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Are Women Safe in the New Zealand Workplace?
A Study of Sexual Harassment Policies and Procedures

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Abstract

First recognised and named by feminist activists in the 1970s, sexual harassment continues to be a critical issue for women in the workplace. Feminists took women's experiences seriously enough to uncover the problem, conceptualise it and pursue it legally. In New Zealand unions lobbied for an effective law to make sexual harassment unlawful and as a result provisions were included in the Labour Relations Act 1987. These provisions have been retained with amendments in the Employment Contracts Act 1991 and the Employment Relations Act 2000.

This study investigates the sexual harassment policies and procedures of a sample group of public and private workplaces with the purpose of gaining an insight into whether there are adequate policies to protect women from sexual harassment in the New Zealand workplace. A survey method was used to collect the data and a feminist framework was employed to analyse the survey results. The study found that only three of the twelve workplaces surveyed had what could be considered adequate policies. Six of the surveyed workplaces had no policies or procedures at all and a further three had policies but did not communicate them to their staff. Furthermore it was found that in some of the workplaces where there were policies in place, survey respondents made unsolicited reports of sexual harassment. The conclusion was reached that although there were adequate policies in one quarter of the workplaces surveyed this could barely be considered adequate overall to protect women from sexual harassment. Having policies in place is critical and should be made a legal imperative, but implementing the policies and procedures and monitoring their effectiveness is the key factor in preventing sexual harassment in the workplace.

Acknowledgements

The desire to investigate and learn more about women's issues stems from my own life experience. I fulfilled my parents' expectations for me and became pregnant and married at seventeen. They had spoken to the principal of the high school before I had begun the third form to explain that there would be no point in providing me with a formal education since I would be getting married. I was their good-looking daughter. This was unlike my older sister who, according to our parents, had brains and was destined for an academic life. With her support and encouragement I began tertiary study at the age of 40 and discovered a whole new way of understanding the world and myself. Feminist writings in particular fuelled my anger at the unfairness of the lack of equality for women in education, relationships, the workplace, in fact in all of society. I became increasingly aware that issues in my own life, which I had previously considered to stem from personal inadequacy, were actually social and political issues which affect many women. Feminists call this process consciousness raising.

I owe my sister Marianne Tremaine a huge vote of thanks for believing in my intellectual ability and for always looking out for me. I am indebted to her for time spent explaining unknown concepts when I was struggling to get my head around them and for taking it for granted that I could do it.

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Table of Contents

Introducing the Study:	1
Why Research Sexual Harassment?	1
The Aim of the Study	4
Chapter One	6
Sexual Harassment: The History, the Behaviour, and the Law	6
Introduction	6
The History of Sexual Harassment	7
The Extent of Sexual Harassment	8
The Effects of Sexual Harassment	9
Response to Complaints of Sexual Harassment	9
Types of Harassment	11
An Alternative View	11
Sexual Harassment Law	11
Conclusion	17
Chapter Two	18
The Features of Sexual Harassment:	18
A Review of the Literature	18
Introduction	18
Defining Sexual Harassment	18
Why Does Sexual Harassment Occur?	20
Characteristics of Harassers	26
Workplace Characteristics and Practices that Discourage Sexual Harassment	27
Preventing Sexual Harassment	29
Chapter Three	31
Methodology	31
Introduction	31
Methodology: Key Issues	31
Gender as a Dichotomy	32
Gender as a Social Construction	33
The Concept of Patriarchy	33
The Role of the Researcher in Feminist Research	35
Method	36
Organisations Selected	37

Research Technique	38
The Survey Questionnaire	39
Survey Responses	40
Analysing the Policies and Procedures	41
The Meaning of Adequate	42
Ethical Issues	43
Chapter Four	44
Research Findings	44
Introduction	44
Survey Responses for Public Organisations	44
Survey Responses for Private Organisations	50
Key Points in Public Organisations	54
Key Points in Private Organisations	55
Conclusion	57
Chapter Five	58
Analysing the Survey Results	58
Introduction	58
Are Adequate Policies in Place?	58
But are Adequate Policies Enough?	60
Why not Communicate the Policy?	62
Why Would Organisations Choose not to Have a Policy at all?	64
Problematic Issues in the Survey Responses	67
Conclusion	72
Chapter Six	74
Conclusion	74
Major Findings	74
Recommendations	76
Further Exploration	78
Bibliography	80
Appendices	
Appendix One: Letter of Introduction and Survey Questionnaire	87
Appendix Two: Policy and Procedures for Company #3	90

Appendix Three: Survey Responses for Company #4	101
Appendix Four: Policy and Procedures for Company #4	103
Appendix Five: Policy and Procedures for Company #6	109
Appendix Six: Survey Responses and the Policy and Procedures for Company *2	111
Appendix Seven: Dress Code and Harassment Policy for Company *3	115
Appendix Eight: Survey Responses for Company *4	117
Appendix Nine: The Policy and Procedures for Company *4	119

List of Tables and Figures

<i>Table One: The Analysis Scale</i>	42
<i>Table Two: Survey Responses For Public Organisations</i>	50
<i>Table Three: Survey Responses for Private Organisations</i>	54
<i>Figure One: Differences in Analysis Scores for Public and Private Organisations</i>	56

Introducing the Study

‘True equality requires that women and men be understood as equal, albeit different, so that their differences are granted equal status’ (Crouch, 2001:20).

