

Volume 18, Issue 4
December 2020

ISSN 1731-8297, e-ISSN 6969-9696
<https://czasopisma.uni.opole.pl/index.php/osap>

ORIGINAL ARTICLE
received 2020-11-06
accepted 2021-01-19



Intimate relations in the workplace and sexual harassment – remarks following the Supreme Court’s ruling of 23 January 2018, Number III PK 13/17

Bliskie relacje w zakładzie pracy a molestowanie seksualne –
uwagi na gruncie orzeczenia Sądu Najwyższego z 23 stycznia 2018,
III PK 13/17

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Citation: Skowron, Radosław. 2020. Intimate relations in the workplace and sexual harassment – remarks following the Supreme Court’s ruling of 23 January 2018, Number III PK 13/17. *Opolskie Studia Administracyjno-Prawne* 18(4): 67–82. DOI: 10.25167/osap.3431

Abstract: In the paper, the author, revolving around the Supreme Court’s ruling linking close human relations in the workplace to the deterioration of management practices, critically analyses the dominant viewpoint espousing the need to strike out intimate behaviours from organizations. The author points to the significant impact of management theories, feminist trends and managerialization of law on the escalating de-sexualization of the workplace. In the article, it is evidenced that the overbearing conviction about the negative impact of intimate and sexual bonds on the working relations demands reinterpretation. It is also shown that consideration of sexual and intimate behaviours in organizations, irrespective of sex structures in these organizations, may paradoxically contribute to sex discrimination. The author offers the idea to modify the rules of employers’ liability depending on the sex structure and the number of women holding positions of authority and responsibility.

Keywords: sexual harassment, sex segregation, sex discrimination, equality in workplace

Abstrakt: W tekście autor, wychodząc od poglądu Sądu Najwyższego o negatywnym wpływie bliskich relacji w zakładzie pracy na zarządzanie przedsiębiorstwem, poddaje krytycznej analizie dominujące stanowisko głoszące potrzebę eliminowania w środowisku pracy zachowań

intymnych. Artykuł wskazuje na wpływ nauk o zarządzaniu, ruchów feministycznych oraz tzw. menedżeryzacji prawa na postępującą deseksualizację organizacji. Autor udowadnia, że dominujący pogląd o negatywnym wpływie relacji intymnych i seksualnych na stosunki w miejscu pracy wymaga zrewidowania oraz wykazuje, że traktowanie zachowań o naturze seksualnej i intymnej w oderwaniu od struktury płci w stosunkach zatrudnienia może paradoksalnie przyczynić się do dyskryminacji ze względu na płeć. W pracy proponuje się zmianę reżimów odpowiedzialności odszkodowawczej pracodawcy w zależności od struktury płci oraz od tego, czy kobiety obsadzone są na stanowiskach związanych w władzą i odpowiedzialnością.

Słowa kluczowe: molestowanie seksualne, dyskryminacja ze względu na płeć, segregacja płciowa, równość w zatrudnieniu

1. Introduction

In its ruling of 23 January 2018 (III PK 13/17), the Supreme Court, while analysing the rules of the Labour Code dealing with mobbing, expressed an evaluation according to which “the existence in the workplace of intimate relations between superiors and certain employees hampers the effective management and preserving an objective evaluation made by the superiors, which requires a special supervision on the part of the employer’s management in the aspect of preventing eventual discrimination or mobbing.” In the factual state of the ruling, two superiors maintained intimate personal relations with two women-employees, which was found to result in a worse treatment of the other workers.

The view expressed in the analysed settlement is brought down to negative evaluating the influence of intimate relations arising or developing in the workplace on effective and productive functioning of the company. Close interhuman relations are supposed to stand in the way of efficient performance of official duties and the employer should exercise due diligence in order that such intimate relations ought not to have a negative impact on management of the company. The ruling under analysis appeared at the peak moment of the social movement *#MeToo*, which could as well affect the presented stance (Tippett 2018: 229-302).

