



The International Conference on Communication and Media 2014 (i-COME'14), 18-20 October 2014, Langkawi, MALAYSIA

The Issue of Sexual Harassment Legislation in a Mainstream Newspaper in Malaysia

Ponmalar N Alagappan^{a*}, Sabitha Marican^a

^aDepartment of Administration Studies, Faculty of Economics and Administration, University of Malaya, 50603 Kuala Lumpur, Malaysia

Abstract

In Malaysia, presently there is no legislation that specifically deals with sexual harassment in the workplace. Women's activist groups in Malaysia have been working together to bring greater awareness to the issue of sexual harassment and with legislation in place, it can effectively prevent sexual harassment in the workplace and provide victims with timely and meaningful access to legal redress. Awareness is the most important weapon in the fight of sexual harassment in the workplace. The paper examines how a mainstream pro-government newspaper in Malaysia represents the issue on the need for legislation of sexual harassment.

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Peer-review under responsibility of School of Multimedia Technology & Communication, Universiti Utara Malaysia.

Keywords: Sexual harassment; newspaper; women activist groups; legislation

1. Introduction

Sexual harassment in its various forms constitutes a wide-spread phenomenon that affect people at work as well as in informal contexts (Galdi, Maass & Cadinu, 2013). Unlike rape and domestic violence, in Malaysia, sexual harassment has only recently been articulated and recognized as a social problem. The first attempt by the Malaysia government to define and address sexual harassment in the work place was Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace (Code of Practice) which was launched in August, 1999. While the Code of Practice is comprehensive in its definition of sexual harassment, it is not legally binding (Ashgar, 2004). As such, since 2004, the Ministry of Human Resources (MOHR) had proposed several amendments to the

* Corresponding author. Tel: +603-79675429; Fax: +603-.79675427
E-mail address: ponmalar.a@um.edu.my

Employment Act 1955 (EA) to give the needed legal backing to the Code of Practice. The amendments enables the victims of sexual harassment to seek legal redress and will be an offence punishable by law (Vasudevan, 2007), the amendment only came into force in April, 2012.

However, there are some limited exceptions in the EA: only applies to the private sector in Peninsular Malaysia, it covers only strict employer-employee relationships whereas, in reality today's workplace includes workers such as contract workers, consultants and trainees who may not be protected under the act (Loh, 2008); tended to restrict the sexual harassment incidents to those in the workplace, places too much power in the hands of the employer whether to open an inquiry into a complaint and does not provide a right to appeal on the outcome of a decision of an employer (Sonia, 2014).

The women activist groups felt that such a provision was an indication that MOHR recognized the problem of sexual harassment in the workplace but the best protection is to have a Sexual Harassment Bill. Joint Action Group against Violence Against Women (JAG) had submitted a draft of the Sexual Harassment Bill to the MOHR in March, 2001 (De Lima, 2003). Since then JAG representatives have held several key meetings with officials from different government agencies to discuss the draft Bill but there has been no indication that the draft Bill may be enacted (Loh, 2008). The women activists group believes that the sexual harassment cases will be on rise when sexual harassment is prohibited by law. This is similar to the Domestic Violence Act 1994 which was implemented in 1996; there was a 200 per cent increase in reported cases (Sonia & Tan, 2008).

Awareness is the most important weapon in the fight of sexual harassment in the workplace. It has been widely recognized that media can play a substantial role in promoting and disseminating information and are key players in the social and economic development of women (Nautiyal & Dabral, 2012). Messages in the media and in popular cultures have also been argued to influence the perceptions of the general community towards sexual harassment (McDonald, 2012). At present there is no legislation that specifically deals with sexual harassment in the workplace. The paper looks at the support given by The New Straits Times (NST) on the issues legislation of sexual harassment as overwhelmingly support for this legislation has been shown by Malaysians through petitions and newspaper surveys (Zarizana, 2001). The NST is known to be a pro-government paper as it's owned by Media Prima Berhad and the ruling party's Malay component; United Malays National Organization (UMNO) has part ownerships in Media Prima Berhad (Nain & Wang, 2004; Anuar, 2007).

