

Compendium of International and National Legal Frameworks on Sexual Harassment in the Workplace

Volume III of V — Countries H-P

FIRST EDITION, DECEMBER 2019



Compendium of International and National Legal Frameworks on Sexual Harassment in the Workplace

Volume III of V

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The World Bank Group

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The Compendium is a working document intended as a reference tool for anyone interested in the topic of Sexual Harassment in the Workplace (development practitioners, lawyers, community leaders, academics, researchers, students, etc.). It does not constitute an exhaustive treatment of the legal framework on Sexual Harassment in the Workplace and may be updated from time to time.

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Volume III of V

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FOREWORD

Millions of women around the world continue to experience violence solely because of their gender. Gender-based violence is a pandemic that is often intractable, and it knows no boundaries.

The United Nations Declaration on the Elimination of Violence Against Women states that “violence against women is a manifestation of historically unequal power relations between men and women” and that it is “one of the most crucial social mechanisms by which women are forced into a subordinate position compared with men”.

This violence comes in many forms and includes domestic violence, child marriage, sexual violence during conflict, and sexual harassment among others.

Sexual harassment in the workplace is one of the most critical challenges facing the global community. Women constitute half the world population, and the benefits of including women in the workforce are countless. They are, without a doubt, an important asset to supporting the growth of every household, every community, and every country.

Women’s active participation in the economy, therefore, helps reduce poverty and promote higher GDP levels. As women join the labor force, the importance of ensuring a safe work environment cannot be emphasized enough.

Unsafe workplaces affect women’s labor market outcomes, and as importantly, the cost of sexual harassment is perceived by the victims as well as by businesses.

Introducing strong legislation that tackles sexual harassment— particularly in the workplace —is critical to providing an early layer of safety and protection for women.

The following Compendium of International and National Legal Frameworks on Sexual Harassment in the Workplace provides a collection of international instruments that address the issue, and national legislations adopted to prevent and prosecute sexual harassment in the workplace. This is a practical online legal tool to inform and empower those seeking to put an end to sexual harassment in the workplace.

I hope this responds to the needs of all persons and professionals interested in this subject as well as those who work with and support women affected by sexual harassment at the work place or at risk.

Sandie Okoro
Senior Vice President and General Counsel
World Bank Group

INTRODUCTION, DISCLAIMER AND LIMITATIONS

Sexual Harassment in the Workplace (SHWP) is a universal and widespread phenomenon that affects millions of women of all social strata worldwide. It is an endemic issue that has gained increased visibility and attention since the beginning of the “#MeToo” movement.

In this Compendium on International and National Legal Frameworks on Sexual Harassment in the Workplace (the “Compendium”), SHWP is understood as a gender-specific form of violence, commonly directed against women and occurring in employment or the workplace. It includes requests for sexual favors, unwelcome sexual advances or other sexual conduct, whether physical or verbal, which involves a “quid pro quo” aspect (e.g. request for sexual favors used to make employment decisions) and/or creates an intimidating, hostile, toxic, humiliating or offensive working environment¹. As one of the pervasive expressions of gender-based violence, it reflects discriminatory social norms, stereotypes, impunity and gender inequality.

SHWP is viewed as a development challenge and has high economic and social costs. Despite its serious implications for women, employers and society at large, the behavior is widely accepted and minimized.

For survivors, who are overwhelmingly women, it can cause or justify physical and mental health problems, career interruptions, lost productivity, lost or reduced professional advancement and opportunities, lower earnings and work performance, limited employment options, abandonment of careers, forced job changes, unemployment, and persistent gender wage differences. SHWP also interacts with other types of discrimination related to ethnicity, sexual orientation, age and disability and can be viewed as a form of employment discrimination.

For employers, the impact of SHWP includes security issues, absenteeism, high turnover, negative effects on staff morale and productivity due to intimidating, toxic, hostile, humiliating or offensive work conditions or due to the lack of a diverse and inclusive workforce. SHWP may also result in substantial legal costs for employers.

The Compendium provides a survey of the key international and regional instruments as well as national legislation as they relate to SHWP². A number of countries have adopted legislation on SHWP protecting women specifically while others have not defined the gender of the victim or survivor.

The Compendium is a working document intended to be a reference tool for anyone interested in the topic of SHWP, such as survivors, advocates, development practitioners, lawyers, policy makers, academics, labor unions or staff representatives, among others. It does not constitute an exhaustive treatment of the legal framework on SHWP and may be updated from time to time.

The Compendium consists of topical chapters with jump links to source documents, such as United Nations instruments, regional treaties, and national legislations. It is based on information

¹ Behaviors amounting to sexual harassment may include, but are not limited to, touching, hugging, kissing, sexual assault, sexual or “dirty” jokes, comments on physical attributes, distributing sexually explicit material. Unwanted sexual statements can be made in person, in writing, or electronically. Sexual harassment may be committed by an employer/superior, a co-worker or a client.

² Relevant provisions may be found in criminal, civil, labor codes, anti-discrimination legislation and/or laws to protect from gender-based violence. In some cases, general provisions on sexual harassment have also been included.

available online, offline or both, and relies on research conducted, verified and updated as of November 2019³. The hyperlinked references are not under the control of the World Bank, nor is the World Bank responsible for the accuracy of the content provided through these references. The content of the Compendium does not necessarily reflect the views of the World Bank, its Board of Executive Directors, or the governments they represent. Furthermore, the World Bank does not guarantee the accuracy of the data included in this work.

The research on country-level SHWP legislation builds on the Women Business and the Law database⁴ and includes additional legislation found during the course and time-frame for compiling the research. The Compendium is limited to countries that have adopted specific laws or provisions addressing SHWP and includes legislation from almost 150 countries; as such, the absence of a country's name may be due to the fact that no SHWP legislation has yet been enacted or that no information was available online⁵.

Ending all forms of gender-based violence, including SHWP, is a critical development objective and comprehensive legislation addressing SHWP is a key first step towards ensuring prevention and protection. It is also a sine qua non condition for any effective strategy to address the problem. Nonetheless, many countries worldwide have yet to adopt laws against SHWP, while many others have adopted legislation that fails to comprehensively offer protection for the different types of survivors and against the different forms of abuse.

We hope the Compendium will contribute to this urgent and important debate.

Isabella Micali Drossos
Maya Goldstein-Bolocan
Paula Tavares
World Bank Group

³ Because it was developed primarily based on information publicly available online, the Compendium includes references to more than several hundred URLs and links to available treaties, laws and electronically published documents. All referenced URLs and links were verified and active at the time they were inserted. There is no guarantee as to their future accessibility nor as to the continued accuracy of the information contained therein after the last date on which they were last accessed and verified.

⁴ See more at <http://wbl.worldbank.org/en/data/exploretopics/protecting-women-from-violence>.

⁵ When legislative information was not available online but was found by the team of authors, these have been attached as annexes to the Compendium.

VOLUME III

1 HONDURAS

[Penal Code, 1984](#) ⁶

Art. 147-A

Whoever, directly or through a third party, by using a situation of superiority retaliates against the victim for rejecting unlawful acts carried out by means of insinuations or request of favors of a sexual nature, for himself or for a third party, will commit the crime of sexual harassment when:

1) by using a situation of hierarchical, labor or administrative superiority, causes instability, disqualification in the performance of work, advantage or disadvantage in the context of job promotions, or prevents access to a job;

[...]

The penalty applicable for this crime shall be imprisonment of three (3) to six (6) years and of special disqualification for the duration of the sentence.

The aforementioned penalty shall be increased by one (1) third when the acts are committed to the detriment of children or of persons suffering from mental illness.

[Law on Equal Opportunities for Women, 2002](#) ⁷

Art. 60

Sexual harassment committed by the employer or holder of a State or private company, allows the worker or public servant, where appropriate, to terminate the employment relationship without notice and without liability on her part, while retaining the right to benefit from legal compensation as in the case of unfair dismissal. When the one who executes the harassment, is a worker, it must be proceeded to his immediate dismissal without responsibility for the employer or institution of the State.

2 HONG KONG

[Sex Discrimination Ordinance, 1996](#) ⁸

2. Interpretation

[...]

(7) In subsection (5)—

conduct of a sexual nature

includes making a statement of a sexual nature to a woman, or in her presence, whether the statement is made orally or in writing.

⁶ Penal Code, Decree 144-83 (1984), available at <http://www.poderjudicial.gob.hn/CEDIJ/Leyes/Documents/CodigoPenal-ReformaIncluida.pdf>

(last visited 15 November 2019). Unofficial translation by Compendium team.

⁷ Law on Equal opportunities for Women, Decree 34-2000, available at

http://www.tse.hk/web/documentos/equidad_y_genero/Ley%20de%20Igualdad%20de%20Oportunidades%20para%20la%20Mujer.pdf (last visited 15 November 2019). Unofficial translation by Compendium team.

⁸ Sex Discrimination Ordinance, 20 May 1996, available at

https://www.elegislation.gov.hk/hk/cap480!en?xid=ID_1438403244579_003 (last visited 15 November 2019).

[...]

Sexual Harassment

23. Employees, etc.

- 1) It is unlawful for a person, in relation to employment by him at an establishment in Hong Kong, to sexually harass a woman who is seeking to be employed by the person.
- 2) It is unlawful for a person, in the case of a woman employed by him at an establishment in Hong Kong, to sexually harass her.
- 3) It is unlawful for a person who is employed by another person at an establishment in Hong Kong to sexually harass a woman who is seeking to be, or who is, employed by that second-mentioned person.
- 4) It is unlawful for the principal, in relation to work to which section 13 applies, to sexually harass a woman who is a contract worker.
- 5) It is unlawful for a contract worker to sexually harass a woman who is a fellow contract worker.
- 6) It is unlawful for a partner in a firm to sexually harass a woman who is seeking to be, or who is, a partner in the firm.
- 7) Subsection (6) shall apply in relation to persons proposing to form themselves into a partnership as it applies in relation to a firm.
- 8) Section 15(6) shall apply to subsection (6) as it applies to section 15(1).
- 9) It is unlawful for the principal, in relation to work to which section 20 applies, to sexually harass a woman who is a commission agent.
- 10) It is unlawful for a commission agent to sexually harass a woman who is a fellow commission agent.
- 11) It is unlawful for a person who is seeking to be, or who is, employed by a woman at an establishment in Hong Kong to sexually harass her.
- 12) It is unlawful for a person residing in any premises to sexually harass a woman—
 - a) employed by another person at an establishment in Hong Kong (and whether or not that other person also resides in those premises or those premises are that establishment); and
 - b) carrying out in those premises all or part of her work in relation to her employment (and whether or not she also resides in those premises).

[...]

40.

Other sexual harassment

- 1) It is unlawful for a person to sexually harass a woman in the course of offering to provide, or providing, goods, facilities or services to her.

1A) It is unlawful for a person to sexually harass a woman in the course of—

a) seeking to be provided with goods, facilities or services by her; or

b) being provided with goods, facilities or services by her.

(Added 19 of 2014 s. 3)

2) It is unlawful for a person, in relation to premises in Hong Kong of which he has power to dispose, to sexually harass a woman in the course of offering to provide, or providing, those premises to her.

3) It is unlawful for a person, in relation to premises managed by him, to sexually harass a woman occupying the premises.

4) Where the licence or consent of the landlord or of any other person is required for the disposal to any person of premises in Hong Kong comprised in a tenancy, it is unlawful for the landlord or other person to sexually harass a woman seeking the licence or consent for disposal of the premises to her.

5) Section 30(4) shall apply to subsection (4) as it applies to section 30.

6) It is unlawful for a barrister or barrister's clerk, in relation to any chambers, to sexually harass a woman—

a) in the course of offering to provide to her pupillage or tenancy in the chambers; or

b) who is a pupil or tenant in the chambers.

80 It is unlawful for any person, in the course of the giving, withholding or acceptance of instructions to a barrister, to sexually harass a woman who is a barrister.

Section 36(4) shall apply to subsections (6) and (7) as it applies to section 36.

[...]

76. Claims under Part 3 or 4

1) A claim by any person (*the claimant*) that another person (*the respondent*)—

has committed an act of sexual harassment against the claimant which is unlawful by virtue of Part 3 or 4;
or

(Amended 29 of 2008 s. 95)

3A) Without limiting the generality of the power conferred by subsection (3), the District Court may—

a) make a declaration that the respondent has engaged in conduct, or committed an act, that is unlawful under this Ordinance, and order that the respondent shall not repeat or continue such unlawful conduct or act;

b) order that the respondent shall perform any reasonable act or course of conduct to redress any loss or damage suffered by the claimant;

c) order that the respondent shall employ or re-employ the claimant;

d) order that the respondent shall promote the claimant;

e) order that the respondent pay to the claimant damages by way of compensation for any loss or damage suffered by reason of the respondent's conduct or act;

f) order that the respondent shall pay to the claimant punitive or exemplary damages; or

g) make an order declaring void in whole or part and either ab initio or from such date as may be specified in the order, any contract or agreement made in contravention of this Ordinance.

(Added 71 of 1997 s. 7)

3 HUNGARY

[Criminal Code, 2012 \(as amended\)](#)⁹

[...]

Section 222: Harassment

1) Any person who engages in conduct intended to intimidate another person, to disturb the privacy of or to upset, or cause emotional distress to another person arbitrarily, or who is engaged in the pestering of another person on a regular basis, is guilty of a misdemeanor punishable by imprisonment not exceeding one year, insofar as the act did not result in a more serious criminal offense.

2) Any person who, for the purpose of intimidation:

a) conveys the threat of force or public endangerment intended to inflict harm upon another person, or upon a relative of this person, or

b) giving the impression that any threat to the life, physical integrity or health of another person is imminent, is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

3) Any person who commits the act of harassment:

a) against his/her spouse or former spouse, or against his/her domestic partner or former domestic partner,

b) against a person under his/her care, custody, supervision or treatment, or

c) if abuse is made of a recognized position of trust, authority or influence over the victim, shall be punishable by imprisonment not exceeding two years in the case provided for in Subsection (1), or by imprisonment not exceeding three years for a felony in the case provided for in Subsection (2).

[...]

⁹ Criminal Code, Act C of 2012 (25 June 2012). Available in English at https://thb.kormany.hu/download/a/46/11000/Btk_EN.pdf. Available in Hungarian at https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=96662&p_count=9&p_classification=01 (last visited 15 November 2019).

[Act on Equal Treatment and the Promotion of Equal Opportunities, 2003 \(as amended\)](#)¹⁰

DEFINITIONS

Article 3

For the purposes of this Act

a) employment relationship: employment, public service relationship, civil service relationship, judicial service relationship, legal service relationship, prosecution service relationship, professional and contracted service relationship, professional foster parent relationship;

[...]

Scope

Article 4

The principle of equal treatment shall be observed by

- a) the Hungarian State,
 - b) local and minority governments and all bodies thereof,
 - c) organisations exercising powers as authorities,
 - d) armed forces and policing bodies,
 - e) public foundations, public bodies,
 - f) organisations performing public services,
 - g) institutions of elementary and higher education (hereinafter collectively: educational institutions),
 - h) persons and institutions providing social care and child protection services, and child welfare service, i) museums, libraries, elementary educational institutions,
 - j) voluntary mutual insurance funds, private pension funds,
 - k) entities providing health care,
 - l) parties, and
 - m) budgetary organs that do not belong to points a)-l)
- in the course of establishing their relationships, in their relationships, in the course of their procedures and measures (hereinafter collectively: relationship).

Article 5

In addition to the entities listed in Article 4, the following persons shall observe the principle of equal treatment in respect of the relevant relationship:

- a) those who make a proposal to persons not previously selected to enter into contract or invite such persons for tender,
- b) those who provide services or sell goods at their premises open to customers,
- c) self-employed persons, legal entities and organisations without a legal entity receiving state aid, in respect of their relationships established in the course of their utilisation of such a state aid, from the time when the state aid is utilised until the competent authorities can audit the utilisation of the state aid in accordance with the applicable regulations; and

¹⁰ Act on Equal Treatment and the Promotion of Equal Opportunities (2003. évi CXXV. Törvény az egyenlő bánásmódról és az esélyegyenlőség előmozdításáról), Act CXXV of 2003 (22 December 2003). Available in English at <https://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.HUN.3-Annex3.pdf> (last visited 15 November 2019). Available in Hungarian at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/68657/119877/F-778690014/HUN68657%20Hun.pdf> (last visited 15 November 2019). For 2017 amendments, please see Hungarian text of the Act XCVI of 2017 to amend Act CXXV of 22 December 2003 on equal treatment and promotion of equal opportunities and Act CXCV of 2011 on National Public Education available at https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/106835/131239/F1880695256/XCVI_2017.pdf (last visited 15 November 2019).

d) employers in respect of employment relationships and persons entitled to give instructions in respect of other relationships aimed at employment and relationships directly related thereto.

[...]

Article 7

(1) Direct negative discrimination, indirect negative discrimination, harassment, [...] and any orders issued therefore mean a breach of the principle of equal treatment, especially as set out in Chapter III.

[...]

Harassment, unlawful segregation, retribution

Article 10

(1) Harassment is a conduct violating human dignity related to the relevant person's characteristic defined in Article 8 with the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment around a particular person.

[...]

CHAPTER II

PROCEDURES INITIATED BECAUSE OF A BREACH OF THE PRINCIPLE OF EQUAL TREATMENT

Article 12

Claims arising from breaching the principle of equal treatment can be enforced in the scope of the procedures described herein or in separate legal acts, particularly in the scope of lawsuits under personal law, lawsuits under labour law, or procedures by the consumer protection, labour or offence authorities.

Procedure in case of a breach of this Act

Article 13

(1) The public administrative body with the overall responsibility (hereinafter: Authority) ensures compliance with the principle of equal treatment.

(2) The Authority works under the instruction of the Government, under the supervision of a member of the Government.

[...]

Article 14

The Authority shall

a) based on an application or in cases defined herein, conduct ex officio an investigation to establish whether the principle of equal treatment has been violated, and make a decision on the basis of the investigation;

b) pursuant to the right of claim enforcement in the public interest, initiate a lawsuit with a view to protecting the rights of persons and groups whose rights have been violated;

[...]

Article 15

(1) A violation of the principle of equal treatment within the scope of this Act shall be investigated by

a) the Authority or

b) another public administration body that has been granted authority in a separate act for assessing violations of the principle of equal treatment, as chosen by the offended party.

[...]

Article 16

(1) If the Authority has established that the provisions ensuring the principle of equal treatment laid down herein have been violated, they may

- a) order that the situation constituting a violation of law be eliminated,
- b) prohibit the further continuation of the conduct constituting a violation of law,
- c) publish its decision establishing the violation of law,
- d) impose a fine,
- e) apply a legal consequence determined in a special act.

(2) The legal consequences set out in Paragraph (1) shall be determined taking into consideration all circumstances of the case, with particular regard to those who have been effected by the violation of law, the consequences of the violation of law, the duration of the situation constituting a violation of law, the repeated demonstration of conduct constituting a violation of law and the financial standing of the person or entity committing such a violation.

(3) The legal consequences set out in Paragraph (1) can also be applied collectively.

(4) The amount of the fine inflicted in accordance with Paragraph (1) d) can be from fifty thousand to six million Forints. The fine shall be payable to the budgetary appropriation of the Republican Equal Opportunities Programme.

Article 17

(1) The decision of the Authority cannot be appealed against in the scope of a public administrative procedure.

(2) The decision of the Authority concerning the violation of the principle of equal treatment cannot be altered or annulled by supervisory powers.

(3) According to the general rules applicable to public administration decisions, the court can review a decision of the Authority. The lawsuit falls within the scope of authority and exclusive competence of the Metropolitan Court.

(4) The Metropolitan Court shall proceed through a panel comprised of three professional judges.

Representation

Article 18

(1) Unless otherwise stipulated by the law, the social and interest representation organisation and the Authority may act as a representative authorised by the party who suffered a violation of law in procedures initiated because of a violation of the principle of equal treatment.

(2) In a public administrative procedure initiated because of the violation of the principle of equal treatment, the social and interest representation organisation is entitled to the rights of the client.

Burden of proof

Article 19

(1) In procedures initiated because of a violation of the principle of equal treatment, the injured party or the party entitled to assert claims of public interest must prove that

- a) the injured person or group has suffered a disadvantage, and
- b) the injured party or group possessing characteristics defined in Article 8.

(2) If the case described in Paragraph (1) has been proven, the other party shall prove that a) it has observed or

b) in respect of the relevant relationship was not obliged to observe, the principle of equal treatment.

(3) The provisions set out in Paragraphs (1)-(2) shall not apply to criminal procedures and to procedures of minor offences.

Assertion of claims of public interest

Article 20

(1) A lawsuit under personal or labour law because of a violation of the principle of equal treatment before the court can be initiated by

- a) the Public Prosecutor,
- b) the Authority, or
- c) the social and interest representation organisation,

if the violation of the principle of equal treatment was based on a characteristic that is an essential feature of the individual, and the violation of law affects a larger group of persons that cannot be determined accurately.

(2) The compensation and fines of public interest imposed in the lawsuit initiated by the application of Paragraph (1) are due to pay to the central budget.

[...]

[Labor Code, 2012 \(as amended\)](#)¹¹

[...]

Section 7.

(1) Abuse of rights is prohibited. For the purposes of this Act ‘abuse of rights’ means, in particular, any act that is intended for or leads to the injury of the legitimate interests of others, restrictions on the enforcement of their interests, harassment, or the suppression of their opinion.

[...]

18. Nullity

Section 27

(1) Any agreement that infringes upon any employment regulation, or that is entered into by way of circumvention of any employment regulation or that is manifestly in contradiction to good morals shall be null and void.

[...]

4 ICELAND

[Act on Equal Status and Equal Rights of Women and Men, 2008](#)¹²

Art. 22

¹¹ Labor Code (Törvény I/2012 a munka törvénykönyvéről), Act I of 2012. The most recent amendments to Hungary’s Labor Code entered into force 1st January 2019. English version available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/89886/103370/F373393512/Act.I.of.2012.on.the.Labor.Code.2018.pdf> (last visited 15 November 2019).

¹² Act on equal status and equal rights of women and men, No. 10/2008 (as amended by Act No. 162/2010 and No. 126/2011), available at https://www.ilo.org/dyn/travail/docs/1556/Act-on-equal-status-and-equal-rights-of-women-and-men_no-10-2008.pdf (last visited 15 November 2019).

Gender-based harassment and sexual harassment. Employers and the directors of institutions and non-governmental organizations shall take special measures to protect employees, students and clients from gender-based or sexual harassment in the workplace, in institutions, in their work for, or the functions of, their societies, or in schools. If a superior is charged with alleged gender-based or sexual harassment, he or she shall be noncompetent to take decisions regarding the working conditions of the plaintiff during the examination of the case, and the next superior shall take such decisions.

Art. 24

General prohibition against discrimination. All forms of discrimination, direct or indirect, on grounds of gender, are prohibited. However, affirmative action shall not be regarded as being contrary to this Act. The same shall apply if there are valid reasons to support employing an individual of a particular gender in view of objective factors relating to the job. Special consideration to women in connection with pregnancy and childbirth shall not be regarded as discrimination.

[Penal Code, 1940 \(as amended\)](#) ¹³

Art. 199

Any person found guilty of sexual harassment shall be imprisoned for up to 2 years. ‘Sexual harassment’ here refers, amongst other things, to stroking, touching or probing the genitals or breasts of another person, whether under or through clothing, and also to suggestive behavior or language which is extremely offensive, repeated or of such a nature as to cause fear.

5 INDIA

[Sexual Harassment of Women at Workplace \(Prevention, Prohibition And Redressal\) Act, 2013](#) ¹⁴

[...]

2. Definitions.—

In this Act, unless the context otherwise requires, —

(a) “aggrieved woman” means— (i) in relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;

[...]

(b) “appropriate Government” means—

(i) in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly—

(A) by the Central Government or the Union territory administration, the Central Government; (B) by the State Government, the State Government;

(ii) in relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government;

[...]

¹³ Penal Code, 1940 (as amended up to 2019), available at <https://www.e-tar.lt/portal/lt/legalAct/TAR.2B866DFF7D43> (last visited 15 November 2019).

¹⁴ Sexual Harassment of Women at Workplace (Prevention, Prohibition And Redressal) Act, Act No. 14 of 2013 (22 April 2013), available at <https://indiacode.nic.in/bitstream/123456789/2104/1/201314.pdf> (last visited 15 November 2019).

(e) “domestic worker” means a woman who is employed to do the household work in any household for remuneration whether in cash or kind, either directly or through any agency on a temporary, permanent, part time or full time basis, but does not include any member of the family of the employer;

(f) “employee” means a person employed at a workplace for any work on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or, without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name;

(g) “employer” means— (i) in relation to any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in this behalf; (ii) in any workplace not covered under sub-clause (i), any person responsible for the management, supervision and control of the workplace.

Explanation. —For the purposes of this sub-clause “management” includes the person or board or committee responsible for formulation and administration of policies for such organisation; (iii) in relation to workplace covered under sub-clauses (i) and (ii), the person discharging contractual obligations with respect to his or her employees;

[...]

(n) “sexual harassment” includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:— (i) physical contact and advances; or (ii) a demand or request for sexual favours; or (iii) making sexually coloured remarks; or (iv) showing pornography; or (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature; (o) “workplace” includes— (i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society; (ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service; (iii) hospitals or nursing homes; (iv) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto; (v) any place visited by the employee arising out of or during the course of employment including transportation by the employer for undertaking such journey; (vi) a dwelling place or a house;

[...]

3. Prevention of sexual harassment.—

(1) No woman shall be subjected to sexual harassment at any workplace.

(2) The following circumstances, among other circumstances, if it occurs, or is present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment:— (i) implied or explicit promise of preferential treatment in her employment; or (ii) implied or explicit threat of detrimental treatment in her employment ; or (iii) implied or explicit threat about her present or future employment status; or (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or (v) humiliating treatment likely to affect her health or safety.

CHAPTER II

CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE

4. Constitution of Internal Complaints Committee.—

(1) Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the “Internal Complaints Committee”:

Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

(2) The Internal Committees shall consist of the following members to be nominated by the employer, namely: — (a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees: Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section(1): Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation; (b) not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge; (c) one member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment: Provided that at least one-half of the total Members so nominated shall be women.

(3) The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.

(4) The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

(5) Where the Presiding Officer or any Member of the Internal Committee, — (a) contravenes the provisions of section 16; or (b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or (c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or (d) has so abused his position as to render his continuance in office prejudicial to the public interest, such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

CHAPTER III

CONSTITUTION OF LOCAL COMPLAINTS COMMITTEE

5. Notification of District Officer. —

The appropriate Government may notify a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector as a District Officer for every District to exercise powers or discharge functions under this Act.

6. Constitution and jurisdiction of 1 [Local Committee]. —

(1) Every District Officer shall constitute in the district concerned, a committee to be known as the “1 [Local Committee]” to receive complaints of sexual harassment from establishments where the 1 [Internal Committee] has not been constituted due to having less than ten workers or if the complaint is against the employer himself.

(2) The District Officer shall designate one nodal officer in every block, taluka and tehsil in rural or tribal area and ward or municipality in the urban area, to receive complaints and forward the same to the concerned 2 [Local Committee] within a period of seven days.

(3) The jurisdiction of the 2 [Local Committee] shall extend to the areas of the district where it is constituted.

7. Composition, tenure and other terms and conditions of 2 [Local Committee]. —

- (1) The 2 [Local Committee] shall consist of the following members to be nominated by the District Officer, namely: — (a) a Chairperson to be nominated from amongst the eminent women in the field of social work and committed to the cause of women; (b) one Member to be nominated from amongst the women working in block, taluka or tehsil or ward or municipality in the district; (c) two Members, of whom at least one shall be a woman, to be nominated from amongst such non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, which may be prescribed: Provided that at least one of the nominees should, preferably, have a background in law or legal knowledge: Provided further that at least one of the nominees shall be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government, from time to time; (d) the concerned officer dealing with the social welfare or women and child development in the district, shall be a member ex officio.
- (2) The Chairperson and every Member of the Local Committee shall hold office for such period, not exceeding three years, from the date of their appointment as may be specified by the District Officer.
- (3) Where the Chairperson or any Member of the 2 [Local Committee]— (a) contravenes the provisions of section 16; or (b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or (c) has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or (d) has so abused his position as to render his continuance in office prejudicial to the public interest, such Chairperson or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.
- (4) The Chairperson or Members of the Local Committee other than the Members nominated under clauses (b) and (d) of sub-section (1) shall be entitled to such fees or allowances for holding the proceedings of the Local Committee as may be prescribed.

[...]

CHAPTER IV COMPLAINT

9. Complaint of sexual harassment.—

- (1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident: Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing: Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.
- (2) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.

10. Conciliation.—

- (1) The Internal Committee or, as the case may be, the Local Committee, may, before initiating an inquiry under section 11 and at the request of the aggrieved woman take steps to settle the matter between her

and the respondent through conciliation: Provided that no monetary settlement shall be made as a basis of conciliation.

(2) Where settlement has been arrived at under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall record the settlement so arrived and forward the same to the employer or the District Officer to take action as specified in the recommendation. (3) The Internal Committee or the Local Committee, as the case may be, shall provide the copies of the settlement as recorded under sub-section (2) to the aggrieved woman and the respondent. (4) Where a settlement is arrived at under sub-section (1), no further inquiry shall be conducted by the Internal Committee or the Local Committee, as the case may be.

11. Inquiry into complaint.—

(1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if prima facie case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code (45 of 1860), and any other relevant provisions of the said Code where applicable:

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police: Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

(2) Notwithstanding anything contained in section 509 of the Indian Penal Code (45 of 1860), the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15.

(3) For the purpose of making an inquiry under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:— (a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of documents; and (c) any other matter which may be prescribed.

(4) The inquiry under sub-section (1) shall be completed within a period of ninety days.

CHAPTER V INQUIRY INTO COMPLAINT

12. Action during pendency of inquiry.—

(1) During the pendency of an inquiry on a written request made by the aggrieved woman, the Internal Committee or the local Committee, as the case may be, may recommend to the employer to— (a) transfer the aggrieved woman or the respondent to any other workplace; or (b) grant leave to the aggrieved woman up to a period of three months; or (c) grant such other relief to the aggrieved woman as may be prescribed.

(2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.

(3) On the recommendation of the Internal Committee or the Local Committee, as the case may be, under sub-section (1), the employer shall implement the recommendations made under sub-section (1) and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.

13. Inquiry report.—

(1) On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, the District Officer within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in the matter.

(3) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be— (i) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed; (ii) to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with the provisions of section 15: Provide that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved woman: Provided further that in case the respondent fails to pay the sum referred to in clause (ii), the Internal Committee or as, the case may be, the Local Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

(4) The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him.

14. Punishment for false or malicious complaint and false evidence.—

(1) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer or the District Officer, as the case may be, to take action against the woman or the person who has made the complaint under sub-section (1) or sub-section (2) of section 9, as the case may be, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed: Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section: Provided further that the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer, as the case may be, to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed.

15. Determination of compensation.—

For the purpose of determining the sums to be paid to the aggrieved woman under clause (ii) of sub-section (3) of section 13, the Internal Committee or the Local Committee, as the case may be, shall have regard to— (a) the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman; (b) the loss in the career opportunity due to the incident of sexual harassment; (c) medical expenses incurred by

the victim for physical or psychiatric treatment; (d) the income and financial status of the respondent; (e) feasibility of such payment in lump sum or in instalments.

16. Prohibition of publication or making known contents of complaint and inquiry proceedings.—

Notwithstanding anything contained in the Right to Information Act, 2005 (22 of 2005), the contents of the complaint made under section 9, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee or the Local Committee, as the case may be, and the action taken by the employer or the District Officer under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner: Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.

17. Penalty for publication or making known contents of complaint and inquiry proceedings.— Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of this Act, contravenes the provisions of section 16, he shall be liable for penalty in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist, in such manner as may be prescribed.

18. Appeal.—

(1) Any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clause (i) or clause (ii) of sub-section (3) of section 13 or sub-section (1) or subsection (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.

(2) The appeal under sub-section (1) shall be preferred within a period of ninety days of the recommendations.

CHAPTER VI

DUTIES OF EMPLOYER

19. Duties of employer.—

Every employer shall— (a) provide a safe working environment at the workplace with shall include safety from the persons coming into contact at the workplace; (b) display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting, the Internal Committee under sub-section (1) of section 4; (c) organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee in the manner as may be prescribed; (d) provide necessary facilities to the Internal Committee or the Local Committee, as the case may be, for dealing with the complaint and conducting an inquiry; (e) assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee, as the case may be; (f) make available such information to the Internal Committee or the Local Committee, as the case be, as it may require having regard to the complaint made under sub-section (1) of section 9; (g) provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code (45 of 1860) or any other law for the time being in force; (h) cause to initiate action, under the Indian Penal Code (45 of 1860) or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so

desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place; (i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct; (j) monitor the timely submission of reports by the Internal Committee.

CHAPTER VII

DUTIES AND POWERS OF DISTRICT OFFICER

20. Duties and powers of District Officer. —

The District Officer shall, — (a) monitor the timely submission of report furnished by the Local Committee; (b) take such measures as may be necessary for engaging non-governmental organisations for creation of awareness on sexual harassment and the rights of the women.

CHAPTER VIII

MISCELLANEOUS

21. Committee to submit annual report. —

(1) The Internal Committee or the Local Committee, as the case may be, shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer.

(2) The District Officer shall forward a brief report on the annual reports received under sub-section (1) to the State Government.

22. Employer to include information in annual report. —

The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the annual report of his organisation or where no such report is required to be prepared, intimate such number of cases, if any, to the District Officer.

23. Appropriate Government to monitor implementation and maintain data. —

The appropriate Government shall monitor the implementation of this Act and maintain data on the number of cases filed and disposed of in respect of all cases of sexual harassment at workplace.

24. Appropriate Government to take measures to publicise the Act. —

The appropriate Government may, subject to the availability of financial and other resources, — (a) develop relevant information, education, communication and training materials, and organise awareness programmes, to advance the understanding of the public of the provisions of this Act providing for protection against sexual harassment of woman at workplace; (b) formulate orientation and training programmes for the members of the 1 [Local Committee].

25. Power to call for information and inspection of records. —

(1) The appropriate Government, on being satisfied that it is necessary in the public interest or in the interest of women employees at a workplace to do so, by order in writing, — (a) call upon any employer or District Officer to furnish in writing such information relating to sexual harassment as it may require; (b) authorise any officer to make inspection of the records and workplace in relation to sexual harassment, who shall submit a report of such inspection to it within such period as may be specified in the order.

(2) Every employer and District Officer shall produce on demand before the officer making the inspection all information, records and other documents in his custody having a bearing on the subject matter of such inspection.

26. Penalty for non-compliance with provisions of Act.—

(1) Where the employer fails to— (a) constitute an Internal Committee under sub-section (1) of section 4; (b) take action under sections 13, 14 and 22; and (c) contravenes or attempts to contravene or abets contravention of other provisions of this Act or any rules made thereunder, he shall be punishable with fine which may extend to fifty thousand rupees.

(2) If any employer, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to— (i) twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence: Provided that in case a higher punishment is prescribed under any other law for the time being in force, for the offence for which the accused is being prosecuted, the court shall take due cognizance of the same while awarding the punishment; (ii) cancellation, of his licence or withdrawal, or non-renewal, or approval, or cancellation of the registration, as the case may be, by the Government or local authority required for carrying on his business or activity.

27. Cognizance of offence by courts.—

(1) No court shall take cognizance of any offence punishable under this Act or any rules made thereunder, save on a complaint made by the aggrieved woman or any person authorised by the Internal Committee or Local Committee in this behalf.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(3) Every offence under this Act shall be non-cognizable.

28. Act not in derogation of any other law.—

The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

[...]

[Criminal Law \(Amendment\) Act, 2013](#) ¹⁵

Section 7 (354A)

6 INDONESIA

[Manpower Act, 2003](#) ¹⁶

[...]

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,
Considering:

[...]

¹⁵ The Criminal Law (Amendment) Act, 2013, Sec. 7(354A) , available at https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=93631 (last visited 15 November 2019).

¹⁶ Manpower Act, No. 13 of 2003, available at <https://www.ilo.org/dyn/travail/docs/760/Indonesian+Labour+Law+-+Act+13+of+2003.pdf> (last visited 15 November 2019).

d. That protection of workers is intended to safeguard the fundamental rights of workers and to secure the implementation of equal opportunity and equal treatment without discrimination on whatever basis in order to realize the welfare of workers/ labourers and their family by continuing to observe the development of progress made by the world of business;

[...]

With the joint approval between

THE HOUSE OF REPRESENTATIVES OF

THE REPUBLIC OF INDONESIA

AND

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

DECIDES:

ACT CONCERNING MANPOWER [INDONESIAN LABOUR LAW]

CHAPTER ONE

GENERAL DEFINITIONS

Article 1

Under this act, the following definitions shall apply:

1. Manpower affairs or labour (ketenagakerjaan) refer to every matter that is related to people who are needed or available for a job (tenaga kerja) before, during and after their employment.

[...]

3. A worker (pekerja) / labourer (buruh) is every person who works for a wage or other forms of remuneration.

4. An employer (pemberi kerja) shall refer to individuals, entrepreneurs, legal entities, or other bodies that employ manpower by paying them wages or other forms of remuneration.

[...]

31. Workers/ labourers' welfare (kesejahteraan pekerja) is a fulfillment of physical and spiritual needs and/or necessities [of the worker] either within or outside of employment relationships that may directly or indirectly enhance work productivity in a working environment that is safe and healthy.

[...]

CHAPTER III

EQUAL OPPORTUNITIES

[...]

Article 6

Every worker/ labourer has the right to receive equal treatment without discrimination from their employer.

[...]

Article 86

(1) Every worker/ labourer has the right to receive:

a. Occupational safety and health protection;

b. Protection against immorality and indecency;

c. Treatment that shows respect to human dignity and religious values.

(2) In order to protect the safety of workers/ labourers and to realize optimal productivity, an occupational health and safety scheme shall be administered.

(3) The protection as referred to under subsection (1) and subsection (2) shall be given in accordance with valid statutory legislation.

[...]

7 IRAQ

[Labor Law, 2015](#) ¹⁷

Article 10- 1- This law prohibits sexual harassment in employment and occupation, whether at the level of job search, vocational training, recruitment or work conditions and terms.

2- This law prohibits any other behavior that creates a hostile, intimidating or offending work environment for those against whom this behavior is directed.

3- Sexual harassment in accordance with the provisions of this law is any physical or verbal conduct of a sexual nature or other conduct based on sex, affecting the dignity of women and men, which is undesirable and unreasonable and insulting to those who are victim of this conduct, and the rejection by any person of this conduct, leading explicitly or implicitly, to a decision affecting his job.

Article 11- 1- The worker may resort to the Labor Court to file a complaint when exposed to any form of forced labor, discrimination or harassment in employment and occupation.

2- Shall be punished by imprisonment for a period not exceeding six months and a fine not exceeding one million dinars or by any of the two sanctions, whoever violates the provisions of the articles contained in this chapter relating to child labor, discrimination, forced labor and sexual harassment, as the case may be.

[Penal Code, 1996 \(as amended\)](#) ¹⁸

SECTION THREE

Immodest and shameful acts

Paragraph 400 - Any person who commits an immodest act with a man or woman and without his or her consent is punishable by a period of detention not exceeding 1 year plus a fine not exceeding 100 dinars or by one of those penalties.

[...]

Paragraph 402 - (1) The following persons are punishable by a period of detention not exceeding 3 months plus a fine not exceeding 30 dinars or by one of those penalties:

(a) Any person who makes indecent advances to another man or woman.

(b) Any person who assails a woman in a public place in an immodest manner with words, actions or signs.

(2) The penalty will be a period of detention not exceeding 6 months plus a fine not exceeding 100 dinars if the offender, having been previously convicted for such offence, reoffends within a year of the date of such conviction.

8 IRELAND

[Employment Equality Act, 1998 \(as amended\)](#) ¹⁹

¹⁷ Labor Law, 2015, available at https://www.ilo.org/dyn/natlex/natlex4.detail?p_isn=57206 (last visited 15 November 2019).

¹⁸ Penal Code, Law No. 111 of 1969 (third ed. with subsequent amendments), available at https://www.ilo.org/dyn/natlex/natlex4.detail?p_isn=57206 ((last visited 15 November 2019).

¹⁹ Employment Equality Act, No. 21 of 1998 (updated to 7 March 2016), available at https://www.lawreform.ie/fileupload/RevisedActs/WithAnnotations/EN_ACT_1998_0021.PDF (last visited 15 November 2019).

[...]

2.—(1) In this Act, unless the context otherwise requires—

[...]

F4[‘contract of employment’ means, subject to subsection (3)— (a) a contract of service or apprenticeship, or (b) any other contract whereby— (i) an individual agrees with another person personally to execute any work or service for that person, or (ii) an individual agrees with a person carrying on the business of an employment agency within the meaning of the Employment Agency Act 1971 to do or perform personally any work or service for another person (whether or not the other person is a party to the contract), whether the contract is express or implied and, if express, whether oral or written;]

[...]

F4[‘employee’, subject to subsection (3), means a person who has entered into or works under (or, where the employment has ceased, entered into or worked under) a contract of employment and, where the context admits, includes a member or former member of a regulatory body, but, so far as regards access to employment, does not include a person employed in another person’s home for the provision of personal services for persons residing in that home where the services affect the private or family life of those persons;]

“employer”, subject to subsection (3), means, in relation to an employee, the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment;

[...]

(3) For the purposes of this Act—

(a) a person holding office under, or in the service of, the State (including a member of the Garda Síochána or the Defence Forces) or otherwise as a civil servant, within the meaning of the Civil Service Regulation Act, 1956, shall be deemed to be an employee employed by the State or Government, as the case may be, under a contract of service, (b) an officer or servant of a local authority for the purposes of the Local Government Act, 1941, a harbour authority, a health board or a F12[member of staff of an education and training board] shall be deemed to be an employee employed by the authority F12[or board], as the case may be, under a contract of service, F9[...] (c) in relation to an agency worker, the person who is liable for the pay of the agency worker shall be deemed to be the employer.

F11[(d) in the case of a contract mentioned in paragraph (b)(i) of the definition of ‘contract of employment’— (i) references in this Act to an employee shall be construed as references to the party to the contract who agrees personally to execute the work or service concerned and references to an employer as references to the person for whom it is to be executed, (ii) any comparisons to be made for any of those purposes shall be between persons personally executing work or service for the same person or an associated person under such a contract or contracts, and (iii) in particular, and without prejudice to the generality of the foregoing, references in sections 19(4)(a) and 22(1)(a) to employees shall be construed as references to those persons.]

[...]

14A.—(1) For the purposes of this Act, where—

(a) an employee (in this section referred to as ‘the victim’) is harassed or sexually harassed either at a place where the employee is employed (in this section referred to as ‘the workplace’) or otherwise in the course of his or her employment by a person who is— (i) employed at that place or by the same employer, (ii) the victim’s employer, or (iii) a client, customer or other business contact of the victim’s employer and the circumstances of the harassment are such that the employer ought reasonably to have taken steps to prevent it, or (b) without prejudice to the generality of paragraph (a)— (i) such harassment has occurred, and (ii) either— (I) the victim is treated differently in the workplace or otherwise in the course of his or her employment by reason of rejecting or accepting the harassment, or (II) it could reasonably be anticipated

that he or she would be so treated, the harassment or sexual harassment constitutes discrimination by the victim's employer in relation to the victim's conditions of employment.

