

KEYNOTE ADDRESS

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Why it Matters to Problematize and Tackle the Problem of Sexual Harassment Everywhere

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Introduction

It is my singular honour and great pleasure to address this esteemed audience on the important social justice issue of sexual harassment. If you live in Uganda today and you heard the words “sexual harassment” you would most likely associate them with the institution of Makerere University. This is thanks to the media spotlight that has been glaring on the vice at the institution during the past one year. Such focus and fascination create the false impression that Makerere is the alpha and omega of sexual harassment in Uganda. Nothing can be further from reality. Not only does the vice of sexual harassment and abuse exist in all institutions of learning—from kindergarten to tertiary— but it also permeates all social institutions from the family

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through to the workplace, places of worship, the street, the market and other public spaces. Moreover, as the #MeToo Campaign has clearly demonstrated, the vice is alive and well beyond the borders of Uganda and Africa. So, ladies and gentlemen, let's be very clear from the onset that sexual harassment is a huge universal problem that is not bound by geographical borders or by culture. I will return to the theory behind this vice later, but first, I will try to define it and briefly discuss the major findings from the recent Makerere study on the same.

Sexual harassment is basically bullying of a sexual nature. Essentially, it is abuse of power by a person in authority. Most jurisdictions use some variant of the definition found in the Makerere University Policy: "unwelcome sexual advances, requests for sexual favours or unwanted physical, verbal or non-verbal conduct of a sexual nature." The critical word in this definition is "unwanted." When a victim succumbs to the demands of the harasser it does not necessarily signal "willingness" on their part. It is debatable, for example, whether sex was "consensual" between a desperate student and an abusive lecturer who was the only stumbling block to her graduation. If the victim finds the conduct undesirable or offensive then it amounts to sexual harassment. In other words, the total context of each case must be taken into account in order to determine whether the conduct was "unwanted."

There are two types of sexual harassment, namely, *quid pro quo* sexual harassment and environmental sexual harassment. *Quid pro quo* is a Latin term that literally means "Something for Something." This is where someone in a position of authority asks for sex-related favours in exchange for career/academic-related favours e.g., sex for marks/promotion. Most of us clearly understand this type of sexual harassment and it is the most widespread.

The conduct of environmental sexual harassment is more complex... Also known as poisoned environment, it is when your academic/work environment is made unbearable for you on the basis of your sex. For example, being trolled in the lecture room through sexually

explicit harassing tweets that are passed around during lectures. Environmental sexual harassment is also a big problem for women in public settings. For example, a young lady told me that she has to walk past a group of men who load and offload beer crates at a depot on her way to work every morning. Each time she passes there they catcall and whistle at her; they shout a barrage of sleazy comments at her; and sometimes even try to block her path. She has tried to report this to their employers and even wrote a letter to the beer company headquarters but the misogynous behavior continues every morning unabated.

Apart from the obvious sexual abuse involved in sexual harassment, it is also a form of sex discrimination which deprives its victims of constitutionally guaranteed rights, including the right to dignity and to be free from inhuman and degrading treatment.

It is important to remember that... It is the effect on the victim, not primarily the intention of the offender, which defines an action as sexual harassment. The *Standard of judgement*: "Would a reasonable person find such sexual behaviour offensive and disruptive?"

Summary of the Findings and Interventions

Makerere is the oldest and most prestigious university in the country and that probably explains its disproportionate visibility in the local media on any issue. The university was the first institution in the country to introduce a policy against sexual harassment way back in 2002 at the Faculty of Law. Four years later, the policy was adopted by the entire university. Despite the presence of the policy, the sexual predators and abusers thrived in its shadows until the media spotlight forced the university administration to institute a special committee to investigate its depth and scope in March this year. I was selected to chair the committee. Below, I provide a summary of our major findings regarding the causes of sexual harassment at Makerere with the prescriptions that the committee proposed for addressing each problem.