It seems that the thesis put forward by the Supreme Court is too far-fetched as regards acceptance of the rights of the employer to interfere with the personal life of employees, and its paradoxical consequence can be a rise in inequality in the workplace as well as increased discrimination of women based on sex. The ruling of the Supreme Court concentrates on intimate relations and sexual behaviors in employment, totally neglecting the question of the structural phenomenon of inequality of the sexes in the workplace. The view that a company is not a proper forum to build close relations between employees is probably the result of a fusion of three intellectual currents.

Firstly, such an evaluation appears to be a consequence of the existing current of management sciences, which has been in existence for over a hundred years, enjoying invariably considerable popularity. According to it, contemporary organizations ought to be depersonalized spaces void of passions, emotions or desires (Weber 2011: 17-36). Similarly, Taylorism, the classical method of organization of work, assumes that managers define the targets by means of their intellect, while employees use their bodies to achieve them and are to suspend their emotions during this time (Ćwiklicki 2011: 135-137). Theories of management and organization do not refer directly to the sphere of sexuality and intimacy, yet since they treat workplace as a sphere of rationality and order, it is obvious that close interhuman relations are excluded there. Sexuality and intimacy are – in consequence – perceived as opposition to reason and logic in the workplace, as phenomena that should be eliminated, forbidden, disciplined and controlled (Anderson 2017: 51-90).

Secondly, the opinion expressed in the said ruling of the Supreme Court seems to be an acceptance of views adhered to by feminist movements postulating the a-sexuality ethic and a-sexual professional approach at the workplace. Liberal feminism treats sexuality as fetters which women should shake off in the labor market (Helios and Jedlecka 2016: 15-58). None other than Margaret Mead – the godmother of sexual revolution – stated that sexuality in the workplace should be “eradicated in the same way as incest” (Mead 1989: 31-33).

Thirdly at last, the synthesis carried out by the Supreme Court appears to be a manifestation of the trend defined in sociology of law as the so-called *managerialization of law*. This view assumes that the practice and rhetoric of the personnel responsible for managing the company reinterpret norms of law limiting prerogatives of managers in the direction of solutions that are more innovative, more rational and more progressive (Edelman, Fuller and Mara-Drita, 2001: 1589-1641). The analysis done in the framework of this current of sociology underlines the manner in which organizations react to legal regulations through satisfying requirements of law with properties that are suitable for the personnel managing the company (Sześciło 2012: 5-16).

A practical manifestation of the dynamically developing management of close relationships in the workplace are multiplying internal instructions and policies referring to intimate relations between workers. They are getting increasingly popular in international corporations (Doll and Rosopa 2015: 439-453). Only in the United States over 40% of companies have such regulations in operation (Society for Human Resource Management 2013). In their most basic forms they prohibit such simple behaviors as joking, making gestures or suggestions with sexual connotations. Some, which are referred to as the so-called *dating policy* or *fraternization policy*, directly prohibit building close relationships between workers (Wallgren and Tidefors 2016: 84-97). Another solution is the so-called

date-and-tell policy, according to which each intimate bond should be reported to the employer. In its extreme case, interference on the part of employer in workers' conducts of sexual nature takes the form of the so-called *love contracts*, in compliance with which employees upon reporting their relationship to the employer are obliged to declare that the relation is of voluntary nature and will not have any negative impact on the situation in the company (Silverbrand 2009: 155-179). The race in this respect continues – the streaming platform that is the best-known throughout the world has introduced the rule of 5 seconds, which prohibits the worker to look at a co-worker for longer than 5 seconds (Timpf: 2018). The aim of all regulations of this kind is to eliminate undesired situations in such a way as to effectively limit any responsibility of the employer for sexual abuse, mobbing or infringement of personal rights.

As the Supreme Court's ruling in question concerns employment hierarchy in which superiors were male and subordinates were female and as most of the victims of sexual harassment are female (2018; 2007), then the paper focuses on women as individuals being both more vulnerable to imbalances of power and more exposed to undesired behaviors.

