

## **GENDER-BASED-VIOLENCE (GBV) IN THE WORKPLACE**

We have written articles covering gender-based-violence (GBV) in the workplace for the benefit of both the employer and employees. July is men's month, and August is women's month and it is therefore appropriate that an article on GBV be written as it affects both males and females; however, females of all ages are those mostly targeted. The problem of GBV has even caught the attention of the International Labour Organisation (ILO), International Trade Union Confederation, and other international formations domestically and globally. It is imperative to clearly understand what the term workplace refers to. Workplace refers to work-related trips; work-related training or social activities (team building exercises); work-related communications; employer-related accommodations; when officials are commuting to and from work in employer-provided transport; or the location where employees are amongst others, required to work virtually (Mather: 2022). GBV is a phenomenon related to and deeply rooted in gender inequality and constitutes human rights violations (European Institute for Gender Equality). Sex or GBV is the physical, sexual, psychological, or economic violence against a person on the basis of gender or violence that disproportionately affects those of a certain gender (Commercial Enterprise: 2021).

GBV in the workplace, as sourced from <https://gbv.ilo.org/index.php/briefing/show-paragraph/id/63.html>, includes: bullying, physical and verbal abuse from work colleagues, supervisors or managers (which in our view includes favouritism of a staff member at the expense of another); violence, sexual harassment and unwanted sexual advances; sexual abuse and sexual violence – including 'coercive' or transactional sex, rape and sexual assault; verbal and sexist abuse; abuse and harassment around pregnancy; physical abuse and intimidation including assault, battery, attempted murder and murder; psychological abuse, intimidation and threats of violence; threats and acts of physical and sexual violence; economic and financial abuse; abusive working conditions such as poor health and safety (including building and equipment safety); inadequate or inappropriate sanitary facilities and rules about their use; and involuntary excessive long working hours and unpredictable or less demands to work overtime.

It is imperative that the employer takes action in addressing GBV in the workplace, as such, the Department has zero tolerance for GBV and harassment. The biggest challenge faced by employers is that the GBV victims do not report incidents of GBV and harassment for one or more reasons, for example, fear of reprisals. Since the negative effects of GBV include poor work performance, lateness, decreased job retention and inhibiting career advancement (ILO:2007); employee's physical and mental health and well-being, leading to stress, anxiety, loss of self-esteem and motivation (Business Fights Poverty: 2019); and low morale. The negative effects of GBV do not only affect the employee's directorate specifically, but the Department generally.

The Department therefore, has a dedicated email address namely, [NO-MEANS-NO@KZNTREASURY.GOV.ZA](mailto:NO-MEANS-NO@KZNTREASURY.GOV.ZA) where victims of GBV and harassment can report such incidents. Initially, the reason for this initiative by Department was to try and create a confidential platform for employees/officials to report the incidents of sexual harassment which now includes general harassment and GBV in the workplace. Any official/employee reporting these incidents, are assured of empathy, urgency and strict confidentiality in handling their matter. The main purpose of this email is to reverse all those negative effects referred to in the preceding paragraphs. They can only be reversed if the Department acts objectively and decisively against the perpetrators of GBV and other forms of harassment in the workplace.

GBV and other forms of harassment can be dealt with either informally or formally. An informal approach requires that the victim tries to speak to the perpetrator and tell him/her that they do

not like the treatment to which they are being subjected. If the treatment continues nevertheless, they need to report it to the head of the directorate/chief directorate/head of the branch. If it still continues unabated, the victim can report to the Director: HR or Employee Relations Sub-directorate for urgent and immediate attention.

A formal approach involves reporting the incident in writing either to the head of the directorate/chief directorate/head of the branch or directly to the Director: HR or Employee Relations, otherwise, through the dedicated email address, [NO-MEANS-NO@KZNTREASURY.GOV.ZA](mailto:NO-MEANS-NO@KZNTREASURY.GOV.ZA) for urgent and immediate attention. The victim can also approach the Department's Employee Health and Wellness Sub-directorate for professional attention should such be deemed necessary.

The Employer (Department) is legally and duty-bound to protect its employees from any form of harassment including GBV, by taking corrective actions against any perpetrator in the workplace. Harassment cases have come before the courts including the Supreme Court of Appeal for decisions with severe consequences on employers who were found to have done nothing when harassment incidents were reported. For instance, in *Ntsabo v Real Security CC (2003)*, Ms Ntsabo ended up resigning rather than being subjected to sexual harassment by her senior. The Labour Court found that her resignation constituted constructive dismissal and awarded her R12 000 as compensation (which she was paid by the employer), R20 000 for future medical costs, and R50 000 for general damages. In *Media 24 and Another v Grobler*, the appellants (Media 24 and the perpetrator) were held jointly and severally liable to pay a total amount of R776 814 to Ms Sonia Grobler by the Cape High Court. She had been subjected to sexual harassment by her trainee manager. The said payment was awarded for damages she suffered, and also by virtue of the fact that her employer did not take appropriate actions against the perpetrator despite the fact that she had been reported those incidents to the Employer.

The Code of Good Practice on the Prevention and Elimination of Harassment in the Workplace of 18 March 2022, at clause 10, provides for employers to address (prevent and eliminate) incidents of harassment and GBV in their workplaces. Thus, an employer in whose workplace cases of harassments and GBV are taking place, has a duty and an obligation to decisively deal with such incidents; otherwise they will be deemed to have condoned them (such incidents) and will consequently suffer similar consequences as the employers referred to in the preceding paragraphs. Employers therefore, have a legal duty not only to create and maintain work environments that protect employees from any form of harassment and GBV, but to ensure the existence of a harassment-free and GBV-free work environments.

*(An opinion from the Labour Desk  
Q2 employee relations article for 2023/24 Financial Year)  
MH Ngcobo*