

MEDIA RELEASE

MEF: Do we need a new law for sexual harassment?

PETALING JAYA: As a member of the special project team for the proposed Anti-Sexual Harassment Bill, MEF put forth the view that sexual harassment was being adequately addressed by existing laws and regulations that would render such proposed specific provisions on sexual harassment as unnecessary.

MEF President Dato' Dr Syed Hussain Syed Husman J.P. said the proposed Bill, which was expected to be tabled by the Ministry of Women, Family and Community Development in Parliament this year, should not be rushed before more detailed discussions were held with stakeholders.

"We had met to discuss the proposed Bill with the Ministry of Women, Family and we felt that there were still many outstanding issues that needed to be resolved," he said.

"There is much ambiguity, especially on issues of overlapping coverage of the proposed Bill with the provisions on Part XVA of the Employment Act that covers workplaces and employer-employee relationship.

"There are already provisions under the Penal Code, employment and civil laws, as well as tortious claims against any acts of sexual harassment.

"From the perspective of private sector employers, the Employment Act 1955, the Code of Practice on Eradication of Sexual Harassment in the Workplace, the Occupational Safety and Health Act 1994 and S.20 (1) of the Industrial Relations Act 1967 strongly govern any act of sexual harassment at the workplace.

"It is also common for employers to have their own policies and mechanisms to handle complaints of sexual harassment at the workplace as no employer would condone such acts."

Dato' Syed Hussain also cited the case of *Mohd Ridzwan Abdul Razak v. Asmah Hj Mohd Nor*, wherein the Federal Court decided that the recent amendments to include Part XVA to the Employment Act 2012 was a significant aspect of legal reform to address calls for specific legislative intervention in dealing with sexual harassment, and added the following:

- Section 2(g) of the Employment (Amendment) Act 2012 inserted a new definition of sexual harassment in Section 2 of the Employment Act 1955 which satisfies the main elements of sexual harassment.

- The striking feature of the Code of Practice on the Prevention and Education of Sexual Harassment in the Workplace 1999 and the creation of Part XVA in the Employment Act 1955 entitles the alleged victim of sexual harassment to lodge a complaint to the employer and to require the employer to investigate his or her complaint.
- Sexual harassment had also been upheld as a tortious act by the Federal Court in the *Mohd Ridzwan* case.

“We are pleased to be able to engage with the relevant Ministries to raise our concerns before the proposed Bill is tabled in Parliament,” he said.

“As MEF, we view sexual harassment as a very serious misconduct and it applies to both women and men and between opposite or similar genders too.

“And we continually advise and train our members on how to address such issues at the workplace, which is well-managed in the working environment.

“MEF is of the position that there is no objective for the proposed Bill to be tabled in Parliament considering that there are already adequate laws and provisions to address sexual harassment at the workplace.

“We are also concerned by the proposal to set up a specific tribunal for complaints on sexual harassment as the company’s internal processes may be by-passed and such scenario could seriously disrupt industrial harmony, and must be avoided.”

He said having a specific legislation on sexual harassment would also project a negative image of Malaysia to potential investors as they may mistakenly belief that sexual harassment was a major issue in Malaysia – when in reality it was isolated and manageable.

For further information, contact the MEF Secretariat at 03-7955-7778 or fax 03-7955-9008 or email mef-hq@mef.org.my.

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