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Catholic Women's League Australia Inc

Member Organisation of the World Union of Catholic Women's Organisations (WUCWO)
NGO Consultant (roster) status with the Economics and Social Council of the United Nations

"Behold the Miracle of Creation"

Submission from Catholic Women's League Australia

Sexual Harrassment in the Workplace Australian Human Rights Commission

28 February 2019

**"Nor should there be obscenity, foolish talk or coarse joking,
which are out of place
but rather thanksgiving..."**

1. Introduction

The Catholic Women's League Australia Inc. (CWLA) is the national peak body representing the League's six member organisations located throughout Australia. We are a Non-Government Organisation and have consultative (roster) status with the Economic and Social Council of the United Nations. We are also a member of the World Union of Catholic Women's Organisations (WUCWO). One of CWLA's four principle aims is to influence legislative and administrative bodies at all levels of government in order to preserve the dignity of the human person.

**All Correspondence to Catholic Women's League Australia (Inc)
PO Box 458, Australind, WA 6233**



2. Catholic Social Teachings

The CWLA looks to the Catholic Church's social teaching, which we believe to be a rich source of wisdom and guidance about building a just society and living an ethical life amidst the challenges of modern society. Our social teachings are articulated through a tradition of papal, conciliar, and episcopal documents. One important social teaching theme relates to that of the Common Good, which can be explained as "the principle of the common good, to which every aspect of social life must be related if it is to attain its fullest meaning, stems from the dignity, unity and equality of all people". According to its primary and broadly accepted sense, the common good indicates "the sum total of social conditions which allow people, either as groups or as individuals, to reach their fulfillment more fully and more easily"ⁱ. We believe that this teaching speaks directly to the issue of sexual harassment in the workplace. The issue of sexual harassment in the workplace hinders victims from reaching their full potential. It causes intimidation, fear, trauma and upset and thus greatly impedes a person to be able to grow, develop and flourish. It is on these grounds that we believe in putting our efforts behind stopping sexual harassment in the workplace by participating in this inquiry.

3. Sexual Harrassment in the Workplace – Australian Legislation

The Sex Discrimination Act 1984 (Commonwealth) makes it unlawful for a person to sexually harass another peson in employment. Thus, it is illegal to engage in such behaviour in this country. The Australian Human Rights (AHR) reports that sexual harassment in the workplace is one of the most common complaints received by the Commission under this Act. Between 2009 to 2010 21% of all complaints under the Act related to complaints pursuant to the ACT

and 88% of these complaints related to sex discrimination in the workplace¹. This is an alarming statistic and indicates that this issue is one of real concern to many people in this country. The AHR believes that the adverse consequences of such harassment is that it can create a barrier to women participating fully in paid work; it can undermine their equal participation in organisations or business, reduce the quality of their working life and impose costs on organisations².

4. Human Rights Framework

The human rights framework focused on the issue of sexual harassment in the workplace can be summarised as follows:

“Sexual harassment is a violation of fundamental principles of international human rights.⁶ Although the International Bill of Human Rights, which consists of the Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly in 1948,⁷ and its implementing covenants, the International Covenant on Civil and Political Rights (ICCPR),⁸ and the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁹ (both entered into force in 1976), does not explicitly mention sexual harassment, it does contain provisions that apply to sexually harassing conduct. However, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979, has since dealt with the issued on sexual harassment in the workplace.¹⁰ The Convention is been described as an international bill of rights for women, it came into force on 3 September 1981. As of July 2011, 187 states have ratified or acceded to the treaty, countries over ninety percent of the members of the United

¹ < <https://www.humanrights.gov.au/our-work/sex-discrimination/guides/sexual-harassment> > last viewed at 10 February 2019.

⁶ See article 2 of the Universal Declaration of Human Rights (UDHR) 1948. See also Tunku Sofiah Jewa, *Public International Law: A Malaysian Perspective*, Vol. 1, Kuala Lumpur: Pacifica Publication, 1996 at 468.

⁷ The International Bill of Human Rights protects rights “without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. Sexual harassment also violates the right to “just and favourable conditions of work”. In addition, the failure to provide a remedy to victims of sexual harassment violates the right to an effective remedy for the violation of fundamental human rights.

⁸ See article 2, 4, and 26 of the International Covenant on Civil and Political Rights (ICCPR).

⁹ See article 2 (2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

¹⁰ See P. R. Ghandi, n. 44 at 87 and 94; Patric Mzolisi Mtshaulana, John Dugard, Neville Botha, n. 44 at 219.

