NOTE:

SEXUAL HARASSMENT: BRIDGING THE GENDER DIVIDE

*Chrysilla Carissa Bautista**

Sexual harassment is a learned behavior, and people can learn not to do it.

— *Sex, Power and the Workplace (Community Television of Sounthern California/RCET television broadcast, 1992)*

In 1995, Congress enacted Republic Act No. 7877, the "Anti-Sexual Harassment Act of 1995."[1] This law articulated Congress' determination to outlaw "all forms of sexual harassment" at least in the workplace and in education or training environments.[2] Section 2 of Republic Act No. 7877 provides:

> *Declaration of Policy* — The State shall value the dignity of every individual, enhance the development of its human resources, guarantee full respect for human rights, and uphold the dignity of workers, employees, applicants for employment, students or those undergoing training, instruction or education. Towards this end, all forms of sexual harassment in the employment, education or training environment are hereby declared unlawful.[3]

* *Vice-Chairperson*, Editorial Board, PHILIPPINE LAW JOURNAL 1998-1999, Third Year LL.B., University of the Philippines College of Law.

[1] Rep. Act No. 7877 (1995), sec. 1.

[2] Rep. Act No. 7877 (1995), sec. 2.

[3] Rep. Act No. 7877 (1995), sec. 2. *See Debate on H. No. 9425*, 9th Cong. (1993) (Sponsorship Speech of Representative Antonino), "Mr. Speaker . . . the purpose of House Bill 9425 is to protect workers by defining the acts that constitute sexual harassment . . . ."

The law is quite young, and there has to date been no reported judicial experience with it. Still, the very thrust and scope of the law set it apart as a most important piece of legislation. If for this reason alone, the law cannot suffer from over-study and over-examination.

Republic Act No. 7877 is a special law safeguarding the rights of workers and students from abusive employers or teachers. This is hinged upon the penal nature of the law. Violations falling within its scope are punishable under section 7, which provides:

> *Penalties* — Any person who violates the provisions of this Act shall, upon conviction, be penalized by imprisonment of not less than one (1) month nor more than six (6) months, or a fine of not less that Ten thousand pesos (P10,000) nor more than Twenty thousand pesos (P20,000), or both such fine and imprisonment at the discretion of the court.
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> Any action arising from the violation of the provisions of this Act shall prescribe in three (3) years.[4]

It is settled in law and jurisprudence that one has the right to substantive due process. Being apprised of the law, especially a penal law, is part and parcel of this right. According to Bernas, "[a] law that is utterly vague is defective because it fails to give notice of what it commands."[5] Thus, it is of utmost importance to fully understand the provisions of the law. Moreover, it is imperative to be enlightened as to what exactly are the acts punishable, and their corresponding consequences.

In this light, this Note aims to evaluate the law in terms of its scope and clarity, not only because Republic Act No. 7877 is penal in

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[4] Rep. Act No. 7877 (1995), sec. 7.

[5] JOAQUIN G. BERNAS, THE 1987 CONSTITUTION OF THE PHILIPPINES: A COMMENTARY 122 (1996).

nature, but also because sexual harassment is to be prevented and remedied.

Part I of this Note discusses the origins of sexual harassment as a concept and as a prohibited act. This part also discusses the definition[6] of sexual harassment and attempts to clarify it. Part II identifies where sexual harassment takes place and explains the two kinds of sexual harassment: Quid pro quo harassment and hostile work environment harassment. Part III deals with suggested paradigm shifts, and, in the process, overturns presumptions on the subject matter.

I. SEXUAL HARASSMENT: BEGINNINGS AND MEANINGS

The term "sexual harassment" is a relatively new addition to the English lexicon. In fact, prior to the 1980s, "sexual harassment" was unheard of.[7] The notion of sexual harassment or sexual discrimination[8] was only introduced to the legal sphere in 1964. In the United States, acts of discrimination on the basis of *sex*, race, color, religion, or national origin were prohibited under Title VII of the Civil Rights Act of 1964.[9] The pertinent provision of this statute reads:

> (a) It shall be unlawful employment practice for an employer —
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> (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or

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[6] The author will discuss the changing definition of sexual harassment in Part III which deals with overturned presumptions on the subject matter.

[7] Dante Miguel Cadiz, *The Law on Sexual Harassment: A Focus on Employer's Liability*, 40 ATENEO L.J. 26, 27 (1996), citing PETROCELLI & KATE REPA, SEXUAL HARASSMENT ON THE JOB 1-19 (1991).

[8] The term "sexual discrimination" is often used interchangeably with the term "sexual harassment."

[9] ANDREA P. BARIDON & DAVID R. EYLER, WORKING TOGETHER: NEW RULES AND REALITIES FOR MANAGING MEN AND WOMEN AT WORK 89 (1984).

> privileges of employment because of such individual's . . . sex . . . .[10]

The original Title VII of the Civil Rights Act of 1964 did not include acts of discrimination based on sex.[11] The prohibition against sex discrimination was added by a floor amendment by Representative Smith on 8 February 1964.[12] It was further amended in 1978 to give enforcement authority to the Equal Employment Opportunity Commission (EEOC).[13] In 1980, the EEOC issued guidelines defining sexual harassment and stating that it was a form of sex discrimination declared unlawful by the Civil Rights Act of 1964.[14]

In this jurisdiction, Republic Act No. 7877 is a result of the combined efforts of the House of Representatives and the Senate. House Bill No. 7870[15] and House Bill No. 8949[16] were separately filed in the lower house. Eventually, House Bill No. 9425[17] was submitted for deliberations on the floor in substitution of the former house bills dealing with the same subject matter. The Senate passed a similar bill, Senate Bill No. 1632[18] and due to conflicting provisions with the House Bill No. 9425, these bills were discussed by a Conference Committee.[19] On 8 February 1995, both the House of Representatives and the Senate approved the Report of the Conference Committee. Six days later, this piece of legislation was signed

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[10] 42 U.S.C. § 2000e-2 (1988).

[11] Cadiz, *supra* note 7, at 27 n.9 (1996).

[12] *Id.* at 27 n.12, citing 110 Cong. Rec. 2582, 2804 (1964).

[13] BARIDON, *supra* note 9.

[14] Cadiz, *supra* note 7, at 28.

[15] An Act Prescribing (*sic*) Sexual Harassment in the Employment Environment and Providing Penalties Therefor, 9th Cong., 3rd Sess. (1993).