The research goal of the paper is to determine whether the dominating view of a negative influence of intimate and sexual relationships on relations in the workplace may require to be redefined and to prove that treating behaviors of the sexual and intimate character in isolation from the structure of the sexes in employment-based relations, as it takes place in the ruling of the Supreme Court under analysis, can contribute to discrimination of women. The aforementioned purposes will both be achieved by applying the formal-dogmatic approach.

2. The myth of the a-sexual workplace

The Supreme Court's concentration, in the said ruling, solely on the very intimate relations themselves poses a danger of treating sexual harassment as an isolated problem, not as a symptom of the structural phenomenon which is inequality of men and women regarding employment relations. The result may be such that employers or courts can take action against persons responsible for defined behaviors sexually marked and simultaneously do nothing or very little to deal with the hierarchy of the sexes in the workplace. Drawing attention away from the real problem of discrimination because of sex in employment, the sexual sanitization may in consequence weaken the postulate of equality of the sexes. What is more, the stress laid on elimination of sexual behaviors in the workplace can encourage workers to present and formulate their negative discrimination-related experience in the narration of sexual harassment, which – in turn – can obscure the real problem of systemic inequality of the sexes. As a result, women can complain of bawdy jokes when in fact their main

fear concerns the caste system which often relegates women to taking posts of lower pay and lower status.

The popularity of the above-indicated regulations and policies shaping the range of intimate relations at work seems not to aim at preventing discrimination in employment at all, but to chiefly restrict employer's liability connected with formation or tolerance of space in which sexual behaviors are perceived in separation from the sex structure and are treated as excesses. Still, the very behavior of sexual or intimate nature itself does not mean real discrimination based on sex yet. Anyway, Article 18^{3a} Para 6 of the Labor Code defining sexual harassment does not require verifying at all whether the effect or intended action by the perpetrator was indeed discrimination based on sex through depriving the victim of determined possibilities related to work. The definition of sexual harassment assumes in advance that it is always a manifestation of discrimination on grounds of sex, without the requirement that this were the intention or effect of the perpetrator's action. Attention should be paid to the fact that after all the goal of the above-mentioned internal policies and regulations dealing with intimate relations in the workplace is not improvement of the structural position of women in work environment, but elimination of defined behaviors of sexual nature, including consensual, which could impact the employer's liability. On the other hand, the tools which are more favorable regarding fight against sexual harassment of women seem to be those improving, in a systemic way, the situation of women in the sphere of their employment, promotion, training and evaluation in work environment.

If we regard sexual harassment as a consequence of certain psychic inclinations of individual perpetrators or their inadequate sensitivity, not as a consequence of the sex structure in the given company, only then does it make sense to concentrate solely on regulating workers' sexual and intimate behaviors through prohibitions and discipline. The effect of sexual harassment understood in this way is just the common practice of preventing the abuse through creating suitable procedures of considering individual complaints concerning acts of sexual harassment in the workplace. What is more, the result is often perceiving separation of the sexes not as the cause of sexual abuse, but as a mechanism which is supposed to prevent such a behavior. If sexual tension is perceived to be the problem, then the applied solution is elimination of this tension by separating the sexes. Accordingly, some companies while delegating their employees to go on business trips do order women and men to stay in different hotels (Atwater, Tringale, Sturm, Taylor and Braddy 2019: 17-31), whereas others forbid holding working meetings between a man and a woman behind closed doors (Philipps i Tsatsas), which practice has come to be ironically dubbed into *an open door policy*. If the Vice-President of the US refuses to meet women at work without the presence of third parties (Blake 2017), it is not surprising that 30% of men

in American companies apply the same practice (Mahdawi 2019). Then, how can women gain access to individual training or mentoring if their meetings with men in the workplace are hampered? How can they show that they are group players if they cannot set out on a business trip with men? If there is a climate created of isolating women and evading them, which employer will want to employ or promote them? Thus, separating the question of sexuality at work from the full organizational context of the company seems mistaken.