² Fredman, S. (1997). *Women and the law*. New York: Oxford University Press; and McCann, D. (2005). *Sexual harassment at work: National and international responses*. Geneva, Switzerland: International Labour Office.

Nations are party to the Convention. By accepting this convention, states commit themselves to undertake a series of measures to end discrimination against women in all forms, including: to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women, to establish tribunals and other public institutions to ensure the effective protection of women against discrimination, and to ensure elimination of all acts of discrimination against women by persons, organizations or enterprises.”³

5. Case Studies

Below is one of the experiences submitted by one of our members:

“The workplace is a microcosm of society therefore, in order to address the problem of sexual harassment, it is necessary to address attitudes prevailing in the wider culture.

When I started work in 1966, it was a man’s world. My views are based on 45 years as a working woman in various male dominated industries, with male supervisors and colleagues. Most of them were WASPS – white, Anglo-Saxon Protestant – but I did not consider my gender, ethnicity or religious beliefs would be relevant to my ability to do the job. That was naïve – those factors plus age and marital status impacted even on whether a qualified female applicant would be selected for a position. Overt discriminatory practices later had to be hidden under merit jargon.

As I progressed to more senior professional roles, males still felt their careers were more important. Many, no doubt longing for the good old days when men were men and girls were typists, resisted efforts by management to require language and interactions within a diverse workplace to be respectful and professional. They rolled their eyes at training programs in their rights and responsibilities, would laugh if caught “oops, can’t call sheilas floozies anymore can we?” and female co-workers who objected were accused of lacking a sense of humour. As the person responsible for our workplace training program, I believe that in many ways it reinforced the male culture of how they needed to stick together more than ever to counter this new threat. (“Hey mate, back us up here will you?”) Further training is not the remedy.

Sexualised comments, advances or touching are used as weapons against female staff. After my husband left me, a director said: “what you need is something red hot and throbbing between your legs.” I decided to try the official complaints mechanism, which was rarely used because most of us feel too embarrassed or

³ < http://www.ijhssnet.com/journals/Vol_3_No_13_July_2013/10.pdf > last viewed at 27 February 2019.

disempowered (as intended). You will not be surprised to hear that this man and his male colleague interviewed me and determined it was my word against his – complaint dismissed. That is why I cannot recommend complaints based policies or unenforceable legislation.

My conclusion is that the bullying and harassment are the result of our competitive culture where some people want to win. Many high achievers are expert in fostering useful connections with like-minded people – they tend not to waste their time with “losers” and they believe the end of getting to the top justifies the means (even sexually harassing women and bullying others who are different.) Dichotomous thinking which divides society into winners and losers is not inclusive, in fact does not reflect the reality that we all have talents and gifts to contribute. It was heartening to see the two Australian doctors who rescued the Thai soccer team from the cave recognized as Australians of the year. Co-operation, respect and team work are just the sort of values we need to promote and reward in our community. Instead of social practices which advantage a few, we should focus on the wellbeing of all.”

Case Study Two: Carol’s Experience

Carol worked in a bakery when she was fourteen years old, serving customers. She enjoyed her job. At night the bakers would work throughout the night until early in the morning. One day a baker called Jim was working with the other bakers when Carol started her shift at the bakery. Jim noticed Carol and started talking to her. Carol was pleasant and chatted for a bit and then went back to the shop front, to serve the customers. Later on in the day, the telephone in the bakery rang and Carol answered the telephone. Jim was on the phone and started saying to Carol that it would be great if they went out on a date at a local Chinese restaurant one night. Carol was stunned and didn’t know what to say. There was at least a fifty year age difference between herself and Jim, and in any case she was not interested in him. Carol quickly got off the telephone. From that day on she made a point of avoiding Jim when she worked at the bakery. She continued working at the bakery but the experience made her feel uncomfortable and unsafe”.

6. Recommendations:

We recommend that the following initiatives take place:

- a. Initiate a nation wide study to investigate the prevalence of sexual harassment in the workplace;
- b. Based on the evidence collected in the nation wide study create a framework and action plan for combatting this issue throughout every Territory and State in Australia;
- c. Create online awareness-raising tools about the issue of sexual harassment in the workplace, creating resources for organisations to use to create awareness of this issue in the workplace. Include resources for organisations to support them to create policies and procedures to support staff members and protect them from sexual harassment in the workplace. Create a general awareness campaign so that there is a better understanding of this issue and how it will not be tolerated; and
- d. Create training resources accessible to all organisations, including government agencies, the private sector and non governmental organisations, that can be accessed to train staff in the workplace.

We wish the committee every success in its deliberations.

Yours sincerely,

Valma Ivory

President Catholic Women's League Australia Inc.