[16] An Act Proscribing Sexual Harassment of the Employees and Workers and Providing Penalties Therefor, 9th Cong., 1st Sess. (1993).

[17] An Act Proscribing Sexual Harassment in the Employment Environment and Providing Penalties Therefor, 9th Cong., 1st Sess. (1993).

[18] An Act to Prevent, Deter and Proscribe Sexual Harassment in the Employment and Non-Employment Environment, Providing Penalties Therefor and For Other Purposes, 9th Cong., 1st Sess. (1993).

[19] The members were Representatives Veloso, Antonino, Jabar, Acosta, Domingo, Garcia, Lopea, Gullas, Isidro and Senators Lina Jr., Roco, Arroyo, Maceda, Ople, Herrera, Shahani and Tañada.

by President Fidel V. Ramos and was enacted as a special law on the protection of the rights of workers and students or trainees.

The record shows that the Philippines is the first Asian country to enact a law prohibiting sexual harassment.[20]

Generally, sexual harassment refers to "the imposition of any unwanted condition on any person's employment because of that person's sex."[21] It is also traditionally defined as "a demand that a subordinate, usually a woman, grant sexual favors in order to obtain or retain a job benefit."[22] Section 3 of Republic Act No. 7877 defines and characterizes sexual harassment at great length, but it proves to be vague and inadequate. The first paragraph of section 3 reads:

> *Work, Education or Training-related Sexual Harassment Defined* — Work, education or training-related sexual harassment is committed by an employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person who, having authority, influence or moral ascendancy over another in a work or training or education environment, demands, request or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the object of said Act.

Clearly, then, it may be inferred that the prohibited act of sexual harassment may be committed by persons occupying positions of power against their subordinates. Aside from the listing of positions, the law further characterizes the offender as "any [other] person who . . . [has] *authority, influence or moral ascendancy* over another" (emphasis supplied). The inequality of the positions of the offender and the victim is seemingly an important aspect of the act. The law is just short of saying that inequality in the positions of the offender and victim is an indispensable requirement in the context in which sexual harassment may take place.

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[20] Myrna S. Feliciano, *Philippine Law on Sexual Harassment in the Workplace*, 70 PHIL. L.J. 541, 547 (1996).

[21] BARBARA LINDEMANN & DAVID D. KADUE, SEXUAL HARASSMENT IN EMPLOYMENT LAW 4 (1992).

[22] *Id.* at 3-4.

This perspective on sexual harassment is in support of Catharine MacKinnon's view. MacKinnon defines sexual harassment as the "imposition of sexual requirements in the context of a relationship of unequal power."[23] Simply put, "sexual harassment is the exploitation of a powerful position to impose sexual demands or pressures on an unwilling but less powerful person."[24] However, although the inequality aspect is correct in some accounts of sexual harassment, it is not necessarily present in all.[25]

The actual act of sexually harassing an employee, student or trainee consists of demands, requests or requirements of any sexual favor from the other regardless of whether the demand, request or requirement for submission is accepted. There is even a view that a "mere proposal constitutes sexual harassment."[26]

This legal definition of the actual act is too brief and far incomplete. Moreover, the anti-discriminatory clause in Title VII of the Civil Rights Act of 1964 proves unclear in the light of developments in the United States.

Firstly, the EEOC, through its 1980 Guidelines on Sexual Harassment, clarified the concept of sexual harassment by characterizing it as an *unwelcome* act. The guideline reads:

> (a) Harassment on the basis of sex is a violation of Sec. 703 of Title VII. *Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment* when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting

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[23] *Id.* at 4 n.9.

[24] Note, *Sexual Harassment Claims of Abusive Work Environment Under Title VII*, 97 HARV. L. REV. 1449, 1451 (1984).

[25] Sexual advances by a co-worker, who is not necessarily a superior, is also a form of sexual harassment.

[26] Feliciano, *supra* note 20, at 548.

> such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. (emphasis supplied)[27]

The EEOC recommended the adoption of the "unwelcome" requirement. Though these regulations are merely advisory and not binding on the courts,[28] the U.S. Supreme Court recognized the unwelcome requirement in the landmark case of *Meritor Savings Bank v. Vinson*.[29] This ruling established "that unwelcome sexual behavior can indeed create a hostile working environment that constitutes discrimination on the basis of sex . . . ."[30] The Court further ruled "that the correct inquiry for the courts is not whether the victim submits voluntarily but whether the sexual relationship is an *unwelcome* one linked to conditions of employment" (emphasis supplied).[31]

Juliano critiques the unwelcome requirement by asserting that "[t]he judicial treatment of the unwelcome requirement threatens to weaken the potentially powerful hostile environment claim by subjecting it to outdated sexual stereotypes."[32] She continues by saying that "the factors U.S. courts presently consider in determining whether behavior was unwelcome demonstrate a deeply rooted gender bias in the definition of discrimination."[33]

Apart from asserting the stereotype that women are objects of sexual advances, the unwelcome requirement also implies that such sexually harassing conduct may be *welcome* in other circumstances. Adopting the unwelcome requirement is admitting that victims of sexual harassment generally welcome these prohibited acts in their work or study

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[27] EEOC 1980 GUIDELINES ON SEXUAL HARASSMENT (1980), sec. 1604.11 (a).

[28] Joan S. Weiner, *Understanding Unwelcomeness in Sexual Harassment Law*, 72 NOTRE DAME L. REV. 621, 623 n.7 (1997).

[29] 477 U.S. 57 (1986).

[30] BARIDON, *supra* note 9, at 109.

[31] *Id.*

[32] Ann C. Juliano, *Did She Ask for It?: The "Unwelcome Requirement" in Sexual Harassment Cases*, 77 CORNELL L. REV. 1558, 1558-59 (1997).

[33] *Id.* at 1559.

environments. Actually, Feliciano observes that "there is that prevalent social attitude that women are usually assumed to have *invited* harassment through their dress, speech, actions or personality."[34] (emphasis supplied) Describing this prohibited act as unwelcome limits the understanding of sexual harassment as a whole.

Secondly, the EEOC, in its attempt to flesh out the meaning of sexual harassment, recognized that the characterization of the act as sexual harassment varies depending on the circumstances of the case at hand. This may be deduced from the following provision.