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www.kas.de/uganda/en**(a) Culture of Silence & Impunity**

The findings revealed a climate of impunity in which sexual harassment and abuse takes place at the University. Staff and students know the notorious perpetrators; stories do the rounds in hushed whispers but rarely are the perpetrators held to account. In some cases, perpetrators are indeed reported, however the relevant units would rarely take the appropriate investigative action under the existing policy. This was particularly true for academic “stars” who attracted huge financial grants into the university, or who were respected by their peers and students. The fear of law suits was another reason why many cases were not tried and concluded. Moreover, the policy required peers from the same unit to sit in judgment of their superiors and counterparts. This “trial-by-peer” pointed to a loophole in the existing Policy, which made it difficult to conduct genuinely impartial and effective investigations—something that created serious conflict of interest and stalemate situations.

It was also noted that the university was generally attuned to the patriarchal culture that stereotypes female bodies as sexual objects as well as a sexist mindset that portrays women as “available” for men’s sexual gratification. Male students demonstrated one element of this culture by publicly chanting graphic sexist derogatory songs on campus or taunt and ridicule female students, particularly in sports-related activities. Combined, these attitudes largely contributed to inappropriate sexual behavior. The general university failure to enforce the policy generated a culture of impunity and a belief that the bark of the policy will never be accompanied by a serious bite.

Recommendation

The Committee recommended an overhaul of the *Policy and Guidelines Against Sexual Harassment* tightening its preventive measures and controls as well as its procedures. For example, to broaden the scope of acts that constitute sexual harassment in the University Policy by adding acts such as rape; cyber-based harassment such as trolling through tweets; “sexting” and other social me-

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dia platforms; taking unwanted pictures and sharing them. We further recommended that the Directorates of Gender Mainstreaming and Legal Affairs should form a Coordination Committee for sexual assaults/harassment on campus. This Committee should hold regular liaison meetings with the police at the university to update each other on reported cases and follow up on the progress of investigations.

In order to eliminate conflict of interest issues, Anti-Sexual Harassment Committees based at university units should be removed from the Policy. These should be replaced with a broader Vice-Chancellor's Roster of 100 Anti-Sexual Harassment Committee members, who can be called upon to constitute smaller *ad hoc* panels when the need arises. All 100 members should be trained and sensitized on sexual harassment and abuse. All complaints of sexual harassment should then be routed through the Directorate of Gender Mainstreaming, which will work with the office of the Vice Chancellor to institute an *ad hoc* committee of a minimum of 3 and a maximum of 7 to investigate each reported case. The *ad hoc* committee will be carved out of the broader Vice-Chancellor's Committee.

(b) Abuse of Power

The Committee found that inequalities in power and the exploitation of such power lay at the heart of sexual harassment at Makerere University. Power inequalities are occasioned by gender, lecturer/student relationships, boss/employee relationships and socio-economic status. It was clear in the findings that the majority of the victims of sexual harassment and abuse are female. When we scrutinized the demographics of the leadership cadre at Makerere, we noticed that, not only are the majority of people holding administrative and managerial authority men, but also the majority of academic staff are male. Out of 16 members of the central management team of the University, only 2 are women. The entire 16-member executive of MUASA is made up of men. The total representation of women in all these positions of leadership at Makerere is approximately 26 percent. Such a profile not only goes

against the national constitution that calls for gender balance and fair representation of marginalised groups, but it also partly explains the rampant extent of sexual harassment at Makerere. Moreover, what all this means is that most of the female employees and students depend on men's authority for the recruitment, retention and advancement of their professional and academic careers.

Power comes in different forms and has various sources. For example, structural power that men hold as a result of their patriarchal status; power may also be derived from a position or title, from age, from economic control, or even from numbers. While sexual harassment against women is more prevalent, the study indicated that men, too, were negatively affected by the vice. Some women also put male subordinates and counterparts on pressure for sexual favors. However, like the taboo issue of males experiencing domestic violence in silence, most male victims of sexual harassment suffer silently because of the stigma and stereotypes that men cannot be sexually harassed. For example, one male respondent told the Committee that when he had just joined university service as a young lecturer, a female colleague pestered him for a sexual relationship for two years. It made him extremely uncomfortable but he chose to keep quiet about it because of "the shame and utter fear of not being taken seriously." Under the university *Policy and Regulations Against Sexual Harassment* persistent, unsolicited flirting and advances qualify as "unreasonably interfering with an individual's work" and they create a "hostile or offensive working environment."

