

SENATE OF THE PHILIPPINES
OFFICE OF THE SECRETARY
RECEIVED
NOV 17 1993
TIME: 3:30 BY: RH

S E N A T E

S. No. 1538

Introduced by Senator Raul S. Roco

EXPLANATORY NOTE

The incidence of sexual harassment at work is gaining recognition as an intolerable violation of the dignity of workers and measures to combat these acts have obtained support from both international and national organizations as well as a growing number of policy makers, legislators and trade unionists.

The International Labor Organization (ILO), being in the forefront with regard to workers' protection and welfare, recognizes the effects of sexual harassment on the personal security of workers. Likewise, the ILO considers sexual harassment as a safety and health problem and that the need for protection applies to both men and women workers, although the nature and degree of protection required may be sex specific (ILO, 1989).

While studies claim that women generally are vulnerable to sexual harassment, some males also feel they are victims. Thus, it can be said that sexual harassment is not limited to men harassing women but women harassing men as well. In some instances, sexual harassment involves members of the same sex as harasser and victim.

Sexual harassment bears a potential threat to workers' morale and interferes with job performance and productivity which may be manifested by absenteeism and fast turn-over of personnel. In other cases, victims of sexual harassment suffer from dismissal, loss of promotion prospects, training opportunities and even jeopardize future job opportunities. Consequently, this leads to diminished productivity, degradation of the industrial relations climate and possibly a negative public image on the part of the employer.

Sexual harassment, being a repugnant act is therefore an utter disregard to a worker's right to enjoy a good work-environment and an affront to his/her dignity as a human being. However, there is no law which prohibits such acts, thus, leaving victims unattended and unprotected.

Furthermore, the bill prohibiting sexual harassment is one of the measures endorsed in the Social Pact for Empowered Economic Development (SPEED) held last 8 September 1993.

Also, this is in compliance with the legislative request of the Lakas Manggagawa Labor Center - Women Commission to file a bill incorporating their modifications and suggestions so as to make sexual harassment more comprehensive, even beyond the ambit of employer-employee relations; and to encompass male victims of the offense.

This measure complements S. No. 1273 filed earlier by Senator Blas F. Ople.

In view of the foregoing, the early passage of this bill is earnestly recommended.

Raul S Roco
RAUL S. ROCO
Senator

Senate Archives (LRAS)



35
RECEIVED
OFFICE OF THE CLERK
SENATE
MAY 3 9:30 AM 1993
RHC

S E N A T E

S. No. 1538

Introduced by Senator Raul S. Roco

AN ACT
PROSCRIBING SEXUAL HARASSMENT IN THE EMPLOYMENT
AND NON-EMPLOYMENT ENVIRONMENT AND PROVIDING
PENALTIES THEREFOR

Be it enacted by the Senate and House of Representatives of
the Philippines in Congress assembled:

SECTION 1. **Title.**--This Act shall be known as the
1 "Anti-Sexual Harassment Act of 1993".

2 SEC. 2. **Purpose.**--In order to uphold the dignity of
3 individuals, whether employed or seeking employment, and
4 other individuals mentioned in this Act, and to guarantee
5 full respect of their human rights, sexual harassment, as
6 herein defined, is hereby declared unlawful.

7 SEC. 3. **Sexual Harassment in the Employment Environ-**
8 **ment Defined.**--Unwelcome or uninvited advances, requests for
9 sexual favors and other verbal, non-verbal or physical
10 conduct of a sexual nature from an employer, office superi-
11 or, labor union leader or superior constitute sexual harass-
12 ment when:

- 13 a) submission to such advances is made, either ex-
14 plicitly or implicitly as a term or condition for
15 employing an individual, or if already employed, is
16 used as basis for employment decisions affecting such
17 worker or employee;
- 18 b) submission to, or rejection of, such advances,
19 requests, or conduct would impair the right of the

1 worker concerned to self-organization or the right to
2 strike; or

3 c) such conduct has the purpose or effect of inter-
4 fering with an individual's work performance or creat-
5 ing an intimidating, hostile, or offensive working
6 environment.

7 Any other annoying, disgusting or offensive act or
8 conduct shall also constitute sexual harassment when commit-
9 ted under circumstances similar or analogous to the forego-
10 ing.

11 SEC. 4. *Coverage.*--This Act shall cover all acts or
12 conduct of sexual harassment committed by or against
13 employers, managers, supervisors, employees, union offi-
14 cers and members, applicants for employment, customers,
15 clients, agents of the employer, or any other persons
16 transacting business within the employment environment in
17 both the private and public sectors.

18 SEC. 5. *Duty of Employers.*--It shall be the duty of
19 employers and labor union leaders to take reasonable steps
20 and to institute measures in order to prevent and/or remedy
21 sexual harassment, as above defined, from occurring in their
22 workplace.

23 Should there be a union in the bargaining unit, such
24 necessary steps and remedial measures shall be jointly
25 formulated by management and the union.

