

Move with the times and support sexual harassment laws

<http://www.malaysiakini.com/letters/89503>

Malaysiakini.com

Sofia Lim Siu Ching | Sep 11, 08 4:53pm

We, the All Women's Action Society (AWAM) refer to reports in a local daily on Sep 9, on The Malaysian Employers Federation (MEF) executive director Shamsuddin Bardan's statements against the proposed amendments to the Employment Act 1955 criminalising sexual harassment.

We wish to refute Bardan's claims that existing laws and guidelines were adequate, that there were no statistics on sexual harassment and that such legislation could have an adverse effect on foreign direct investments.

First, there are no special provisions in the Penal Code for sexual harassment offences, neither are there any other laws criminalising sexual harassment. The provisions provided for cover crimes of a sexual nature.

The Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace exists, but it is a mere guideline and does not carry the force of law. The lack of awareness and willingness to apply self-regulation results in low take-up rates among companies.

Second, we dispute Bardan's claim that statistics show low rates of sexual harassment. According to a 2001 study conducted by AWAM and the Women's Development Collective, a staggering 35 percent of respondents faced one or more forms of sexual harassment.

If Bardan is referring to the Ministry of Human Resource's low numbers of reported cases, these numbers are not an accurate reflection of the prevalence of sexual harassment in the workplace, as the former minister of Human Resources himself admitted.

In June of this year, the Director-General of Industrial Relations also admitted television that his department's low statistics is also not a true picture.

The reality is that sexual harassment, like other sexual crimes and violations, is extremely under-reported for many reasons, such as fear of reprisal or dismissal. Victims are not likely to pursue a case if they don't believe they will get justice from a company that has no clear anti-sexual harassment policy and legal redress mechanisms, and especially if they are also likely to be accused of over-reacting or be judged publically.

As for Bardan's claim that such legislation could have an adverse effect on foreign direct investments, in AWAM's extensive experience, it is the multinational corporations who have the most firm and stringent anti-sexual harassment policies.

Clearly, multinational corporations are acutely aware that sexual harassment is detrimental to the workplace and having anti-sexual harassment policies safeguards productivity and morale, workers' health and well-being and talent retention.

We do however, agree with Bardan that the ministry should avoid making "ad hoc piecemeal amendments". This is why AWAM and other women's groups have long urged the government to enact a separate and more comprehensive anti-sexual harassment bill. The Malaysian public too is overwhelmingly in favour of new laws as a survey in 2001 by AWAM showed.

The MEF, long an opponent of any sexual harassment laws, needs to move with the times, and recognise that mandating workplaces that are safe and conducive for all workers is not only a responsibility of employers but is also in everyone's best interest. Pro-worker and pro-women anti-sexual harassment laws are long overdue.

The writer is president of the All Women's Action Society (AWAM)