(2) If harassment or sexual harassment of the victim by a person other than his or her employer would, but for this subsection, be regarded as discrimination by the employer under subsection (1), it is a defence for the employer to prove that the employer took such steps as are reasonably practicable— (a) in a case where subsection (1)(a) applies (whether or not subsection (1)(b) also applies), to prevent the person from harassing or sexually harassing the victim or any class of persons which includes the victim, and (b) in a case where subsection (1)(b) applies, to prevent the victim from being treated differently in the workplace or otherwise in the course of the victim's employment and, if and so far as any such treatment has occurred, to reverse its effects. (3) A person's rejection of, or submission to, harassment or sexual harassment may not be used by an employer as a basis for a decision affecting that person.

(4) The reference in subsection (1)(a)(iii) to a client, customer or other business contact of the victim's employer includes a reference to any other person with whom the employer might reasonably expect the victim to come into contact in the workplace or otherwise in the course of his or her employment.

(5) In this section 'employee' includes an individual who is— (a) seeking or using any service provided by an employment agency, and (b) participating in any course or facility referred to in paragraphs (a) to (c) of section 12(1), and accordingly any reference to the individual's employer includes a reference to the employment agency providing the service or, as the case may be, the person offering or providing the course or facility.

Liability of employers and principals.

15.—(1) Anything done by a person in the course of his or her employment shall, in any proceedings brought under this Act, be treated for the purposes of this Act as done also by that person's employer, whether or not it was done with the employer's knowledge or approval.

(2) Anything done by a person as agent for another person, with the authority (whether express or implied and whether precedent or subsequent) of that other person shall, in any proceedings brought under this Act, be treated for the purposes of this Act as done also by that other person. (3) In proceedings brought under this Act against an employer in respect of an act alleged to have been done by an employee of the employer, it shall be a defence for the employer to prove that the employer took such steps as were reasonably practicable to prevent the employee— (a) from doing that act, or (b) from doing in the course of his or her employment acts of that description.

[...]

77.—F117[(1) A person who claims—

(a) to have been discriminated against or subjected to victimisation, (b) to have been dismissed in circumstances amounting to discrimination or victimisation, (c) not to be receiving remuneration in accordance with an equal remuneration term, or (d) not to be receiving a benefit under an equality clause, in contravention of this Act may, subject to subsections (3) to (9), seek redress by referring the case to the F118[Director General of the Workplace Relations Commission].]

(2) F119[...] F117[(3) If the grounds for such a claim arise— (a) under Part III, or (b) in any other circumstances (including circumstances amounting to victimisation) to which the Equal Pay Directive or Equal Treatment Directive is relevant, then, subject to subsections (4) to (9), the person making the claim may seek redress by referring the case to the Circuit Court instead of to the F118[Director General of the Workplace Relations Commission].]

[...]

Offences

98.—(1) If an employee is dismissed in circumstances amounting to victimisation, the employee's employer shall be guilty of an offence and if, in a prosecution for an offence under this section, it is proved— (a) that the employee was dismissed, and (b) that the employee, in good faith, did one or more of the acts specified in F171[paragraphs (a) to (g)] of section 74(2), that proof shall, without more, be evidence until the contrary is proved, that the sole or main reason for the dismissal of the employee was that the employee, in good faith, did one or more of those acts.

(2) Subject to subsection (4), on a conviction of an offence under this section, the court may, if it thinks fit and considers that the F172[Director General of the Workplace Relations Commission] would have power to do so— (a) make an order for the re-instatement of the employee by the employer, or (b) make an order for the re-engagement of the employee by the employer.

(3) Subject to subsection (4), if the court by which a person is convicted of an offence under this section does not make an order under subsection (2) (a) or (b), it may, if it thinks fit, in addition to imposing a fine for the offence, order the employer to pay to the employee concerned such amount of compensation as, subject to subsection (5), the court considers appropriate, having regard to any evidence and to any representations that are made by or on behalf of the employer or the employee concerned.

(4) The court shall not exercise its powers under subsection (2) or (3) unless the employee concerned consents.

(5) The amount of compensation which may be ordered under subsection (3) shall not exceed either— (a) the amount which, having regard to subsections (4) and (5) of section 82, the F172[Director General of the Workplace Relations Commission] could order by way of compensation under F173[paragraph (c) or (f) of section 81(1)] on a claim for redress in respect of the dismissal, or (b) if the order is made by the District Court, £5,000 or such other amount as may stand prescribed for the time being by law as the limit of that court's jurisdiction in tort, and, in applying any provision of section 82 for the purposes of paragraph (a), any reference to the date of the reference shall be construed as a reference to the date of the dismissal and any reference to the date of the F172[Director General of the Workplace Relations Commission] shall be construed as a reference to the date of the conviction of the offence.

(6) Where, on conviction of an employer for an offence under this section, the court makes an order under subsection (2) (a) or (b) or subsection (3)— (a) whether or not the employer appeals against the conviction or sentence, the employer may appeal against the order to the court to which an appeal lies against the conviction, and (b) the court hearing an appeal against the conviction or sentence, or an appeal against the order alone, may revoke or vary the order and, in particular, where the order was made under subsection (3), may vary the amount of the compensation.

(7) Where the court makes an order under subsection (3) for the payment of an amount of compensation— (a) without prejudice to any right of appeal by any other person, the employee concerned shall have a right of appeal, limited to the amount of the compensation, to either the High Court or, as the case may be, to the judge of the Circuit Court in whose circuit is situated the district (or any part thereof) of the judge of the District Court by whom the compensation was ordered, and (b) to the extent of the amount of compensation paid, the payment by the employer of the compensation shall be a good defence in any civil proceedings brought by the employee concerned in respect of the remuneration which the employee would have received if the dismissal had not occurred.

(8) Where an appeal is brought under subsection (7)(a), the decision of the High Court or, as the case may be, the judge of the Circuit Court shall be final.

[...]

9 ISRAEL

Employment (Equal Opportunities) Law, 1998 ²⁰

"Prejudice due to sexual harassment.

7. (a) Within the framework of work relations, an employer shall not prejudice an employee in relation to any of the matters enumerated in section 2 or in any other manner, where the source of such prejudice is one of the following:

(1) sexual harassment of the employee or of the applicant for employment, committed by the employer, by an appointee of his behalf or by another employee; in this Law "sexual harassment" - has the meaning assigned to it in the prevention of Sexual Harassment Law 5758-1998 (hereinafter referred to as - the Prevention of Sexual Harassment Law), provided that in the matter of prejudice the source of which is sexual harassment under section 3(a)(3) and (4) of the aforesaid Law, a single reference or proposition shall be sufficient;

(2) an employee's claim or complaint because of prejudice as provided in this section;

(3) an employee's assistance to another employee in connection with a complaint or a claim because of prejudice as referred to in this section.

(b) The provisions of section 6(b) shall apply to prejudice stemming from a complaint or a claim as provided in subsection (a)(2) and (3).

(c) The provisions of this section shall apply in respect of employers and employees, as well as to a person who actually employs a person through a manpower contractor and to the persons employed, mutatis mutandis, and as the case may be."

[...]

Prevention of Sexual Harassment Law, 1998 ²¹

Purpose

1. The purpose of this law is to prohibit sexual harassment in order to protect human dignity, liberty and privacy and to promote equality between the sexes.

Definitions

2. In this Law –

[...]

"labour relations sphere" means the workplace, another place where an activity on behalf of the employer takes place, in the course of employment or where, in any place whatsoever, a position of authority in a work relationship is being exploited;

"manpower contractor" - as defined in section 1 of the Employment of Persons by Manpower Contractors Law, 5756-1996 ;

[...]

²⁰ Employment (Equal Opportunities) Law, Law No. 5748-1988, available at https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_127881.pdf (last visited 15 November 2019).

²¹ Prevention of Sexual Harassment Law, 5758- 1998, available at <https://www.jewishvirtuallibrary.org/isource/Politics/PrventionofSexualHarassmentLaw.pdf> (last visited 15 November 2019).

Sexual Harassment and Adverse Treatment

3. (a) Each of the following acts constitutes sexual harassment:

- (1) blackmail by way of threats, as defined in section 428 of the Penal Law, where the act demanded to be performed by the person is of a sexual character;
- (2) indecent acts, as defined in sections 348 and 349 of the Penal Law;
- (3) repeated propositions of a sexual character to a person, where that person has shown to the harasser that he is not interested in the said propositions;
- (4) repeated references directed towards a person, which focus on his sexuality, where that person has shown to the harasser that he is not interested in the said references;
- (5) an intimidating or humiliating reference directed towards a person concerning his sex, or his sexuality, including his sexual tendencies;
- (6) propositions or references as described in subsections (3) or (4), directed towards one of those enumerated in subsections (a) to (c), in such circumstances as specified in such subsections, even where the person harassed has not shown the harasser that he is not interested in the said propositions or references:
 - (a) a minor or a helpless person, where a relationship of authority, dependence, education or treatment is being exploited;
 - (Two) a patient undergoing mental or medical treatment, where a relationship of authority between the patient and the person treating him is being exploited;
 - (c) an employee in the labour relations sphere and a person in service, within the framework of such service, where a position of authority in a work relationship or in service is being exploited. (Four) Prejudicial treatment is any harmful act, the source of which is sexual harassment or a complaint or court action filed in relation to sexual harassment. .

Prohibition of Sexual Harassment and of Adverse Treatment

4. A person may not sexually harass another or subject him to prejudicial treatment.

Sexual Harassment and Adverse Treatment are Offences

5. (a) A person who sexually harasses another, as defined in section 3(a) (3) to (6) shall be liable to of imprisonment for a term of two years.
- (b) A person subjecting another to adverse treatment, as defined in section 3(b), is liable to imprisonment for a term of three years.
- (c) A person who sexually harasses another, as defined in subsection (a), and subjects him to adverse treatment, as stated in subsection (b), is liable to imprisonment for a term of four years. (d) The provisions of sections 2(a) and 2(b) of the Amendment of Procedure (Examination of Witnesses) Law, 5718-1957 , shall apply to the examination of a person harmed by an offence under this section and to his evidence concerning such an offence.
- (Five) The provisions of sections 352 of the Penal Law shall apply to the publication of the name of a person harmed under this section.

Sexual Harassment and Adverse Treatment are Civil Wrongs

6. (a) Sexual harassment and adverse treatment are civil wrongs, and the Civil Wrongs Ordinance [New Version]⁶ , shall apply to such acts , subject to the provisions of this Law.
- (b) A court may award compensation for sexual harassment and for adverse treatment to an amount which shall not exceed NIS 50,000, without damage having to be proved; this amount shall be updated on the 16th of each month in accordance with the rate of excess of the new index over the basic index; for the purposes of this subsection - "index" means the cost of living index published by the Central Bureau of

Statistics; “the new index” means the index for the month last preceding the month of updating; “the basic index” means the index for the month of March, 1998.

(c) A court, or a labour court, as the case may be, shall not hear an action in respect of a civil wrong under this section or under section 7 which has been filed after three years have elapsed from the date upon which the cause of action has arisen.

Steps to be taken by an employer

7. (a) An employer has a duty to take such steps as are reasonable in the circumstances, so as to prevent sexual harassment or adverse treatment in the labour relations sphere, on the part of his employee or on the part of a person in charge on the employer's behalf, even where such a person is not his employee; an employer is also obliged to deal with cases of sexual harassment and adverse treatment. To this end, an employer is obliged to:

(1) prescribe an efficient procedure for filing a complaint in respect of sexual harassment and for the examination of the complaint;

(2) deal efficiently with a case of sexual harassment or of adverse treatment which has come to his notice and do everything within his power to prevent the recurrence of the said acts and to rectify the harm caused to the complainant as a result of sexual harassment or adverse treatment. (b) An employer who employs more than 25 employees shall, in addition to his duties under subsection (a), prescribe a code of practice which shall include the principal provisions of this Law concerning sexual harassment and adverse treatment in the labour relations sphere and which shall detail the procedures prescribed by the employer for filing complaints in respect of sexual harassment or adverse treatment and for dealing with such complaints prescribed by the employer (hereinafter -"code of practice"); the employer shall publish the code of practice among his employees.

(c) An employer who has failed to comply with his duties under subsections (a) (1) and (2) and (b) shall be liable for a civil wrong pursuant to section 6 and for a civil wrong for harmful conduct as defined in section 7 of the Employment (Equal Opportunities) Law, committed, in the labour relations sphere, by his employee or by a person in charge on behalf of the employer even if such a person is not his employee.

(d) The Minister of Justice, with the consent of the Minister of Labour and Social Affairs and with the approval of the Knesset Committee for the Promotion of the Status of Women, shall prescribe –

(1) rules in relation to the implementation of employers' duties under this section; such rules may be of general application or may apply to types of workplaces, branches of employment or 5 professions;

(2) a model code of practice which shall serve as a model for employers (hereinafter referred to as a model code of practice).

(e) In order to implement the duties of an employer under subsection (b) the employer shall adapt the model code of practice as required.

(f) For the purpose of this section, “adverse treatment” - includes harmful conduct within the meaning of section 7 of the Employment (Equal Opportunities) Law.

(g) The provisions of this section shall apply mutatis mutandis to institutions which provide theoretical or professional education to persons of adult age, and for this purpose the institution shall be regarded as the employer; the teacher or the lecturer shall be regarded as the employee or person in charge on behalf of the employer; and the pupil or student shall be regarded as the employee.

Failure to Publish a Code of Practice is an Offence

8. An employer who has failed to publish a code of practice pursuant to section 7(b) is liable to a fine and to an additional fine for every week in which the offence continues in the amount of the fine prescribed by section 61(c) of the Penal Law.

Extension of Application

9. The provisions of this Law in relation to employers and employees shall apply, mutatis mutandis also to a person who in practice employs another through a manpower contractor and to a person so employed.

Jurisdiction of the Labour Court

10. (a) The Labour Court shall have exclusive jurisdiction in civil proceedings pursuant to sections 6, 7 and 9 in one of the following –

(1) sexual harassment of an employee, in the labour relations sphere, committed by an employer or a person in charge on his behalf, or by another employee;

(2) adverse treatment of an employee, in the labour relations sphere, on the part of an employer or a person in charge on the employer's behalf, or on the part of another employee;

(3) the liability of an employer under section 7 in respect of sexual harassment or adverse treatment of an employee, in the labour relations sphere, committed by a person in charge on behalf of the employer or committed by another employee;

(b) The provisions of this section shall not apply to a civil proceeding in respect of sexual harassment or adverse treatment in service.

(c) The provisions of sections 10, 10A, 12 and 13 of the Equal Opportunities in Employment Law shall apply to proceedings pursuant to this section.

Status of the State

11. This Law shall apply to the State; for the purposes of sections 7 and 8, where there is no employee-employer relationship between the Security Forces and the person serving in the Security Forces, the Security Forces shall be regarded as the employer and the person serving shall be regarded as the employee.

Saving of Laws

12. The provisions of this Law shall not derogate from the provisions of any other law.

Implementation and Regulations

13. The Minister of Justice is charged with the implementation of this Law and may, with the approval of the Knesset Committee for the Promotion of the Status of Women, publish regulations in any matter concerning implementation.

Duty to Make Regulations

14. Regulations pursuant to section 7 shall be presented for the first time for approval by the Knesset Committee for the Promotion of the Status of Women within five months from the date of publication of this Law.

Amendment of the Employment (Equal Opportunities) Law

15. In the Employment (Equal Opportunities) Law, 5748-1988 - (1) Section 7 shall be replaced by –

“Harmful Conduct based on Sexual Harassment

7.(a) In the labour relations sphere an employer or a person in charge on his behalf shall not harm an employee or a person seeking employment in the matters enumerated in section 2 or in any other way, where the source of such harmful conduct is one of the following:

(1) Sexual harassment of an employee or of a person seeking employment committed by an employer, a person in charge on the employer's behalf or by another employee; in this Law, "sexual harassment" has the same meaning as in the Prevention of Sexual Harassment Law, 5758-1998 (hereinafter referred to as the Prevention of Sexual Harassment Law), provided that in respect of harmful conduct the source of which

is sexual harassment under section 3(a)(3) and (4) of the said Law, a single proposition or reference is sufficient;

(2) a complaint or a court action filed by an employee in respect of harmful conduct as described in in this section;

(3) Assistance given by an employee to another employee in respect of harmful conduct as described in this section;

(b) The provisions of section 6(b) shall apply to harmful conduct, the source of which is a complaint or court action as described in subsection (a)(2) and (3).

(c) The provisions of this section in relation to employers and employees shall apply mutatis mutandis also to a person who in practice employs another through a manpower contractor and to a person so employed.”;

(2) in section 9, subsection (b) shall be replaced by –

“(b) In an action by an employee or by a person seeking employment for infringement of section 7(a), the onus of proof that he has not engaged in harmful conduct as stipulated in the said subsection shall lie with the employer, where the employee or the person seeking employment has proved the existence of circumstances enumerated in one of paragraphs (1) to (3) of section 7(a);

(3) in section 10 –

(a) the section shall be numbered “(a)” and at the end of paragraph (1) add the following: “however in a civil proceeding in respect of harmful conduct as stated in section 7, the Labour Court may award compensation of up to NIS 50,000 without damage having to be proved.”

(b) after subsection (a) insert:

(c) the amount prescribed in subsection (a)(1) shall be updated on the 16th of each month in accordance with the rate of excess of the new index over the basic index; for the purpose of this subsection - “index” means the cost of living index published by the Central Bureau of Statistics; “the new index” means the index last preceding the month of adjustment; “the basic index” means the index for the month of March 1998.”;

8 (4) in section 10A subsection (a) shall be replaced by the following:

“(a) In a proceeding under this Law in respect of harm the source of which is one of the matters enumerated in section 7(a) or in respect of discrimination on the grounds of sexual tendencies under section 2(a), the Labour Court may sit in camera; where a prosecutor or a complainant has requested a hearing in camera, the Court shall accede to his request, unless the Court shall decide otherwise on special grounds which shall be recorded.”

(5) at the end of section 14 add: “however in respect of a civil action pursuant to section 7, the period of prescription shall be three years from the day upon which the cause of action has arisen.”

(6) In section 15 –

(a) in subsection (a), “6, 7 or 8” shall be replaced by “6 or 8”;

(b) insert after subsection (a) –

“(a1)(1) A person contravening the provisions of section 7 shall be liable to imprisonment as prescribed in section 5(b) of the Prevention of Sexual Harassment Law;

An employer or a person in charge on his behalf, who has sexually harassed his employee pursuant to section 3(a) of the Prevention of Sexual Harassment Law and has harmed him as stated in section 7, shall be liable to imprisonment as prescribed in section 5(c) of the said Law.

(a2) The provisions of section 5(d) and (e) of the Prevention of Sexual Harassment Law, shall apply to an offence under subsection (a1).”;

(7) in section 18, after subsection (d), insert: (e) An inspector appointed pursuant to subsection (Six) shall also supervise the implementation of section 7(b) of the Prevention of Sexual Harassment Law, and to this end he shall be invested with the powers stated in this section.”

Amendment of the Labour Courts Law

16. At the end of the Second Schedule of the Labour Court Law, 5729- 19697 , add: “section 8 of the Prevention of Sexual Harassment Law, 5758-1998.”

Amendment of the Courts Law

17. At the end of section 68(b)(5) of the Courts Law [Consolidated 7 Sefer HaChukkim of 5729, p. 70. 9 Version], 5744-19848 , add: “or an offence pursuant to the Prevention of Sexual Harassment Law, 5758-1998.

[...]

10 ITALY

[Code of Equal Opportunities between Men and Women \(pursuant to article 6 of the law of 28 November 2005, n. 246\), 2006](#)²²

BOOK III

EQUAL OPPORTUNITIES BETWEEN MAN AND WOMAN IN ECONOMIC RELATIONS

TITLE I - EQUAL OPPORTUNITIES IN WORK

Head I - Discrimination

[...]

Art. 26

Harassment and sexual harassment

(Law 10 April 1991, No. 125, Article 4, paragraphs 2-bis, 2-ter and 2-quater)

1. It is also considered as discrimination, harassment, any unwanted behavior, for reasons connected to sex, having the purpose or effect of violating the dignity of a worker and creating an intimidating, hostile, degrading, humiliating, or offensive environment.

2. It is also considered as discrimination, sexual harassment, any unwanted behavior with a sexual connotation, expressed in physical, verbal or non-verbal form, having the purpose or effect of violating the dignity of a worker and to create an intimidating, hostile, degrading, humiliating or offensive environment.

3. The deeds, agreements, or provisions concerning the employment relationship of workers who are victims of the conduct referred to in paragraphs 1 and 2 are void, if adopted as a result of, or refusal, or submission, to the same conduct. Discriminations are also considered those unfavorable treatments by the employer which constitute a reaction to a complaint, or an action aimed at obtaining compliance with the principle of equal treatment between men and women.

²² Code of Equal Opportunities between Men and Women (pursuant to article 6 of the law of 28 November 2005, n. 246), Legislative Decree No. 198 of 11 April 2006 (Codice delle pari opportunità tra uomo e donna, a norma dell'articolo 6 della legge 28 novembre 2005, n. 246), available at <https://www.camera.it/parlam/leggi/deleghe/06198dl.htm> (last visited 15 November 2019). Unofficial translation by Compendium team.

[...]

Chapter
JUDICIAL PROTECTION

III

Art.
Procedural
(law 10 April 1991, n. 125, article 4, paragraphs 4 and 5)

36.
legitimation

1. Whoever intends to take legal action for the declaration of discrimination pursuant to Article 25 and does not consider using the conciliation procedures provided for by collective agreements, may promote the attempt at conciliation pursuant to Article 410 of the Code of Civil Procedure or, respectively, of article 66 of the legislative decree 30 March 2001, n. 165, also through the provincial or regional councilor or equal regional councilor.

2. Without prejudice to the actions in court referred to in article 37, paragraphs 2 and 4, the provincial and regional councilors or councilors with territorial jurisdiction have the right to appeal to the tribunal as a labor judge or, for reports subject to its jurisdiction, to the regional administrative court territorially competent, on delegation of the person who has an interest, or to intervene in the judgments brought by the same.

Art.
Litigation for the protection of multiple subjects
(law 10 April 1991, n. 125, article 4, paragraphs 7, 8, 9, 10 and 11)

37.
subjects

1. If the directors or councilors of regional equality and, in cases of national significance, the councilor or the national councilor, detect the existence of acts, agreements or discriminatory direct or indirect behaviors of a collective nature, even when they are not immediately identifiable and direct the workers or workers affected by discrimination, before promoting the action in court under paragraphs 2 and 4, can ask the author of the discrimination to prepare a plan to remove the discriminations ascertained within a period not exceeding one hundred and twenty days, having heard, in the case of discrimination by an employer, the company union representatives or, in their absence, the local associations belonging to the most representative national trade union organizations. If the plan is considered suitable for the elimination of discrimination, the councilor or equality adviser promotes the attempt at conciliation and the relative report, in certified copy, acquires enforceable force by decree of the court acting as labor judge.

2. With regard to the discrimination of a collective nature referred to in paragraph 1, the directors or equality directors, if they do not consider themselves to avail themselves of the conciliation procedure referred to in the same paragraph or in case of a negative outcome of the same, may appeal to the court in the capacity of labor judge or regional administrative court with jurisdiction.

3. The judge, in the sentence that ascertains the discrimination on the basis of the appeal presented pursuant to paragraph 2, in addition to providing, if requested, for compensation of the damage, even non-patrimonial, orders the author of the discrimination to define a plan for the removal of the established discriminations, heard, in the case of employer, company union representatives or, in their absence, the local organizations belonging to the most representative category trade union organizations at national level, as well as the competent regional equality adviser or councilor by territory or by the national councilor

or councilor. In the sentence, the judge sets the criteria, even temporal, to be observed for the purposes of defining and implementing the plan.

4. Without prejudice to the action referred to in paragraph 2, the regional and national councilor or equality councilor may appeal urgently to the tribunal acting as a labor judge or to the territorially competent regional administrative court. The court seized, in the two following days, summoned the parties and assumed summary information, where it deems the violation referred to in the appeal to exist, with justified and immediately executive decree as well as providing, if requested, compensation for damages, even non-pecuniary, within the limits of the evidence provided, orders the author of the discrimination to cease the prejudicial behavior and adopts any other appropriate measure to remove the effects of ascertained discrimination, including the order of definition and implementation by the manager of a plan for their removal. In this case, the provisions of paragraph 3 are applied. Against the decree, an objection against the territorially competent judicial authority, which decides with a sentence immediately enforceable, is admitted within fifteen days of the communication to the parties.

5. Failure to comply with the sentence referred to in paragraph 3, the decree referred to in paragraph 4 or the sentence pronounced in the relative opposition judgment shall be punished with the penalties referred to in Article 650 of the Criminal Code and also involves the payment of a sum of 51 euros for each day of delay in the execution of the provision to be paid to the Fund referred to in article 18 and the revocation of the benefits referred to in article 41, paragraph 1.

Art. 38.

Measure against discrimination

(law 9 December 1977, n. 903, article 15; law 10 April 1991, n. 125, article 4, paragraph 13)

1. If conduct aimed at violating the provisions of article 27, paragraphs 1, 2, 3 and 4, and referred to in article 5 of the law of 9 December 1977, n. 903, upon appeal by the worker or by his delegation of the trade unions or councilor or councilor of the provincial or regional territorial jurisdiction, the tribunal acting as the labor judge of the place where the denounced behavior occurred, in the two following days, summoned the parties and assumed summary information, if they consider the infringement mentioned in the appeal to exist, in addition to providing, if requested, compensation for the non-pecuniary damage, within the limits of the evidence provided, it orders the author of the reported behavior, with motivated decree and immediately executive,

2. The enforceability of the decree cannot be revoked until the sentence with which the judge defines the judgment established pursuant to the following paragraph.

3. Against the decree it is admitted within fifteen days from the communication to the parties opposition before the judge that decides with sentence immediately executive. The provisions of articles 413 and following of the code of civil procedure are observed.

4. Failure to comply with the decree referred to in the first paragraph or with the sentence pronounced in the opposition judgment shall be punished pursuant to Article 650 of the Criminal Code.

5. Where the violations referred to in the first paragraph concern public employees, the provisions set forth regarding the suspension of the act by Article 21, last paragraph, of the law of 6 December 1971, n. 1034.

6. Without prejudice to ordinary action, the provisions referred to in paragraphs 1 to 5 shall apply in all cases of individual action in court brought by the person who has an interest in or delegated by a trade union or councilor or by the provincial or regional equality councilor.

Art. 39.

Appeal urgently

(law 10 April 1991, n. 125, article 4, paragraph 14)

1. Failure to carry out the conciliation attempt pursuant to Article 410 of the Civil Procedure Code does not preclude the granting of the provisions referred to in Articles 37, paragraph 4, and 38.

Art. 40.

Burden of proof

(law 10 April 1991, n. 125, article 4, paragraph 6)

1. When the appellant provides factual elements, also derived from statistical data relating to recruitment, compensation schemes, assignment of duties and qualifications, transfers, career progression and dismissals, suitable for founding, in terms precise and concordant, the presumption of the existence of acts, agreements or discriminatory behavior on grounds of sex, is up to the defendant the burden of proof on the non-existence of discrimination.

Art. 41.

Administrative obligations and sanctions

(law 10 April 1991, n. 125, article 4, paragraph 12; law 9 December 1977, n. 903, article 16, paragraph 1)

1. Any ascertainment of acts, pacts or discriminatory behaviors pursuant to articles 25 and 26, implemented by persons who have been granted benefits pursuant to the laws in force in the State, or who have entered into procurement contracts pertaining to the execution of public works, services or supplies, is immediately communicated by the provincial management of the territorially competent work to the Ministers in whose administrations the granting of the benefit or the contract has been ordered. They adopt the appropriate determinations, including, if necessary, the withdrawal of the benefit and, in the most serious cases or in the case of recurrence, they can decide the exclusion of the manager for a period of time up to two years from any further granting of financial or credit facilities or from any contract. This provision also applies in the case of financial or credit facilities or contracts awarded by public bodies, to which the provincial labor office directly communicates the established discrimination for the adoption of the sanctions envisaged. The provisions of this paragraph do not apply if a conciliation is reached pursuant to articles 36, paragraph 1, and 37, paragraph 1. adoption of the penalties provided for. The provisions of this paragraph do not apply if a conciliation is reached pursuant to articles 36, paragraph 1, and 37, paragraph 1. adoption

of the penalties provided for. The provisions of this paragraph do not apply if a conciliation is reached pursuant to articles 36, paragraph 1, and 37, paragraph 1.

2. Failure to comply with the provisions contained in articles 27, paragraphs 1, 2 and 3, 28, 29, 30, paragraphs 1, 2, 3 and 4, shall be punished with a fine from 103 euros to 516 euros.

Budget Law, 2018 ²³

Article 1

[...]

218. In article 26 of the code referred to in the legislative decree 11th April 2006, n. 198, the following modifications are made:

a) in paragraph 3, first sentence, the words: «paragraphs 1 and 2» are replaced by the following: «paragraphs 1, 2 and 2-bis»;

b) after paragraph 3 the following are added:

"3-bis. The worker or worker who acts in court for the declaration of discrimination for harassment or sexual harassment carried out in violation of the prohibitions referred to in this chapter may not be sanctioned, demoted, fired, transferred or subjected to any other organizational measure having effects. negative, direct or indirect, on working conditions, determined by the complaint itself. The retaliatory or discriminatory dismissal of the complainant is null. The change of duties pursuant to Article 2103 of the Civil Code and any other retaliatory or discriminatory measure adopted against the complainant are also void. The protections referred to in this paragraph are not guaranteed in cases where the criminal liability of the complainant for the crimes of slander or defamation or the groundlessness of the complaint is ascertained, even with a first instance sentence.

3-ter. Employers are required, pursuant to Article 2087 of the Civil Code, to ensure working conditions such as to guarantee the physical and moral integrity and dignity of the workers, including by agreeing the initiatives with the workers' union organizations, of an informative and formative nature, more appropriate in order to prevent the phenomenon of sexual harassment in the workplace. Companies, trade unions, employers and workers and workers are committed to ensuring the maintenance in the workplace of a work environment in which the dignity of each person is respected and interpersonal relationships based on the principles of equality and mutual fairness ".

[...]

220. To social cooperatives referred to the law of 8 November 1991, n. 381, with reference to the new hires with permanent employment contracts, starting from 1 January 2018 with reference to contracts signed no later than 31 December 2018, of women victims of gender violence, duly certified by the social services of the municipality of residence or from the anti-violence centers or from the shelter houses, of which to the article 5-bis of the decree-law August 14th 2013, n. 93, converted, with modifications, by the law 15 October 2013, n. 119, a contribution is granted for a maximum period of thirty-six months within the spending limit of one million euros for each of the years 2018, 2019 and 2020 by way of remission of the rates for the compulsory social security and welfare insurance due in relation to the aforementioned female employees. By decree of the Ministry of Labor and Social Policies, in agreement with the Minister of the Interior, the criteria for allocating and allocating the resources referred to in the previous period are established.

[...]

²³ Budget Law, Law No. 205 (27 December 2017), available at <https://www.altalex.com/documents/news/2017/12/30/legge-di-bilancio-2018-co0300> (last visited 15 November 2019).

[Legislative Decree No. 80, 2015](#) ²⁴

Art. 24

Leave for women victims of gender-based violence

1. The employee of public or private employer, with exclusion of domestic work, included in the protection procedures related to gender-based violence, duly certified by the services of the municipality of residence or by the anti-violence centers or by the shelter homes referred to in article 5-bis of the decree-law of 14 August 2013,

n. 93, converted, with modifications, by the law 15 October 2013, n. 119, has the right to abstain from work for reasons related to aforesaid protection procedures for a maximum period of three months.

2. Female workers holding coordinated collaborative relationships and continuous inserted in the protection procedures related to gender-based violence, duly certified by the social services of Municipality of residence or by the Anti-violence Centers or by the Refuge Houses of referred to in Article 5-bis of the decree-law of 14 August 2013, n. 93 converted, with modifications, by the law 15 October 2013, n. 119 have the right to suspend the contractual relationship for reasons connected to the performance of the protection measures, for the period corresponding to abstention, the duration of which cannot be over three months.

3. For the purposes of exercising the right referred to in this article, the worker, except in cases of objective impossibility, is required to notify the employer or the client with a term of notice of not less than seven days, with indication of the beginning and the end of the period of leave and to produce the certification of

referred to in paragraphs 1 and 2.

4. During the period of leave, the worker is entitled to receive an indemnity corresponding to the last salary, with

reference to the fixed and continuous items of the treatment, and the same period is covered by figurative contribution. The benefit is paid by the employer according to the methods provided for the payment of maternity benefits. The employers of private work, in the contribution declaration, deduct the amount of the compensation from the amount of social security contributions due to the competent social security institution. [...]

5. The leave referred to in paragraph 1 may be used on an hourly or daily basis in the time frame of three years according to what required by subsequent national collective agreements entered into by comparatively more representative union associations on the national plan. In the event of failure to regulate, by the collective bargaining, of the ways of taking leave, the employee can choose between daily and hourly use. [...]

[Penal Code, 1930 \(as amended\)](#) ²⁵

Art. 660.

Harassment or disturbance to people.

²⁴ Legislative Decree No. 80 of 2015 on Measures for the needs of care, life and health at work, in implementation of article 1, paragraphs 8 and 9, of the law 10 December 2014, n. 183, available at

<http://www.dottrinalavoro.it/wp-content/uploads/2015/06/80-2015-dlvo-Vita-Lavoro.pdf> (last visited 15 November 2019).

Unofficial translation by Compendium team.

²⁵ Penal Code, R.D. 1938 (19 October 1930, as amended up to May 2019), available at

<https://www.altalex.com/documents/codici-altalex/2014/10/30/codice-penale> (last visited 15 November 2019).

Whoever, in a public place or open to the public, or by telephone, petulance or other reprehensible reason, brings to some harassment or disturbance is punished with arrest up to six months or with a fine up to 516 euros.

[Civil Code, 1942 \(as amended\)](#)²⁶

Art. 2087 - Protection of working conditions

The employer is required to adopt the measures that, according to the particular nature of the work, experience and technique, are necessary to protect of the physical integrity and the moral personality of the workers.

11 JAPAN

[Law on the Improvement of the Welfare of Women Workers, including the Guarantee of Equal Opportunity and Treatment between Men and Women in Employment, 1972 \(as amended\)](#)²⁷

[...]

Chapter I General Provisions

(Purposes)

Article 1

The purposes of this Act are to promote securing equal opportunity and treatment between men and women in employment in accordance with the principle in the Constitution of Japan of ensuring equality under law, and to promote measures, among others, to ensure the health of women workers with regard to employment during pregnancy and after childbirth.

(Basic Principle)

Article 2

(1) The basic principle of this Act is that workers be enabled to engage in full working lives, with respect for maternity in the case of women workers but without discrimination based on sex for all workers.

(2) Employers, the national government and local governments shall, in compliance with the basic principle prescribed in the preceding paragraph, endeavor to promote the full working lives of workers.

(Enlightenment Activities)

Article 3 The national government and local government shall conduct the necessary enlightenment activities to increase public interest and understanding with regard to the securing, etc. of equal opportunity and treatment between men and women in employment, and especially to remove the various factors preventing the securing of equal opportunity and treatment between men and women in employment.

(Basic Policy on Measures for Equal Employment Opportunities for Men and Women)

Article 4 (1) The Minister of Health, Labor and Welfare shall formulate a basic policy concerning measures in connection with the securing, etc. of equal opportunity and treatment between men and women in

²⁶ Civil Code (R. D. 16 March 1942, n. 262), available at <https://www.altalex.com/documents/news/2014/11/27/del-lavoro-nell-impresa> (last visited 15 November 2019).

²⁷ Law on the Improvement of the Welfare of Women Workers, including the Guarantee of Equal Opportunity and Treatment between Men and Women in Employment, Act No. 113 (1 July 1972), as amended by Act No. 82 of 2006), available at http://ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=27223 (last visited 15 November 2019).

employment (hereinafter referred to as the "Basic Policy on Measures for Equal Employment Opportunities for Men and Women").

(2) The matters to be determined in the Basic Policy on Measures for Equal Employment Opportunities for Men and Women shall be as follows:

[...]

(ii) Basic matters concerning the measures to be taken with regard to the securing, etc. of equal opportunity and treatment between men and women in employment.

(3) The Basic Policy on Measures for Equal Employment Opportunities for Men and Women shall be formulated with due regard to such matters as the working conditions, views, and employment situations of men workers and women workers respectively.

(4) The Minister of Health, Labor and Welfare, in formulating the Basic Policy on Measures for Equal Employment Opportunities for Men and Women, shall consult the Labor Policy Council and request the opinions of the prefectural governors in advance.

(5) After having formulated the Basic Policy on Measures for Equal Employment Opportunities for Men and Women, The Minister of Health, Labor and Welfare shall publicize the outline thereof without delay.

[...]

Chapter II

Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment

Section I

Prohibition of Discrimination on the Basis of Sex, Etc.

(Prohibition of Discrimination on the Basis of Sex)

Article 5

With regard to the recruitment and employment of workers, employers shall provide equal opportunities for all persons regardless of sex.

[...]

Section II

Measures to be Taken by Employers

(Employment Management Measures Concerning Problems Caused by Sexual Harassment in the Workplace)

Article 11

(1) Employers shall establish necessary measures in terms of employment management to give advice to workers and cope with problems of workers, and take other necessary measures so that workers they employ do not suffer any disadvantage in their working conditions by reason of said workers' responses to sexual harassment in the workplace, or in their working environments do not suffer any harm due to said sexual harassment.

(2) The Minister of Health, Labor and Welfare shall formulate guidelines required for appropriate and valid implementation of measures to be taken by employers pursuant to the provisions of the preceding paragraph (referred to as the "Guidelines" in the following paragraph).

(3) The provisions of Article 4, paragraphs 4 and 5 shall apply mutatis mutandis to the formulation and amendment of the Guidelines. In these cases, the term "shall consult the Labor Policy Council and shall request the opinions of the prefectural governors" in Article 4, paragraph 4 shall be deemed to have been replaced with "shall consult the Labor Policy Council."

[...]

Section III

The State Assistance for Employers

Article 14

In cases where employers take or seek to take any of the following measures for the purpose of improving the circumstances preventing the securing of equal opportunity and treatment between men and women in employment, the State may provide consultation services and other assistance to said employers in order to promote the securing of equal opportunity and treatment between men and women in employment.

- (i) Analysis of the assignments and other employment-related circumstances of the employers' workers;
- (ii) Preparation, based on the analysis referred to in the preceding item, of plans concerning measures necessary in improving circumstances that prevent the securing of equal opportunity and treatment between men and women in employment;
- (iii) Implementation of the measures provided for in the plans referred to in the preceding item;
- (iv) Establishment of the system necessary to implement the measures referred to in the preceding three items; and
- (v) Disclosure of the implementation of measures referred to in the preceding items.

Chapter III

Resolution of Disputes

Section I

Assistance in the Resolution of Disputes

[...]

(Special Provisions of Promotion of the Resolution of Disputes)

Article 16 The provisions of Article 4, Article 5, and Articles 12 through 19 of the Act on Promoting the Resolution of Individual Labor Disputes (Act No. 112 of 2001) shall not apply to a dispute between a worker and an employer with regard to the provisions of Articles 5 through 7, Article 9, Article 11, paragraph 1, Article 12, Article 13, paragraph 1. Instead, said dispute shall be subject to the provisions of Articles 17 through 27 herein.

(Assistance in the Resolution of Disputes)

Article 17 (1) The directors of Prefectural Labor Offices may, when asked by either party or both parties to a dispute prescribed in the preceding Article for assistance to resolve said dispute, give any necessary advice or guidance or make any necessary recommendation to the parties to said dispute.

(2) Employers shall not dismiss or give disadvantageous treatment to a worker by reason of said worker requesting the assistance set forth in the preceding 6 paragraph.

Section II

Conciliation

(Delegation of Conciliation)

Article 18 (1) The director of each Prefectural Labor Office shall refer to the competent Disputes Adjustment Commission provided for in Article 6, paragraph 1 of the Act on Promoting the Resolution of Individual Labor Disputes (hereinafter referred to as the "Commission") for the conciliation of disputes provided for

in Article 16 (except a dispute on the recruitment and employment of workers) when either party or both parties to said dispute (hereinafter referred to as the "parties concerned") apply for conciliation and the Director finds conciliation necessary to resolve said dispute.

(2) The provision of paragraph 2 of the preceding Article shall apply mutatis mutandis to cases in which a worker applies for conciliation set forth in the preceding paragraph.

(Conciliation)

Article 19

(1) The conciliation prescribed in paragraph 1 of the preceding Article (hereafter in this section referred to as the "Conciliation") shall be conducted by three conciliation commissioners.

(2) The conciliation commissioners shall be nominated in advance by the Commission chairperson from among its members.

Article 20

(1) The Commission may, when it finds necessary for the Conciliation, request the parties concerned to appear and hear their opinions.

(2) The Commission may, when it finds necessary for the Conciliation pertaining to a dispute between workers and the employer with regard to the provisions of Article 11, paragraph 1 and when both parties concerned express their consent, request the parties concerned and persons who are alleged to have engaged in sexual harassment in the workplace pertaining to said case to appear and hear their opinions.

Article 21

The Commission shall, when it finds necessary based on the application of the parties concerned, hear the opinions as to said case in question of the representatives of the workers concerned or the representatives of the employers concerned who are nominated by major organizations of workers or employers in the jurisdictional district of the Prefectural Labor Office where said Commission is established.

Article 22

The Commission may prepare a conciliation proposal and recommend its acceptance to the parties concerned.

Article 23

(1) The Commission may, when it finds no chance for resolution by conciliation, discontinue the Conciliation as to the disputes pertaining to.

(2) The Commission shall, when it discontinues the Conciliation pursuant to the provision of the preceding paragraph, notify the parties concerned of said discontinuance.

(Interruption of Prescription)

Article 24

When the Conciliation is discontinued pursuant to the provision of the paragraph 1 of the preceding Article and the persons who applied for the Conciliation file a suit as to the claim which was the purpose of the Conciliation within 30 days of the day of notification prescribed under the same Article, paragraph 2, the suit shall be deemed to be filed on the day when the Conciliation was applied for in terms of interruption of prescription.

(Suspension of Court Proceedings)

Article 25

(1) In the case of court proceedings that are pending between the parties concerned as to civil disputes prescribed in Article 18, paragraph 1, the court proceedings by setting a period of up to four months when both of the parties concerned file joint petition for suspension and either of the circumstances below can be applied.

(i) Said conciliation is to be carried out between the parties concerned as to the dispute concerned.

(ii) In addition to the cases prescribed in the preceding item, the parties concerned are to have an agreement to resolve said disputes through Conciliation.

(2) The court of suit may rescind the ruling prescribed in the preceding paragraph at any time.

(3) No appeal shall be available against a ruling to dismiss the petition prescribed in paragraph 1 and a ruling to rescind the ruling prescribed in paragraph 1 under to the provision of the preceding paragraph.

(Request, Etc. for Provision of Data)

Article 26

The Commission may, when it finds necessary in order to resolve cases pending before the Commission, ask relevant administrative agencies for necessary cooperation such as the provision of data.

(Delegation to Ordinance of the Ministry of Health, Labor and Welfare)

Article 27

Necessary matters concerning the procedures for the Conciliation in addition to those provided for in this section shall be provided for by Ordinance of the Ministry of Health, Labor and Welfare.

Chapter IV Miscellaneous Provisions

(Investigations, Etc.)

Article 28

(1) The Minister of Health, Labor and Welfare shall implement necessary researches and studies concerning working lives of men workers and women workers respectively.

(2) The Minister of Health, Labor and Welfare may, when he/she finds necessary with regard to the enforcement of this Act, ask the director of each relevant administrative organ for necessary cooperation such as the provision of data.

(3) The Minister of Health, Labor and Welfare may, with regard to the enforcement of this Act, request needed investigation reports from the prefectural governors.

