

Sexual Harassment in the Workplace

In a perceived female gender sensitive world, the thought is seemingly generally conjured by males that sexual harassment legislation is meant to protect women against sexual harassment by men. This notion which tends to suggest that such legislation is bias and weighted in the favour of women. Based on this assumption, the issue of apparent discrimination becomes a debatable subject.

It has been well established that sexual harassment is about unwelcomed sexual behaviour, whether it is physical, verbal or written which is considered as offensive, humiliating and/or intimidating to the individual. From the research conducted, there has been no evidence unearthed to suggest that sexual harassment is limited to intended acts towards females only. It is more apparent that the law is gender neutral in its application. The fact that in the past women were known to be largely the complainants, it would seem that this forms the basis for the false premise held by men.

Sexual harassment legislation has been introduced in several jurisdictions around the world. It has been mainly introduced to address inept behaviour in the workplace involving employers, managers and employees. This also extends to agents, clients and customers. It is said that sexual harassment is not limited to what happens at work, but also to what happens between persons sharing the same workplace, what transpires between colleagues outside of work, and what occurs at work related events.

Inasmuch that sexual harassment is about what is considered as unwelcomed sexual behaviour, it can be argued that this is opened to a level of subjectivity on the part of the complainant, be it male or female. With this being the case, there can hardly be a defence made where there is the perpetration of an act of sexual assault, indecent exposure, open physical gestures, stalking, obscene or threatening communications, such as telephone calls, letters, emails, text or whatsapp messages and postings on social networking sites.

The charge of sexual harassment in the workplace and the need for legislation to cover any unwarranted acts of offensive behaviour, has become necessary as the workplace now takes on a new face where there are individuals who openly express their sexual preferences, which may not be of a same sex nature. Given that this is the case, there is always the distinct possibility that acts of sexual harassment could be found in instances of males upon males and females upon females.

It may be reasonable to make the assumption that the introduction of sexual harassment legislation brings with it some inherent fears. The fear factor is more than likely embedded in the targeting of individuals. The fact of the matter is that sexual harassment legislation is meant to protect the individual, both males and females from unwelcomed and unwarranted sexual advances being levied towards them.

Sexual harassment can be classified as a societal evil which is being addressed at the level of the workplace. The workplace legislation may prove to be a deterrent to the practice, but there may remain some concerns regarding how the law limits or hinders persons from attempting to abuse the leverage which it provides. It is therefore recommended that persons do not encourage any acts that they deem to be offensive and then seek to complain after the fact. Where this does not mean tacit approval of a behaviour or action, the lack of action on the part of the individual may be construed as an acceptance of the behaviour.

The perpetrator of the act of sexual harassment and the individual, who acts maliciously so as to smear the character of another, should be warned that there are consequences for their action. Penalties are meant to deter an individual from infringing on the right of the individual, showing blatant disrespect for the individual and lowering the dignity of the person. It is for those who have a legitimate claim and those who are on a witch hunt, to be aware that the burden of proof lies with the complainant.