> (b) In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. *The determination of the legality of a particular action will be made from the facts, on a case by case basis.* (emphasis supplied)[35]

In March 1990, the EEOC issued the *Policy Guidance on Current Issues of Sexual Harassment*.[36] In this document, the EEOC recommended that "[i]n determining whether harassment is sufficiently severe or pervasive to create a hostile environment, the harasser's conduct should be evaluated from the objective standpoint of a reasonable person."[37]

In interpreting the EEOC guideline, U.S. jurisprudence advanced the notion of the "reasonable woman" requirement. The case of *Ellison v. Brady*[38] established that the alleged sexual harassment is to be judged by the

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[34] Feliciano, *supra* note 20, at 541.

[35] EEOC 1980 Guidelines on Sexual Harassment (1980), sec. 1604.11 (b).

[36] Robert S. Adler & Ellen K. Pierce, *The Legal, Ethical and Social Implications of the "Reasonable Woman" Standard in Sexual Harassment Cases*, 61 FORDHAM L. REV. 773, 774 (1993), citing EEOC Policy Guidance on Current Issues of Sexual Harassment, 19 March 1990.

[37] *Id. See* Nancy S. Ehrenreich, *Pluralist Myths and Powerless Men: The Ideology of Reasonableness in Sexual Harassment Law*, 99 YALE L.J. 1177 (1990). This article argues that the reasonable person test is a legitimate means in determining and defining sexual harassment.

[38] 924 F.2d 872 (1991). In this case, the Court justified its rejection of the reasonable person standard in favor of the reasonable woman standard approach by explaining that a sex-blind reasonable person

reasonable woman standard.[39] However, theorists and writers oppose the correctness of the reasonable woman standard. Marcus opines that "this standard does not have the usefulness or clarity that was intended."[40] Marcus also cites the opinion of Nordin extensively:

> The reasonable woman concept should represent a true and voluntary agreement among all societal groups as what is 'reasonable' and just reflect the values and assumptions of a small elite portion of society . . . there is an inherent unfairness in the "reasonable woman" standard as well because it does not take into account the way race and class differentiate women from each other. The reasonable woman standard merely places one stereotype with another and harms any woman who does not conform to traditional female standards of conduct.[41]

The use of the reasonable woman standard resulted in more confusion and debates.[42] This standard in itself manifests the limited and stereotypical view on sexual harassment. In this regard, Marcus quotes Unikel, "[t]he reasonable woman standard does not assure that female norms are actively represented and, second, it reinforces rather than

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tends to be male-biased and tends to systematically ignore the experience of women. Adler and Pierce, *supra* note 35, at 777.

[39] Eric H. Marcus, M.D., *Sexual Harassment Claims: Who is a Reasonable Woman?*, 44 LAB. L.J. 646 (1993).

[40] *Id.*

[41] *Id.*, citing Kathleen Nordin, *Ellison v. Brady: Is the Reasonable Woman Test the Solution to the Problem of How Best to Evaluate Hostile Environment Sexual Harassment Claims?*, 19 W. ST. U. L. REV. 607-22 (1992).

[42] Also, an alternative standard of reasonableness is advanced by Dolkart. She proposes an individualized standard. According to Dolkart, this standard places the hypothetical reasonable person in the situation of the victim with the experiences and perceptions of the victim. *See* Jane K. Dolkart, *Hostile Environment Harassment: Equality, Objectivity, and the Shaping of Legal Standards*, 43 EMORY L.J. 151, 154 (1994). Aside from the debate among theorists on the use of reasonable man, reasonable woman and reasonable person standard, Bernstein adds to the debate the "respectful person" standard. Bernstein proposes that "[t]his respectful standard would rightly supplant references to reason and reasonableness; respect is integral to the understanding and remedying of sexual harassment, whereas reason is not." *See also* Anna Bernstein, *Treating Sexual Harassment with Respect*, 111 HARV. L.J. 446, 450 (1997).

combats gender stereotypes."[43] Focusing the inquiry on whether or not the act complained of created an abusive or hostile environment for a reasonable woman dangerously assumes that only women may be victims of sexual harassment.[44] Apparently, the reasonable woman standard is biased and problematic. Franke, in her discourse, asks the following questions: "What kind of reasonable woman are we talking about? A reasonable woman, a reasonable victim of sexual harassment, or some "objective" omnisexual person who is neither male or female?"[45]

Abrams, a legal theorist who undertook some of the early work advancing a reasonable woman standard in sexual harassment cases, developed a more critical posture with respect to its utility.[46] She now advances a "reasonable person" standard[47] and this revised standard is "interpreted to mean not the average person, but the person enlightened concerning the barriers to women's equality in the workplace."[48]

Franke comments:

> Abrams' new standard on the other hand, substitutes a gender neutral normative standard for what is reasonable conduct in the workplace. But to the extent that Abrams' standard demands only that reasonable people be enlightened with respect to the barriers to women's equality in the workplace, it demands too little. Title VII should enlighten the underlying causes of women's inequality, which include, the sexual harassment of men who deviate from a hetero-patriarchal script. Thus, I urge that we take Abrams' standard one step further, and demand that reasonable people be educated in and sensitive to the ways in which sexism can and does limit workplace options for all persons, male or female.[49]

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[43] *Id.* at 647, citing Robert Unikel, *Reasonable Doubts: A Critique of the Reasonable Woman Standard in American Jurisprudence*, 87 NW. U. L. REV. 326-75 (1992).

[44] Katherine M. Franke, *What's Wrong with Sexual Harassment?*, 49 STAN. L. REV. 691, 747-48 (1997).

[45] *Id.*

[46] *Id.* at 751. *See* Kathryn Abrams, *Gender Discrimination and the Transformation of Workplace Norms*, 42 VAND. L. REV. 1183 (1989).

[47] Franke, *supra* note 44, at 751.

[48] *Id.*

[49] Franke, *supra* note 44, at 752.

The origin of anti-sexual harassment statutes, as well as the developments in jurisprudence in the United States, strongly affirm the public policy to protect the rights of workers and similarly situated individuals by eradicating discrimination based on sex in their respective environments. However, the poor definition and confusing attempts at clarification impede analysis and understanding. As explained, two roads have been taken to identify an act of sexual harassment, namely the "unwelcome" requirement and the "reasonable person" standard. Unfortunately, both attempts are biased towards reinforcing the damsel-in-distress archetype.