26 SEC. 6. *Who may be Held Liable.*--Employers, managers,
27 supervisors, other employees or agents of the employer,
28 union officers and members, customers, clients, or any
29 other persons transacting business within the employ-
30 ment environment who commit the prohibited acts provided in
31 Section 3 hereof shall be held liable under this Act.

32

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

SEC. 7. *Subsidiary Liability of the Employer.*--An employer, shall be subsidiary liable for acts of sexual harassment as defined herein which are perpetrated by any person referred to in Section 6 hereof and who is under his/her authority and control, unless he/she can show proof that he/she has taken all the necessary acts required of him/her under Section 5 hereof.

SEC. 8. *Illegal Dismissal.*--An employee or worker who resigns due to sexual harassment shall be deemed to have been illegally dismissed.

SEC. 9. *Sexual Harassment in Non-Employment Environment.*--Whenever a person in authority uses his/her position or influence to intimidate or coerce another individual who is under his/her care or supervision, or who has a pending business or official transaction requiring his/her approval, through unwelcomed advances, requests for sexual favors and other verbal or physical conduct of a sexual nature, he/she shall be liable for sexual harassment in accordance with this Act.

SEC. 10. *Disposition of Cases.*--Any complaint of sexual harassment may be filed by the aggrieved party or any interested party in behalf of the aggrieved party provided that if the case is initiated by the latter, a written consent of the aggrieved party is obtained.

All complaints of sexual harassment except as otherwise provided in this Act, shall be filed initially with the employer or his/her supervisor who shall thereupon make the necessary investigations, conduct summary proceedings after notice to the offender, even in the absence of the offender, and proceed with the expeditious settlement of the case.

In any of the following cases however, complaints may be filed directly with the Regional Director of the Depart-

1 ment of Labor and Employment (DOLE) or the Civil Service
2 Commission (CSC) as the case may be, having jurisdiction
3 over the place of employment:

4 a) where for any reason, the employer or supervisor
5 or labor union leader or officer fails to act upon such
6 complaint of sexual harassment; or

7 b) where filing of such complaint with the employer
8 or supervisor or labor union leader or officer would
9 be useless because such employer or supervisor or
10 labor union leader or officer is himself/herself the
11 harasser;

12 c) in all other cases as may be determined by the
13 Secretary of the DOLE and/or Chairperson of the CSC
14 through appropriate guidelines.

15 The complaint must show that all administrative
16 remedies within the establishment have already been exhaust-
17 ed.

18 SEC. 11. *Sexual Harassment Committed by Public Offi-*
19 *cers/Employees.*--Sexual harassment committed by any public
20 official or employee shall be dealt with in accordance with
21 the provisions of the Civil Service Code and other relevant
22 laws or regulations pertaining to discipline of officials
23 and employees in the government service.

24 SECTION 12. *Supplementary Application of Existing Legis-*
25 *lation.*--Matters not covered by this act shall be governed
26 by the provisions of the Labor Code of the Philippines, the
27 Civil Service Law or other related laws, insofar as they are
28 not inconsistent with any of the provision of this act.

29 Sec: 13. *Implementing Rules.*--The provisions of this
30 Act shall be effective immediately. The DOLE and the CSC
31 shall promulgate and issue the necessary rules and
32 regulations to implement the provisions of this Act in

39

1 their respective jurisdiction, within the first year from
2 the effectivity of this Act, without affecting the immedi-
3 ate effectivity of this Act.

4 SEC. 14. **Penalties.**--In addition to the reliefs to
5 which the victim of sexual harassment may be entitled to
6 under labor and civil legislations, any person who violates
7 the provisions of this Act shall be penalized by imprison-
8 ment of not less than one (1) year nor more than two (2)
9 years, or by a fine of not less than twenty thousand pesos
10 (₱20,000.00), nor more than forty thousand pesos
11 (₱40,000.00), or both fine and imprisonment at the discre-
12 tion of the court.

13 SEC. 15. **Independent Action for Damages.**--Nothing in
14 this Act shall preclude the victim of sexual harassment from
15 instituting a separate independent action for damages with
16 injunction.

17 SEC. 16. **Repealing Clause.**--Any provision of law,
18 decree, executive order or regulations inconsistent with
19 this Act is hereby repealed or modified accordingly.

20 SEC. 17. **Separability Clause.**--In the event that any
21 provision of this Act or the application of such provision
22 to any person or circumstance is declared invalid or uncon-
23 stitutional, the remainder of this Act or the application of
24 said provision to other persons or circumstances shall not
25 be affected by such declaration.

26 SEC. 18. **Effectivity.**--This Act shall take effect
27 fifteen (15) days after its publication in the *Official Ga-*
28 *zette* or in any newspaper of general circulation.

29 Approved,

30
31 POF/OBI/wta
32 a:\pof#6bills\sexhars2.act