know, while others remain uncertain. Cultures of silence can also explain why events are neither reported nor reviewed. A common response from those who have been victimized but who have not reported is that they are afraid of not being believed, or that charges will not lead to change. Another common answer is that the person who is victimized is afraid that the situation will worsen if a report is made.

### **Different Types of Silence**

Describing the reason why sexual harassment can survive in organizations due to cultures of silence has become commonplace in the aftermath of #metoo. Many people recognize themselves in that description; it concerns an accepted culture where the norm is to accept that sexual harassment exists. This is the way it is, and it is not something we can do anything about. It may be important to investigate further the types of silence that can exist in such an organizational culture. Why are women silent? Why are men silent? Research shows that women often have a defensive attitude with regard to experiences of discrimination in general. It is more common to deny that discrimination exists, brush it off, or simply accept it rather than protest against it. Describing oneself as a target of discrimination is perceived to be negative, a position of playing the victim, or simply whining. There is always a risk that the protest can cast a shadow on the woman who speaks out, that she herself is to blame. Maybe she's not that competent, yet? The risk of appearing troublesome discourages many women from claiming discrimination. Another type of silence is women who witness harassment of other women. Why are they silent? Fear, of course, can also play a role there, the desire to avoid being associated with anything

negative. It can also be about so-called heterosociality, ie. a behavior that shows loyalty to the dominant culture. Women can benefit from refusing to protest against, or even trivializing sexual harassment. It becomes a way to challenge the affiliation to a subordinate group to say “you can take it” or “you have to have thick skin to make it.” Often there are painful personal experiences behind such a survival strategy. There is also research that shows that women feel discouraged from putting themselves in certain positions, such as supervising men, because they have seen what happens to other women who have done so. Witnessing sexual harassment of other women has profound effects, and impacts their own capacity for life choices and decisions.

### **Homosocial Cultures**

Men can also be silent in a culture of silence for various reasons. Just as the appearance of playing the victim is problematic for women, the perpetrator position is problematic for men. There is a great deal of uncertainty among men about which behaviours are sexist and offensive, as many have learned not only to accept sexist behaviours but even to admire and confirm them. In cultures where there are many men, and especially where many men have power, there may be traits of homosociality. Within homosocial cultures there is ongoing confirmation between men, and it can create a strong binding affinity that is better left unchallenged. Men who break the silence can be considered disloyal in such a culture. There can be a high risk associated with protesting against sexist elements, e.g. sexual harassment, for men who are in a homosocial culture, even if they truly feel that it is disturbing and negative. Other men are silent because they indirectly benefit from the banter, even if they are not themselves active in the harassment, which is known as co-operative masculinity. They may experience a belonging to the dominant group as both affirmative and pleasing. Research has often indicated that those silent men who are actually critical are where the opportunity for change exists. There is also research showing that homosociality is at its strongest in collective situations, and that is when abuse and harassment are made possible. Individual men often express values contrary to those they express when with other men in a group.

### **Terms and Conditions**

With a power perspective on gender, it is crucial to emphasize the importance of seeing gender differences as resultant from different conditions. Different conditions create variances in experiences and values. It is not a biologically grounded essential difference that forms the basis for why women are more often sexually harassed by men than vice versa. Women can harass men; people other than women are harassed, and for reasons other than gender. In our legislation, we have seven grounds of discrimination, all of which can be related to sexual harassment. They deal with power and order, which can take many forms. The conditions can be influenced and changed.

Commission Reflections: The Commission ascertains that sexual harassment is one of several expressions of inequality. To overcome the problem of sexual harassment, structural changes are needed.

## Legislation and other regulations regarding harassment

The term "employer" is central to the legislation that will be reported. The employer is usually a legal person who is ultimately represented by the board and the managing director or equivalent position.

### **General Information About the Work Environment Act and the Discrimination Act**

Both the Work Environment Act (AML) and the Discrimination Act (DL) contain provisions aimed at preventing harassment in the workplace. AML's general rules are supplemented by provisions from the Swedish Work Environment Authority, where the regulations are specified in different areas. Provisions with bearing on harassment are the provisions on Systematic Work Environment Management (AFS 2001:1) and on the organizational and Social Work Environment (AFS 2015:4).

AML's purpose is to prevent ill-health and accidents at work and also to achieve a good working environment (Chapter 1, section 1 of the AML). The law mainly focuses on the relationship between employer and employee. Employers and workers must work together to achieve a good working environment (ch. 3 ch. 1 a § AML). The employer holds primary responsibility for the nature of the work environment and the employer must take all necessary measures to prevent the employee from being exposed to ill health or accident (Chapter 3, Section 2 of the AML).

The Discrimination Act's purpose is to counteract discrimination and in other ways promote equal rights and opportunities irrespective of gender, gender-based identity or expression, ethnicity, religion or other belief, disability, sexual orientation, or age (1 ch. 1 § DL). The act covers a number of areas of society, employment being one of those. Like AML, DL also contains provisions on prevention and promotion work in the law called "active measures." Regarding employment, the provisions are aimed at the employer, who, among other things, must have guidelines and routines for preventing harassment and sexual harassment and investigating whether there are risks of discrimination in the business.

### **Systematic Work Environment Management (AFS 2001:1)**

The regulations on systematic work environment management are central regulations that establish how work is to be conducted in order to fulfill the working environment requirements. The regulations apply to all employers. Employers include those who hire labor.

Systematic work environment management is defined as the employer's efforts to investigate, implement and follow up the operations in such a way that ill-health and accidents at work are prevented and a satisfactory working environment is achieved. Systematic work environment management must be included as a natural part of the daily work operations. It should include all physical, psychological and social conditions that are important to working environment. The employer is responsible for ensuring that there is a work environment policy and routines for systematic work environment management.

The regulations also contain provisions on risk assessment, measures, and follow-up. There it is established that, among other things, the employer must immediately, or as soon as practically possible, implement those measures needed to prevent ill-health and accidents at work. Measures that are not implemented immediately must be put forth in a written action plan. This should state when the measures will be implemented and who should ensure that they are implemented.

Systematic work environment management must be followed up every year. The follow-up must be documented if there are at least ten employees in the business.

## **Organizational and Social Work Environment (AFS 2015:4)**

The regulations on organizational and social work environment came into force on March 31, 2016. At the same time, the ordinance (AFS 1993:17) on victimization at work was repealed. In the same way as in the regulations on systematic work environment management, the employer is responsible for ensuring that the regulations on organizational and social work environment are followed.

The purpose of the directives is to promote a good working environment and to prevent the risk of ill health due to organizational and social conditions in the work environment. The regulations apply in all activities where workers perform tasks on behalf of the employer. Employers are considered to be those who hire labor.

The regulations define certain concepts. "Abusive treatment" is described as "actions directed against one or more workers in an offensive manner that can lead to ill-health or exclude the worker from the community of the workplace." The Swedish Work Environment Authority's guidance regarding the regulations on organizational and social work environment points out that sexual harassment and various forms of discrimination are also included in the concept of "bullying." "Social work environment" indicates "terms and conditions for the work that include social interaction, cooperation, and social support from managers and colleagues."

The regulations of the organizational and social work environment refer back to the systematic work environment management regulations and mention a number of paragraphs that regulate specific organizational and social factors and which are covered by the systematic work environment management provisions. Of interest in this context are 13 and 14 §§ under the heading, "Bullying." These mandate that the employer must clarify that bullying is not accepted in the business. The employer must take measures to counteract conditions in the work environment that may give rise to bullying. Furthermore, the employer must ensure that there are routines for how abusive special treatment should be handled. The routines should clarify:

1. who should receive information when bullying takes place;
2. what happens to the information, and what the recipient should do; and
3. how and where the victim can quickly get help.

Furthermore, the employer must make the procedures known to all employees.

## **The Discrimination Act**

The terms harassment and sexual harassment occur in several places in the Discrimination Act. Harassment is, according to Chapter 1:4 § 4 of the DL, any behavior that violates a person's dignity and is associated with the discrimination grounds stated in the law. In the same paragraph, sexual harassment is described as behavior of a sexual nature that violates a person's dignity. Unlike harassment, there is no requirement that sexual harassment be related to any of the grounds of discrimination in the law. It is sufficient that the act or behavior itself has a sexual connection.

## **Harassment**

It is established in the law's preparatory work (prop. 2007/08:95 p. 492 f) that harassment denotes actions, treatment, or behavior that violates the person's dignity in a manner that is related to the protected grounds of discrimination. Harassment may relate to physical, verbal, or other conduct. Actions and treatment must entail detriment in the form of injury or discomfort and thus violate the individual's dignity.

As an example of discriminatory harassment, the bill mentions pejorative expressions on the basis of the victim's or anyone else's affiliation with any of the grounds of discrimination. These can refer to racist texts, pictures, logos and graffiti, or things like whistling, stares, or offensive gestures. Harassment can further relate to derisive, mocking, or degrading conduct such as comments on appearance or behavior. Furthermore, it states that modes of behaviour or treatment that, contextually or in isolation, appear to be harmless, can turn into harassment when they are repeated and when the victim clarifies that the behaviour is offensive.

In order for it to be a matter of harassment, the conduct or behavior must be undesirable. It is the victim that determines whether the behavior or actions are undesirable and offensive. The one who harasses must have an awareness that their behaviour violates someone in a way that can constitute discrimination. The harassed should make it clear to the harasser that the behavior is perceived as offensive. In practice, this means that a person cannot successfully claim to be discriminated against through harassment if they do not make clear to the person who commits the harassment that they feel offended by expressions that violate any of the protected categories. In some cases, the circumstances may be such that the violation is obvious to the harasser. In those cases, no special remarks are needed from the person who feels harassed.

### **Sexual harassment**

What distinguishes sexual harassment from other types of harassment is that the conduct should be of a sexual nature. The behaviour may be verbal, non-verbal or physical. Some examples are given in the bill (p. 494). Verbal behavior can be e.g. unwelcome suggestions or pressure for sexual intercourse. Non-verbal behavior can entail, among other things, the showing of pornographic images, objects, or written material. Physical behavior can entail unwanted physical contact, such as touching, clapping, pinching, or pressing against another person's body.

Sexual harassment has been examined by the Labor Court in several adjudications:

- In AD 2011 No. 13, a supervisor, prior to two Christmas holidays in a row, had placed a picture in the staff room as a Christmas greeting that contained sexual content. Two female workers reported to the management that they felt offended by the picture. They also reported the case to the Equality Ombudsman. Despite this, they again received the same picture just prior to the next Christmas weekend, this time via e-mail. The Labor Court considered that the two women had been subjected to sexual harassment.
- AD 2016 No. 56 was about vulgar sexual jargon in a bakery, where a person in a leadership position was the driving force. That person had also made sexual statements and suggestions to a female cash register operator for several months, which led to her getting sick and leaving the job. The court found that the employee was subjected to sexual harassment and sentenced the employer to pay discrimination compensation.
- AD 2017 No. 45 (not referenced) concerned an event at a Christmas party where a company's CEO began to grope an intern. Among other actions, he put his hand on her thigh and drew it up over her thigh. As a result of the incident, the woman ended her probationary work. The Labor Court deemed that it was sexual harassment and sentenced the employer to pay discrimination compensation to the woman.

## **Obligation to Investigate and Take Action Against Harassment**

Chapter 2, § 3 DL compels employers to act if they become aware of an employee who, in connection with the work, feels as if they have been subjected to harassment or sexual harassment by someone who works for or interns with the employer. The employer must then investigate the circumstances surrounding the claim of harassment and, where appropriate, take measures that, within reason, can be required to prevent harassment in the future.

The employer's obligation as mentioned above also applies in relation to a person completing an internship or performing work as hired or loaned labor. The expression, "in connection with the work" refers primarily to events at the workplace, but also includes events that occur on, for example, business trips or at parties that the employer arranges or excursions with colleagues. Harassment from suppliers, customers, patients, or others who are not managers or colleagues are not covered by DL. Action by such external people instead falls under the employer's responsibility for the work environment.

## **Prohibition of Retaliation**

Chapter 2, § 18 DL prohibits reprisals. An employer must not expose an employee to retaliation because the employee (1) reported or complained that the employer acted in violation of the law; (2) participated in an investigation according to the law; or (3) rejected or joined in the employer's harassment or sexual harassment. The prohibition applies, inter alia, even in relation to the person who is at the employer's disposal for performing work or performing work as hired or borrowed labor.

## **Active Measures**

On January 1, 2017, new and stricter provisions were introduced on active measures in Chapter 3 of DL. Active measures are described as preventive and promotive efforts to counter discrimination within an activity and by other means promote equal rights and opportunities irrespective of gender, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation, or age.

Active measures mean that investigations must take place if there are risks of discrimination or retaliation or if there are other obstacles to individuals' equal rights and opportunities in daily operations. Detected risks and obstacles must be analyzed. Preventive and promotive measures that can reasonably be required should be undertaken. The work with active measures described herein must be followed up and evaluated. Work on active measures must be carried out continuously. Measures should be scheduled and implemented as soon as possible.

With regard to employment—and in addition to what has just been reported—supplementary provisions on the employer's work with active measures apply. Among other things, the employer shall, according to Chapter 3, 6 § DL, have guidelines and routines for operations in order to prevent harassment, sexual harassment, and such retaliation as referred to in Chapter 2, 18 § (see above). The employer is furthermore obliged to follow up and evaluate the guidelines and procedures.

In the preparatory works (prop. 2015/16:135 p. 102), it is stated that the guidelines should specify that neither sexual harassment, harassment related to any of the grounds of discrimination, or retaliation is accepted. The employer must also have procedures that, among other things, clarify how the employer should respond if harassment or reprisals are alleged to have occurred; indicate who the victim should turn to; and identify who is responsible for investigating the incident or claims.