(Collection of Reports and Issuing of Advice, Guidance, and Recommendations)

Article 29

(1) The Minister of Health, Labor and Welfare may, when he/she finds necessary with regard to the enforcement of this Act, request reports of employers and give employers advice, guidance, and recommendations.

(2) The authority of The Minister of Health, Labor and Welfare prescribed in the preceding paragraph may be delegated to the directors of Prefectural Labor Offices, based on Ordinance of the Ministry of Health, Labor and Welfare.

(Publication)

Article 30

In the event that an employer is in violation of any of the provisions of Articles 5 to 7, Article 9, paragraphs 1 to 3, Article 11, paragraph 1, Article 12 and Article 13, paragraph 1, the Minister of Health, Labor and Welfare gave recommendations pursuant to the provisions of paragraph 1 of the preceding Article, but the employer has not complied with it, the Minister of Health, Labor and Welfare may make a public announcement of such violation.

[...]

Article 32

The provisions of Chapter II, Sections I and III, the preceding Chapter, Articles 29 and 30 shall not apply to members of the national and local public. The provisions of Chapter II, Section II shall not apply to national officer in the regular government service (except personnel referred to in Article 2, item 4 of the Public Corporation and National Enterprise Labor Relations Act (Act No. 257 of 1948), court officer who are subject to the Act on Temporary Measures concerning Court Officer (Act No. 299 of 1951), Diet officer who are subject to the National Diet Officer Act (Act No. 85 of 1947), and members prescribed in Article 2, paragraph 5 of the Self Defense Forces Act (Act No. 165 of 1954).

Chapter V

Penal Provisions

Article 33

Any person who has not made a report required by Article 29, paragraph 1 or who has made a false report shall be liable to a civil fine of not more than 200,000 yen.

[...]

[The Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment, 1972](#) ²⁸

Section II

Measures to be Taken by Employers

(Employment Management Measures Concerning Problems Caused by Sexual Harassment in the Workplace)

Article 11 (1) Employers shall establish necessary measures in terms of employment management to give advice to workers and cope with problems of workers, and take other necessary measures so that workers they employ do not suffer any disadvantage in their working conditions by reason of said workers' responses to sexual harassment in the workplace, or in their working environments do not suffer any harm due to said sexual harassment.

(2) The Minister of Health, Labor and Welfare shall formulate guidelines required for appropriate and valid implementation of measures to be taken by employers pursuant to the provisions of the preceding paragraph (referred to as the "Guidelines" in the following paragraph).

(3) The provisions of Article 4, paragraphs 4 and 5 shall apply mutatis mutandis to the formulation and amendment of the Guidelines. In these cases, the term "shall consult the Labor Policy Council and shall request the opinions of the prefectural governors" in Article 4, paragraph 4 shall be deemed to have been replaced with "shall consult the Labor Policy Council."

[...]

²⁸ The Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment, Act No. 113 (1 July 1972), available at <https://www.ilo.org/dyn/travail/docs/2010/Act%20on%20Securing%20etc%20of%20Equal%20Opportunity%20and%20Treatment%20between%20Men%20and%20Women%20in%20Employment%201972.pdf> (last visited 15 November 2019).

(Special Provisions of Promotion of the Resolution of Disputes)

Article 16 The provisions of Article 4, Article 5, and Articles 12 through 19 of the Act on Promoting the Resolution of Individual Labor Disputes (Act No. 112 of 2001) shall not apply to a dispute between a worker and an employer with regard to the provisions of Articles 5 through 7, Article 9, Article 11, paragraph 1, Article 12, Article 13, paragraph 1. Instead, said dispute shall be subject to the provisions of Articles 17 through 27 herein.

(Assistance in the Resolution of Disputes)

Article 17 (1) The directors of Prefectural Labor Offices may, when asked by either party or both parties to a dispute prescribed in the preceding Article for assistance to resolve said dispute, give any necessary advice or guidance or make any necessary recommendation to the parties to said dispute.

(2) Employers shall not dismiss or give disadvantageous treatment to a worker by reason of said worker requesting the assistance set forth in the preceding paragraph.

Section II

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(Delegation of Conciliation)

Article 18 (1) The director of each Prefectural Labor Office shall refer to the competent Disputes Adjustment Commission provided for in Article 6, paragraph 1 of the Act on Promoting the Resolution of Individual Labor Disputes

(hereinafter referred to as the "Commission") for the conciliation of disputes provided for in Article 16 (except a dispute on the recruitment and employment of workers) when either party or both parties to said dispute (hereinafter referred to as the "parties concerned") apply for conciliation and the Director finds conciliation necessary to resolve said dispute.

(2) The provision of paragraph 2 of the preceding Article shall apply mutatis mutandis to cases in which a worker applies for conciliation set forth in the preceding paragraph.

(Conciliation)

Article 19 (1) The conciliation prescribed in paragraph 1 of the preceding Article (hereafter in this section referred to as the "Conciliation") shall be conducted by three conciliation commissioners.

(2) The conciliation commissioners shall be nominated in advance by the Commission chairperson from among its members.

Article 20 (1) The Commission may, when it finds necessary for the Conciliation, request the parties concerned to appear and hear their opinions.

(2) The Commission may, when it finds necessary for the Conciliation pertaining to a dispute between workers and the employer with regard to the provisions of Article 11, paragraph 1 and when both parties concerned express their consent, request the parties concerned and persons who are alleged to have engaged in sexual harassment in the workplace pertaining to said case to appear and hear their opinions.

Article 21

The Commission shall, when it finds necessary based on the application of the parties concerned, hear the opinions as to said case in question of the representatives of the workers concerned or the representatives of the employers concerned who are nominated by major organizations of workers or employers in the jurisdictional district of the Prefectural Labor Office where said Commission is established.

Article 22

The Commission may prepare a conciliation proposal and recommend its acceptance to the parties concerned.

Article 23

(1) The Commission may, when it finds no chance for resolution by conciliation, discontinue the Conciliation as to the disputes pertaining to.

(2) The Commission shall, when it discontinues the Conciliation pursuant to the provision of the preceding paragraph, notify the parties concerned of said discontinuance.

(Interruption of Prescription)

Article 24

When the Conciliation is discontinued pursuant to the provision of the paragraph 1 of the preceding Article and the persons who applied for the Conciliation file a suit as to the claim which was the purpose of the Conciliation within 30 days of the day of notification prescribed under the same Article, paragraph 2, the suit shall be deemed to be filed on the day when the Conciliation was applied for in terms of interruption of prescription.

(Suspension of Court Proceedings)

Article 25

(1) In the case of court proceedings that are pending between the parties concerned as to civil disputes prescribed in Article 18, paragraph 1, the court proceedings by setting a period of up to four months when both of the parties concerned file joint petition for suspension and either of the circumstances below can be applied.

(i) Said conciliation is to be carried out between the parties concerned as to the dispute concerned.

(ii) In addition to the cases prescribed in the preceding item, the parties concerned are to have an agreement to resolve said disputes through Conciliation.

(2) The court of suit may rescind the ruling prescribed in the preceding paragraph at any time.

(3) No appeal shall be available against a ruling to dismiss the petition prescribed in paragraph 1 and a ruling to rescind the ruling prescribed in paragraph 1 under to the provision of the preceding paragraph.

(Request, Etc. for Provision of Data)

Article 26

The Commission may, when it finds necessary in order to resolve cases pending before the Commission, ask relevant administrative agencies for necessary cooperation such as the provision of data.

(Delegation to Ordinance of the Ministry of Health, Labor and Welfare)

Article 27

Necessary matters concerning the procedures for the Conciliation in addition to those provided for in this section shall be provided for by Ordinance of the Ministry of Health, Labor and Welfare.

Chapter IV Miscellaneous Provisions

(Investigations, Etc.)

Article 28

(1) The Minister of Health, Labor and Welfare shall implement necessary researches and studies concerning working lives of men workers and women workers respectively.

(2) The Minister of Health, Labor and Welfare may, when he/she finds necessary with regard to the enforcement of this Act, ask the director of each relevant administrative organ for necessary cooperation such as the provision of data.

(3) The Minister of Health, Labor and Welfare may, with regard to the enforcement of this Act, request needed investigation reports from the prefectural governors.

(Collection of Reports and Issuing of Advice, Guidance, and Recommendations)

Article 29

(1) The Minister of Health, Labor and Welfare may, when he/she finds necessary with regard to the enforcement of this Act, request reports of employers and give employers advice, guidance, and recommendations.

[...]

12 JORDAN

[Penal Code, 1960 \(as amended\)](#)²⁹

Title VII: Offences against Public Ethics and Morality

Chapter I: Offences against Honor

[...]

Article 296: Attacking, by Violence or Intimidation, the Honor of a Person

1) Any person who attacks the honor of another person by using violence or intimidation shall be sentenced to at least four (4) years of hard labor.

2) The sentence shall not be less than seven (7) years if the victim is less than five (5) years of age.

[...]

Article 305: Unwanted Sexual Contact

A prison sentence for a period not exceeding one year shall be imposed upon any person who engages in unwanted sexual contact with:

1) Another person, male or female, under fifteen (15) years of age; or,

2) A woman or a girl, who has reached fifteen (15) years of age, but without their consent.

Article 306: Indecent Acts and Words

A prison sentence for a period up to six (6) months, or a fine not exceeding twenty-five (25) Dinars, shall be imposed upon any person who exposes a boy who is less than fifteen (15) years of age, or a female, to indecent acts or words.

[...]

²⁹ Penal Code (5 November, 1960, as amended by Provisional Law No. 54 of 2001). Arabic version available at https://ihl-databases.icrc.org/applic/ihl/ihl-nat.nsf/implementingLaws.xsp?documentId=A713DCD682811C36C125712A004A8371&action=openDocument&xp_countrySelected=JO&xp_topicSelected=GVAL-992BU6&from=state. English version available at http://irckhf.org/check_1.php?t=legislation&f=HRIDJL0084_PenalCode_En_1960 (last visited 15 November 2019).

[Labor Law No. 8, 1996 \(as amended\)](#)³⁰

Article 19:

The Employee:

a) Should perform the work by himself, exert, in its performance, the care of the ordinary person, comply with the orders of the Employer which relate to carrying out the agreed upon work within the limits that do not expose him to danger or violate the provisions of the law in force or the public moral.
[...]

Article 28:

Employer may discharge the Employee without notice in any of the following cases:

[...]

g) If the Employee is convicted, by a court decision which has become conclusive, of a felony or misdemeanor touching on honor and public moral.

h) If he is found unmistakably drunk or under the influence of narcotics or mentally influencing factor or committed an act which is improper to public morals at the place of work.

i) If the Employee assaults the Employer, the Manager in charge, one of his superiors, any Employees or any other person during work or due thereto by beating or humiliating.

Article 29:

The Employee may quit work without notice and still retain his legal rights for the termination of service as well as the damage compensation accruing to him in any of the following cases.

[...]

f) If the Employer or whoever represents him assaults him during work or due thereto by beating or humiliation.

[...]

13 KENYA

[Employment Act, 2007](#)³¹

[...]

2. Interpretation

In this Act, unless the context otherwise requires—

[...]

“employee” means a person employed for wages or a salary and includes an apprentice and indentured learner;

³⁰ Labor Law No. 8 of 1996 (March 2, 1996, as amended by Law No. 14 of 2019). English translation available at http://www.hammourilaw.com/Hammouri_Resorces/Articals/labor_law_2.pdf (last visited 15 November 2019).

³¹ Chapter 226, Revised Edition 2012 [2007], available at http://www.kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/EmploymentAct_Cap226-No11of2007_01.pdf (last visited 15 November 2019).

“employer” means any person, public body, firm, corporation or company who or which has entered into a contract of service to employ any individual and includes the agent, foreman, manager or factor of such person, public body, firm, corporation or company;

[...]

“woman” means a female of the age of eighteen years or above;

[...]

3. Application

(1) This Act shall apply to all employees employed by any employer under a contract of service.

(2) This Act shall not apply to—

(a) the armed forces or the reserve as respectively defined in the Armed Forces Act (Cap. 199);

(b) the Kenya Police, the Kenya Prisons Service or the Administration Police Force;

(c) the National Youth Service; and

(d) an employer and the employer’s dependants where the dependants are the only employees in a family undertaking.

(3) This Act shall bind the Government.

(4) The Minister may, after consultation with the Board and after taking account of all relevant conventions and other international instruments ratified by Kenya, by order exclude from the application of all or part of this Act limited categories of employees in respect of whom special problems of a substantial nature arise.

(5) The Minister may, after consultation with the Board, by order exclude from the application of all or part of this Act categories of employed persons whose terms and conditions of employment are governed by special arrangements:

Provided those arrangements afford protection that is equivalent to or better than that part of the Act from which those categories are being excluded.

(6) Subject to the provisions of this Act, the terms and conditions of employment set out in this Act shall constitute minimum terms and conditions of employment of an employee and any agreement to relinquish, vary or amend the terms herein set shall be null and void.

[...]

5. Discrimination in employment

(1) It shall be the duty of the Minister, labour officers and the Industrial Court—

(a) to promote equality of opportunity in employment in order to eliminate discrimination in employment; and

(b) to promote and guarantee equality of opportunity for a person who is a migrant worker or a member of the family of the migrant worker, lawfully within Kenya.

(2) An employer shall promote equal opportunity in employment and strive to eliminate discrimination in any employment policy or practice.

(3) No employer shall discriminate directly or indirectly, against an employee or prospective employee or harass an employee or prospective employee—

(a) on grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, mental status or HIV status;

(b) in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment.

6. Sexual harassment

(1) An employee is sexually harassed if the employer of that employee or a representative of that employer or a co-worker—

- (a) directly or indirectly requests that employee for sexual intercourse, sexual contact or any other form of sexual activity that contains an implied or express—
 - (i) promise of preferential treatment in employment;
 - (ii) threat of detrimental treatment in employment; or
 - (iii) threat about the present or future employment status of the employee;
 - (b) uses language whether written or spoken of a sexual nature;
 - (c) uses visual material of a sexual nature; or
 - (d) shows physical behaviour of a sexual nature which directly or indirectly subjects the employee to behaviour that is unwelcome or offensive to that employee and that by its nature has a detrimental effect on that employee's employment, job performance, or job satisfaction.
- (2) An employer who employs twenty or more employees shall, after consulting with the employees or their representatives if any, issue a policy statement on sexual harassment.
- (3) The policy statement required under subsection (2) may contain any term the employer considers appropriate for the purposes of this section and shall contain—
- (a) the definition of sexual harassment as specified in subsection (1);
 - (b) a statement—
 - (i) that every employee is entitled to employment that is free of sexual harassment;
 - (ii) that the employer shall take steps to ensure that no employee is subjected to sexual harassment;
 - (iii) that the employer shall take such disciplinary measures as the employer deems appropriate against any person under the employer's direction, who subjects any employee to sexual harassment;
 - (iv) explaining how complaints of sexual harassment may be brought to the attention of the employer; and
 - (v) that the employer will not disclose the name of a complainant or the circumstances related to the complaint to any person except where disclosure is necessary for the purpose of investigating the complaint or taking disciplinary measures in relation thereto.
- (4) An employer shall bring to the attention of each person under the employer's direction the policy statement required under subsection (2).

[...]

[Sexual Offences Act, 2006](#) ³²

Section 23 - Sexual Harassment

- (1) Any person, who being in a position of authority, or holding a public office, who persistently makes any sexual advances or requests which he or she knows, or has reasonable grounds to know, are unwelcome, is guilty of the offence of sexual harassment and shall be liable to imprisonment for a term of not less than three years or to a fine of not less than one hundred thousand shillings or to both.
- (2) It shall be necessary to prove in a charge of sexual harassment that—
- (a) the submission or rejection by the person to whom advances or requests are made is intended to be used as basis of employment or of a decision relevant to the career of the alleged victim or of a service due to a member of the public in the case of a public officer;
 - (b) such advances or requests have the effect of interfering with the alleged victim's work or educational performance or creating an offensive working or learning environment for the alleged victim or denial of a service due to the member of the
 - (c) public from a public office.

³² No. 3 (14 July 2006, revised edition 2009 (2008)), available at http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_127528.pdf (last visited 15 November 2019).

[...]

14 KIRIBATI

[Penal Code, 1965 \(as amended\)](#) ³³

Indecent assaults on females

133. (1) Any person who unlawfully and indecently assaults any woman or girl is guilty of a felony, and shall be liable to imprisonment for 5 years.

(2) It is no defence to a charge for an indecent assault on a girl under the age of 15 years to prove that she consented to the act of indecency.

(3) Whoever, intending to insult the modesty of any woman or girl, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman or girl, or whoever intrudes upon the privacy of a woman or girl by doing an act of a nature likely to offend her modesty, shall be guilty of a misdemeanour, and shall be liable to imprisonment for 1 year.

15 KOREA, REP.

[Act on Equal Employment and Support for Work-Family Reconciliation, 1987 \(As amended\)](#) ³⁴

Article 1 (Purpose)

The purpose of this Act is to realize gender equality in employment in accordance with the principle of equality proclaimed in the Constitution of the Republic of Korea by ensuring equal opportunities and treatment in employment between men and women and protecting maternity and promoting female employment, and to contribute to the improvement of all the people's quality of life by supporting the reconciliation of work and family life for workers.

<This Article Wholly Amended by Act No. 8781, Dec. 21, 2007>

Article 2 (Definition)

The definition of terms used in this Act shall be as follows:

1. The term “discrimination” means that an employer applies different hiring and working conditions to workers, or takes any other disadvantageous measures against them without any justifiable reasons on account of sex, marriage, status within family, pregnancy, or child-birth, etc. (including cases where even if an employer applies the same hiring or working conditions, the number of men or women who can meet the conditions is considerably less than that of the opposite sex, thus causing a disadvantageous result to the opposite sex, and the said conditions cannot be proved justifiable): Provided that this shall not apply to cases falling under any one of the following items:

A. Where a specific sex is inevitably required in view of the nature of duties;

B. Where measures are taken to protect maternity, such as pregnancy, childbirth and lactation of female workers, etc.;

C. Other cases where affirmative action measures are taken under this Act or other Acts.

³³ Penal Code, 18 October 1965 (consolidated and revised in 1977), available at http://www.paclii.org/ki/legis/consol_act/pc66/ (last visited 15 November 2019).

³⁴ Act on Equal Employment and Support for Work-Family Reconciliation, Act No. 3989 (4 December 1987), available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/27217/74077/F1167059458/KOR27217%20Eng%202013.pdf> (last visited 15 November 2019).

2. The term “sexual harassment at work” refers to a situation where an employer, a superior, or a worker causes another worker to feel sexually humiliated or offended by sexually charged words or actions by using their position in the workplace or in relation to work, or gives disadvantages in employment for disregarding sexual words or actions or any other demands, etc.

[...]

4. The term “worker” means a person employed by an employer and a person having the intention to be employed.

<This Article Wholly Amended by Act No. 8781, Dec. 21, 2007>

Article 3 (Scope of Application)

(1) This Act shall apply to all businesses or workplaces

(hereinafter referred to as “business”) that employ workers; Provided that all or part of this Act may not apply to business prescribed by the Presidential Decree.

(2) Unless otherwise provided for by other Acts, the realization of gender equality in employment and reconciliation of work and family life shall be governed by this Act.

<This Article Wholly Amended by Act No. 8781, Dec. 21, 2007>

Article 4 (Responsibility of State and Local Governments)

(1) The State and local governments shall, in order to achieve the purposes of this Act, promote the people's interest and understanding, support women's vocational skills development and employment promotion for them, and make necessary efforts to eliminate all elements undermining the realization of equal employment between men and women.

[...]

<This Article Wholly Amended by Act No. 8781, Dec. 21, 2007>

Article 5 (Responsibility of Workers and Employers)

(1) Workers shall make efforts to create a workplace culture, where men and women are equally respected based on mutual understanding.

(2) Employers shall make efforts to create a working environment where male and female workers can display their abilities under equal conditions by improving practices and institutions undermining the realization of gender equality in employment.

[...]

<This Article Wholly Amended by Act No. 8781, Dec. 21, 2007>

Article 6 (Establishment of Measures, etc.)

(1) The Minister of Employment and Labor shall establish and carry out the policies falling under any of the following subparagraphs to realize gender equality in employment and the reconciliation of work and family life: <Amended by Act No. 10339, Jun. 4, 2010>

1. Publicity for spreading awareness about gender equality in employment;

2. Selection of and administrative and financial support for companies with an exemplary practice of gender equality in employment (including excellent companies in affirmative action measures under Article 17-4);

3. Establishment and implementation of a campaign period for gender equality in employment;

4. Survey and research to eliminate gender discrimination and expand the employment of women;

[...]

6. Other measures necessary to realize equal employment and the reconciliation of work and family life

(2) The Minister of Employment and Labor shall make efforts to reflect opinions of the interested parties in establishing and implementing policies under paragraph (1), and if it is deemed necessary, he may ask

for cooperation from the heads of relevant administrative agencies, local governments and other public organizations.

<Amended by Act No. 10339, Jun. 4, 2010>

<This Article Wholly Amended by Act No. 8781, Dec. 21, 2007>

Article 6-2 (Establishment of Basic Plan)

(1) The Minister of Employment and Labor shall establish a basic plan on the realization of equal employment and the reconciliation of work and family life (hereinafter referred to as “basic plan”).

<Amended by Act No. 10339, Jun. 4, 2010>

(2) The basic plan as referred to in paragraph (1) shall include the following matters: <Amended by Act No. 10339, Jun. 4, 2010>

[...]

2. Matters on the guarantee of equal opportunities and treatment for men and women;

[...]

8. Other matters deemed necessary by the Minister of Employment and Labor for the realization of gender equality in employment and reconciliation of work and family life.

<This Article Newly Inserted by Act No. 8781, Dec. 21, 2007>

CHAPTER II

Guarantee of Equal Opportunities, and Treatment, etc. in Employment of Men and Women

[...]

SECTION II

Prohibition and Prevention of Sexual Harassment at Work

Article 12 (Prohibition of Sexual Harassment at Work)

No employer, superior or worker shall engage in sexual harassment at work.

<This Article Wholly Amended by Act No. 8781, Dec. 21, 2007>

Article 13 (Education to Prevent Sexual Harassment at Work)

(1) An employer shall conduct education in order to prevent sexual harassment at work (hereinafter referred to as the “education to prevent sexual harassment”) and to create a safe working environment for workers.

(2) Matters necessary for the contents, method, frequency, etc. of education to prevention sexual harassment shall be prescribed by the Presidential Decree.

<This Article Wholly Amended by Act No. 8781, Dec. 21, 2007>

Article 13-2 (Entrustment of Education to Prevent Sexual Harassment at Work)

(1) An employer may conduct education to prevent sexual harassment by entrusting it to the institution designated by the Minister of Employment and Labor (hereinafter referred to as the “education institution for sexual harassment prevention”). <Amended by Act No. 10339, Jun. 4, 2010>

(2) The education institution for sexual harassment prevention shall be designated among the institutions provided by the Ordinance of the Ministry of Employment and Labor, and it shall have one or more of the lecturers provided by the Ordinance of the Ministry of Employment and Labor. <Amended by Act No. 10339, Jun. 4, 2010>

(3) The education institution for sexual harassment prevention shall conduct education under the conditions provided by the Ordinance of the Ministry of Employment and Labor, keep data relating to execution of education, including education completion certificate or the roster of persons completing the

education, etc., and deliver such data to employers or educatees. <Amended by Act No. 10339, Jun. 4, 2010>

(4) The Minister of Employment and Labor may cancel relevant designation in cases where the education institution for sexual harassment prevention falls under any of the following subparagraphs: <Amended by Act No. 10339, Jun. 4, 2010>

1. Where the designation has been obtained in a false or other unlawful ways;
2. Where the lecturer under paragraph (2) has not been placed for 6 consecutive months or longer without any justifiable reasons.

<This Article Wholly Amended by Act No. 8781, Dec. 21, 2007>

Article 14 (Measures to Be Taken in case of Sexual Harassment at Work)

(1) An employer shall take without delay disciplinary measures or any other equivalent actions against the sexual harasser if an occurrence of sexual harassment at work has been verified.

(2) No employer shall dismiss or take any other disadvantageous measures against a worker who has been damaged with regard to sexual harassment at work or claimed damage occurred from sexual harassment.

<This Article Wholly Amended by Act No. 8781, Dec. 21, 2007>

Article 14-2 (Prevention of Sexual Harassment by Clients, etc.)

(1) If a person closely related to the duties, such as a client, etc., causes a worker to feel sexually humiliated or offended by sexual words, actions, etc., during the performance of duties, and such worker requests resolution of the grievances thereby, the employer shall make efforts to take all possible measures, such as the change of the place of work, relocation, etc.

(2) No employer shall dismiss or take any other disadvantageous measures against the worker on account of his/her claim for any damage under paragraph (1) or of disregard for sexual demands from clients, etc.

<This Article Wholly Amended by Act No. 8781, Dec. 21, 2007>

[...]

CHAPTER IV

Prevention and Settlement of Disputes

Article 23 (Counselling Support)

(1) The Minister of Employment and Labor may provide a private organization conducting counselling services on discrimination, sexual harassment at work, maternity protection, work-family reconciliation, etc. with part of the necessary expenses within the limits of the budget. <Amended by Act No. 10339, Jun. 4, 2010>

[...]

Article 24 (Honorary Equal Employment Inspector)

(1) The Minister of Employment and Labor may commission a person recommended by both labor and management from among workers in the workplace concerned as an honorary equal employment inspector (hereinafter referred to as "honorary inspector") in order to promote equal employment in the workplace. <Amended by Act No. 10339, Jun. 4, 2010>

(2) An honorary inspector shall perform the following duties: <Amended by Act No. 10339, Jun. 4, 2010>

1. Providing counselling and advice to workers who are victims in the event of discrimination or sexual harassment at work in the workplace;
2. Participating in autonomous inspection and guidance conducted to see the status of compliance with equal employment in the workplace;
3. Recommending improvements to the employer on matters against Acts and subordinate statutes, and reporting violations to the supervisory agency;

4. Conducting publicity activities and raising awareness on the equal employment system;
 5. Other duties prescribed by the Minister of Employment and Labor to realize gender equality in employment.
- (3) No employer shall take any disadvantageous measures, such as personnel ones, etc., against a worker on grounds that such worker has performed justifiable duties as an honorary inspector.
- (4) Necessary matters concerning the commissioning, decommissioning, etc., of an honorary inspector shall be prescribed by the Ordinance of the Ministry of Employment and Labor. <Amended by Act No. 10339, Jun. 4, 2010>
- <This Article Wholly Amended by Act No. 8781, Dec. 21, 2007>

Article 25 (Autonomous Settlement of Disputes)

An employer shall strive for autonomous settlement, such as entrusting the settlement of grievances to the labor and management council established in the workplace under the Act on the Promotion of Workers Participation and Cooperation, etc., when a worker files a report on grievances on matters under Articles 7 through 13, 13-2, 14-2, 18 (4), 18-2, 19, Articles 19-2 through 19-6, 21, and 22-2.

<This Article Wholly Amended by Act No. 8781, Dec. 21, 2007>

Articles 26 through 29 Deleted. <Act No. 7822, Dec. 30, 2005>

Article 30 (Burden of Proof)

The burden of proof in settling disputes related to this Act shall be borne by the employer.

<This Article Wholly Amended by Act No. 8781, Dec. 21, 2007>

CHAPTER V

Supplementary Provisions

Article 31 (Report and Inspection, etc.)

(1) The Minister of Employment and Labor may, if it is deemed necessary for the enforcement of this Act, order an employer to make a report and submit relevant documents, or have a relevant public official enter the workplace concerned to question persons concerned or inspect relevant documents.

<Amended by Act No. 10339, Jun. 4, 2010>

[...]

CHAPTER VI

Penal Provisions

Article 37 (Penal Provisions)

[...]

(2) If an employer commits an offense falling under any of the following subparagraphs, he/she shall be punished by imprisonment of up to 3 years or a fine not exceeding 20 million won: <Amended by Act No. 11274, Feb. 1, 2012>

[...]

2. Where an employer dismisses or takes other disadvantageous measures against a worker who has been damaged in relation to sexual harassment at work or claimed for an occurrence of sexual harassment, in violation of Article 14 (2);

[...]

Article 38 (Joint Penal Provisions)

If the representative of a juristic person, or an agent, a servant or any other employee of a juristic person or an individual commits such offenses as prescribed in Article 37 in connection with the affairs of the juristic person or individual, not only shall such offender be punished, but the juristic person or individual

shall be punished by a fine under the same Article: Provided that this shall not apply unless the juristic person or individual neglects to give considerable attention and supervision to the affairs concerned in order to prevent such offenses.

<This Article Wholly Amended by Act No. 9998, Feb. 4, 2010>

Article 39 (Fine for Negligence)

(1) An employer who commits sexual harassment at work in violation of Article 12 shall be punished by a fine for negligence not exceeding 10 million won.

(2) An employer who commits an offense falling under any of the following subparagraphs shall be punished by a fine for negligence not exceeding 5 million won: <Amended by Act No. 11274, Feb. 1, 2012>

1. Where an employer fails to take, without delay, a disciplinary measure or any other equivalent action against the relevant worker although an occurrence of sexual harassment at work has been verified, in violation of Article 14 (1);

2. Where an employer dismisses or takes any other disadvantageous measures against a worker on account of a claim for damage from sexual harassment from a client, etc., or of disregard for sexual demands from a client, etc., in violation of Article 14-2 (2);

[...]

(3) A person who falls under any one of the following subparagraphs shall be punished by a fine for negligence not exceeding 3 million won:

1. A person who fails to conduct education to prevent sexual harassment at work, in violation of Articles 13 (1);

[...]

6. A person who refuses to make a report or submit relevant documents in violation of Article 31 (1), or makes a false report or submits false documents;

7. A person who refuses, obstructs, or evades an inspection in violation of Article 31 (1);

[...]

(4) Fines for negligence under paragraphs (1) through (3) shall be imposed and collected by the Minister of Employment and Labor as prescribed by the Presidential Decree. <Amended by Act No. 10339, Jun. 4, 2010>

(5) A person dissatisfied with an imposition of a fine for negligence under paragraph (4) may raise an objection against the Minister of Employment and Labor within thirty days from the date on which he/she is notified of such imposition.

<Amended by Act No. 10339, Jun. 4, 2010>

(6) If a person subject to an imposition of a fine for negligence under paragraph (4) raises an objection in accordance with paragraph (5), the Minister of Employment and Labor shall without delay notify the competent court, which upon receiving the notification, shall proceed to a trial on a fine for negligence under the Non-Contentious Case Litigation Procedure Act. <Amended by Act No. 10339, Jun. 4, 2010>

(7) If neither an objection is raised nor a fine for negligence paid within the period prescribed in paragraph (5), the fine for negligence shall be collected pursuant to the practices of a recovery of national taxes in arrears. <This Article Wholly Amended by Act No. 8781, Dec. 21, 2007>

[...]

[Framework Act on Women's Development, 1995 \(as amended\)](#) ³⁵

³⁵ Framework Act on Women's Development, Act No. 5136 (30 December 1995, last amended by Act No. 10303 of 17 May 2010), available at <http://www.moleg.go.kr/FileDownload.mo?flSeq=39758> (last visited 15 November 2019).

[...]

CHAPTER I

GENERAL PROVISIONS

Article 1 (Purposes)

The purposes of this Act are to promote gender equality in all the areas of politics, economy, society and culture and to facilitate women's advancement by prescribing fundamental matters with regard to the obligations, etc. of the State and local governments for realizing the idea of gender equality under the Constitution of the Republic of Korea.

[This Article Wholly Amended by Act No. 9126, J un. 13, 2008]

[...]

Article 3 (Definitions)

For the purposes of this Act, the definitions of terms shall be as follows:

[...]

4. The term sexual harassment means a case in which any employee, employer or worker of State agencies, local governments or public organizations prescribed by Presidential Decree (hereinafter referred to as State agencies, etc.) commits an act falling under any one of the following items in performing duties, employment and other relations:

(a) Making the other party feel sexual humiliation or aversion with verbal or physical behavior of a sexual nature, etc. utilizing position or in relation with duties; and

(b) Putting the other party at a disadvantage in employment on grounds of not complying with any verbal or physical behavior of a sexual nature or other demands, etc; and

5. The term employer means a business owner, a person in charge of business operation or any other person who conducts duties with regard to matters for workers on behalf of a business owner.

[This Article Wholly Amended by Act No. 9126, J un. 13, 2008]

Article 4 (Obligations of Citizens)

All Citizens shall recognize the importance of the promotion of gender equality and of women's development and strive for the realization thereof.

[This Article Wholly Amended by Act No. 9126, J un. 13, 2008]

Article 5 (Obligations of State and Local Governments)

The State and local governments shall be obliged to prepare legal and institutional system which is necessary for the promotion of gender equality, expansion of women's participation in society and furtherance of women's welfare.

[This Article Wholly Amended by Act No. 9126, J un. 13, 2008]

[...]

CHAPTER III

BASIC MEASURES OF WOMEN'S POLICY

[...]

Article 17-2 (Prevention, etc. of Sexual Harassment)

(1) The heads of State agencies, etc. and business owners shall take necessary measures, such as implementation of education for the prevention of sexual harassment, as prescribed by Presidential Decree and the heads of State agencies, etc. shall submit the results of such measures to the Minister of Gender Equality and Family. <Amended by Act No. 9932, Jan. 18, 2010>

(2) The Minister of Gender Equality and Family shall carry out annual inspection on measures for the prevention of sexual harassment taken by State agencies, etc. under paragraph (1) as prescribed by Presidential Decree. <Amended by Act No. 9932, Jan. 18, 2010>

(3) The Minister of Gender Equality and Family shall take necessary measures, such as special education for managers, as prescribed by Presidential Decree with respect to State agencies, etc. which are deemed to have taken unsatisfactory measures for the prevention of sexual harassment as a result of inspection under paragraph (2). <Amended by Act No. 9932, Jan. 18, 2010>

(4) The Minister of Gender Equality and Family may publicize the inspection results of measures for the prevention of sexual harassment taken by State agencies, etc. under paragraph (2) in the press, etc.: Provided, That the same shall not apply to cases where such publication is restricted by other Acts. <Amended by Act No. 9932, Jan. 18, 2010>

(5) Necessary matters concerning measures for the prevention of sexual harassment, such as the details, methods, etc. of education for the prevention of sexual harassment paragraph (1) shall be prescribed by Presidential Decree.

[This Article Wholly Amended by Act No. 9126, Jun. 13, 2008]

[...]

[National Human Rights Commission Act, 2001 \(as amended\)](#) ³⁶

CHAPTER IV

INVESTIGATION OF VIOLATIONS OF HUMAN RIGHTS AND DISCRIMINATORY ACTS, AND REMEDY THEREFOR

Article 30 (Matters Subject to Investigation by Commission)

(1) In any of the following cases, a person who has suffered from a violation of human rights or been discriminated against, (hereinafter referred to as "victim") or any other person or organization that is aware of such violation or discrimination, may file a petition to the Commission:

1. Where any of the human rights guaranteed in Articles 10 through 22 of the Constitution has been violated or a discriminatory act has been committed in connection with the performance of duties (excluding legislation by the National Assembly and trials by a court or the Constitutional Court) by a State agency, a local government, a school established by Article 2 of the Elementary and Secondary Education Act, Article 2 of the Higher Education Act, and other Acts, a public service-related organization pursuant to Article 3-2 (1) of the Public Service Ethics Act, or a confinement or caring facility;

2. Where a discriminatory act has been committed by a juristic person, an organization or a private individual.

(2) Deleted.

(3) Even if any petition under paragraph (1) is not filed, the Commission may, ex officio, initiate an investigation when it deems that there exists a reasonable ground for believing that a violation of human rights or a discriminatory act exists and that such violation or act is serious.

³⁶ National Human Rights Commission Act, Act No. 6481 (24 May 2001, as amended up to February 2016), available at <https://www.humanrights.go.kr/site/homepage/menu/viewMenu?menuid=002003001002> (last visited 15 November 2019).

(4) Necessary matters concerning the procedures and methods to petition under paragraph (1) shall be prescribed by the rules of the Commission.

[...]

Article 42 (Mediation by Mediation Committee)

(1) A mediation committee may initiate the procedure of conciliation regarding a petition submitted to a mediation committee upon the application of the party or ex officio on the case of a violation of human rights or a discriminatory act.

(2) Mediation shall be completed at the time when, after the procedures therefor are initiated, both parties state the compromised matters in mediation documents, and sign and seal such documents, and the competent mediation committee, in turn, ascertains no flaw of those documents.

(3) If both parties fail to reach an agreement during the course of mediation procedures, the competent mediation committee may make a decision in lieu of the mediation in order to fairly settle the case.

(4) A decision in lieu of mediation may include any of the following:

1. Cessation of a violation of human rights or a discriminatory act subject to investigation;
2. Reinstatement, compensation for damage or other necessary remedies;
3. Measures necessary for the prevention of recurrence of the same or similar violation of human rights or discriminatory acts.

(5) If a mediation committee makes a decision in lieu of conciliation, it shall serve both parties with the written decision without delay.

(6) If any party fails to file a complaint within 14 days after he/she has been served with a written decision under paragraph (5), he/she shall be deemed to accept the mediation. [This Article Wholly Amended by Act No. 10679, May 19, 2011].

16 KOSOVO

Criminal Code, 2012 ³⁷

Art. 239

Sexual assault

1. Whoever touches a person for a sexual purpose or induces such person to touch the perpetrator or another person for a sexual purpose, without the consent of such person, shall be punished by a fine or by imprisonment of up to one (1) year.

2. Whoever touches another person for a sexual purpose or induces another person to touch the perpetrator or a third person for a sexual purpose in one of more of the following circumstances shall be punished by imprisonment of one (1) to seven (7) years:

- 2.1. by serious threat or the threat of violence;
- 2.2. by threat of an imminent danger to the life or body of such person or of another person; or
- 2.3. by exploiting a situation in which such other person is unprotected and where his or her security is in danger.

3. When the offense provided for in paragraph 1 or 2 of this Article is committed under one or more of the following circumstances, the perpetrator shall be punished by imprisonment of three (3) to ten (10) years:

[...]

³⁷ Criminal Code, Code No. 04/L-082 (20 April 2012), available at <http://www.assembly-kosova.org/common/docs/ligjet/Criminal%20Code.pdf> (last visited 15 November 2019).

3.3. the perpetrator causes grievous bodily injury or serious disturbances to the mental or physical health of the person or the person attempts to commit suicide following the offense;

[...]

3.10. the perpetrator is a teacher, a religious leader, a health care professional, a person entrusted with such person's upbringing or care or otherwise in a position of authority over the person.

[...]

[Law on Gender Equality, 2015](#) ³⁸

Article 3

Definitions

1. Terms used in this Law shall have the following meaning:

1.1. Gender Equality – shall be the entire and equal exercise of women and men, of their human rights. It is the non-presence of gender based discrimination, in opportunities, sharing of resources or benefits, as well as access to services;

1.2. Woman- includes any person that considers itself as such, regardless of age or marital status;

[...]

1.11. Harassment- harassment is a situation where an unwanted conduct related to the gender, sex and gender identity, with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment;

1.12. Sexual harassment – shall mean any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment;

[...]

Article 4

Prohibition of gender discrimination

[...]

2. Gender-based violence is a form of discrimination that seriously inhibits women's and men's ability to enjoy rights and freedoms on a basis of equality and is prohibited.

3. Harassment and sexual harassment are prohibited. Refusal or surrender of a person against such behaviour shall not be used as a basis for a decision affecting that person.

[...]

6. There will be no victimization of persons involved in filing or processing of complaints of discrimination, harassment or sexual harassment filed based on this law.

[...]

CHAPTER III

EQUAL PROTECTION AND TREATMENT, ON THE BASIS OF GENDER AFFILIATION, IN EMPLOYMENT RELATIONSHIPS

Article 15

Prohibition of gender discrimination in employment relationships

³⁸ Law on Gender Equality, Law No. 05/L -020 (28 May 2015), available at <http://www.assembly-kosova.org/common/docs/ligjet/05-L-020%20a.pdf> (last visited 15 November 2019))

1. It is prohibited the direct or indirect discrimination on grounds of sex, marital or family status, pregnancy, birth, parenting and each custody form in the public or private sectors, in relation to:
 - 1.1. conditions for access to employment, to self-employment or to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including advancement;
 - 1.2. access to all types and levels of vocational guidance, vocational training and advanced and recualification, including practical work experience;
 - 1.3. employment and working conditions, including dismissals, as well as pay;
 - 1.4. membership of, and involvement in, an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations.
- [...]

Article 17

Obligations of employer in employment relationships

1. Employers in all sectors are obligated to:

[...]

1.13. the employer is obliged to provide such a working environment in which none of the workers is subject to employer's, superior's or co-worker's undesired treatment of sexual nature, including undesired physical, verbal or nonverbal treatment or other sexually based behaviour which creates intimidating, hostile or humiliating relationships and environment at work and offends the dignity of men and women at work.

1.14. not to put in an unfavourable position or to take disciplinary measures towards an employee who objects or complains for discrimination, sexual harassment and discomfort, as well as employee who testifies for discriminating actions, sexual harassment and discomfort, made by employee or other employee.

[...]

CHAPTER V

SANCTIONS

Article 23

Punitive Provisions

1. For violation from Articles 2, 3, and 5 of this Law, the competent court shall develop a violation procedure and shall impose sanctions.

[...]

3. Fine of five hundred (500) up to seven hundred (700) Euros shall be imposed for offenses to person responsible or other person legal person, public authority or individual who according to registered profession performs certain activities, which based on gender would violate the certain person's dignity or creates certain environment, threatening, approach or practice, hostile, offensive or disturbing, Article 3, subparagraphs 1.1, 1.11, 1.12 of this Law.

[...]

[Anti-Discrimination Law, 2004](#)³⁹

THE ANTI-DISCRIMINATION LAW

³⁹ Anti-Discrimination Law, Law No.2004/ 3 (19 February 2004), available at http://www.unmikonline.org/regulations/2004/re2004_32ale04_03.pdf (last visited 15 November 2019).

CHAPTER I

GENERAL PROVISIONS

Article 1

Purpose

The purpose of this Law is prevention and combating discrimination, promotion of effective equality and putting into effect the principle of equal treatment of the citizens of Kosovo under the rule of Law .

Article 2

Principles

The regulation of the issues dealing with non-discrimination is based on these principles:

- (a) The principle of equal treatment shall mean that there shall be no direct or indirect discrimination against any person or persons, based on sex, gender, age, marital status, language, mental or physical disability, sexual orientation, political affiliation or conviction, [...]

Article 3

Terms

For the purposes of Article 2 (a), the terms below are defined as follows:

[...]

- (c). Harassment shall be deemed to be discrimination within the meaning of Article 2(a) when an unwanted conduct takes place (including but not limited to unwanted conduct of a sexual and/or psychological nature) based on grounds such as those stated in Article 2 (a) which has the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment, as determined by that person;

[...]

- (e). Victimisation shall be deemed to be discrimination within the meaning of Article 2(a) and shall be taken to have occurred when any person suffers any adverse treatment or adverse consequence as a reaction to a complaint, or to proceedings, which are aimed at enforcing compliance with the principle of equal treatment as defined in Article 2(a), and/or to the provision by such person of information, evidence or assistance in connection with such complaint or proceedings.

[...]

Article 4

Implementation Scope

This Law shall apply to all natural and legal persons as regards both the public and private sectors, including public bodies, in relation to any action or inaction which violates the right or rights of any natural or legal person or persons, to:

[...]

- (c) employment and working conditions, including dismissals and pay;

[...]

CHAPTER II

PROCEDURES AND SANCTIONS

Article 7

Procedure

7.1. Any claim of discrimination under this Law shall be decided or adjudicated in accordance with the applicable law by administrative bodies and courts of competent jurisdiction, which have jurisdiction over the concrete issue covered by the claim.

