

# Policies Implementation to Address Harassment in Workplace

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## Abstract

Workplace harassment exists throughout all types of workplaces. This is also experienced in developed countries, developing countries and undeveloped countries all over the world. Harassment is a type of bullying and discrimination and considered as a social problem. It is important for all workers to understand workplace harassment so you can avoid a hostile work environment. A good workplace harassment policy must be implemented and regulated so that the necessary steps can be taken so ensure a safe working environment for all employees. Most basic types of harassment are verbal and psychological; there are also more serious forms, such as abuse, physical and sexual. All types of workplace harassment are considered illegal. They will not only affect an employee's productivity, comfort and safety at work, but they can also expose an organization to legal liability if it does not handle the harassment properly. Sexual harassment is a widespread and global problem that affects both women and men. Women and girls however, more commonly experience it, across all levels of society around the world. The global movement that went viral in October 2017 started out as a social media hash tag, the movement has since massively grown, encouraging millions of women across the world to speak out about sexual harassment. The Malaysian pledge to uphold the success of Sustainable Development Goals (SDG) on Gender Equality and Health and Well Being is also interconnected with the topic above, so implementing related laws/policies on work place and sexual Harassment with intervention from the Government is crucial to reduce and mitigate the social problem. This assignment will focus on government intervention to address such problems by implementing / establishing laws, policies, code of conduct practices and guidelines to protect women in the workplace. I will use case studies from South Korea, Malaysia and Cambodia to try to find similar programs that have been implemented to protect the rights of women in the workforce as equal humans. By then, researcher will be able to prove that through workplace harassment law/policies will make it way to reduce the harassment problem.

*Keywords: Harassment; workplace; policies related; Policy implementation*

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## ■ 1.0 HARASSMENT AT WORKPLACE CASES ANALAYSIS

The ILO's Violence and Harassment Convention, 2019 (No. 190) and Recommendation (No. 206) are the first international labour standards to provide a common framework to prevent, remedy and eliminate violence and harassment in the workplace, including gender-based violence and harassment. The Convention includes the specific recognition, for the first time in international law, of the right of everyone to a world of work free from violence and harassment, and sets out the obligation to respect, promote and realise this. (International Labour Organization, 2022)

UN Women's Work has published a guideline on policy and practice on sexual harassment. It does so within the context of international commitments and standards that address violence, discrimination against women, and human rights, such as the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the Sustainable Development Goals (SDGs).

### 1.1 Korean Problem

According to International Affairs Review (2015), A 2015 survey found that eight out of 10 of its respondents had experienced some form of sexual harassment, most of which occurred during hwaesik or company dinner outings. The survey also found that those sexually harassed are often young female employees and are unlikely to report the harassment to authorities or higher-level management, citing fear of being fired or experiencing further workplace discrimination. Hwaesik was an informal corporate culture that was meant to promote understanding and improve relationships between co-workers within a company. Here, the survey says it is one of reason where sexual harassment on women at workplace begins.

## 1.2 Malaysian Problem

According to MengWengKwai & Associates (2021), In a survey by Women's Aid Organisation, 62% out of the 1,010 Malaysian women surveyed reported that they experienced some form of sexual harassment in their workplace. In the Malaysian work culture, chortng was considered as norms but women feel unsafe and disturbed over these kinds of actions by men.

## 1.3 Cambodian Problem

International Labour Organisation (2020) reported that in a study in 2015 to 2018, sexual harassment in the workplace is common in Cambodia, with an estimated 40-60 percent of women and 10 percent of men being harassed at work. Empirical evidence from social psychology emphasizes social norms, power, accountability and organizational tolerance as the key determinants of sexual harassment. Economic theory indicates that misaligned incentives expose workers to quid pro quo sexual harassment. Low powered incentives for supervisors and high-powered incentives for workers increase sexual harassment. In Cambodia where the manufacturing sector was the main industry of Cambodia especially in the Textile sector was dominated by the women workforce.

## ■ 2.0 LET US SEE WHAT POLICIES THAT EACH GOVERNMENT HAS BEEN IMPLEMENTED

### ■ 2.1 South Korean

Korea has experienced rapid industrialization and economic growth as well as democratisation for decades. Employees in Korea are putting more emphasis on their individual human rights and well-being, and we are beginning to see an increase in awareness by employees and employers. However, both employers and employees are unfamiliar with how to effectively comply with the legal requirements while acting in accordance with such changed values and trends, and this has become one of the main concerns of the management.