There is an information sheet from the Equality Ombudsman about sexual harassment at the workplace that contains advice on how the person being victimized should act as well as what the employer should do when sexual harassment has occurred. Employer's action measures are summarized under four headings: investigate (utred), stop (stoppa), follow up (följ upp), and prevent (förebygg).

## Cooperation

Chapter 3, 11-13 §§ DL contains rules on cooperation. Employers and employees must cooperate in work on active measures. That which is implied in the employer's obligation is dealt with in the preparatory works (prop. 2015/16:135 p.104). There it states that cooperation is normally carried out with the union organizations that exist at the employer or the workplace. The more detailed aspects of cooperation may be agreed upon between the parties, e.g. through collective agreements. If there is no trade union representation, the employer can decide on the most appropriate way for employees to prepare opportunities for cooperation.

It is further emphasized that the obligation for cooperation covers all work with active measures, i.e. from examination and analysis to any measures that need to be taken, including follow-up and evaluation. Cooperation should thus be a part of the efforts in all the steps included in the work on active measures, and cover those parts of the business that this work involves.

The employer is obligated to provide collective-agreement-bound union organizations with any information that is needed for the organizations to be able to engage in the work with active measures. Any employer that employs 25 or more employees at the start of a calendar year must also document in writing, during the year, any work with active measures.

Both AML and DL are based on the relationship between employer and employee. The application of certain provisions even includes other categories that perform work without being an employee. Regarding, for example, the employer's obligation to investigate and take action against harassment, that obligation also applies in relation to any person who completes an internship or performs work as hired or borrowed labor.

As described to the Commission by Teaterförbundet and Svensk Scenkonst, it seems to be less common that the majority of people participating in a production do so as permanently employed workers. A large number appear to be freelancers with shorter employment contracts, the self-employed, or perhaps owners of a limited liability company. There may not be any trade union organization in place that the employer collaborates with on active measures. Herein lies a challenge as it is unclear to what extent any covenants between the collective agreement parties have an effect regarding, for example, cooperation on active measures.

The employee concept is mandatory. If a number of criteria are met, the person performing the work shall be considered employed, regardless of how the client and the labourer have designated their relationship. Such an appraisal is generally carried out retrospectively, after work has already been carried out. Therefore, it should be desirable to find solutions and propose measures wherein the employer's obligations include everyone who participates in a production, if for no other reason than to avoid the difficult decision regarding whether a person is an employee or otherwise.

## Collective Agreements

The usual way for labour market partners to achieve lasting change is through adjustments in collective agreements. The regulations in the Swedish labor market can be said to consist of two parts: legislation and collective agreements.

The Employment (Co-Determination in the Workplace) Act's (MBL) rules on rights of association, negotiation, collective agreements, and dispute resolution form the basis of the ground rules between the parties. These provisions are usually attributed to the collective employment law. In addition, there is legislation that primarily focuses on the individual employee, such as, for example, legislation on

employment protection, holidays, and other leave. This type of legislation is usually referred to as social protection legislation and is generally compulsory for workers' benefit. Several of these laws however, allow, to varying degrees, that the provisions of the law be replaced by rules in collective agreements. Usually it is required that collective agreements with the deviating rules be concluded between federal parties at the central level. Legislation that permits deviation through collective agreements is termed "semi-dispositive."

Collective agreement is defined in 23 § MBL as a written agreement between the employer organization or employer and the employee organization on terms of employment for employees or on the relationship in general between employers and employees. In the collective agreement, salaries and general terms of employment are regulated, but also the relationship between the contracting organizations in the form of negotiation schemes, cooperation agreements, and similar arrangements.

Collective agreements that have been concluded by the employer's or employee's organizations bind within their scope any member of the organization (section 26 of the MBL), and employers and employees who are bound by collective agreements cannot, with valid effect, enter into agreements that conflict with the collective agreement (section 27 MBL). An employer bound by collective agreement is in common practice considered to be obligated to apply it to all workers performing work within the scope of the agreement, not just the union members.

The penalties for collective agreement violations are general damages to the contracting organizations. Individual workers who are financially affected by a breach of the collective agreement can even be awarded financial damages beyond the general damages.

### **Collective Agreement in the Performing Arts Domain**

Svensk Scenkonst's collective agreement counterparties are Teaterförbundet, Sveriges Yrkesmusikerförbund (the Swedish Union of Professional Musicians), Svenska Musikerförbundet (the Swedish Musicians' Union), Unionen, Akademikerförbunden (the Swedish Confederation of Professional Associations) and Ledarna.

There are two agreements between Svensk Scenkonst and Teaterförbundet. One is the Private Theater Agreement, a collective agreement for artistic staff, technical administrators, ticket vendors and theater technicians at the private theaters. The second agreement (Riksavtalet) is the Institutional Theater Agreement, also referred to as the National Agreement, which applies to employees of publicly funded theater institutions. Also party to the latter agreement, on the employee side, is Akademikerförbunden. The agreement therefore contains two separate pay agreements. Otherwise, the same provisions apply essentially to general terms of employment.

As an attachment to the Institution Theater Agreement, the Cooperation Agreement is available. The purpose of the agreement is to create forms for collaboration between employer and local union party and that this collaboration becomes a natural part of the ongoing business. The agreement can be said to be an adaptation of MBL's rules of influence on the theater institutions.

Neither the Institution Theater Agreement nor the Private Theater Agreement contain any provisions that aim at collaboration on the issues that are the Commission's mission. On the other hand, the parties in the Institution Theater Agreement have established a joint party council for gender equality and equal treatment issues. The Council has produced the writings The Gender Equality Check (2010) and the Diversity Check (2014).

### **More about collective agreements concerning active measures**

The Discrimination Act is mandatory. Any part of an agreement that restricts anyone's rights or obligations is, under the law, without effect (chapter 1 § 3).

The law is also not semi-dispositive in the sense that some of its provisions can be replaced by collective agreement if that agreement imposes any restriction on statutory rights or obligations. That does not mean, however, that it would be prohibited to specify in collective agreements how the parties would, for example, work with active measures. Neither is it prohibited to impose through collective agreements longer-term obligations on the employer than the law requires.

In connection with the introduction of the new rules on active measures, it was discussed in the proposition (2015/16:135 s 29 f) whether the rules should be made semidispositive, a request made by LO, TCO and Saco. The government itself sympathized with union views and determined that collective agreement regulation can, in many cases, be a good method for filling applicable regulations with concrete content. However, the law was understood to provide an overall framework for working with active measures, not which concrete actions should be taken, and that the work must be documented in writing. The design of the concrete measures is left to the employer in collaboration with the employees. According to the government's assessment, this means that the labour market parties' need to find industry and workplace-specific solutions is better fulfilled than through dispositive rules. Furthermore, the government believed that the proposed regulation does not prevent the parties from achieving collective agreement on how the measures should be designed in the employer's operations and how the documentation should be designed. There is no requirement that the law permit divergent rules in collective agreements to achieve this.

**Commission Reflections:** In the light of the above, it can be concluded that there is no obstacle to the parties specifying, through collective agreements, how active measures should be designed and how collaboration between the employer and the employees should take place.

### **Whistleblower**

Among the proposals submitted to the Commission, it has been suggested that Svensk Scenkonst and Teaterförbundet should establish a common whistleblower function where employees can report sexual harassment and abuse. It is mentioned that there are cases where a law firm is engaged and has this as an ongoing assignment for an industry. In simple terms, a whistleblower is a person who calls attention to or publishes for the outside world cases of misconduct in internal operations.

### **Legislation**

The law (2016:749) on special protection against retaliation for workers who have sounded the alarm over serious misconduct has existed in Sweden since January 1<sup>st</sup>, 2017. There must be misconduct in the employer's operations. As can be seen from the law's name, it is concerned with alarms sounded over serious misconduct. By such is meant, according to the legal text, crimes with imprisonment in the penal scale or comparable misconduct. However, this does not mean that the law should be interpreted otherwise so that protection only applies in cases of serious malfeasance, thus limiting those rights grounded in constitutional law. Neither does the law restrict workers' existing opportunities to turn to authorities, the media, trade union organizations, or others. The law therefore applies in parallel with other rules that can be brought to bear when employees sound the alarm about serious malfeasance.

The law concerns protection of employed persons: those who are contracted to perform work are considered employed, if the alarm is related to circumstances within the contractor's operations. In such cases, the employer is considered to be the contractor.

The law distinguishes between different manners of sounding the alarm: it can be (1) an internal alarm; (2) an alarm to an employee organization; and (3) external alarms. The latter is an alarm sounded by publishing information, providing information for publication, or by contacting authorities. Concerning the sounding of alarms according to (1) and (2), the protection against retaliation is absolute. Sounding alarms according to (3) is dealt with differently. Protection against retaliation applies here if the employee first sounds the alarm internally without the employer taking reasonable measures and, to a reasonable extent, informing the employee of the extent to which measures have been taken; or the employee, for any other reason, has grounds to justify sounding the alarm externally, and the employee has justification for the claim of serious misconduct over which the alarm is raised. Protection under the law does not apply if, by sounding the alarm, the employee commits a crime.

Retaliation is prohibited: characteristic of retaliation is that they have traits of punitive measures. The preparatory works (prop. 2015/16:128 p. 95) show that these are the same measures that are covered by the Prohibition of Reprisals in Chapter 2, Section 18 of the Discrimination Act. Reprisals are considered to be more punitive measures such as termination, dismissal, and redeployment. Furthermore, the withdrawal of duties, unreasonably high workloads, diminished benefits, other negative changes in the employment conditions, harassment, unjustifiably poor references, disciplinary reprimanding, and workplace exclusion. Also negligence by the employer can be retaliation. Examples of this are missing salary increases.

Link to harassment and sexual harassment: the definition of serious misconduct is mentioned in the legal text and those examples given in the preparatory works do not seem to allow room for considering harassment and sexual harassment in a workplace as such serious misconduct as the law is focused on.

Internal alarms: as already mentioned, the now described law starts from the fact that the employee first raises the alarm internally. The Discrimination Act is based on the same approach. The employer's obligation to investigate and take measures against harassment arises when the employer "becomes aware" that an employee considers himself or herself to have been subjected to harassment or sexual harassment in association with the work. The employer can be made aware in different ways. This can be done by the person who is the victim reporting the matter to the employer, which is likely to be commonplace. This can also be accomplished by the employee contacting his trade union organization, safety representative or other person who, in turn, contacts the employer.

The Obligation to Investigate in the Discrimination Act: of central importance is that the employer must investigate and take action. In order for an investigation to be meaningful, the employer must obtain information from the involved parties. If it involves a single worker, it becomes almost impossible to find out what has happened if the victimized employee does not participate in the investigation.

A notification to anyone other than the employer or his representative presupposes that the recipient of the notification will forward it to the employer. If this does not happen, the employer is not deemed to be informed that an employee considers himself to have been subjected to harassment or sexual harassment and the employer is therefore not obligated to commence an investigation.

### **Functions of the Whistleblower**

Known cases of whistleblowers have been about people who have raised the alarm over businesses that have not worked in accordance with legislation or similar situations. Often, there has been the question of clear violations of law in businesses where there is a public interest in the business conducting its operations in an irreproachable manner. This is not an issue of behaviours between people. When it is a matter of whistleblowing in connection with sexual harassment, the idea seems to be that peo-

ple who have been victimized should be able to turn to an outside party instead of to the employer. If the victim wishes to remain anonymous, it is difficult to predict the results of such a notification. The Discrimination Act states that the employer's obligation to investigate is activated when the employer becomes aware that "an employee" considers himself to be victimized. If the targeted employee does not want to reveal himself, it becomes almost impossible for the employer to do what the Discrimination Act prescribes, namely to investigate the circumstances surrounding the claim of harassment and take action to prevent harassment in the future.

It can of course be that one or more workers have been subjected to sexual harassment and that the working environment is such that they do not dare to report to the employer. An anonymous notification to a jointly established whistleblower function could, in such cases, mean that the function contacts the employer to initiate work on active measures according to the Discrimination Act. The same effect should be achieved if the employee contacts his trade union organization.

Chapter 3 of the Discrimination Act stipulates that, among other things, the employer must investigate whether there are risks of discrimination in the business and that the employer must have guidelines and routines for the purpose of preventing harassment, sexual harassment and retaliation. Primarily, this work must be done in collaboration with the employee organization with which the employer is bound by collective agreements. However, it does not appear that an anonymous notification can lead to concrete events being investigated. As already mentioned, it requires that the employee concerned participates in the investigation.

Another possible scenario is that the whistleblower function also must sort out what has happened. This presupposes that those concerned are willing to participate. The investigation of the notification is the first part of the process initiated by the notification. At least as important are the measures to prevent harassment the future that the investigation should lead to. These are decisions that the employer must make. Of course, the whistleblower function can assist with advice on that issue, but ultimately it is the employer's responsibility to take action.

A whistleblower function might also be considered simply an outside person or organization to which a victimized person can turn to talk about what has happened and get advice on how the situation can be handled. The intention is not that what has happened should come to the employer's knowledge.

**Commission Reflections:** There are both pros and cons of a whistleblower function. How big or small these are depends on how the function is designed. One advantage is that misconduct that was not exposed earlier gets noticed. One disadvantage is that the employer's responsibility risks being thinned out in practice if outside parties assume tasks that typically are incumbent upon the employer. The Commission's determination is that the need to turn to an external or neutral party in case of workplace misconduct is not an effective means of dealing with sexual harassment and bringing about changes for the future.

## Who can one turn to in cases of sexual harassment?

In the following section, a review is made of the various functions that can support members and member organizations in matters concerning sexual harassment at each organization, and when other competence may be necessary.

