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Sexual Harassment: A Workplace Endemic

In the wake of three successful settlements involving sexual harassment and sexual assault at the workplace which violated the Minnesota Human Rights Act, the Minnesota Department of Human Rights Commissioner Rebecca Lucero stated that, “Abuse and misuse of authority to sexually harass, assault, or rape workers violates civil rights law. For employers to effectively prevent sexual harassment, assault or rape from occurring, they must not only have strong policies, but they must also enforce those policies.”

This is the first step to addressing the workplace endemic of sexual harassment in the absence of a sexual harassment legislation. But according to the Equal Opportunities Commission of Trinidad and Tobago in its publication on ‘Guidelines on Sexual Harassment in the Workplace’, ‘no amount of legislation and case law in the world will root out sexual harassment if employers do not ensure that there is zero tolerance for it in their workplaces. Prevention of sexual harassment is more difficult than implementing grievance procedures, but prevention is crucial to workplaces in which merit is rewarded, discrimination not tolerated, and equality fostered’. In light of this statement and in the absence of legislation, ‘The National Workplace Policy on Sexual Harassment’ has been ‘designed to prevent, prohibit and address sexual harassment at all levels in the workplace’. It seeks to ‘develop a social construct to expand the scope of the industrial relations framework in Trinidad and Tobago that promotes ethical practices in the workplace toward the elimination of sexual harassment therein.’

Although women are mostly susceptible to this disruptive behavior (misconduct), anyone can be subjected to it regardless of age, class, ethnicity, race, religion, or sex. It is a universal problem – a social problem of enormous proportions. It is about power play which pushes the patriarchal narrative to keep and treat women as second-class citizens. It impinges on the fundamental right to earn a livelihood by making it difficult to work.

The emergence of the term ‘sexual harassment’ can be

traced to the mid-1970’s in North America. Over the years, its definition has been amended to include as many examples to help with the initial identification of this behavior. However, interpretation and identification of sexual harassment may still be problematic given the personality of the observer (gender difference), attitudinal differences, work culture and context. Despite amendments to the definition, sexual harassment in the workplace remains largely unreported because there was no-one to whom they could complain; they were too embarrassed; they feared that they would not be believed; or they decide to cope with it themselves because of the implications for their careers.

Therefore, it is ‘not surprising that the two most common reactions of victims to sexual harassment are ignoring the incident and denial, even when this can lead to continued harassment, sometimes with greater intensity’. Other consequences include self-blame, anger, loss of confidence, and reduction in the ability to perform in the job, demotion, decreased job satisfaction, damage to interpersonal relations at work, anxiety, depression, or resigning because of the stresses of the complaint process or of the harassment itself. In the history of combating sexual harassment at work, Vibhuti Patel (2014) identified four perspectives on sexual harassment at work. It is power relation of male over female (exploitative), constitutes economic coercion (involves both implicit and explicit terms of employment), threatens women’s livelihood (used as a basis for employment decisions), reflects women’s subordinate status in society (produces consequences from submission to/or refusal of advances), and asserts women’s sex role over her work – parallels rape – (promotes intimidating, hostile, or offensive work environment).

While some of our Caribbean counterparts have criminalized sexual harassment, others like Barbados (Employment Sexual Harassment (Prevention) Act, 2017), have sought to handle the complaint as a workplace matter with an approved internal process. The Act holds the employer liable for not having a

written policy that must be clearly communicated to all employees. It also holds the employer liable for the actions of an employee, including supervisor. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, India, is similar.

The adoption of sexual harassment policy must include a statement of commitment to maintain a zero tolerance on sexual harassment; to provide a safe workplace free of harassment and other discriminatory practices; what constitutes harassment and sexual harassment; who is covered by the policy; and the complaint procedure. An employer's adoption of this policy can dispel the myths surrounding sexual harassment such as 'it is not really an issue, and it doesn't hurt anyone; because women keep quiet means that they like it; if women go places where they are not welcome they should expect sexual harassment'. Employers must be reminded that sexual harassment is costly; image costs money; reputation cost money, therefore they must actively participate in preventative measures and enforce this policy to minimize the risk of liability.

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