Recommendations

In line with the *Constitution of the Republic of Uganda* and the *University Gender Equality Policy*, the Committee recommended that the university should adopt an affirmative action policy programme in order to close the gender gap in its administrative and academic activities. Females should be equally represented in decision-making processes with the aim to reach 50-50 gender representation in all leadership positions from central management, to MUASA, to MASA,

to NUEI and the Student's Guild. In short, enforcing the 2009 *University Gender Equality Policy* would be a good way to start building a safe and positive environment.

We also recommended changes in the Academic and Administrative Policies of the University in order to streamline academic records management systems and ensure that predatory lecturers do not abuse their power in the game of sex-for-marks. Students should be empowered through workshops on personal life skills, emotional intelligence, and equitable and healthy masculinities.

(c) Lack of Awareness

Only a very small number of university said they knew about the university *Policy and Regulations Against Sexual Harassment*. The community at Makerere University thus lacked information on the preventive, educational actions and punitive vigilance, which contributes to the number of cases of sexual harassment on campus. First year female students are especially vulnerable in the first few weeks of their stay at Makerere as they orient themselves to campus life. Many are naïve, and have often become soft targets to sexual predators. The university should do much more to enhance the levels of awareness regarding gender relations, sex discrimination, sexual harassment and assaults. Such awareness would empower individuals on issues of prevention, safety, security and ethics.

Recommendations

The university community must be systematically educated about sexual harassment and professional conduct. The Committee recommends that such education should take the form of a standardized online training module as well as regular refresher workshops for all university stakeholders. The aim should be to have the training module in English and translated into the three main language groups of Uganda (for support staff without English competence), as well as sign language for members of the university community with a hearing impairment. The policy itself and related materials should be

available in braille for members with sight impairment. All university partners involved in training and professional skills programmes that involve external activities such as internships, practicums, teaching practice, postdocs, and outreach, must commit to uphold to the *University Policy and Regulations Against Sexual Harassment*. Students who experience sexual harassment and abuse while on such programmes should report to their unit programme coordinators or any other person of authority at the university.

Several sexual harassment hotline numbers have been installed at the Gender Mainstreaming Directorate.

(d) Fear of Retribution

Another reason that undermines the elimination of sexual harassment on campus was attributed to a fear of retribution and avoidance of jeopardizing job and academic careers. It was apparent from the interviews with participants that there is a deep fear of retribution as well as stigma, which stood in the way of curbing sexual harassment. When one's academic or employment advancement depends on a powerful professor or boss, one would think twice before lodging a complaint of sexual harassment against them. Peers also cover up misconduct and protect their colleagues involved in the vice out of embarrassment. One respondent said, "*How can you end the livelihood of a man who has a family to look after and a global reputation to protect just like that?*" Others fear to draw a negative spotlight on their Department.

Many respondents (including female professors) reported having experienced sexual harassment but availed the information on condition that they do not name the culprits. This fear "protects" perpetrators who, aware of this culture, continue with their abusive conduct unabated.

Recommendations

The University Record Keeping Policy should be reviewed to incorporate a comprehensive Students Academic Records Management component. In particular, the university must overhaul and stream-

line the online management system that it offers to students for purposes of registration, access to examination results, checking of financial statements and other academic files.

The university should develop a fair and transparent system of assessment of examinations, including well-defined evaluative criteria and a meaningful system of feedback. To this end, it should formulate a Grading Policy that would, for example, charge each College/School to develop clear grading systems that ensure examination integrity, substantive feedback to students about their performance and online appeals for students with academic difficulties.

The university should develop an effective system of addressing various complaints related to examination results, such as missing marks, appeals for re-marking, and altered marks. Such a system should eliminate face-to-face contacts between complaining students and relevant examiners. In other words, once results are released by the respective School/College Boards, individual examiners should be rendered *functus officio* (mandate expired) *vis á vis* the concerned students. The Department's examinations office, Dean's office and the Registrar, should exclusively handle all queries and follow-ups with regard to these matters.

Victims and survivors of sexual harassment must be protected after the act has been reported. Counselling, medical and legal support for them is critical. The university should provide resources to the University Counselling and Guiding Centre and the University Hospital so that they can effectively support victims of sexual abuse.

