

Sexual harassment in the workplace

Author: Keithly Tongai . December 2019

What is Sexual harassment in the workplace?

Sexual harassment is an unwanted sexual advance, an improper proposition for sexual favours or other inappropriate sexual behaviours which makes a person feel offended, insulted and/or frightened in situations where a reasonable person might expect such a response. Sexual harassment involves a range of behaviours varying from verbal teasing to criminal conduct, such as criminal assault. Sexual Harassment is more prevalent against women but can also happen to men

According to Zimbabwe`s law, section 24 of the Constitution, there is an ambitious clause of the right to work. Section 65 guarantees labour rights to every worker in the context of this section and specifically relates to the right to fair and healthy practices and standards. A sexual harassment act, by its nature, constitutes a violation of the constitutionally protected right to fair labour practices and also violates the right to full and equal integrity. The right to equal and healthy labour standards is understood in accordance with the provisions of the Labour Act [Chapter28:01] whose primary purpose is to govern the partnership between employer and employee. The Act narrowly defines sexual harassment from section 8(h) which provides for unfair labour practices. Under this clause, participating in unwelcome sexually directed behaviour towards a worker, either verbal or otherwise, such as making physical contact or approaches, making sexually flavoured remarks or exhibiting pornographic material in the workplace, constitutes a commission of unfair labour practices.

In 2016, before #MeToo took off, Stefanie K. Johnson K Senia Keplinger Jessica F. Kirk Liza Barnes surveyed 250 working women in the U.S., asking about the pervasiveness of sexual harassment in their workplaces and how it impacts them at work; they also interviewed 31 women in the U.S. about their individual experiences. They also did another survey after #MeToo, in September 2018, of 263 women, and managed to get in contact with some of the women they surveyed before to see whether they have seen changes or have changed their views. The survey was meant to gather quantitative evidence about changes since #MeToo, and the interviews were meant to provide insight into why and how the changes occurred.

In both the surveys they used the following measures, sexual harassment along three dimensions: gender harassment, unwanted sexual attention, and sexual coercion. Gender harassment involves negative treatment of women that is not necessarily sexual but may include things like a supervisor or co-worker making sexist remarks, telling inappropriate stories, or displaying sexist material.

In the first study (2016), 25% of women reported being sexually coerced, and in 2018 that number had declined to 16%. Unwanted sexual attention decreased from 66% of women to 25%. In contrast, there was an increase in reports of gender harassment, from 76% of women in 2016 to 92% in 2018. This result implies that while blatant sexual harassment experiences that drive many women out of their careers might be declining, in the workplaces more and more of hostility is increasing toward women.

Examples of sexually harassing behaviour include:

- insults based on sex;
- unwanted touching;
- requests for sex
- staring or leering;
- suggestive remarks or jokes;
- sexually explicit pictures or posters;
- unwanted invitations to go out on dates;
- intrusive questions about a person's private life or body;
- unnecessary familiarity, such as deliberately brushing up against a person;
- sexually direct physical contact; and
- Sexually direct emails or SMS text messages.

Two most common type of sexual harassment

1. *Quid Pro Quo Harassment*

The Latin phrase ***Quid Pro Quo*** meaning “this for that” is for of sexual harassment that usually occurs when a worker is given a job advantage in return for sexual favours. The gain could be in the form of an increase in pay, a raise, or equivalent. It can also happen when the worker is threatened with dismissal, demotion, or other retribution because they participate in a sexual relationship with the threat-maker. This form of sexual harassment is usually due to power imbalance. The Perpetrator is usually someone who has authority in the organisation such that he would exercise his power to the low ranking employee who might comply due to fear of losing the job. For instance, the supervisor asking for sexual intercourse in favour of a salary increase.

1. *Hostile work environment*

Sexual harassment which happens between employee and employee that is, it does not necessarily involve a high-ranking person. It causes a hostile working environment that involves words or actions that are so extreme and pervasive that they establish an abusive and threatening working atmosphere. This type of harassment happens when an employee produces such a toxic and unpleasant working environment that it tends to impact the job performance of another employee. For instance, an employee uses sexual gestures when speaking to another employee.

There is no distinction between the two kinds of sexual assault in the eyes of the law. Both *quid pro quo harassment* and *hostile work environment* are similarly harmful to a workforce and to the persons

involved, both are criminal.

Sexual Harassment Policy

The employer should have a sexual harassment policy regardless of whether the company is big or small. While the person who sexually harasses someone else is liable for their own behaviour, employers can also be held vicariously liable for acts of sexual harassment by their employees or agents. Therefore employers need to have a policy regarding these incidences that will protect them from being held responsible because wrong approaches to sexual harassment can lead their companies to lawsuits. The employer must also be willing to dismiss the perpetrator. Some employees might avoid firing a key employee by sending the person to counseling, but if the victim considers your response inadequate, he or she might seek legal help from the authorities

How do I Respond to Sexual harassment

All incidents of sexual harassment – no matter how large or small or who is involved – require employers or managers to respond quickly and appropriately. Just because someone does not object to inappropriate behaviour in the workplace at the time, it does not mean that they are consenting to the behaviour

The first thing that anyone who encounters some form of harassment in the workplace should do is disclose it to management or human resources. Many organizations have guidelines and protocols in place to cope with harassment and will work to rectify the situation. If the organization refuses to take any corrective action, you can seek a lawyer regarding sexual harassment to support you with taking legal action. You need to note (record) each incident of abuse before reporting the incident or contacting a lawyer. You can record the occasions when it happens and the extent of the harassment, because if they end up going to trial, this will help you build a stronger case against the villain.

Those who are sexually harassed especially at workplaces should not be afraid but rather muster up the courage and fight against the perpetrator, regardless of whether he or she is high ranking or low ranking employee.

Keithley Tongai is a Consultant intern at Industrial Psychology Consultants (Pvt) Ltd, a business management and human resources consulting firm.

References;

1. <https://www.inc.com/magazine/201804/minda-zetlin/sexual-harassment-workplace-policy-metoo.html>
2. <http://www.zwla.co.zw/media-room/news/sexual-harassment>
3. <https://www.womenonbusiness.com/>

<https://thehumancapitalhub.com/articles/Sexual-Harassment-In-The-Workplace>