

sexual harassment

WHAT CAN BE DONE



How has government addressed the problem of sexual harassment so far?

There have been several initiatives from various government agencies, but the most encouraging so far are those from the Bureau of Women and Young Workers and from the Department of Labor and Employment.

(1) Bureau of Women and Young Workers Velco Centre, 13th St. cor Chicago, Port Area: 403949/ 405912;

- Conducted case studies and personal interviews with sexual harassment victims. Workers were from five national

labor federations representing different industrial sectors: manufacturing, hotel and restaurant, retail establishment, banking and financial services. Interviews confirmed the typical profile of sexual harassment victims and perpetrators (*Pls. see main primer for profile*).

- Coordinated with the office of Sen. Blas Ople in drafting bills on sexual harassment;
- Has been exploring possibility of including sexual harassment as an unfair labor practice in the ongoing review of the Labor Code.
- Held a forum on sexual harassment in September 1993, with participants from the media, women's groups, lawyers, personnel managers, the Personnel Management Association of the Philippines (PMAP), various unions and labor federations including the Trade Union Congress of the Philippines, Federation of Free Workers, the National Federation of Labor, the Lakas Manggagawa Labor Center, and the Union of Filipino Workers.
- As a result of the Congress on Equal Employment Opportunities (EEO) on March 27, 1993, came up with a draft resolution from the women's departments of the different labor centers that contains an action program or measures to respond to the issues on EEO and sexual harassment.

(2) Department of Labor and Employment

- Came up with a "No to Sexual Harassment," poster to be distributed

to DOLE offices and agencies to raise the awareness of DOLE officials and employees on Administrative Order 68, the Department's policy against sexual harassment.

- Has put into effect Administrative Order 68, which states that DOLE "shall not tolerate sexual harassment committed by DOLE officials, employees, applicants for employment or any person transacting official business with DOLE."

Can you cite more details regarding AO 68? How come we haven't heard of it before?

AO68 was signed only recently, in March 1994, and is actually an amendment of Administrative Order 80, the policy against sexual harassment.

AO68 is significant because this is the first time that a government agency has drafted a policy addressing sexual harassment and defining what is acceptable and what is not in the conduct of its employees and officials not just to each other but also to DOLE clients and applicants. The administrative order is also a very thorough and workable document, with implementing rules and regulations already in place, complete with a mechanism for deciding and investigating cases and with corresponding sanctions for guilty parties.

How does AO 68 work?

According to this AO, "Sexual harassment constitutes a disgraceful and immoral act," which calls for "disciplinary measures against any official or employee, whether permanent, casual or contractual, who subjects any fellow official

or employee, applicant for employment or client, to sexual harassment." Aside from the penalties to be imposed by the DOLE, the offender may also be charged for the same offense in the regular courts.

Under AO 68, a special fact-finding committee will be created to receive and investigate or hear sexual harassment complaints and to submit its report and recommendations to the DOLE secretary. The DOLE Secretary then reviews the case and can impose a penalty of suspension of from six months and one day, to one year for first time offenders. For a second offense, the penalty is dismissal, although a motion for reconsideration may be filed.

Is AO68 ideal then?

Although we cannot say that for certain since the policy has yet to be tested on a real case, AO68 has a lot going for it. Among its most welcome provisions are the following:

- Rule IV (Sect. 1-g) which says that "A withdrawal of the complaint made or filed at any stage of the proceedings shall not preclude the committee from proceeding with the investigation of the case." This would ensure that even when the complainant is pressured or intimidated into withdrawing his/her complaint, the case will still go on.
- Sect. 2 -a: "Unless a different period is indicated in the notice issued by the committee, the respondent shall be given not less than 72 hours after receipt of the complaint to answer the charges." This is due process and assures the accused of a chance to defend him/herself from the charges.
- Sect. 4 (a): "(The DOLE) Secretary may

suspend any subordinate officer or employee for not more than 90 days pending investigation, if there are strong reasons to believe that the respondent is guilty of charges which would warrant his/her removal from the service." Preventive suspension minimizes the chance that the accused would use his or her position to pressure witnesses or even the complainant into withdrawing the complaint.

Sect. 5 (a): "Hearing after all the pleadings have been submitted shall be terminated by the fact-finding committee within 30 days from filing of the charges," although this period may be extended if necessary. The provision assures both the complainant and the accused of a speedy investigation to clear their name or to feel vindicated.





to self-organization or the right to strike; or

- such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

What are some of the more significant provisions of these bills?

