Legislations covering sexual harassment in the workplaces

The experts' committee of the International Labor Organization emphasizes that 'sexual harassment threatens personal dignity and employers' life, eliminating equality in the workplaces, weakening work relations as well as reducing productivity' in the study to implement the Convention No 111 on the Elimination of Discrimination in Labor.

Sexual harassment in the workplace is an unwelcome verbal, visual, or physical conduct of a sexual nature that is severe or pervasive and affects working conditions or creates a hostile work environment or results in a loss of work, position or material."

- Sexual harassment in the workplaces is a serious issue conflicting women’s rights to employment, safe & free working environment, and to just payment as well as their rights to equal participation in social lives.
- It is a form of discriminations that limits women's economic rights and potential in the labor market.
- Because sexual harassment in the workplace has a negative impact on a person's reputation and life guarantee, the victim is forced to tolerate the crime, letting it escalate.

Current situation of sexual harassment in the workplace

Mongolian Women’s NGOs have paid some attention to sexual harassment in the workplaces and have conducted some partial studies into this issue since the late 1990s.

CEDAW Watch (at present, Citizens’ Alliance Center), Center for Human Rights & Development and National Centre Against Violence conducted a preliminary research into how some offences of sexual harassment are and the National Human Rights Commission completed a study into the laws and regulations concerned with power of high ranking officials. The research study into sexual harassment in the workplaces in Mongolia was completed by the Mongolian Women's Fund in 2997 supported by the UNIFEM Trust fund and the study 'Sexual harassment against women in education sector' was undertaken by the Citizens' Alliance Center in 2008.

As the findings from the questionnaire show, offences of sexual harassment are commonly committed. However, there are few cases that were preceded by law enforcement organizations. Confidentiality of the victims was not secured.

The above mentioned situation may result from the following:
1. There is no effective legislative mechanism regarding sexual harassment.
2. The public has a poor awareness of the issue.
3. Law makers and policy makers have limited knowledge and understanding about the issue of sexual harassment in the workplace.¹

**Sexual harassment in the workplace and relevant legislation in Mongolia**

Mongolian legislation and regulations have some general provisions concerned with sexual harassment in the workplace. In other words, there are no specific provisions that regulate such offences, prevention of sexual harassment, protection of victims, restitution of damage and restoration of violated rights.

For instance, the Labor Law of Mongolia includes a number of chapters on women's labor and work safety, but does not have a single provision on sexual harassment in workplace.² There is no provision prohibiting sexual harassment in workplace³, which weakens protection of women's rights in the labor market.

Women make 46.7% of the total workforce in Mongolia.

![Graph 1](image)

Women make 55.8% of the employees in state owned organizations, 28.7% of the employees in private sector, 8.1% of the employees working in organizations of mixed ownership, 3.1% of the employees in foreign invested companies, and 2.4% of the employees in public organizations.⁴

**Fact 1.** It was found that one in every two women working in labour market is subjected to sexual harassment in the workplace for some extent.

*Source: “A study into how offences of sexual harassment are preceded”*

**Sexual harassment in education sector**

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¹ Source: A study ‘Sexual harassment in workplace and relevant legislation’, 2007
² Source: An article entitled ‘Sexual harassment is common in foreign invested companies’, Unen newspaper, Issue of January 17th, 2007
³ Source: A trainer's manual on sexual harassment in workplace, 2006
In 2006-2007 academic year, a total of 142411 students were studying in 170 universities and colleges. Of them, 86183 or 60.5% were female students.

Fact 2. 75% of the respondents expressed that they were subject to any type of pressure and harassment to some extent.

Source: Findings from the survey taken in boxes among university students

Public awareness of sexual harassment in the workplace

To determine the public awareness of sexual harassment, especially the awareness of youth, a question 'Have you ever heard of someone being subjected to sexual harassment?' was asked. 63.7% of the respondents answered 'yes' to the question. On the contrary, being asked the question 'What do think of physical touch or verbal attack which is common among students?', 45.1% answered that it was ok.