7.2 Such administrative bodies and courts act in accordance with provisions of this law in order to determinate a claim.

7.3. Upon completion of the procedure upon a claim of discrimination under the applicable law on general administrative procedure, a claimant who is unsatisfied may bring a claim in accordance with the Chapter entitled Special Provisions in the Law on Administrative Disputes at the court which is competent under the applicable law.

7.4. Any mediation or conciliation procedures which are available under the applicable law may be utilized, at the option of the claimant or the claimants, in order to address violations of this Law.

7.5. The use of procedures under Article 7.4 shall not preclude the claimant from filing a claim with the appropriate administrative organ or court of competent jurisdiction at any time.

7.6. Associations, organisations or other legal entities may institute or support legal actions either on behalf of a claimant or claimants, with their consent, for utilising any judicial and/or administrative procedure for the enforcement of obligations under this Law.

Article 8

Burden of proof

8.1. When persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment.

8.2. Paragraph 8.1 shall not prevent the introduction of rules of evidence, which are more favourable to plaintiffs. Further, a complainant may establish or defend their case of discrimination by any means, including on the basis of statistical evidence.

8.3. Paragraph 8.1 shall not apply to criminal proceedings and minor offences proceedings.

Article 9

Sanctions

9.1. A court of competent jurisdiction or an administrative body which has determined that a violation of this Law has occurred may impose sanctions, depending on the nature and scope of the violation and its impact on the victim or victims.

9.2. Sanctions foreseen in a decision of the competent body against a natural or legal person or persons violating the provisions of this Law include:

(a). Compensation for both pecuniary and non-pecuniary damages, suffered by victims of violations which compensation may include restitution of all rights and other remedies, provided within the applicable Law which the competent body deems appropriate; and

(b). A natural or legal person or persons, or any combination thereof, that has been found to be in violation of this Law will be fined based upon the nature and scope of the violations in accordance with the following ranges:

(i) a natural person - from 500 Euro to 1.000 Euro

(ii) an independent contractor - from 1000 Euro to 5.000 Euro

(iii) a legal person - from 1000 Euro to 1.0000 Euro

(iv) a natural person within a legal person who is responsible for a violation – from 500 Euro to 2.000 Euro

(v) a person exercising a public function who is responsible for a violation – from 500 Euro to 2.000 Euro.

9.3. The court, at its option, may impose judicial imposition of positive measures.

9.4. All monies collected through the imposition of the penalties mentioned in paragraph 9.2.(b) shall be placed in a fund which will be established for the purposes of supplying free legal assistance to natural or legal persons who claim violations of the right to equal treatment under this Law.

9.5. All monies collected pursuant to paragraph 9.2 b, should be administrated by and administrative or juridical body pending the establishment of the Centre for Equal Treatment.

9.6. The imposition of any sanctions under this Law shall not preclude the imposition of any other sanctions available under any other law within the applicable law in Kosovo.

[...]

17 KUWAIT

[Penal Code, 1960 \(as amended\)](#) ⁴⁰

Arts. 199 and 210

18 KYRGYZ REPUBLIC

[Law on State Guarantees of Equal Rights and Equal Opportunities for Men and Women, 2008 \(as amended\)](#) ⁴¹

Article 1. Basic concepts used in this Law

[...]

Gender discrimination (direct, indirect) - any difference, exclusion or preference that restricts the rights and interests of individuals on the basis of sex; It is aimed at weakening or depriving the recognition, use or realization of equality of men and women in the political, economic, social, cultural, civil or any other areas of public life.

[...]

Sexual harassment - actions of a sexual nature, expressed verbally or physically, humiliating and insulting a person who is in labor, service, material, family and other dependence.

[...]

Article 5. Prohibition of gender discrimination

Direct and indirect gender discrimination in any field of activity in relation to persons of different sexes is prohibited.

Direct gender discrimination includes:

[...]

- sexual harassment;

[...]

Indirect gender discrimination includes:

[...]

- the establishment of conditions, requirements that entailed or may entail negative consequences in the form of harm to persons of a certain gender.

⁴⁰ Penal Code, Law No. 16 (2 June 1960, as amended through 2003), available in Arabic at <http://www.gcc-legal.org/LawAsPDF.aspx?opt&country=1&LawID=4204> (last visited 15 November 2019).

⁴¹ Law on State Guarantees of Equal Rights and Equal Opportunities for Men and Women, No. 1844 of August 2008 (as amended by Law No. 97 of 14 July 2011), available at <http://cbd.minjust.gov.kg/act/view/ru-ru/202398?cl=ru-ru> (last visited 15 November 2019).

Persons who carry out direct or indirect discrimination are held liable in cases and in the manner prescribed by the legislation of the Kyrgyz Republic.

[...]

The behavior of persons based on customary law, traditions and culture, which is in conflict with the requirements of this Law and international law in the implementation of gender equality, is not allowed.

[...]

Chapter 4

Gender equality in labor relations

Article 21. Prevention and suppression of gender-based harassment labor-based and gender responsive discrimination

An employer does not have the right to expose workers of different sexes to harassment or persecution on the grounds that they denied sexual harassment to the employer or filed a complaint against the employer for gender discrimination.

In cases of pressure or harassment of workers based on gender stereotypes, including sexual harassment, the employer is responsible in accordance with the legislation of the Kyrgyz Republic.

The employer is required to take measures to prevent cases of sexual harassment.

The employer is held liable under the legislation of the Kyrgyz Republic if he forced the employee to quit due to his illegal actions.

When a fact of gender discrimination is established, the employee shall be compensated in court for moral and material harm. The court has the right to oblige the employer to hire a person who, due to gender discrimination, has been refused employment, and to reinstate a person who has been dismissed due to gender discrimination.

[...]

Chapter 6

Guarantees of implementation of this Law

Article 30. The procedure for citizens to apply for violations gender equality

Persons exposed to gender discrimination have the right to simultaneously apply to the Ombudsman (Akyikatchy), the prosecutor's office, judicial and other state bodies, and local self-government bodies.

[...]

Section 31. Appeal of Unlawful Actions

The actions of state bodies and local self-government bodies and their officials, as well as legal entities, regardless of ownership, and their officials, which entailed discrimination of citizens' rights and freedoms by gender, can be appealed, and citizens are restored in their rights in a judicial proceeding .

Article 32. Supervision and enforcement of this Law

The supervision of the accurate and uniform execution of this Law is carried out by the prosecution authorities of the Kyrgyz Republic.

Civil society organizations exercise public control over the implementation of this Law.

(As amended by the Law of the Kyrgyz Republic of [July 14, 2011 No. 97](#))

Section 33. Consequences of Failure to Execute this Law

In cases of violations of gender equality, the bodies that monitor and supervise the implementation of this Law have the right:

- send written instructions to the state bodies, local self-government bodies and heads of legal entities, regardless of ownership form, to eliminate revealed facts of violation of gender equality with an indication of the deadline;
- prosecute persons guilty of violating the provisions of this Law;
- make public in the media the names of legal entities, regardless of the form of ownership that violates this Law.

Article 34. Responsibility of officials for violation of this the law

Officials of state bodies and local self-government bodies, state and municipal organizations, performing organizational and administrative or administrative-economic functions, as well as heads and other employees of other organizations performing similar functions, are responsible for violation of the provisions of this Law in accordance with the legislation of the Kyrgyz Republic.

[...]

19 LAO PDR

[Penal Law, 1990](#) ⁴²

Article 137. Outrage to Decency

Except for the offences described in Article 128 of this law⁵⁰, any person engaging in any act that causes embarrassment of a sexual nature to another person against such other person's will shall be punished by six

months to three years of imprisonment or re-education without deprivation of liberty and shall be fined from 100,000 Kip to 500,000 Kip.

[Labor Law \(Amended\), 2013](#) ⁴³

Article 83 (Revised) Cancellation of Employment Contract by the Employee

The employee has the right to request cancellation of an employment contract and receive compensation in the following cases:

[...]

4. In the event there is any molestation, harassment, or sexual harassment on the part of the employer, or the employer ignores the occurrence of such actions.

In the event of cancellation of the contract in accordance with this Article, the employee must make notification in writing and explain the reason to the employer in advance in accordance with the duration determined in Article 80 of this law.

Fixed term employment contracts may be cancelled in accordance with sections 2 and 4 of this Article. After payment of compensation, the employer is responsible for payment of salary and wages and other outstanding benefits that according to the employment contract.

[...]

Article 90 Compensation for the Cancellation of Employment Contracts

⁴² Penal Law, No.04/PO (9 January 1990, as amended by Law No. 12/NA of 9 November 2005), available at <https://www.wipo.int/edocs/lexdocs/laws/en/la/la006en.pdf> (last visited 15 November 2019).

⁴³ Labor Law (Amended), No. 43/NA, 24 December 2013, available at <https://www.ilo.org/dyn/natlex/docs/MONOGRAPH/96369/113864/F1488869173/LAO96369%20Eng.pdf> (last visited 15 November 2019).

Compensation for the cancellation of employment contracts shall be ten percent of the last salary or wage multiplied by the total number of months worked;

For unjustified termination of employment contracts in accordance with Article 88, the employer shall pay compensation to the employee fifteen percent of the last salary or wage multiplied by the total number of months worked;

Employees who receive wages by unit of production or who receive unspecific wages shall calculate an average of the last three month's wages as a basis for calculating compensation. Regarding the cancellation of employment contracts for reasons that are not specified in this law, the employer must implement compensation in accordance with the employment contract, according to internal regulations of the labor unit or in accordance with the agreement between the employer and the employee.

[Law on the Development of Women, 2004](#) ⁴⁴

[...]

Part III

The Protection of Women's Rights and Interests and the Duties of Women

Chapter 1

Equality between Women and Men

Article 13. Equal Rights for Women and Men

Equal rights for women and men means equality in self development, [and also means that] women and men have the same value and opportunities in politics, the economy, society and culture, family [affairs], national defence and security, and foreign affairs as provided in the Constitution and laws.

[...]

Chapter 2

Special Rights and Benefits, and Obligations of Women

Article 19. Rights and Interests in Employment

Women have rights and interests in the context of employment, such as [the rights] to work in safe conditions and environments, to social security, and to remuneration and other benefits as provided by laws and regulations.

[...]

Part VI

Managing and Monitoring the Development and Protection of Women

[...]

Article 46. Rights and Duties of Women's Unions in Sectoral Agencies and Local Administrations

In the management and monitoring of the development and protection of women, women's unions in the sectoral agencies and local administrations have the following rights and duties:

⁴⁴ Law on the Development of Women , Law No. 70/PO (15 November 2004), available at <https://www.ilo.org/dyn/travail/docs/1425/Law%20on%20the%20Development%20and%20Protection%20of%20Women%202004.pdf> (last visited 15 November 2019).

1. To study, disseminate and implement the policies, laws and regulations, plans, and projects in the field of the development and protection of women;
 2. To provide counselling services on the rights and interests of women and children;
 3. To guide and monitor the implementation of laws and regulations, and activities relating to the development and protection of women within the scope of their responsibilities;
 4. To give advice and request concerned sectors to solve any incorrect action and respond to such request within 30 days after receiving such request. If the request is not resolved or is inappropriately resolved, the women's unions in the sectoral agencies and local administrations have the right to propose to a higher authority to consider and solve the problem. If the act constitutes a severe offence, [the women's unions] should have the right to request the police to take legal action against violators according to the laws;
 5. To coordinate with concerned parties in the management and monitoring of the development and protection of the rights and interests of women and children;
 6. To summarise, assess and report on the implementation of the direction and policies [and of] laws and regulations on the development and protection of women in coordination with concerned sectors;
 7. To exercise such other rights and perform such other duties as prescribed by laws and regulations.
- [...]

Article 48. Measures against Violators

Individuals or organisations that violate this law will be subject to measures such as re-educational measures and penal measures, depending on the gravity of the violation, including civil compensation for damages.

[...]

[Law on Preventing and Combatting Violence Against Women and Children, 2014](#) ⁴⁵

[...]

Part I General Provisions

Article 1. Objective

This law defines the principles, rules and measures for preventing and combating violence against women and children by prevention, protection, provision assistance to the victims of violence and handling of such violence to protect the rights and legitimate interests of women and children; aim at eliminating all forms of violence against women and children, uphold the roles, dignity of women and children, achieve the gender equality, [and] contribute to develop society in order to maintain peace, public order, solidarity, justice and civilization, protect and develop the country.

Article 2. Violence against Women and Children

Violence against women and children is any behaviour that results in or is likely to result in danger; harm, physical, psychological, sexual, property or economic suffering to women and children.

Article 3. Preventing and Combatting Violence against Women and Children

⁴⁵ Law on Preventing and Combatting Violence against Women and Children, Law No. 56/NA (23 December 2014), available at <http://un-act.org/publication/view/lao-pdrs-law-on-preventing-and-combating-violence-against-women-and-children-2014/> (last visited 15 November 2019).

Preventing and combatting violence against women and children refers to prevention, protection, assistance to the victims of violence and handling of such violence including taking measures against perpetrators of violence.

Article 4. Definitions

Wherever used in this law, the following terms shall have the following meanings:

[...]

- Act means the actual physical and verbal action.

[...]

- Discrimination against women means any distinction, exclusion or restriction that is based on a women's race, colour, sex, ethnicity, religion, language, education, knowledge and capacity, intelligence, socio-economic status, health status, physical appearance, disability, and other aspect that makes women's rights unrealized.

[...]

Article 7. Scope of Application of Law

This law must be applied to individuals, legal entities[, and] the public and private organizations, including domestic and foreign organizations, residing in the territory of the Lao PDR.

[...]

Part II - Violence against Women and Children

Chapter 1 - Forms of Violence

Article 9. Forms of Violence Violence against women and children has 2 forms as follows:

- Violence against women and children by a member of the family
- Violence against women and children by other people.

[...]

Article 11. Violence against Women and Children by other People

Violence against women and children by other people is any act, negligence or neglect by individuals, [or] a group of people who are not family members including authorities and staff members that results in physical, psychological, sexual, property or economic harm or suffering to women and children in the community setting, public setting, workplaces, educational setting, alternative care setting and other places.

Chapter 2 - Types of Violence against Women and Children

[...]

Article 15. Sexual Violence

Sexual violence is an act or attempt to act that results in harm to the sexual rights of women and children such as rape, forced sex, any act of obscenity, sexually indecent assault, unwanted sexual comments or sexual touching; or sending of women or children to another person for sexual purposes.

[...]

Article 17.

Acts considered as Violence against Women and Children are:

- Abuse, torture, beating, coercion, threats, throwing out of a child, inhumane treatment or other intentional act that affects the health, life and psychology [of women and children];
- Gossip, slander, scorn, insults, defamation, insult or other acts that intend to degrade/harm the reputation or dignity or psychology [of women and children];
- Discrimination, isolation, expulsion from the residence, improper discharge or pressure on the psychological health;
- Not given the opportunity, obstruction to someone from conducting their duties, participating in economic-social activities or preventing someone from exercising their rights and performing obligations as provided for in regulations and laws;
- Obscenity, dissemination of pornography, adultery, forced sex, having sex with children, rape, forced prostitution, commercial prostitution or other forms of sexual violation;

[...]

- Other acts that break the laws and regulations.

[...]

Article 19.

Public awareness raising on Preventing and Combatting Violence against Women and Children

Awareness raising on preventing and combatting violence against women and children is one of the important areas of work of the State, individual, legal entities and all parts of society to make the public aware of and understand [the issue of violence against women and children], aimed at changing behaviors, eliminating cultural, customary, beliefs and attitudes that degrade, discriminate [against] and obstruct the advancement of women and children.

Awareness raising on preventing and combatting violence against women and children can be conducted in different forms and methods such as integration into the education curriculum, widespread and intensive awareness raising and other activities on preventing and combatting violence against women and children.

[...]

Article 24. Responsibilities of Social organization

All social organizations shall have responsibilities to prevent violence against women and children by participating in the promotion of the rights of women and children, awareness raising, taking part in formulating and improving policies, laws and regulations [,] participate in carrying out the activities to prevent and combat violence against women and children [,] and taking ownership of a collaborative and cooperative role with relevant organizations in order to implement the relevant policies and laws and regulations effectively.

[...]

Part IV

Protection, Assistance, and Protection Measures for Victims of Violence

Chapter 1 - Protection and Assistance to the Victims

Article 28. Primary Protection and Assistance to the Victim

Family members, individuals, legal entities or organizations that have seen or know about the use of violence against women or children must protect and assist the victim, in accordance with the characteristic of violence and the urgency, by intervening to stop the violence, obstructing the violence, re-educating the parties, or requesting other individuals or organizations to help or assist in a timely manner. In cases where the violence caused injury, the victim should be referred to hospital.

Individuals, legal entities or organizations [that] have been requested to protect and assist the victim shall protect and assist the victim based on their abilities [and] by the means as mentioned in the above paragraph. Those who protect and assist the victim with good faith will be protected under the laws and regulations.

Article 29. Reporting

Individuals, legal entities or organizations [that] have found or seen the use of violence against women or children shall immediately notify or report the incident to village authorities, the organization where the incidence occurred, the Lao Women's Union, Child Protection and assistance Network or Committee for Protection and Assistance of Children or police.

If medical doctors, other health care professionals, teachers, professors, care givers or other professionals have seen or know about violence against women and children they must notify or report this to their own organization or to the police where the incidence occurred.

[...]

Article 31. Rights of the Victim

The victim of violence has the following rights:

- To request or receive assistance from family members, nearby persons, village authorities, the organization to which the victim or offender belongs, Lao Women's Union, Child Protection and Assistance Networks or Committee for Protection and Assistance of Children, police officers or other relevant competent authorities;
- To have his/her rights respected and to be treated in a caring and sensitive/friendly manner;
- To report the violence to the village authorities, the police, Women's Union, or Child Protection and Assistance Networks or Committee for Protection and Assistance to Children to receive protection and assistance, or take judicial proceedings against the perpetrator;
- To choose the method to solve the issue of violence as stipulated in Article 47 of this law;
- To request and receive protection from coercion, threats or all forms of harm including [for] family members or accompanied children;
- To receive necessary assistance, such as counseling, safe temporally accommodation shelter, medical assistance, legal assistance, education, vocational training, and reintegration to family and society;
- To receive compensation for the harm and psychological recovery;
- To [have their information] be kept confidential;
- To receive protection and assistance from the State, National Front Construction, mass organizations and social organizations in according to the laws and regulations;
- To have other rights as prescribed under the laws and regulations.

Article 32. Necessary Protection and Assistance

After seeing and receiving the report on the incident of violence against women and children, the concerned agencies and sectors must protect and assist the victim of violence and accompanied children as follows:

- Social welfare assistance;

- Counseling assistance;
 - Assistance in a safe temporally shelter;
 - The assistance on care of children;
 - Medical assistance;
 - Legal assistance;
 - Economic assistance;
 - Education and vocational training assistance;
 - Assistance with re-integration into family and society.
- [...]

Chapter 2 Protection Measures for Victims

Article 42. Protection Measures for Victims

In all stages of solving the problem of violence against women and children, if necessary there must be protection measures for the victims. Protection measures for the victims include:

- Prohibiting the perpetrator of violence to continue using violence against victims;
- Asking the perpetrator of violence to stop any behavior that threatens, intimidates the victim or family members of the victim;
- Asking the perpetrator of violence to provide necessary financial assistance to the victim, including the use of transportation and necessary materials or equipment;

[...]

Asking the perpetrator of violence to participate in a rehabilitation program if the perpetrator addicted to alcohol, drugs, has mental problem;

Custody, arrest or detain of the perpetrator of violence and take legal proceeding against perpetrator;

Providing assistance, temporary shelter, medical assistance, legal assistance, vocational training, education assistance, and reintegration of the victim into family and society on a case by case basis.

Using other protection measures as needed.

[...]

Part V Prohibitions

Article 45. Prohibitions for Officers or relevant Organizations

Officers or relevant organizations are strictly prohibited to act as follows:

- Taking advantage of carrying out activities to prevent and combat violence against women and children for their own benefit, which is against the law;
- Ignoring, closing, not settling or settling the problem of violence against women and children in an unlawful way and against regulations;
- Disclosing information about the victims without their permission;
- Taking sides or favoring someone in performance of their duties;
- Abusing his/her authority or duties to other
- Engaging in any behavior that violates the laws and regulations.

Article 46. Prohibitions for Individuals, Legal Entities or Other Organizations

Individuals, legal entities, and other organizations are strictly prohibited to act as follows:

- Using violence as defined in Article 17 of this law;
- Forcing, supporting, persuading or assisting other individuals to use violence;
- Taking revenge threatening to take revenge against those who protect and assist the victims;

- Obstructing persons who have seen the incidents to give testimony or cooperation in settlement of violence;
- Taking advantage over opposed party or taking favoring to their own relatives and friends;
- Other acts that violate the laws and regulations.

Part VI

Settlement of Violence against Women and Children

Article 47. Type of Settlement of Violence against Women and Children

Settlement of violence against women and children is conducted in two ways as follows:

- Re-education, compromise or mediation
- Judicial proceedings

For violence that does not cause much harm either type of settlement can be applied but if the violence is serious it must be settled by judicial proceedings only.

[...]

Article 51. Violence that can be Mediated

Violence against women and children that can be mediated is:

- Violence that is not a criminal offence
- Violence for which punishment by law is defined as a minor offence or imprisonment of less than one year.

Article 52. Organizations that have the Rights to carry out Mediation

Mediation for violence against women and children can be conducted by the following organizations:

- Village Mediation Committee
- Counselling and Protection Unit for Women and Children
- Police Interrogation-investigation official
- The Public Prosecutor
- People's Court

Article 53. Principles for Mediation

Mediation shall proceed according to the following principles:

- Have agreement[consent] from the victim after they are informed of their rights and options for handling the case;
- Have information, comprehensive, thorough and objective evidence;
- Admission by the perpetrator of violence;
- Consider the rights and safety of the victims as the priority;
- The acceptance of the outcome of mediation should be made voluntary by the victim;
- The victim can propose to stop mediation at any time during the mediation;
- All issues that are raised or discussed at the mediation session should be kept confidential.

Article 54. Measures against Perpetrator of Violence

In mediating [cases of] violence against women and children, organizations that have the right to mediate can use the following measures against perpetrators of violence:

- Apology to the victim, the victim's family, and other affected persons;
- Warning; re-educating the perpetrator of violence to understand the negative impact of his/her action and to stop that behavior;

- Management of the behavior that caused the violence such as psychological rehabilitation, rehabilitation for alcohol and drug abuse;
 - Community service or society at certain duration;
 - Other measures as needed.
- [...]

Chapter 2 - Judicial Proceedings in Cases of Violence against Women and Children

Article 57. Prosecution or Filing a Petition

Filing a petition [in cases of] violence against women and children can be made verbally or in writing to the police investigation-interrogation officer.

Persons that have the rights to file a complaint or petition are:

- The victim, victims' representation or the organization that the victim belongs to
 - Parents or guardians of the child victim
 - Individuals, legal entities or organizations that have found or seen the violence against women or children
 - Medical doctors, Labour and Social Welfare staff members or social workers, teachers, professors, care givers, police officials and other professionals who have found or seen the violence against women or children
- [...]

Article 60. Complaint for Civil Compensation

Complaint for civil compensation that involves a criminal offence shall proceed together with the criminal proceedings. In cases of violence against property or economic violence, the victim of such violence has the right to claim for civil compensation to the People's Court and the civil proceeding shall follow the Civil Procedure Law.

Part VII Management and Monitoring

Chapter 1 - Management of Preventing and Combating Violence

[...]

Article 64. The Rights and Duties of the Ministry of Labour and Social Welfare

In carrying out activities to prevent and combat violence against women and children, the Ministry of Labour and Social Welfare has the following key rights and duties:

- To implement the policies, laws and regulations with regard to the prevention, assistance and reintegration of victims of violence into the society and families;
- To raise awareness and disseminate laws and regulations with regard to preventing and combating violence against women and children under its responsibilities;
- [...]
- To supervise, encourage, manage and monitor the work performance of staff or social workers;
- To supervise and manage the work of preventing and combating violence in factories, enterprises and other working spaces;
- To set up coordination mechanisms and systems to provide timely assistance to child victims;
- To provide vocational training, enhance labour skills and seek employment for the victims;
- To organize trainings and enhance knowledge on preventing and combating violence for staff and employees of their own organization such as the social welfare units;
- To summarize and report on its own work performance to higher level regularly;
- To implement the rights and other duties as defined under the laws [of Lao PDR].

[...]

Chapter 2 - Inspection for Preventing and Combatting Violence

Article 71. Inspection Organizations

The inspection organizations consist of the following:

- Internal inspection organizations are the same as the managing organizations of preventing and combating violence against women and children as determined in Article 61 of this law;
- External inspection organizations are the National Assembly, the State Inspection and anti - corruption Organization, and the Offices of Public Prosecutor, The Lao National Front for Construction and mass organization.

Article 72. Contents of the Inspection

The main contents of the inspection of work to prevent and combat violence against women and children are as follows:

- The implementation of laws and regulations related to preventing and combating violence against women and children;
- The implementation of rights and duties of the managing organizations [,] including the use of legal measures against the perpetrators;
- The prevention, protection and assistance of victims, settlement and other relevant matters.

[...]

Part VIII

Policies for Persons with Outstanding Performance and Measures against Perpetrators

[...]

Article 76. Re-education Measures

An individual, legal entity or organization that has committed violence against women or children within the family, their staff member, employee or other people [,] that does not cause much harm and it is the first time [,] shall be warned and re- educated with record.

Article 77. Disciplinary Measures

A public servant or government official [,] who has committed violence against women or children or violates the provisions of prohibitions as defined in Article 45 of this law [,] [and such behavior] is not a criminal offence [,] shall have any of the following disciplinary measures imposed on a case by case basis according to the regulation on public servants:

- Being blamed, warned and [such behavior or act] shall be recorded in her or his personnel records;
- Having his or her promotion, salary level, [and] awards suspended;
- Being dismissed from his or her position or transferred to another lower position;
- Being dismissed from public service without any incentive.

Article 78. Civil Measures

An individual, legal entity or organization [,] that has committed violence against women or children causing physical, health, life or property harm such as physical assault, obstruction to perform rights and obligations, illegal dismissal from work, forced sex [,] must be liable for civil compensation of damage caused such as costs of medical treatment, psychological rehabilitation, loss of income.

Article 79. Criminal Measures

Any individual [,] who has committed violence against women or children as defined as a criminal offence, will have legal proceedings taken against them and punished as stipulated in the Criminal Law. In addition, the following perpetrators of violence will be also punished as follows:

[...]

Article 80. Criminal Measures against Those who do not Assist the Victim

Any Individual [,] who does not assist women or child victims of violence that are serious [cases of] violence where she or he is capable of giving such assistance, shall be liable for criminal responsibility as provided for in the Penal Law.

[...]

20 LATVIA

[Labor Law, 2002 \(as amended\)](#)⁴⁶

Part A

General Provisions

Chapter 1

Labour Law System and Basic Principles thereof

Section 3. Employees

An employee is a natural person who, on the basis of an employment contract for an agreed work remuneration, performs specific work under the guidance of an employer.

Section 4. Employers

An employer is a natural or legal person or a partnership with legal capacity that, on the basis of an employment contract, employs at least one employee.

[...]

Section 7. Principle of Equal Rights

(1) Everyone has an equal right to work, to fair, safe and healthy working conditions, as well as to fair work remuneration.

(2) The rights provided for in Paragraph one of this Section shall be ensured without any direct or indirect discrimination – irrespective of a person's race, skin colour, gender, age, disability, religious, political or other conviction, ethnic or social origin, property or marital status, sexual orientation or other circumstances.

[...]

[22 April 2004; 21 September 2006]

Part C

Contracts of Employment

⁴⁶ Labor Law, 2002 (consolidated version with amendments up to 2006), available at http://www.lm.gov.lv/upload/legislation/leg_er_1.pdf (last visited 15 November 2019).

Chapter 9

General Provisions of Contracts of Employment

[...]

Section 29. Prohibition of Differential Treatment

[...]

(4) Harassment of a person and instructions to discriminate against him or her shall also be deemed to be discrimination within the meaning of this Law.

[...]

(7) Harassment of a person within the meaning of this Law is the subjection of a person to such actions which are unwanted from the point of view of the person, which are associated with his or her belonging to a specific gender, including actions of a sexual nature if the purpose or result of such actions is the violation of the person's dignity and the creation of an intimidating, hostile, humiliating, degrading or offensive environment.

(8) If the prohibition against differential treatment and the prohibition against causing adverse consequences is violated, an employee in addition to other rights specified in this Law, has the right to request compensation for losses and compensation for moral harm.

In case of dispute, a court at its own discretion shall determine the compensation for moral harm.

[...]

Section 30. Settlement of Individual Disputes Regarding Rights

Individual disputes regarding rights between an employee and an employer, if they have not been settled within an undertaking, shall be settled in court.

Section 31. Limitation Period

(1) All claims arising from employment legal relationships are subject to a limitation period of two years unless a shorter limitation period is provided by law.

(2) If an employer had a duty to issue to an employee a statement of account in writing, the limitation period set out in Paragraph one of this Section shall commence on the date of issue of the statement of account. If the employer does not issue a statement of account, the relevant claim shall be subject to a limitation period of three years from the date when the statement of account was to be issued.

[...]

21 LESOTHO

[Labour Code Order, 1992](#)⁴⁷

PART II - INTERPRETATION AND FUNDAMENTAL PROVISIONS

5. Non-discrimination

(1) The application by any person of any distinction, exclusion or preference made on the basis of race, colour, sex, marital status, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation, is incompatible with the provisions of the Code.

(2) Sexual harassment, as defined in Section 200 of the Code, shall be prohibited.

[...]

⁴⁷ Labour Code Order, Order no. 24 (12 November 1992), available at http://www.oit.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=31536&p_country=LSO&p_count=130&p_classification=01&p_lasscount=40 (last visited 15 November 2019).

(5) For the purposes of this section, the terms "employment" and "occupation" include access to vocational and other occupationally related training, access to employment and to particular occupations, retention of employment and any terms or conditions of employment.

[...]

PART XV - UNFAIR LABOUR PRACTICES

200. Sexual harassment

Any person who offers employment or who threatens dismissal or who threatens the imposition of any other penalty against another person in the course of employment as a means of obtaining sexual favours or who harasses workers sexually shall commit an unfair labour practice.

22 LIBERIA

[Decent Work Act, 2015](#) ⁴⁸

Part II Fundamental Rights at Work

Chapter 2 – Fundamental Rights

§ 2.8 – Prohibition of sexual harassment

a) A person shall not directly or indirectly sexually harass a worker:

- i) in any employment practice; or
- ii) in the course of a person's employment.

b) Sexual harassment means:

- i) sexual conduct which is unwelcome, unreasonable, or offensive to the recipient, and which occurs in circumstances where a person's rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person's job; or
- ii) sexual conduct that creates an intimidating, hostile or humiliating working environment for the person that is subject to that conduct.

c) Sexual conduct means:

- i) conduct of a sexual nature, whether physical, verbal or non-verbal; or conduct based on sex affecting the dignity of women or men

§ 2.13 Onus of proof

[...].

b) In a proceeding alleging sexual harassment in contravention of section § 2.8:

i) the person that alleges sexual harassment shall prove that sexual conduct of the relevant kind took place; and

ii) the other person shall prove that the sexual conduct was not used in the way referred to in section § 2.8b)i), or did not have the effect referred to in section § 2.8b)ii), as the case may be.

[...].

§ 2.15 Remedies for contravention of fundamental rights

a) A person who is the victim of a violation of a right protected by this Chapter may lodge a complaint under section § 9.2

⁴⁸ Decent Work Act 2015, available at <https://pt.slideshare.net/ssolidarites/decent-work-act-of-liberia-passed-into-law> (last visited 15 November 2019).

[Code of Conduct Act, 2014](#) ⁴⁹

NATIONAL CODE OF CONDUCT FOR ALL PUBLIC OFFICIALS AND EMPLOYEES OF THE GOVERNMENT OF THE
REPUBLIC OF LIBERIA –

Adopted through an Act of Legislature (the Code of Conduct Act of 2014)

[...]

11.3 Sexual Harassment All Public Officials and Employees of Government shall avoid unethical and unbecoming behavior such as use of rude, abusive and obscene language, indecent dressing, unreasonable or oppressive supervision and sexual gestures which constitute Sexual Harassment and violation of human dignity and human rights.

11.4 Public Officials and Employees of Government shall neither be subjected to nor have others subjected to conduct of a sexual nature, which is unwelcome, unreasonable and offensive.

11.5 A sexually suggestive and offensive behavior may manifest itself in such forms as: a) An employee being forced to choose between acceding to sexual demands or losing job benefits through sexual blackmail. b) Verbal and non-verbal sexually offensive behavior exhibited by any person.

11.6 Any Public Official and Employee of Government who is subjected to Sexual Harassment shall report such a case with adduced evidence, where applicable, with a view of obtaining redress from the ministry/agency of Government responsible for investigating civil and criminal offences.

11.7 No Public Official or Employee of Government who lodges any complaint regarding Sexual Harassment using the established complaints procedure shall be unduly victimized.

11.8 Remedies for Sexual Harassment shall be those prescribed under the civil and criminal laws.

23 LIBYA

[Penal Code, 1953 \(as amended\)](#) ⁵⁰

Pursuant to Article (1) of Law No. (11) of 1961 amending certain articles to the Penal Code:

Article (420) bis

Anyone who subjects a woman to words, acts, or gestures that violate her decency in a public street or accessible location, and anyone who incites passers-by to indecency by gestures, words, or acts shall be punished by detention for a period of no less than one month and not exceeding six months. The penalty shall be detention for a period of no less than two months and not exceeding six months if the offender repeats an offence of the offence mentioned in the previous paragraph within one year from the date of his sentence therein. In this case, the execution of the penalty may not be stayed.

24 LITHUANIA

⁴⁹ Code of Conduct Act 2014, available at

[https://www.emansion.gov.lr/doc/Act_Legislature_Prescribing_A_National_Code%20of_Conduct%20\(Final_Version%202014\).pdf](https://www.emansion.gov.lr/doc/Act_Legislature_Prescribing_A_National_Code%20of_Conduct%20(Final_Version%202014).pdf) (last visited 15 November 2019).

⁵⁰ Penal Code, 1953 (as amended through 2014), available at https://www.ilo.org/dyn/natlex/natlex4.detail?p_isn=97659 (last visited 15 November 2019).

[Criminal Code, 2000](#) ⁵¹

Art. 152

Sexual harassment

1. Anyone who has harassed a person in a position of service or otherwise for the purpose of sexual intercourse or for the satisfaction of vulgar or similar acts, suggestions or hints, has committed a misdemeanor and punishable by a fine either by deprivation of liberty or by arrest.
2. The person shall be liable for the act provided for in paragraph 1 only in the event of a complaint by the victim or of a statement by his legal representative or a request by a prosecutor.

[Law on Equal Opportunities for Women and Men, 1998 \(as amended\)](#) ⁵²

Art. 2(6)

"Sexual harassment" is any unwanted sexual conduct towards a person, whether verbal, written or physical, where such conduct is caused with the purpose or effect of violating the dignity of the person, in particular by creating an intimidating, hostile, degrading or humiliating environment.

Art. 6(4)

It is the duty of the employer or the representative of the employer to implement equal rights for men and women at work. In order to achieve equality between women and men, the employer or the employer's representative must: [...]

- 4) ensure that the person or employee seeking employment does not suffer harassment or sexual harassment;
[...]

25 LUXEMBOURG

[Labor Code, 2018](#) ⁵³

Art. L. 241-1

[...]

(2) For the purposes of paragraph 1, the following definitions apply:

[...]

- "harassment": the situation in which unwanted behavior related to the sex of a person occurs with the purpose or effect of impairing a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment.

(3) Harassment within the meaning of this chapter and sexual harassment as defined in Article L. 245-2 are considered as discrimination based on sex and are therefore prohibited. The rejection of such behavior by the person concerned or his submission to it cannot be used to base a decision affecting that person.

⁵¹ Criminal Code, 26 September 2000, available at <https://www.e-tar.lt/portal/lt/legalAct/TAR.2B866DFF7D43> (last visited 15 November 2019).

⁵² Law on equal opportunities for women and men, 1 December 1998 (consolidated as of 1 July 2017), available at <https://www.e-tar.lt/portal/lt/legalAct/TAR.746227138BCB/FLcEVzJmSQ> (last visited 15 November 2019).

⁵³ Labor Code, Memorial A – 686 (16 August 2018), (Code du Travail, LÉGISLATION : Mémorial A - 271 du 26 avril 2019), available <http://data.legilux.public.lu/file/eli-etat-leg-code-travail-20190201-fr-pdf.pdf> (last visited 15 November 2019).
Unofficial translation by Compendium team.

[...]

Chapter V. Sexual Harassment

Art. L. 245-1

For the purposes of this chapter, employees are defined as all employees as defined in Article L. 121-1, as well as trainees, apprentices and pupils and students employed during school holidays.

(Law of 13 May 2008)

Art. L. 245-2

For the purposes of this chapter, sexual harassment during employment relations constitutes sexual harassment for any sexual behavior or other conduct based on sex of which the person who is guilty of it knows or ought to know that it affects the dignity of the person, where one of the following conditions is met:

1. the behavior is unwanted, untimely, abusive and offensive to the person who is the victim;
2. the fact that a person refuses or accepts such behavior on the part of the employer, an employee, a customer or a supplier is used explicitly or implicitly as the basis for a decision affecting the rights of that person regarding the areas of vocational training, employment, job retention, promotion, salary or any other employment-related decision;
3. such behavior creates an intimidating, hostile, degrading, humiliating or offensive environment for the person being victimized. The intended behavior may be physical, verbal or nonverbal. The intentional element of the behavior is presumed.

Art. L. 245-3

Sexual harassment in the context of employment relations, as defined in Article L. 245-2, is considered to be contrary to the principle of equal treatment within the meaning of the provisions of this code.

Art. L. 245-4.

- (1) The employer and the employee must abstain from any sexual harassment during employment relations, as well as any client or supplier of the company.
- (2) In addition, the employer is obliged to ensure that any sexual harassment of which he becomes aware ceases immediately. Under no circumstances can measures be taken to put an end to sexual harassment to the detriment of the victim of the harassment.
- (3) The employer is still required to take all the necessary preventive measures to ensure the protection of the dignity of any person during the employment relationship. These measures must include information measures.

Art. L. 245-5.

- (1) The employee cannot be the object of reprisals because of his protests or refusals opposed to an act or behavior of sexual harassment on the part of his employer or any other hierarchical superior, of coworkers or of persons external in relation with the employer.
- (2) Similarly, no employee may be subject to reprisals for having testified to acts described in Article L. 245-2 or for reporting them.
- (3) Any provision or act contrary to the two preceding paragraphs, and in particular any termination of the employment contract in violation of these provisions, shall be null and void. In the event of termination of the employment contract, the employee may request, within fifteen days following the notification of the termination, by simple request to the president of the labor court, which shall rule urgently, the parties

heard or duly convened, to record the nullity of the termination of the employment contract and to order its continuation, or if necessary its reinstatement in accordance with the provisions of Article L. 124-12, paragraph (4). The order of the president of the labor court is provisionally enforceable; it may be appealed by a simple application, within forty days from the notification through the registry, to the presiding judge of the Chamber of the Court of Appeal to which the appeals relating to work. It is decided as a matter of urgency, the parties heard or duly convened. The summonses by way of registry provided for in the foregoing paragraph shall, on pain of nullity, contain the particulars prescribed in Article 80 of the New Code of Civil Procedure.

Art. L. 245-6 (As amended)

(1) The Equality Officer or, by default, the delegation of staff, if any, is responsible for ensuring the protection of employees against sexual harassment in the course of employment relations. For this purpose, he may propose to the employer any preventive action he deems necessary.

(2) The staff delegation and the equality officer, if any, are authorized to assist and advise the employee who is subject to sexual harassment. They are required to respect the confidentiality of the facts of which they are aware in this respect, except to be exempted by the harassed person.

The employee who is the subject of sexual harassment has the right to be accompanied and assisted by a delegate in the interviews with the employer, or the representative thereof, which take place in the context of the investigation on sexual harassment.

Art. L. 245-7. An employee who has been the victim of an act of sexual harassment may refuse to continue the performance of the employment contract and terminate the employment contract without notice for serious cause with damages and interest from the employer whose fault, assessed by reference to Article L. 245-4, caused the immediate termination.

Art. L. 245-8. The Labor and Mining Inspectorate is responsible for ensuring the application of the provisions of this chapter.

[...]

Art. L. 521-4

[...]

(2) In the case of a dismissal for serious cause, a resignation motivated by an act of sexual harassment or serious grounds arising from the act or the fault of the employer, the jobseeker may, by way of simple request, ask the president of the competent labor court to authorize the provision of the full unemployment allowance pending the final judicial decision of the dispute concerning the regularity or the merits of his dismissal or his resignation.

[...]

(5) The judgment declaring the unfair dismissal of the employee or the termination of the employment contract by the employee motivated by an act of sexual harassment or by serious reasons resulting from the fact or the fault of the employer condemn the employer to repay to the Employment Fund unemployment benefits paid to him by the employee as well as to the foreign public employment services pursuant to Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004

on the coordination of social security systems for the period or periods covered by the salaries or allowances that the employer is required to pay pursuant to the judgment. The same is true of a judgment ordering the employer to pay wages, or compensation in the event of non-observance of the notice period or in the event of early termination of the contract concluded for a fixed period.

[...]

(6) The declaring judgment or order justifying the dismissal of the employee or not justifying the resignation of the employee motivated by an act of sexual harassment "or serious reasons proceeding from the fact or the fault of the employer" condemns the latter to repay to the Employment Fund, where appropriate in installments, all or part of the unemployment benefits paid to him by provision. When the "Employment Development Agency" executes the judgment ordering the reimbursement referred to in the preceding paragraph, the employee may request the benefit of a stay of execution to the president of the court which pronounced the sentence. The President rules in summary proceedings as soon as the application is filed with the registry. He can take all useful information concerning the material situation of the employee.

[...]

Art. L.521-4bis. In cases where the action brought by the employee as a result of a dismissal for serious cause, a resignation motivated by an act of sexual harassment or by serious grounds proceeding from the fact or fault of the employer, is not completed as a result of withdrawal, the employee is required to reimburse the Employment Fund unemployment benefits paid to him by provision. If this withdrawal results from a transaction between the employee and the employer, the unemployment benefits are to be reimbursed half by the employee and the other half by the employer.

[...]

26 MADAGASCAR

[Labor Code, 2004](#) ⁵⁴

[...]

TITLE I GENERAL PROVISIONS

CHAPTER I OF WORKERS AND EMPLOYERS

Article 1.- This Law is applicable to any employer and any worker whose contract of work, whatever its form, is carried out in Madagascar. As such, it is subject to the provisions of the this Act, any employer regardless of his nationality, status or sector of activity.

⁵⁴ Labor Code, Law No. 2003-044 (LOI N° 2003 -044 Portant Code du Travail), available at <http://www.droit-afrique.com/images/textes/Madagascar/Mada%20-%20Code%20du%20travail.pdf> (last visited 15 November 2019). Unofficial translation by Compendium team.

The provisions of this Law shall not apply to state employees governed by General Regulations for Civil Servants and workers governed by the Maritime Code.

Article 2.- Is considered as worker within the meaning of the present law, whatever his sex and nationality, any person who has undertaken to put his professional activity, remunerated, under the direction and authority of another physical or legal person, public or private.

Are also considered as workers within the meaning of this Code:

persons who are paid for a task or service usually performed for an enterprise, working by themselves, without it being necessary to ascertain whether it exists between them and their employer a link of legal subordination, or whether the premises, the material or tools used belong to them;

persons usually performing on behalf and under the authority of another person the work by themselves, regardless of the method of remuneration and the duration of work.