All of the bills

- Place the responsibility for preventing sexual harassment squarely on the employer if he/she knew about such acts but did not take immediate and appropriate action to stop or punish them;
- Consider to have been illegally dismissed any employee or worker who resigns due to sexual harassment;

- Penalize violators with imprisonment of from one to six months, and/or a fine of from P10,000 to P20,000 (for the Arroyo and Antonino bills), or imprisonment of one to two years and/or a fine of from P20,000 to P40,000 (for the Ople bill).
- Allow the complainant to file separate and independent action for damages with injunction;

How do the bills differ?

The Ople bill has a wider coverage in that it defines sexual harassment even in a non-employment environment. Senate Bill 1273, also known as the "anti-Sexual Harassment Act of 1993," says that one is liable for sexual harassment "whenever a person in authority uses his position or influence to intimidate or coerce another individual under his care or supervision, or who has a pending business or official transaction requiring his approval through unwelcome advances, requests for sexual favors and other verbal or physical conduct of a sexual nature."

What is the status of these bills?

As of April 1994, House Bill 9425 has been approved on third reading and is now pending with the Senate committee on women, while Sen. Arroyo's and Sen. Ople's bills have been consolidated as Senate Bill 1632 on second reading.

The latest update is that the consolidated Senate bill provides for up to two years' imprisonment or a fine of up to P30,000 as penalty for sexual harassers. Even a non-working environment as defined by the Ople bill is included in the coverage.

How about non-government organizations? What have they done to minimize sexual harassment in the workplace?

Several NGOs, notably women's groups, have been active in raising consciousness on the issue. Their efforts and services include the following:

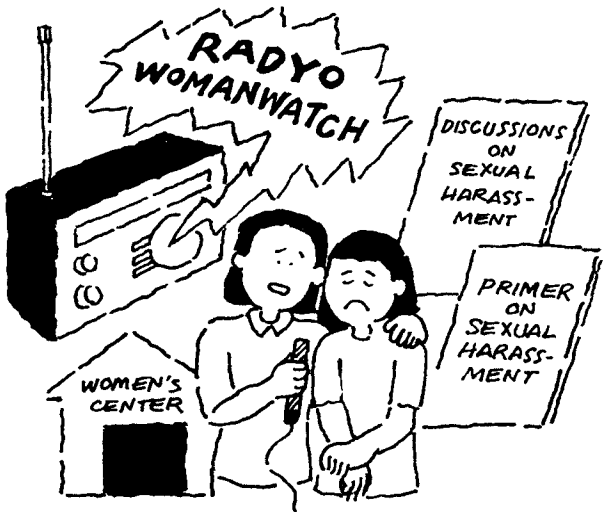
■ Women's Legal Bureau (11 Matimtiman St., Teacher Village, Quezon City. Tel. 921-4389/921-8053); currently handling two cases of sexual harassment involving a government doctor and a judge; has just finished co-hosting Radyo Womanwatch on Women and the Law; is selling tapes to women's organizations as part of its extension program.

■ Center for Social Policy and Public Affairs (Ateneo, QC; tel. 924-4601, ask for CSP); has published in December 1990 the pamphlet "Sexual Harassment in the Workplace: Conference Proceedings No. 6," one of the first to deal with the issue and all its aspects—from the legal, social and political points of view.

■ PILIPINA (142-A Sct. Rallos, Kamuning, QC. tel. 961431, contact person: Beth Yang); hosted a conference on sexual harassment in 1990 and co-produced with CSP the pamphlet "Sexual Harassment in the Workplace;" has also conducted speak-outs on the issue among students from UP Diliman (1993) and UP Manila (1994); offers resource speakers on the issue for seminars and conferences.

■ Center for Women's Resources (116 Maginhawa, UP Village, tel. 921-6810, contact person: Judy Taguiwalo); has published a primer/leaflet on sexual harassment; offers library services including data on sexual harassment

■ SALIGAN: Sentro ng Alternatibong Lingap Panlegal (Hoffner bldg, Social Development



Complex at Ateneo, Loyola Heights, QC, tel. 924-4601 loc. 2831 or 961469, contact person: Raissa Jajurie); conducted a roundtable discussion on sexual harassment in April 1993; has published and circulates a poster on sexual harassment.

■ GABRIELA (15 Surigao St., West Ave., 986969. Contact person: Atel Hijos or Megs Antiola); sponsored a forum on sexual harassment in early 1993.

■ Task Force on Sexual Harassment (UP Diliman c/o Dr. Leticia Ho, tel. 995071 loc. 6495); offers counselling and moral support for student victims, coordinates with women's groups on how else to address the issue within the campus.

What else needs to be done?

A lot. Both government and non-government organizations as well as women's groups, unions, managers, private companies and individuals can make a difference. Below are some suggested strategies to push out sexual harassment from campuses, the workplace and other places where they occur.

■ The Civil Service Commission

- should issue the necessary implementing rules and regulations to include sexual harassment among the grounds for disciplinary action as gross, immoral conduct or misconduct.
- alternatively, the Civil Service law may be amended to make sexual harassment a separate offense warranting suspension or removal from office.

