

Keynote Address

by

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Minister of Labour and Small Enterprise Development**

Public Consultation on

Sexual Harassment in the Workplace

Trinidad Hilton and Conference Centre

Friday June 1st, 2018: 9.00 a.m. to 4.00 p.m.

Salutations,

A hearty Good Morning to you all.

It is with great expectation that I join in warmly welcoming you to this very important and sensitive national stakeholders' consultation. You have come here today to exchange views and ideas on a delicate issue which, if not clinically, objectively and unemotionally deliberated upon, could result in unwelcome repercussions for us all.

I refer of course to this long awaited opportunity to freely, frankly and dispassionately confront the disturbing issue of sexual harassment in the workplace.

Many years ago, there was a very young lady who was employed in the Public Service. In the course of applying herself diligently and loyally to her job, suddenly, without warning, she found herself downgraded from being a very efficient and reliable worker to being appraised as the worst worker in the Department.

Had that young lady not been adept at defending herself, she was heading towards being indiscriminately fired. The young lady stood her ground and ably and capably represented and defended herself successfully thus protecting her job.

That young female worker came face to face with the trauma of sexual harassment in the workplace and the negative impact which it could have inflicted upon her career.

Today that young lady, has grown in experience and stature, emboldened with a deep personal understanding and appreciation of the tribulations of sexual harassment in the workplace.

That young lady steadfastly worked her way up the ladder into a position where she was able to put in place measures to treat with the dilemma of countless women similarly victimised on the job and to help safeguard others from these atrocious acts of workplace indiscretions.

Ladies and Gentlemen, I knew that young lady very well. Over the years, we have become so inextricably inseparable. You see, that lady, not young anymore, eventually became the President of the Public Services Association and now Minister of Labour and Small Enterprise Development. So I know and understand that of which today we speak: the perils of sexual harassment in the workplace. I know it from personal experience.

Ladies and Gentlemen,

To appreciate the deep dimensions of workplace sexual transgressions which confront us today, it is critical that we place the issue in its historical perspective.

The records show that Sexual harassment is an abomination which started to debase the sanctity of human civilisation many generations ago. Early evidence points to the period when sexual oppression was inflicted upon African American Women slaves by their masters. In those days, the vulnerable victims had no recourse, neither socially or legally.

The first signs of relief surfaced only when the US Civil Rights Act came into force in 1964. Yes, Ladies and gentlemen, 1964, a mere two years following Trinidad and Tobago's attainment of Nationhood. But it was not until the 1980s, 16 years thereafter, that the US Supreme Courts began to consider the Sexual Harassment matters pending since the 1960s.

Since then, the interpretations of what constitutes sexual harassment have undergone myriad iterations worldwide, engulfing within their framework the need to protect not only women but also men within their ambit.

Ladies and Gentlemen.

In engaging in your deliberations, you may find of interest the results of a Harris poll conducted on 782 workers in the United States some years ago:

The poll revealed that

- 31% of female workers compared to 7% of male workers claimed to have been sexually harassed at the workplace. 62% of the victims took no action.
- Secondly, all of the women (100%) claimed that the harasser was a man while 59% of men claimed the harasser was a woman.
- Thirdly, 41% of men claimed the harasser was another man.
- And finally, of the women who had been harassed, 43% claimed to have been harassed by a supervisor, 27% by an employee senior to them, 19% by a co-worker at their level and 8% by a junior employee.

Here are some other interesting results.

The Poll revealed that the highest levels of sexual harassment were found in the following order of Sectors:

1. Business, Trade, Banking, and Finance
2. Sales and Marketing
3. Hospitality
4. The Civil Service and
5. In Education, Lecturing, and Teaching

Ladies and Gentlemen, regrettably we in Trinidad and Tobago are not endowed with this type of data. No doubt, the time has come for us to address this shortcoming and conduct our own research and analysis on the issue. In that regard, we anxiously await the establishment of the National Statistical Institute.

In gathering such data, the following questions may merit consideration:

1. How prevalent is the issue in Trinidad and Tobago?
2. Who are the typical victims?
3. What are the traits of the commonplace harassers?
4. What inhibits victims (women or men) from reporting the incidents?
5. How or why do women end up alone in their boss's hotel room?
6. Do our women feel helpless in the situation? If Yes, Why Yes/If Not, Why Not?
7. What impediments exist to having a workplace sexual harassment matter heard before the Courts in Trinidad and Tobago?

Which brings me, ladies and gentlemen, to the situation which we are poised to address today.

The reality is that no stand-alone legislation currently exists in Trinidad and Tobago to specifically treat with sexual harassment in the workplace.

Matters so far brought before our courts are determined using case law, our Constitution, ILO Conventions, Sections and clauses of existing laws, or international legal precedents upon which to arrive at just, fair and impartial judgments

Our Industrial Court, in its First Case on Sexual Harassment in Trinidad and Tobago back in 1995, stated that "Sexual Harassment is a serious transgression of the right of the worker to enjoy a safe working environment and to be protected against sexually offensive conduct at the hands of fellow employees. The company has a duty to its workers to protect them in the enjoyment of that right."

Ladies and Gentlemen, this is not to say that efforts to redress this shortcoming have not been made in the past.

In 2006, The Hon Mme Justice Desiree Bernard, OR, CCH, Judge of the Caribbean Court of Justice in a paper delivered on the occasion of the 60th anniversary of the UN Commission on the Status of Women, expressed the hope that the Caricom Model for the enactment of legislation to treat with Sexual Harassment offenders in the workplace would have long ago been adopted in all our regional legislatures.

The model originally titled "The Protection against Sexual Harassment Act" was drafted since 1991 and has undergone several iterations culminating with the title "The Caricom Model Sexual Harassment Bill 1996"

This draft Bill is now almost exactly 27 years old.