II. CONTEXT AND KINDS

A. Not only in dark places: Where sexual harassment is committed

Sexual harassment may be committed in several different environments. Republic Act No. 7877 recognizes sexual harassment in the workplace or in the employment environment and in the education or training environment. In continuing to define and refine the concept of sexual harassment, the law expostulates:

> (a) In a *work-related or employment environment*, sexual harassment is committed when:
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> (1) The sexual favor is made as a condition in the hiring or in the employment, re-employment or continued employment of said individual, or in granting said individual favorable compensation, terms, conditions, promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in any way would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee;
> (2) The above acts would impair the employee's rights or privileges under existing labor laws; or

(3) The above acts would result in an intimidating, hostile or offensive environment for the employee.

(b) In an *education or training environment*, sexual harassment is committed:

(1) Against one who is under the care, custody or supervision of the offender;
(2) Against one whose education, training, apprenticeship or tutorship is entrusted to the offender;
(3) When the sexual favor is made a condition to the giving of a passing grade, or the granting of honors and scholarships or the payment of a stipend, allowance or other benefits, privileges, or considerations; or
(4) When the sexual advances result in an intimidating, hostile or offensive environment for the student, trainee or apprentice. (emphasis supplied)[50]

The legislature defines sexual harassment not only with respect to the nature of the act, but also with respect to its venue. Republic Act No. 7877 delineates sexual harassment in the work-related environment and in the education or training environment. Thus, if an act which has the nature of sexual harassment is not committed within the environments mentioned, or within the context of the relationships created by these environments, then that act is not punishable under this law. Legally speaking, the act does not constitute sexual harassment as defined by this statute. The following exchange between Congressman Golez and Congresswoman Antonino during the legislative deliberations is most revealing:

> MR. GOLEZ. Now, another point Mr. Speaker . . . But sexual harassment can also be the act of someone who has power over a certain person and power does not necessarily emanate from a superior in relation to a subordinate or an employer in relation to an employee in the same company or in the same office. Power can also be exercised by someone outside the company like, for example, a ranking government official, a leader of the community, someone who has power over a contract, a supply agreement.

[50] Rep. Act No. 7877 (1995), sec. 3.

> Won't the distinguished sponsor include this? So instead of simply talking of work related maybe business related also . . . Shouldn't we include that? Because to me, that kind of power is power over livelihood and it can be more compelling than the power that an employer or a superior can impose on another person within the office or within the same company?
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> MS. ANTONINO. [I]n a working environment. So maybe in other laws we can incorporate those occurring outside. For example you walking down the street and there are those . . . everyday you pass by a store where those *kanto* boys always harass you with all those remarks. These are also sexual harassments. But this bill is specific, in the workplace.[51]

Our legislators are correct in recognizing that sexual harassment exists not only in the workplace, but also in schools, universities, or other training environments. The treatment given to the employer-employee relationship is similar to the teacher-student relationship. Notice the similarity in the elements of the act as embodied in section 3 paragraphs (a)(1) and (2) with section 3 paragraph (b)(3). These sections describe the quid pro quo harassment. The hostile environment type of harassment is described in both situations as seen in section 3 paragraph (a)(3) and section 3 paragraph (b)(4).[52]

Indeed, sexual harassment is committed against students, trainees or apprentices but to exactly place these relationships on an equal plane is oblivious of the fundamental differences between the two. Baker differentiates:

> Two factors distinguish student-teacher relationship from the employer-employee relationship: the purpose of the relationship and the status and the position of the parties involved . . . .
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> In student-teacher relationships, teachers provide a service to students for which the students (or their parents) pay, either

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[51] *Debate on H. No. 9425*, 9th Cong. (1993) (Interpellations).

[52] Sec. 3 pars. (b)(1) and (2) is corollary to who may commit sexual harassment, as enumerated in sec. 3 par. (1), by stating against whom such act may be committed.

> directly by tuition or indirectly through taxes. On the other hand, in employer-employee relationships, employees provide a service to employers for which they pay the employees. The flow of services and payments in a student-teacher relationship goes in the opposite direction from an employer-employee relationship. . . .
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> Another difference between the educational employment environments is that educational institutions have a higher duty to students than employers have to employees. In the case of students who are minors, the duty of an educational institution clearly exceed the duty that an employer owes to an employees. When in custody of minor children, a school assumes that the duty of supervision and care . . . In the employment context the employer does not have custody of an employees and does not have the same duty to supervise. While an employer may be liable for negligence in maintaining the work environment, the duty is not as high as the duty that a school owes a minor child.[53]

The distinctions observed by Baker are helpful in contextualizing the act of sexual harassment. Not only is the alleged act of sexual harassment material to the resolution of the case, but also the relationship between the offender and the victim.

B. Not just by dirty old men: How sexual harassment is committed

As previously mentioned, in both employment and educational environments, the law recognizes at least two kinds of sexual harassment: quid pro quo and hostile working environment.

MacKinnon, in her ground-breaking book, *Sexual Harassment of Working Women: A Case of Discrimination*, opines:

> Women's experience of sexual harassment can be divided into two forms which merge at the edges and in the world. The first I term the *quid pro quo*, in which sexual compliance is exchanged or

[53] Carrie N. Baker, *Proposed Title IX Guidelines on Sex-Based Harassment of Students*, 43 EMORY L.J. 271, 290-91 (1994).

> proposed to be exchanged, for an employment opportunity. The second arises when sexual harassment is a persistent *condition of work*.[54]

Quid pro quo harassment refers to the situation wherein the offender makes sexual advances and is rejected by the victim. As a result of such rejection, the victim suffers some employment consequences.[55] Juliano provides a clear example of this kind of sexual harassment: "Sleep with me or I'll fire you."[56]

Hostile work environment harassment refers to a situation wherein the victim is subjected to conduct creating a hostile, intimidating, or offensive environment.[57] In Juliano's words, "[a] hostile work environment claim arises in situations in which an employee must endure verbal or physical abuse as part of her employment but does not suffer a tangible job detriment."[58] Peculiar to this form of sexual harassment is the lack of a tangible job detriment.[59]

Baker reaffirms the given definition of hostile work environment harassment.[60] Baker adds, "[h]ostile work environment harassment may take the form of sexual or non-sexual conduct and may be perpetuated not only by a supervisor, teacher, but also by peers."[61] The offenders in this type of sexual harassment engage in conduct which is unpleasant to the victim because of the latter's gender.[62] Rather than a single episode, the

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[54] LINDEMANN & KADUE, *supra* note 21, at 7 n.34.