2. Theoretical framework

The theoretical framework provided by the agenda setting serves as the basis for discussion against the background of the role of the media, and in this case the printed media. Grossberg, Wartella and Whitney (1998) state that the idea behind the agenda setting is quite simple: the media over time, by featuring some issues more prominently and some issues less prominently and other issues not at all, give us a sense of what issues are important or salient, namely the amount of political or public importance a particular issue possesses. The fundamental basis research on agenda-setting is to recognize that the media is not a reflection of reality but rather filters and shapes reality, and the focus that the media places on specific issues leads the public to perceive "those" issues as more important than others (Gewijzigd, 2003). The audience are more easily convinced or persuaded by the messages they learn about in the news.

3. Objective of study

The study looks how a national mainstream English pro-government daily newspaper in Malaysia i.e. NST represents the issue of legislation of sexual harassment in last 10 years, has the newspaper been supportive, unsupportive or neutral on the issue of legislation of sexual harassment. Through identifying and analyzing the news articles, the study examines the coverage of sexual harassment in terms of general characteristics i.e. number, placement, size of the news articles and the topic of discussion. In Malaysia, there is still a lack of research into media representations of sexual harassment; the aim of this paper is also to address this gap.

4. Methodology

NST is one of Malaysia's oldest newspapers and its first publication can be traced back to 1845 and has a complete online database of archived news. NST is divided into two sections; the main paper and the pullout. The main paper consists of news such as nation, opinion, world news, business and sports. The pullout is supplementary issues consists of feature articles (issues of current interest).

For the purpose of this study, the time frame period covered was from 1st January 2003 to 31st December 2013. The search for the news articles were done manually through the use of the online database. First, each news article from 1st January 2003 to 31st December 2013 was scanned using a key word search "sexual harassment". Each article was then examined by the authors and two postgraduate research assistants to see if a reference was made on the legislation of sexual harassment. The unit of analysis was the whole item, whether it was a news story, an editorial, a letter to the editor, or an opinion column. The news articles were coded by the two authors and two postgraduate research assistants who all read the news articles independently. The presence of the two postgraduate research assistants assures that the results are not subjective interpretation of the authors and thus, adds objectivity and trustworthiness to the content analysis (Kian, 2008). All news articles that made a reference to the legislation of sexual harassment were included.

The media coverage of the issue of legislation on sexual harassment was explored through a combination of quantitative and qualitative analysis of content. This supports what Smith (1975) (cited in Yan 2006, p. 2), suggests i.e. that both quantitative and qualitative analysis should be used "...because qualitative analysis deals with forms and antecedent-consequent patterns of form, while quantitative analysis deals with duration and frequency of form." The quantitative method was used to measure the frequency, placement and size of the news reported and qualitative analysis was used to interpret the stance presented by the news articles.

The findings of this study need to be considered in the light of certain limitation, it cannot be generalized to other media as the study focuses on the representation of sexual harassment in only one newspaper. Future research could examine the other major English newspapers and the national language newspaper in Malaysia to obtain a balanced representation of sexual harassment. Another limitation was that, the news articles were obtained online through the e-media-news archive, as such, we were unable to determine the location of the news articles in a page of the newspaper i.e. whether it was on the right top, left top, right low or left low. Content analysis offers no insight into the ways of in which the information is actually used by readers.

5. Results

A total of only 22 news articles were found on the issue of legislation of sexual harassment in the NST e-media from January 2003 to December 2013 (see Table 1). The increased news in the year in 2008 was due to the counter proposal to the amendment made to the EA by the women activist groups who felt the legislation would be a better move. Where else in, 2009, the newspaper had published the initiative taken by Ministry of The Women, Family and Community Development (MWFCD) in commencing discussion with MOHR on the proposed sexual harassment legislation, followed by interviews with academic researchers on the importance to legislate sexual harassment (Cruetz, 2009).