Article 3.- For the purposes of this Labor Code, an employer is considered to be a physical or legal person, public or private, or any public or collective enterprise, whether or not for profit, which, by assuming the financial risks, hires, remunerates and directs the staff who leases its services.

[...]

Article 5: Every employee is entitled to the respect of his dignity. In all work relations, no one should be victim of ill-treatment or violence affecting their physical or moral integrity as foreseen and sanctioned by the Penal Code.

No employee should be sanctioned or discriminated against in his career or in his work, or laid off for having resisted to harassment by an employer, his representative or any other person who, abusing his work authority, relationships, as well as his position in the company, gives instructions, threatens, constrains or pressures in any way in order to obtain favors of a sexual or other nature to his benefit or the benefit of a third party.

Sexual harassment at work is considered to be any unwelcome conduct of a sexual nature that interferes with work, conditions of employment, or normal professional development or that creates an intimidating work environment.

No employee may be sanctioned, nor discriminated in his career or in his work, or fired for having reported or testified about the actions defined in the previous paragraph.

When body search of the staff, at the entrance or exit of the work, is justified by the special nature of the work or the activity of the company, it cannot in any way be practiced under conditions contrary to the employees' dignity. In all cases, body searches must be performed only by a person of the same sex.

[...]

Article 23.- Any breach of the contract of employment for sexual or moral harassment is attributable to the author of the act. It is upon the requesting party to provide evidence of the act by all means.

Sexual or moral harassment may result in the victim being payment of damages and interests as assessed by the competent jurisdiction against the author of the act.

[...]

Article 261.- All discriminatory treatment based on race, religion , origin, sex, membership of a union, political membership and views of the worker with respect to access to employment and vocational training, conditions of work, promotion, wages and dismissal, will be punished with a fine of 1 tapitrisa Ariary or 5,000,000 Fmg to 3 tapitrisa Ariary 15,000,000 Fmg, and to one (1) to three (3) years imprisonment, or one of these two penalties.

[...]

In case of repetition, the penalties of fine and imprisonment will be doubled.

The perpetrators of crimes foreseen by article 5 of the Labor Code are punished under the provisions of the Penal Code, which foresees and represses acts of sexual harassment or any other acts of violence perpetrated against the worker.

[Penal Code, 1960](#)⁵⁵

Art. 333 bis (Law No. 2000-021 of 30.11.00) –

Whoever has subordinated the fulfillment of a service or an act within its function to the obtainment of favors of a sexual nature, or demands from a person favors of the same nature in order to grant to her, or another person, a job, promotion, reward, decoration, any type of advantage or favorable decision, will be punished with imprisonment of one to three years and a fine of 1,000,000 Ariary 4,000,000 Ariary.

Anyone who has threatened, applied sanctions, or exercised serious pressure in order to induce a person under his authority to grant him sexual favors, or has retaliated against a person who refused him such favors will be punished by two to five years imprisonment and a fine of 2,000, 000 Ariary to 10,000,000 Ariary.

27 MALAWI

[Act n. 3 – Gender Equality Act, 2013](#)⁵⁶

Sec. 6 (1) A person commits an act of sexual harassment if he or she engages in any form of unwanted verbal, non-verbal or physical conduct of a sexual nature in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.

(2) A person who sexually harasses another in terms of subsection (1) commits an offence and is liable to a fine of one million Kwacha (K 1,000,000), and to a term of imprisonment of five (5) years.

Sec. 7 (1) The Government shall take active measures to ensure that employers have developed and are implementing appropriate policy and procedures aimed at eliminating sexual harassment in the workplace which shall –

⁵⁵ Penal Code, 1960 (as amended up to March 2005), available at

<http://jurismada.com/documentation/Droit%20penal/Code%20penal.pdf>

Unofficial translation by Compendium team. For the definition of sexual harassment, see also Ministry of Human Resources, Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace, Art. 4 , available at

<https://www.ilo.org/dyn/travail/docs/1627/CODE%20OF%20PRACTICE%20ON%20THE%20PREVENTION%20AND%20ERADICATION%20OF%20SEXUAL%20HARASSMENT%20IN%20THE%20WORKPLACE.pdf> (last visited 15 November 2019).

⁵⁶ Gender Equality Act. Act n. 3 of 2013 (19 April 2013), available at

<https://womenlawyersmalawi.files.wordpress.com/2017/06/gender-equality-act.pdf> (last visited 15 November 2019).

- (a) Entitle all persons who have been subjected to sexual harassment in the workplace to raise a grievance about its occurrence and be guaranteed that appropriate disciplinary action shall be taken against perpetrators;
- (b) Entitle a non-employee who has been subjected to sexual harassment to lodge a grievance with the employer of the perpetrator where the conduct giving rise to the complaint has taken place at the work place or in the course of the perpetrator's employment;
- (c) Entitle all employees, job applicants and other persons who have dealings with the workplace to be treated with dignity; and
- (d) Oblige the person in charge of the work place to –
 - i. Implement the policy and procedures and impose disciplinary action against employees who do not comply;
 - ii. Deal seriously, expeditiously, sensitively and confidentially with all allegations of sexual harassment;
 - iii. Protect employees against victimization, retaliation for lodging grievances and from false accusations;
 - iv. Explain the procedure which shall be followed by persons who are victims of sexual harassment;
 - v. Communicate the sexual harassment policy and grievance procedures effectively to all employees; and
 - vi. Designate a person outside of line management whom a person who has been subjected to sexual harassment may approach for confidential advice and counseling.
- (2) A person who has been subjected to sexual harassment need not have exhausted internal sexual harassment procedures before prosecution of the offence can be commenced or civil proceedings can be instituted.
[...]

28 MALAYSIA

[Employment \(Amendment\) Act, 2012](#) ⁵⁷

PART I PRELIMINARY

[...]

Interpretation

2. (1) In this Act, unless the context otherwise requires—

[...]

—sexual harassment|| means 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

[...]

⁵⁷ Employment Amendment Act, Act A1419 (30 January 2012), available at http://ilo.org/dyn/natlex/natlex4.detail?p_isn=89543 (last visited 15 November 2019).

PART XVA
SEXUAL HARASSMENT

Interpretation

81A. For the purposes of this Part, —complaint of sexual harassment means any complaint relating to sexual harassment made—

- (i) by an employee against another employee;
- (ii) by an employee against any employer; or
- (iii) by an employer against an employee.

Inquiry into complaints of sexual harassment

81B. (1) Upon receipt of a complaint of sexual harassment, an employer or any class of employers shall inquire into the complaint in a manner prescribed by the Minister.

(2) Subject to subsection (3), where an employer refuses to inquire into the complaint of sexual harassment as required under subsection (1), he shall, as soon as practicable but in any case not later than thirty days after the date of the receipt of the complaint, inform the complainant of the refusal and the reasons for the refusal in writing.

(3) Notwithstanding subsection (2), an employer may refuse to inquire into any complaint of sexual harassment as required under subsection (1), if—

(a) the complaint of sexual harassment has previously been inquired into and no sexual harassment has been proven; or

(b) the employer is of the opinion that the complaint of sexual harassment is frivolous, vexatious or is not made in good faith.

(4) Any complainant who is dissatisfied with the refusal of the employer to inquire into his complaint of sexual harassment, may refer the matter to the Director General.

(5) The Director General after reviewing the matter referred to him under subsection (4)—

(a) if he thinks the matter should be inquired into, direct the employer to conduct an inquiry; or

(b) if he agrees with the decision of the employer not to conduct the inquiry, inform the person who referred the matter to him that no further action will be taken.

Findings of inquiry by employer

81C. Where the employer conducts an inquiry into a complaint of sexual harassment received under subsection 81B(1) and the employer is satisfied that sexual harassment is proven, the employer shall—

(a) in the case where the person against whom the complaint of sexual harassment is made is an employee, take disciplinary action which may include the following:

(i) dismissing the employee without notice;

(ii) downgrading the employee; or

(iii) imposing any other lesser punishment as he deems just and fit, and where the punishment of suspension without wages is imposed, it shall not exceed a period of two weeks; and

(b) in the case where the person against whom the complaint of sexual harassment is made is a person other than an employee, recommend that the person be brought before an appropriate disciplinary authority to which the person is subject to.

Complaints of sexual harassment made to the Director General

81D. (1) If a complaint of sexual harassment is made to the Director General, the Director General shall assess the complaint and may direct an employer to inquire into such complaint.

(2) The employer shall inquire into the complaint of sexual harassment when directed to do so under subsection (1) and submit a report of the inquiry to the Director General within thirty days from the date of such direction.

(3) If a complaint of sexual harassment received by the Director General is made against an employer who is a sole proprietor, the Director General shall inquire into such complaint himself in a manner prescribed by the Minister.

(4) Upon inquiry by the Director General of the complaint of sexual harassment under subsection (3), the Director General shall decide if sexual harassment is proven or not and such decision shall be informed to the complainant as soon as practicable.

(5) Notwithstanding subsection (3), the Director General may refuse to inquire into any complaint of sexual harassment received under subsection (3), if—

(a) the complaint of sexual harassment has previously been inquired into by the Director General and no sexual harassment has been proven; or

(b) the Director General is of the opinion that the complaint of sexual harassment is frivolous, vexatious or is not made in good faith.

(6) Where the Director General refuses to inquire into the complaint of sexual harassment received under subsection (3), he shall, as soon as practicable but in any case not later than thirty days after the date of the receipt of the complaint, inform the complainant of the refusal and the reasons for the refusal in writing.

Effects of decisions of the Director General

81E. (1) Where the Director General decides under subsection 81D(4) that sexual harassment is proven, the complainant may terminate his contract of service without notice.

(2) If the complainant terminates the contract of service under subsection (1), the complainant is entitled to—

(a) wages as if the complainant has given the notice of the termination of contract of service; and

(b) termination benefits and indemnity, as provided for under the Act or the contract of service, as the case may be.

Offence

81F. Any employer who fails—

(a) to inquire into complaints of sexual harassment under subsection 81B(1);

(b) to inform the complainant of the refusal and the reasons for the refusal as required under subsection 81B(2);

(c) to inquire into complaints of sexual harassment when directed to do so by the Director General under paragraph 81B(5)(a) or subsection 81D(2); or

(d) to submit a report of inquiry into sexual harassment to the Director General under subsection 81D(2); commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

Application of this Part irrespective of wages of employee

81G. Notwithstanding paragraph 1 of the First Schedule, this Part extends to every employee employed under a contract of service irrespective of the wages of the employee.

[...]

[Penal Code, 1997 \(as amended\)](#)⁵⁸

⁵⁸ Penal Code, Act 574 of 1977 (as amended up to 1 February 2018), available at

Word or gesture intended to insult the modesty of a person

509. Whoever, intending to insult the modesty of any person, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen by such person, or intrudes upon the privacy of such person, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

29 MALDIVES

[Sexual Harassment and Abuse Prevention Act, 2014](#)⁵⁹

Articles 32,24 and 38 (f)

30 MALTA

[Equality For Men And Women Act, 2003](#)⁶⁰

[...]

2. (1) In this Act, unless the context otherwise requires:

[...]

"employment" means any gainful activity including self employment and includes promotion and transfer to another post, as well as access to vocational or professional training, the duration of the employment or its extension or termination;

[...]

"self-employed workers" in line with Directive 2010/41EU of the European Parliament and the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity, means all persons pursuing a gainful activity for their own account, and the spouses of self employed workers not being employees or business partners, where they habitually participate in the activities of the self-employed worker and perform the same tasks or ancillary tasks;

"sexual harassment" means the unlawful activities listed in article 9(1);

[...]

9. (1) Without prejudice to the provisions of article 29 of the Employment and Industrial Relations Act, it shall be unlawful for any person to sexually harass other persons, that is to say:

(a) to subject other persons to an act of physical intimacy; or

(b) to request sexual favours from other persons; or

(c) to subject other persons to any act or conduct with sexual connotations, including spoken words, gestures or the production, display or circulation of any written words, pictures or other material, where the act, words or conduct is unwelcome to the persons to whom they are directed and could reasonably be regarded as offensive, humiliating or intimidating to the persons to whom they are directed; or

<http://ilo.org/dyn/natlex/docs/ELECTRONIC/61339/117909/F-833274986/MYS61339%202018.pdf> (last visited 15 November 2019).

⁵⁹ Sexual Harassment and Abuse Prevention Act, 16/2014, available at <http://www.mvlaw.gov.mv/pdf/ganoon/chapterVIII/16-2014.pdf> (last visited 15 November 2019).

⁶⁰ Equality for men and women Act, Cap. 456, Act I of 9 December 2003 (as amended by Legal Notice 427 of 2007; and Acts IV of 2009, IX of 2012, XVIII of 2014, and VII and XI of 2015), available at <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8922&l=1> (last visited 15 November 2019).

(d) the persons so subjected or requested are treated less favourably by reason of such persons' rejection of or submission to such subjection or request, it could reasonably be anticipated that such persons would be so treated.

(2) (a) Persons responsible for any work place, educational establishment or entity providing vocational training or guidance or for any establishment at which goods, services or accommodation facilities are offered to the public, shall not permit other persons who have a right to be present in, or to avail themselves of any facility, goods or service provided at that place, to suffer sexual harassment at that place.

(b) It shall be a defence for persons responsible as aforesaid to prove that they took such steps as are reasonably practicable to prevent such sexual harassment.

(3) Persons who sexually harass other persons shall be guilty of an offence against this article and shall, without prejudice to any greater liability under any other law, be liable on conviction to a fine (multa) of not more than two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) or to imprisonment of not more than six months or to both such fine and imprisonment.

[...]

19. (1) Without prejudice to the provisions of article 30 of the Employment and Industrial Relations Act, a person who alleges that any other person has committed in his or her regard any act which under any of the provisions of this Act is unlawful, shall have a right of action before the competent court of civil jurisdiction requesting the court to order the defendant to desist from such unlawful acts and, where applicable, to order the payment of compensation for such damage suffered through such unlawful act.

(2) In any proceedings under sub-article (1) and in any proceedings concerning the application of the principle of equal treatment before a competent authority not being a Court referred to in sub-article (1), it shall be sufficient for the plaintiff or the person instituting the said proceedings to establish, before the Court or before such other competent authority, facts from which it may be presumed that he or she has been treated less favourably, directly or indirectly, on the basis of sex or because of family responsibilities, and it shall be incumbent on the defendant or on the person against whom such proceedings are brought to prove that there has been no breach of the principle of equal treatment, or that such less favourable treatment was justified in accordance with the provisions of this Act, and the Court or other competent authority shall uphold the complaint if the defendant or the person against whom the proceedings before the competent authority are brought fails to prove that he did not commit an illegal act.

[...]

[Employment and Industrial Relations Act, 2002](#) ⁶¹

GENERAL

[...]

2.(1) In this Act, unless the context otherwise requires -

[...]

"discriminatory treatment" means any distinction, exclusion or restriction which is not justifiable in a democratic society including discrimination made on the basis of marital status, pregnancy or potential

⁶¹ Employment and Industrial Relations Act, Cap. 452, Act XXII of 2002 (last amended by Act VI of 2019, consolidated version), available at <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8918&l=1> (last visited 15 November 2019).

pregnancy, sex, colour, disability, religious conviction, political opinion or membership in a trade union or in an employers' association;

"employee" means any person who has entered into or works under a contract of service, or any person who has undertaken personally to execute any work or service for, and under the immediate direction and control of another person, including an outworker, but excluding work or service performed in a professional capacity or as a contractor for another person when such work or service is not regulated by a specific contract of service;

"employer" includes a partnership, company, association or other body of persons, whether vested with legal personality or not;

[...]

PART IV

PROTECTION AGAINST DISCRIMINATION RELATED TO EMPLOYMENT

[...]

Victimisation

28. It shall not be lawful to victimise any person for having made a complaint to the lawful authorities or for having initiated or participated in proceedings for redress on grounds of alleged breach of the provisions of this Act, or for having disclosed information, confidential or otherwise, to a designated public regulating body, regarding alleged illegal or corrupt activities being committed by his employer or by persons acting in the employer's name and interests.

Harassment

29. (1) It shall not be lawful for an employer or an employee to harass another employee or to harass the employer by subjecting such person to any unwelcome act, request or conduct, including spoken words, gestures or the production, display or circulation of written words, pictures or other material, which in respect of that person is based on sexual discrimination and which could reasonably be regarded as offensive, humiliating or intimidating to such person.

(2) It shall not be lawful for an employer or an employee to sexually harass another employee or the employer (hereinafter in this article referred to as "the victim") by:

(a) subjecting the victim to an act of physical intimacy; or

(b) requesting sexual favours from the victim; or

(c) subjecting the victim to any act or conduct with sexual connotations, including spoken words, gestures or the production, display or circulation of written words, pictures or other material where - (i) the act, request or conduct is unwelcome to the victim and could reasonably be regarded as offensive, humiliating or intimidating to the victim; (ii) the victim is treated differently, or it could reasonably be anticipated that the victim could be so treated, by reason of the victim's rejection of or submission to the act, request or conduct.

Reference to Industrial Tribunal. Amended by: IX. 2003.123; V. 2009.3.30.

30. (1) A person who alleges that the employer is in breach of, or that the conditions of employment are in breach of articles 26, 27, 28 or 29, may within four months of the alleged breach, lodge a complaint to the Industrial Tribunal and the Industrial Tribunal shall hear such complaint and carry out any investigations as it shall deem fit.

(2) If the Industrial Tribunal is satisfied that the complaint is justified, it may take such measures as it may deem fit including the cancellation of any contract of service or of any clause in a contract in a collective

agreement which is discriminatory and shall order the payment of compensation for loss and damage sustained by the aggrieved party as a consequence of the breach.

(3) For the purposes of hearing and deciding cases of alleged discrimination, breaches of the principle of work of equal value, victimisation or harassment, the Industrial Tribunal shall be composed of a chairperson alone in the manner set out in article 73(4).

(4) Any action taken by a complainant in accordance with the provisions of this article shall be without prejudice to any further action that such complainant may be entitled to take under any other applicable law and shall also be without prejudice to any other action to which the respondent may be subject in accordance with any other applicable law. Power of Minister to make regulations.

Power of Minister to make regulations.

31. Subject to the foregoing, the Minister may, after consultation with the Board, prescribe regulations to give better effect to the provisions of articles 26, 27, 28 and 29 and in particular for the elimination of any discriminatory practices in the employment or in the conditions of employment of any person or class of persons, for providing equal opportunities of employment for classes of persons who are at a disadvantage and to regulate access to the Industrial Tribunal and investigation and hearing by the Industrial Tribunal of complaints of alleged discrimination, breaches of the principle of work of equal value, victimisation or harassment.

Offence. Amended by: L.N. 427 of 2007; XIII.2018.34.32.

32. Any person contravening the provisions of articles 28 and 29 shall be guilty of an offence and shall be liable on conviction to imprisonment for a term from six months to two years or to a fine (multa) of not less than five thousand euro (€5,000) and not more than ten thousand euro (€10,000), or to both such fine and imprisonment.

[...]

31 MARSHALL ISLANDS

[Criminal Code, 2011](#)⁶²

TITLE 31 – CRIMES AND PUNISHMENTS

CHAPTER 1 - CRIMINAL CODE

§250.4. Harassment. A person commits a petty misdemeanor if, with intent to harass, annoy, or alarm another, the person:

- (1) repeatedly makes a telephone call, facsimile, or electronic mail transmission without purpose of legitimate communication; or
- (2) insults, taunts or challenges another in a manner likely to provoke immediate violent or disorderly response; or
- (3) makes repeated communications anonymously or at extremely inconvenient hours; or
- (4) subjects another to an offensive and unwanted touching; or
- (5) repeatedly makes communications, after being advised by the person to whom the communication is directed that further communication is unwelcome; or

⁶² Criminal Code (17 October 2011), available at http://rmiparliament.org/cms/images/LEGISLATION/PRINCIPAL/2011/2011-0059/CriminalCode2011_1.pdf (last visited 15 November 2019).

(6) makes a communication using offensively coarse language that would cause the recipient to reasonably believe that the actor intends to cause bodily injury to the recipient or another or damage to the property of the recipient or another.

32 MAURITIUS

[Criminal Code, 1838 \(as amended\)](#) ⁶³

254 Sexual harassment

(1) Any person who, by abuse of the authority conferred upon him by his functions, harasses another person by means of orders, threats or constraints in order to obtain favours of a sexual nature, shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 2 years and to a fine not exceeding 100,000 rupees.

(2) (a) Notwithstanding section 152 of the Criminal Procedure Act, where it is averred that the victim of the sexual harassment is a minor or a mentally handicapped person, the person charged under subsection (1) shall, on conviction, be liable to imprisonment for a term not less than one year and to a fine not exceeding 100,000 rupees.

(b) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under paragraph (a).

[Added 13/98]

[Employment Rights Act, 2008](#) ⁶⁴

PART I – PRELIMINARY

[...]

2. Interpretation

In this Act –

[...]

“employer”, subject to section 33 –

(a) means a person who employs a worker and is responsible for the payment of remuneration to the worker;

Amended by Act No.6 of 2013

(b) includes –

(i) a job contractor;

(ii) a person, other than another share worker, who shares the profit or gross earnings of a share worker;

[...]

“worker”, subject to section 33 or 40 –

⁶³ Criminal Code, Cap 195 (29 December 1838, with amendments up to 24/06), available at <https://www.wipo.int/edocs/lexdocs/laws/en/mu/mu008en.pdf> (last visited 15 November 2019).

⁶⁴ Employment Rights Act, Act No. 33 (19 September 2008), available at <http://labour.govmu.org/English/Documents/Legislations/Employment%20rights%20acts%202008/ERiA%202008%20as%20at%20Dec%202013.pdf> (last visited 15 November 2019).

(a) means a person who has entered into, or works under an agreement or a contract of apprenticeship, other than a contract of apprenticeship regulated under the Mauritius Institute of Training and Development Act, whether by way of casual work, manual labour, clerical work or otherwise and however remunerated;

Amended by Act No. 6 of 2013

(b) includes –

(i) a part-time worker;

(ii) a former worker where appropriate;

(iii) a share worker;

(c) does not include –

(i) a job contractor;

(ii) except in relation to sections 4, 20, 30, 31 and Parts VIII, VIIIA, IX, X and XI, a person whose basic wage or salary is at a rate in excess of 360,000 rupees per annum;

Amended by Amendment Act No.6 of 2013

[...]

“harassment” means any unwanted conduct, verbal, non-verbal, visual, psychological or physical, based on age, disability, HIV status, domestic circumstances, sex, sexual orientation, race, colour, language, religion, political, trade union or other opinion or belief, national or social origin, association with a minority, birth or other status, that a reasonable person would have foreseen that a worker would be affected negatively in his dignity;

[...]

3. Application of Act

(1) Subject to subsections (2) and to any provisions to the contrary in any other enactment, this Act shall apply to every agreement.

(2) This Act shall not apply to -

(a) a public officer or a local government officer, except for sections 4, 20(1), 54, 61(1)(a) and (d) and (4), 62, 63 and 67(1)(e)(i) in so far as it applies to such public officer or local government officer, (2) and (3) of this Act;

(b) a worker of a statutory body who is governed by the recommendations made by the Pay Research Bureau, except for Parts VIII and XI and sections 4, 20(1), 46(1), (2), (3), (4), (5), (5B), (7), (8), (9), (10), (11) and (12), 48, 61, 62, 63, and 67(1)(e)(i) in so far as it applies to that worker, (2) and (3) of this Act.

Amended by (Act No. 14 of 2009)

[...]

PART XI – VIOLENCE AT WORK

54. Violence at work

(1) No person shall –

(a) harass, sexually or otherwise;

(b) assault;

(c) verbally abuse, swear at or insult;

(d) express the intention to cause harm to;

(e) bully or use threatening behaviour towards;

(f) use aggressive gesture indicating intimidation, contempt or disdain towards;

(g) by words or act, hinder, a worker, in the course of or as a result of his work.

Amended by Act No. 6 of 2013

(2) Any person who contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 75,000 rupees and to imprisonment for a term not exceeding 2 years.

(3) For the purpose of subsection (1), a person sexually harasses another person where, in circumstances in which a reasonable person would have foreseen that other person would be humiliated, offended or intimidated, he –

(a) makes an unwelcome sexual advance, or an unwelcome request for a sexual favour to that other person; or

(b) engages in any other unwelcome conduct of a sexual nature towards that other person.

[...]

PART XV – MISCELLANEOUS

[...]

67. Offences

(1) Any person who –

[...]

(e) contravenes –

(i) a condition of any authority issued, or approval given, under this Act;

(ii) any order or direction given under this Act;

(iii) any provision of this Act or any regulations made under this Act; or

(iv) any order made by the Court,

shall commit an offence.

Amended by the Economic and Financial Measures (Miscellaneous Provisions) Act 2013

(2) Any person who commits an offence shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 2 years.

(3) The Court may, on the conviction of any person under this Act, where it thinks appropriate, make an order directing that person to comply with this Act or any order made by that Court within such time as may be fixed in the order.

(4) A person who fails to comply with an order made under subsection (3) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees.

Amended by Act No. 6 of 2013

[...]

[Equal Opportunities Act, 2008](#) ⁶⁵

PART I – PRELIMINARY

[...]

2. Interpretation

In this Act –

“discriminate” means –

⁶⁵ Equal Opportunities Act, Act No. 42 (30 December 2008), available at https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_126781.pdf (last visited 15 November 2019).

- (a) discriminate directly on the ground of status, as provided under section 5;
- (b) discriminate indirectly on the ground of status, as provided under section 6; or
- (c) discriminate by victimisation, as provided under section 7;
- [...]
- “employee” –
- (a) includes –
- (i) a person who has entered into, or works under, a contract of apprenticeship; and
- (ii) a part-time or temporary employee; but
- (b) does not include a job contractor;
- “employer” includes a person, an enterprise, the State, a statutory corporation, a body of persons employing a worker, or a group of employers or a trade union of employers;
- “employment” includes –
- (a) part-time or temporary employment;
- (b) work under a contract for services;
- (c) work under a contract of apprenticeship; and
- (d) the employment of a job contractor;
- [...]

PART V – SEXUAL HARASSMENT

25. Sexual harassment

- (1) A person sexually harasses another person where, in circumstances in which a reasonable person would have foreseen that the other person would be humiliated, offended or intimidated, he –
- (a) makes an unwelcome sexual advance, or an unwelcome request for a sexual favour, to another person; or
 - (b) engages in any other unwelcome conduct of a sexual nature towards another person.
- (2) For the purposes of subsection (1)(b), "conduct" includes making or issuing an unwelcome oral or written statement of a sexual nature to a person or in the presence of a person.

26. Acts of sexual harassment

- (1) No employer, or agent of an employer, shall sexually harass an employee or a person seeking employment from the employer.
- (2) No job contractor or principal shall sexually harass a contract worker.
- (3) No employee shall sexually harass a fellow employee or a person seeking employment from his employer.
- (4) No agent of an employment agency shall sexually harass a person in the course of providing, or offering to provide, any of the agency's services to that person.
- (5) No person referred to in section 15, or his employee, shall sexually harass another person in relation to the conferment, renewal, extension, revocation or withdrawal of an authorisation or qualification referred to in that section.
- (6) (a) No member of the staff of an educational institution shall sexually harass a student at the institution or a person who is seeking admission as a student.
- (b) No student at an educational institution shall sexually harass another student or a member of the staff.
- (7) No person referred to in section 18 shall sexually harass another person in the course of providing or offering to provide goods, services or facilities to the other person.
- (8) No person referred to in section 19 shall sexually harass another person in the course of providing, or offering to provide, accommodation to the other person.

(9) No person shall sexually harass another person in the course of dealing with the other person in connection with—

(a) disposing, or offering to dispose of, any immovable property to the other person; or

(b) acquiring, or offering to acquire, any immovable property from the other person.

(10) No officer or member of a company, partnership, "société", registered association or club shall sexually harass a member or other member, as the case may be, or a person seeking to become a member.

(11) Any person who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

PART VI – EQUAL OPPORTUNITIES DIVISION

27. Equal Opportunities Division

[...]

(3) The Equal Opportunities Division shall –

(a) work towards the elimination of discrimination, and the promotion of equality of opportunity and good relations between persons of different status;

(b) keep under review the working of this Act and any relevant law and submit to the Attorney-General proposals for amending them, if required;

(c) of its own motion or following a complaint, carry out an investigation;

(d) attempt to reconcile the parties to whom and against whom a complaint relates;

(e) conduct and foster research and educational and other programmes for the purpose of eliminating discrimination and promoting equality of opportunity and good relations between persons of different status; and

(f) prepare appropriate guidelines and codes for the avoidance of discrimination and take all necessary measures to ensure that the guidelines and codes are brought to the attention of employers and the public at large.

(4) For the purposes of subsection (3), the Equal Opportunities Division may do anything that it considers necessary for, or exercise all powers, conducive or incidental to, the carrying out of its functions, and in particular may –

(a) take such measures as it considers necessary to ensure compliance with the duties imposed on any person under this Act;

(b) on completion of an investigation which reveals that an offence has been committed under this Act or a relevant law, refer the matter to the Director of Public Prosecutions;

(c) refer any matter to the Tribunal for non-compliance with this Act; or

(d) apply for an interim order under section 35(1)(b).

28. Lodging a complaint

(1) Subject to section 29, any person who alleges that any of his rights under this Act has been infringed may lodge a written complaint with the Equal Opportunities Division, setting out the details of the alleged act of discrimination.

(2) (a) Subject to paragraph (b), a complaint under subsection (1) shall be lodged within 12 months of the date of the alleged act of discrimination.

(b) The Equal Opportunities Division may, on good cause shown to it by the complainant, extend the delay referred to in paragraph (a).

[...]

30. Investigation

- (1) Subject to section 32, the Equal Opportunities Division may, where a complaint appears to it to be well-founded, conduct an investigation into the complaint.
- (2) For the purposes of subsection (1), the Equal Opportunities Division may, by written notice –
 - (a) require any employer to disclose information regarding any equal opportunity policy it has adopted in its place of work;
 - (b) require any person to furnish any information described in the notice;
 - (c) specify the time within which the person shall furnish the information; and
 - (d) require the person to –
 - (i) attend at such time and place as may be specified in the notice;
 - (ii) give such evidence as it considers necessary; and
 - (iii) produce any document or exhibit as is in his possession or control relating to any matter specified in the notice.
- (3) A person served with a notice under subsection (2) shall not be compelled to give evidence, or produce any document, which he could not be compelled to give in evidence, or produce, in civil proceedings before a Court.
- (4) For the purposes of conducting an investigation, the Equal Opportunities Division may record statements under warning from any person.
- (5) Any person who, without reasonable cause, fails to comply with a notice referred to in subsection (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees.
- [...]

32. Conciliation

- (1) The Equal Opportunities Division shall, in the first place, attempt to resolve any matter which is the subject of an investigation by conciliation.
- (2) For the purposes of conciliation under subsection (1), the Equal Opportunities Division may, by written notice, require the attendance of –
 - (a) the complainant;
 - (b) any person who is alleged to have committed the act of discrimination which is the subject matter of the complaint; and
 - (c) any other person –
 - (i) who is likely to be able to provide information relevant to the conciliation proceedings; or
 - (ii) whose presence at the meeting is likely to assist in the matter.
- (3) The Equal Opportunities Division may, in a notice under subsection (2), require any person specified in the notice to produce such documents at the conciliation proceedings as are specified in the notice
- (4) Any conciliation proceedings held under this section may, with the consent of the parties, be in private and, subject to this Act, shall be conducted in such manner as the Equal Opportunities Division thinks fit.
- (5) Where a complaint has been settled by conciliation, the settlement shall be embodied in a written agreement and registered with the Tribunal and, upon registration, the agreement shall be deemed to be an order of the Tribunal and be binding on the parties.
- (6) Any person who, without reasonable cause, fails to comply with a notice referred to in subsection (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees.

33. Reports and reference to Tribunal

- (1) Where the Equal Opportunities Division is of the opinion that a complaint cannot be resolved by conciliation, or it has attempted to resolve the matter by conciliation but has not been successful in that attempt, it shall, after conducting and completing its investigation –
 - (a) prepare a report relating to the complaint, with its recommendations;

- (b) send a copy of the report to the parties to whom the complaint relates; and
- (c) make the report available for inspection in such manner as it thinks fit.
- (2) Any of the parties may, within a period of 45 days of the date of the receipt of the report, inform the Equal Opportunities Division whether the complaint has been resolved.
- (3) Where the Equal Opportunities Division has been informed under subsection (2) that the complaint remains unresolved, it shall, with the consent of the complainant, refer the complaint to the Tribunal forthwith.
- (4) For the purposes of section (3), the complainant shall disclose to the Equal Opportunities Division whether he has entered civil proceedings before any Court seeking compensation for any act or omission arising under this Act.

PART VII – EQUAL OPPORTUNITIES TRIBUNAL

[...]

35. Jurisdiction of Tribunal

(1) The Tribunal shall have jurisdiction –

- (a) to hear and determine complaints referred to it by the Equal Opportunities Division;
- (b) to issue an interim order as a matter of urgency for the purpose of –
 - (i) preventing serious and irreparable damage to a person or category of persons;
 - (ii) protecting the public interest; or
 - (iii) preventing a person from taking any step that would hinder or impede a hearing before the Tribunal;
- (c) to make –
 - [...]
 - (ii) an order requiring the respondent to pay to the complainant, within such time as it may determine, compensation in an amount not exceeding 500,000 rupees; or
 - [...]

33 MEXICO

[Federal Penal Code, 2019](#) ⁶⁶

Sexual Harassment, Sexual Abuse, Assault and Rape

Article 259 Bis. - Any person who, with lascivious purposes repeatedly harasses a person of any sex, using the hierarchical position derived from their work, academic or domestic relations, or any other relationship that implies subordination, shall be liable to a fine of up to eight hundred fine-days. If the harasser is a civil servant and uses the job position's means or circumstances for perpetrating the behavior, in addition to the above penalties, they shall be subject to removal from office and may be disbarred from holding any other public office for up to one year.

Sexual harassment will only be punishable when damage or harm is caused.
Charges shall only be made against the perpetrator at the request of the offended party.

[General Law on Women's Access to a Life Free of Violence, 2007 \(as amended\)](#) ⁶⁷

⁶⁶ Federal Penal Code (Código Penal Federal-Última reforma) 12 April 2019, available at <http://www.diputados.gob.mx/LeyesBiblio/ref/cpf.htm> (last visited 15 November 2019). Unofficial translation by Compendium team.

⁶⁷ General Law on Women's Access to a Life Free of Violence (Ley General de Acceso de las Mujeres a una Vida Libre de Violencia), 1 February 2007 (last amended on 13 April 2018), available at

CHAPTER II – On Violence in Employment and Education

Article 10. Violence in Employment and Education: It is exercised by people who have a labor, teaching or similar relationship with the victim, regardless of the hierarchical relationship, consisting of an act or omission in abuse of power that damages the self-esteem, health, integrity, freedom and security of the victim, prevents their development and threatens equality. It can consist of a single harmful event or a series of events which in aggregate cause the damage. It also includes harassment or sexual harassment.

Article 11. The following constitutes violence in employment: the illegal refusal to hire the victim or to respect the continuation or general conditions of their work, disqualification of work undertaken, threats, intimidation, humiliation, behaviors referred to in the Federal Labor Law, exploitation, barring women from using the period of breastfeeding provided by law and all types of discrimination based on gender.

[...]

Article 13. Sexual harassment is the exercise of power, in a relationship of real subordination of the victim with regards to the aggressor, in the workplace and/or school. It is manifested through verbal and/or physical behaviors, in connection with sexuality of lascivious connotation. Sexual harassment is a form of violence in which, although there is no subordination, there is an abusive exercise of power that leads to a state of helplessness and risk to the victim, regardless of whether it is carried out in one or more situations.

Article 14. The federative entities and the Federal District, based on their attributions, will take into consideration: I. Establish public policies that guarantee the right of women to a life free of violence in their work and/or educational relations; II. Strengthen the criminal and civil framework to ensure the punishment of harassers; III. Promote and disseminate in society that sexual harassment is a crime, and IV. Design programs that provide comprehensive re-educational services for victims and aggressors.

ARTICLE 15.- For the purposes of harassment or sexual harassment, the three powers of government shall: I. Assert the dignity of women in all areas of life; II. Establish mechanisms that promote its eradication in private and public schools and work centers, through agreements and cooperation with educational institutions, companies and unions; III. Create clear and precise administrative procedures in schools and workplaces, to prevent and sanction these crimes. IV. Refrain from publicizing the victim's name, to avoid any type of re-victimization or pressure to leave the school or the employment; V. For the purposes of the preceding section, previous complaints that are about the same harasser or stalker must be compiled, while maintaining the complainant's anonymity; VI. Provide specialized psychological and legal support, available free of charge to any sexual harassment victim, and VII. Implement administrative sanctions for the harasser or stalker's supervisor(s) when they fail to duly receive or take action on a complaint.

[...]

34 MOLDOVA

[Criminal Code, 2002 \(as amended\)](#)⁶⁸

Section	173. Sexual	Harassment
Sexual harassment, that is, physical, verbal or non-verbal behavior that infringes on the dignity of the person or creates an unpleasant, hostile, oppressing, humiliating, discriminatory or offensive environment with the aim of forcing a person to have sexual intercourse or other undesirable sexual acts committed through threats, coercion, blackmail, shall be punished by a fine in the amount of 650 to 850 conventional units, or by unpaid labor in favor of the company and a term of 140 to 240 hours, or imprisonment for a term of up to 3 years.		

[Law on Equal Opportunities for Women and Men, 2006](#)⁶⁹

[...]

Article 2. Basic terms

In the meaning of this Law, the following basic terms shall mean:

[...]

sexual harassment – any form of physical, verbal, or nonverbal behavior, of sexual nature, which abases a person or creates an unpleasant, hostile, degrading, humiliating, or insulting environment;

[...]

Article 5. Prohibition of discrimination on the criterion of sex

(1) In the Republic of Moldova, women and men enjoy equal rights and freedoms and are guaranteed equal opportunities to exercise these rights and freedoms.

[...]

(3) Discrimination may be direct or indirect.

(4) Actions that restrict or exclude in any aspect the equal treatment of women and men shall be deemed discriminatory and are prohibited.

[...]

Article 10. Employer's cooperation with employees and trade union representatives

[...]

(3) In order to ensure equality between women and men, the employer shall:

[...]

d) undertake measures to prevent sexual harassment of women and men at their place of work, as well as to prevent persecution for submitting complaints against discrimination to the competent body;

[...]

[Labor Code, 2003](#)⁷⁰

[...]

⁶⁸ Criminal Code, No. 985 (18 April 2002, as amended up to 2018), available at <http://lex.justice.md/ru/331268/> (last visited 15 November 2019).

⁶⁹ Law on Equal Opportunities for Women and Men, Law No. 5-XVI (9 February 2006), available in Moldovan at http://base.spininform.ru/show_doc.fwx?rgn=11936, unofficial translation in English available at <https://www.lawyer-moldova.com/2012/11/law-on-ensuring-equal-opportunities-for.html> (last visited 15 November 2019).

⁷⁰ Labor Code, Nr. 154 (28 March 2003, as amended up to 2018), available at <http://lex.justice.md/ru/326757/> (last visited 15 November 2019).

Section 10. Rights and Obligations of an Employer

[...]

(3) An employer is required to:

(4) [...]

a) take measures to prevent sexual harassment in the workplace, as well as to prevent prosecution for filing complaints of discrimination with the competent authority;

[...]

b) introduce provisions on the prohibition of discrimination on any grounds and sexual harassment into the internal rules of the enterprise;

c) ensure the observance of the professional dignity of employees;

[...]

35 MONGOLIA

[Law on Gender Equality, 2011](#) ⁷¹

Article 1. Purpose of the law

1.1. The purpose of this law is to define the legal basis for ensuring gender equality in political, legal, economic, social, cultural and family relations and to regulate relations concerning implementation.

[...]

Article 3. Scope of the law

3.1 This law shall apply to business entities and organizations operating in the territory of Mongolia, citizens of Mongolia,

Unless otherwise provided in international treaties to which Mongolia is a party, international organizations, foreign business entities and organizations operating in the territory of Mongolia shall apply to foreign citizens and stateless persons residing in Mongolia.

Article 4. Definition of the law

The following terms used in this law shall have the following meanings:

[...]

4.1.7. "Sexual harassment" means an act of sexual harassment that is expressed in a verbal, physical or other form or in the absence of a sexual intercourse, as well as a loss of employment, position, material, emotional or otherwise due to sexual motivation act or inaction such as intimidation, intimidation, or intimidation of an intimidating environment;

[...]

Article 11. Guarantees of gender equality in employment and labor relations

[...]

11.4. The employer shall take the following measures to prevent sexual harassment and to abstain from sexual harassment in the workplace: 11.4.

⁷¹ Law on Gender Equality, 2 February 2011, available at <https://www.legalinfo.mn/law/details/253?lawid=253> (last visited 15 November 2019).

11.4.1. To impose sexual harassment at the workplace in the labor regulations in the workplace and include the standard for redress of complaints;

11.4.2 Develop and implement training and retraining programs aimed at creating a free environment, and disclose results effectively.

The employee has the following rights in promoting gender equality:

11.5.1 Undertake understanding and information on gender discrimination and sexual harassment;

11.5.2. Appeal or comment on behalf of victim or victim affected by gender discrimination or sexual harassment;

11.5.3. In case of actions prohibited by Articles 7.2 and 7.4 of the Labor Law, inform the employer about the breach, and demand that the violators liable and take remedial measures.

An employee shall have the following duties in promoting gender equality: 11.6.1.

11.6.1 not to provide sexual harassment to other employees of the organization;

11.6.2. Implement other norms set for the purpose of preventing gender discrimination and sexual harassment.

[...]

CHAPTER FOUR LEGISLATIVE LAW ENFORCEMENT AGAINST THE LEGISLATION OF LEGAL INITIATING

Article 23. Complaint about violation of gender equality

Article 23. Violation of Articles other than Article 14 of this Law shall be the basis for filing a complaint to the National Human Rights Commission of Mongolia.

23.2. If the business entity, organization or official has violated gender equality and equal rights, equal opportunity, and equality of men and women certified by this law, trade unions and other public organizations shall have the right to lodge a complaint.

23.3. If an employee of a governmental organization, business entity or organization has issued a gender discrimination in his / her work place, the employer shall be deemed in violation of this law.

Article 24. Review of complaints on violation of gender equality

24.1. The National Human Rights Commission of Mongolia shall conduct an independent monitoring of the implementation of the gender equality provisions of the Constitution of Mongolia, other laws and international treaties of Mongolia, and the procedure for receiving and resolving complaints and violations of these laws shall be carried out by the Human Body of Mongolia exercising its powers as provided by the Law on the National Commission on Human Rights.

[...]

CHAPTER FIVE RESPONSIBILITIES OF RESPONSIBILITIES FOR LIABILITY DISCLOSURES

Article 25. Liability arising from threats

25.1. If an employer violates this law in violation in the course of an employee's employment contract or an official's job, the employer shall be liable to remedy such damages as provided in Article 498.1 and 498.2 of the Civil Code.

[...]

36 MONTENEGRO

[Law on Gender Equality, 2007 \(as amended\)](#) ⁷²

⁷² Law on Gender Equality, (Official Gazette of the Republic of Montenegro, no. 46/07 of 31 July 2007, last amended in 2015).