[55] Cadiz, *supra* note 7, at 32.

[56] Juliano, *supra* note 32, at 1566. *See* Kent D. Streseman, *Headshrinkers, Manmunchers, Moneygrubbers, Nuts and Sluts: Reexamining Compelled Mental Examination in Sexual Harassment Actions under the Civil Rights Act of 199*, 80 CORNELL L. REV. 1268 (1995). This article discusses the judicial treatment of mental examination of sexual harassment plaintiffs. The article suggests that courts be context-sensitive in conducting its examination.

[57] Cadiz, *supra* note 7, at 32. *See* Streseman, *supra* note 56, at 1283.

[58] Juliano, *supra* note 32, at 1566.

[59] Cadiz, *supra* note 7, at 32.

[60] Baker, *supra* note 53, at 276.

[61] *Id.* Also note the use of "peers," which demonstrates that power (i.e. domination) is not an indispensable element in cases of sexual harassment.

[62] LINDEMANN & KADUE, *supra* note 21, at 8.

conduct usually involves a series of incidents to characterize the environment as hostile.[63]

Lindemann and Kadue eloquently explain and differentiate:

> The essence of a quid pro quo claim is that an individual has been forced to choose between suffering an economic detriment and submitting to sexual demands. This "put out or get out" bargain, which makes employment benefits contingent upon sexual cooperativeness, is the kind of sexual harassment first recognized as discrimination on the basis of gender.
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> The essence of a hostile work environment claim is that an individual has been required to endure a work environment that, while not necessarily causing any direct economic harm, causes psychological or emotional harm or otherwise unreasonably interferes with the individual's job performance.
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> While quid pro quo and hostile environment situations thus have differing characteristics, they overlap and often converge. Victims of quid pro quo harassment often suffer a hostile environment. Indeed, the quid pro quo concept, in its widest reach, could include any situation in which individuals must accept a gender-hostile environment in order to enjoy the tangible benefits of their jobs.
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> Similarly, victims of hostile environments often suffer the tangible job detriments associated with quid pro quo harassment. A hostile environment may drive employees off the job, demoralize or upset them to the extent that they are fired for absenteeism or unsatisfactory work, or cause them to complain about the harassment and risk retaliatory discharge. (citations omitted)[64]

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[63] *Id.*

[64] *Id.* at 8-9.

Though quid pro quo harassment and hostile work environment harassment are different, these two kinds of harassment must be recognized as complementary and not mutually exclusive.[65]

Reading the enumeration characterizing sexual harassment in the employment and training environments gives one the impression that the quid pro quo type and hostile environment type are mutually exclusive.[66] Hence, Lindemann and Kadue's observation that these kinds of sexual harassment possibly overlap is instructive in identifying instances when sexual harassment offenses are committed.

III. UNLEARNING STEREOTYPES

There are some myths and sexual stereotypes that have shaped sexual harassment law.[67] In order to break the stereotype habit, one must first recognize the stereotype.[68]

Learning what sexual harassment is involves unlearning what it was. To fully understand sexual harassment as a concept, as well as a punishable offense under Republic Act No. 7877, it is necessary to analyze the implications and biases of the law. Only by overturning these poorly-grounded presumptions will one fully understand the law.

Curcio writes, "[t]he first step in the educative process is recognition of the problem."[69] Even without additional rules or changes in

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[65] Marlisa Vineiguerra, *The Aftermath of Meritor: A Search for Standards in the Law of Sexual Harassment*, 98 YALE L.J. 1717, 1734 (1989).

[66] The enumeration shows that one is distinct from the other. Also, the enumeration is not a listing of the elements, but a listing of constitutive acts.

[67] Andrea A. Curcio, *Rule 412 Laid Bare: A Procedural Rule That Cannot Adequately Protect Sexual Harassment Plaintiffs from Embarrassing Exposure*, 67 U. CIN. L. REV. 125 (1998). This article discusses the problems on prosecuting a sexual harassment claim such as invasion of privacy, potential embarrassment and sexual stereotyping.

[68] *Id.* at 164.

[69] *Id.* at 181.

substantive law, further education about and awareness of gender bias will help judges apply the existing law.[70]

The following are some of the common presumptions:

(1) The sexual harassment offender is always male and the victim is always female.

(2) Sexual harassment is an isolated act of discriminating women.

(3) Sexual harassment is a manifestation of male supremacy.

(4) It may only be committed by an employer against an employee in the workplace.

A. Gender-based theory

It is a common assumption that only women are victims of sexual harassment. Even the EEOC's 1990 Policy Guidance on Current Issues of Sexual Harassment reinforced this historical assumption by stating therein: "To avoid cumbersome use of both masculine and feminine pronouns, this document will refer to harassers as males and victims as females. The Commission recognizes, however, that men may also be victims and women may also be harassers."[71] In spite of the caveat that roles might

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[70] *Id.* at 182. Curcio refers to the application of existing Federal Rule of Evidence 412. "Rule 412 adds a civil equivalent to the criminal 'rape shield' statute. The articulated purpose of Rule 412 was to protect a sexual harassment plaintiff from the invasion of privacy, potential embarrassment and sexual stereotyping that is associated with public disclosure of intimate sexual details and the infusion of sexual innuendo into the fact-finding process. The amended Rule 412 attempts to restrain judges' ability to admit evidence of a sexual harassment plaintiff's sexual history and conduct."

See also Juliano, *supra* note 32, at 1576. "Rule 412 is based on the belief that sexual history evidence is logically irrelevant; it does not make more or less probable the existence of any material fact."

[71] BARIDON & EYLER, *supra* note 9, at 85 n.1, citing EEOC Policy Guidance on Current Issues of Sexual Harassment.

occasionally be reversed,[72] such a statement from the EEOC reaffirms the male-female paradigm of sexual harassment.

This shows a limited understanding of sexual harassment.

The gender-based theory provides a dynamic framework in understanding the politics behind discrimination based on sex. It expands the male harasser-female victim notion of sexual harassment. According to the proponents of this view, sexual harassment may be viewed as discrimination based on sex[73] while a gender norm is enforced.[74] Sexual harassment is not only concerned with the sexual or sex-based favor, but also in the implied messages it conveys.