It is crucial that it be made clear who victims can turn to for relevant help and support when cases of sexual harassment occur. The responsibility of the employer and the immediate manager must also be clear. There also needs to be preparation for handling a situation wherein organizational support is

needed by both the victim and the person who acted in a way that is perceived as sexual harassment. It must also be clear where a manager or supervisor can turn for the support needed to be able to take responsibility in their role as manager or leader.

Sexual harassment can concern various incidents, but as a whole it is concerned with situations or events that are perceived as unpleasant, degrading, or belittling. When it comes to sexual harassment, it is the experience of the person who considers himself affected that determines whether an act constitutes sexual harassment or not.

For example, harassment may be unpleasant glances, unwanted sexual suggestions, or comments about sex or about someone's appearance or body. It can also be about rumors that allude to sex. It can also involve calling another person something that is of a sexual nature and which is offensive to the person. Sexual harassment can also involve someone touching another person in a way that is perceived as unpleasant or offensive. Furthermore, it may be that someone sends unwanted messages, pictures, or movies of a sexual nature to another person via e.g. social media, e-mail or sms. Harassment via social media may constitute a crime under the Criminal Code; for example, slander or unlawful infringement of privacy.

The criminal code defines those acts of a sexual nature that are criminalized, e.g. sexual abuse and rape. When assessing whether an act is criminal and may lead to punishment, objective circumstances and any evidence that the prosecutor invokes in relation to the criteria in the criminal code for the crime in question are taken into account. Thus, in these cases, unlike sexual harassment cases, the experience of the person who considers himself the target of a crime is not what determines whether or not a crime has been committed.

Different expertise may be needed to handle situations where sexual harassment has occurred:

**Lawyer** - A lawyer is a person who is trained in law and who - in cases where he works within a union (Federal lawyer) - often has a special focus on labor law, work environment issues, and discrimination issues. The lawyer should in his or her professional role be impartial and objective and be able to give advice, guidance, and support in a situation where a person feels they have been exposed to sexual harassment. The lawyer should also be able to explain to the affected person, in greater depth, what the legislation is and what contact with authorities and courts entails. An important part of the lawyer's job is proper and relevant documentation of what information is provided and what action is taken.

**HR specialist** - An HR specialist who works with personnel issues can have different types of education and background. She or he often has knowledge of organization and leadership, is a staff expert, or has been educated in employment studies. In his or her professional role, the HR specialist should also be impartial and objective and be able to give advice, guidance and support, and, in a comprehensive way, explain the legislation and what contact with authorities and courts entails. The HR specialist is often a support for the manager who has personal responsibility for the victim, but can also be the one who the victim turns to first. An important element of the HR specialist's assignment is proper and relevant documentation of what information is provided and what action is taken.

**Safety officer** - Work environment legislation is based on the employer being responsible for the work environment and cooperating with their employees in order to achieve a good working environment. The safety officer is the employee's representative in work environment issues. The safety officer may request that the employer enact measures if there are deficiencies in the working environment. If the employer does not rectify the deficiencies within a reasonable time, the safety officer may turn to the Swedish Work Environment Authority (Arbetsmiljöverket). Arbetsmiljöverket is a government agency that works for the work environment and provides support to the employer.

### **Who does one turn to in specific situations?**

Any situation involving sexual harassment or where there is suspicion that a crime has been committed should be monitored and reported. The first step should be to report it to the immediate manager or project leader. The manager can in turn get the support of an HR specialist or a lawyer to assess which measures need to be taken. If it is the manager who exposed someone to harassment, it should instead be possible to turn directly to an HR specialist or to the trade union for advice and support. It should also be possible to turn to a safety officer who is attached to the workplace or who is with the trade union organization. In brief, the following can be said about who it is appropriate to turn to in different situations:

Need for counseling and support due to events experienced as unpleasant or degrading: Nearest manager, HR specialist, union lawyer or ombudsman, safety officer.

Suspicion of sexual harassment that could involve questions of labor law or other interventions: A union lawyer can give advice on what courses of action are available, and how the legislation and collective agreement are structured. The lawyer can also provide guidance in questions of labor law consequences that may be relevant for the person who commits violations or harassment, and how the division of responsibility is structured, ie. what responsibility does the manager have, the supervisor, the institution, etc. The lawyer can also determine when unions should act and the prerequisites for reporting cases to the Equality Ombudsman.

Harassment via social media: A federal lawyer can give advice on what options—and what limitations—exist when it comes to removing offensive messages and images of a sexual nature in social media. The lawyer can also give advice on how the division of responsibility is arranged, how prosecutions are brought against those responsible, and what opportunities exist to recoup damages. A union lawyer can also refer to legal experts in these areas.

Suspicion of a the commission of a crime, e.g. rape, sexual abuse: A lawyer can advise on what alternative actions exist if there is suspicion that a crime has been committed. This advice can include which agencies the victim can turn to, what consequences are possible when, for example, filing a police report, how a court trial is conducted, and the possibilities for a plaintiff counsel. A lawyer can also give advice on what the options for damages may be.

The Equality Ombudsman (DO) is a government agency that works to ensure that discrimination does not occur in any areas of social life. The DO participates through counsel and in other ways so that anyone who has been subjected to discrimination can take advantage of their rights. A report can be filed with the DO by a person who considers himself to have been discriminated against, or if an employer or education provider has not fulfilled its obligation to investigate and take action against harassment or sexual harassment, or if it does not do enough to prevent harassment or sexual harassment. It is possible for a person to file a report with the DO even in cases that do not involve that person. Trade unions have priority, which means that when a person who is a member of a trade union experiences discrimination at work, that person should turn to the trade union first.

In cases where someone has been subjected to a criminal act, such as rape or sexual molestation, it becomes relevant to turn to the police and file a police report. Prosecutors then decide on criminal investigation procedures (preliminary investigation) and whether there are grounds for prosecution in court. Whether the person charged with a crime is also to be sentenced for a criminal act is determined in a court process.

### **What support can anyone who offends or harasses get?**

When it is determined that a perpetrator needs support, it is important that there exist a predictable and transparent routine that also provides this person access to support without the risk of a loyalty conflict within e.g. the responsible union. In this situation, there should be conditions for hiring an external lawyer who can give advice and support.

### **How are Svensk Scenkonst and Teaterförbundet organized?**

Svensk Scenkonst's negotiating department consists of a negotiating director and three federal lawyers who, among other duties, cover the areas of labor law, work environment, discrimination, general HR issues, and certain copyright issues. The department provides both counseling and negotiation support and conducts regular training. If necessary, external legal support is employed, for example in court proceedings.

Svensk Scenkonst also provides training in, among other things, leadership and organizational development as well as in-depth studies in, for example, the work environment area. On these occasions, external specialist expertise is often engaged.

Within the framework of the Theater and Music Area's Working Environment Council (TMA), regular work environment training is conducted, among other things. TMA is a joint collaboration group for Svensk Scenkonst, Teaterförbundet, Sveriges Yrkesmusikerförbund (Sweden's Professional Musicians' Union), Akademikerförbunden (the Swedish Confederation of Professional Associations), Unionen, Ledarna och Musikerförbundet (the Musicians' Association).

Teaterförbundet has a negotiation director who leads the negotiation department's work. Additionally, five lawyers/ombudsmen work with daily member counseling. The lawyers also represent members in individual cases and negotiate collective agreements. If necessary, the association also engages LO/TCO Rättsskydd AB.

As a result of the #metoo outcry, Teaterförbundet has also engaged a lawyer that the union can employ when necessary. The lawyer can be hired in situations where the union needs to represent both a person who has been subjected to harassment and a person who has been identified as a perpetrator.

Teaterförbundet has two regional safety officers who are positioned centrally at Teaterförbundet; one of them works mainly in the performing arts domain, and the other works mainly in the film domain. The regional safety officers visit various workplaces and provide local support, training, etc. The regional safety representatives are financed by TCO. A safety officer is to be appointed at each workplace, but there is a great need for support on these issues, according to Teaterförbundet.

**Commission's reflections:** Both the Svensk Scenkonst and Teaterförbundet appear to have the appropriate organization to deal with issues related to sexual harassment. Teaterförbundet has information on its website about how cases of sexual harassment can be reported via a special e-mail address, and there is also a page with information on how members can get advice in these situations. There is also a policy against sexual harassment within the film area available on the website. Furthermore, there is a blog post from February 2018 from the general secretary concerning the union's work on sexual harassment after #metoo. Svensk Scenkonst provides legal advice on issues relating to labor law. On the organization's website there is information on sexual harassment and the employer's investigative responsibilities. Under the "Aktuellt" tab, information on the Commission's mission is available. For the individual performing arts employers, it is important to create practical conditions in order for employees and contractors to be able to turn to clearly designated functions, if situations arise where sexual harassment occurs.

## **An Ethical and Psychotherapeutic Perspective on Sexual Harassment**

The following section is based on a conversation between Annchristine Björck, priest and psychotherapist, and Lars Åke Kastling, who holds a degree in social work and is a practicing psychotherapist, both of whom are active in Prästbyrån AB. The purpose of the section is to give an ethical and psychotherapeutic perspective on the occurrence and management of sexual harassment.

### **Being Made Invisible**

From a victim's perspective, being silenced and made invisible implies not daring to report what has happened, that it is difficult to be believed and heard, perhaps it is difficult even for the victim to acknowledge what has happened. It is also difficult to tell others about their pain and vulnerability because not everyone wants to hear it; people have a built-in defense that makes them want to escape that which is unpleasant. This may mean that the experience is made invisible and silenced both internally and externally. It can be difficult when someone is made invisible because it often happens without words. It happens through body language, gestures, or lack of gestures. There has also been a long-standing social norm that women (and to some extent men) should tolerate and adapt in situations where they are confronted with men's sexuality, approaches, sexual innuendos and pressure, and harassment both psychologically and physically.

The situation can be aggravated if it is a superior or a person with high status in the workplace who is the perpetrator. If there is uncertainty about where the limits of acceptability are, who determines those limits, and what the consequences are, then the feeling of being invisible is reinforced. When it is word against word, or when it is not clear what rules apply, one will hold back and not get involved.

### **About Shame and Shamelessness**

Exposing others to abuse is about power, and how a person responds to it depends to a great extent on that person's experiences as a child, what the experience of being victimized or dependent was like, and what the responses were like of those who were nearby in situations of vulnerability and dependence. This creates internally structured emotional and behavioral models for how one can behave and relate to oneself and others. These behaviors can lead to violence, cause others to be afraid, weigh others with feelings of shame, cause the individual to behave shamelessly, and create a great deal of uncertainty and fear around him-/herself. Continuing to act in a certain way depends on one's own ability to feel empathy, see yourself in relation to another person, and pick up on others' signals.

When a boundary is crossed, a sense of shame and guilt can emerge without the person completely understanding why. Here it is good to note that this is about a structure that causes the person who has been exposed to automatically feel a sense of guilt. The everyday invisibility and ridicule of girls' and women's reactions are the reasons why women take on shame and guilt more often than men. Women are expected to understand and adapt, and accepting guilt can be a way to deal with a shame that cannot be understood.

### **About Work, Leadership, and Culture**

A workplace can be likened to a family and how norms of behavior exist within it: how those in leading roles behave, what space is offered to others, and to what extent differences are accepted and have equal value. Important, too, is the value placed on people's ability to complement each other, in what ways, and what is rewarded. The degree of openness in the climate determines who is given the opportunity to participate in what is happening at work, in both decisions and implementations. The climate also affects how we respond to that which is positive and good, but also that which is difficult.

The values of the organization and the way in which the manager and the leader shape these play a very important role. But so does the organizational climate in general, e.g. the culture around the leader, how the board works, the financial situation, and the loyalty of the staff. Does the leader have enough grounding to keep a distance, dare to ask for help, and allow transparency when difficulties arise? An unhealthy work environment and an insecure leader tend to hinder transparency out of fear of losing control; the leader may want to do everything himself or leave everything for others to do. A manager and a leader who seeks support from certain employees or groups contributes to the creation of unhealthy loyalty, a critical eye disappears and it becomes more difficult to hold fast to difficult decisions. Such leadership creates difficulties in situations where sexual harassment occurs between employees. This unclear leadership creates questions such as who has the mandate to do what, and forcing out or muting will become the strategy used to deal with the situation.

A leader needs to be a safe base for everyone even when encountering difficulties. It does not mean that the leader does not make mistakes or have faults, but rather that a manager needs to stand steady, be present, and be sufficiently transparent. In cases of sexual harassment, this means being clear about what happened and being able to talk about it. The manager must have integrity and good knowledge of what the manager's role entails in situations of sexual harassment. A manager must have and seek available help from the outside—for example, from trade unions or occupational health services—and get individual guidance to cope with being a fellow human being in a difficult situation, while at the same time maintaining oversight and standing firm. A manager must also understand that all workplaces and areas of activity reflect the values of society and culture and that sexual harassment is everywhere.

### **Lack of Gender Equality as a Breeding Ground for Sexual Harassment in the Workplace**

The structures we live in affect and shape our attitudes. In discussions, sexual harassment is sometimes described as a masculine problem, that masculinity is a problem, that it is instinctual to conquer, and that desire and sexuality are what rule. Sometimes it is said that sexualisation is a substitute for emotional proximity. However, this is not the explanation; the reason it happens is that the power structure makes it possible for men to subject others to this, and get away with it.

The problem of masculinity is described as a lack of insight into one's own feelings and an inability to understand what others think or feel. This makes it difficult to deal with feelings of shame or sadness and we act out instead of addressing these feelings. Men who choose not to confirm this culture risk being excluded, isolated, made invisible and silenced themselves. The culture of silence then becomes a culture where a man is expected to turn his back on other men. Women are also affected by this and the expectations that are placed on them. Women who speak out can also experience difficulty in groups with other women. The culture of silence often means that even women protect the structure. These issues are related, and a poor perception of women in an organization brings with it to some extent a poor perception of men.