All the three intellectual trends mentioned in the introduction (Taylorism, feminism and managerialization) assume that it is possible to distinguish and isolate the sexual element and intimate sphere from the other ones related to the functioning of a company. As a result, there follows a conviction that if the sphere of intimacy can be separated from other behaviors, then it is possible to penalize it in a uniform manner, as well. A totally different perception of sexuality derives from Michael Foucault who asserted that sexuality as a social creation constantly and completely penetrates all human behaviors in all organizations (Focault 2010: 130-167). In consequence, some sociologists write about organizational sexuality (Hearn, Sheppard, Tancred-Sheriff Burrell 1989: 24-49). According to this framework, sexuality is not a static attribute which workers can take with them to work or not, yet it is an incessantly renegotiated process that follows between people. Here, sexuality is not a biological component, but a phenomenon appearing in relations between employees. Providing work is often primarily a social activity, it is not viable to separate sexuality from work. Sexuality is thus a common and frequent element of human relations, not a rare or exceptional private feature (Perez and Liberman 2010: 98-116). As a result, sexual harassment cannot be treated as a catalogue of defined sexually-oriented behaviors which can be identified and disciplined.

Meanwhile, along with technological and global transformations which Polish civic society is being subjected to, the workplace has remained one of the few places where representatives of different social groups can get to know each other better (Kiersztyn 2017: 200-230). People who work with one another, enter into closer relations for a longer span of time to achieve common targets, which – in consequence – can make a source of exceptionally intimate relationships – those typical of colleagues, friends or sexual ones. Polish studies indicate that 34% of romances commence at work (2011). When the employer forbids or discourages employees from maintaining intimate relations between one another, at the same time they deprive the latter of the chance to find a partner in the environment which offers them the greatest potential. And if, additionally, such sexual or romantic relations make the basis for imposing disciplinary penalties or other negative consequences, then there forms a climate of smothering bonds of friendship or solidarity among the employees. Many of them can as a result be afraid that showing interest in a colleague can lead to

being charged with sexual harassment. It is therefore hard to expect employees representing different environments to build close bonds and relations, be it sexual or extra-sexual, if they are bound to worry that such emotional getting closer to another person in the workplace entails a risk either of legal consequences or connected with their reputation.

The old goal of Taylorism, that is having a sterile company in which employees are free from human emotions and concentrate on turning their whole potential to the benefit of the employer does not reflect the rich and complex roles which work plays in man's life. To the majority of people in employment, work is not only and exclusively a source of income (Jabłonko 2014: 127-135). It provides a way to find oneself in society and to offer this society some values, to fight with one's weaknesses, to strike relations and build a network of contacts, to leave something behind; but it is also a source of community with others or a way to better understand one's own emotions.

In this light, sexuality is not only an attribute of individual persons, but a dynamic force which is developed in relations formed by, among others, such institutional spaces as a company. Thus, sexuality will not always have the character of discrimination based on sex and will not always be destructive to the work environment. It can also serve various positive aims. And in the same way as many people build and express their personality through behaviors of the sexual nature, workers as a group can make reference to sexual interaction, for example, in order to lessen the strain, reduce boredom, form mutual solidarity or express resistance towards oppressive practices of their superiors. Indeed, results of some studies prove that romance in the workplace can – in certain circumstances – increase productivity (Verhoef and Terblanche 2015: 287-310).

Thus, contrary to the existing conviction, intimate relations in the workplace do not always have to result in harming or depreciating women. Everything will depend here on the structural context in which such intimacy or sexuality are expressed. Women working in companies dominated by men are far more often confronted through hostility from men, and men intentionally use behaviors of sexual nature to brand them as different or 'leprous'.

At the same time, studies prove that women employed in more integrated and egalitarian companies a lot more frequently voluntarily participate in building sexual relations in such places and get pleasure from them (Brandl, Mayrhofer and Reichel 2007: 634-645). It probably results from the fact that in such environments the number of women and proportion of the sexes allow women to shape norms of sexual behaviors in the workplace according to one's own expectations and needs. Instead then of assuming that women will always treat sexual behaviors as a manifestation of abuse or aggression, it would rather be necessary to provide greater integration of women in companies, and first of all – so that they should more often be represented on posts of authority

and power. This will allow women to actually co-decide about the character of culture of work.