### ■ 2.2 South Korean Harassment Law and Policies

Although the Korean's Labour Standards Act (LSA) on workplace harassment was added and effective on 16 July 2019, the Ministry of Labour and Employment, 2,130 reports on workplace harassment were filed to the National Labour Relations Commission in 2019, and 5,823 reports in 2020. The LSA then was heavily criticised and labelled ineffective. However, an amendment to the LSA was passed on 13 April 2021, with an effective date of 14 October 2021. The amendment imposes administrative fines on employers that fail to fulfil the obligations regarding workplace harassment and establishes a confidentiality requirement for facts discovered during investigations of workplace harassment. (Lee, 2021, #)

Article 11 of the Korean Constitution states that 'all citizens shall be equal before the law, and there shall be no discrimination in political, economic, social, or cultural life on account of sex, religion, or social status', and the National Human Rights Commission of Korea Act explicitly prohibits 20 forms of discrimination. Laws such as the LSA, Fixed-Term and Part-Time Employee Protection Act, Temporary Agency Worker Protection Act, Equal Employment Opportunity Act, Act on the Prohibition of Age Discrimination in Employment, Act on the Prohibition of Discrimination against People with Disabilities and the Foreign Worker Employment Act prohibit discrimination based on gender, age and nationality. However, there is none of the laws mentioned above that prohibits discrimination in general. (Lee, 2021, #)

### ■ 2.3 Malaysian

Malaysian Institute of Human Resource Management reported that in the Malaysian workplace bullying has become an issue that is serious enough to warrant scrutiny. Many people believe that workplace bullying only happens top-down, or in other words, seniors bullying their subordinates but there is also a bottom-up approach where top officials or department heads who have become victims of employees who have an agenda.

Although workplace bullying exists in Malaysia, there are no particular laws under which the victim can lodge a complaint against the perpetrator. (Ab Khalil, 2022, #).

## ■ 2.4 Malaysia Harassment Laws and Policies

3.2.2.1 Anti-Sexual Harassment Bill 2021 was passed in Parliament, but it has yet to come into effect. The Bill still contains significant gaps in protections for victims which will need to be addressed by further regulations, guidelines and policies. However, some of the Penal Code like 354, 355, 377D and 509 to some extent provides some degree of protection only limited. (Women Centre for Change, WCC, n.d.)

3.2.2.2 Employment Act 1955: In Part XVA Employment Act 1955, sexual harassment in workplace was included in 2012. It defines sexual harassment as any unwanted conduct of a sexual nature, whether verbal, non-verbal, visual, gestural or physical, directed at a person which is offensive or humiliating or is a threat to his well-being, arising out of and in the course of his employment. (Women Centre for Change, WCC, n.d.)

In Part XVA, Section 81A till 81G, it states how to complaint sexual harassment at workplace and the mandatory duty to enquire by the employer on sexual harassment complaints. It also lists down appropriate actions to be taken by the employer if sexual harassment is proven. Unfortunately, this Act has a lot of limitations. (Women Centre for Change, WCC, n.d.)

3.2.2.3 Industrial Relations Act 1967: If you are dismissed unfairly or resigned your job due to sexual harassment, Section 20 of the Industrial Relations Act 1967 can help you to get reinstatement or compensation in lieu through the Industrial Relations Department if it is proven unjust. (Women Centre for Change, WCC, n.d.)

3.2.2.4 Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace; The Ministry of Human Resources introduced the Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace in 1999. This is to encourage employers to adopt the Code of Practice against sexual harassment and an internal mechanism to prevent sexual harassment at the workplace.

However, this code served as a practical guidelines to companies to set up their own mechanism to handle sexual harassment at workplace. The Code of Practice is not effective as it is just a mere guidelines and the companies are not mandatory to set up the mechanism. (Women Centre for Change, WCC, n.d.)

3.2.2.5 The Public Service Department Circulars Updated 2018: The Malaysian Public Service Department issued a circular in 2018, a comprehensive guidelines for handling sexual harassment in the workplace for the civil servants in the country. (Garis Panduan Mengendalikan Gangguan Seksual di Tempat Kerja Dalam Pekerjaan Awam). (Women Centre for Change, WCC, n.d.)

3.2.2.6 The Communications & Multimedia Act 1998: Section 233 of the Communications & Multimedia Act 1998 which may give some protection from online sexual harassment. (Women Centre for Change, WCC, n.d.)

## ■ 2.5 Cambodia

Women in the garment sector suffer the most from workplace harassment. A survey was made in 2019, showing that up to 87% of women were subjected to verbal harassment or unwanted touching at work with 35% of this harassment coming from managers holding greater status and power.

In Cambodia, workplace harassment isn't restricted to garment factories or the private sector. Workers everywhere, especially women, are faced with unfair treatment, harassment and other forms of abuse of power. (Dip, 2021, #)

## ■ 2.6 Cambodia Harassment Laws/Policies

3.3.1 Convention 190 (C190) and Recommendation 206 by the International Labor Organization (ILO), it is an International Convention on Eliminating Violence and Harassment in the World of Work including gender-based violence and harassment (GBVH), was adopted in June 2019 and came into force two years later on 25 June 2021. In a 2020 report, about 40-60% of women and 10% of men were harassed at work. (Khmer Times, 2022)

ILO also made a survey in 2022 and found that more than one in five people (almost 23%) in employment have experienced violence and harassment at work, whether physical, psychological or sexual. (Khmer Times, 2022)

Although Cambodia follows the ILO Convention No. 190 – the international treaty to recognise the right of everyone to work free of violence and harassment, including gender-based violence and harassments (Khmer Times, 2022) but Cambodia has yet to officially ratify this important convention to this date. (Dip,

2021, #)

3.3.2 Cambodian Labour Law, promulgated by Royal Order No. CS/RKM/0397/01 of 13 March 1997 (amended in 2021) has also covered Sexual Harassment offences and penalty to protect workers against sexual harassment. (Prake Organization, 2022)

3.3.3 The Criminal Code criminalizes sexual harassment, imposing penalties of six days' to three months' imprisonment and fines of KHR100,000 to 500,000 on offenders.