Why Research Sexual Harassment?

Sexual harassment in the workplace is a critical issue for women. It creates a barrier to their educational and occupational pursuits. In doing so it perpetuates women’s subordinate socio-economic status in society. Although it has been suggested that sexual harassment is an “equal opportunity behaviour” in which women are equally likely to harass men, according to the literature, this is simply not the case. Paludi and Barickman (1991:21) suggest that the reason for this is that ‘women are much less likely to hold the organisational power that would permit them to offer sexual rewards and/or punishments’. Studies show that the overwhelming majority of harassers are men and even when men themselves are harassed it is typically by other men (Fitzgerald, Collingworth and Horned, 2001). Sexual harassment is a common experience for women in the workplace all over the world and that it is extremely damaging to those who are exposed to it (Levy and Paludi, 2002; Neft and Levine, 1997; Beiner, 2005; Stockdale, 1996).

The impact of being sexually harassed is frequently disastrous, producing feelings of revulsion, violation, disgust, anger and powerlessness. Studies by Rubenstein (1992:9) found that victims may experience severe emotional trauma, anxiety, nervousness, depression, low self esteem, as well as physical reactions ranging from sleeplessness, headaches and nausea, to high blood pressure and ulcers. Research by Levy and Paludi (2002:72) indicates that ‘depending on the severity of the harassment between 21% and 82% of women report that their emotional condition deteriorated as a result’. Being sexually harassed often forces women to change their employment which means that many of the benefits of long term service to the organisation will be lost (Human Rights Commission, 2001). As Hadjifotiou (1983:21) argues ‘promotion, seniority, sick pay, pension rights and opportunities for training are frequently linked to length of service, and victims of sexual harassment may be forced to sacrifice these benefits’. As a victim of sexual harassment Herbert (1989:35) argues

that

a woman's life is curtailed in a variety of ways including her sexuality, her autonomy, her professional advancement, her financial independence, her rights to a fair and equal dealing in law, medical attention and educational opportunities and her rights to peace of mind and happiness.

Sexual harassment coerces women into positions where they feel powerless and as a consequence are unable to realise their full potential in the workplace and elsewhere. Sexual harassment, rape, domestic violence and sexual abuse are all issues which impact on women in catastrophic ways. Furthermore, like victims of rape who go to court, women who are sexually harassed are likely to experience a second victimisation when they attempt to deal with the situation through a legal process (Levy and Paludi, 2002). Over the past three decades, sexual harassment has emerged as a strong and recurrent theme in women's career development.

Sexual harassment is a complex issue and the incidence of it in the workplace shows no sign of diminishing. In fact Hanisch (1996:195) suggests that 'computer mail or electronic mail (e-mail) may provide an additional unique forum for individuals to harass co-workers or subordinates and result in the likelihood of the expansion of sexual harassment'. Furthermore text messaging is now commonplace and recent advances in cell phone technology enable photographs to be emailed, both of which increase opportunities for sexual harassment to occur. Much has been written about sexual harassment over the last thirty years but little appears to have changed for women in the workplace. Although some institutions and organisations have developed policies designed to protect their employees from harassment and themselves from litigation and financial loss, sexual harassment continues to be a 'persistent workplace problem' (Beiner, 2005:1). Garvey (cited in Riger, 1991:215) states that 'unwanted sexual attention may be the single most widespread occupational hazard in the workplace' (Levy and Paludi, 2002).

The current research developed from a postgraduate research project completed in 2003 in which I discovered huge gaps and misunderstandings with regard to sexual harassment (Weeks, 2003). The earlier study consisted of a telephone survey and approached a number of organisations throughout New Zealand asking for information about their sexual harassment policies. Many of these organisations were in important advisory roles whereby hundreds of women could be affected by their apparent lack of knowledge and concern. This was shown in a number of ways. For example a policy

which had been formulated in 1972 was still operating in a North Island school and signed by a staff member in 2001. Another organisation stated that there was absolutely no problem with sexual harassment among the hundreds of employers they advised and if any woman rang them complaining of it she would be sent off to Rape Crisis forthwith. Furthermore a Ministry official believed that sexual harassment and child sexual abuse were the same thing and although I explained the difference to him he still sent me information regarding the latter. Since sexual harassment continues to affect so many women in the workplace it worried me that organisations could be so ill-prepared to deal with it. A further discovery was that even the term “sexual harassment” is not well received. Perhaps this is because it contains the word “sexual” which seems to make some people feel uncomfortable. The telephone was frequently passed around different staff members until someone was found who was prepared to discuss sexual harassment with me. Overall these responses made me even more interested in furthering research in this area.