(e) The Issue of Women's Dress Code

The issue of women's clothing featured prominently among the causes of sexual harassment highlighted by male and female stakeholders. The Committee analysed whether there is a causal relationship between what women wear and the phenomenon of sexual harassment.

The issue of women's dressing is not new and many studies have been conducted to establish its veracity. There are historical and social contexts that breed such attitudes and are linked to the wider issue of violence against women.

Some of the questions to ponder include the following:

- (a) Do some women's dress styles invite sexual abuse?
- (b) Are women who cover their bodies in long dresses sexually abused?
- (c) Does a woman's "No" count for anything regardless of how she is dressed?
- (d) Is it possible to separate sexual desire from coercive actions?
- (e) How do we balance "sexual provocation" and women's freedom to dress as they please?
- (f) Do women who dress "provocatively" buy into their own 'objectification'?
- (g) Does the focus on women's clothing amount to victim-blaming?
- (h) Would a man be compelled to cover his lips if women found them "sexually provocative"?

In traditional Ugandan societies, men generally exercise social dominance over women and such dominance extends to sexuality; most men feel an unquestioned entitlement to women's bodies. Some men who want to "sate" their sexual desires at will use this sense of "entitlement" as an "enabler" for their behaviour. The association of women's bodies with sexuality and shame can be traced to alien traditions and religious values. Ugandan traditions have evolved to appropriate such values as well. Today, institutions such as the media, religion, education and culture play a big role in depicting women's bodies as sexualized objects that must be covered in order to avoid violation. These institutions do not transmit similar messages about men's bodies or dressing. Hence, society reduces a woman to

her body parts and pushes her humanity to the margins. It also places the responsibility to prevent sexual harassment and assaults squarely on a woman. Moreover, Makerere University is a secular university, which would make it difficult to impose a dress code based on religious values.

The study revealed that sexual harassment occurred to women regardless of the length and width of their skirts. Sexual arousal is a phenomenon common to males and females and dress may be one of the many potential practices that titillate the human senses. Nevertheless, issues of arousal and provocation should be distinguished from and never be confused with matters of sexual coercion and abuse. As noted by Pereira:

The state of fear arising from coercion is quite distinct from the potential discomfort of sexual arousal. Moreover, the actions that result in men's sexual arousal are not synonymous with actions that are coercive and abusive of women. A female student who is coerced into trading sexual favours for passing an examination experiences threats to her academic survival that do not apply to anyone experiencing sexual arousal or discomfort when looking at women's bodies or their dress.¹

The fact that the majority of harassers sit in positions of authority over their victims speaks to the real problem here—that is, using women's dressing to justify the abuse of power. The Committee therefore concluded that women's clothing is not the cause of sexual harassment or abuse. The Committee also rejected the imposition of a university dress code for students and staff because research studies show that socially-sanctioned "decency" dress codes have a controlling effect, violate human rights and liberties, and are an ineffective way to combat sexual harassment.

¹ Charmaine Pereira, "The Politics of Sexual Harassment and Sexual Violence in Nigerian Universities: Overview of the Research Initiative for Women's Studies in Nigeria," Abuja, Sexual Harassment Action Research Project – Unpublished Report, 2011 at p.6.

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(e) *Consensual Intimate Relations Between Staff and Students*

Another controversial issue was whether the policy against sexual harassment should totally prohibit intimate relationships between staff and students. Many respondents felt that in order to avoid conflict of interest, there should be a total bar on such relationships, especially when it comes to grading examinations. The complexity of this issue arises from the layers of social and cultural traditions around gender relationships in society. For example, how would the university distinguish the “conflict of interest” issues that arise from an intimate relationship from those that stem from natal or marital relationships, say a lecturer teaching his/her son/niece/sister? What about intimate relationships (including marriages) that precede the student’s admission into the university programme? Aren’t individuals who are above 18 years old legally free to engage in consensual sexual relations of their choice? Practically speaking, how and who would enforce such a policy?