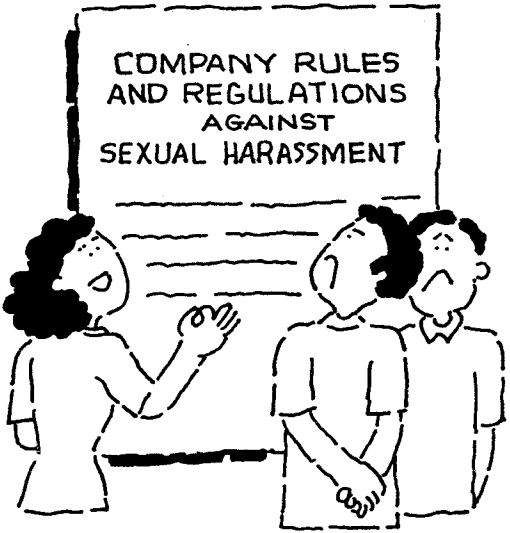
■ The Department of Labor and Employment

- should have the authority to issue cease-and-desist orders, with damages in favor of the victim.
- can also review the Labor Code so that sexual harassment can be classified as part of discriminatory practices in the workplace; a description of the types of sexual harassment should also be provided.

■ Union approaches can include

- the development of a protective clause against harassment to be included in CBA negotiations;
- the education of union members on the issue and the handling of complaints with a trade union perspective (since sexual harassment can also be committed by a co-worker);
- the development of a training module for stewards on sexual harassment cases and its inclusion in the workers' education programs, such as those conducted by the UP Institute of Industrial Relations;

- set up women's committees in the union to define, monitor and document cases of sexual harassment, and coordinate with women's groups for moral and legal support for the victims;
- Employers, companies and personnel managers can
- hold on-going consultations, cooperation, and negotiations with unions on how best to eliminate or at least minimize sexual harassment in the workplace;
 - issue a widely-publicized and written policy that prohibits sexual harassment, including descriptions or types of such prohibited acts, procedures for filing complaints, an assurance of confidentiality, due process for the accused, prompt investigation and resolution, protection against retaliation for reporting, and sanctions or penalties for the guilty parties (*See box for excerpts of sexual harassment policy being used in the Philippine Daily Inquirer*);
 - at the very least, include sexual harassment as part of "gross misconduct" or "abuse of authority" subject to severe penalties under the company's existing code of discipline or rules and regulations for employees;
 - educate and train managers, supervisors and other employees on the policy against sexual harassment, the law involved, the complaint procedures, as well as how to confront sexual harassers and document the incident;



- conduct seminars on sexual harassment for both rank and file and supervisory employees. Questions and discussions should be encouraged to clear up widely-held assumptions and perceptions.
 - designate a responsible, sensitive person/s to coordinate the program and monitor its implementation
 - provide counselling services or referrals for the victim;
- The Senate and House of Representatives can enact appropriate legislation that
- punishes sexual harassment in the workplace
 - extends protection and support to its victims
 - specifies which government agency will handle the cases

- assures speedy resolution of cases to cut down on the financial and emotional costs to the complainant
- obliges employers to take action against sexual harassment and penalizes inaction
- provides support services for victims

■ Non-government organizations and women's groups can

- conduct awareness programs on the nature of the problem, its implications, and how one can protect oneself from it
- offer formal and informal support services to victims
- train a corps of sensitive personnel specifically to assist victims
- compile hard data, studies and research on the types of sexual harassment in both public and private sectors to develop more scientific research and theory on sexual harassment (where and against whom it occurs most, why, who benefits from it, human and economic costs, etc.)
- lobby for appropriate laws and monitor the implementation of existing laws
- set up mechanisms for the counselling of victims
- explore legal recourse for complaints through women lawyers' groups like the Women Lawyers' Association of the Philippines (WLAP), Women Lawyers Circle (WILOCI), SALIGAN,

Circulo de Abogadas (CIRDA),
Women's Legal Bureau, etc.

- set up shelters and crisis centers to give emotional and legal support to victims
- use media to influence public awareness about the problem
- hold regular consciousness-raising sessions among women workers, and develop a module on sexual harassment that can be used as part of trade union education
- monitor and document cases of sexual harassment
- file test cases to demonstrate legal frailties of existing laws and possibly create a jurisprudence on the issue
- conduct speak-out sessions in campuses to make students aware of the issue and create a feeling of solidarity among victims
- conduct assertiveness training among women workers
- provide counselling and referral to legal agencies

■ Lawyers' groups can

- lobby and work for a more efficient and responsive legal system, since the existing one is hampered by some insensitive, often unscrupulous, judges, influence peddlers, time-consuming delays, and other flaws that discourage complainants from filing cases in court



- train more paralegals from unions to advise women on their rights in the workplace and advocate for such rights
- work for gender-sensitivity seminars to reorient the attitudes of lawyers, judges and other actors in the judicial system for them to view sexual harassment and similar issues as legitimate legal cases and not merely as "personal problems."