### ■ 3.0 CHALLENGES: HOW TO OVERCOME THE PROBLEM IN WORKPLACE HARASSMENT

#### ■ 3.1 Work Culture

##### *3.1.1 South Korea*

The word 'Gapjil' as the main contributor of workplace harassment as the country's long standing problem of toxic workplace culture. It is the misinterpretation of confucian ideology through the proprietor's needs for social recognition and misuse of power.

Nearly 30% of Korean office workers have experienced some form of workplace harassment in the past year, according to an online survey in June of 1,000 respondents nationwide – up from 23.5% in a similar survey in March. (CNN Korea, 2022)

##### *3.1.2 Malaysia Work Culture*

Bullying in Malaysia workplace is still considered as a grey area because the behaviour often gets unnoticed (Tan, 2013), resulting in workplace bullying to rise without precaution. The concern of being found out and the fact that most victims do not know how to look for rapprochement makes this problem worse. With accumulated awareness, proper management intervention can be designed which integrates proper employee behaviour. Cultural differences in how workplace bullying is seen making it a subject worthy of investigation in a local context. (International Journal of Accounting, Finance and Business (IJAFB), 2019, #)

##### *3.1.3 Cambodia Work Culture*

Cambodia's population is 51 percent female and they are essential resources to boost the economy. The garment sector has boosted national economic growth, providing jobs for women and giving them the opportunity to improve their livelihoods and escape poverty.

Women in Cambodia can be burdened with family issues, suffer domestic violence and some have health issues that need to be cared for so there is a need for Cambodia Government to prepare a policy in response to these challenges. (Capital Cambodia, 2019)

#### ■ 3.2 Difficult to differentiate between sexual harassment and other forms of harassment.

The biggest challenge employees face is with differentiating between sexual harassment and other forms of harassment. Many a time, employers receive complaints of general harassment from employees which have elements of sexual harassment in it (being teased about the body and alienated, for example). Employers are confused when they receive such complaints. There are two distinct reasons for this: Many are still not clear about what is and what is not harassment. Some are confused between sexual harassment and general harassment. Secondly, employees prefer presenting an incident as a disciplinary issue rather than sexual harassment. They fear that they will be judged, alienated or retaliated if they file a sexual harassment charge. They also do not want to be seen as a victim or an attention-seeker. (Red Cross Organization UK, n.d.)

#### ■ 3.3 Cambodia How men can become better allies to women

It is likely that we have all witnessed abusive or discriminatory behaviour. It can be challenging to know what to do. Consider the role someone might play to safely help another. This might start by them recognising their own position, what their voice, or experience can add, and what to do to ensure everyone feels safe.

Being humanitarian is at the heart of what the Red Cross Movement stands for. This can mean making choices to safely enable and empower others who need it the most, even in situations that might feel challenging.

#### ■ 3.4 Get Help instead of being Silence

The United Nations #HeForShe movement shares some of the ways we can support one another. Their suggestions range from how to appear less threatening to challenging discriminatory behaviour in others. We can help support others effectively by taking some simple steps like:

Listening,

Don't be a bystander,

Highlight the behaviour rather than challenging the person and

Work with people together to overcome this challenge.

## 4.0 RESULTS & RECOMMENDATIONS

#### ■ 4.1 Instilled Awareness in Regulation

All workers including High Management should address violence and harassment in the world of work in labour and employment, occupational safety and health, equality and non-discrimination law, and in criminal law, where appropriate. ensure that provisions on violence and harassment in national laws, regulations and policies take into account the equality and non-discrimination instruments of the International Labour Organization or any law/policies related to harassment at workplace.

#### ■ 4.2 Protection and Prevention

All workers should be involved in the design, implementation and monitoring of the workplace policy. This is more efficient rather than posting signage at the walls for workers to read and obey. Risk Assessment must also to be regularly conducted as to identify the possibility such harassment to happen.

#### ■ 4.3 Enforcement, Remedies And Assistance

Victims of Harassment shall have the right for compensation if the proven case was won. This includes reinstatement of position, personal damages, his/her psychosocial, physical or any other injury or illness and pride.

Assistance like counselling, hotlines, flexibility of working hours and other services that might do for the recovery of harassment victims.

#### ■ 4.1 Guidance, Training And Awareness-Raising

Management should conduct programs like guidance, training and awareness to promote knowledge and information sharing amongst workers. These programs should highlight religion/race/culture differences, human psychological differences and promote gender equality.

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