

## LEGISLATE AGAINST SEXUAL HARASSMENT, 5 NOV 2009

Victims of sexual harassment are not likely to receive meaningful recourse for their complaints if they go to the Labour Department. This is because the Director General of the Labour Department himself does not seem to understand what sexual harassment is, and in fact made light of the issue at a recent seminar on Sexual Harassment in the Workplace in conjunction with Sexual Harassment Week (News Straits Times 31/10/09).

Datuk Ismail Abdul Rahim, the Director General of the Labour Department, in response to the introduction of a sexual harassment statute, was reported to have said "Employees would be extremely wary and cautious of cracking jokes ... innocuous comments could be wrongly interpreted as a form of sexual harassment." Not only has the Director-General failed miserably to comprehend the gravity of sexual harassment but it is appalling for a man in his position to equate sexual harassment with casual banter or a joke.

The irony of the situation is that the Ministry of Human Resources was responsible for launching the Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace which has clearly defined what sexual harassment is. The Labour Department, under this Ministry, is the main agency in charge of promoting the adoption of this Code of Practice.

When the Code of Practice was launched in 1999, the then Minister of Human Resources had stated, "There is ample evidence everywhere that a high percentage of sexual harassment cases (our emphasis) occurring in the workplace goes unreported. Due to embarrassment, helplessness and fear of being ridiculed, or worse still, of losing their jobs, most of the victims of sexual harassment were prevented from raising the problem and therefore had to suffer in silence....In Malaysia the unfortunate victims are presently facing distressing constraints to report sexual harassment because there is no established procedure to guide them how and where to report."

The Code of Practice, however, has proven to be largely ineffective as it is voluntary and employers are under no compulsion to adopt a sexual harassment policy at the workplace. Datuk Ismail himself stated that as of last year, only 1,330 companies had adopted the Code. This means that there has been a drastic drop as the Ministry of Human Resources quoted 4,500 companies adopting the Code in 2001! Even then, the figure only represented 1% of the total number of 400,000 registered companies in Malaysia. The sad reality is that the vast majority of companies do not have a sexual harassment policy in place.

The Joint Action Group for Gender Equality (JAG) has been campaigning for the legislation of sexual harassment over the last decade. In 2001, JAG submitted a draft of a sexual harassment law (<http://www.wccpenang.org>) in the hope that the government will take concrete action

towards this serious offence at the workplace. From the Ministry of Human Resources to the Ministry of Women, Family and Community Development, consultations, meetings and discussions on the legislations on sexual harassment were held with NGOs and employers' federations. But all these have come to nought.

The picture remains grim. In 1999, the government recognised that sexual harassment was a serious workplace problem. In 2009, the Director-General of the Labour Department is now reported to express there is no need for such a law.

So what recourse is that for sexual harassment victims? From the experiences of the Women's Centre for Change (WCC), victims of sexual harassment range from civil servants, teachers, hospital staff, factory workers to managers. Those who came forward to seek help have often ended up more disappointed than relieved. Many of these victims end up being tormented and unfairly treated as majority of companies/agencies still do not have proper in-house mechanisms to handle sexual harassment cases.

What will it take for the government to recognise that sexual harassment is a serious problem that needs effective legislation? When will the government "walk the talk"?

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