Due to limited public awareness of sexual harassment in the workplace, and immature social attitude, there are many cases in which victims ignore the incident unless raped, victims do not submit a complaint, or the victim is blamed. This situation keeps offences of sexual harassment hidden and deters the victims from protecting their rights.

Being asked the question 'Do you see such a behavior common among students as pressure?', 50.2% said 'no' while 41.1% did not know.

This shows that poor knowledge of public contributes to committing offences of sexual harassment.

How law enforcement officers and professionals fulfill their legal obligations

The equality and human rights ensured by the Constitution of Mongolia are reflected in laws in regards to prohibition of discriminations or overpower in work relations. However, a number of factors such as a lack of systematic legislations, poor knowledge of law enforcement officers,

5 Source: Study ‘Sexual harassment against women in education sector ’, 2008
6 Source: Sexual harassment in workplace and relevant legislations, 2007
7 Source: Study ‘Sexual harassment against women in education sector ’, 2008
failure of law enforcement officers to executive legal obligations, a lack of human resources and a failure of the state to coordinate utilization of sources contribute to committing more offences of sexual harassment in the workplace.\footnote{Source: J. Zanaa, ‘Implementation of CEDAW in Mongolia’ presentation, 2002}

Being asked to express their opinion where or who the victims of sexual harassment approach, 24.5% of the respondent students said the victims should approach law enforcement organization while 29.5% answered that the victims should approach human rights organizations.

Graph 3

All of the law enforcement officers involved in the questionnaire accepted the prevalence of sexual harassment in the workplace in Mongolia, but confessed their poor understanding of the issue. Thus, it can be concluded that officers in law enforcement organizations have limited knowledge about the issue of sexual harassment in workplace.\footnote{Source: Study ‘Sexual harassment in workplace and relevant legislation’, 2007}

Fact 1. An extract from an interview with a department head in a ministry
Sexual harassment in the workplace is a relatively new concept. There are regulations or legislations covering offences of sexual harassment in the workplace. However, the implementation is poor. A mechanism to implement laws and regulations should be well-planned and piloted before it is approved. Personally, I wouldn't feel bad if I someone touches me or flirts with me.

\textit{Source: An extract from an individual interview / Study 'Sexual harassment in workplace and relevant legislations', 2007 /}

At present, the fact that law enforcement officers understand sexual harassment in the workplace in terms of rape makes it impossible to reveal acts of sexual harassment in a verbal or written way or misuse of power. The limited awareness of the public and law enforcement officers deter from restoration and protection of personal dignity, labor and other rights.

\textbf{Policy level issues and recommendations}

1. A comprehensive research study covering the issues of employment, employment of women and traditional norms regarding employment should be conducted. By doing this research study, a national database of issues related to sexual harassment in the workplace will be formed.
2. There is a need to make amendments to the Criminal and Civil Codes as well as the Labor Law and other relevant laws. The amendments should ensure the following actions;
   - Sexual harassment in the workplace, working conditions, forms of sexual harassment conducts and actions and inactions of sexual harassment in the workplace should be defined in relevant legislations.
   - An appropriate and efficient mechanism to process complaints as well as to keep the guilty party accountable should be legalized.
   - A consistent approach to determine and restore damage of victims should be applied.
3. The government should take a series of steps to educate officers of law enforcement organizations, civil workers, and trade union officials regarding the issue of sexual harassment in the workplace.

4. Admitting that sexual harassment in the workplace is becoming a critical issue in the country, more efforts should be dedicated to increase public knowledge of this issue. In order to increase the public knowledge, the following actions should be taken:
   - A meeting should be organized with officials from the Ministry of Education to discuss the possibility of including a course on violence against women in the secondary school curriculum.
   - TV programs should be prepared and broadcast.
   - Campaigns and workshops should be organized to improve knowledge and awareness of journalists and staff of media organizations.
   - Activities designed to improve young people's knowledge and awareness of the sexual harassment in the workplace should be initiated and organized.

5. Services for sexual harassment victims should be developed and made available by training the professionals who will provide such services.