

SEXUAL ASSAULT AWARENESS MONTH: A CALL TO ACTION

April 2024 marks the official 23rd anniversary of Sexual Assault Awareness Month. Sexual Assault Awareness Month calls attention to the fact that sexual violence is widespread and impacts every person in the community.

There is mounting pressure and calls for urgent action to address violence and harassment against women and men in the world of work. The issue has been expressed at global level in the 2030 Agenda for Sustainable Development Goals which calls for the achievement of full and productive employment and decent work for all women and men.

In June 2019, the International Labour Conference adopted a pioneering treaty, ILO Convention No. 190, which recognises the universal right to a world of work, free from violence and harassment. It came into force on 25 June 2021. Member states that ratify C190 are legally obligated to enact laws and policies to prevent and address workplace violence and harassment. Namibia ratified the C190 in December 2020, which came into effect in December 2021. This means that Namibia must incorporate C190 in its domestic, legislative framework.

Namibia ratified the Discrimination (Employment and Occupation) Convention, 1958 (C111) on the 13th of November 2001. This is an important instrument particularly concerning issues of discrimination in employment. C111 defines discrimination as any distinction, exclusion, or preference based on race, colour, sex, religion, political opinion, national extraction, or social origin which impairs equality of opportunity or treatment in employment or occupation. Such discrimination in employment can adversely impede an individual's professional development and workplace experience, thereby constituting a major barrier to achieving workplace equality. The principles of C111, therefore, provide a legal and ethical framework for combating sexual harassment.

Sexual harassment at workplaces

Sexual harassment is a serious misconduct according to the City of Windhoek's Labour Relations Policy and Procedures, and every employer has a duty to protect its employees from harassment.

Sexual harassment at the workplace may be described as persistent, unsolicited, and unwanted sexual advances by one person to another. Sexual harassment violates the victim's right to integrity of the body and personality and is aggravated in the employment context by the fact that the victim may be afraid to complain, because to do so could lead to a loss of opportunities, or even to dismissal.



The following conducts may amount to sexual harassment:

- Physical contact through verbal forms such as innuendoes (by nodding at, by pointing to), suggestions, hints, and comments with sexual undertones;
- Sex-related jokes or unwelcome graphic comments made in their presence or directed at them;

- Inappropriate enquiries about a person's sex life;
- Indecent exposure and the unwelcome display of sexually explicit pictures and objects;
- When a superior undertakes or attempts to influence the process of employment, promotion, training, discipline, dismissal, salary increment or other benefit of an employee or job applicant in exchange for sexual favours – this act is called "quid pro quo."

An employee who alleges being sexually harassed (complainant) must prove that the accused employee's conduct was offensive and secondly that his/her (complainant) reaction was reasonable. The following elements of the offence of sexual harassment can be derived from:

- The conduct of the accused employee must have been of a sexual nature;
- The conduct must have been continuous, or at least have been calculated to have a lasting effect on the complainant;
- The conduct must have been unsolicited, and offensive to the complainant;
- The accused employee must have been aware, or should reasonably have been aware, that his or her conduct was unwanted by, and offensive to, the complainant.

Sexual harassment reporting, step-by-step:

- Report a case/incident to the supervisor. This reporting must be provided in a statement format where incident/s are recorded with information pointing to:
 - What happened (action)
 - When it happened (date)
 - Where it happened (place)
 - Complainant's response toward inappropriate actions or advances (in cases of repeated conduct) from the perpetrator. In the context of a sexual harassment allegation, the complainant needs to

have expressed her/his disapproval of the advances and providing evidence to that will be critical.

Please note: In some cases, sexual harassment is first reported to the Employee Wellness Practitioner and in this case, he/she will assist the victim to report the case to the direct supervisor.

2. Witnesses and evidence: Sexual harassment is a serious offence and there must be witnesses who can testify and evidence to prove the allegations.

a) The victim needs to compile a list of witnesses.

b) The supervisor needs to speak to the identified witnesses who will then testify during the hearing. They must also provide statements.

3. The supervisor shall notify the offender/perpetrator and ask him/her to respond to the allegations in a form of a statement, and/or have the right not to provide a statement, but then shall prepare his/her version to be expressed during a formal hearing.

4. Once the supervisor has gathered the necessary statement and contacted witnesses, the supervisor should determine if there is a prima facie case that warrants the offender to be charged in accordance with the IR Policy & Procedures. If so, he/she can compile the dossier of evidence gathered and consult the Labour Relations/Legal Division to assist with the formulation of the charges.

The allegation of a sexual harassment offence is very sensitive in nature and needs to be taken seriously and dealt with expeditiously, and the complainant should be protected against victimisation and false accusations.

Please note: Attempted rape or rape is a criminal offence and as such it also needs to be addressed as per the legal provisions by registering a case with the Namibian Police.

As we approach the end of April, let us reflect on this very sensitive, yet important, topic, as it relates to women and men in the workplace. We all have a responsibility to raise awareness of this issue and to collectively create a safe environment to report, support and reduce the number of sexual assault/harassment incidents within our workplaces.

May we unite in the fight against sexual assault.

HER WORSHIP QUEEN O KAMATI MAYOR OF WINDHOEK

Reference: Ohms Moven Kayama, 2024: Regulation of Sexual Harassment at The Workplace in Namibia