### **The Culture of Silence and Sexual Harassment from a Guilt and Shame Perspective Seen from the Victim's and the Perpetrator's Perspectives Respectively**

There is a difference between guilt and shame. Guilt is what a person does to make them beholden. Shame is about who the person is. To get a person to feel shame, different suppression techniques are used. In a culture of silence, where sexual harassment is obscured or not clearly addressed, it is the victim who must bear the weight of the assault, both outwardly and within themselves, as shame. Shame impacts every person on an internal level, it becomes something that has to do with human dignity, self-image and identity. The culture of silence is devastating for a victim, and his or her rehabilitation and recovery are slowed down by not being heard and recognized; this applies not only in the workplace

but also in healthcare, the courts, and the police. The feeling of shame comes from having done or said something that is wrong, and to signal that it is wrong by talking about the abuse is devastating for the victim's self-image. Telling a victim not to worry about something that happened, telling them to put it behind them and move on is to place the guilt on the victim. But a culture where no one can or dares to talk about what has happened is also devastating to anyone who may want to take responsibility for their actions and want to change; furthermore, the perpetrator will always be filled with shame if the debt is not addressed. It demands a great sense of security for both the victim and perpetrator to dare tell about the difficult thing that happened.

### **Talking About Sexual Harassment with Victims and Perpetrators**

Experience says that most women who have been subjected to sexual harassment find it important that supervisors take the issue seriously. If employees cannot manage to talk about it openly, they may try to find other ways. It is important to first talk to victims and perpetrators separately and also to get help if it is available. It must be the experiences of the affected party that steers the discussion, and their sense of safety is most important. It is important that management show through words and actions that it is the victim's state that must be protected and that if anyone is to be separated, it will be the perpetrator.

When considering measures to take, it is important to be aware that women often adapt to situations, and therefore it is important to respect what the victim thinks without requiring the victim to decide the measures to be enacted. Clarity from the management side is important. It is also vital to have an individual conversation with the perpetrator so that she or he is able to take responsibility and see the consequences of his or her actions.

In a difficult conversation after cases of sexual harassment, it is important to meet the person at a level where it is possible to communicate on the basis of respect and equal value, carefully and responsibly. In the case of sexual harassment, it is especially important to emphasize that the victim is just that, a victim, so that he or she will not take responsibility for the situation. In the conversation with the perpetrator, it is also important to clarify who is the victim and who is the perpetrator. The perpetrator's perspective and experience must be acknowledged, but the conversation should be more demanding and strict. It is also important that the intent of the harassment be made clear in order to achieve a favorable healing process.

The feelings of shame are the hardest things to talk about, to bear, and to endure for both victim and perpetrator. Therefore, it is important to be as open and clear as possible. In such conversations, it is important to support the victim by putting words on what has happened so that it becomes talkable, which can help to process what has happened. This is often a painful and shameful process, but the conversation also gives a sense of control.

### **Conversation with Focus on Change and Reconciliation**

A sense of reconciliation is achieved when the victim feels that they have had enough redress to be able to go continue with their life. This redemption is thus based on the victim's experience and process. Reconciliation between victims and perpetrators can happen when the victim feels that they have been able to move on and that the perpetrator has taken responsibility and atoned for the crime through punishment or treatment. Reconciliation can occur when the victim regains control of those parts of herself that were injured by the perpetrator, and regains a grip on existence. It is also important to be aware that reconciliation can take different forms, and that it is absolutely not about smoothing over a painful event. It is important that those responsible for a process after a situation of sexual harassment also believe that there is a possibility of reconciliation, that there are different ways to reach it, and that

it can take different lengths of time. It is also important, though, that reconciliation is never the primary objective after one person has subjected another to sexual harassment.

There are many models for discussion to make progress in difficult situations. The Restorative Justice process program (Försoningsgruppen) can serve as a source of inspiration for how a difficult situation can be brought forward and thus also function preventively. The starting point for the Restorative Justice process is that a violation of relationships took place. It is not about reaching a consensus but rather—through insight, responsibility, and parley—about paying attention, acknowledging and, as far as possible, rectifying.

**Commission Reflections:** The Commission wishes to highlight the knowledge and many relevant and useful perspectives addressed in the above paragraphs. The Commission considers that the section can be used in preparation for talks with victims and perpetrators. It can also form the basis for discussions about leadership, responsibility, and collegiality.

### **Guidelines and action plans**

As mentioned above, the issue of inequality and sexual harassment in the performing arts domain is not new. The Commission has studied elaborate, clear, and pedagogical policies, procedures, action plans, and strategies wherein it is clear which rules apply, and the attitudes of the employers and how incidents should be managed. The extent to which they are used is shown in the survey result below.

In order to strengthen the work on gender equality, Svensk Scenkonst and Teaterförbundet jointly undertook a gender equality check 2010, which was revised in 2012. The idea is that it should be a tool for managers, supervisors, trade union representatives, or equality managers to initiate a conversation and keep track of gender equality issues in the business. The purpose is for the gender equality check is to aid efforts at making active and conscious choices when it comes to e.g. recruitment and artistic design, but also that gender equality should be included on the agenda in the daily work. The check must include all occupational groups and all employees regardless of form of employment. The gender equality check is intended to be used for planning a performance year, in connection with a departmental meeting, during collation, or when planning an individual production. A check can be adapted to different circumstances and used in different ways.

The gender equality check was followed up by a diversity check in 2014. The purpose of the diversity check is that it should be a tool used in efforts to foster diversity in the workplace and to see the norms that exist within the performing arts organizations which affect both the workplace and what is presented on stage. In the diversity check, Svensk Scenkonst and Teaterförbundet jointly state that diversity is important both from a fairness and quality perspective. The fairness perspective is about ensuring that equal and equitable conditions are emphasized. The quality perspective is about ensuring that it is not ignorance of norms that causes dismissal of or failure to see people or other aspects that contribute to high quality of what is done at workplaces and on stage.

**Commission Reflections:** There is no doubt that there is a great deal of awareness of the need to make issues of inequality and sexual harassment visible and that systematic methods are needed to achieve success. In addition to the plans, structures, and routines that exist at institutions, the use of the gender equality check and the diversity check also clarifies what is necessary to reflect on in order to achieve the goals of gender equality and diversity. However, it is important that these types of guidelines and checklists are used consistently and viably, and are anchored in the working group in order for them to become part of the systematic effort and have long-term effects. To achieve change, the desired change must be formulated. This must then be anchored in the group, and an understanding of it must be created before efforts at change can be started in collaboration with all concerned.

## Survey on Sexual Harassment in the Performing Arts Industry

While Svensk Scenkonst and Teaterförbundet decided to appoint a commission against sexual harassment in the performing arts area, it was decided that a comprehensive survey would be carried out.

### Employee Survey

Svensk Scenkonst and Teaterförbundet jointly decided with SYMF (Sweden's Union of Professional Musicians) and Musikerförbundet (the Musicians' Union) to send out a questionnaire to all members of Teaterförbundet and SYMF and employees of Svensk Scenkonst's member organizations to make a complete survey of e.g. the prevalence of sexual harassment in the industry. A summary of the results is attached to this report. Kantar Sifo was commissioned to conduct the survey and it was conducted from December 2017 to February 2018. During this same period, Kantar Sifo carried out on its own initiative a survey among the working public (18-64 years) in Kantar Sifos random national representative online panel to get reliable reference material. The questionnaire was sent by mail. The surveys were conducted during an exceptional period, when the #metoo manifestations were underway and were high on people's agendas, not least in the performing arts domain. Kantar Sifo says that results from a survey like this should always be interpreted based on the specific prevailing context.

Here, the Commission reports what is deemed relevant to the Commission's conclusions and proposals. The Commission notes that Kantar Sifo conducted the survey according to established practice and that the response rate of 35 percent by Kantar Sifo is considered satisfactory in view of the fact that this is a complete survey, the relatively large number of responses (4,728), and the overall review of the non-responses that was made. Women are somewhat over-represented, which should be taken into account when interpreting the total results. Regarding age and geography, no systematic pattern of non-response is detected. For specific subgroups such as occupational affiliation and employment form, a review of the non-response was not possible within the framework of the investigation, which means that the respondents' representativeness for these groups is not known.

The Commission's assessment is therefore that the results of the survey contribute with an important description of the situation with regard to the presence of sexual harassment in the performing arts domain today. The Commission deems that the comparison with the general public is relevant and important, even if the vulnerability to harassment is not less alarming in cases where it would not deviate from the existence of the same type of abuse in the general public. But in order to understand the specifics of the performing arts it is important to see the results in the light of how the situation appears in broader empirical material.

The Commission's task is also limited to employees and active workers within Svensk Scenkonst's member organizations. Therefore, only the results for this group will be reported here and just called "Svensk Scenkonst," which refers to groups of employees or active workers within these organizations. It is this data that will form the basis of the Commission's conclusions and proposals and represents 68% of the total number of responses.

To investigate attitudes about what is to be considered sexual harassment, seven different allegations are presented, and the respondents must decide whether or not the allegations could be regarded as sexual harassment. The Svensk Scenkonst group responds that the actions should be considered sexual harassment to a somewhat greater extent than the public group does, with only a few exceptions.

The answers to the question of vulnerability to unwanted behavior in the workplace over the past twelve months (e.g. the experience of not being listened to, being offended or treated unfairly by a colleague,

or exposed to inappropriate staring or gazing) reveal that exposure to all but two of the 19 behaviours is more common within the performing arts domain than in the general public domain. Unwelcome text messages, unwelcome mail, or attempts to force someone into sexual behaviour are also mentioned. It is predominantly women who say they have been exposed to such behaviours, and younger workers report that they were exposed to coarser behaviors to a greater extent than older workers. And there are differences between different forms of employment regarding the vulnerability to these behaviors; non-permanent workers are revealed to be a group which reports to a lesser extent that they have been exposed to these behaviors.

Employees and those active in Svensk Scenkonst report to a greater extent than the public that they have been subjected to sexual harassment. On the question of whether a person has been exposed to harassment at any point in their professional life, 34 percent of women in the public survey answer yes, while 47 percent of women in Svensk Scenkonst survey state that they have been exposed. Men also state that they have been exposed to a greater extent: 14 percent in Svensk Scenkonst compared to 7 percent publicly. Regarding the entirety of professional life, the most vulnerable occupational groups are female soloists, female actors, and female directors. If the question is asked about the past twelve months, there is also a difference: among women in the public survey, the figure is 5 percent; in the Svensk Scenkonst survey, the figure is 8 percent, with men reporting a lower figure of 2 percent.

The findings of the study point to some clear patterns of exposure to sexual harassment.

- Women report that they have been subjected to sexual harassment to a greater extent than men
- Younger women report exposure to sexual harassment in the last twelve months to a greater extent than older women.
- Non-permanent employment seems to have a certain protective effect against exposure.
- There is an over-representation of vulnerability at touring stages, private theaters, and film/TV.
- The highest levels of exposure for women are among soloists, actresses, directors, choral singers, and musical artists, as well as professionals in light, sound and make-up.
- The highest levels of exposure for men is among soloists, actors, choral singers, musical artists, dancers, and choreographers.
- There is a lower level of exposure overall among administrators, communicators, producers, dancers, choreographers, and instrumentalists.

Kantar Sifo emphasizes that the results of the professional groups should be interpreted with caution as some of these groups are small and representation among the professional groups is not well established. With regard to the experiences of those who have been subjected to sexual harassment in the past twelve months, the results suggest that exposure often happens during workdays, rehearsals, performances, recordings, or in social contexts after the workday is over. Among those who have been subjected to sexual harassment in the past 12 months, the perpetrator is most often a colleague. Every fifth respondent reports that they have been subjected to harassment by an audience member or a guest. Eight percent report having been targeted by a manager.

The results show that in response to sexual harassment, the majority reported that they chose not to inform the manager of the incident; this is reflected in the public results, as well. Men stated to a greater extent that they did not inform anyone. In general, victims turned to colleagues for support most often. Within Svensk Scenkonst, cases are reported to the union to a slightly lesser extent than cases are reported in public. Less than half of those who informed the employer report that any action was taken. Three out of ten were satisfied with the employer's handling of the case. The most common reasons for

choosing not to inform a manager, supervisor or union representative was fear of not being taken seriously, anxiety over potential career damage, or the lack of enough confidence to inform anyone.

### **Employer Survey**

Kantar Sifo was also tasked with conducting a survey with employers who are members of Svensk Scenkonst. It was conducted through telephone interviews in January of 2018. A total of 73 out of 93 members on the current record responded to the survey. The respondents are a mixture of small, medium and large institutions. Here, too, Kantar Sifo has declared itself satisfied with the representation of respondents. The results show the following:

- 89 percent have a gender equality plan or equivalent.
- 88 percent have a policy against harassment, sexual harassment, and retaliation
- 86 percent have guidelines against harassment, sexual harassment, and retaliation
- 79 percent use a procedure to implement, actualize, and monitor the workplace's plans, policies and guidelines on an ongoing basis
- 60 percent say they have a procedure for continuously training managers and supervisors in the workplace's plans, policies, and guidelines

The use of gender equality checks and diversity checks as described in the previous section is low. Half reported that they either do not use a gender equality check or that they are not aware of what it is. Twelve percent state that such a check is an integral part of the work, and the same number report that such a check is used sometimes. When it comes to the diversity check, a total of 66 percent report that either they do not use it or they have heard of it, and only 12 percent say it is an integral part of the work.