Out of the total 22 news stories that appeared in the main section of the newspaper, 10 were letters to editors. The main section of the newspaper starts with prime news followed by comments, letter to editor and nation which usually warrants the first 23 pages of the newspaper, thus showing the importance given to news articles in terms of accessibility and readership (see Table 2). Letters to editor normally appears on page 18 of the newspaper, were mainly from the various women activist groups and public, which indicates that the coverage on this topic is not always initiated by the newspaper but just as often by its readers (ter Wal, d'Haenens & Koeman, 2005). The women activist groups felt that despite all the endeavors to recognize sexual harassment as a serious issue, yet politicians, MOHR and the public fail to comprehend the gravity of sexual harassment (Loh, 2009).

Table 1. Total number of news articles on the issue of sexual harassment legislation

Year	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	TOTAL
N	2	2	2	2	3	4	4	1	1	-	-	22
Identified												

Table 2. Placement of the news articles

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Main Section	1	1	2	1	2	3	1	1	-	-	-	12
Letter to Editor	1	1		1	3	2	1	-	1	-	-	10

*Life & Times

*pullout

The NST is published in tabloid size; each page is divided into six columns and the width of each column is 40cm or 4 inches. The category of the size of the news articles are defined as “Big”, “Medium”, “Small” and “Very Small” depending on the number of words. Out of the total news articles published most of the news articles (12) fell into the category of very small, which covers approximately 1/3 and below of a page (see Table 3). In general, the news articles merited at least 1/3 of the space of the newspaper thus emphasizing some importance of the news articles featured. This again was due to the fact that these news articles were mainly statements made by government officials and letters to editors from the women activist groups. The two medium size news stories were initiated by the newspaper, whereby the coverage included the fact that the Code of Practice was a good step but not effective without the force of law which was the reason why the women activist groups were pressing for a comprehensive bill on sexual harassment which will effectively prevent sexual harassment in the workplace.

Table 3. Size of the news articles

News stories size	New stories length	N observed (2003-2013)
Big (>1 page)	> 1500	-
Medium (1 page)	1001 – 1499	2
Small (2/3 of a page)	501 – 1000	8
Very Small (1/3 of a page)	<500	12

6. Discussion and conclusion

The dissemination of restrictive versus permissive social norms concerning sexual harassment depends, to a large degree, on the available communication channels (Galdi, Maass & Cadinu, 2013), the newspaper being one of it. News media texts are a fruitful resource for analyzing and understandings of how social reality is constructed, reconstructed and possible changed in and through particular discourses (McDonald & Charlesworth, 2013). According to Ghorparde (1986) agenda-setting theory predicts that the media sets the public’s agenda for a topic in the opinions or attitudes of the general public i.e. the transfer of salience from agenda primers (media) to agenda adopters (consumer). The newspaper steers the readers to understand the importance of news issues in different ways, this could include the prominence of the report on the pages, the pages in which the report appears, the use of letterheads and fonts, the size of the report, the use of photographs to support the report and the period of prolonged reporting (de Wet, 2003). The following discussion is based on issues that emerged from the analysis of the news articles.

First, the scarcity of the news articles in the span of 10 years is of crucial concern because only copious and appropriate information can help the readers in understanding and acting on structural matters that impact them as a group (Vargas & dePyssler, 1999); this merely shows the lack of importance or concern towards the issue of legislation. Sexual harassment stories were also not frequently reported on the first page, which tends to indicate that news on sexual harassment is not given particular news values but rather considered a source of routine coverage (Ter Wal et al., 2005).

Within the 22 news articles, the newspaper had only mentioned the fact the women activist groups had been pressing to legislate sexual harassment, there was no in-depth coverage or discussion initiated by the newspapers on the need for legislation. The newspaper did publish opinions of the women activist groups via letters to editors which had detailed an outline of the legislation and the crucial need for the legislation, which again indicates that the

topic was initiated by its readers. The total numbers of news stories on sexual harassment also reflects the Down (1972) theory of Issue Attention Cycle, suggesting that certain issues would be at the forefront of the social agenda, maintain this level for a period of time and then slip down the hierarchy and fade away.

