Legal System Creates Problems For Victims of Harassment

Harassment, from Page 1

shame they feel if turned against them, but rather than they should make the public aware of the wrongs that are being committed.

Macleish discusses victims’ rights

Macleish has represented many victims of sexual abuse and sexual harassment, including the victims of Rev. James Porter. Macleish talked primarily about the limitations of the legal system for handling harassment.

Macleish began with a reference to Henderson’s talk. “When Tom- 

nie did what he did, I don’t think he did it because he thought he was going to change people’s minds. He was trying to destroy the illusion that they have all the power,” Macleish said.

Sexual abuse and harassment, Macleish said, is abuses of power.

“When you are sexually harassed or sexually abused, it is not because the perpetrator is horny, but because they are people who will abuse power,” he said.

“There will always be people in our society who abuse power,” Macleish continued. “The horror of it is... dealing with the institutions that harbor and protect these indi-

viduals when they commit these acts.”

Six-month time limit

Macleish also said the six-month time limit within which harassment victims have to file a complaint with the Massachusetts Commission Against Discrimination is prob-

lematic.

“Victims of harassment are often traumatized by the harassor and may not be ready to come forward to testify before the time limit is up,” Macleish explained.

If a victim does file a complaint, there are a host of laws prohibiting sexual harassment, but the grounds for proving the case are slim, Macleish said.

There are two types of sexual harassment, he said. The first is a kind of quasi harassment, in which a supervisor tries to create an employee into dating or sexual rela-

tions, with the promise of work-

related benefits. When the employee rebuffs the advances, the employee is fired.

In those situations, the victim has a clear right to sue both the supervi-

sor and the employer, Macleish said. “You don’t even have to show that the employer knew about the harassment going on. You do have to prove you were sexually harassed and that your termination was required because you did not submit to these advances,” he said.

The second kind of harassment was hostile environment harass-

ment. Macleish characterized this case as when the victim need not show tangible economic harms, but only that a pervasive environment of harassment existed.

Harassment must be pervasive

The pervasive test is cumbersome, though, Macleish said. He cited one case where the victim did not suffer serious psychological harm, and for that reason the court ruled in favor of the harassor.

The pervasive test as Macleish described it is a catch-22. To be sure of winning a hostile environment case, he said, the victim must be completely destroyed psychologi-

cally — destroyed to the point that the victim would hardly be capable of bringing a case in the first place.

Macleish also said the tendency “to go along with the boys” can cause a victim to fail the hostile environment test. “Some courts have said you would lose legal rights unless you oppose [harass-

ment] from the beginning,” he said.

In one case, a court ruled that sexually explicit posters of women hanging in factories could not be con-

sidered to create a hostile environ-

ment because they were so common in American factories that women should expect them.

Macleish described some mea-

sures that employers could take to be more responsive to the victims of harassment. “The people who are listening to these complaints have to have some power. They must be able to move or fire the harasser. They need to be trained to listen empathetically,” he said.

“I don’t know the details of MIT’s harassment policy, but from everything I’ve heard, it’s pretty lacking,” Macleish concluded.

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