

The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.



Belem Do Para: Eliminating Sexual Harassment in the Workplace

For decades women in the Caribbean have been subjected to acute forms of discrimination due to the inadequacy of legislative bodies to fully address the pernicious practices that have affected women in the region. In most Caribbean countries a major factor hindering woman's right is the socio-cultural practices that serve to perpetuate patriarchy throughout all factions of the society. These stereotypical practices eminent within Caribbean societies have disenfranchised women not only in the domestic realm but also in education, labour and decision making capacities.

These societal values that preserve male hegemony also provide the backdrop for the pervasive and wide spread human rights violation women experience throughout the Caribbean region. However, despite continued entrenched gender inequality and women's human rights violations, governments in the region have formally embraced the concept of international women's rights through the ratification of international human right instruments advocating the elimination of women's right violations. In this article we will examine the Inter-American Convention on the Prevention, Punishment and Eradication Violence against Women otherwise termed the Convention of Belem Do Para. This Convention was introduced in an attempt to eradicate all forms of gender violence directed towards women. The Convention defines violence as "any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or private sphere". This convention is unique when juxtaposed to previous women rights instruments because it seeks to address the issue of sexual harassment in the workplace.



While the convention does not define "sexual harassment", the Caricom model legislation on sexual harassment, though directed specifically to employment, education and accommodation, can inform our understanding of the term as acts involving unwelcome sexual advances, unwelcome request for sexual favours or unwelcome conduct of a sexual nature towards another person, where that person reasonably believes that rejection, refusal or objection would cause him or her to suffer disadvantage in connection with the pursuance of any of the above. Article 2 of the Convention stipulates violence against women shall be understood to include physical, sexual and psychological violence:

- a. that occurs within the family or domestic unit or within any other interpersonal relationship, whether or not the perpetrator shares or has shared the same residence with the woman, including, among others, rape, battery and sexual abuse;
- b. that occurs in the community and is perpetrated by any person, including, among others, rape, sexual abuse, torture, trafficking in persons, forced prostitution, kidnapping and sexual harassment in the workplace, as well as in educational institutions, health facilities or any other place; and
- c. that is perpetrated or condoned by the state or its agents regardless of where it occurs.

The stipulation of this convention does not only seek to prevent the persistence of violence against women, but also compels local government, public and private sector entities to be held accountable for offences against women. Under this agreement the aforementioned organizations will have to implement policies and procedures within their establishments to ensure that women's rights are protected. Under this convention the onus is on governmental and non-governmental organizations to provide education,

counselling, security and legal assistance for women in an attempt to protect them from acts of violence.

Article 7 of the Convention outlines the obligations of the state in protecting the rights of women.

"The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence." Article 7 stipulates the responsibility of the state in advocating and preserving the rights of women. The clauses are:

- refrain from engaging in any act or practice of violence against women and to ensure that their authorities, officials, personnel, agents, and institutions act in conformity with this obligation;

- apply due diligence to prevent, investigate and impose penalties for violence against women;



- include in their domestic legislation penal, civil, administrative and any other type of provisions that may be needed to prevent, punish and eradicate violence against women and to adopt appropriate administrative measures where necessary;

- adopt legal measures to require the perpetrator to refrain from harassing, intimidating or threatening the woman or using any method that harms or endangers her life or integrity, or damages her property;

- take all appropriate measures, including legislative measures, to amend or repeal existing laws and regulations or to modify legal or customary practices which sustain the persistence and tolerance of violence against women.

From the protocols enlisted it is evident that failure of the government to implement protective legal procedures and legislative mechanisms to prevent incidents of sexual harassment presents a prima



facie breach of Article 7 of the convention. As a result the state will be directly held responsible for acts constituting sexual harassment where the perpetrators are government agents.

Petitions implicating private individuals and other non-state agents may also be categorized as state responsibility not because of the offence committed but as a result of the state's failure to implement legal procedures and provide access to safety or

remedial processes.

Role of Trade Unions

In light of the efforts of the Convention of Belem Do Para, trade union involvement is salient to the establishment and effectiveness of this convention in the Caribbean region. Therefore to ensure that protocols of the convention are preserved trade unions should play a multi-faceted role in advocacy, education, training and research. As such unions should attempt to conscientize women about the procedures and polices of the convention by using various media forms or computer databases/technologies. Such advocacy would increase the awareness of women about the premise of the convention and facilitate them with the procedural steps necessary to petition their grievances related to sexual harassment.

Trade unions should also attempt to host workshops and symposiums in collaboration with officials representing the Belem Do Para Convention. Such gatherings would provide trade unions and interest groups with "first hand" knowledge pertaining to the proceedings and protocols of the convention. Also such meetings could also set the foundation for the development of innovative strategies that can be utilized by stakeholders and policy makers to eliminate sexual harassment in the workplace and more so the wider society.

The adoption of a convention on the prevention, punishment and eradication of all forms of violence against women is a profound attempt to further eliminate gender inequality within the global sphere. Furthermore the adoption of this agreement also enhances the bargaining power of women in the collective bargaining process and equips them with the necessary support to challenge discriminative practices that may emanate from sexual harassment. As such trade unions within the Caribbean should align themselves with the protocols of this agreement and ensure that women operating both in the public and private sector are sensitized about the existence of this convention.

Francis, Petrina (2006, September) All eyes on women: Employers, schools, health, facilities to be held responsible for sexual harassment against women. Jamaica Gleaner. Retrieved March 20, 2008 from www.jamaica-gleaner.com

Bent, Marcel (2006 April) Sexual Harassment and the Convention of Belem Do Para. Retrieved March 15, 2006 from www.jamaicaobserver.com

Notices and Events

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