

SEXUAL HARASSMENT – a commentary.

Published on March 7, 2018

Chinye Uwechue
at Pacific Atlantic Law Corporation

By Chinye Uwechue – March 7, 2018

Sexual harassment is as old as prostitution. Like prostitution it is here to stay as long as mankind exists therefore the question is what to do? Answer – manage it so that the number of victims are minimal in any given year and have an equitable method of compensating those victims.

We also need to keep in mind that the “victims” created by an environment where sexual harassment is permitted may not always be obvious. There is the person being propositioned against her/his will (the obvious victim) then we must not forget the other potential and less obvious victim i.e. the person falsely accused of sexual harassment where the accuser’s motive may be revenge (hell hath no fury like) or extortion etc...

Whenever there are accusations, given what we know of “human nature”, if equity and justice are to prevail, we must always keep in mind the two types of victims. In assisting the person being propositioned against her/his will we must not sacrifice the truly innocent victim of revenge/extortion. At the end of the day it is respect for due process and the right to be heard that stops a civilization from disintegrating into a community of witch-hunters.

One component of sexual harassment is bullying i.e. the abuse of power. This occurs when an individual perceives himself/herself as being so above another that he/she believes he/she can act with impunity. It is the perceived absence of leverage in a potential victim that can motivate a bully. One way of protecting the victim is to give him/her leverage, or, have the victim acquire leverage. Examples:

- (1) When invited for a private audition/function attend with a friend and make sure that the bully is aware that you are not alone. Make sure that you and your friend have a pre-arranged signal which can be discreetly used to alert the friend of distress.
- (2) Meet in public places where the bully does not control entrances and exits so that you can leave whenever you want to e.g. a quiet booth in an otherwise crowded restaurant.

mentioned how her boyfriend at the time confronted the bully and put an end to the abuse).

Like everything in life there is only so much that an individual can do, consequently for situations where the bully is undeterred we must have laws passed so that the victim has affordable judicial recourse. The key is “affordable” because as long as the bully has more money he/she may have no fear of the judicial system since he/she will simply hire lawyers to defend and/or cover up the abusive acts. The system must be affordable for the victim.

Where the sexual harassment involves touching this is potentially criminal assault/battery which can be prosecuted. However, the problem is often evidence i.e. the bully and his/her victim may be the only witnesses and each may have an incentive to lie – how do you determine who is telling the truth? In the workplace and public areas where there is no expectation of privacy, cameras can be deployed as part of the overall security system. This will not prevent the determined bully from abusing his/her power but it will create safer zones where potential victims can stay and where they know that if attacked they can provide independent proof of the harassment.

Fighting sexual harassment is a work in progress – as we find a solution and shut one door expect the determined abuser to find a way around that solution. Such abusers are by nature predators so we must dig in for the long haul always keeping in mind that there are potentially 2 victims - the obvious person being propositioned and the less obvious innocent person being falsely accused. For a fair and equitable society both victims must be kept in mind and one category should not be sacrificed to satisfy the needs of the other. How we achieve this balance will be a testament to the level of equity (or lack thereof) in our society.

This opens up possible options e.g. a special and free arbitration process for sexual harassment cases where the arbitrators are retired judges with backgrounds in labor laws and civil rights. These judges could be paid a stipend by the State to “volunteer” 20 days per year (for the first 3 to 5 years of their retirement) to sit on a panel of 3 such retired judges.