Available in original language at

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwjO8Yiwla_UAhXEKiYKH_TfD6MQFggkMAA&url=http%3A%2F%2Fwww.minmanj.gov.me%2FResourceManager%2FFileDownload.aspx%3Frid%3D216889

Article 4

Discrimination based on sex is any legal or factual, direct or indirect distinction or unequal treatment, or failure of treating one person, or group of persons of one sex compared to persons of the other sex, as well as exclusion, restriction or giving preference to one person, or group of persons of one sex compared to persons of the other sex, because of what a person is hindered or denied a recognition, enjoyment or exercise of human rights and freedoms in civil and political, economic, social, cultural and other spheres of public and private life.

[...]

Discrimination, within the meaning of paragraph 1 of this Article, shall be considered to be also harassment based on sex, sexual harassment, incitement of other person to discriminate, as well as using words in the masculine gender as generic neutral form for both male and female gender. [...]

Article 6

No one can suffer adverse effects for submitting a complaint for discrimination or for witnessing, alerting the public about discrimination based on sex or giving any other type of support to proceeding conducted because of discrimination on that ground.

Article 6a

Protection of persons who are discriminated based on sex shall be exercised in accordance with the law governing prohibition of discrimination and the law governing the competency of the Protector of human rights and freedoms of Montenegro.

Article 7

Terms used in this Law shall have the following meaning:

[...]

8. sexual harassment is any unwanted physical, verbal or non-verbal conduct of a sexual nature which for the purpose has or represents a violation of personal dignity, or when creates state of fear, hostile, humiliating or offensive state, in accordance with the special law.

[...]

[Labor Law, 2009 \(as amended\)](#) ⁷³

I. BASIC PROVISIONS

The subject

Article 1

The rights and obligations of employees on the basis of work, the manner and procedure of their realization, the promotion of employment and the facilitation of flexibility in the labor market are regulated by this law, the collective agreement and the employment contract.

Law enforcement

Article 2

[%26rType%3D2%26file%3DZakon%2520o%2520odnoj%2520ravnopravnosti%25202015..pdf&usg=AFQjCNFpRVTJpLXfZ93IEltN5kNlzuyOew&sig2=Z7sDEMYoFkryhJvrirgKmQ](#)

Available in English at <https://www.legislationline.org/legislation/section/legislation/country/57/topic/7>

(last visited 15 November 2019).

⁷³ Labor Law (Official Gazette 49/2008, 26/2009, as amended up to 2018), available at <https://www.paragraf.me/propisi-crnegore/zakon-o-radu.html> (last visited 15 November 2019).

(1) This Law shall apply to employees of an employer who work in the territory of Montenegro, as well as to employees who are sent to work abroad by an employer established in Montenegro, unless otherwise provided by law.

(2) This law shall also apply to employees of state bodies, state administration bodies, local self-government bodies and public services, unless otherwise provided by law.

(3) This Law shall also apply to employed foreign nationals and stateless persons working with an employer in the territory of Montenegro, unless otherwise provided by law.

Definition of employment

Article 3

An employment relationship is a work-based relationship between an employee and an employer based on an employment contract, in accordance with the law and the collective agreement.

[...]

Harassment and sexual harassment

Article 8

(1) Harassment and sexual harassment at work and in connection with work shall be prohibited.

(2) Harassment, for the purposes of this Law, is any unwanted conduct caused by any of the grounds referred to in Art. 5 and 6 of this Law, as well as harassment through audio and video surveillance, which aims at or violates the dignity of the job seeker as well as the employee, which causes fear or creates a hostile, degrading or abusive environment.

(3) Sexual harassment, within the meaning of this Law, is any unwanted verbal, non-verbal or physical conduct that aims or violates the dignity of the person seeking employment, as well as an employed person in the sexual sphere, who causes fear or creates hostility. degrading, unpleasant, aggressive or abusive environment.

(4) An employee may not suffer adverse consequences in the case of reporting or testimony for harassment and sexual harassment at work and in connection with work within the meaning of para. 2 and 3 of this Article.

[...]

Protection before a competent court

Article 10

In cases of discrimination, within the meaning of Art. 5 to 8a of this Law, the person seeking employment, as well as the employee, may bring proceedings before the competent court, in accordance with the law.

Employee rights

Article 11

(1) An employee shall have the right to adequate wages, safety and protection of life and health at work, vocational training and other rights in accordance with the law and the collective agreement.

[...]

Meaning of certain terms

Article 15

(1) Certain terms in this Law have the following meaning:

1) the employer is domestic or foreign, or part of a foreign legal entity or natural person, who concludes an employment contract with an employee;

2) an employee is a natural person who works with an employer and has rights and obligations arising from employment under a contract of employment;

[...]

[Criminal Code, 2003 \(as amended\)](#) ⁷⁴

Article 207

1) Anyone who uses his official position to incite another into a sex act or other act of equivalent nature where the injured party is in a subordinate or dependent position in relation to the perpetrator shall be punished by a prison term from three months to three years.

[...]

4) Where the offences under paras 1 to 3 above resulted in pregnancy, the perpetrator shall be punished for the offence under para. 1 above by a prison term from six months to five years;

[...]

[Law on Prohibition of Harassment, 2012](#)

Article 3, 10.

37 MOROCCO

[Penal Code, 1962 \(as amended\)](#) ⁷⁵

Article 88-1

In the event of a conviction for harassment, assault, sexual exploitation, ill-treatment or violence committed against women or minors, whatever the nature of the act or its perpetrator, the court may decide as follows:

1. Prohibit the convicted person from contacting or approaching the victim or communicating with him or her by any means, for a period not exceeding five years from the date of expiry of the sentence to which he or she was sentenced, or from the date of the judicial decision where the custodial sentence was suspended or if he or she was sentenced only to a fine or an alternative sentence. [...]

2. The submission of the convicted person, during the period provided for in paragraph (1) above or during the execution of the custodial sentence, to appropriate psychological treatment. The judicial decision imposing the sentence may order the provisional execution of this measure notwithstanding any appeal procedures.

The court may definitively prohibit, by means of a reasoned decision, the convicted person from contacting the victim or approaching the place where he or she is located or from communicating with him or her.

[...]

Article 323-1

The penalty shall be imprisonment for a term of six months to two years and a fine of fine from 2,000 to 20,000 dirhams or one of these two penalties for any violation of the prohibition order, any contact, approach, communication with the victim by any means, or the refusal to submit to appropriate psychological treatment pursuant to Articles 88-1 and 88-3 above Article 323-2 Any violation of the protective measures referred to in article 82-5-2 of the Criminal Procedure Act shall be punishable by imprisonment for one to three months and a fine of 5,000 to 20,000 dirhams, or one of these two penalties. [...]

⁷⁴ Criminal Code, No. 70/2003 (17 December 2003, consolidated text), available at <http://www.pravda.gov.me/ResourceManager/FileDownload.aspx?rid=256001&rType=2&file=Krivi%C4%8Dni%20zakonik%20Crne%20Gore.pdf> (last visited 15 November 2019). Unofficial translation by Compendium team.

⁷⁵ Penal Code (*Code Pénal*), 26 November 1962 (consolidated to 15 September 2011), available at <https://www.refworld.org/docid/54294d164.html> (last visited 15 November 2019).

Article 503-1

Anyone who, by abusing the authority vested in him, harasses others by using orders, threats, coercion or any other means, in order to obtain favours of a sexual nature, is guilty of sexual harassment and is liable to imprisonment for a term of one to two years and a fine of between five thousand and fifty thousand dirhams.

Article 503-1-1

Anyone who persists in sexual harassing others in the following cases is guilty of sexual harassment and is liable to a prison term of one month to six months and a fine of 2,000 to 10,000 dirhams or one of these penalties:

1. In public or other spaces, by acts, words, gestures of a sexual nature or for sexual purposes;
2. By written, telephone or electronic messages, recordings or images of a sexual nature or for sexual purposes. [...]

Article 503-1-2-

The penalty is imprisonment from three to five years and a fine of 5,000 to 50,000 dirhams, if the sexual harassment is committed by an ascendant, a relative who is unable to marry the victim, a guardian, a person having authority over the victim, or his or her guardian, or a kafil, or if the victim is a minor.
[...]

Article 504

In all cases, the perpetrators of the offences provided for in this section may, in addition, be prohibited from exercising one or more of the rights referred to in Article 40 and from residing in the country for a period of at least five years and not more than ten years.

Attempting these offences is punishable by the same penalties as the offence committed.

[Employment Code, 2003](#) ⁷⁶

Chapter V - Suspension and termination of the employment contract

Section II

Modes of termination of the employment contract

Article 40

The following are considered as serious misconduct committed by the employer, the head of the company or establishment against the employee:

- severe insult;
- the practice of any form of violence or aggression directed against the employee;
- sexual harassment;
- incitement to indecency.

Is considered to be unfair dismissal, the fact that an employee leaves work because of one of the faults listed in this article, when it is established that the employer has committed one of these faults.

Article 41

⁷⁶ Employment Code, Law No. 1-03-194 (11 September 2003), available at <https://www.ilo.org/dyn/travail/docs/447/Maroc%20-%20Code%20travail.pdf>

(last visited 15 November 2019). Unofficial translation by Compendium team.

In the event of an unfair termination of the employment contract by one of the parties, the party harmed has the right to claim damages.

The parties may not waive in advance the right to claim damages resulting from a breach of contract, whether unlawful or not.

An employee dismissed for a reason that he considers unlawful may have recourse to the conciliation procedure provided for in article 532, paragraph 4, for the purposes of reinstating his position or obtaining damages.

In the event of payment of damages, the receipt of delivery of the amount is signed by the employee and the employer or his representative, the signatures duly legalized by the competent authority. It is also countersigned by the officer in charge of the labor inspectorate.

The agreement reached in the preliminary conciliation is deemed to be final and not subject to appeal to the courts.

In the absence of an agreement reached by means of preliminary conciliation, the employee has the right to apply to the competent court which may rule, in the case of an unfair dismissal of the employee, either the reinstatement of the employee in his post, or damages, the amount of which is fixed on the basis of the salary of one and a half months per year or fraction of a year of work without exceeding the 36-month limit.

[...]

Article 532

The labour inspection officers are responsible for:

- 1) ensuring the application of labour laws and regulations;
- 2) providing information and technical advice to employers and employees on the most effective ways to comply with legal requirements;
- 3) informing the government authority responsible for the work of any shortcomings of certain laws and regulations in force ;
- 4) attempting conciliation in matters of individual labour disputes.

These attempts at conciliation shall be recorded in minutes signed by the parties to the dispute and countersigned by the labour inspectorate officer. [...]

38 MOZAMBIQUE

[Criminal Code, 2014](#) ⁷⁷

Article 222. Special Aggravation

1. In the crimes referred to in this section, the penalties shall be replaced by the immediately superior if:

[...]

(b) the offender is a tutor, guardian, master or teacher of that person, or by any title has authority over the victim; or if the offender oversees the victim's education, direction or custody; or if the offender is a minister of any cult, or public servant whose duties depend on the victim's business;

(c) the offender is a domestic employee of the victim or his/her family, or if because of a professional title has influence over the victim;

[...]

⁷⁷ Criminal Code, (Código Penal). Law N. 35 (31 December 2014), available in Portuguese at http://www.wlsa.org.mz/wp-content/uploads/2014/11/Lei-35_2014Codigo_Penal.pdf (last visited 15 November 2019). Unofficial translation by Compendium team.

Article 224. Sexual harassment

1. The person who sexually harasses someone with promise of a benefit of any nature, will be punished with fine of up to ten minimum wages.
2. The person who, by abusing his/her authority, sexually harasses another person by giving orders, making threats or coercion to obtain favors or benefits of a sexual nature will be punished with a fine up to twenty minimum wages.
3. The person who harasses someone to obtain sexual advantage or favor, prevailing of his/her hierarchical status inherent to the exercise of employment, position or duty, by means of threat or coercion, will be punished with a fine of twenty to forty minimum wages.
4. It will incur in the same penalty as the previous paragraph, the person who commits the crime by:
 - a) taking advantage of domestic relations, cohabitation or hospitality;
 - b) abusing or breaching a duty inherent to the office or ministry.

[Labor Law, 2007](#)⁷⁸

Article 66. Disciplinary offences

[...]

2. Harassment, including sexual harassment, which interferes with the stability of employment or with the career progress of the offended employee, shall be treated as a disciplinary offence, whether it is committed in or out of the workplace.
3. Where the conduct referred to in the preceding paragraph is committed by the employer or the employer's agent, the offended employee shall be entitled to compensation in an amount of twenty times the minimum wage, without prejudice to any judicial cause of action under the applicable law.

39 MYANMAR

[Penal Code, 1861](#)⁷⁹

354. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

40 NAMIBIA

[Labour Act, 2007](#)⁸⁰

Definitions and interpretation

1. (1) In this Act, unless the context indicates otherwise –
[...]

⁷⁸ Labor Law, (Lei do Trabalho). Law N. 23 (1 August 2007) available in Portuguese at <https://www.mitess.gov.mz/sites/default/files/Lei%20%2023%202007%20de%201%20de%20Agosto%20-%20Lei%20do%20Trabalho%20%281%29.pdf> (last visited 15 November 2019). Unofficial translation by Compendium team.

⁷⁹ Penal Code, 1 May 1861, available at http://www.burmalibrary.org/docs6/MYANMAR_PENAL_CODE-corr.1.pdf (last visited 15 November 2019).

⁸⁰ Labour Act, Act No. 11 of 2007 (21 December 2007), available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/79050/96199/F447860608/NAM79050%202.pdf> (last visited 15 November 2019).

“employee” means an individual, other than an independent contractor, who –

- (a) works for another person and who receives, or is entitled to receive, remuneration for that work; or
- (b) in any manner assists in carrying on or conducting the business of an employer;

“employer” means any person, including the State who –

- (a) employs or provides work for, an individual and who remunerates or expressly or tacitly undertakes to remunerate that individual; or
- (b) permits an individual to assist that person in any manner in the carrying on, conducting that person’s business;

[...]

Prohibition of discrimination and sexual harassment in employment

5. (1) For the purposes of this section -

[...]

(7) For the purposes of subsections (8), (9) and (10) –

- (a) “employee” includes a prospective employee;
- (b) “sexual harassment” means any unwarranted conduct of a sexual nature towards an employee which constitutes a barrier to equality in employment where –
 - (i) the victim has made it known to the perpetrator that he or she finds the conduct offensive; or
 - (ii) the perpetrator should have reasonably realised that the conduct is regarded as unacceptable, taking into account the respective positions of the parties in the place of employment, the nature of their employment relationships and the nature of the place of employment.

(8) A person must not, in any employment decision or in the course of an employee's employment, directly or indirectly sexually harass an employee.

(9) Where sexual harassment is perpetrated by an employer against an employee, and that employee resigns as a result of the sexual harassment, that resignation constitutes a constructive dismissal.

(10) A constructive dismissal contemplated in subsection (9) may constitute unfair dismissal for the purposes of section 33, which entitles the employee to remedies available to an employee who has been unfairly dismissed.

[...]

Unfair dismissal

33. (1) An employer must not, whether notice is given or not, dismiss an employee –

- (a) without a valid and fair reason; and
- (b) without following –
 - (i) the procedures set out in section 34, if the dismissal arises from a reason set out in section 34 (1); or
 - (ii) subject to any code of good practice issued under section 137, a fair procedure, in any other case.

(2) It is unfair to dismiss an employee because the employee –

[...]

- (b) fails or refuses to do anything that an employer must not lawfully permit or require an employee to do;
- (c) exercises any right conferred by –
 - (i) this Act; or
 - (ii) the terms of the contract of employment or collective agreement;

[...]

(3) It is unfair to dismiss an employee because of such employee's sex, race, colour, ethnic origin, religion, creed or social or economic status, political opinion or marital status.

(4) In any proceedings concerning a dismissal –

(a) if the employee establishes the existence of the dismissal;

(b) it is presumed, unless the contrary is proved by the employer, that the dismissal is unfair.

41 NEPAL

[Gender Equality Act, 2006](#) ⁸¹

[...]

2. Amendment to the Country Code: In the Country Code (*Muluki Ain*),

[...]

(11) No. 1 of the Chapter on Intention to Sexual Intercourse has been substituted by the following No. 1,–
1 No. Whoever, without consent of a woman, touches or tries to touch her sensitive organ, removes or tries to remove her under garment, takes her to any solitary place in an unnatural manner, causes her to touch or catch his/her sexual organ or uses any sexually motivated word or symbol to her or shows to her such photographs or drawing, teases or harasses her with sexual motive or behaves with her in the like manner in an unnatural way or catches her with the motive to have sexual intercourse, it amounts to be sexual harassment and the person committing such an offence shall be liable to a punishment of imprisonment up to one years and a fine up to ten thousand rupees. The person victimized of such an act shall also cause to be paid reasonable amount of compensation from the offender."

Sexual Harassment at Workplace Prevention Act, 2015 ⁸²

42 NETHERLANDS

[Working Conditions Act, 1998](#) ⁸³

Chapter 1. Definitions and scope

Article 1

The following definitions apply to this Act and its provisions:

[...]

(a) Employer:

⁸¹ Gender Equality Act, 2063 (2006), available at <http://evaw-globaldatabase.unwomen.org/en/countries/asia/nepal/2006/gender-equality-act-2006> (last visited 15 November 2019).

⁸² Sexual Harassment at Workplace Prevention Act, 2071 (2015), see Annex 2.

⁸³ Working Conditions Act 1998 (Arbeidsomstandigheden Wet) (18 March 1998), available at <https://wetten.overheid.nl/BWBR0010346/2019-01-01> (last visited 15 November 2019). Unofficial translation by Compendium team.

1° the party on whose behalf another person is required to perform work in accordance with a contract of employment or an appointment under public law, except where the person is made available to a third party in order to perform work that the third party would normally make arrangements to have performed itself;

2° the party to which or to whom another person is made available to perform work as referred to in 1°;

(b) Employee: the other person referred to in (a).

Article 1.2

The following definitions also apply to this Act and its provisions:

(a) Employer:

1° the party which, without being an employer or employee as defined in paragraph one, has work performed by another person under his, her or its authority;

2° the party which, without being an employer or employee as defined in paragraph one, has work performed by another not under his, her or its authority in a dwelling, in cases to be designated by order in council;

(a) Employee: the other person referred to in (a), with the exception of persons carrying out voluntary work.

[...]

Article 1.3

[...]

(e) socio-psychological pressure in the workplace that causes stress: including sexual harassment, aggression and violence, bullying and work pressure.

(f) stress: a condition that negatively impacts on a person's physical, mental and social well-being

[...]

Article 3(2)

The employer shall implement a policy in relation to working conditions aimed at the preventing and / or limiting socio-psychological pressure in the work place.

[...]

Article 32

Employers are prohibited from performing or failing to perform actions that contravene this Act or the provisions contained in it if they are, or should reasonably be, aware of employees' lives being in danger and / or their health being at serious risk of injury.

Article 33

Violations

1. Failure to comply with articles 3, 4, first paragraph one, 5, 6, first paragraph, first sentence, 8, 9, first and second paragraph, articles 10, 11, 13, first paragraph and first sentence, and paragraphs 2 to 4, paragraph 7, under subparagraph (b), paragraph 9 and 10, article 14, first and second paragraph, (a) to (f), third paragraph, second sentence, paragraph 4 and 5, article 14(a), paragraphs 2 and 3, article 15, first and third paragraph, articles 18 and 19 is considered a violation.

2. Failure to comply with articles 6, first paragraph, second sentence, and article 16, paragraph 10, is also considered a violation, insofar as this failure to comply with the regulations and prohibitions referred to in these paragraphs is deemed to be a violation by order of the board.

3. No administrative fine can be imposed in relation to actions that are deemed offences by virtue of this Act [...].
[...]

43 NEW ZEALAND

[Human Rights Act, 1993](#)⁸⁴

62 Sexual harassment

(1) It shall be unlawful for any person (in the course of that person's involvement in any of the areas to which this subsection is applied by subsection (3)) to make a request of any other person for sexual intercourse, sexual contact, or other form of sexual activity which contains an implied or overt promise of preferential treatment or an implied or overt threat of detrimental treatment.

(2) It shall be unlawful for any person (in the course of that person's involvement in any of the areas to which this subsection is applied by subsection (3)) by the use of language (whether written or spoken) of a sexual nature, or of visual material of a sexual nature, or by physical behaviour of a sexual nature, to subject any other person to behaviour that—

(a) is unwelcome or offensive to that person (whether or not that is conveyed to the first-mentioned person); and

(b) is either repeated, or of such a significant nature, that it has a detrimental effect on that person in respect of any of the areas to which this subsection is applied by subsection (3).

(3) The areas to which subsections (1) and (2) apply are—

(a) the making of an application for employment:

(b) employment, which term includes unpaid work:

(c) participation in, or the making of an application for participation in, a partnership:

(d) membership, or the making of an application for membership, of an industrial union or professional or trade association:

(e) access to any approval, authorisation, or qualification:

(f) vocational training, or the making of an application for vocational training:

⁸⁴ Human Rights Act, Public Act No. 82 (10 August 1993, reprinted as at 1 July 2019), available at <http://www.legislation.govt.nz/act/public/1993/0082/latest/DLM304651.html> (last visited 15 November 2019).

- (g) access to places, vehicles, and facilities:
- (h) access to goods and services:
- (i) access to land, housing, or other accommodation:
- (j) education:
- (k) participation in fora for the exchange of ideas and information.

(3) Where a person complains of sexual harassment, no account shall be taken of any evidence of the person's sexual experience or reputation.

[...]

92 I. Remedies

(1) This section is subject to sections 92J and 92K (which relate to the only remedy that may be granted by the Tribunal if it finds that an enactment is in breach of Part 1A).

(2) In proceedings before the Human Rights Review Tribunal brought under section 92B(1) or (4) or section 92E, the plaintiff may seek any of the remedies described in subsection (3) that the plaintiff thinks fit.

(3) If, in proceedings referred to in subsection (2), the Tribunal is satisfied on the balance of probabilities that the defendant has committed a breach of Part 1A or Part 2 or the terms of a settlement of a complaint, the Tribunal may grant 1 or more of the following remedies:

- (a) a declaration that the defendant has committed a breach of Part 1A or Part 2 or the terms of a settlement of a complaint:
- (b) an order restraining the defendant from continuing or repeating the breach, or from engaging in, or causing or permitting others to engage in, conduct of the same kind as that constituting the breach, or conduct of any similar kind specified in the order:
- (c) damages in accordance with sections 92M to 92O:
- (d) an order that the defendant perform any acts specified in the order with a view to redressing any loss or damage suffered by the complainant or, as the case may be, the aggrieved person as a result of the breach:
- (e) a declaration that any contract entered into or performed in contravention of any provision of Part 1A or Part 2 is an illegal contract:
- (f) an order that the defendant undertake any specified training or any other programme, or implement any specified policy or programme, in order to assist or enable the defendant to comply with the provisions of this Act:
- (g) relief in accordance with subpart 5 of Part 2 of the Contract and Commercial Law Act 2017 in respect of any such contract to which the defendant and the complainant or, as the case may be, the aggrieved person are parties:
- (h) any other relief the Tribunal thinks fit.

(4) It is no defence to proceedings referred to in subsection (2) or subsection (5) that the breach was unintentional or without negligence on the part of the party against whom the complaint was made, but, subject to section 92P, the Tribunal must take the conduct of the parties into account in deciding what, if any, remedy to grant.

(5) In proceedings before the Human Rights Review Tribunal brought, under section 92B(3), by the person against whom a complaint was made, that person may seek a declaration that he or she has not committed

a breach of Part 1A or Part 2.

[...]

92M. Damages

(1) In any proceedings under section 92B(1) or (4) or section 92E, the Tribunal may award damages against the defendant for a breach of Part 1A or Part 2 or the terms of a settlement of a complaint in respect of any 1 or more of the following:

(a) pecuniary loss suffered as a result of, and expenses reasonably incurred by the complainant or, as the case may be, the aggrieved person for the purpose of, the transaction or activity out of which the breach arose:

(b) loss of any benefit, whether or not of a monetary kind, that the complainant or, as the case may be, the aggrieved person might reasonably have been expected to obtain but for the breach:

(c) humiliation, loss of dignity, and injury to the feelings of the complainant or, as the case may be, the aggrieved person.

(1) This section applies subject to sections 92J, 92N, and 92O and to subpart 1 of Part 2 of the Prisoners' and Victims' Claims Act 2005.

[...]

[Employment Relations Act, 2000](#) ⁸⁵

[...]

103. Personal grievance

(1) For the purposes of this Act, *personal grievance* means any grievance that an employee may have against the employee's employer or former employer because of a claim—

[...]

(d) that the employee has been sexually harassed in the employee's employment; or

[...]

(2) For the purposes of this Part, a *representative*, in relation to an employer and in relation to an alleged personal grievance, means a person—

(a) who is employed by that employer; and

(b) who either—

(i) has authority over the employee alleging the grievance; or

(ii) is in a position of authority over other employees in the workplace of the employee alleging the grievance.

(1) In subsection (1)(b), unjustifiable action by the employer does not include an action deriving solely from the interpretation, application, or operation, or disputed interpretation, application, or operation, of any provision of any employment agreement.

[...]

108. Sexual harassment

(1) For the purposes of sections 103(1)(d) and 123(d), an employee is *sexually harassed in that employee's employment* if that employee's employer or a representative of that employer—

⁸⁵ Employment Relations Act, 2000 (19 August 2000, as at 1 July 2019), available at <http://www.legislation.govt.nz/act/public/2000/0024/latest/DLM58317.html> (last visited 15 November 2019).

(a) directly or indirectly makes a request of that employee for sexual intercourse, sexual contact, or other form of sexual activity that contains—

- (i) an implied or overt promise of preferential treatment in that employee's employment; or
- (ii) an implied or overt threat of detrimental treatment in that employee's employment; or
- (iii) an implied or overt threat about the present or future employment status of that employee; or

(b) by—

- (i) the use of language (whether written or spoken) of a sexual nature; or
- (ii) the use of visual material of a sexual nature; or
- (iii) physical behaviour of a sexual nature,—

directly or indirectly subjects the employee to behaviour that is unwelcome or offensive to that employee (whether or not that is conveyed to the employer or representative) and that, either by its nature or through repetition, has a detrimental effect on that employee's employment, job performance, or job satisfaction.

(2) For the purposes of sections 103(1)(d) and 123(d), an employee is also *sexually harassed in that employee's employment* (whether by a co-employee or by a client or customer of the employer), if the circumstances described in section 117 have occurred.

[...]

116 Special provision where sexual harassment alleged

Where a personal grievance involves allegations of sexual harassment, no account may be taken of any evidence of the complainant's sexual experience or reputation.

117. Sexual or racial harassment by person other than employer

(1) This section applies where—

- (a) a request of the kind described in section 108(1)(a) is made to an employee by a person (not being a representative of the employer) who is in the employ of the employee's employer or who is a customer or client of the employer; or
- (b) an employee is subjected to behaviour of the kind described in section 108(1)(b) by a person (not being a representative of the employer) who is in the employ of the employee's employer or who is a customer or client of the employer; or
- (c) an employee is subjected to behaviour of the kind described in section 109 by a person (not being a representative of the employer) who is in the employ of the employee's employer or who is a customer or client of the employer.

(2) If this section applies, the employee may make a complaint about that request or behaviour to the employee's employer or to a representative of the employer.

(3) The employer or representative, on receiving a complaint under subsection (2), must inquire into the facts.

(4) If the employer or representative is satisfied that the request was made or that the behaviour took place, the employer or representative must take whatever steps are practicable to prevent any repetition of such a request or of such behaviour.

118 Sexual or racial harassment after steps not taken to prevent repetition

(1)

This section applies if—

(a) a person in relation to whom an employee has made a complaint under section 117(2) either—

- (i) makes to that employee after the complaint a request of the kind described in section 108(1)(a); or
- (ii) subjects that employee after the complaint to behaviour of the kind described in section

108(1)(b) or section 109; and

(b) the employer of that employee, or a representative of that employer, has not taken whatever steps are practicable to prevent the repetition of such a request or such behaviour.

(2) If this section applies, the employee is deemed for the purposes of this Act and for the purposes of any employment agreement to have a personal grievance by virtue of having been sexually harassed or racially harassed, as the case may be, in the course of the employee's employment as if the request or behaviour were that of the employee's employer.

[...]

123. Remedies

(1) Where the Authority or the court determines that an employee has a personal grievance, it may, in settling the grievance, provide for any 1 or more of the following remedies:

(a) reinstatement of the employee in the employee's former position or the placement of the employee in a position no less advantageous to the employee:

(b) the reimbursement to the employee of a sum equal to the whole or any part of the wages or other money lost by the employee as a result of the grievance:

(c) the payment to the employee of compensation by the employee's employer, including compensation for—

(i) humiliation, loss of dignity, and injury to the feelings of the employee; and

(ii) loss of any benefit, whether or not of a monetary kind, which the employee might reasonably have been expected to obtain if the personal grievance had not arisen:

(ca) if the Authority or the court finds that any workplace conduct or practices are a significant factor in the personal grievance, recommendations to the employer concerning the action the employer should take to prevent similar employment relationship problems occurring:

(d) if the Authority or the court finds an employee to have been sexually or racially harassed in the employee's employment, or treated adversely in the employee's employment on the ground that the employee is, or is suspected or assumed or believed to be, a person affected by family violence, recommendations to the employer—

(i) concerning the action the employer should take in respect of the person who made the request referred to in section 108(1)(a) or was guilty of the harassing behaviour or of the adverse treatment on that ground, which action may include the transfer of that person, the taking of disciplinary action against that person, or the taking of rehabilitative action in respect of that person:

(ii) about any other action that it is necessary for the employer to take to prevent further harassment, or adverse treatment on that ground, of the employee concerned or any other employee.

(2) When making an order under subsection (1)(b) or (c), the Authority or the court may order payment to the employee by instalments, but only if the financial position of the employer requires it.

[...]

128. Reimbursement

(1) This section applies where the Authority or the court determines, in respect of any employee,—

(a) that the employee has a personal grievance; and

(b) that the employee has lost remuneration as a result of the personal grievance.

(2) If this section applies then, subject to subsection (3) and section 124, the Authority must, whether or not it provides for any of the other remedies provided for in section 123, order the employer to pay to the employee the lesser of a sum equal to that lost remuneration or to 3 months' ordinary time remuneration.

(3) Despite subsection (2), the Authority may, in its discretion, order an employer to pay to an employee by way of compensation for remuneration lost by that employee as a result of the personal grievance, a sum greater than that to which an order under that subsection may relate.

[...]

44 NICARAGUA

[Criminal Code, 2007](#) ⁸⁶

Art. 174

“Sexual harassment

Those who repeatedly or using their position of power, authority or superiority demand, request for themselves or for a third party, any sexual act in exchange for promises, explicit or implicit, for a preferential treatment, or based on threats related to the current or future situation of the victim, will be punished with prison of one to three years.

When the victim is a person under eighteen years of age, the penalty shall be three to five years in prison.

[Integral Law on Violence against Women, 2014](#) ⁸⁷

[...]

Art. 2. Scope of the Law

This Law shall apply both in the public and private spheres to those who engage in violence against women one time, or repeatedly. The effects of this Law will be applicable to whomever is, or has been, linked by relationship of consanguinity, affinity, subject to guardianship, spouse, ex-spouse [...], as well as any other interpersonal relationship that can generate this kind of violence.

Violence in the public sphere is the one that, by malicious or reckless action or omission, takes place in the community, labor and institutional or any other environment, which is perpetrated against the rights of women by any person, by State authorities, or by public officials.

[...]

Art. 18. Obligation to report an act of sexual harassment

Any hierarchical authority in centers of employment, education or any other type, which has knowledge of sexual harassment events carried out by persons under their responsibility or authority and which has not reported them to the National Police or the Public Prosecutor, will be sanctioned with penalty of fifty to one hundred days fine.

45 NIGER

[Penal Code, 2003 \(As amended\)](#) ⁸⁸

[...]

⁸⁶ Penal Code (Código Penal), Law No. 641 (13 November 2007), available at http://www.oas.org/juridico/spanish/mesicic3_nic_codigo_penal.pdf (last visited 15 November 2019).

⁸⁷ Integral Law on Violence against Women (Ley Integral contra la Violencia hacia las Mujeres), No. 779 (20 January 2014), available at <http://extwprlegs1.fao.org/docs/pdf/nic138659.pdf> (last visited 15 November 2019). Unofficial translation by Compendium team.

⁸⁸ Penal Code, Law No. 2003-25 (13 June 2003, as amended by Law No. 2008-18), (Code Pénal du Niger 2003 tel qu’amendé par la loi no. 2008-18), available at [https://www.icrc.org/applic/ihl/ihlnat.nsf/0/3e747f82e6028e32c1257084002f7245/\\$FILE/Niger%20-%20Criminal%20Code%202008%20fr.pdf](https://www.icrc.org/applic/ihl/ihlnat.nsf/0/3e747f82e6028e32c1257084002f7245/$FILE/Niger%20-%20Criminal%20Code%202008%20fr.pdf) (last visited 15 November 2019).

Art 281.1. - Harassing others by means of order, threats or coercion for the purpose of obtaining favors of a sexual nature is punishable by imprisonment for 3 to 6 months and a fine of 10,000 to 100,000 francs. If the harassment is the act of a person abusing the authority conferred upon him by his duties, the imprisonment shall be from 3 months to one year and the fine from 20,000 to 200,000 francs.

[...]

[Labor Code, 1996 \(as amended\)](#)⁸⁹

[...]

Article 45: Sexual harassment is prohibited in the course of work, by abuse of authority, for the purpose of obtaining favors of a sexual nature from others.

[...]

[Decree No. 2017-682, 2017](#)⁹⁰

Art.122.- Sexual harassment, in the context of the performance of the employment contract, which consists of obtaining from others by order, intimidation, act, gesture, threat or coercion, favors of a sexual nature, as well as any other conduct of a sexual nature, with the effect of creating an intimidating, hostile or humiliating working environment for a person, is prohibited.

The employer must take all the necessary measures to prevent acts of sexual harassment.

No worker may be punished, or subjected to discrimination for having been a witness to acts of sexual harassment or for reporting them.

46 NIGERIA

[Criminal Law of Lagos State, 1998](#)⁹¹

Chapter 25 – Sexual Offences

Sexual Harassment

Section 262.

(1) Any person who sexually harasses another is guilty of a felony and is liable to imprisonment for three years.

⁸⁹ Labor Code, Law No. 2012-45 (25 September 2012), (LOI N° 2012-45 du 25 septembre 2012 portant Code du travail de la République du Niger), available at <http://www.ilo.org/dyn/natlex/docs/MONOGRAPH/91382/105953/F1917393249/NER-91382.pdf> (last visited 15 November 2019). Unofficial translation by Compendium team.

⁹⁰ Decree No. 2017-682/PRN/MET/PS in regulation of the Labor Code (10 August 2017), (Décret n°2017-682/PRN/MET/PS du 10 août 2017 portant partie réglementaire du Code du Travail), available at <https://www.droit-afrique.com/uploads/Niger-Decret-2017-682-application-code-du-travail.pdf> (last visited 15 November 2019). Unofficial translation by Compendium Team.

⁹¹ Criminal Law of Lagos State, Law No.4 of 1998, available at http://lagosministryofjustice.org/wp-content/themes/moj/documents/CRIMINAL_CONDUCT.pdf (last visited 15 November 2019).

(2) Sexual harassment is unwelcome sexual advances, request for sexual favours, and other visual, verbal or physical conduct of a sexual nature which when submitted to or rejected –

(a) implicitly or explicitly affects a person's employment or educational opportunity or unreasonably interferes with the person's work or educational performance;

(b) implicitly or explicitly suggests that submission to or rejection of the conduct will be a factor in academic or employment decisions; or

(c) creates an intimidating, hostile or offensive learning or working environment.

[Criminal Code Act, 1990](#) ⁹²

Chapter 21 - Offences against Morality

Section 224

Any person who-

- (1) by threats or intimidation of any kind procures a woman or girl, to have unlawful carnal connection with a man, either in Nigeria or elsewhere; or
- (2) by any false pretence procures a woman or girl to have unlawful carnal connection with a man, either in Nigeria or elsewhere; or
- (3) administers to a woman or girl, or causes a woman or girl to take, any drug or other thing with intent to stupefy or overpower her in order to enable any man, whether a particular man or not, to have unlawful carnal knowledge of her;

is guilty of a misdemeanour, and is liable to imprisonment for two years.

A person cannot be convicted of any of the offences defined in this section upon the uncorroborated testimony of one witness.

47 NORTH MACEDONIA, REP. OF

[Law on Protection Against Harassment at the Workplace, 2013](#) ⁹³

Object of the Law

Article 1

This law regulates the rights, obligations and responsibilities of employers and employees regarding the prevention of psychological and sexual harassment at the workplace (hereinafter: harassment at the

⁹² Criminal Code Act (CH. 7), Laws of the Federation of Nigeria, available at <http://www.nigeria-law.org/Criminal%20Code%20Act-Tables.htm> (last visited 15 November 2019).

⁹³ Law on Protection Against Harassment at the Workplace, 29 May 2013, available at <http://www.fmu.ukim.edu.mk/Data/Documents/zakonzashita.pdf> (last visited 15 November 2019).

workplace), measures and procedures for protection against harassment at work, and other issues related to the prevention and protection of harassment at the workplace.

Purpose of the Law

Article 2

The purpose of the Law is to prevent and protect against psychological and sexual harassment in the workplace, i.e. the place of work and ensuring a healthy working environment.

Application of the Law

Article 3

(1) This Law shall apply to employers, employees, candidates for employment, as well as to persons contracted to participate in the work of the employer.

(2) Employer is any legal entity and natural person, as well as any other entity (state authority body, body of local self-government unit, foreign company subsidiary, diplomatic and consular mission), which employs workers on the basis of an employment contract.

[...]

(3) This Law shall apply to all types of psychological and workplace sexual harassment.

Prohibition of harassment at work

Article 4

Any type of harassment at work, as well as abuse of rights, is prohibited.

Mental and sexual harassment at work

Article 5

(1) Mental harassment in the workplace, within the meaning of this Law, is any negative behavior by an individual or group that is repeated, continuous and systematic and constitutes a violation of the dignity, integrity, reputation and honor of the employee, causes a sense of fear, or creates discomfort, humiliation, the ultimate result of which may be harm to the physical and mental health, compromising the employee's professional future, or causing termination of employment, or dismissal.

(2) Sexual harassment, within the meaning of this Law, is any verbal, non-verbal, or physical conduct of a sexual nature aimed at, or constituting a violation of, the dignity of the candidate for employment or of the employee, which causes a sense of fear, discomfort, or humiliation.

(3) The conduct referred to in paragraphs (1) and (2) of this Article shall be considered as psychological or sexual harassment in the workplace, when it has not ceased after the written warning by the harassed person that the conduct of the harasser is disturbing and it is deemed to be harassment in the workplace.

(4) Harassment at the workplace shall also be to encourage or induce conduct within the meaning of paragraphs (1) and (2) of this Article.

Article 6

(1) The perpetrator of harassment in the workplace may be one or more persons carrying out the behavior irrespective of their status - employer in the capacity of natural person, responsible person of the employer, legal entity, employee or group of employees under the employer or third party with whom the employee or employer comes into contact in the course of work.

(2) The terms perpetrator of harassment at the workplace and harassed person used in this Law shall have a neutral meaning and shall apply to both women and men.

Place and time of harassment at work

Article 7

(1) The place where psychological and sexual harassment at the workplace is carried out may be the workplace where the employee who is subjected to harassment normally works or the place where the employee is directed to work by the employer.

(2) The place / places where the employee who is subjected to harassment during his / her habitual arrival and departure from the workplace may also be considered to be [the place where the conduct takes place] only in the case of psychological and sexual harassment performed by an employee of the same employer or another person working with the same employer traveling or moving together or in close proximity to the employee [...].

(3) The time of committing psychological and sexual harassment in the workplace shall be the time within the working hours and the time of travel to and from the workplace, when the type and manner of conduct considered as harassment in the workplace takes place.

[...]

General rules for employer and employee conduct at work

Article 9

(1) The employer, the employee, as well as the persons engaged in contracts that participate in the work of the employer, shall be obliged to conduct their work in a manner that respects the dignity, integrity and reputation of the employees by respecting the rules of the work conduct and discipline and the general rules of conduct referred to in paragraphs (2) and (3) of this Article.

(2) The employer during the work should:

- provide conditions under which the work will be carried out in an atmosphere of mutual exchange, respect, cooperation, without hostile, humiliating or offensive behavior,
- develops awareness among employees of the need for mutual respect and teamwork in the performance of their tasks, and
- allow employees the right to express their views, opinions and proposals regarding work performance in the workplace, thereby preventing employees from suffering harmful consequences.

(3) The employee, as well as the persons engaged in contracts that participate in the work with the employer during the work should:

- treat other employees and the employer fairly, decently and with dignity,
- contribute to the creation of a work environment with no change in the workplace, and
- contribute to the prevention and prevention of harassment in the workplace.

II. EMPLOYER'S RIGHTS, OBLIGATIONS AND RESPONSIBILITIES

Preventive measures for protection against harassment at work

Article 10

(1) The employer shall be obliged to provide the employee with a job in a healthy working environment under conditions which ensure respect for his dignity, integrity and health.

(2) The employer shall be obliged to take the necessary measures for prevention and protection of the employee and the persons engaged in contracts that participate in the work with the employer from harassment in the workplace, in accordance with law.

Information to the employee

Article 11

The employer is obliged to familiarize the employee with the measures and procedures related to the protection against harassment at the workplace and with the rights, obligations and responsibilities of the employer and the employee during the employment and during the work.

Designation of an intermediary

Article 12

(1) A mediator is a neutral person who mediates between the parties in order to resolve their disputed relationship.

(2) The mediator shall be selected from the list of intermediaries determined by the employer from among the employees.

(3) The employer employing 50 or more employees is obliged to compile a list of mediators that will mediate between the parties in case of harassment at the workplace.

[...]

(5) The mediator shall be obliged to act independently and impartially.

(6) The mediator referred to in paragraphs (3) and (4) of this Article may not be a mediator if he is proposed as a witness in the mediation procedure.

(7) In the event that the employer as a natural person is charged with harassment at the workplace, the employee exposed to harassment may institute legal proceedings for the protection of harassment at the workplace before a competent court.

[...]

III. RIGHTS, OBLIGATIONS AND RESPONSIBILITIES OF EMPLOYEES

Protection against harassment at work

Article 14

Employees and persons contracted to participate in the work of the employer shall have the right to protection from harassment at the workplace and shall be obliged to inform the employer if they notice harassment at the workplace.

Workplace harassment findings

Article 15

An employee and a person engaged in an employment contract with an employer when he or she becomes aware of conduct that he or she considers as harassment in the workplace has the right to institute a workplace harassment procedure pursuant to this law.

Abuse of Rights

Article 16

Abuse of harassment rights at work is done by an employee who knew or had to know that there are no grounds for instituting a workplace harassment procedure and initiated or initiated such a procedure in order to obtain for himself or others material or immaterial gain or harm to a third party.

Prior Procedure

Article 17

The employee or the person engaged in an employment contract with an employer who considers himself or herself to be harassed in the workplace should address the person whom they consider to be the harasser in writing and advise him or her that their conduct is inappropriate, unacceptable and undesirable, with a view to resolving the situation without instituting a procedure for protection against harassment in the workplace and to warn that they will seek legal protection if such conduct does not cease immediately.

Initiation of a procedure

Article 18

(1) An employee or a person in an employment contract with an employer who considers himself or herself the subject of harassment shall, before filing a lawsuit with a competent court, submit a written application for protection against harassment to the employer in accordance with this Law.

[...]

Submission of a complaint

Article 19

(1) The request referred to in Article 18 paragraph (1) of this Law shall be submitted to the responsible person at the employer in the capacity of a legal person (director or other authorized person), or to the employer in the capacity of a natural person or other person authorized by them (hereinafter: authorized person).