Half of the member organizations deem sexual harassment to not be a problem for them at all, while 44 percent believe that the extent of the problem is quite small. In organizations with more than 25 employees, the problem is deemed to be greater than in smaller organizations. Fully 77 percent responded that no reports of sexual harassment had been received in the last 12 months. When it comes to how reports of sexual harassment are handled, 14 percent state that an investigation was made after which further measures were not considered to be current; 14 percent stated that an investigation was carried out after which a written warning was issued. In 5 percent of the cases, an investigation led to a police report. In 9 percent of cases, the investigation led to termination. Only 41 percent of respondents reported that the unions are involved in handling individual cases.

### **The Way Forward**

In both investigations, there was ultimately the possibility of leaving open answers. In the survey sent to the employees or workers in Svensk Scenkonst member organizations, the questions were asked in the following manner: "If you think about your experiences, is there anything you want employers or unions to consider for the future, to counteract the occurrence of sexual harassment?" The response was overwhelming; the Commission received a total of 127 pages of answers from the respondents. What is underscored in the open question responses can be grouped as follows.

Clear rules and policies are in demand; preventive work is desired, as is a clarification from the employer about what applies.

- Clear rules and policies are needed to counteract and prevent sexual harassment.
- Visions, foundational work, action plans, etc. are all needed.
- Rules and policies must be actualized so that they do not become merely empty words.
- When something happens, there must be a clear action plan.

What is requested in organizational culture is a climate that allows listening, communicating and paying attention; it is important to be able to and to dare to discuss these difficult issues as well.

- There is a need for increased communication and dialogue around the problems.
- More people should feel safe and dare to speak up.
- The problems must be highlighted and addressed by managers, trade unions and other responsible parties.
- The employees want to be listened to and met with respect

Information and training are requested; there is a need for more knowledge and competence concerning these issues.

- Everyone needs more knowledge of the rules that exist and of what is accepted and what is not.
- People in lead positions need to learn more about what sexual harassment is and what their responsibilities are.
- The information provided must be taken seriously in the organization.
- The industry needs to increase its competence.

Otherwise, there is emphasis on the importance of managers and supervisors actually taking responsibility. Zero tolerance for sexual harassment needs to be enforced, and reports should be made when something happens. Safety in daring to talk openly about these issues is also important, both professionally and collegially.

The open question in the survey to the employer read: "Based on your experiences with harassment and sexual harassment in the workplace, is there any additional support you as an employer would like from Svensk Scenkonst?" Although the answers often describe Svensk Scenkonst's support as professional and appreciated, there are still some measures that people want to see more of. Being able to apply Svensk Scenkonst's collective knowledge in a better way is stressed as desirable, so that it is not necessary to hire external agents who may not have knowledge of the area to an equal level. In conclusion, more support is desired in the following areas.

### **More Knowledge**

- Education about sexual harassment, competence development, information about the situation
- Education about sexual harassment that is geared for men
- Education on work environment
- Support for the freelance market
- Contribute with external monitoring to raise the level of knowledge
- More Support for Prevention
- Support for the designing of plans and policies
- The more different guidebooks the better
- Follow-up plan

### **Discussion Support**

- Support for improving the conversation climate around these issues in the organization
- Support for how to talk about cases when they happen
- Support for management in conflict management

## Support for Efforts at Improving the Work Environment

- An external party to talk to; access to an external investigator
- Get someone from outside who can help to analyze the work environment
- Contribute to the work of formulating common standards and a common approach to these issues
- A central HR support for the entire industry
- Coordination to underscore good examples in order to get inspiration from others
- Support for how to handle international employees who are visiting

## Legal Support

- Support for the legal work involved when something happens
- Help with designing a template that can be used in agreements that raise these issues

**Commission Reflections:** The Commission notes that sexual harassment is more common among employees in the performing arts industry than among the general public, and that this is a problem that is relevant today. The result shows that it is mainly women who are affected and mainly younger women. The survey also reveals a lack of trust; most people do not tell a manager or supervisor what they have been exposed to because they are often afraid of not being taken seriously or damaging their career. However, the open answers reveal a strong desire for change and that there are many good ideas in the industry that are worth taking advantage of, from both the employer side and the employee side.

## A Systematic Analysis of the Testimonies in the Manifestations

The Commission has been in contact with spokespeople for all the manifestations that were identified by the Commission as being associated with the performing arts. These are #tystnadtaging (actresses), #tystdansa (dancers), #visjungerut (singers), #metoobackstage (those who work behind the stage with everything from make-up and costume to production and lighting), #skrattetihalsen (stand-up comedians) and #theshowisover (circus artists). The Commission asked all of them if they would consider letting the Commission read the testimonies that were shared within the framework of each manifestation. In some cases, this has worked out well; in other cases the representatives determined that this was not possible without risking the members' identity being revealed.

Therefore, the Commission has taken note of all the testimonies available through newspaper articles and those that different manifestations shared. The purpose of reading all the manifestos has been to get a picture of the situation as it applies to sexual harassment within the performing arts. The testimonials comprise more types of harassment than just sexual harassment, but the Commission has chosen to only map sexual harassment.

The purpose of reading all testimonies has been to identify risks, i.e. map any special situations where the risk of sexual abuse is greater. The testimonials were sorted according to the following risk analysis and consequence assessment developed by the Commission:

What has happened?

- When did it happen (workday, party, trip; who was involved)?
- What is the relationship between the perpetrator and the victim (colleague, manager, student, teacher)?
- Who is the victim (age, ethnicity, education, form of employment)?
- Consequences (was there a reprimand or not; what happened)?

The first group above i.e. "What has happened" was sorted into a model prepared by Ninni Hagman in 1995 when she worked at the Solna Police Academy and presented in the book "Love? Misunderstanding? Abuse of power? About sexual harassment in education and employment." The model is called the "six-step staircase," and its purpose is to help make visible anything contained within the definition.

Step 1: The giving of compliments instead of professional treatment. For example, compliments in a work situation that are perceived as harmless, and where one is not taken seriously in a working situation.

Step 2: Groping without touching. For example, the feeling of "being undressed with the eyes" or of someone staring at genitals. There are also sexual innuendos, gestures, expletives, pornographic images, etc.

Step 3. The friendly pat. For example, direct and unwelcome touching that may seem innocent but which is perceived as offensive.

Step 4. Borderline touching. For example, an opportunity is taken to commit sexual harassment by pressing up against someone or picking up a hair from someone's chest, pushing against someone in a lift. This is often explained away as a mistake.

Step 5. Groping and other abuses. For example, words and actions that are obviously offensive and threatening; kissing. No one would hesitate to call it sexual harassment, so it is done when nobody else is around to see it. This also includes unwelcome proposals or demands for sexual services.

Step 6. The ultimate threat. For example, if the perpetrator does not get what they want, the victim will not get a pay raise or promotion. Threats can happen over poorer grades, denied advancement, the spreading of rumors, or isolation. Rape.

The analysis of these particular testimonies suggests that there are obvious risks of sexual harassment taking place during an evening activity or party in connection with the workday. The perpetrator is often in some type of superior position such as director or producer, but the testimony shows that it very often is a teacher or educator who harasses a student. The harassment described in this context, i.e. protests in the wake of #metoo, are very frequent, within step 5 of the six-step staircase. Victims often indicate that they were young and sometimes that comments meant to degrade were made on their ethnic origin.

The most common reaction is that no report is made at all. The testimonies also show that it is common for others to see what has happened but either ignore it or laugh it off. In many cases, the employer or supervisor dissuades the victim from filing a report. It is not uncommon that the victim is encouraged to just get used to it, to accept that this is what can be expected in the victim's position and that "he's just that way." There are several cases wherein the management did not take any action even though it knew about what had happened, and it emerged that a consequence of a victim reporting harassment is that that person will not get a renewed contract at the same workplace.

**Commission Reflections:** The appeals received by the Commission include incidents along the entire six-step staircase. The Commission has noted the gravity of many of the abuses that have been shared in the manifestations. The Commission does not claim to draw general conclusions from this analysis for the whole industry. The Commission would like to emphasize that the representativeness of the testimonies cannot be assessed. However, the Commission believes that they are an important basis for how measures can be designed to be as precise as possible. Conducting a risk analysis and impact assessment

of what has come into our knowledge is an important step towards more effective measures, and those risks that have been identified in the analysis should be taken into account when designing future measures.

### **Structured Interviews**

In March of 2018, the Chair of the Commission conducted four structured group interviews with people experienced in the performing arts field. One group consisted of female artistic performers (i.e. actresses, singers, dancers etc.); another group consisted of female technicians (i.e. women who work behind the scene with e.g. make-up, light, sound, costume, production etc.); another group consisted of male artistic performers (i.e. actors, singers, dancers, etc.); and one group comprised managers for performing arts institutions. The groups represented the performing arts from different parts of the country and stages of various sizes and with different artistic orientations. The ambition was to find a selection of people from different fields within the performing arts and from different parts of Sweden in all four interview groups. Teaterförbundet and Svensk Scenkonst produced lists of names of people who were then contacted by the Commission and asked to participate. After this contact, groups of 4-7 people each were created in the end.

All group interviews began with the Chair presenting the Commission's mission and the purpose of the interview. The interview method meant that the Chair led the conversation and that each member of the group had to answer each question in turn. The Commission's secretary recorded what was said during the interview. There were reconciliations during the interview, so that those who participated could confirm the content and also make clarifications. Clear rules for the interview were presented in the introduction. Everyone got to express their view, and there was no desire to think the same way as others or discuss each other's answers. The purpose was to be able to listen to each other and reflect or associate further, not comment or debate different answers. The time was divided so that it was about the same length for all participants, and the intention was that each person would be able to address the speaking point. However, the chairman who led the call could go in and intervene if anyone took too much time to answer, drifted off subject, or started discussing something that was said by someone else. In the end, the participants were able to reflect on how the interview situation went for them, and whether they thought they were able to express their opinion in a good way.

In the interviews, they were encouraged to proceed from their own experiences as much as possible. The queries that were discussed focused on what the #metoo movement meant for the performing arts and themselves personally, what challenges and difficulties they saw that were related to sexual harassment in the performing arts, and what ideas for change they had to offer.

The group interviews lasted about two hours, including a short break. The response to the interviews was positive in all groups, and several pointed out the great need for this type of conversation in the performing arts domain, where people from different orientations participate. Presented below is a selection of answers that emerged from the interviews to different thematic questions. It is the content of the answers that is submitted in this thematic presentation, not the dynamics of the conversations or the process in the groups.

### **Importance of #metoo**

The first question was about what #metoo meant for the interviewees and for the performing arts in general. It was clear in all groups that the process that started when the testimony was made public in the autumn of 2017 had great significance for each respondent personally, but also professionally. Female performers describe it as "the debt being moved from victim to perpetrator" and they almost

feel a sense of physical relief at now being able to talk about this without having to explain themselves. It also empowers people to speak out together. Several point out how clear it became that the normalization process had been so strong that there was no reaction to sexual harassment. Several women describe that they share a feeling that no one needs to go along with that any more: “The culture of silence made it so that I had to bear responsibility for the person who violated me. That is over now.”

Even for the male performers, #metoo seems to have been a relief, even if they also express emotions of shock and to some extent grief over what has now come to the surface. Many men say they spent the last months devoted to soul-searching. At the same time as they exult in the power and strength of their female colleagues, there is concern about what happens when the map is now redrawn. How will difficult emotions and the need for revenge be handled?

Managers also describe a sense of freedom now that the issue of sexual harassment has been put on the table. “Now no one can duck anymore, we have to deal with the problems.” Several say they had been unaware of the extent of the problem. Even the managers describe it as a process of soul-searching. What have they been party to and not addressed? What have they contributed to?

### **Challenges related to sexual harassment**

One interview question asked about the challenges and difficulties related to sexual harassment that exist in the performing arts realm. Is there a culture of silence? What role do artistry and creativity play? How do you interpret the concept of the “male genius”?

In summary, it can be said that in all groups it was confirmed that there is a culture of silence, and the interviewees reacted affirmatively to the idea of calling it a culture of silence. Several express that art is used as an excuse for certain working conditions to prevail. Finally, it was confirmed that “male geniuses” was also a fully feasible concept, and there was no doubt as to what was meant by this somewhat ironic name. The following illustrates what emerged from the interviews.

Female performers described that there are tremendous numbers of obstacles to overcome. First and foremost, the management of people who are commercially viable creates almost a hostage situation; it is too expensive to remove some people from productions, and then they get an unreasonable amount of power and can dominate a whole production. They literally terrify an entire ensemble while there are directors and producers who take pride in “not having a problem with that person themselves,” even though the person is notorious for their behavior. Others do not get any room when such a person can dominate: “I have diminished myself for so long” says a female practitioner. “Theater leaders must see what these structures cost other people, who must pay the price.”

Another problem that is described is that many who are managers prefer to build their own artistic production rather than a business structure. When managers sit in their positions for a long time, there is a risk that they will allow power structures to build up over time. Then it becomes difficult to avoid corruption, and it creates a culture of silence that promotes bad behavior. One manager says that some managers experience a conflict between the right to make art and the need to create a good workplace.

Female performers say that the limited labor market causes the culture of silence to thrive since nobody wants to be “difficult”. One female practitioner points out that one must be aware that it is sometimes difficult to distinguish what is what; sexism, race and class go together. Who is silent and who speaks out is also about who dares to speak in a particular context. The culture of silence is related to vulnerability.

One female practitioner points out that there is also a strange notion that the artistic space is an anxious space. Freedom is sometimes interpreted as professionalism. One male practitioner points out that it is often said that the ceilings are so high, one dares to enter a room and scream. “What you don’t see is that if you do just that, the ceiling is suddenly lowered.” A male practitioner describes how there is a strange interpretation of the perfect artistic work and the perfect artistic process, but then claims that where the boundaries are in the artistic process is uncertain. Another male practitioner explains that the way theater is designed today creates a feeling of insecurity. It is not necessary, he says. It is possible to give clear direction.