■ The media can

- write on the issue more frequently especially in columns and commentaries, through TV scripts and talk shows, radio advisory programs, public service ads and through nonsexist advertising that no longer regard women's bodies as a trophy of male power

■ Individuals and workers can

- contact NGOs or women's groups on the possibility of holding awareness-raising sessions on sexual harassment among union members in the company
- encourage fellow workers to complain of sexual harassment and be supportive of them
- discourage sexist or lewd jokes at the expense of women in the workplace
- create an atmosphere in the workplace that promotes the dignity and self-esteem of employees.
- attend lectures, symposia, and workshops on issues pertaining to women and disadvantaged groups

■ Victims can

- tell the harasser to stop in the presence of a friendly witness, if any
- find out the school's or the company's policy on the issue
- document incidence of sexual harassment, including the time, date, place, witnesses, etc.
- keep a record of efficiency or merit citations to disprove later allegations of incompetence by the harasser
- inform union and management if harasser refuses to stop
- seek help and support from women's groups and NGOs

"Only in the Inquirer"

(Excerpts from the manual on sexual harassment drafted by the Philippine Daily Inquirer and in effect since 1993)

What sort of behavior would be considered sexual harassment?

Here at PDI, offenses which would fall under "sexual harassment" fall into the following categories: light, less serious and serious. (The PDI Code of Discipline rules on the sanctions for various offenses.)

The following may be considered **light** offenses: persistently telling smutty jokes to a co-employee who has indicated s/he finds them offensive; taunting a co-employee with constant talk of sex or sexual innuendoes; displaying offensive pictures or publications in the workplace; asking a co-employee intimate questions on his/her sexual activities; making offensive hand or body gestures at a co-employee; staring or leering at a co-employee; making obscene or offensive phone calls to a co-employee whether during work hours or outside of them, etc.

Less serious offenses may include (but are not limited to) the following: pinching, unnecessarily brushing up against a co-employee's body; requesting for dates or favors in exchange for a job, favorable working conditions or assignments, etc.

Serious offenses may range from touching a co-employee in sensitive parts of his/her body to threats of a sexual nature and actual sexual assault.

How can an employe be sure an act or behavior can be classified as sexual harassment?

If an offensive act or behavior which has sexual overtones is committed repeatedly even after the complainant has indicated that s/he finds it offensive or objectionable, then it may rightly be classified as sexual harassment. For **serious** offenses, however, a single instance may already constitute sexual harassment.

When should a complaint for sexual harassment be filed?

Any complaint concerning sexual harassment must be put in writing and filed with the Committee on Sexual Harassment within 60 days after the incident. Sexual harassment is considered a continuing offense, so that in cases of repeated incidence, counting begins from the date of the latest instance prior to the filing of the complaint.

What is the procedure for filing, investigating and hearing the complaint?

The complaint must be signed by the complainant and submitted to the Committee on Sexual Harassment. Alternatively, a union member may choose to course his or her complaint through the PDI Employees' Union which will then bring the complaint to the Committee.

Upon receipt of a formal complaint, the Committee will sit down with the complainant to clarify details of the case and discuss the

gravity of the offense and the action being sought by the offended party.

The Committee will then sit down with the other party to get his/her side of the case.

After hearing the case, the Committee will submit its report and recommendation to the Personnel Department. The Personnel Department shall codify the appropriate sanctions for **light, less serious** and **serious** offenses, and for **simple** (when committed by a co-worker) and **qualified** (when committed by a supervisor or person in authority) sexual harassment, and execute them accordingly.

Will there still be a case after the offended party has resigned or has been fired?

Termination, resignation or physical incapacity will not remove the personality of the offended party to file a complaint, as long as the incident took place within the prescribed period (60 days) and while the complainant was employed by the company.

Can an applicant for employment file a charge of sexual harassment against a PDI employe?

An applicant shall have the personality to file a case with the Committee when:

- S/he shall have submitted a bona fide application to the Company, and

- The offense was committed after the application was filed.

What guarantee does a complainant have that s/he will not lose his/her job while the investigation is ongoing?

The identities of the complainant and the alleged offender will be held in the strictest confidence during the investigation. An officer, manager, supervisor or editor against whom a complaint has been lodged may not fire, suspend, demote or transfer the complainant-employee during the investigation and hearing of the case.

However, a complainant may request a transfer if s/he feels that it is no longer possible to work in close proximity with the alleged offender. Such requests will be studied on a case-to- case basis.