(2) The authorization referred to in paragraph (1) of this Article shall be given in writing.

(3) The request referred to in Article 18 paragraph (1) of this Law may also be submitted by a trade union representative, a person responsible for occupational safety and health or human resources management and an employee representative, upon written consent of the employee who considers that he is exposed to workplace harassment.

[...]

Deadline for submitting a complaint

Article 21

(1) The request referred to in Article 18 paragraph (1) of this Law may be submitted no later than six months from the day on which the conduct of harassment at the workplace was last performed.

[...]

Selection of a mediator

Article 22

(1) The employer or the responsible person of the employer shall be obliged to propose to the parties immediately, and within eight days from the day of receipt of the request for protection from harassment at work mediation as a way of resolving the disputed relationship and proposes to elect a person from the list of intermediaries referred to in Article 12 paragraph (3) of this Law.

[...]

Conduct of mediation procedure

Article 23

(1) The procedure of mediation with the employer is urgent.

(2) The mediator shall be obliged to act independently and impartially in order to assist the parties in reaching an agreement.

(3) A representative of the trade union in which the employee is a member or a representative of the employees may also participate in the mediation procedure, at the request of the parties.

(4) The mediation procedure shall be closed to the public.

(5) The data collected during the procedure may be communicated only to the participants in the procedure.

(6) The disclosure of data obtained during the mediation procedure constitutes a breach of the work obligations.

[...]

Successful mediation

Article 25

(2) If the mediation procedure is successful, ie the parties have reached an agreement, the mediator shall, within three days of the completion of the mediation procedure, draw up an agreement containing recommendations for the perpetrator and the employer on the termination of the harassment, and on how to eliminate the possibility of continuing harassment at the workplace, relocating the employee to another workplace, or to another location.

(3) The agreement shall be signed by both parties and the mediator.

(4) The employer shall be obliged to comply with the recommendations referred to in paragraph (2) of this Article.

Unsuccessful mediation

Article 26

(1) If the parties to the mediation procedure fail to reach an agreement on cessation of harassment at the workplace, the mediator shall be obliged, within three days of the completion of the mediation procedure, to prepare a written notification that no agreement has been reached, i.e. that the mediation has failed.

(2) Written notification of unsuccessful mediation shall be submitted to both parties and to the employer.

Termination of the procedure

Article 27

(1) If during the mediation procedure the parties by written statement give up the further conduct of the procedure, the mediator shall be obliged within three days of receiving the statements to reach a conclusion of termination of the procedure.

(2) The mediator shall deliver the conclusion to both parties and to the employer.

Prevention of harassment at work until the end of the procedure

Article 28

If the employee who considers that he / she is exposed to harassment in the workplace, in the opinion of an authorized health institution that performs occupational medicine, is in a state of [poor] health due to harassment at the workplace, the employer is obliged to complete the procedure for protection against harassment and temporary transfer of the employee to another workplace.

Measures for determining the liability of the employee

Article 29

(1) The employer may impose one of the measures for violation of the work order and discipline, that is, violation of the work obligations, in accordance with the law, to an employee who performs harassment or abuse of the right to protection from harassment at the workplace.

(2) If the employee [...] has performed harassment again within six months, the employer may cancel the employment contract or impose on him termination of employment in accordance with law.

Protection of the participants in the procedure

Article 30

Initiation of a procedure for protection against harassment at the workplace, as well as participation in that procedure as a witness, cannot be ground for putting the employee at a disadvantage in terms of exercising his / her rights and obligations from employment, initiating a procedure for determining disciplinary, material and other liability of the employee, cancellation of the employment contract, ie termination of employment of the employee for business reasons, within two years from the day when the procedure for protection against harassment is initiated or from the day he participated as a witness in the workplace harassment procedure.

V. COURT PROTECTION

Lawsuit

Article 31

(1) An employee who considers himself or herself to be exposed to harassment at the workplace and who is not satisfied with the outcome of the workplace harassment protection procedure at the employer may file a lawsuit with the competent court.

(2) Disputes initiated pursuant to this Law shall have the nature of labor disputes.

(3) The provisions of the Law on Civil Procedure shall apply in the procedure following the disputes referred to in paragraph (2) of this Article.

Types of lawsuit

Article 32

With the lawsuit referred to in Article 31 paragraph (1) of this Law, the employee who considers that he / she is exposed to harassment in the workplace may request:

- ascertainment that he has suffered harassment at the workplace,
- prohibition of conduct that constitutes harassment at work, i.e. prohibition of repetition of harassment at work,
- action to eliminate the consequences of harassment in the workplace, and
- compensation for material and non-pecuniary damage caused by harassment at the workplace.

Burden of proof

Article 33

If in the course of the proceedings [...] the burden of proving that there was no specific conduct constituting workplace harassment rests with the defendant.

Temporary measures

Article 34

(1) Before the commencement or during the procedure, the court may, upon proposal of the party, order interim measures to prevent violent behavior or to remove irreparable damage.

(2) The temporary measures referred to in paragraph (1) of this Article shall include:

- a ban on approaching the employee's workplace; and
- Prohibition of telephone and any other communication (verbal or electronic).

(3) The appeal against the decision referred to in paragraph (1) of this Article shall not suspend execution of the decision.

VI. INSPECTION SUPERVISION

Article 35

Inspection supervision over the implementation of this law shall be performed by the body of the state administration responsible for the affairs of the labor inspection.

VII. MISCELLANEOUS PROVISIONS

Article 36

(1) Fine in the amount of Euro 5,000 to 6,000 in Denar shall be imposed on the employer-legal entity for misdemeanor if it:

- 1) performs harassment at the workplace and abuses the right to protection from harassment at the workplace (Article 4);
 - 2) fails to take the necessary preventive and other measures to protect the employee from harassment at the workplace (Article 10);
 - 3) fails to inform the employee prior to his / her employment and the employees who are employed about the prohibition of harassment at work, the obligations and responsibilities regarding harassment at work, the manner and possibilities for protection (Article 11);
 - 4) fails to select an intermediary who will mediate between the parties for protection against harassment when employing 50 or more employees (Article 12 paragraph (3));
 - 5) fails to comply with the recommendations made by the mediator (Article 25, paragraph (4));
 - 6) acts contrary to the provisions of this Law to protect participants in the procedure for protection against harassment at the workplace (Article 30);
 - 7) does not temporarily transfer the employee to another room or working environment (Article 28).
- (2) Fine in the amount of Euro 3,000 to 4,000 in Denar shall be imposed on the Director or other responsible person of the employer for the misdemeanor referred to in paragraph (1) of this Article.
- (3) Fine in the amount of Euro 1,000 to 2,000 in Denar shall be imposed on the employer - natural person for the misdemeanor referred to in paragraph (1) of this Article.

Article 37

The misdemeanor procedure referred to in Article 36 of this Law is conducted and the sanctions are pronounced by the competent court.

VIII. TRANSITIONAL AND FINAL PROVISIONS

Deadline for acquainting employees with the prohibition of harassment in the workplace

Article 38

The employer is obliged to inform the employees about the prohibition on harassment at work, the obligations regarding the ban on harassment at work, the manner and the possibilities for protection within three months from the day of entry into force of this law.

Deadline for compiling a list of intermediaries

Article 39

The employer is obliged to compile a list of intermediaries in accordance with Article 12 of this Law within 30 days from the day this Law enters into force.

[...]

[Law on Prevention of and Protection Against Discrimination, 2010](#) ⁹⁴

I. GENERAL PROVISIONS

[...]

Application of the Law

⁹⁴ Law on Prevention of and Protection Against Discrimination (Official Gazette of the Republic of Macedonia nos. 50/2010, 44/2014, 150/2015, 31/2016 and 21/2018), available at <https://www.refworld.org/pdfid/5aa12ad47.pdf> (last visited 15 November 2019).

Article 2

The protection and prohibition against discrimination shall apply to all-natural persons and legal entities in the process of exercising the rights and freedoms guaranteed by the Constitution and the laws of the Republic of Macedonia. Grounds of discrimination

Article 3

Any direct or indirect discrimination, call for and incitement to discrimination, and assistance in discriminatory treatment on the basis of sex, race, color, gender, belonging to a marginalized group, ethnic origin, language, nationality, social background, religion or religious beliefs, other types of beliefs, education, political affiliation, personal or social status, mental and physical impediment, age, family or marital status, property status, health condition or any other basis anticipated by a law or ratified international agreement (hereinafter: discriminatory ground) shall be prohibited.

[...]

Article 7

(1) Harassment and humiliating treatment shall be a violation of the dignity of a person or a group of persons that results from a discriminatory ground and is aimed at or results in a violation of the dignity of a particular person or creation of an intimidating, hostile, humiliating or offensive environment, approach or practice.

(2) Sexual harassment shall be any unwanted behavior of sexual nature, manifested physically, verbally, or in any other manner, aimed at or resulting in violation of the dignity of a person, especially when creating a hostile, intimidating, degrading, or humiliating environment.

[...]

Carrying out documentation inspection

Article 32

When carrying out the activities within its competence, the Commission may carry out a direct inspection in the documentation of the state bodies, the bodies of the local self-government units, the other bodies and organizations exercising public authorizations as well as of public institutions and services having at disposal data and information on cases of discrimination.

Cooperation with the Ombudsman

Article 33

When carrying out activities within its competence, the Commission shall cooperate with the Ombudsman in particular cases of discrimination.

VI. COURT PROTECTION

Court competence and procedure

Article 34

(1) The person considering some right has been infringed because of discrimination is entitled to submit a lawsuit in a competent court.

- (2) The provisions from the law on litigation procedures are adequately applied for the procedure.
- (3) The procedure is urgent.

Local competence

Article 35

In addition to the court of general local competence, the court within the area of which the head office, i.e., the place of residence of the plaintiff, is located shall have local competence in the procedure for protection against discrimination.

Lawsuit

Article 36

(1) With the lawsuit from Article 34 paragraph (1) of this law, the following may be requested:

- 1) to be determined that the defendant violated the right of the plaintiff to equal treatment, i.e., the action that he/she has undertaken or overlooked may directly lead to violation of the right to equality in the acting;
- 2) to prohibit undertaking actions violating or actions that may violate the right of the plaintiff to equal treatment, i.e., to perform actions for eliminating the discrimination or its consequences;
- 3) to compensate for the tangible and intangible damage caused by violating the rights protected by this law, and
- 4) to announce the verdict in which one determines the violation of the rights to equal treatment in the media at the expense of the defendant. Official Journal of RM, no. 50 from 13.04.2010 11 of 13 (2) The demands from paragraph (1) of this Article may be emphasized along with the demands for protection of other rights which are being resolved in litigation procedure, if all demands are interconnected and if the same court is really competent for them, regardless of the fact whether for these demands one has regulated to be resolved in general or in particular litigation procedure.

Insurance measures

Article 37

- (1) Before initiation or during the procedure, on occasion of the lawsuit request from Article 36 paragraph (1) of this law, the court on the proposal of the party may provide insurance measures.
- (2) By submitting the proposal for insurance measures it is necessary:
 - for the submitter of the demand to have made probable that his/her right to equal treatment has been violated; and
 - for the determination of the measure to be necessary due to removal of the danger from irrecoverable damage, especially massive violations of the rights to equal treatment or prevention of violence.
- (3) For measures from paragraph (1) of this Article shall decide the court competent for the lawsuit in a manner and procedure determined by law.

Claim-burden of proof

Article 38

(1) If the party in a court proceeding shall claim that under the provisions of this law, his/her right to equal treatment has been violated, he/she is obliged to state all the facts and evidence justifying his/her claim. Providing evidence that there has been no discrimination is on the burden of the opposing party.

(2) The provision from paragraph (1) of this Article shall not be applied in misdemeanor and criminal procedure.

[...]

Joint lawsuit for protection against discrimination

Article 41

(1) Associations and foundations, institutions or other organizations from the civil society which have justified interest in the protection of the collective interests of a certain group or within the framework of their activity deal with protection of the rights to equal treatment, may file a lawsuit and act as co-litigants against the person who has violated the right to equal treatment in the procedure with the court, provided that they render probable that the right to equal treatment of greater number of persons has been violated by the treatment of the defendant.

(2) In the scope of the lawsuit referred to in paragraph (1) of this Article a request may be raised: 1) to determine that the treatment of the defendant has violated the equal treatment in respect to the members of the group;

2) to prohibit the undertaking of activities which violate or may violate the equal treatment, i.e. to carry out activities that eliminate the discrimination or its consequences in respect to the members of the group, and

3) to announce in the media the verdict whereby violation of the right to equal treatment is determined, at the expense of the defendant.

(3) Other provisions of this Law referring to the lawsuits referred to in Article 36 paragraph (1) of this Law, shall accordingly apply to the lawsuit referred to in paragraph (1) of this Article.

(4) The lawsuit referred to in paragraph (1) of this Article shall be allowed, provided that the person claiming to be discriminated concurs.

VII. MISDEMEANOR PROVISIONS

[...]

Article 43

(1) Fine in the amount of Euro 1.000 in Dinar counter value shall be imposed for the misdemeanor on the legal entity, that is, sole proprietor which violates the dignity of a particular person or creates an intimidating, hostile, humiliating or offensive environment, approach or practice (Article 7).

(2) Fine in the amount of 30% of the determined fine for the legal entity, that is, sole proprietor shall be imposed for the misdemeanor referred to in paragraph (1) of this Article on the responsible person in the legal entity, that is, on the responsible person in the sole proprietor. (3) Fine in the amount of Euro 80 to 120 in Denar counter value shall be imposed for the misdemeanor referred to in paragraph (1) of this Article on the functionary in a state body, body of the self-government unit or on an authorized person in the legal entity entrusted with public powers.

(3) Fine in the amount of Euro 70 to 110 in Denar counter value shall be imposed for the misdemeanor referred to in paragraph (1) of this Article on the legal entity.

Article 44

(1) Fine in the amount of Euro 1.000 in Denar counter value shall be imposed for the misdemeanor on a legal entity, that is, sole proprietor which places in an unfavorable position the person who has reported discrimination or in any other manner has participated in the discrimination procedure (Article 10).

(2) Fine in the amount of 30% of the determined fine for the legal entity, that is, sole proprietor shall be imposed for the misdemeanor referred to in paragraph (1) of this Article on the responsible person in the legal entity, that is, on the responsible person in the sole proprietor.

(3) Fine in the amount of Euro 80 to 120 in Denar counter value shall be imposed for the misdemeanor referred to in paragraph (1) of this Article on the functionary in a state body, body of the self-government unit or on an authorized person in the legal entity entrusted with public powers.

(3) Fine in the amount of Euro 70 to 110 in Denar counter value shall be imposed for the misdemeanor referred to in paragraph (1) of this Article on the legal entity

Article 45

Fine in the amount of Euro 70 to 110 in Dinar counter value shall be imposed on the official person in the legal entity, a state body or a body of the local self-government unit if, on a request of the Commission, the person fails to submit data on the discrimination or does not allow inspection in a document within a time period of 30 days (Article 31 and 32).

Article 45-a

The amount of the fine for the legal entity that is, sole proprietor, shall be determined under the Law on Misdemeanors.

Article 45-b

Regarding the misdemeanor determined by this law, a misdemeanor procedure shall be conducted, and the competent court shall impose a misdemeanor sanction.

[...]

[Law on Equal Opportunities for Women and Men, 2015](#) ⁹⁵

1. GENERAL PROVISIONS

[...]

Aim of the Law

Article 2

(1) The aim of this Law shall be the establishment of equal opportunities for women and men in the political, economic, social, educational, cultural, health, civil and any other sphere of the social life.

(2) The establishment of equal opportunities shall be a concern of the entire society, i.e., of all entities in the public and private sector and shall constitute the elimination of the obstacles and creation of conditions for the achievement of full equality between women and men.

Application of the Law

Article 3

⁹⁵ Law on Equal Opportunities for Women and Men, 2015, available at <https://www.refworld.org/pdfid/44b26f664.pdf> and http://www.mtsp.gov.mk/WBStorage/Files/zem_2012.pdf (last visited 15 November 2019).

(1) This Law shall apply to the public and private sector in the spheres referred to in Article 1 paragraph (2) of this Law.

(2) Entities that establish equal opportunities and equal treatment of women and men shall be the bodies of the legislative, executive and judiciary authority, the local self-government units and other bodies and organizations of the public and private sector, public enterprises, political parties, mass media, and civil sector, and all the entities providing goods and services available to the public and offered outside the area of private and family life and the transactions carried out in that context, regardless whether the referred entity is part of the public or private sector.

(3) Discrimination, harassment and sexual harassment on the grounds of gender shall be prohibited in the public and private sector in the spheres of employment and labor, education, science and sports, social security, including the social protection, pension and disability insurance, health insurance and health protection, judiciary and administration, housing, public information and media, information and communication technologies, defense and security, membership and active participation in union organizations, political parties, associations and foundations, other membership-based organizations, culture and other spheres defined by this or another law.

Definitions

Article 4

The terms used in this Law shall have the following meaning:

[...]

7. Gender-based sexual harassment is any unwanted verbal, nonverbal, or physical behavior of sexual nature, aimed at or resulting in violation of the dignity of a person, especially when intimidating, hostile, degrading, the humiliating, or offensive atmosphere is created.

[...]

4. ENTITIES RESPONSIBLE FOR ADOPTION AND IMPLEMENTATION OF THE MEASURES DIRECTED TOWARDS ESTABLISHMENT OF EQUAL OPPORTUNITIES FOR WOMEN AND MEN AND THEIR OBLIGATIONS

[...]

The Ombudsman

Article 13

The Ombudsman shall, within its legally determined competence, be responsible for the exercise of the equal opportunities through legal protection of the equal opportunities for women and men in the cases of violation or limitation of someone's rights by a state administrative body or by other bodies or legal entities and natural persons that have been vested with public authorizations.

[...]

6. LEGAL PROTECTION OF THE RIGHT TO EQUAL TREATMENT FOR WOMEN AND MEN

Competent entities for protection of the right to equal treatment

Article 20

The protection of the right to equal treatment on the grounds of gender shall be achieved by submission of a complaint with: - a representative in accordance with this Law or - the Ombudsman or - the Commission for Protection Against Discrimination or - a competent court.

Legal representative

Article 21

- (1) The person whose right to equal treatment on the grounds of gender has been violated may file a complaint with the Ministry.
- (2) The procedure in the Ministry shall be conducted by the representative.
- (3) The representative shall be a civil servant employed in the Ministry and responsible for conducting a procedure for determination of unequal treatment of women and men.

Filing a complaint

Article 22

- (1) Any legal entity or natural person may file a complaint, personally or through an attorney-in-fact, in writing, orally to the minutes or in another form, by fax, or by e-mail.
- (2) The complaint filed by phone should also be submitted in writing within eight days.
- (3) An official note shall be composed of the orally filed complaint.
- (4) The complaint shall contain personal data on the person filing it, data on the entity (legal or natural) to whom the complaint refers, circumstances and facts on which the complaint is based, data on the legal instruments previously exhausted by the person filing it (if any) and signature of the person filing it.
- (5) Anonymous complaints shall not be reviewed.
- (6) The person filing the complaint shall be exempted from payment of administrative fee and another charge.

Article 23

- (1) The complaint shall be filed within six months as of the day of acknowledgment about the act of discrimination or within one year as of the commission of the violation at the latest.
- (2) If the complaint is incomprehensible and does not contain the necessary facts by which the act or action of discrimination may be confirmed, the representative may require from the person filing the complaint to clarify it and to amend it within 15 days as of the day the amendment is required. Non-initiation of a procedure

Article 24

- (1) The representative shall not initiate a procedure upon a filed complaint, provided that it is undoubtedly clear that there is no violation of the right as invoked by the person filing the complaint, i.e. gender-based discrimination, if he/she has already acted upon the same case and no new proofs and facts have been offered, if the time period for filing the complaint has expired, if the complaint is anonymous, if a procedure has already been initiated for the same case with a competent court, or a legally valid court decision has been adopted.
- (2) When the representative fails to initiate a procedure upon the complaint under paragraph (1) of this Article, he/she shall be obliged to notify the person filing the complaint within 15 days as of the day of filing the complaint and shall explain the reasons for no initiation. Initiation of a procedure

Article 25

- (1) The representative may initiate a procedure upon his/her initiative.
- (2) The regulations on personal data protection shall apply in the course of conducting the referred procedure.

Determination of the actual condition

Article 26

- (1) Upon the receipt of the complaint, the representative shall determine the actual condition by inspecting the submitted documents, taking written or oral statements from the person filing the complaint, from the

person against whom the complaint is filed, as well as from other persons considered to dispose of with information about the particular case.

(2) The filed complaint shall be submitted to the person against whom it is directed within five working days as of the day of initiation of the procedure for it to declare upon the allegations therein within 15 days as of its receipt.

Article 27

The legal entities and natural persons shall be obliged, upon a request of the representative, to submit the data they have at their disposal about particular cases of discrimination, as well as to allow direct inspection in the documentation within 30 days as of the submission of the request.

Duration of the procedure

Article 28

The representative shall conduct the procedure and prepare an opinion in writing within 90 days as of the receipt of the complaint.

Opinion and recommendation

Article 29

(1) The opinion shall contain an explanation of the unequal treatment on the grounds of gender and a recommendation for the manner of elimination of the violation of the right.

(2) The qualified opinion shall be submitted to the Minister of Labor and Social Policy.

(3) The opinion shall also be submitted to the person filing the complaint, the person against whom the complaint is filed, and to other legal entities and natural persons included in the procedure within eight days as of the preparation.

(4) The person to whom the recommendation is addressed shall be obliged to act upon it and to eliminate the violation of the right within 30 days as of the receipt of the opinion and notify the representative thereof.

Omission to act upon a recommendation

Article 30

If the person to whom the recommendation is directed does not act upon it, i.e., does not eliminate the violation of the right, the representative may initiate a procedure with a competent body for determination of its responsibility.

Cooperation with other bodies

Article 31

In carrying out the work, the representative shall cooperate with the Ombudsman and the Commission for Protection Against Discrimination in particular cases of discrimination for which the referred bodies are authorized to act.

Annual report

Article 32

(1) The representative shall prepare a report for the adopted opinions, conducted procedures and results of their conduct by 31 March at the latest for the previous year.

(2) The report shall be published on the web site of the Ministry, and it shall be delivered in writing to the competent institutions.

Court protection

Article 33

- (1) The person who considers that her right to equal treatment has been violated on the grounds of gender may file a lawsuit with a competent court.
- (2) The provisions of the Law on Litigation Procedure shall accordingly apply to the procedure unless otherwise determined by this Law.
- (3) The procedure shall be urgent. Local competence Article 34 In the procedure for the protection of the right to equal treatment on the grounds of gender, the court where the permanent place of residence of the plaintiff is located shall be locally competent, besides the court of local competence.

Local competence

Article 34

In the procedure for protection of the right to equal treatment on the grounds of gender, the court where the permanent place of residence of the plaintiff is located shall be locally competent, besides the court of local competence.

Lawsuit

Article 35

The lawsuit may demand it:

- 1) to determine if the plaintiff has violated the right to equal treatment on the grounds of the gender of the defendant, i.e., the action undertaken or omitted that may directly cause violation of the rights to equality in the acting;
- 2) to prohibit undertaking of activities that violate or may violate the right to equal treatment of the plaintiff, i.e., to carry out activities for elimination of the unequal treatment or the consequences thereof;
- 3) to compensate the material and non-material damage caused by the violation of the right to equal treatment, under the Law on Obligations, and
- 4) to publish the verdict that confirms the violation of the right to equal treatment in the mass media at the expense of the defendant.

Burden of proof

Article 36

- (1) When a person who considers his/herself to be a victim of discrimination states facts whereby it may be supposed that there has been discrimination, the person alleged to have committed an act of discrimination shall be obliged to prove that he/she has not violated the principle of equal treatment.
- (2) The right referred to in paragraph (1) of this Article shall not apply to criminal procedures.

7. SUPERVISION OF THE IMPLEMENTATION OF THE LAW

Article 37

- (1) The Ministry shall conduct the supervision of the enforcement of the provisions of this Law and the regulations adopted thereon.
- (2) The State Labor Inspectorate shall conduct inspection supervision of the enforcement of the provisions of this Law and the regulations adopted thereon under this Law.
- (3) The competent court shall conduct the misdemeanor procedure and shall impose the misdemeanor sanction for the misdemeanors referred to in Articles 38, 39, 40, 41, 42, 43, and 44 of this Law.
- (4) If the labor inspector establishes that a violation as referred to in Articles 38, 39, 40, 41, 42, 43, and 44 of this Law is committed, he/she shall be obliged to propose a settlement procedure to the perpetrator of the misdemeanor under the Law on Misdemeanors.

- (5) About the misdemeanors determined in Articles 38, 39, 40, 41, 42, 43, and 44 of this Law, the state labor inspector shall be obliged to issue a misdemeanor payment order to the perpetrator of the misdemeanor, under the Law on Misdemeanors.
- (6) If the perpetrator accepts the misdemeanor payment order, it should sign it. The acceptance of the misdemeanor payment order by the perpetrator shall be noted in the minutes.
- (7) How the harmful consequences of the misdemeanor are to be eliminated, as well as the manner of overcoming the consequences of committing the misdemeanor, shall be established in the minutes referred to in paragraph (6) of this Article.
- (8) If a legal entity is a perpetrator of the misdemeanor, the minutes and the misdemeanor payment order shall be signed by the responsible person in the legal entity or a person authorized by him/her.
- (9) The state labor inspector shall be obliged to keep records of the issued misdemeanor payment orders and the outcome of the initiated procedures.
- (10) The following data shall be gathered, processed and kept in the records referred to in paragraph (9) of this Article: name and surname, that is, name of the perpetrator, permanent, that is, temporary residence, head office, type of misdemeanor, number of the misdemeanor payment order which is issued, and outcome of the procedure.
- (11) The personal data referred to in paragraph (10) of this Article shall be kept for five years as of the day of entry in the records.
- (12) The minister of labor and social policy shall prescribe the form and the contents of the misdemeanor payment order.

8. MISDEMEANOR PROVISIONS

Article 38

- (1) Fine in the amount of Euro 70 to 110 in Dinar counter-value shall be imposed on the person that has discriminated on the grounds of gender in public and private sector in the spheres of the misdemeanor referred to in Article 3 paragraph (3) of this Law (Article 3).
- (2) Fine in the amount of Euro 80 to 120 in Dinar counter-value shall be imposed for a misdemeanor on the official person or another person in the legal entity, the body with public authorizations or the individual who as registered occupation carries out a specific activity, who on the grounds of gender violates the dignity of a particular person or creates threatening, hostile, humiliating or terrifying environment, approach or practice (Article 4 paragraph (1) points 6 and 7).
- (3) Fine in the amount of Euro 800 in Dinar counter-value shall be imposed on the legal entity for the misdemeanor referred to in paragraph (2) of this Article (Article 4 paragraph (1) points 6 and 7).

[Criminal Code](#) ⁹⁶

Harassment in the performance of duty

Article 143

Whosoever, while performing a duty, harasses, intimidates, insults or generally acts against another in such manner as to humiliate the human dignity and personality, shall be sentenced to imprisonment of one to five years.

⁹⁶ Criminal Code (consolidated version), available at https://www.legislationline.org/download/id/8145/file/fYROM_CC_2009_am2018_en.pdf (last visited 15 November 2019).

48 NORWAY

[Criminal Code, 1902 \(as amended\)](#) ⁹⁷

Sec. 298

[Gender Equality Act, 2007](#) ⁹⁸

Sec. 8

Harassment on the basis of gender and sexual harassment shall be prohibited.

“Harassment on the basis of gender” shall mean acts, omissions or statements that have the effect or purpose of being offensive, frightening, hostile, degrading or humiliating. “Sexual harassment” shall mean unwanted sexual attention that is troublesome to the person receiving the attention.

[...]

Sec. 23

Employers shall make active, targeted and systematic efforts to promote the purpose of this Act in their undertakings. The activity duty shall encompass matters such as recruitment, pay and working conditions, promotion, development opportunities and protection against harassment.

[...]

Sec. 25

Employers shall preclude and seek to prevent the occurrence of harassment contrary to section 8.

[...]

49 OMAN

[Labor Law, 2003](#) ⁹⁹

[...]

CHAPTER TWO

General and Transitional Provisions

Article (2):

The provisions of this law shall not apply to:

- 1- Members of the armed forces and public security organizations and employees of the state administrative apparatus and other government units.
- 2- Members of the employers family who are dependent upon him.
- 3- Domestic servants working inside houses or outside houses such as a driver, maid and a cook and those with similar jobs.

[...]

⁹⁷ Criminal Code, 1902 (as amended up to 2017), available at https://lovdata.no/dokument/NL/lov/2005-05-20-28/KAPITTEL_2-11#KAPITTEL_2-11 (last visited 15 November 2019).

⁹⁸ Gender Equality Act (20 April 2007), available at <https://www.regjeringen.no/en/dokumenter/the-act-relating-to-gender-equality-the-/id454568/> (last visited 15 November 2019).

⁹⁹ Labor Law, Royal Decree No. 35/2003 (26 April 2003), available at https://www.manpower.gov.om/Portal/Englishpdf/Service/toc_en.pdf (last visited 15 November 2019).

Article (4):

Unless otherwise excepted by a special provision all employers and workers shall be subject to the provisions of this law, and all kinds of establishments and their national and foreign branches, which practice their activities within the Sultanate, whether they are public or private, including the national and the foreign institutions of the private education.

PART THREE

Contract of Work

[...]

Article (40):

The employer may dismiss the worker without prior notice and without end-of-service gratuity in any of the following cases:

[...]

8- If he commits an assault on the employer or the responsible manger or if he commits a grievous assault on any of his superiors in the course of the work, or because of it if he assaults one of his colleagues in the work place by hitting him and as a consequence thereof sickness or delay from the work for a period exceeding ten days ensues;

[...]

Article (41):

The worker may abandon the work before termination of the contract period and retain his full rights after giving notice to the employer of so doing in any of the following cases;

[...]

3- If the employer or his representative commits and immoral act against the worker or any member of his family;

4- If he is assaulted by the employer or his representative;

5- If there is a grave danger which threatens the safety or health of the worker, provided that the employer was aware of the existence of such danger and did not implement the measures prescribed by the relevant authorities.

Article (42):

Without prejudice to the provisions of the Social Insurance Law, if the worker abandons the work for any of the reasons set out in the above section, the employer shall be obliged to pay him a gratuity for the period of his service and without prejudice to the worker's entitlement to such compensation as may be decided.

[...]

Article (115):

Whoever violates the provisions of Part Three and the decisions issued for the implementation thereof, shall be punished with fine of not less than R.O.10/- and not exceeding R.O. 100/- which shall be multiplied by the number of workers who are the subject of such violation and the penalty shall be doubled upon repetition of such violation.

[...]

50 PAKISTAN

[The Protection Against Harassment of Women at the Workplace Act, 2010](#)¹⁰⁰

An Act to make provisions for the Protection Against Harassment of Women at the Workplace. [...]

1. Short title, extent and commencement.—

(1) This Act may be called the Protection Against Harassment of Women at the Workplace Act, 2010.

(2) It extends to whole of the Punjab.

(3) It shall come into force at once.

2. Definitions.— In this Act, unless there is anything repugnant in the subject or context—

(a) “accused” means an employee or employer of an organization against whom complaint has been made under this Act;

[...]

(e) “Complainant” means a woman or man who has made a complaint to the [Ombudsperson] or to the Inquiry Committee on being aggrieved by an act of harassment;

(f) “Employee” means a regular or contractual employee whether employed on daily, weekly, monthly or hourly basis, and includes an intern or an apprentice;

(g) “Employer” in relation to an organization, means any person or body of persons whether incorporated or not, who or which employs workers in an organization under a contract of employment or in any other manner whosoever and includes—

(i) an heir, successor or assign, as the case may be, of such person or, body as aforesaid;

(ii) any person responsible for the direction, administration, management and control of the management;

(iii) the authority, in relation to an organization or group of organizations run by or under the authority of the Government, the Federal Government or any other Provincial Government, appointed in this behalf or, where no such authority is appointed, the head of the organization or group of organizations;]

(iv) the office bearer, in relation to an organization run by or on behalf of the local authority, appointed in this behalf, or where no officer is so appointed, the chief executive officer bearer of that authority;

(v) the proprietor, in relation to any other organization, of such organization and every director, manager, secretary, agent or office bearer or person concerned with the management of the affairs thereof;

(vi) a contractor or an organization of a contractor who or which undertakes to procure the labour or services of employees for use by another person or in another organization for any purpose whatsoever and for payment in any form and on any basis whatsoever; and

(vii) office bearers of a Federal or a Provincial or local authority who belong to the managerial, secretarial or directional cadre or categories of supervisors or agents and those who have been notified for this purpose in the official Gazette;

(gg) “Government” means Government of the Punjab;

(h) “harassment” means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment;

¹⁰⁰ The Protection Against Harassment of Women at the Workplace Act, 2010 (9 March 2010), available at https://aasha.org.pk/Women_Harassment_Docs/THE%20PROTECTION%20AGAINST%20HARASSMENT%20OF%20WOMEN%20AT%20THE%20WORKPLACE%20ACT%202010.pdf

(last visited 15 November 2019).

[...]

(l) “organization” means a Federal or Provincial Government Ministry, Division or department, a corporation or any autonomous or semiautonomous body, Educational Institutes, Medical facilities established or controlled by the Federal or Provincial Government or District Government or registered civil society associations or privately managed a commercial or an industrial establishment or institution, a company as defined The words “a department or a Division of” omitted *ibid.* Inserted *ibid.* Substituted for the word “Ombudsman” by the Punjab Protection Against Harassment of Women at the Workplace (Amendment) Act, 2012 (III of 2013). *Ibid.* in the Companies Ordinance, 1984 (XLVII of 1984) and includes any other registered private sector organization or institution;

[...]

(n) “workplace” means the place of work or the premises where an organization or employer operates and includes building, factory, open area or a larger geographical area where the activities of the organization or of employer are carried out and including any situation that is linked to official work or official activity outside the office.

3. Inquiry Committee.—

(1) Each organization shall constitute an Inquiry Committee within thirty days of the enactment of this Act to enquire into complaints under this Act.

(2) The Committee shall consist of three members of whom at least one member shall be a woman. One member shall be from senior management and one shall be a senior representative of the employees or a senior employee where there is no CBA. One or more members can be co-opted from outside the organization if the organization is unable to designate three members from within as described above. A Chairperson shall be designated from amongst them.

(3) In case a complaint is made against one of the members of the Inquiry Committee that member should be replaced by another for that particular case. Such member may be from within or outside the organization.

(4) In case where no competent authority is designated the organization shall within thirty days of the enactment of this Act designate a competent authority.

4. Procedure for holding inquiry.—

(1) The Inquiry Committee, within three days of receipt of a written complaint, shall—

(a) communicate to the accused the charges and statement of allegations leveled against him, the formal written receipt of which will be given;

(b) require the accused within seven days from the day the charge is communicated to him to submit a written defense and on his failure to do so without reasonable cause, the Committee shall proceed *ex-parte*; and

(c) enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defense of the accused as the Committee may consider necessary and each party shall be entitled to cross-examine the witnesses against him.

(2) Subject to the provisions of this Act and any rules made thereunder the Inquiry Committee shall have power to regulate its own procedure for conducting inquiry and for the fixing place and time of its sitting.

(3) The following provisions *inter alia* shall be followed by the Committee in relation to inquiry:-

(a) the statements and other evidence acquired in the inquiry process shall be considered as confidential;

(b) an officer in an organization, if considered necessary, may be nominated to provide advice and assistance to each party;

(c) both parties, the complainant and the accused, shall have the right to be represented or accompanied by a Collective Bargaining Agent representative, a friend or a colleague;

(d) adverse action shall not be taken against the complainant or the witnesses;

- (e) the Inquiry Committee shall ensure that the employer or accused shall in no case create any hostile environment for the complainant so as to pressurize her from freely pursuing her complaint; and
- (f) the Inquiry Committee shall give its findings in writing by recording reasons thereof.
- (4) The Inquiry Committee shall submit its findings and recommendations to the Competent Authority within thirty days of the initiation of inquiry. If the Inquiry Committee finds the accused to be guilty it shall recommend to the Competent Authority for imposing one or more of the following penalties:-
 - (i) Minor penalties—
 - (a) censure;
 - (b) withholding, for a specific period, promotion or increment;
 - (c) stoppage, for a specific period, at an efficiency bar in the time-scale, otherwise than for unfitness to cross such bar; and
 - (d) recovery of the compensation payable to the complainant from pay or any other source of the accused;
 - (ii) Major penalties—
 - (a) reduction to a lower post or time-scale, or to a lower stage in a time-scale;
 - (b) compulsory retirement;
 - (c) removal from service;
 - (d) dismissal from service; and
- (e) Fine. A part of the fine can be used as compensation for the complainant. In case of the owner, the fine shall be payable to the complainant.
- (5) The Competent Authority shall impose the penalty recommended by the Inquiry Committee under sub-section (4) within one week of the receipt of the recommendations of the Inquiry Committee.
- (6) The Inquiry Committee shall meet on regular basis and monitor the situation regularly until they are satisfied that their recommendations subject to decision, if any of Competent Authority and Appellate Authority have been implemented.
- (7) In case the complainant is in trauma the organization will arrange for psycho-social counseling or medical treatment and for additional medical leave.
- (8) The organization may also offer compensation to the complainant in case of loss of salary or other damages.

5. Powers of the Inquiry Committee.—

- (1) The Inquiry Committee shall have power—
 - (a) to summon and enforce attendance of any person and examine him on oath;
 - (b) to require the discovery and production of any document;
 - (c) to receive evidence on affidavits; and
 - (d) to record evidence.
- (2) The Inquiry Committee shall have the power to inquire into the matters of harassment under this Act, to get the complainant or the accused medically examined by an authorized doctor, if necessary, and may recommend appropriate penalty against the accused within the meaning of sub-section (4) of section 4.
- (3) The Inquiry Committee may recommend to [Ombudsperson] for appropriate action against the complainant if allegations leveled against the accused found to be false and made with mala fide intentions.
- (4) The Inquiry Committee can instruct to treat the proceedings confidential. Substituted for the word “Ombudsman” by the Punjab Protection Against Harassment of Women at the Workplace (Amendment) Act, 2012 (III of 2013).

6. Appeal against minor and major penalties—

- (1) Any party aggrieved by decision of the Competent Authority on whom minor or major penalty is imposed may within thirty days of written communication of decision prefer an appeal to an [Ombudsperson] established under section 7.

(2) A complainant aggrieved by the decision of the Competent Authority may also prefer appeal within thirty days of the decision to the [Ombudsperson].

(3) The Appellate Authority may, on consideration of the appeal and any other relevant material, confirm, set aside, vary or modify the decision within thirty days in respect of which such appeal is made. It shall communicate the decision to both the parties and the employer.

7. Ombudsperson.— The Government shall appoint the Ombudsperson on such terms and conditions as may be prescribed.

[...]

8. [Ombudsperson] to enquire into complaint.—

(1) Any employee shall have the option to prefer a complaint either to the Ombudsperson or the Inquiry Committee.

(2) The Ombudsperson shall within 3 days of receiving a complaint issue a written show cause notice to the accused. The accused after the receipt of written notice, shall submit written defense to the [Ombudsperson] within five days and his failure to do so without reasonable cause the [Ombudsperson] may proceed ex-parte. Both the parties can represent themselves before the [Ombudsperson].

(3) The [Ombudsperson] shall conduct an inquiry into the matter according to the rules made under this Act and conduct proceedings as the [Ombudsperson] deems proper.

(4) For the purposes of an investigation under this Act, the [Ombudsperson] may require any office or member of an organization concerned to furnish any information or to produce any document which in the opinion of the [Ombudsperson] is relevant and helpful in the conduct of the investigation.

(5) The [Ombudsperson] shall record his decision and inform both parties and the management of the concerned organization for implementation of the orders.

9. Representation to Governor.— Any person aggrieved by a decision of the Ombudsperson under subsection (5) of section 8 may, within thirty days of the communication of the decision, make a representation to the Governor whose decision shall be final.]

10. Powers of the [Ombudsperson].— The [Ombudsperson] shall for the purpose of this Act have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely—

(i) Summoning and enforcing the attendance of any person and examining him on oath;

(ii) Compelling the production of evidence;

(iii) Receiving evidence on affidavits;

(iv) Issuing commission for the examination of witnesses;

(v) entering any premises for the purpose of making any inspection or investigation, enter any premises where the [Ombudsperson] has a reason to believe that any information relevant to the case may be found; and

(vi) The [Ombudsperson] shall have the same powers as the High Court has to punish any person for its contempt.

(2) [Ombudsperson] shall while making the decision on the complaint may impose any of the minor or major penalties specified in sub-section (4) of section 4.

11. Responsibility of employer.—

(1) It shall be the responsibility of the employer to ensure implementation of this Act, including but not limited to incorporate the Code of Conduct for protection against harassment at the workplace as a part of

their management policy and to form Inquiry Committee referred to in section 3 and designate a competent authority referred to in section 4.

(2) The management shall display copies of the Code in English as well as in language understood by the majority of employees at conspicuous place in the organization and the work place within six months of the commencement of this Act.

(3) On failure of an employer to comply with the provisions of this section any employee of an organization may file a [complaint before the Ombudsperson] and on having been found guilty the employer shall be liable to fine which may extend to one hundred thousand rupees but shall not be less than twenty-five thousand rupees.

(4) A person aggrieved by an order under subsection (3) may, within thirty days of the communication of the order, make a representation to the Governor whose decision shall be final.

12. Provisions of the Act in addition to and not in derogation of any other law.—

The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

13. Power to make rules.—

Government may make rules to carry out the purposes of this Act. SCHEDULE

[See sections 2(c) and 11]

CODE OF CONDUCT FOR PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE

Whereas it is expedient to make the Code of Conduct at the Workplace etc. to provide protection and safety to women against harassment, it is hereby provided as under:-

(i) The Code provides a guideline for behavior of all employees, including management, and the owners of an organization to ensure a work environment free of harassment and intimidation;

(ii) “Harassment” means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature, or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment; The above is unacceptable behavior in the organization and at the workplace, including in any interaction or situation that is linked to official work or official activity outside the office.

Explanation.—

There are three significant manifestations of harassment in the work environment—

(a) Abuse of authority A demand by a person in authority, such as a supervisor, for sexual favors in order for the complainant to keep or obtain certain job benefits, be it a wage increase, a promotion, training opportunity, a transfer or the job itself.

(b) Creating a hostile environment Any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature, which interferes with an individual’s work performance or creates an intimidating, hostile, abusive or offensive work environment. The typical “hostile environment” claim, in general, requires finding of a pattern of offensive conduct, however, in cases where the harassment is particularly severe, such as in cases involving physical contact, a single offensive incident will constitute a violation.

(c) Retaliation The refusal to grant a sexual favor can result in retaliation, which may include limiting the employee’s options for future promotions or training, distorting the evaluation reports, generating gossip

against the employee or other ways of limiting access to his/her rights. Such behavior is also a part of the harassment.