Jargon and tradition affect the possibilities for change. It is believed that the idea of how it was in the past is romanticized, and becomes “a confine in which the older generations stay.” Several express that even older women adhere to this and do not want to see the seriousness of it. “It is so deeply ingrained in them to constantly sweep things under the carpet.” A female technician says there is a lack of collegiality. Change is unpleasant and a fear of change also means that the culture of silence thrives, making it difficult to break. A male practitioner says that there is a gray area where you do not know whether to report or not. He says he often finds himself uncertain as to whether something that happened was sexual harassment or not. It is important to gain common insight that something is a problem. Then it is possible to talk about. A female manager agrees that culture of silence is a good description of what happens when there is uncertainty about who is to blame for what has happened. A male manager says the problem is that people do not file reports.

Female performers, male performers, female technicians and managers - all agree that the concept of artistic genius dominates in the industry. It is implied that this idea applies also to many women who subscribe to the masculine structure. Whenever someone is put on a pedestal, that person gets a platform from which to operate; it becomes problematic when they have been given such a place. Then it becomes impossible to speak up; none dare to. And even if everyone is in some way responsible for putting a person on such a platform, the greatest responsibility lies with the manager. Several interviewees stated that artistic hierarchies are dangerous, and creating star-status can be fatal. One male practitioner points out that it is also difficult to step down from a pedestal that you, yourself, and others created. How can one retreat with dignity?

Performers and female technicians describe how the normalization process has gone so far that they no longer react when harassed or when they hear about others being harassed. One female practitioner says she conforms to the men and their power in order to survive, just as men survive by trying to live up to the idea of what a man should be. She describes how everyone goes into their roles to survive and in this way everyone becomes a victim. One common point of view is that the workplace has an overly permissive attitude. One manager says it is difficult to break a norm in a workplace even if you know it is necessary to do so. Another manager draws a parallel to how alcohol was handled in the performing arts industry earlier: drawing attention to the problem makes the patterns clear to see and then you can talk about it and begin a normative change. Today there is a culture that normalizes a certain jargon. If attention is drawn to the issue of sexual harassment, it becomes easier for a manager because there is something concrete to discuss. The challenge is when people don’t want to listen; when they don’t want to acknowledge their own role, it becomes difficult to discuss.

Several of those who participated in the interviews felt that too much responsibility was placed on the victim, partly because managers do not want to address the issue, and partly because victims are often encouraged to speak out. A female practitioner described how difficult it was to gather herself and protest in the moment when she was being subjected to harassment by someone with a great deal of power.

She stated that one must show respect because everyone is different. Today everyone is painted with the same brush, everyone should have “a thick hide and speak up,” but she believes that approach does not work for everyone. The impression is that you must be tough to avoid getting raped. One manager confirms that this perception exists and believes that it is a challenge to know how far to go when encouraging employees to speak out without pushing too much.

In some cases, the disappointment with their own bosses is evident in the interviews. There was a sense that the boss knew what happened, and yet nothing was done. Several comment on the fact that the indignation is almost greater when one has a female manager who does not adequately take control of the problem. This implies that people don't see the point in reporting. “I am raised to silence” says one female practitioner, who also says that even when she asked for help from male colleagues during a period of ongoing abuse, no one intervened or spoke up. “There is always something more important than how the personnel are doing.” One practitioner perceives that the workplace is organized to divide colleagues, which reinforces the culture of silence.

One female technician says she and others dare not report for several reasons. One reason is that being victimized is shameful, and another reason is that you do not want to name and shame someone because “after that, you have to continue to work, perhaps continue to work together.” There is also a culture of silence in the creative space; “What are we willing to suffer just to go to the premiere?” One female manager says it is difficult to handle reports of sexual harassment that come out very late in the production process. If abuse transpires at a late stage in a production, sometimes as a manager you choose not to remove a person but instead make sure that someone tasked with observing the situation is present during the work.

Several of those interviewed described experience with management that allows perpetrators to return to work despite promises to suspend harassers or to not hire a known harasser. Despite filed reports, there are no clear consequences. These events create a great deal of frustration and disappointment, according to several interviewed. In the group of female performers, it emerged that, as a woman—and regardless of age—you are never referred to as anything other than “girl.” You are never a woman, and you are never taken seriously, and this is perceived as belittling. One female technician describes how her work involves physical contact, which is sometimes misinterpreted as something consensual. She often solves problems herself, smoothing things out instead of confronting the issue.

Female performers and technicians state that the leadership and the form of employment are important factors for creating security. Several say that those who work for hourly wages are particularly vulnerable. Both female and male performers point out that there is a lack of awareness of tools and guidelines.

It is difficult to be a manager and meet all requirements, not least from politicians. Several managers say they are alone in many difficult decisions. The production process is complicated, and you are always asking yourself whether confronting or suspend someone is worth it. One manager says that although there is a clear regulatory framework, certain situations are difficult to understand.

### **Ideas for change - what can Svensk Scenkonst, Teaterförbundet, individual organizations, and you yourself do?**

Several interview participants state that follow-up and consistent leadership are important, and if you discontinue cooperation with someone who behaves badly, you have to stand by that decision. As a leader you also have to make demands on behavior: “You don't have to be unpleasant if you are a genius, and just because you aren't rude, that doesn't mean that you are mediocre.” The artistic space must be characterized by trust.

One female performer thinks that response today often means support for the person who is victimized instead of penalties against the perpetrator, which implies that the responsibility for what has happened ends up with the victim. Through clearer agreements and perhaps inspections, responsibility could be placed on the one who behaves badly. A female technician thinks that sexual harassment must be put into context, that it is part of gender equality promotion.

On the question of what is needed to stop sexual harassment, a male performer states that a good structure and steering documents are needed. Today, it is unclear what happens when you go to a middle manager and report something. The silence that follows an incident report, when there is no communication with the person who filed the report, is a silence that creates a great deal of uncertainty.

In all groups, requests for discussion and education are expressed. One female manager describes that it is important to talk about the working climate that enables harassment, and how standards in the industry can be changed. A shared goal is called for. Making difficult subjects discussable contributes to eroding the culture of silence. One male performer thinks that it is important to have constructive discussion groups and education. When something happens that has been reported, it is very important that more people know what that information leads to; if the situation has been resolved, or if the work situation has changed. One female technician says you have to be clearer with how to handle the views that come forward. It is important to formulate the unspoken power relations within the performing arts; "It's like a schoolyard with informal leaders." It is important to have words for it what you see. Many people say that it is important to have a colleague to talk to about what has happened. It is a strength to feel that you are not alone.

One female technician thinks that one must formulate early what one wants for a repertoire, and then also consider how to do it. Everyone in the production must be involved in discussing and finding solutions. Much takes place behind closed doors, and for that the management carries a responsibility. Art cannot always be prioritized above all else; sometimes it must be stopped.

One male performer thinks it is important to be aware of and to have a discussion about what is presented on stage since it is important for gender equality. You have to talk about the roles men and women play, with gender equality as a foundation.

One performer believes that the choice of managers and board members is important, that there is a lack of awareness of what is needed to be able to lead artistic groups. Managers must also be able to get rid of people who do not behave. Breaking contracts costs money.

Several performers pointed out that a problem was that many managers turn a blind eye. As a manager, one must stop defending the perpetrators. As a manager, one must set aside their own artistic ambitions and understand that the mission is at a structural level. If managers let artists behave any way they wish in the name of art, then others will not behave well, either.

One manager suggested that it would be a path to rapid change if all stages begin to apply the same principles, to establish what applies early in the artistic process. At each first production meeting, discuss what applies with regard to harassment, alcohol and drugs, and gender. If exactly the same is stated at each institution, then the employees will soon recognize it.

Even more performers and technicians put forth the same idea that it should be routine to clarify what the consequences are if something happens, and what procedures exist, and this should be actualized with examples. It would be good if everyone had to sign that they actually read what is stated. There should be zero tolerance. This should also be made clear to foreign guests. Several argue that there are

checklists but they are not used, though they should be. One female performer thinks that zero tolerance should be required, and there should be stricter guidelines that also translate into English. Everyone must sign a contract when they have read these policies. Stipulating values in employment contracts would be good.

A good process in an organization would be to include everyone in the artistic work much earlier, “to disregard the star lustre, and start working on what we are supposed to work with, namely tell stories.” It is expected that people at the employer’s level must scrutinize what is established, and if the requirements for gender equality are not met, one can demand newly written stories. The leaders must dare to challenge.

One female technician thinks that a good discussion is important and that everyone then must talk to each other. In a large organization, how one talks is important. You have to talk about it, not just give out a policy. Education is important and so is being very strict: “this is what applies, otherwise you cannot remain.” It is also important that everyone hears the same thing, so that when you meet in a group, then you know that everyone has heard the same thing. The issue must be kept current all the time through routines and perseverance, so that one has the energy to continue.

One male performer expresses the need for new regulations that guide the theater towards developing into a good workplace and not a fairytale factory. Clarity actually enables free art. “Basic manners and laws cannot reasonably limit our creativity.” It would be good to have a large education project for managers, directors and performers. It is important to deal with inequality and that starts with the repertoire; maybe we should start by looking at the women and making sure they get roles and then look at the men. “We need to be nicer to each other and envelop the performing arts area with professionalism,” states one male performer.

Another male performer thinks that people should have compulsory education, that not just the same people receive instruction and education, but everyone; otherwise it will be wrong anyway. Everyone must share the same knowledge base; as it is now, the elderly and the young are not equally versed on these issues, and this risks reverse age discrimination and a sense of exclusion among people. “We have to spread the word, and clarify what we do mean with different words. We must also have a conscientious repertoire, and if there is not good enough drama, then new drama must be requested. Traditions are all well and good, but there is also a lot of slag in them. And resources must be invested into it. As it is now, we rely completely on exceptions, and it is only this moment right now that matters; just get through this production. But the potential for errors must be included in the calculation. We must know what it is we are doing: by whom and for whom.”

Another male performer states that in the theater we seek magic, but instead we must see that we are part of society, and we must see that which is beyond the bubble. “We must also be careful about how we handle the evil and the good. If we believe we can grasp other people’s stories, then we must be able to talk about that and dare to talk about differences so that it becomes clear. Responsibility is mutual and we need more democratic processes.”

In all groups, requests are made for a resource to talk to, to ask if what one has seen or been involved with is acceptable. Through a cluster system among the theaters, one can get access to discussion groups. Requests for safe but open groups were made, and the ability to talk about difficult topics without it being so confrontational. Reconciliation is important; one’s ability to apologize and move on emerged in several conversations. One male performer pointed out that it is important to create a culture wherein one can achieve reconciliation. Freelancers must also feel safer and not constantly think “what I say now will impact my future.”

One male performer says that it is fatalistic if everything that happens is blamed on one person, and that if the person is removed that the problem is solved. That is not the way forward. The sense—“we know who you are”—that becomes tough if it exists forever. In the end, everyone becomes unhappy with everyone. One male performer thinks that you must create a mood where you can say sorry, and then you also become freer. The solution is not just to remove people; there must be other ways to help people behave better.

Opinions were also expressed that Svensk Scenkonst should be able to follow up the consequences applied in various situations. Having a whistleblower function seems to be a good thing. Continue to cooperate with Teaterförbundet. Support for managers is requested, as well as paid training in leadership for freelance directors and choreographers. “We have to be helped to become safer managers. We must review the managerial network. As a manager, one is alone and needs support.” Furthermore, requests were made for Svensk Scenkonst to support those managers who had to leave their assignments. Some put forth wishes that managers learn more about how to handle complicated people.

With regard to Teaterförbundet, it was recommended that the union could contribute by helping to build bridges between different branches. Several practitioners argued that Teaterförbundet is tasked with investigating its representatives in the workplace. But who represents the union, and do they also have a function for management? It would be good with a network at the national level, and if Teaterförbundet could help members find each other and contribute to creating a common conversation that can lead us forward.

**Commission Reflections:** The Commission notes that the reflections that exist in the industry and that are expressed in the interviews are useful for the industry as a whole for change management. The need for discussion between performers and managers is evident. The Commission’s assessment is that if the organizations can take advantage of the positive force that exists in bringing groups together, it may mean that the change in norms that is sought may come about.



---

## 5. The Commission's Analysis and Conclusions

The issue of gender equality and work against sexual harassment is not new to the performing arts realm. The review made by the Commission shows that, for many years, the issue has been worked on at the employer level, at the employee level, and at the performing arts institutions. In November 2017, when a wave of testimonies of sexual harassment and poor conditions in the work environment swelled in the institutions, it was easy to conclude that the previous work had been in vain. Naturally, it is always unacceptable that women and men are subjected to sexual harassment at their workplace, but the Commission believes that the initiatives previously taken in this area have been important. The fact that the issue has been raised on several occasions in the past has contributed to the strong reaction and the manifestations in the performing arts that #metoo started. Changes in deeply rooted norms take time, gender equality work is demanding for all industries, and sometimes you have to take a wrong step in order to be able to take a right step. The Commission believes that #metoo and all the outcry that came from different occupational groups has been made possible by the fact that the issue has been relevant in the domain for several years, even if at certain times it encountered overwhelming resistance.

The documentation produced by the Commission contains several parts: results from an employee and employer survey, systematic analysis of testimonies, and structured interviews. Participants have, in different ways, given a clear picture of the prevalence of sexual harassment in the performing arts domain and that it also occurs there to a greater extent than in society in general. The Commission notes that this has implications for individuals, for the working environment, and for development opportunities of the performing arts as a whole.