Sexual harassment is ultimately sex discrimination because it helps create further inequality among the sexes.[75] According to MacKinnon, "sexual harassment is a clear social manifestation of male privilege incarnated in the male sex role that supports coercive sexuality reinforced by male power over the job."[76]

Weisel writes, "[i]f a woman has been transferred, fired or not hired due to her refusal to tolerate sexual harassment, and her supervisor cannot provide a reasonable explanation for her treatment, then it can be presumed that it was based on the stereotype."[77]

According to Epstein, "A gender norm is enforced when harassment, either sexual or sex-based in nature, employs negative

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[72] *Id.*

[73] According to Franke, "The concept of sexual harassment as a kind of sex discrimination entered the legal imagination relatively recently. After a period of unsuccessful litigation in which sexual harassment claims were dismissed under a kind of "boy will be boys" view of the harm, feminist advocated provoked a paradigm shift in the late 1970's and early 1980s in which the sexism in sexual harassment was recognized in the law." Franke, *supra* note 43, at 748.

[74] Linda B. Epstein, *What is a Gender Norm and Why Should We Care? Implementing a New Theory in Sexual Harassment Law*, 51 STANFORD L. REV. 161, 163 (1998).

[75] Franke, *supra* note 44, at 726, citing CATHARINE A. MACKINNON, SEXUAL HARASSMENT OF WORKING WOMEN: A CASE OF SEX DISCRIMINATION 191-92 (1979).

[76] *Id.*

[77] Kerri Weisel, *Title VII: Legal Protection Against Sexual Harassment*, 53 WASH. L. REV. 123, 135 (1977).

descriptive or normative gender stereotypes of what women are or should be."[78] Epstein suggests the adoption of a gender norm-based concept of sex discrimination that encompasses non-sexual,[79] sex-based harms as well as those currently actionable as sexual harassment.[80]

Gender based theorists propose a paradigm shift but ironically fall into the trap of stereotyping the conditions surrounding sexual harassment. It is better to understand sexual harassment as a means of reinforcing gender norms affecting not only women but also men.

Franke supports this reconceptualization of sexual harassment. Franke explains, "[s]exual harassment is sex discrimination because it embodies fundamental gender stereotypes: men as sexual conquerors and women as sexually conquered, men as masculine sexual objects and women as feminine sexual objects."[81] She expounds:

> Understood in this way, sexual harassment is a kind of sex discrimination not because the conduct would not have been undertaken if the victim had been a different sex, not because it is sexual, and not because men do it to women, but precisely because it is a *technology of sexism*. That is, it perpetuates, enforces, and polices a set of gender norms that seek to feminize women and masculinize men. Sexual harassment perpetuates these norms because it takes place within a culture and history that in large part reduces women's identity to that of a sex-object, and reinforces men's identity as that of a sexual aggressor. Sexual harassment also can be understood to enforce gender norms when it is used to keep gender non-conformists in line. (emphasis supplied)[82]

Consequently, Franke's theory of sexual harassment explicates not only traditional male-female sexual harassment, but also extends to cases

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[78] Epstein, *supra* note 74.

[79] To the average reasonable person, sexual harassment always connotes sexual acts. This is the assumption when sexual harassment is discussed. This belief supports the popularity of quid pro quo harassment in the employment and training environments. However, it is possible that not all acts of sexual harassment are sexual in nature.

[80] Epstein, *supra* note 74.

[81] Franke, *supra* note 44, at 693.

[82] *Id.* at 696.

involving harassers and victims of the same sex.[83] The statement, "[*s*]*exual harassment is something men do to women*"[84] while quite familiar and seemingly uncontroversial, is both deceptively underinclusive and theoretically short-sighted.[85] Thus, sexual harassment wherein the offender is female and the victim is male is legally plausible.

The EEOC recognizes different-sex and same-sex harassment. The EEOC Compliance Manual provides, *inter alia*:

> (b) Recognizing Sexual Harassment — A finding of sexual harassment does not depend on the existence of any one given set of facts. Sexual harassment can occur in a wide variety of circumstances and encompass many variables. Although the most widely recognized fact pattern is that in which a male supervisor sexually harasses a female employee, this form of harassment . . . includes, but is not limited to, the following considerations:
>
> (1) A man as well as a woman may be the victim of sexual harassment, and a woman as well as a man may be the harasser.
>
> (2) The harasser does not have to be the victim's supervisor. [S]he may also be an agent of the employer, a supervisory employee who does not supervise the victim, a non-supervisory employee (co-worker), or, in some circumstances, even a non-employee.
>
> (3) The victim does not have to be of the opposite sex from the harasser. Since sexual harassment is a form of sex discrimination, the crucial inquiry is whether the harasser treats a member or members of one sex differently from members of the other sex. The victim and the harasser may be of the same sex where, for instance, the sexual harassment is based on the victim's sex (not on the

[83] Epstein, *supra* note 74, at 167.

[84] Schultz similarly asserts, "[t]he quintessential case involves a more powerful, typically older, male supervisor, who uses his superior organizational position to demand sexual favors from a less powerful, typically younger female subordinate." Vicki Schultz, *Reconceptualizing Sexual Harassment*, 107 YALE L.J. 1683, 1692 (1998).

[85] Franke, *supra* note 44, at 771.

> victim's sexual preference) and the harasser does not treat employees of the opposite sex the same way.[86]

In the Philippines, Republic Act No. 7877 is phrased in such a way that it addresses a broad group of sexual harassment claims. Indeed, the intention of the framers of Republic Act No. 7877 is to break away from the traditional male-female harassment. The following exchange took place in the floor deliberations of House Bill No. 9425:

> MR. CHIONGBIAN. What do you mean by sexual lascivious acts? . . . Because anything could be defined as such. There are certain penalties here. It might be an innocent act that you do. Somebody might go to the court and start suing you on the basis of this law . . .
>
> That is why I wanted it defined, so that we would know who are guilty of this violation in accordance with this act.
>
> Anyway, as what you said, this involves a woman . . .
>
> MS. ANTONINO. and a man
>
> MR.CHIONGBIAN. and men
>
> MS. ANTONINO. or a woman and woman or a man and a man
>
> MR. CHIONGBIAN. or a man and a woman.
>
> MS. ANTONINO. Yes. All the sexes are involved.[87]

The language used in the law is gender-neutral. The offender is not referred to as male and the victims as female. Republic Act No. 7877 succeeded in this regard by broadening the concept of legal harassment to include same-sex harassment and female-male harassment. The problem in understanding what sexual harassment is, is beyond the gender-neutral statutory definition. The problem lies in the practice of stereotyping the

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[86] EEOC Compliance Manual, sec. 615.2, pars. (b) (1), (2), and (3).