A study by the Human Rights Commission (Human Rights Commission, 2001) of 284 sexual harassment complaints made in New Zealand between 1995-2000 showed that sexual harassment occurred more frequently in small organisations with no sexual harassment policy. Seventy-five percent of the complaints involved repeated harassment and the most common complaint involved unwanted physical contact often accompanied by repeated verbal harassment. The factors which defined the most at risk group were that they were female, young, low-skilled and low paid and often in part time work. Research by Stockdale (1996) found that being young, unmarried and female and working in a gender-skewed organisation increases the likelihood of being a victim of sexual harassment. The overall and most urgent finding of the Human Rights Commission research was that education on sexual harassment was urgently required in all sectors of New Zealand society, in workplaces, organisations and even schools.

Since embarking on this research many people have asked about the subject of this thesis and comments made in response to my reply of ‘sexual harassment in the workplace’ have ranged from ‘I wish there was more of it’ and ‘I’ve worked here for fourteen years and no one has ever harassed me’ to many anecdotal and sad tales of personal experiences. One woman’s story was particularly haunting and with her permission it is repeated here. At sixteen after a blazing row with her parents she walked out of the house with nothing but the clothes on her back. She had told them that she would return around the same time hell froze over so she stayed with a friend and

the next morning set about getting a job. It was necessary to explain to the employer when she was offered a position that until payday she would be forced to wear the same clothes since they were all she had. He offered her an advance on her wages which she gratefully accepted. When she received her first pay he told her not to worry about repaying it all at once. She could pay it off in instalments. She thought he was outstandingly kind and generous. After her fourth week in the job, however, she was asked to come into his office and was told that she could keep her position and would not have to repay the money if she sat on his knee. He was naked from the waist down. She was desperate and accepted his offer.

Many women I have spoken with have had at least one experience of sexual harassment, very few have made official complaints because they feel it would probably make the situation worse and some have been profoundly affected by it. Empirical studies of sexual harassment suggest that less than 20% of women who believe they have been harassed complain to authorities within the workplace (Le Moncheck and Sterba, 2001). I vividly remember being employed in a tobacconist/barber shop when I was in my teens where the only way out from behind the counter was through a doorway where the boss always stood. At least he was always standing there every time I needed to go through it and although I would say excuse me he would stay where he was so that I had to squeeze past him. He made it quite clear that he enjoyed this experience and every day, several times a day, this would occur. I would be desperate to go to the toilet but would hold on hoping he would move out of the doorway. It was horrible. I found another position as quickly as possible and left. The memory stayed however and quite recently when visiting that city my husband decided he needed a haircut and pointed to the shop that I had worked in all those years ago. I could see through the window that it looked exactly the same as it had been then. I shuddered and walked away as quickly as I could just in case the boss suddenly appeared in the doorway. My interest in researching sexual harassment then, has grown from my own experience, and a strong desire to learn more about issues which limit women's autonomy, in the hope of making a difference.

The Aim of the Study

The aim of this study was to discover whether organisations in New Zealand considered sexual harassment a serious enough problem to have policies and procedures in place to protect women from it. In addition, if organisations did have policies and procedures to

deal with sexual harassment, did they reach a satisfactory level whereby they were likely to be effective? The literature suggests that the presence or absence of sexual harassment policies and procedures has a great deal of influence over the incidence of sexual harassment in the workplace. This study examines the sexual harassment policies and procedures of a sample range of different types and sizes of workplaces. The findings have been compared with the measures the literature suggests are most likely to prevent sexual harassment. The purpose was to discover, from the literature, which factors are more likely to prevent sexual harassment in the workplace and compare this to the measures taken by the sample group of organisations surveyed in this study. The findings have provided insights into New Zealand workplaces which have enabled recommendations to be made to increase women's safety,

The first chapter of this thesis provides a background to the subject of sexual harassment by explaining how the term originated and why early research was important. It then examines the extent and effects of sexual harassment along with the features of the two different types and finally gives an account of sexual harassment law in New Zealand. Chapter Two reviews the literature surrounding sexual harassment and is divided into three sections. The first section discusses the debates associated with defining sexual harassment. The second section describes major theoretical explanations for sexual harassment. The third and final section discusses the workplace characteristics that encourage and discourage sexual harassment and discusses the critical elements required to minimise occurrences of sexual harassment in the workplace. Chapter Three explains the methodology and methods used in the study. Chapter Four describes the organisations surveyed and provides details of the responses given to all of the survey questions as well as the responses from each of the organisations. In some cases sections of the policies forwarded to me have been included in this chapter because they portrayed a sense of the organisation's attitude to sexual harassment. Chapter Five provides an analysis of the research findings. Chapter Six draws together the findings of this study, makes recommendations based on these findings and suggests areas for further research.