It turns out that identical behaviors of sexual nature are perceived in a different way by employees, depending on whether they occur in the work environment where women are in the majority and where they hold managerial posts or positions with responsibility (Schultz 2010: 1203-1221). Thus, contrary to theses propagated by the above-mentioned currents in sciences of management and feminist currents, sexuality in the company is not always perceived by women as discrimination of them. In such situations everything depends on how much women and men are integrated with each other in the given company and also on how many women hold posts connected with authority and responsibility (Kanter 1993: 217-245). Sexual abuse should therefore be perceived first of all as a mechanism of marking women as different and such that are not fit to perform given functions in the workplace. Ignoring this motivation of the abuser can only too easily result in overlooking the relation between sexual abuse and segregation of the sexes in the workplace.

Working environments where women are more numerous and better integrated as well as occupy positions connected with authority primarily pose a lesser threat and risk to women of being sexually harassed. Additionally, they create chances to co-decide about what the norm is, to overcome stereotypes and to define what sexually-marked behaviors are acceptable. American studies point to the fact that in integrated environments women do not treat jokes or suggestions of sexual character as acts of abuse (Foster and Fullagar 2018: 148-160). Rosabeth Kanter is of the opinion that where there are few women or where they hold lower posts, they are treated as representatives of their sex, as symbols, not as individual subjects with full personality (1993: 208-210). This phenomenon was defined as the so-called *tokenism* (Zimmer 1988: 64-77). In consequence of the mentioned studies, it seems that a rise in the women's presence on posts connected with authority and responsibility may allow all the women in the company to express their sexuality more freely.

Thus, in opposition to the recommendations of the Supreme Court, it seems necessary to reconsider the traditional conception of rationality which governs the workplace in favor of a broader framework that acknowledges sexuality and intimacy to be inseparable elements of life in organizations.

3. De-sexualization and de-segregation

The way in which the weight of close relations in the workplace is perceived by the Supreme Court does not allow either women or men to positively experience sexuality and intimacy in the company. This can enhance dynamics which encourages women to formulate their objections and claims through

narration of sexual harassment – even when the objections are brought down to a much more vital one concerning inequality with regard to employment. The circumstance in which the employer defines and disciplines sexual behaviors, encourages employees to use the language of sexual harassment, not one connected with structural features of the given organization.

The very fact itself that enterprises treat sexual harassment with greater attention than discrimination based on sex, which is not related to the former, results in that women formulate their claims through referring to the sphere of sexuality. As a result they can report the problem of sexual behaviors when, in fact, their signal concerns the question of men's authority and hierarchy in the employment – the phenomena that cannot be presented with the idiom of sexual harassment. Sexist jokes that are popular with men in the workplace typically aim to build the culture of masculine identification and solidarity through showing women as outsiders (Gołczyńska-Gondras 2009: 1151-1185). The problem with such jokes does not concern their content, but the fact that they serve to isolate women. By treating sexist comments exclusively as a manifestation of aggressive masculine personality and not as a manifestation of structure of the sexes and men's dominance, women deprive themselves of the possibility of demanding changes of the organizational character. Consequently, the systemic inequality of the sexes is brought down to a vulgar joke or a provoking utterance.

The language and narration of sexual harassment can easily be made use of to name other behaviors of co-workers or superiors, which do not have their names and whose intention or effect is to humiliate or isolate the employee. In the English literature on the subject such behaviors are collectively referred to as *managerial abuses*, ones suffered from superiors. Due to the fact that such behaviors do not fall into any collective category, victims of these abuses include them in the category of sexual harassment (Lopez, Hodson and Roscigno 2009: 3-27). Harassment is becoming thus a kind of medium through which all abuses in the company are formulated and communicated.