As stated in this report, sexual harassment is a social problem that exists everywhere, and which is an expression of inequality. It is an expression of power and is not about love, desire, or play. The performing arts area is no exception. The Commission has seen as its mission the identification of specific conditions that apply to the performing arts and the submission of proposals for measures that can help to overcome these problems. When the Commission searched for underlying causes, the results of the surveys, the systematized analysis of the testimonies, and, not least, the structured group interviews have been important. The structured interviews are important for the Commission's in-depth picture of the situation and have contributed to illustrating those things that affect the working environment. The Commission's analysis and conclusions are presented below in the form of identified problems and obstacles to change.

### **Power Structures and Hierarchies**

Within the performing arts there are different power structures but also clear hierarchies. At the same time, it is clear that many people have views on vague leadership regarding the handling of sexual harassment. It is often men who have power in the performing arts—in main roles, as managers, as producers, and as directors—which means that there are male structures that prevail.

In addition to very strict hierarchies, informal power structures also seem to be dominant. One participant in the interviews conducted by the Commission stated that "it is like a schoolyard with informal leaders," and another participant testified how a dominant artistic practitioner can hold an entire ensemble in his grip without anyone daring to protest; not even a director, producer, and other managers seem to be able to stop it. "We must stop seeing mistreatment as a normal part of our industry, that

actors and directors are permitted to get angry in a different way than administrators, for example. Is it healthy behavior or a disturbed workplace culture?” states one manager, and suggests that people in the industry should reflect on this. The vague power structures also mean that several of the performing arts institutions cannot be perceived as modern workplaces.

The Commission believes that what emerges from the documentation, and not least from the risk analysis carried out, of the vulnerability that pupils and students at preparatory artistic education and at artistic colleges feel in relation to teachers and educators is serious. It seems as though the patterns of exercising power that exist in parts of the industry are already established during the education phase. It is clear that individual performers enjoy high status as teachers or jury members, giving them much power, which in turn places very high demands on integrity.

### **Star Status as a Basis for the Exercise of Power**

The performing arts are characterized by the fact that it is an art form where the performers become known to the public, and it is not uncommon that the relationship with the audience is central. You become ”a star” in the audience’s eyes. A successful artistic performer attracts audiences and thereby generates greater income. The ”stardom” that some practitioners or managers achieve, either for longer or shorter time periods, becomes something that boards, employers, colleagues, and the performer himself must relate to. One male performer reflected on the interviews conducted by the Commission around what happens when you put a person on a pedestal, and that person gets that platform to operate from: it becomes impossible to speak out against such a person when they are wrong; no one dares to. But it also becomes impossible for a person to step down from such a pedestal in a dignified manner. The Commission deems that responsibility falls on all who give these people this status and power, though it is a responsibility that primarily lies with the managers and those who control the operation.

### **Exercise of Artistic Freedom in the Creative Space**

The Commission notes that artistic freedom is used as an argument for taking liberties at someone else’s expense. Many find that others pay the price for this so-called artistic freedom in the form of fear and that they keep themselves back: ”I have cut myself for so long” said one female performer in an interview. The risk analysis carried out by the Commission shows that young women are the most vulnerable, which is confirmed by the results in the survey and also in the structured group interviews conducted. It is clear that there is a need for developed working methods in the artistic process that results in all involved feeling safe and relaxed. The Commission believes that what is expressed in the material about sexual harassment and violations in the workplace—sometimes even before an audience—is completely unacceptable. However, the Commission sees that there is a willingness at all levels to create democratic workplaces where the norm is cooperation and where all people can work under good leadership.

### **The performing arts is volatile as an art form and is characterized by temporary work communities**

Only 10 percent of the members of the Teaterförbundet have permanent positions. The tendency over the past few decades has been that theaters and other performing arts institutions have gone from fixed ensembles to more time-limited jobs. Many professional groups in the industry change employers often and shift in and out under different contracts and working communities that last for longer or shorter time periods. Competition in the industry is very tough. Directors, technicians, singers, dancers, and actors rehearse and give performances and then often switch workplaces. Even those who are permanent employees work in constantly changing constellations and under varying conditions. The Commission has respect for the fact that these conditions may be necessary for the development of the

performing arts and for successful work, but believes that this also contributes to problems and challenges. One challenge with such a large proportion of temporary employment is that it is difficult to get training about sexual harassment established in the organization.

It also makes it more difficult to change the working climate and jargon within the performing arts. It becomes unclear who carries the long-term responsibility. One performer stated that “the art form’s elusiveness impacts the way of working and gives the manager of that moment great influence.” The fact that one is constantly working towards a deadline is presented as an argument for “enduring” poor working conditions; one knows that there is a limit. “Is it worth entering into this conflict? We all want to bring the production home.” The Commission believes that this relationship makes it important to create steady and clear structures around the work of a performing arts institution.

The short-term perspective that characterizes the industry is also affected by the performing arts institutions’ finances, where substantial costs occur at the beginning of a production, before it has generated any ticket revenues. The limited economic conditions also often create a fragility and a poorer ability to work long-term with issues that concern, for example, work environment or sexual harassment.

### **A Strong Culture of Silence**

The culture of silence is perhaps the biggest problem in the industry. This silence does not imply that only the victim dares not report; rarely does anyone dare to intervene when something happens, and people dare not speak out. There is also often a perceived silence from the management side when something happens, as many lack a consistent and clear response.

The culture of silence is part of the normalisation process and those affected are diminished. Those who dare to speak also reflect hierarchies of class, gender, and origin, according to one female performer in the interviews conducted by the Commission.

The fear of the consequences of reporting an incident is great, and one reason for the silence also seems to be the publicity that comes with being active in the performing arts. A person who is subjected to sexual harassment and who reports something that consequently risks becoming public, can become a victim in the eyes of the audience. According to today’s norms, the role of the victim appears difficult or impossible to combine with success as an actor, dancer or musician. Publicity also makes it difficult to report mistreatment and take responsibility for the consequences. At the same time, the Commission can state that there are many reasons why many are so quiet. Many are afraid of not getting work, of not being believed, of being excluded. The significant competition in the industry is also of great importance. The question is complex and more knowledge is needed about the mechanisms underlying the culture of silence within the performing arts.

### **Unclear Responsibility, Lack of Routines, and Weak Capacity for Conflict Management**

The Commission can state that when someone suffers from sexual harassment, there is often a lack of consistent application of routines and action plans, even where they exist. All too often, the victim chooses not to report. And when someone does report, it is not always felt as though they are listened to, and the consequences are often perceived as vague and inconsistent. The employee survey shows that less than half of those who informed an employer that they had been subjected to sexual harassment state that the employer took action, and only three out of ten were happy with what the employer did. It can also be unclear who or what function one should turn to.

The Commission notes that it appears from the supporting documents that there is a lack of routines - and perhaps even courage - to address difficult situations at workplaces. The lack of consistency and

transparency creates a sense of insecurity and a lack of confidence in those responsible. The fear of not being taken seriously, of not being able to continue to work, or to be the one who stops a production means that you choose not to report. In the long run this contributes to a poor working environment and an even more widespread culture of silence. This is where the employer is responsible. To achieve the goal of creating safe and healthy workplaces, knowledge of difficult situations and how to handle them is needed. For small workplaces or for workplaces with limited economy, such competence can be difficult to achieve and maintain.

### **Lack of knowledge and communication**

The Commission notes that there is a lack of knowledge about sexual harassment, its underlying factors, and how to work preventively. There is a significant need for employees and managers to discuss these issues. With increased knowledge, more of such conversations could take place. Criticism is directed also against managers and leaders not clearly communicating and actualising what rules and guidelines apply in the workplace to counteract or intervene against sexual harassment, if something should happen.

---

## 6. The Commission's proposal

### An Opportunity to Seize

One of the leaders who attended the group interviews said they were relieved that the issue of sexual harassment finally came up on the table: "It was like getting a present." The feeling of many in the industry is that something which very many know is a work environment problem, but which almost no one dared to talk about, was finally discussed openly from different perspectives. Even managers recognize how difficult it has been to work with questions about sexual harassment in the workplaces for which they were responsible. They consider the norms, the informal hierarchies, and the cultures of silence to be so strong that even leaders have difficulty getting support for changes and the consequences that such changes could have for both employees and owners or clients. Many of those working in the industry describe the feeling in the aftermath as something revolutionary and that it now becomes impossible to go back to the way things were before.

The Commission believes that the time that now follows is an important opportunity for everyone in the industry to be involved in creating a change. The Commission is well aware that the prerequisites for further work are different in different parts of the industry; the institutions vary in size and in available resources. But everyone should take this opportunity and see it as a benefit for the industry as a whole to engage in. As the Commission's analysis shows, the issue is complex and different types of responsibility fall on several levels. Therefore, employees, employers, managers, owners, and boards must participate in the work and analyze how one can change their own actions to contribute to change. Everyone must be open to change and ask for help and support when it is needed. The Commission believes that such a process can lead to changes in the working environment in the industry as a whole and decisively contribute to a more open climate, more transparent leadership, and increased gender equality. The goal is to change the norm that sexual harassment is part of everyday life to a norm wherein it is unacceptable.

### The Law is Clear

The Commission would like to begin by emphasizing that legislation is very clear in terms of the occurrence of sexual harassment: sexual harassment must not occur. As can be seen in the Commission's report, the employer has the responsibility, according to law, to have procedures that prevent sexual harassment and routines to handle sexual harassment if it happens. The new rules on active measures in the Discrimination Act further emphasize the importance of preventive work. The Commission proposes a number of measures which can be undertaken in preventive work but also suggests additional tools to work with further in the performing arts industry.

### Suggestions

The Commission's proposals are intended to be a guide, and the hope is that all institutions and workers should be able to use or be inspired by one or more of the Commission's proposals. To take advantage of the work that has been done, to be able to ascertain success but also to discuss setbacks, the Commission considers that Svensk Scenkonst and Teaterförbundet should jointly implement systematic follow-up of efforts in the area. This is an important measure to keep the issue current in the organizations so that changes can be implemented and become permanent over time.

## **Increase Knowledge and Initiate Change Projects**

The calls for sexual harassment that were made during the autumn of 2017 have, in a very tangible way, affected and shaken the industry. The Commission's evidence shows a great demand for knowledge and understanding of how to connect knowledge to one's own experience. The Commission believes that a higher level of knowledge is generally needed in the industry when it comes to gender issues and sexual harassment. It is fruitful to weave increased knowledge into the industry within the framework of change projects, where knowledge intersects with problem analysis and the creation of initiatives for change (see Wahl et al. 2011).

The Commission considers that a change in the workplace culture in the performing arts is necessary to create zero tolerance for sexual harassment. Finding roads out of the culture of silence is central to being able to come further in the change process. It appears from the Commission's data that a common picture of the jargon and what is acceptable is missing in the workplace today. Sometimes there seems to be no basic knowledge about what constitutes harassment. One needs to have a common picture of what the problems are in order to work with change. The Commission therefore believes that it is important that a call be initiated in the industry to create a common core of values for those who are active. It can be a platform for the work ahead. The Commission also wishes to highlight the importance of active gender equality work in all respects, how it is both behind the scene and on stage. The fact that what is presented and played on the stages is of importance for gender equality work is no new discussion and was confirmed by the interviews that the Commission performed.

Artistic genius and artistic geniuses are concepts that reappear in connection with discussions about power, gender equality, and sexual harassment. The Commission's evidence shows descriptions of how artistic performers and managers take liberties in the name of art but at someone else's expense. The Commission therefore welcomes a discussion on artistic freedom in relation to power. Can one have an artistic freedom that is more inclusive? When does one know that the boundaries have been violated in the name of artistic freedom? How can you, as an employee and manager, set limits? The argument for not accepting sexual harassment in the performing arts must address thoughts of creative freedom and artistic freedom, and the Commission believes that this is an important discussion.

The person who is the manager and the employer must be aware of their responsibilities and how to act as a manager when cases of sexual harassment occur. Svensk Scenkonst has a responsibility to educate and inform on these issues, which does happen. In-depth training may be needed, with special focus on cases involving sexual harassment. The Commission proposes that training be held regularly for employer representatives, managers, and boards of directors of major institutions, but also for freelance people in leadership positions.

## **Deliver Guidelines and Routines**

Today there are very clear guidelines with regard to responsibility if cases of sexual harassment occur. Information on the Equality Ombudsman's website can be summarized as follows:

The victim should do the following.

- Make the harasser aware that the behaviour is not acceptable and that they should stop.
- Tell their manager or report to the union if they are a member, or otherwise to DO. Through their union, they should get support and help from the union's lawyers and safety representatives.
- Document what happened by writing down the time, the place and a description of what happened. This is to be able to strengthen their story later on.
- Do not wait, rather notify immediately. It becomes harder to fix a situation the more time that has passed.

The employer should do the following.

- Examine the situation. Start by talking to the people concerned.
- Stop continuing harassment. Take action. Warning, relocation, termination.
- Follow up on the situation.
- Prevention. Guidelines and routines. The guidelines should state that sexual harassment is not accepted. The routines should state how the employer should react if someone feels harassed.
- An employer must not subject a worker to retaliation because he or she has notified or alleged that the employer has acted in contravention of the law, or that the employee participated in an investigation according to the Discrimination Act, and not if the employee rejected—or joined in—the employer's sexual harassment.

The Commission believes that it is important that there are guidelines that indicate how sexual harassment can be identified and managed in all institutions. There should be well-established routines that indicate who one should turn to in cases of sexual harassment and how what has happened is followed up and addressed. The starting point should be that sexual harassment is unacceptable. In a routine, it should be clearly stated what happens if sexual harassment still occurs and what responsibility different functions within the workplace have. It should also clearly state that no one may be subjected to retaliation due to someone's reporting or alleging that the employer acted in violation of the routine, or that the employee participated in an investigation according to the routine, or rejected or joined in the employer's harassment or sexual harassment.

