Sexual Harassment

• Tort vs Crime
• A form of sexual abuse and unwanted sexual attention.
• It is behavior that is coercive, forced, threatening, or unwanted. It is the act of someone bothering another one by saying or doing unwanted/unwelcome things of a sexual or gender nature.
Elements of the tort

• Sexually harassing conduct
  – Harassment that is either sexual or gender-based.
  – Unwelcome conduct.
  – Severe or pervasive.

• Intent
  – Impact on victim: Sexual harassment is defined by the impact of the behaviour on the recipient, not the intent of the perpetrator.

• Damages
Actions included in sexual harassment

- Touching inappropriately.
- Making insulting jokes.
- Making derogatory comments.
- Making sexual demands or suggestions.
- Staring at or making unwelcome comments about someone’s body.
- Displaying sexually offensive pictures.
- Being verbally abusive because of someone’s gender.
- Demanding sex.
- Physical assault.
A poisoned environment

- Poisoned environment sexual harassment discriminates against individual(s) on the basis of sex, gender, or sexual orientation by creating an intimidating, hostile and/or offensive environment.
- This is the most common type of sexual harassment. It usually involves a pattern of persistent or repeated behaviour such as crude or offensive jokes, sexual comments, displays of offensive material and/or stereotyping on the basis or gender or sexual orientation.
- Anyone who is in the poisoned environment can make a claim.
Quid pro quo

- Quid pro quo means “this for that”.
- It involves implied or expressed:
  i. Promises of reward for complying with sexual solicitations, or
  ii. Demands or implied or expressed threats of reprisal, or
  iii. Actual reprisal for refusal to comply with sexual demands.
- This type of harassment is usually initiated by a person(s) with power over a person(s) with less power. Thus, the recipient is in a vulnerable position.
Soliciting favors of a sexual nature for oneself or for a third party, within a continuous or habitual labor, education, or other relation involving services, thereby provoking the victim an objective and seriously intimidating, hostile or humiliating, situation.