

Sexual Harassment

Speech presented by Zarizana Abdul Aziz during the handover ceremony of the Memorandum on the Proposed Sexual Harassment Bill by the Joint Action Group (JAG) Against Violence against Women to the Ministry of Human Resources

30 March 2001, Kuala Lumpur

Yang terhormat, Timbalan Menteri Sumber Manusia, Dr Abdul Latiff,

Pada 30hb Jun 2000, Menteri Sumber Manusia, Dato' Dr Fong telah diundang ke satu majlis seperti hari ini oleh Joint Action Group Against Violence Against Women. YB Menteri telah pada hari itu, diberi petisyen yang ditandatangani oleh 12,800 individu dan 64 organisasi menyeru pengubalan undang-undang gangguan seksual.

Walaupun seruan ini berbangkit dari insiden aduan gangguan seksual di sebuah hotel di Pulau Pinang, seruan ini bukanlah seruan baru. Semenjak 1980'an lagi, kesatuan pekerja dan persatuan wanita telah menyeru supaya digubalkan satu rang undang-undang untuk menangani gejala gangguan seksual.

Kempen gangguan seksual MTUC pada tahun 1988 telah dilancarkan oleh Timbalan Menteri, YB Dato Dr Siti Zaharah selaku Timbalan Menteri dalam Jabatan Perdana Menteri (Hal Ehwal Wanita) . Pada masa itu, beliau telah juga menyatakan bahawa Jabatan beliau akan memantau keadaan untuk menentukan samada undang-undang perlu digubal. Dato Dr Siti Zaharah juga meminta cadangan-cadangan undang-undang dan hukuman dikemukakan kepada kerajaan.

Malah pelancaran Kod Amalan untuk Mengelak dan Membasmi Gangguan Seksual di Tempat Kerja oleh Menteri Sumber Manusia, Dato Lim Ah Lek pada tahun 1988 adalah hasil dari kerjasama antara kerajaan, majikan, kesatuan pekerja dan persatuan wanita. Malangnya dua tahun telah berlalu semenjak pelancaran kod amalan. Berbagai seminar dan bengkel telah diadakan untuk mendorong majikan menerimapakai kod amalan ini.

YB Timbalan Menteri sendiri pun telah merasmikan bengkel-bengkel ini dan menyaran kod amalan tersebut diterimapakai dan dilaksanakan oleh majikan. Namun menurut statistik yang dinyatakan oleh Timbalan Menteri sepuluh hari sudah, hanya 4,500 majikan telah menerimapakai kod amalan tersebut iaitu hanya 1,125% dari 400,000 majikan yang didaftar dengan Perkeso. 1.125% dalam tempoh dua tahun.

Sementara itu, aduan-aduan gangguan seksual semakin meningkat.

Timbalan Menteri, sudah tiba masanya kita menerima hakikat bahawa kelambatan atau keenggaran majikan menerimapakai dan melaksanakan kod amalan menjejaskan keselamatan dan hak pekerja, terutamanya hak pekerja wanita dalam usaha membangunkan negara.

Izinkan saya meneruskan ucapan saya ini dalam Bahasa Inggeris.

Sexual harassment is a grave issue to all of us. It is an issue which the Ministry has shown great concern in preventing and eradicating. We are touched by the efforts so far put in by the Ministry in raising awareness on this issue and its reception in accepting complaints.

In June 2000, JAG invited the Minister for Human Resources, the Honourable Dato' Fong to utilise our experience that comes from assisting victims of violence and handling such issues. We offered to make available our resources, our research findings and our expertise.

Legislating on sexual harassment is never more pressing than at the present time. We ask you, Deputy Minister to consider legislation.

By legislation we mean not merely inserting a few provisions relating to sexual harassment in existing laws but passing and implementing a comprehensive set of laws that will serve to isolate the issue of sexual harassment and directly assaulting this social ill that has denied countless women their right to a safe work place.

We hope you welcome our initiative. We would like to present today to you, Deputy Minister, the culmination of our work and efforts these past nine months in terms of how we would like to see the formulation of this law.

Why a separate sexual harassment law?

Every law, Deputy Minister, must address two fundamental points. Firstly, the prevention of the violation. Secondly, meaningful access to legal redress in the event of a violation.

- The importance of in-house mechanisms cannot be over-emphasised. Employers must have proper policies to raise awareness. Prevention promises to be a more economical and effective strategy than post-harassment legal redress. Once harassment occurs, the integrity of the workplace is compromised.

To this end the Bill provides for the formulation of sexual harassment policies by employers.

- Secondly, grievance procedures must be accessible to victims. It must encourage victims to step forward, protect them and bring out the facts. Sexual harassment involves three parties. First, the victim / complainant, second the harasser and third, the management who tries to resolve the complaint.

To this end the Bill provides for a sexual harassment committee comprising management and employees of equal gender representation which function it is to accept, investigate and resolve complaints, where possible.

- Deputy Minister, Today we are witnessing an expansion of working relationships which do not fall neatly into the traditional category of employer / employee such as contract and sub-contract work and voluntary work. More and more, women are participating in these sectors.

To this end, the Bill broadens the concept of work and the notion of the workplace.

- The fact also is, Deputy Minister, that laws are merely pieces of document which can be freely flouted unless there is effective implementation. The laws against sexual harassment require a dedicated official to implement the law.

To this end, the Bill provides for a Director whose duties it is to promote recognition of acceptable attitudes, acts and practices, prepare guidelines and receive sexual harassment complaints.

- Currently victims of sexual harassment, when frustrated at seeking redress internally have two choices. Firstly is to report the incident or incidences to the police, thus criminalising the offence. Often unfortunately, this does not solve the victim's problem, that is to make the harassment stop immediately. Secondly the victim can sue the harasser in court.

This is an expensive and slow process and therefore may not be practical. To this end, the Bill provides for the establishment of a Tribunal comprising persons of legal and relevant expertise who shall conduct the inquiry quickly and with as little formality as possible.

Deputy Minister, in trying to eradicate a problem as old and as pervasive as sexual harassment, Malaysia has to look for the best practice model to not only protect our citizens who work and contribute towards nation-building but also to discharge our obligations under international instruments like the United Nations Convention against the Elimination of All Forms of Discrimination against Women to which Malaysia is a signatory.

We submit to you, Deputy Minister, that legislating now is the best practice model.

The promise of a future in a sexual harassment-free environment is a hope and a right of every Malaysian.