To the majority of workers, deciding whether the given sexual behavior has the character of harassment will depend on who commits it. This shows only that sexuality in the workplace becomes significant in a full organizational context. Studies conducted in the branch of gastronomy in the United States revealed that waitresses perceived behaviors marked with intimacy and sexuality like gestures, jokes, touching or embracing completely differently when they were made by waiters and when the same came from workers in the kitchen (Guiffre & Williams 1994: 378-401). Additionally, still in a different way when they were made by white males and those of different skin color. Latino and Afro-American men working in the back facility were excluded from the women's sphere of intimacy. The above leads to the conclusion that internal regulations

and policies concerning sexual harassment cannot be and probably are not used objectively, but first of all against persons perceived as different. Thus, no company can be completely de-sexualized. The rules and norms aiming at elimination of sexuality will favor forms of sexual behaviors of the dominant group instead. Should then regulations relating to sexual harassment at work not reflect such values that will allow enriching human experience instead of bringing them down to de-sexualized and hence de-humanized representation of human nature?

As it has been shown above, work is not only a source of maintenance, but also fulfils a series of other functions co-forming human identity. Work environment today is one of the few places where people who belong to different social groups and represent different classes can achieve common goals jointly and severally, and invest their lives with common significance. As Arie Hochschild maintains, “to many people the company has become the center of their dreams and needs” (2001: 106-116). Whether or not we acknowledge this to be positive, in the case of the majority of human beings, work is one of the fundamental spheres forming human life. In the world where increasingly many interhuman relations are of the short-lived and superficial character, those at work have a chance to be deeper, based on greater trust and long-lasting. Work environment is a space to favor establishment of intimacy between people (Jakimiuk 2016: 43-54). Close cooperation over a long period of time, linked to attaining a common goal, joint living through successes and failures must make workers come closer to one another. Mutual interests may act like an aphrodisiac and the bonds which are formed in connection with pursuing them can be far stronger than those created outside work environment.

Obviously, not all intimate relationships include sexual behaviors. There arises a natural temptation to maintain this intimacy in the workplace and to eliminate sexuality. One must remember, though, that in the face of longer and longer hours, being the result of omnipresence of mobile devices and in consequence – less and less time devoted to socializing, work remains one of the basic fields of looking for a partner (Kacprzak-Wachniew 2014: 147-162). In practice, it would be hard to divide employees’ behaviors into intimate and sexual since the line between the two is too vague. Besides, it is hardly possible to imagine a situation in which employees – confronted with the policy prohibiting sexual behaviors, which is in force, should be ready to develop intimate relations and manage them solely in such a way as to keep them intimate exclusively at work, but sexual outside it. What is more, in the face of rules that prohibit defined conducts (touching, embracing, gestures), workers can simply be afraid that their behavior will be presented and interpreted in an unfavorable light. This can also lead to a rise in mutual distrust among co-workers if an intimate gesture can bring about disciplinary consequences. This

means that the value of work, which the sense of bond with one's colleagues forms, can easily be wasted because of a regulation concerning sexual harassment. Suppressing the sphere of sexuality at work, it is only too easy to stifle human energy, vitality and human bonds.

It needs remembering that internal rules and policies which prohibit defined conducts of sexual nature are not created with participation of those whom they concern the most, that is employees. The authors of such recommendations are typically lawyers, personnel departments and external consultants, who aim to suitably shape employer's liability for acceptance or tolerance of sexual harassment. Employees do not have then any influence on defining the culture and norms of sexual behaviors in the workplace. In these rare cases where they can co-decide about such norms, their satisfaction with work is on the increase, while complaints of sexual harassment do not occur (Sturm 2000: 458-568). Thus, instead of endeavoring to root out sexual behaviors, eradicating them from the company, it is perhaps worth attempting to create such a workplace, where everybody can be both a competent worker and a subject of sexual behaviors. Therefore, the solution should not be elimination of the sphere of sexuality, but guaranteeing that women have a greater influence on how this sexuality is defined and experienced. As Rosemary Pringle writes, "Sexuality cannot be prohibited. Instead, by making it more present and more visible, women can become a subject of sexual discourses, but not their objects" (1997: 75-80).