[87] *Debate on H. No. 9425*, 9th Cong. (1993) (Interpellations).

act and reinforcing the gender norms. So, it is advisable to apply the gender-based theory in reading the statute.

Epstein continues:

> Shifting the focus from female to male victims of same-sex harassment, the advantages of a gender norm-based theory become clear . . . So, men who seemingly fail to meet the orthodox gender norms for masculinity are harasses, courts could no longer conclude the claim fails because harassment is based not on sex but on sexual orientation.[88]

Franke's theory provides a realistic view of society. As a result, all persons, regardless of sex and of sexual preferences, may be parties to a sexual harassment claim.

In addition to including same-sex, female-male, and harassment between parties of the same or different sexual orientation, the gender norm-based theory could have the effect of abolishing or modifying the unwelcome requirement.[89] As previously discussed in Part I, the unwelcome requirement is unpopular among scholars.[90]

B. Competence-centered approach

The competence-centered paradigm deals with "harassment as a means to reclaim favored lines of work and work-competence as masculine-identified turf — in the face of a threat posed by the presence of women who seek to claim these prerogatives as their own."[91]

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[88] Epstein *supra* note 74, at 181, citing Ruth Colker, *Whores, Fags, Dumb-Ass Women, Surly Blacks, and Competent White Heterosexual Men: The Sexual and Racial Morality Underlying Anti-Discrimination Doctrine*, 7 YALE J.L. & FEMINISM 205-07 (1995).

[89] *Id.*

[90] *See, for e.g.*, Miranda Oshige, *What's Sex Got to Do With It?*, 47 STANFORD L. REV. 577 (1995).

[91] Schultz, *supra* note 84, at 1755.

Aside from reinforcing the stereotype that females are lesser beings and sex objects, the act of sexually harassing another demonstrates the offender's intent of undermining the victim's competence.

Schultz asserts:

> Contrary to the assumption of the cultural-radical feminist tradition that inspired the development of harassment law, men's desire to exploit or dominate women sexually may not be the exclusive, or even primary, motivation for harassing women at work . . . .
>
> Instead, a drive to maintain the most highly rewarded forms of work as domains of masculine competence underlies many, if not most, forms of sex-based harassment on the job.
>
> Harassment has the form and function of denigrating women's competence for the purpose of keeping them away from male dominated jobs or incorporating them as inferior, less capable workers.[92]

The competence-centered approach focuses on the underlying reason why a sexual harassment offender intentionally makes the work or study environment hostile. Not only does the harasser degrade an employee or co-worker based on the latter's gender, but also degrades the latter's competence. It may be viewed that the harasser is threatened by his or her victim's potential to be promoted to a higher position or the like. In effect, the offended party is a threat to the position or stature of the offender. The offender uses offensive sex-based acts as means to eliminate his or her competitor whether in the workplace or educational field.

As long as employers and supervisors or teachers and trainors are allowed to view their employees or students solely in terms of their gender instead of judging them on the basis of their individual qualifications,

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[92] *Id.* at 1755, n.367.

Republic Act No. 7877 will fail to fulfill its promise of equality in the workplace or in training institutions.[93]

C. Co-worker harassment

Feminist theorists argue that hierarchies of authority, designated positions, and the vertical structure of authority are elements based on the male perspective.[94] Integrating power and its abuse are essential in deconstructing sexual harassment. However, this hierarchy is not indispensable to all forms of sexual harassment.

Sexual harassment by a co-worker or peer belonging to the same environment is recognized. Absent is the requisite of superior-subordinate relationship, yet such a seemingly equal or horizontal relationship may also give rise to sexual harassment claims.

Co-worker harassment is justified applying the gender-based and competence-centered theories to such a situation. It is the desire to enforce a gender-norm or to correct a non-conformist behavior which urges an offender to commit sexually harassing offenses. Despite the absence of an actual vertical structure, shown from differences in positions in the workplace or in the educational environment, co-worker harassment may still take place. The offender is led to believe that his or her perception of the norms must always be followed. These norms are more often than not, gender-related.

Hostile work environment harassment may constitute co-worker (or same-level) harassment. Abusive behavior of co-workers may result in co-worker harassment. When the victim endures verbal or non-verbal harassment from co-workers, triggered by his non-conformist behavior, his or her co-workers may be made liable for such harassing conduct.

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[93] Weisel, *supra* note 77, at 143. Weisel argues similarly with respect the Title VII of the Civil Rights Act of 1964.

[94] Juliano, *supra* note 32, at 1561 n.18, citing generally CATHARINE MACKINNON, THE SEXUAL HARASSMENT OF WORKING WOMEN (1979).

Unfortunately, section 3 of Republic Act No. 7877 utilizes the traditional understanding of sexual harassment in this respect. In the statutory definition of sexual harassment, the offender is one "having authority, influence or moral ascendancy." In the same breath section 3 paragraphs (a)(3) and (b)(4) punishes hostile work environment harassment. It may be argued that these provisions are conflicting. On the one hand, the first paragraph of section 3 explicitly requires an inequality in the positions of the offender and the victim. On the other, section 3 paragraphs (a)(3) and (b)(4) implicitly recognize co-worker harassment as a form of hostile work environment harassment.

However, these seemingly conflicting provisions may be harmonized by applying rules in statutory construction. Firstly, the Latin maxim *interpretate fienda est ut res valeat quam pereat*[95] is arguably applicable. This rule provides that "a law should be interpreted with a view to upholding rather than destroying it."[96] Secondly, applying the rule *legis posteriores priores contrarias abrogant*[97] in this situation, it may be projected that later provisions amend, or at least explain the earlier provisions. Thus, in order to uphold Republic Act No. 7877, section 3 paragraphs (a)(3) and (b)(4) must be understood as modifications of the first paragraph of section 3. If this is how Republic Act No. 7877 is to be interpreted, then Republic Act No. 7877 justifiably deals with co-worker harassment as well.