The records show that up to this year, only three Caricom countries: Belize, Barbados and Jamaica had enacted specific sexual harassment legislation while St Lucia and the Bahamas have been known to make it a criminal offence embodied in broader legislative packages.

The purpose of this Consultation is to address this shortcoming in so far as Trinidad and Tobago is concerned: to give consideration to the Draft Workplace Policy on Sexual Harassment developed by this Ministry

"All forms of Sexual Harassment in the employment, education or training environment should be declared unlawful. This Draft Sexual Harassment Policy is designed to prevent, prohibit and address sexual harassment at all levels in the workplace.

It seeks to develop a social construct to change and expand the scope of the industrial relations framework in Trinidad and Tobago, to promote ethical workplace practices and thereby eliminate all forms of sexual harassment.

Ladies and Gentlemen

The Policy Paper cites Sexual Harassment as a matter of priority for the Government of Trinidad and Tobago and as such it also addresses the procedure which should be followed by both employers and employees when sexual harassment occurs.

The Policy seeks to ensure that administrative and legislative action is taken so that all employees are protected from sexual harassment.

In essence, it is the commitment of the government to promote an environment in the work place where each individual is respected and their human rights and freedoms are preserved and promoted.

Today, more women opt to enter the labour market, in far greater trenches than over the past decades. This is evidenced by an increase in the female labour force participation rates in many regions of the world, causing discrimination on the basis of sex to become an issue of increasing concern. The elimination of discrimination in the workplace and the promotion of gender equality are therefore central issues in discussions at international, hemispheric, regional and national levels.

Most recently, we have had a barge of sexual harassment allegations taking centre stage over the last year at an alarming rate, not only in Trinidad and Tobago but worldwide. Internationally, the "Me Too" Movement, which was chosen as the Times Person of the Year 2017, infiltrated Hollywood as several celebrities came forward and disclosed the sexual improprieties that occurred in that industry. Regionally, the Life in Leggings Movement grew rapidly throughout the Caribbean as many women spoke out against

gender violence in the region. This movement stated that the levels of discrimination and harassment have become too common. Locally, we have had several issues on the forefront involving high ranking individuals, which has brought us to the Consultation today.

Unfortunately, incidences of this nature in the workplace are a global phenomenon which undermines the attainment of decent work to any employee. This also contradicts one of the pillars of the Decent Work Agenda which speaks to the elimination of discrimination in employment. This pillar is one which has been endorsed at the highest political levels internationally and actions to promote this Agenda have been pursued by the Government of Trinidad and Tobago through the ratification of the International Labour Organisation (ILO) Convention No. 111, Discrimination (Employment and Occupation) Convention, 1958 and the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Ladies and Gentlemen,

Sexual harassment can negatively impact employees' psychological attachment to their organizations: victims are likely to engage in absenteeism, lateness, and neglect of assignments. It could grossly undermine the victims' level of productivity and by extension, productivity of the entire work-group and organisation and cause victims to leave their jobs. Research shows that sexual harassment is also known to create an adverse effect on the victim's mental health with the accompanying deleterious consequences.

In addition, publicised litigation imposes a heavy burden of unnecessary expenditure on organizations, impairs their public image and results in reduced corporate performance. These can translate into poor work culture, low public confidence and negatively impact the recruitment and /or retention of top talent to the organization. And I can go on and on. Suffice it to say that the multitude of unpalatable repercussions are unlimited.

Ladies and gentlemen, there is absolutely no doubt that the time has come for us to put our house in order. And in doing so, the involvement of the Leadership of the Trade Union Movement must not be undervalued.

A call for Trade Union involvement was made in 1994 when the Industrial Court of Trinidad and Tobago, in dismissing a senior employee who had provided 25 years of outstanding service to his company, stressed the role of Trade Unions when it ruled as follows: I quote:

'It is therefore left largely to employers to establish a reasonable framework for addressing problems associated with sexual harassment at the workplace. The unions, too, have an obligation to their members to work towards elimination of these problems. It is to be hoped that until Parliament enacts legislation, the parties would find it possible to co-operate in the formulation of an appropriate policy on the subject.'

Ladies and gentlemen,

The diversity of offences which contemporaneously constitute sexual harassment in the work place abounds throughout all continents: from Australia to the European Union, the United States, Africa and the Caribbean. But they all merit serious consideration.

Today, Ladies and Gentlemen, many private and public sector institutions worldwide have patterned their sexual harassment policies applying the guidelines covered by The US Equal Employment Opportunity Commission. They cover the most comprehensive and diverse range of misdemeanors which constitute sexual harassment in the workplace.

In fact only recently this year, our own Equal Opportunity Commission of Trinidad and Tobago issued a compendium of Guidelines which are designed to assist employers and the public at large in confronting the issue. It is a publication well worth reviewing.

Ladies and Gentlemen,

In considering the Draft Policy Position Paper you may wish to take into account the insightful offerings of both these institutions.

I give you the assurance that the Government of Trinidad and Tobago through the Ministry of Labour and Small Enterprise Development stands ready to debate and enact legislation outlawing sexual harassment in the workplace and to establish protocols for employers and employees to adopt and upkeep.

It is in this context that I commend all of you for your presence and participation in this very meaningful national stakeholders' consultation.

With the sincerest exhortations at my command, I wish you a positive, robust, congenial and productive engagement and look forward with bated breath to what I am sure will be a very in-depth, intelligently and intellectually driven decisive outcomes.

May Almighty God bless you all with an abundance of wisdom, knowledge and understanding as you go about the discharge of your very civic-minded and indeed challenging social responsibility

I thank you for the opportunity to have shared these thoughts with you and for extending to me the courtesy of your very kind attention.

I thank you.