The Commission also believes that a checklist for the investigation of sexual harassment should be found in all institutions, as support for when harassment has occurred. The preventive work carried out at the institution should also be specified in the routine. Policies and procedures should be readily available on each institution's website. It is also important that there is clearly identified responsibility for ensuring that these routines and guidelines are followed up.

The Commission can also state that there is an ignorance and uncertainty about what applies at a workplace if someone is subjected to sexual harassment. The Commission sees a need for routines and guidelines to be actualized at the institutions. A consistent actualisation of the guidelines contributes to collective learning in the institutions. The Commission also considers that each workplace can carry out its own risk analysis to identify the risks in their own organization, but also that the result of the analysis in The Commission's report can provide the basis for immediate action.

The Commission recognizes the challenge that different performing arts institutions have different conditions with regard to working actively with guidelines and routines. The method already applied to several institutions, to clarify procedures and guidelines in connection with the first production meeting, is deemed by the Commission to be an effective method which is also suitable for a work situation where employees often work together only for a short period. It can be an advantage to already take up and discuss these issues in the preparatory work, so that it is not felt that the problems are built into the production from the beginning. The commission's gender equality check and diversity check are also deemed by the Commission to be tools that should be able to fulfill an important function in the institutions.

### **Create the Conditions for Good Leadership**

Being a manager is a difficult task in most organizations. The Commission wants to highlight the specific conditions that apply in the performing arts field and point out the importance of owners and boards creating good conditions for those who are managers in the performing arts domain. It is also impor-

tant that boards of directors ensure that the managers recruited are interested in the different parts of the assignment. At the interviews conducted by the Commission, the point of view emerged that “many who are managers would rather build their own artistic venture than an operational structure.” The Commission is convinced that good insight into artistic processes can be combined with good leadership. However, it is important that the commitment to the structure and development of the business is given priority in order for the responsibility as an employer to be fulfilled. Well-functioning, committed, and responsible boards of directors are important for the person who is to be the manager to be able to perform his or her work mission. Even the board of directors must also be dedicated to the structural work environment efforts.

It is therefore important to find a structure for how the manager and leader can take responsibility for change management, but also get the support that is needed. The work environment problems that exist in the industry place demands on managers to work against informal power structures and in support of openness and transparency. The fact that temporary working communities are common places special demands on managers and leaders to stand for a stable and clear leadership. The Commission cannot emphasize enough the importance of transparency, consistency, accessibility, and communication. In this context, the Commission also wishes to emphasize the importance of tackling problems when they occur. Acting is not just about managing individual staff problems, but also about taking responsibility for long-term work environment efforts.

### **Consider Changes to Collective Agreements and Other Agreements**

The normal way for labour market parties to achieve lasting change is through regulation in collective agreements. Therefore, there are reasons to think about whether collective agreement solutions can be a viable one way to bring about a better functioning order to prevent harassment and sexual harassment.

What is the point of writing rules into collective agreements? Is it not enough that the Equality Ombudsman exercises supervision? The answer is simply that a collective agreement means that the parties take responsibility for their own industry and can design guidelines and routines that are adapted to how the industry looks. If the agreement is not followed at a workplace, it is the joint task of the parties to ensure compliance with the agreement, the last resort being litigation proceedings with claims for damages and possible review by the Labor Court. The sanction for breach of contract is financial and general damages. As it is usually the employer who is responsible for ensuring that what is stated in the collective agreement is implemented, collective agreement regulations impose extra pressure on an employer to be active. Moreover, the trade union surveillance of the agreement's compliance would be significantly more effective than the supervision exercised by the Equality Ombudsman.

What can a collective agreement contain regarding active measures against harassment and retaliation? How a collective agreement should be constructed and what it should contain can of course be discussed. An appropriate order would be to initially say that the employer's obligations to carry out active measures are stated in the Discrimination Act, and that the agreement complements and specifies the Act with regard to active measures against harassment and reprisals.

As stated in the Discrimination Act, the employer must, among other things:

1. have guidelines and procedures to prevent harassment, sexual harassment, and retaliation;
2. follow up and evaluate the guidelines and procedures;
3. investigate the circumstances of alleged harassment and sexual harassment;
4. where appropriate, take measures to prevent harassment in the future; and,
5. interact with the employees.

A collective agreement between Svensk Scenkonst and Teaterförbundet could address the following points:

1. Establish that sexual harassment should not occur in connection with the work, give examples of what constitutes sexual harassment, and explain what is meant by “in connection with the work” (i.e. not just occurrences in the workplace but also social events, courses, business trips, etc.).
2. How the employer and the employees should be represented when collaborating in the work with the active measures prescribed by the Discrimination Act.
3. List what the guidelines and procedures should contain, such as:
  - further clarification of how the investigation of risks of discrimination and retaliation should be undertaken, and that the survey should include everyone who is active with the employer and participates in the production, not just employees, trainees, and hired/borrowed staff;
  - training of supervisors and managers;
  - to whom one should turn when one feels harassed;
  - that an investigation should be initiated immediately, and who is responsible for it being done;
  - that the union organization should be informed that an investigation has been initiated;
  - information that anyone who targets others for harassment and retaliation risks their employment or will not get further contracts; or
  - describe how follow-up and evaluation of guidelines and routines should be undertaken; when it should be done, who should participate, etc.

Another proposal may be to establish in a collective agreement that the parties’ equality check and diversity check must be carried out before a production begins. Admittedly, these are about things other than specifically harassment, but still fall within the area of the Discrimination Act.

Further consideration could be given to what the contracts with the participants in a production should contain, that it is clarified already there that harassment is not allowed

### **A Restorative Process for the Path Ahead**

It takes enormous security to get someone to tell you the most difficult things. The Commission believes that this force that #metoo released is in many ways positive. For those who have been subjected to sexual harassment and abuse, it is an opportunity to finally be able to tell what working life can be like. For some, it gives courage to dare to tell, perhaps for the first time ever, about an offensive experience. Several employers have decided to end their collaboration with some performers who have been accused of abuse.

The Commission considers that it is desirable to create good conversation routines as a path for development and notes that there are a number of different models for conversation and development to correct mistreatment in the workplace. This may be necessary even if the employer has taken those measures that follow the law. Those sections about an ethical perspective on sexual harassment found in the material are deemed by the Commission to be relevant ingress into the work with difficult conversations in cases of sexual harassment. The Commission wants to highlight the restorative justice process as a source of inspiration for how a difficult situation can be rehabilitated, advanced, and also become preventive (see section 4).

The Commission believes that it is important to take advantage of the opportunity for change that is now given with regard to vulnerability to harassment and sexual harassment in the performing arts, but that one must be looking ahead to create the conditions for change and improvement also for those who

have themselves committed unacceptable acts. This is not only important to be a good employer for their staff; it also creates the conditions for courage in the organization. It will be easier to report something that happened when you know that there is preparation for a road ahead, where there is room for both victims and perpetrators to move on.

### **The Joint Party Council as a Hub to Drive Change Efforts**

In their joint collective agreement concerning employees of publicly funded theater institutions, Teaterförbundet and Svensk Scenkonst have agreed to appoint a joint party council with the tasks of preventing and combatting discrimination and promoting diversity in employment. The Council has existed since 2012 and consists of four elected representatives and one official from each party. Since 2016, Akademikerförbunden (the Academic Association) has also participated in the work.

The Council will further develop the cooperation that is currently being conducted at both the central and local levels and will also work for increased competence and awareness at both the central and local levels as well as be a support for the parties in continued development work.

The Commission believes that the Joint Council could act as a major driver of change efforts focused on work environment issues in the performing arts domain. The Council can act as an arena for cross-sector change management and ensure that knowledge-enhancing moments are woven in. Furthermore, the Council can act as a contact area for the entire industry and be the initiator of further investigation from various parts of the industry. The Council should be tasked with formulating the consensus that is demanded in the industry.

The Commission proposes that a call be made in the industry to submit proposals for change projects in the performing arts. The Commission believes that there are already many good proposals that could lead to change provided it is firmly established among those active in the industry. It is proposed that the joint party council be recipients of such proposals and be tasked with finding funds to run the projects and ensure that these become reality. It is suggested that the Council integrate educational initiatives into change projects.

The Commission proposes that Teaterförbundet and Svensk Scenkonst commit resources to strengthening their joint efforts through the Council to address questions of equality and equal treatment.

### **Need for further transparency**

In conclusion, the Commission deems that there are several areas that need further transparency to achieve broad success in preventing and counteracting sexual harassment. The Commission has had limited time at his disposal and thus has not had the opportunity to look more closely at certain issues. This concerns, for example, how knowledge of these issues can be integrated into arts education, how to review the managing of operations, and how to deepen our knowledge of the underlying causes of cultures of silence.

## Concrete tips

Many clear requests have been made in the Commission's discussions with various representatives in the industry. One of these has been concrete tips on initiatives that different parts of the industry can start working with immediately. Some of these are listed here. Some may already be in place but may need to be raised again or increase in scope.

Svensk Scenkonst:

- Support to members; legal, organizational, advisory
- Run projects for long-term changes together with Teaterförbundet
- Free education in leadership with a gender perspective for freelance producers
- An agreement between all performing arts institutions on a manifesto for the work environment, that applies at all institutions

Teaterförbundet:

- Call support
- Initiate programs and identify those who want to work with them
- Contribute to the creation of reference groups, networks and exchanges
- Run projects for long-term changes together with Svensk Scenkonst
- Show perseverance in the work on the issue

As a board:

- Provide support and good conditions for managers
- Commit resources for change work
- Take responsibility for change management

As a manager:

- Conduct a risk analysis; where and when are the risks of sexual harassment taking place?
- Create clear routines with action plans and make sure to always give feedback to any employee who files a report or tells about something that happened.
- Change the culture to make it more equal. Work on fundamental gender equality work. Work with the goal that zero tolerance should become the norm by raising awareness and increasing knowledge. Through determination of the level of knowledge in institutions, training can be made more precise.
- Dare to be a brave manager by recognizing problems and showing civilian courage. It is important to develop a personal leadership style and be available as a leader and manager.
- Promote good examples as part of a change management.

As an employee:

- Be sure to dare to trust your intuition; if something feels wrong to you, it probably feels wrong to others.
- If you are victimized, talk to someone; rebuke it.
- Do not wait, report it immediately
- Support each other
- Dare to speak out when you see someone else being victimized.



---

# Bibliography

Andersson, Anneli (2007) *Vi blev antagligen för många: Könkränkande behandling i akademisk miljö*. Uppsala University

Edemo, Gunilla and Ida Engvoll (ed.) (2010) *Att gestalta kön. Berättelser om scenkonst, makt och medvetna val*.

The Equality Ombudsman's webpage: [www.diskrimineringsombudsmannen.se](http://www.diskrimineringsombudsmannen.se)

*En spark framåt för jämställdheten* (2008) Teaterförbundet, Teatercentrum and Danscentrum

Försoningsgruppen, den reparativa rättviseprocessen: [www.forsoningsgruppen.se](http://www.forsoningsgruppen.se)

*I väntan på vadå? Teaterförbundets guide till jämställdhet*. (2007) Teaterförbundet

*Att välja och välja bort* (2008) Svenska Dramatikerförbundet and Centrum för Dramatik

Hagman, Ninni *Förälskelse? Missförstånd? Maktmissbruk? Om sexuella trakasserier i utbildning och arbetsliv* (1995). Polishögskolan i Solna

Konstnärsnämnden (2017) "A study of artists' working environment: Results of a survey from 2016 addressed to artists in the fields of visual and applied Artists, dance, film, music, words and theater"

MacKinnon, Catharine (1979) *Sexual harassment of working women: A case of sex discrimination*. Yale University Press

MacKinnon, Catharine (1982) *Feminism, Marxism, Method and the State; An Agenda for Theory*. Signs, vol. 7, number 3, 1982

*Pappa kom hem! Teknikers möjligheter att förena jobb och föräldraskap*. (2007) Teaterförbundet.

*Plats på scen: Betänkande av Kommittén för jämställdhet inom scenkonstområdet*. SOU2006:42"

*På spaning efter jämställdhet. Kvinnor och män i scenkonsten i Sverige*. (2007) Svensk teaterunion. Scendatabasen

*På spaning efter jämställdhet del 2. Kvinnor och män i scenkonsten i Sverige*. (2008) Svensk teaterunion. Scendatabasen

Ungdomsstyrelsen (2003) *Genvägar till Jämställdhet – Metoder och strategier inom ungas fritid och föreningsliv*.

*Utveckling av konstnärlig process, organisation och ledarskap ur jämställdhets- och genusperspektiv – reflektioner från en utbildning*. Symf, Teaterförbundet och Svensk Scenkonst

Hermele, Vanja (2005) *Teaterchef och "gate-keeper" Kanonisering genom begreppet kvalitet – en studie av två teatrars policy och praktik för jämställdhet, mångfald och kvalitet. Magisteruppsats i Genusvetenskap, Stockholm University VT/HT 2005.*

Wahl Anna, Linghag Sophie (2013) *Män har varit här längst. Jämställdhet och förnyelse i industriella organisationer.* Lund: Studentlitteratur

Wahl, Anna; Holgersson, Charlotte; Höök, Pia; Linghag, Sophie (2011) *Det ordnar sig. Teorier om organisation och kön.* Lund Studentlitteratur

---

Partial citation from MacKinnon, Catharine (1982) *Feminism, Marxism, Method and the State; An Agenda for Theory.* Signs, vol. 7, number 3, 1982 can be found under the heading "Sexual harrassment is an expression of inequality".

**An Opportunity to Create Change**

Report from the Commission Against Sexual Harassment in the Performing Arts 2018