D. Sexual harassment beyond the workplace

Republic Act No. 7877 clearly recognizes that protection from sexual harassment offenders be afforded to citizens in the workplace as well as in the training or educational environments. In the past, sexual harassment was limited to the workplace. Our special legislation on this matter effectively broadens the scope of protection to include trainees or students.

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[95] RUBEN E. AGPALO, STATUTORY CONSTRUCTION 332 (2 d ed. 1990).

[96] *Id.*

[97] *Id.* A later law repeals a prior law on the same subject which is repugnant thereto. This maxim may be used to similar situations such as conflicting paragraphs in a specific provision.

As previously discussed in Part II, determination of the relationship between harasser and victim is material to the resolution of a sexual harassment claim. Stress must be given not only to the environment wherein the harassment took place, but also the context of the relationship between harasser and victim.

III. CONCLUSION

The Anti-Sexual Harassment Law is a grand example of progressive and dynamic legislation.

Republic Act No. 7877 covers all forms of harassment. It is broad enough to cover same-sex and different-sex cases of sexual harassment. Its utilization of gender-neutral terms effectively aid a gender-sensitive or politically correct notion of sexual harassment.

Republic Act No. 7877 may also be argued to cover co-worker (same level) harassment.

Republic Act No. 7877 also extends the prohibition of sexual harassment to educational environments.

However, the statutory definition remains vague and incomplete. While it is not expected that legislators formulate mathematical equations and scientific coefficients in the determination of sexual harassment, the law here is much too vague. Vhay suggests a possible explanation:

> The inadequacies of the laws covering sexual harassment stem from many sources. Some are a product of historical twists. Others reflect the problems of relying upon statutes that were not specific or comprehensive solutions to sexual harassment. But most are a result of trying to push sexual harassment into one tidy legal thing. This cannot be done. Sexual harassment reflects both personal and societal difficulties.[98]

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[98] Michael D. Vhay, *The Harms of Asking: Towards a Comprehensive Treatment of Sexual Harassment*, 55 U. CHI. L. REV. 328, 362 (1988).

The vagueness in the law is not caused by poor choice of words or careless drafting. Instead, the concept itself is vague and evolving. Traditional notions are no longer apt. But worse, the law is gender-sensitive.

Still and all, it is imperative that sexual harassment be carefully studied not only because it is a penal law, but also because it is reflective of the values of our society.

The road to clarification and a more faithful understanding of the law may have been provided by the law itself. Section 4 of Republic Act No. 7877 initiates change by obliging employer or head of offices to prevent acts of sexual harassment and to provide procedures for sexual harassment claims. Section 4 reads:

> *Duty of the Employer or Head of Office in a Work-related, Education or Training Environment* — It shall be the duty of the employer or the head of the work-related, educational or training environment or institution, to prevent or deter the commission of acts of sexual harassment and to provide procedures for the resolution, settlement or prosecution of acts of sexual harassment. Towards this end, the employer or head of office shall:
>
> (a) Promulgate appropriate rules and regulations in consultation with and jointly approved by the employees or students or trainees, through their duly designated representatives, prescribing the procedure for the investigation of sexual harassment cases and the administrative sanctions therefor.
>
> Administrative sanctions shall not be a bar to prosecution in the proper courts for unlawful acts of sexual harassment.
>
> The said rules and regulations issued pursuant to this subsection (a) shall include, among others, guidelines on proper decorum in the workplace and educational or training institutions.

> (b) Create a committee on decorum and investigation of cases on sexual harassment. The committee shall conduct meetings, as the case may be, with officers and employees, teachers, instructors, professors, coaches, trainors and students or trainees to increase understanding and prevent incidents of sexual harassment. It shall also conduct the investigation of alleged cases constituting sexual harassment.
>
> In the case of a work-related environment, the committee shall be composed of at least one representative each from the management, the union, if any, the employees from the supervisory rank, and from the rank and file employees.
>
> In the case of the educational or training institution, the committee shall be composed of at least one (1) representative from the administration, the trainors, teachers, instructors, professors or coaches and students or trainees, as the case may be.
>
> The employer or head of office, educational or training institution shall disseminate or post a copy of this Act for the information of all concerned.[99]

True enough, Republic Act No. 7877 provides for mechanisms to ensure that sexual harassment is eliminated, at least in the work and training environments. Although mandatory, realistically speaking, such measures are still dependent on the initiative of employers and heads of educational institutions.

The solution to the problem of sexual harassment lies in the hands of the government, employers, heads of educational institutions and employees and students. Feliciano asserts:

> The most effective weapon against sexual harassment, however, remains with the union. If provisions against sexual harassment are placed in collective bargaining agreements, victims will be encouraged to voice out their complaints, thus, forming the basis for collective action.

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[99] Rep. Act No. 7877 (1995), sec. 4.

> It is also important to provide comprehensive education about sexual harassment to company and union officials and members, and even judges, law enforcers and prosecutors as provided by law. Gender sensitivity training should also be given to the officials, such as the labor arbiters and judges, who administer and enforce the law. For, in the ultimate analysis, the hope of eliminating sexist practices and discriminatory attitudes in the workplace will only be realized if the larger society is educated on the basic principles of sexual equality.[100]

But the problem is deeply rooted. Although the law, as now framed, is gender-neutral, this is not enough. Ours is a grossly gender-biased society and our judges cannot resist reflecting this bias:

> Legislative enactment alone will not suffice to assure women [and men] the economic rights that are due them. There still remains a yawning gap between de jure and de facto. If equality is to be approximated, a multi-faceted approach is certainly called for since inequality in employment [and in the educational environment] is merely a reflection of the unequal treatment given to women [and men] in a broad spectrum of human activities. To repeat, therefore, the national program of action must be multi-dimensional, taking into account political, social, economic, educational and cultural factors.[101]

The gender divide is wide and gaping. To bridge this divide requires a supreme effort as it must certainly require a reversal of cultural values. Legislative reform does not readily avail against such firmly entrenched barriers. But it is never too late to begin. The Anti-Sexual Harassment Law is, after all is said and done, such a beginning.

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[100] Feliciano, *supra* note 20, at 563.

[101] Flerida Ruth P. Romero, *Women and Labor: Is the Economic Emancipation of the Filipino Working Woman at Hand?* 50 PHIL. L.J. 44, 53 (1975).