The Committee agreed that prohibiting such intimate relationships might not curb sexual harassment. However, it noted the risks involved when staff members engage in intimate relationships with students or their subordinates. The asymmetrical relations between the parties make it difficult to determine whether the “consent” on the student’s part was genuine or coerced. Therefore, the policy should clearly spell out the risks involved in such relationships. In order to maintain the integrity of the relationship between students and academic/administrative staff members, the policy should strongly discourage consensual romantic relationships between staff and students. However, if such relationships do take place, clear guidelines and rules must be set out in the University Policy on Professional Integrity and Standards. University staff should disclose the extent of their relationships (marital, natal or intimate) with students and other staff members whom they are required to directly evaluate or assess, and a third party should be appointed to undertake the evaluation or assessment instead. Intimate relations between students and univer-

sity employees cannot be prohibited but they should be strongly discouraged as they involve grave risks and complications, perceived and real.

Theorizing Sexual Harassment

Given how pervasive and common sexual harassment is in our society it is surprising that only one law deals with it in a small tiny provision. That is section 7 of the Employment Act which has its own flaws. For example, it wrongfully assumes that sexual harassment occurs only in workplaces with more than 25 employees and that it is only employers and their representatives who are capable of harassing.² Neither the Education (Pre-Primary, Primary and Post-Primary) Act of 2008 nor the Universities and Other Tertiary Institutions (Amendment) Act of 2006, incorporates issues of sexual harassment in educational institutions.

It is important to recognize that sexual harassment is part and parcel of the phenomenon of Gender-Based Violence or violence against women. It is a manifestation of unequal power relations in society; of male dominance. It is about abuse of such power and authority. Sexual harassment shares its root underlying causes with other manifestations of GBV. It has a lot to do with the structure and nature of institutions such as the family, the workplace and the market as well the normative gender norms which inculcate in us specific 'appropriate' feminine and masculine expectations and behaviors. [why are you behaving like you were born yesterday; you know what you need to do!].

In patriarchal societies where men dominate in positions of authority, it is not surprising men constitute the majority of perpetrators. As women hold far less positions of authority due to their gender status, they tend to form the overwhelming majority of victims. Compare authority/power pyramid for women and men]. Women are

² See Sections 7(2) and 7(4) of the Employment Act, 2006.

usually in more vulnerable and more insecure positions, e.g., boss/secretary, professor/student, taxi driver/passenger, etc.

The fact that the bullying and abuse is sexual in nature adds to the impunity of this offence. Issues of sexuality are always shrouded in mystery, shame and silence. Through the social nibs of culture, religion, the law, the media, etc., women's bodies are inscribed with a bold sexual script in ways that men's bodies are not. Women are judged first and foremost by their appearances and not their achievements. The unmistakable underlying message is that women's bodies are sexual objects of male desire and are primarily available for men's sexual pleasure.

Gendered division of labour in our society primarily assigns domestic work within the home to women while work in the formal public and private sector is usually viewed as men's work. The majority of women in the formal labour sector tend to hold jobs that are an extension of their traditional gender roles such as caring, nurturing, cleaning, cooking, and childcare. On the other hand, there is a disproportionate clustering of men in certain jobs such as CEOs, doctors, engineers, lawyers, etc. Catharine MacKinnon refers to the phenomenon of gendered clustering of jobs as horizontal stratification.³ Under the same token, women tend to be in low-ranking positions, dependent upon the approval or good will of male superiors for hiring, retention, and advancement. Being at the mercy of male superiors adds direct economic clout to male sexual demands. If you look at where the women fall on the authority pyramid you find that men occupy the upper section and women predominate at the bottom. Low pay is an index to the foregoing two dimensions. As a result of the marginalization of women in the formal sector, their wages are generally low in relation to men's wages.

In other words, sexual harassment serves to maintain a gender hierarchy through sex discrimination. Violence against women, in-

³ Catharine MacKinnon, *Sexual Harassment of Working Women: A Case of Sex Discrimination*, (New Haven, Conn., Yale University Press, 1979).

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cluding sexual harassment serve to remind women of their “rightful” place in society—subordinated to men. It helps to “normalize” and “naturalize” gender roles, reinforcing the idea that women have no value in a man’s world of the public sphere. Sexual harassment operates to degrade, demean and dehumanize.