In other words, the problem with sexual harassment is not that it relates to sexuality, but that it makes discrimination based on sex. And this eradication of discrimination should be the guiding principle behind rules dealing with labor law, not elimination of sexuality. As it has been mentioned above, sexual harassment is a result of stratification based on sex, which occurs in the workplace and differences in the status and pay, which result from it. In places where women are not fully integrated or treated as equals, they will – with a high probability – be subjected to acts of sexual and other-than-sexual discrimination. Hence, employers should not be, like the Supreme Court decided in the ruling mentioned in the introduction, encouraged to de-sexualize the work environment, but to secure its full de-segregation. It is the emphasis mistakenly laid by anti-discrimination regulations on sexuality of employees' behaviors that leads to formation of an a-sexual space. In consequence, abandoning such optics can change the employers' way of thinking and shift the point of gravity from an analysis of sexuality to one of systemic discrimination of women.

Therefore, rules ought to encourage greater integration of women so that they should have a greater say in establishing norms of behaviors in the given company. As it was mentioned earlier, whether women perceive the given conduct to be sexual harassment seems to depend, in the first place, on the proportions of employment of the sexes in the company and the extent to

which women occupy positions connected with authority and responsibility (Studzinska 2015: 23-35). Perhaps it is worth essaying to work out such a model of employer's liability for sexual harassment that is dependent on how much the employer has been able to integrate both sexes and what proportion between them there is. Thus, the employer who has managed to integrate the sexes to a defined high degree, both regarding the proportion in the overall number of women and men and the number of the former occupying managerial posts, would be held responsible but exceptionally for creating conditions for sexual harassment. In turn, the employer who has created conditions for segregation would bear this responsibility somehow automatically, through – for example – shouldering relevant burden of proof. Such a regulation would encourage employers to desegregate working environment and not to de-sexualize it. The employer would not feel the pressure any longer to concentrate on sexual behaviors of the employees and their intimate relations at the workplace and signals of actual sexual harassment would be treated as a stimulus to verify the existing relations between the sexes, which – after all – is the aim of rules that regulate fight against sex-based discrimination in employment. As a result, women working in integrated companies would enjoy greater freedom to decide about norms of sexual and intimate behaviors, while women working in places of high segregation would have greater easiness in holding the employer responsible for letting harassment occur. Employers would know where they stand as regards different kinds of responsibility created by new regulations (it would be necessary to consider a few degrees of this responsibility depending on the proportion of the sexes) and would be encouraged at the same time to strengthen de-segregation as well as increase the share of women's holding positions that offer greater responsibility.

The aim of the new look at regulations concerning sexual harassment and discrimination based on sex in the workplace would not be inspiring all organizations to develop greater sexualization of work culture; neither would it mean encouraging superiors to accept all intimate behaviors in their full effect. The aim would be to create such a working environment that would allow superiors and employees to co-decide about the culture and norms of acceptable conducts so that the atmosphere at work were free from sexual harassment, yet – simultaneously – not burdened with the pressure to suppress intimate relationships.

4. Conclusions

As it has been pointed out above, to many employees intimacy in the workplace is a vital element of identity, allowing them to fight alienation, improve morale and increase enthusiasm. It also favors formation of a community and creativity. Building bonds at work can be the base of a friendship or simply – mentor-like relations which are valuable tools of professional development.

It needs remembering that rational goals and motivations which companies and employers are guided by are subsequently applied in interhuman relations dominated by human personalities, emotions and passions. Sexuality and intimacy are thus an inseparable component of life in organizations. Stronger integration of women in the workplace will allow making companies not as much free from sexuality as safe for sexuality.

In this light, the opinions expressed by the Supreme Court in the ruling referred to in the introduction, which point to a negative impact of intimate relations between workers and management of the company, appear clearly to be missing the point: the goal of the employer should not be an increased control over close relationships which are formed between employees, but elimination of structural inequalities between women and men. Instead of de-sexualization of the employees' environment, employers ought to focus on its de-segregation through securing an appropriate proportion of the sexes as regards both the overall number of employees and – first and foremost – positions connected with authority and responsibility.

One of the ways which could be applied in the process of de-segregation and – at the same time – would allow natural development of human sexuality, would be changed rules of employer's responsibility, statutorily-constituting a stiffened regime for employers who do not integrate the sexes and inclining towards exempting from liability those who have successfully and fully accomplished such an integration.

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