Second, the support for the legislation, the newspaper had published everyone's interest on the issue of legislation of sexual harassment i.e. MOHR, MWFC, Malaysia Employers' Federation (MEF), women activist groups and general public, thus maintaining an impartial position on the issue. The newspaper had steered the readers to understand the importance of legislation of sexual harassment by varying between criticism and caution on the issue, thus, addressing it as a broad issue. By highlighting the different views of the parties involved, the newspaper had allowed the readers to decide on the importance of the issue and the need for action, if any, but regrettably, the newspaper itself did not take stand on the issue, thus failing to raise the importance of sexual harassment legislation in the public's mind.

The newspaper highlights the fact that the Government had recognized the need for remedial action, but still preferred to work through workplaces channels rather than enact legislation ("Mandating respect", 2005) and MWFC initiative in starting discussion with MOHR on the proposed sexual harassment legislation (Cruze, 2009).

MEF had expressed reservations about the proposed legislation by JAG (Harassed workers, 2004), MEF felt that the Code of Practice is sufficient and the current situation does not warrant such measures ("Special officers to", 2004), sexual harassment is just another form of misconduct and should not be singled out for action ("Surprise visits can", 2010). MEF felt the best approach to prevent sexual harassment is through the establishment of preventive mechanism at the company level and not legislation (Ashgar, 2006a) i.e. via Section 14 of EA which merely empowers the employer to take action against an employee for misconduct (Lai, 2007).

The women activists group acknowledged MOHR move to include sexual harassment in the EA but the need for a separate legislation is important as it will cover sexual harassment in all public places (Sonia and Tan, 2008). The legislation would cover different scenarios in which harassment could occur, provide victims with access to independent legal dispute resolutions, including special grievance mechanisms, in a safe and supportive environment, so that the facts may be ascertained and the harasser disciplined, if necessary (Lai, 2007). The fact that sexual harassment in the workplace is a very real problem, there is very little being done to tackle the problem effectively (DeLima, 2003a). Unless and until there is adequate protective legislation, incidents of sexual harassment will remain invisible and women, especially will continue to suffer in silence (Lai, 2007). JAG feels that MOHR does not appear to think the same way and its commitment only goes as far as the amendment to the EA ("When it's not harassment", 2009). The sexual harassment legislation is much needed even if an organization has sexual harassment guidelines and mechanisms in place, they might prefer to hush the matter up (Cruze, 2009).

The general publics (via letters to editors) were also in support of the legislation of sexual harassment which would increase awareness of all workers and the general public (Cruze, 2009).

Third, the relatively limited amount of information, only displayed the lack of interest towards the issue of legislation of sexual harassment by the newspaper has suppressed/ hidden the gravity of the issue from the readers or general public. A nuanced understanding of the various ways in which legislation of sexual harassment may manifest, is important because it allows the community to comprehend the broader contexts in which it might take place (McDonald & Charlesworth, 2013). What is accepted and what is not in a given society not only is communicated by common socializing agents (such as family, school and workplace) but is also conveyed by the media that play an important role in defining prevailing social norms (Galdi et al., 2013). The legislation of sexual harassment is not just about punishment but is about creating awareness of what constitutes sexual harassment i.e. education on sexual harassment (Sonia, 2014).

Lastly, a persuasive campaign on sexual harassment is much needed so that the public will be aware of what constitutes sexual harassment; the newspaper could act as an avenue by incorporating a public education component. What the newspaper finds important will eventually be mirrored in what people think is important. There were many neglected opportunities to provide the readers with information that could increase their understanding of the multidimensionality (Jones & Harwood, 2009) of the issue of sexual harassment.

Unfortunately, much remains to be done with regards to the impact on and the use of the newspaper as an instrument for the advancement and empowerment of women (Nautiyal & Dabral, 2012), then again, commercial imperatives can constrain social obligation (Vargas & DePyssler, 1999).

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