- (iii) An informal approach to resolve a complaint of harassment may be through mediation between the parties involved and by providing advice and counseling on a strictly confidential basis;
- (iv) A complainant or a staff member designated by the complainant for the purpose may report an incident of harassment informally to her supervisor, or a member of the Inquiry Committee, in which case the supervisor or the Committee member may address the issue at her discretion in the spirit of this Code. The request may be made orally or in writing;
- (v) If the case is taken up for investigation at an informal level, a senior manager from the office or the head office will conduct the investigation in a confidential manner. The alleged accused will be approached with the intention of resolving the matter in a confidential manner;
- (vi) If the incident or the case reported does constitute harassment of a higher degree and the officer or a member reviewing the case feels that it needs to be pursued formally for a disciplinary action, with the consent of the complainant, the case can be taken as a formal complaint;
- (vii) A complainant does not necessarily have to take a complaint of harassment through the informal channel. She can launch a formal complaint at any time;
- (viii) The complainant may make formal complaint through her incharge, supervisor, CBA nominee or worker's representative, as the case may be, or directly to any member of the Inquiry Committee. The Committee member approached is obligated to initiate the process of investigation. The supervisor shall facilitate the process and is obligated not to cover up or obstruct the inquiry;
- (ix) Assistance in the inquiry procedure can be sought from any member of the organization who should be contacted to assist in such a case;
- (x) The employer shall do its best to temporarily make adjustments so that the accused and the complainant do not have to interact for official purposes during the investigation period. This would include temporarily changing the office, in case both sit in one office, or taking away any extra charge over and above their contract which may give one party excessive powers over the other's job conditions. The employer can also decide to send the accused on leave, or suspend the accused in accordance with the applicable procedures for dealing with the cases of misconduct, if required;
- (xi) Retaliation from either party should be strictly monitored. During the process of the investigation work, evaluation, daily duties, reporting structure and any parallel inquiries initiated should be strictly monitored to avoid any retaliation from either side;
- (xii) The harassment usually occurs between colleagues when they are alone, therefore usually it is difficult to produce evidence. It is strongly recommended that staff should report an offensive behavior immediately to someone they trust, even if they do not wish to make a formal complaint at the time. Although not reporting immediately shall not affect the merits of the case; and
- (xiii) The Code lays down the minimum standards of behavior regarding protection of women from harassment at workplace etc. but will not affect any better arrangement that an organization may have developed nor will it bar the grant of protection that employees working in an institute may secure from their employers through negotiation.

[Penal Code, 1860 \(as amended\)](#) ¹⁰¹

509. Insulting modesty or causing sexual harassment:

Whoever, -

¹⁰¹ Pakistan Penal Code, Act XLV of 1860 (6 October 1860, as amended through 2012), available at <http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html> (last visited 15 November 2019).

- (i) intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman;
- (ii) conducts sexual advances, or demands sexual favours or uses verbal or non-verbal communication or physical conduct of a sexual nature which intends to annoy, insult, intimidate or threaten the other person or commits such acts at the premises of workplace, or makes submission to such conduct either explicitly or implicitly a term or condition of an individual's employment, or makes submission to or rejection of such conduct by an individual a basis for employment decision affecting such individual, or retaliates because of rejection of such behaviour, or conducts such behaviour with the intention of unreasonably interfering with an individual's work performance or creating an intimidating, hostile,, or offensive working environment;

shall be punished with imprisonment which may extend to three years or with fine up to five hundred thousand rupees or with both.

Explanation 1: Such behaviour might occur in public place, including, but not limited to, markets, public transport, streets or parks, or it might occur in private places including, but not limited to workplaces, private gatherings, or homes.

Explanation 2: Workplace means, the place of work or the premises where an organization or employer operates, this may be a specific building, factory, open area or a larger geographical area where the activities of the organization are carried out. Sexual advances may occur after working hours and outside workplace. It is the access that a perpetrator has to the person being harrassed by virtue of a job situation or job related functions and activities.

51 PALAU

[Family Protection Act, 2012](#) ¹⁰²

[...]

Section 5. Amendment. Chapter 28 of Title 17 of the Palau National Code is hereby amended to state as follows:

[...]

2807. Sexual harassment.

(a) A person commits the offense of sexual harassment if:

(1) The person intentionally, knowingly or recklessly subjects a person to:

(A) Unwelcome sexual advances;

(B) Unwelcome requests for sexual favors; or

(C) Unwelcome verbal or physical conduct of a sexual nature.

(b) Sexual harassment is a misdemeanor and upon conviction thereof shall be imprisoned for a period of not more than one year, or fined up to one-thousand dollars (\$1,000), or both.

¹⁰² Family Protection Act, RPPL 8-51 (13 November 2012), available at http://www.paclii.org/cgi-bin/sinodisp/pw/legis/num_act/pfpar8512012310/pfpar8512012310.html?stem=&synonyms=&query=palau%20family%20protection%20act (last visited 15 November 2019).

52 PANAMA

[Law to Adopt Preventive Measures towards Violence Against Women and to reform the Penal Code in order to criminalize Femicide and sanction acts of Violence Against Women, 2013](#)¹⁰³

Article 4. For the purposes of this Law, the following terms shall be understood as:

[...]

2. Sexual harassment. Any act or conduct of an unwanted sexual nature that interferes with work, studies or the social environment, which is established as a condition of employment, that creates an intimidating environment, or that causes the victim harmful effects on their physical or psychological well-being.

[...]

15. Teaching and educational violence. Any behavior on the part of the teaching staff that affects the self-esteem of the students with acts of discrimination based on their sex, limitations and / or physical characteristics. It includes discrimination against teachers because of their status as women, sexual harassment or instigation of teachers and students.

[...]

20. Labor and salary violence. That which is exercised by people who have a working relationship with the victim, regardless of the hierarchical relationship. It includes sexual harassment, harassment for being a woman, exploitation, wage inequality for comparable work and all types of discrimination based on their gender.

Article 15. For the purposes of this Law, the State shall have the following obligations:

[...]

6. Promote actions to develop in the governmental and non-governmental institutions plans for the prevention, detection and care of situations of sexual harassment, harassment based on gender, or any other form of violence against women, including the establishment of a procedure for complaints for reporting, investigation and punishment of aggressors in all government institutions.

Article 29. The Ministry of Labor and Labor Development shall have the following obligations:

1. Develop awareness programs, training and incentives for companies and unions to eliminate workplace violence against women and promote equality of rights, opportunities and treatment in the workplace to ensure respect for the principle of non-discrimination in:

[...]

e. The right to work in an environment free of harassment, sexual harassment or favoritism.

2. Promote through specific programs the obligation to establish an agile and effective grievance procedure, as well as the prevention of sexual harassment against women in companies and unions.

Article 45. Article 178 of the Criminal Code is changed as follows:

“Article 178: Whoever harasses, disturbs, stalks or sexually discriminates against a person with whom he has a work, school or religious relationship, regardless of the hierarchical status, will be punished with a penalty of two to four years in prison and multidisciplinary therapeutic treatment in a public or private health center.”

¹⁰³ Law to Adopt Preventive Measures towards Violence Against Women and to reform the Penal Code in order to criminalize Femicide and sanction acts of Violence Against Women, (Ley que Adopta Medidas de Prevención Contra la Violencia en las Mujeres y Reforma el Código Penal para Tipificar el Femicidio y Sancionar los Hechos de Violencia Contra la Mujer). Law n. 82 (24 October 2013) available in Spanish at http://200.46.254.138/APPS/LEGISPAN/PDF_NORMAS/2010/2013/2013_606_1683.PDF (last visited 15 November 2019). Unofficial translation by Compendium team.

[Decree n. 252 – Labor Code, 1971](#)¹⁰⁴

Article 127. Workers are prohibited from:

[...]

12. Performing acts of sexual harassment.

Article 128. In addition to those arising from the employment contract, the following are obligations of the employers:

[...]

28. Establish an equitable, reliable and practical procedure to investigate the claims presented in relation to sexual harassment and the application of the corresponding sanctions.

Article 138. Employers are prohibited from:

[...]

15. Performing acts of sexual harassment.

Article 213. The following are justified causes that allow the employer to terminate the employment relationship:

A. Of Disciplinary Nature

[...]

15. Sexual harassment, immoral or criminal conduct of the worker during the provision of the service.

53 PAPAUA NEW GUINEA

[Criminal Code Act, 1974](#)¹⁰⁵

349. SEXUAL ASSAULT.

(1) A person who, without a person's consent –

(a) touches, with any part of his body, the sexual parts of that other person; or

(b) compels another person to touch, with any part of this body, the sexual parts of the accused person's own body,

is guilty of a crime of sexual assault.

Penalty: Subject to Subsection (4), imprisonment for a term not exceeding five years.

(2) For the purposes of this section, "sexual parts" include the genital area, groin, buttocks or breasts of a person.

(3) For the purposes of this section, a person touches another person if he touches the other person with any part of his body or with any object manipulated by the person.

(4) Where an offence under Subsection (1) is committed in circumstances of aggravation, the accused is liable to a term of imprisonment not exceeding 10 years.

54 PARAGUAY

¹⁰⁴ Labor Code, (Código del Trabajo). Decree n. 252 (30 December 1971) available in Spanish at <http://cetipat.gob.pa/wp-content/uploads/2017/05/co%CC%81digo-detrabajo.pdf> (last visited 15 November 2019). Unofficial translation by Compendium team.

¹⁰⁵ Criminal Code Act 1974 (commencement 1 November 1975), available at https://www.ffa.int/system/files/Criminal_Code_Act_1974.pdf (last visited 15 November 2019).

[Penal Code, 1997](#)¹⁰⁶

Article 133. Sexual harassment

1º The one who for sexual purposes harasses another person, abusing the authority or influence conferred on him by his functions, will be punished with imprisonment of up to two years.

2º In these cases, the provisions of article 59 shall apply.

3rd The criminal prosecution will be initiated upon the victim's complaints.

[...]

Article 59.- Compensation

1º As compensation, and in cases specifically provided by law, the victim will be awarded the payment of a certain sum of money by the author, when it serves the restoration of social peace.

2nd The amount of payment will be determined by the court, taking into account the consequences that the illicit caused the victim and the economic situation of the author.

3rd The award of a composition will not exclude the demand for damages.

55 PERU

[Law on the Prevention and Punishment of Sexual Harassment, 2003](#)¹⁰⁷

TITLE I

GENERAL PROVISION

Chapter I - Object and Scope of the Law

Article 1 - Purpose of the Law

The purpose of this Law is to prevent and punish sexual harassment in relations of authority or dependency, whatever the legal form of the relationship. (*)

(*) Article modified by Article 1 of Law No. 29430, published on November 8, 2009, whose text is as follows:

“Article 1 - Purpose of the Law

This Law is intended to prevent and punish sexual harassment derived from relations of authority or dependency, whatever the legal form of this relationship. Similarly, when it happens among people without hierarchy, status, grade, position, function, or similar level of remuneration.”

¹⁰⁶ Penal Code (Codigo Penal de Paraguay Ley Nº. 1.160/97), Law No. 1.160 of 1997, available at http://oas.org/DIL/ESP/Codigo_Penal_Paraguay.pdf (last visited 15 November 2019). Unofficial translation by Compendium team.

¹⁰⁷ Law on the Prevention and Punishment of Sexual Harassment (Ley de Prevención y Sanción del Hostigamiento Sexual). Law n. 27942 (26 February 2013) available in Spanish at <https://www.mimp.gob.pe/files/direcciones/dgcvlg/legisnacional/ley27942.pdf> (last visited 15 November 2019). Unofficial translation by Compendium team.

Article 2 - Scope of Application

The scope of application of this Law includes:

1. In public and private work environments: workers or employers, management or trusted personnel, holder, associate, director, shareholder or partner of the company or institution; also, public officials or servants, whatever their labor regime.
2. In Educational Institutions: promoters, organizers, advisors, directors, teachers, administrative personnel, auxiliary or service staff of the centers and educational programs, higher institutions, whether public, private, communal, parish cooperatives or others, whatever their regime or legal form.
3. In Police and Military Institutions: police and military personnel, civilian personnel that work within these institutions, service or auxiliary personnel, and third parties that provide services for such entities under the scope of the Civil Code or the Contracting Law and State Acquisitions.
4. Other persons involved in relationships not regulated by the labor law, such as the provision of services subject to the rules of the Civil Code, the training of apprentices of the National Industrial Labor Training Service (SENATI), Training Programs for work, access to higher education centers, and others similar modalities.

Article 3 – Subjects under this Law

This Law considers:

1. Harassment: Any person, male or female, who performs an act of sexual harassment indicated in this Law.
2. Harassed: Any person, male or female, who is a victim of sexual harassment.

Chapter II – Concept, Elements and Manifestations of Sexual Harassment

Article 4 - Concepts

Typical Sexual Harassment or Sexual Blackmail consists of physical or verbal reiterated behavior of unwanted and/or rejected sexual nature, performed by one or more people, taking advantage of a position of authority or hierarchy or any other advantageous situation, against another or others, who reject these behaviors because they consider that they affect their dignity as well as their fundamental rights. (*)

(*) Article modified by Article 1 of Law No. 29430, published on November 8, 2009, whose text is as follows:
“Article 4 - Concepts

4.1 Typical sexual harassment or sexual blackmail consists of repeated physical or verbal sexual behavior, or behavior of sexist nature, unwanted or rejected, performed by one or more people taking advantage of a position of authority or hierarchy or any other advantageous situation, against another or others, who reject these behaviors because they consider that they affect their dignity, as well as their fundamental rights.

4.2 Environmental sexual harassment consists of repeated physical or verbal behavior of a sexual or sexist nature by one or more people towards others with no hierarchy, level, grade, position, function, remunerative or similar level, creating a climate of intimidation, humiliation or hostility.”

Article 5 - Constitutive Elements of Sexual Harassment

For sexual harassment to take place, one of the following constituent elements need to be present:

- a) Submission to acts of sexual harassment is the condition through which the victim accesses, maintains or modifies their employment, educational, police, military, contractual status or of any another nature.
- b) The rejection of acts of sexual harassment is a condition that leads to decisions being made that affects the victim in terms of employment, education, police, military, contractual or otherwise. (*)

(*) Article modified by Article 1 of Law No. 29430, published on November 8, 2009, whose text is as follows:
“Article 5 - Constitutive Elements of Sexual Harassment

For sexual harassment to take place, one of the following constituent elements need to be present:

- a) Submission to acts of sexual harassment is the condition through which the victim accesses, maintains or modifies their employment, educational, police, military situation, contractual or otherwise.
- b) The rejection of acts of sexual harassment leads to decisions being made that affect the victim in terms of their employment, educational, police, military, contractual or otherwise.
- c) The conduct of the harasser, whether explicit or implicit, that affects the work of a person, interfering in performance at work creating an intimidating, hostile or offensive environment.”

Article 6 - Manifestations of Sexual Harassment

Sexual harassment can manifest itself through the following behaviors:

- a) Implicit or explicit promise to the victim of preferential and/or beneficial treatment regarding their current or future situation in exchange for sexual favors.
- b) Threats through which implicit or explicit requires an undesired conduct by the victim, which violates or aggravates his/her dignity.
- c) Use of terms with sexual nature or connotation (written or verbal), sexual advances, sexual propositions, obscene gestures that are unbearable, hostile, humiliating or offensive to the victim.
- d) Physical approaches, rubbing, touching or other physical behaviors of a sexual nature that are offensive and unwanted by the victim.
- e) Offensive or hostile treatment due to the rejection of the behaviors indicated in this article. (*)

(*) Article modified by Article 1 of Law No. 29430, published on November 8, 2009, whose text is as follows:

“Article 6 - Manifestations of Sexual Harassment

Sexual harassment can manifest itself through the following behaviors:

- a) Implicit or explicit promise to the victim of preferential and/or beneficial treatment regarding their current or future situation in exchange for sexual favors.
- b) Threats through which implicit or explicit requires an undesired conduct by the victim, which violates or aggravates his/her dignity.
- c) Use of terms with sexual nature or connotation (written or verbal), sexual advances, sexual propositions, obscene gestures or displays, through any means of images of sexual content that are unbearable, hostile, humiliating or offensive to the victim.
- d) Physical approaches, rubbing, touching or other physical behaviors of a sexual nature that are offensive and unwanted by the victim.
- e) Offensive or hostile treatment due to the rejection of the behaviors indicated in this article.”

TITLE II

OF THE INVESTIGATION AND SANCTION OF SEXUAL HARASSMENT

Chapter I - In the Private Labor Regime

Article 7 - Responsibility of the Employer

Employers must maintain respectful conditions in the workplace among the workers. Fulfilling the following obligations:

- a) Provide training for workers on norms and policies against sexual harassment in the company.
- b) Repair the work injuries caused to the harassed and adopt the necessary measures for the cease the reprisals exercised by the harasser.
- c) Inform the Ministry of Labor and Employment of cases of harassment sexual and the result of the investigations carried out, to verify compliance with the present law. The Ministry of Labor will include the relevant resulting provisions in the regulation. (*)

(*) Article modified by Article 1 of Law No. 29430, published on November 8, 2009, whose text is as follows:

“Article 7 - Responsibility of the Employer

Employers must maintain respectful conditions in the workplace among the workers. Fulfilling the following obligations:

- a) Provide training for workers on norms and policies against sexual harassment in the company.
- b) Take the necessary measures to cease the threats or reprisals exercised by the harasser, as well as the physical behaviors or comments of a sexual or sexist nature that generate a hostile or intimidating climate in the environment where they take place.
- c) Inform the Ministry of Labor and Employment of cases of sexual harassment and the result of investigations carried out to verify compliance with the This Law. The Ministry of Labor and Employment shall include the provisions that are relevant in the labor regulations.”

Article 8 - Penalties of Typical Sexual Harassment

If the harasser is the employer, management staff, trusted staff, owner, associate, director or shareholder, the harassed may choose to trigger the cessation of hostility or the payment of compensation, terminating the employment contract, in accordance with article 35 of the Single Ordered Text of Legislative Decree No. 728, Productivity Law and Labor Competitiveness, approved by Supreme Decree No. 003-97-TR.

In this case, communication to the employer is not required due to cessation of hostility indicated in article 30 of Supreme Decree No. 003-97-TR. (*)

(*) Article modified by Article 1 of Law No. 29430, published on November 8, 2009, whose text is as follows: “Article 8 – Penalties for Sexual Harassment

8.1 If the harasser is the employer, management staff, trusted staff, holder, associate, director or shareholder, the harassed can choose between triggering the cessation of the hostility or compensation payment, terminating the employment contract, according to article 35 of the Single Ordered Text of Legislative Decree no. 728, Productivity Law and Labor Competitiveness, approved by Supreme Decree no. 003-97-TR. In this case, communication to the employer is not required for cessation of hostility indicated in article 30 of the same norm.

8.2 If the harasser is a worked in the private sector, he can be sanctioned, depending on the seriousness of the facts, with warning, suspension or dismissal.”

Article 9 – Judicial Procedure

The victim can go to the competent Judge, who ex officio or at the request of any party, can provide that the judicial procedure be confidential.

Article 10 - Expiration Term

Article 36 of the Single Ordered Text of the Legislative Decree No. 728, Labor Productivity and Competitiveness Law, approved by Supreme Decree No. 003-97-TR, shall be applied whenever it is applicable to the case.

Article 11 - Workers and Partners of the Service Companies and Cooperatives

The provisions of this chapter are applicable to workers and partners workers of service companies and cooperatives respectively.

If sexual harassment occurs in the workplace or operations of the user company, the provision contained in Chapter V shall be applied.

Chapter II – The Sanction of Sexual Harassment in the Public Labor Regime

Article 12 - Sanction to the Officials and Public Servants

Public officials and civil servants subject to the public labor regime, who have incurred in acts of sexual harassment will be sanctioned, depending on the severity, according to the Article 28 subsection I) of

Legislative Decree No. 276. Without prejudice to the application of the administrative sanction, the harassed person has the right to go to civil proceedings in a very summary process to demand the payment of compensation correspondent.

Article 13 - Disciplinary Administrative Procedure

Determination of the administrative responsibility of the official or server public, who performs acts of sexual harassment, is processed according to the procedure administrative-disciplinary provision in Legislative Decree No. 276 and its Regulations.

Article 14 - Contentious Administrative Action of Labor Character

The contentious administrative labor procedure to challenge the decision to be Article 14 of this Law refers, it is the one provided in Law Nº 27584, Law Regulating the Contentious Administrative Process.

Article 15 - Joint Liability of the Responsible Official

In the event that the head of the public institution or the official in charge of ordering the establishment of the disciplinary administrative process becomes aware of the act of hostility, but does not take the appropriate actions to process, investigate and punish the facts, he/she will be jointly liable for the payment of the compensation that is imputed to the harasser, without prejudice to the corresponding criminal responsibility.

Article 16 - Supplementary Application of the Rules Applicable to the Labor Regime Private

As long as they do not contravene the provisions of this chapter, the norms contained in Chapter I of Title II of this Law are of supplementary application to public officials or servants, subject to the labor regime of Legislative Decree No. 276.

Chapter III – Of the Sanction of Sexual Harassment in Educational Centers

Article 17 - Sanction to the Directors and Teachers

The directors and teachers of the public educational centers and programs that incur acts of sexual harassment are sanctioned, according to the seriousness of the facts, in accordance with Law No. 24029, modified by Law No. 25212 and its Regulations, approved by Supreme Decree No. 019-90-ED.

The norms referred to in the previous paragraph apply to the hierarchical or teaching staff of the institutes and schools of higher education, included in the corresponding norms.

The administrative servers of the Educational Centers and Programs are within the scope of Chapter II of Title II of this Law.

The directors, professors and workers of the private educational centers are subject to the procedure established in Chapter I, of Title II of this Law.

Article 18 - Sanction to University Professors

University professors who engage in acts of sexual harassment will be sanctioned in accordance with the provisions of Law No. 23733, University Law. The workers of private and public universities are subject to the provisions of Chapters I and II of Title II of this Law.

Article 19 - Disciplinary Procedure for University Professors

The sanction to the university professor is imposed, after the disciplinary administrative process, in accordance with article 511 of Law No. 23733, University Law and the statutes of each University.

Article 20 - Payment of Compensation

The harassed person has the right to demand in civil proceedings in a very summary process, the payment of compensation for the damage suffered, without prejudice to the disciplinary sanction imposed on the teachers and directors of the educational centers and programs, the hierarchical staff and teachers of the institutes and schools of higher non-university education and the university teachers who are responsible.

They are jointly and severally liable for the compensation referred to in the preceding paragraph, the public officials in charge of establishing the respective administrative processes, if they have heard about the act of sexual harassment and have not arranged the relevant personnel action to process, investigate and punish the forbidden conduct.

Chapter IV – On the Sanction of Sexual Harassment in Military and Police Institutions

Article 21 - Sanctions

The personnel of the National Police of Peru and of the Armed Forces that incur in acts of sexual harassment, according to the seriousness of the facts and previous pronouncement of the respective Investigation Council, will go on to availability or withdrawal due to disciplinary measures, according to the case and according to the procedure provided for in the internal standards of the institutes in question. Once the internal procedure has been exhausted, the harassed person has the right to go to the civil procedure in a very summary process to claim payment of the corresponding compensation.

Are jointly and severally liable for the compensation referred to in the preceding paragraph, the personnel of the National Police of Peru and the Armed Forces in charge of arranging administrative investigations, if they have known the acts of sexual harassment and have not disposed of the measures to investigate and sanction this behavior

Chapter V – Of the Sanction of Sexual Harassment in Subjugation Relations Not Regulated by the Labor Law

Article 22 - Sanction in Relationships that are not regulated by the Labor Law

If the act of sexual harassment occurs in a relationship not regulated by the Labor Law, the victim has the right to receive compensation for the damage suffered, which is processed in the civil process in a very summary process.

FINAL AND COMPLEMENTARY PROVISIONS

First - Modification of article 30 of the Single Ordered Text of the Decree Legislative Nº 728, Law on Productivity and Labor Competitiveness, approved by Decree Supreme No. 003-97-TR.

Modifies subsection g) of article 30 of the Single Ordered Text of the Legislative Decree Nº 728, Labor Productivity and Competitiveness Law, approved by Supreme Decree Nº 003- 97-TR, under the following terms:

"G) Acts against morality and all those that affect the dignity of the worker."

A final paragraph is added to article 30 of the Single Ordered Text of the Decree Legislative Nº 728, Law on Productivity and Labor Competitiveness, approved by Decree Supreme No. 003-97-TR, in the following terms:

"Acts of sexual harassment are investigated and sanctioned according to the law on matter."

"First-A.- Of the modification of article 25 of the Single Ordered Text of the Decree Legislative No. 728, Labor Productivity and Competitiveness Law Add paragraph i) to article 25 of the Single Ordered Text of the Legislative Decree no. 728, approved by Supreme Decree no. 003-97-TR, Productivity Law and Labor Competitiveness, in the following terms:

Article 25 - The violation by the worker of the essential duties that emanate from the contract, of such nature, that makes the subsistence of the relationship unreasonable is a serious offense. Serious offenses are:

(...)

i) Sexual harassment committed by the representatives of the employer or whoever exercises authority over the worker, as well as that committed by any worker whatever the location of the victim of harassment in the hierarchical structure of the workplace."(*)

(*) Provision added by Article 2 of Law No. 29430, published on November 8, 2009.

Second - Modification of articles 23 and 28 of Legislative Decree No. 276, Law of Bases of the Administrative Career and Remuneration of the Public Sector

Amends subsection f) and add subsection g) of article 23 and modify subsection l) and add subsection m) of article 28 of Legislative Decree No. 276, Law of Career Bases Administrative and Remuneration of the Public Sector, with the following texts:

"Article 23.- Prohibitions to public servants:

(...)

f) to perform acts of sexual harassment, in accordance with the law on the subject.

[...]

Article 28.- They are disciplinary offenses that, depending on their severity, may be sanctioned with temporary cessation or dismissal, after due administrative process:

(...)

l) To incur acts of sexual harassment, in accordance with the law on the subject.

m) The others indicated by the Law."

Third - Inclusion of subsection f) of article 14 of Law No. 24029, Law of Teachers

Adds subsection f) to article 14 of Law No. 24029, Law of Teachers, in the following terms:

"F) Not incurring acts of sexual harassment, in accordance with the law on the subject"

Fourth - Modification of subsection d) of Article 51 of Law No. 23733, University Law

Modifies subsection d) of Article 51 of Law No. 23733, University Law, under the following terms:

"D) Observe dignified conduct and not perform acts of sexual harassment."

Fifth - Modification of subsection b) of numeral 2, of article 4 of Law No. 26636, Labor Procedural Law

Modifies subsection b), numeral 2 of article 4 of Law No. 26636, Labor Procedural Law, modified by Law No. 27242, under the following terms:

"B) Cessation of acts of hostility of the employer, including acts of sexual harassment, in accordance with the law on the subject."

Sixth - Modification of articles 40 and 57 of Legislative Decree No. 745, Law on Police Situation of Personnel of the National Police of Peru

Amends Articles 40 and 57 of Legislative Decree No. 745, Law on Police Situation of Personnel of the National Police of Peru, under the following terms:

"Article 40.- The change to the Availability Situation by Disciplinary Measure will occur due to serious offenses against the service, when the conduct of police personnel affects honor, decorum, police duties and acts of sexual harassment, regardless of the sanction criminal that could correspond to him, if the fact or facts that are legally imputed to him are foreseen as a crime, upon recommendation of the Research Council. Police personnel must be previously summoned, heard and examined the evidence of discharge by the Investigation Council, which after these procedures will issue their respective pronouncement.

Likewise, the change to the availability situation will occur when it is found that the police personnel provide paid services to entities or persons outside the National Police, following the procedure specified in the preceding paragraph.

Article 57.- The transfer to the Disciplinary Measure Retirement Situation will occur due to serious offenses against the service, when the misconduct of the Police Personnel seriously affects the honor, decorum, police duties and acts of sexual harassment, regardless of the sanction. criminal that could correspond to him, if the fact or facts that are imputed to him are foreseen as crimes by the Law, previous recommendation of the Research Council. The police personnel must be previously summoned, heard and examined the evidence of discharge by the Investigation Council, which after these procedures will issue its respective pronouncement."

Seventh - Inclusion of subsection d) in Article 65 of Legislative Decree No. 745, Law on Police Situation of Personnel of the National Police of Peru

Adds subsection d) in Article 65 of Legislative Decree No. 745, Law on Police Situation of Personnel of the National Police of Peru, under the following terms:

"D) Do not perform acts of sexual harassment, in accordance with the law on the subject."

Eighth - Modification of articles 38 and 61 of Legislative Decree No. 752, Law on Military Situation of Army, Navy and Air Force Officers

Amends Articles 38 and 61 of Legislative Decree No. 752, Law on Military Situation of Army, Navy and Air Force Officers, with the following texts:

"Article 38.- The change to the Availability Situation by Disciplinary Measure will occur due to serious offenses against the service, when the conduct of the Officer affects honor, decorum, military duties and acts of sexual harassment, regardless of the criminal sanction that could correspond if the fact or facts that are legally imputed are provided as a crime, upon recommendation of the Research Council. The officer must previously be summoned, heard, and examined the evidence of discharge by the Research Council, which after these procedures will issue its respective ruling.

Article 61.- The transfer to the Retirement Situation by Disciplinary Measure will be caused by serious offenses against the service, when the misconduct of the Officer seriously affects honor, decorum, military duties and acts of sexual harassment, regardless of the sanction criminal that could correspond to him, if the fact or facts that are imputed to him are foreseen as a crime by the Law, previous recommendation of the Research Council. The Officer must be previously summoned, heard and examined the evidence of discharge by the Research Council, which after these procedures will issue its respective pronouncement."

(*) Confront Articles 38 and 61 with the New Law on Military Situation of Armed Forces Officers - LAW No. 28359, published on 10-13-2004

Ninth - Reserve of the Research Process

The complaint of sexual harassment, in any of the modalities established by this Law and all its investigative effects and administrative sanctions without any restriction, is private and confidential.

Publicity is only foreseen for the final decision.

Tenth - The False Complaint

When the complaint or demand of sexual harassment is declared unfounded by final resolution, the person to whom the facts in the complaint or demand are imputed, has the right to bring the relevant actions judicially. In this case, the alleged harassed complainant is obliged to pay the compensation set by the respective Judge. (*)

(*) Provision modified by Article 3 of Law No. 29430, published on November 8, 2009, whose text is as follows:

“Tenth - The False Complaint

When the complaint or claim of sexual harassment is declared unfounded by a final resolution and the plaintiff's bad faith is proven, the person to whom the facts are imputed in the complaint or claim has the right to bring the relevant actions judicially. In this case, the alleged harassed complainant is obliged to pay the compensation set by the respective judge.”

Eleventh - Effects of the False Complaint

The employer, considering the final judgment declaring the complaint or claim of harassment unfounded, can justifiably terminate the employment contract with the private worker. In the case of workers subject to the public labor regime, the definitive termination will proceed.

In the case of educational, police and military institutions, the principal or the competent police or military authority, may provide for the final separation of the student or the transfer to the situation of availability or withdrawal by disciplinary action, as the case may be.

Twelfth - Household Workers

Domestic Workers who are victims of sexual harassment have the right to take advantage of the actions established in this Law, in the chapter relevant to private sector servants.

Thirteenth - Regulation

The Executive Power, within a period not exceeding ninety (90) days, shall approve the respective regulations.

Fourteenth - Repealed norms

The legal and regulatory provisions that oppose this Law or limit its application shall be repealed.

[Law n. 30364 – Act to Prevent, Punish and Eradicate Violence Against Women and Members of the Family Group, 2015](#)¹⁰⁸

¹⁰⁸ Act to Prevent, Punish and Eradicate Violence Against Women and Members of the Family Group, (Ley para Prevenir, Sancionar y Erradicar la Violencia Contra las Mujeres y los Integrantes del Grupo Familiar). Law n. 30364 (22 November 2015) available in Spanish at <https://busquedas.elperuano.pe/normaslegales/ley-para-prevenir-sancionar-y-erradicar-la-violencia-contra-ley-n-30364-1314999-1/> (last visited 15 November 2019). Unofficial translation by Compendium team.

Article 5. Definition of violence against women.

Violence against women is any action or conduct that causes them death, physical, sexual or psychological damage or suffering because of their condition, both in the public and private spheres. Violence against women is understood as:

[...]

b. The one that takes place in the community, is perpetrated by any person and includes, among others, [...] sexual harassment in the workplace, as well as in educational institutions, health centers or any other place.

[...]

Article 45. Sectoral responsibilities

The sectors and institutions involved, and regional and local governments, in addition to adopting mechanisms of training, capacitation and permanent specialization, in accordance with their organic laws and other applicable regulations, are responsible for:

[...]

2. The Ministry of Education

[...]

g) Disseminate the problem of sexual harassment among the teaching and administrative staff, as well as the protocols of the sector.

h) Incorporate in the guides directed to the school population, contents on prevention of sexual harassment and abuse in girls and boys.

[...]

56 PHILIPPINES

[Anti-Sexual Harassment Act, 1995](#) ¹⁰⁹

Section 1. Title. – This Act shall be known as the "Anti-Sexual Harassment Act of 1995."

Sec. 2. Declaration of Policy. – The State shall value the dignity of every individual, enhance the development of its human resources, guarantee full respect for human rights, and uphold the dignity of workers, employees, applicants for employment, students or those undergoing training, instruction or education. Towards this end, all forms of sexual harassment in the employment, education or training environment are hereby declared unlawful.

Sec. 3. Work, Education or Training-related Sexual Harassment Defined. – Work, education or training-related sexual harassment is committed by an employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person who, having authority, influence or moral ascendancy over another in a work or training or education environment, demands, requests or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the object of said Act.

(a) In a work-related or employment environment, sexual harassment is committed when:

(1) The sexual favor is made as a condition in the hiring or in the employment, reemployment or continued employment of said individual, or in granting said individual favorable compensation, terms, conditions,

¹⁰⁹ Anti-Sexual Harassment Act, Act No. 7877 (14 February 1995), available at <http://hrlibrary.umn.edu/research/Philippines/RA%207877%20-%20Anti-Sexual%20Harassment%20Law.pdf> (last visited 15 November 2019).

promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in a way would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee;

(2) The above acts would impair the employee's rights or privileges under existing labor laws; or

(3) The above acts would result in an intimidating, hostile, or offensive environment for the employee.

[...]

Any person who directs or induces another to commit any act of sexual harassment as herein defined, or who cooperates in the commission thereof by another without which it would not have been committed, shall also be held liable under this Act.

Sec.4. Duty of the Employer or Head of Office in a Work-related, Education or Training Environment. – It shall be the duty of the employer or the head of the work-related, educational or training environment or institution, to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment. Towards this end, the employer or head of office shall:

(a) Promulgate appropriate rules and regulations in consultation with the jointly approved by the employees or students or trainees, through their duly designated representatives, prescribing the procedure for the investigation or sexual harassment cases and the administrative sanctions therefor.

Administrative sanctions shall not be a bar to prosecution in the proper courts for unlawful acts of sexual harassment.

The said rules and regulations issued pursuant to this section (a) shall include, among others, guidelines on proper decorum in the workplace and educational or training institutions.

(c) Create a committee on decorum and investigation of cases on sexual harassment.

The committee shall conduct meetings, as the case may be, with other officers and employees, teachers, instructors, professors, coaches, trainers and students or trainees to increase understanding and prevent incidents of sexual harassment. It shall also conduct the investigation of the alleged cases constituting sexual harassment.

In the case of a work-related environment, the committee shall be composed of at least one (1) representative each from the management, the union, if any, the employees from the supervisory rank, and from the rank and file employees.

[...]

"The employer or head of office, educational or training institution shall disseminate or post a copy of this Act for the information of all concerned.

Sec. 5. Liability of the Employer, Head of Office, Educational or Training Institution. – The employer or head of office, educational training institution shall be solidarily liable for damage arising from the acts of sexual harassment committed in the employment, education or training environment if the employer or head of office, educational or training institution is informed of such acts by the offended party and no immediate action is taken thereon.

Sec. 6. Independent Action for Damages. – Nothing in this Act shall preclude the victim of work, education or training-related sexual harassment from instituting a separate and independent action for damages and other affirmative relief.

Sec. 7. Penalties. – Any person who violates the provisions of this Act shall, upon conviction, be penalized by imprisonment of not less than one (1) month nor more than six (6) months, or a fine of not less than Ten thousand pesos (P10,000) nor more than Twenty thousand pesos (P20,000), or both such fine and imprisonment at the discretion of the court.

Any action arising from the violation of the provision of this Act shall prescribe in three (3) years.

Sec. 8. Separability Clause – If any portion or provision of this Act is declared void and unconstitutional, the remaining portions or provisions hereof shall not be affected by such declaration.

Sec.9. Repealing Clause. – All laws, decrees, orders, rules and regulations, other issuances, or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Sec.10. Effectivity Clause. – This Act shall take effect fifteen (15) days after its complete publication in at least two (2) national newspaper of general circulation.

[...]

57 POLAND

[Labor Code, 1997](#) ¹¹⁰

Division One. General Provisions.

Chapter I. Introductory provisions.

Art. 1. Scope of regulation. The Labour Code defines the rights and duties of employees and employers.

Art. 2. Definition of an employee. An employee is a person employed on the basis of an employment contract, an appointment, an election, a nomination or a co-operative employment contract.

Art. 3. Definition of an employer. An employer is an organisational unit, even if it has no legal personality, or an individual, provided it employs employees.

[...]

Chapter IIa. Equal treatment in employment.

Art. 18/3/a. Prohibition against discrimination in employment.

[...]

§ 6. Discrimination on the grounds of sex also includes any form of unwanted conduct of a sexual nature, or in relation to the sex of an employee with the purpose or effect of violating the dignity of an employee, in particular when creating an intimidating, hostile, degrading, humiliating or offensive atmosphere; this conduct may include physical, verbal or non-verbal elements (sexual harassment).

§ 7. The submission of an employee to harassment or sexual harassment, as well as his conduct in order to reject harassment or sexual harassment, cannot inflict any negative consequences toward the employee.

[...]

Art. 183d. Consequences of violation of the principle of equal treatment in employment. A person against whom an employer has violated the principle of equal treatment in employment has the right to

¹¹⁰ Labor Code, 23 December 1997, available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/45181/91758/F1623906595/The-Labour-Code%20consolidated%201997.pdf> (last visited 15 November 2019).

compensation of at least the amount of the minimum remuneration for work, determined in separate provisions.

Art. 183e. Protection of an employee exercising his rights in respect of the principle of equal treatment in employment.

§ 1. The fact that an employee has exercised his rights due to a violation of the principle of equal treatment in employment may not constitute a reason for the disadvantageous treatment of the employee and may not result in any negative consequences toward the employee; in particular, it may not constitute grounds for the termination of an employment relationship by an employer, with or without notice.

§ 2. The provision of § 1 applies accordingly in relation to an employee who has provided any support to an employee using his rights due in respect of a violation of the principle of equal treatment in employment. [...]

[Act on the implementation of some provisions of the European Union regarding equal treatment, 2010](#) ¹¹¹

Art. 3. Always when the act refers to:

[...]

4) sexual harassment – this shall mean the any form of unwanted verbal, non-verbal or physical conduct of a sexual nature towards a natural person or with respect to sex, with the purpose or effect of violating the dignity of this person, in particular by creating an intimidating, hostile, degrading, humiliating or offensive environment for this person;

5) unequal treatment – this shall mean the situation, where natural persons are treated in a way that comprises one or more of the following types of conduct: direct discrimination, indirect discrimination, harassment, sexual harassment, and also less favourable treatment of a natural person due to the rejection of harassment or sexual harassment or failure to submit to the

harassment or sexual harassment and encouraging to such conduct or imposing such conduct;

[...]

Art. 4. The Act shall be applicable in the scope of:

1) professional education, including continuation of education, improvement, change of profession and professional practices;

2) conditions for taking and conducting business or professional activity, including, but not limited to the employment relationship or work under a civil-law contract;

3) joining and acting in trade unions, employers' organizations and professional self - governing associations, and also exercising rights to which members of these organisations are entitled;

4) access to and use of:

a) labour market instruments and labour market services specified in the act of 20th April 2004 on the promotion of employment and labour market institutions (Journal of Laws of 2008, No. 69, item 415, as amended⁴), offered by labour market institutions and labour market instruments and labour market services offered by other entities acting for the employment, development of human resources and prevention of unemployment,

[...]

¹¹¹ Act on the implementation of some provisions of the European Union regarding equal treatment, 3 December 2010, available at

<https://www.rpo.gov.pl/en/content/act-3rd-december-2010-implementation-some-regulations-european-union-regarding-equal> (last visited 15 November 2019).

Chapter 2

Principle of equal treatment and legal measures for its protection

Art. 8. 1. Unequal treatment of natural persons due to sex, race, ethnic origin, nationality, religion, denomination, belief, disability, age or sexual orientation shall be prohibited in the scope of:

- 1) professional education, including continuation of education, improvement, change of profession and professional practices;
- 2) conditions for taking and conducting business or professional activity, including, but not limited to the employment relationship or work under a civil-law contract;
- 3) joining and acting in trade unions, employers' organizations and professional selfgoverning associations, and also exercising rights to which members of these organisations are entitled;
- 4) access to and conditions of use of labour market instruments and labour market services, specified in the act of 20th April 2004 on the promotion of employment and labour market institutions, offered by labour market institutions and labour market instruments and labour market services offered by other entities acting for the employment, development of human resources and prevention of unemployment.

[...]

Art. 9. Encouraging to unequal treatment or ordering unequal treatment, as specified in art. 6, art. 7 and art. 8 sec. 1 shall be prohibited.

[...]

Art. 13. 1. Everyone, against whom the principle of equal treatment has been violated, is entitled to damages.

2. The issues related with the violations of the principle of equal treatment shall be governed with the provisions of the act of 23rd April 1964 - The Civil Code (Journal of Laws No. 16, item 93, as amended5)).

Art. 14. 1. The proceedings regarding violations of the principle of equal treatment shall be governed with the provisions of the act of 17th November 1964 - The Code of Civil Procedure (Journal of Laws No. 43, item 296, as amended 6)).

2. Everyone who accuses of the violation of the principle of equal treatment, makes the fact of its violation probable.

3. In the case the violation of the principle of equal treatment has been made probable, the person who is accused of the violation of this principle, is obliged to prove, that they have not violated this principle.

Art. 15. Claims due to violation of the principle of equal treatment are valid for 3 years of the date on which the aggrieved party has been informed on the violation of the principle of equal treatment, however not longer than within 5 years of the occurrence of the incident that constitutes the violation of this principle.

Art. 16. Assertion of claims under this act does not prejudice the right to assert claims under provisions of other acts.

Art. 17. 1. Exercise of rights that are vested due to the violation of the principle of equal treatment cannot be the basis for adverse treatment, and also cannot lead to any negative consequences for the person, who exercises these rights.

2. Provision of section 1 shall be also applicable to this person, who provides any form of support to the person exercising the rights vested due to the violation of principle of equal treatment.
3. Cases, referred to in sections 1 and 2 shall be governed by the provisions of articles 13-15.

Chapter 3

Authorities competent in the cases of prevention of violations of the principle of equal treatment

Art. 18. Performance of tasks related to the implementation of the principle of equal treatment shall be entrusted with the Human Rights Defender and the Government Plenipotentiary for Equal Treatment.

Art. 19. Human Rights Defender executes tasks concerning the implementation of the principle of equal treatment according to the rules and methods specified in separate provisions.

Art. 20. 1. Government Plenipotentiary for Equal Treatment, hereinafter referred to as the "Plenipotentiary", shall be appointed and dismissed by the Prime Minister.

[...]

Art. 21. 1. The tasks of the Plenipotentiary shall comprise the implementation of governmental policy in the scope of the principle of equal treatment, including prevention of discrimination, in particular due to sex, race, ethnic origin, nationality, religion, denomination, belief, age, disability and sexual orientation.

2. The tasks of the Plenipotentiary shall comprise in particular:

[...]

Art. 22. Plenipotentiary shall develop and submit to the Government the National Action Programme for the Equal Treatment, specifying objectives and priorities of actions for equal treatment, especially in the following scope:

- 1) raising social awareness with respect to equal treatment, including the reasons for and effects of violations of the principle of equal treatment;
- 2) prevention of violations of the principle of equal treatment;
- 3) cooperation with social partners, non-governmental organisations and other entities in the area of equal treatment.

[...]

58 PORTUGAL

[Criminal Code, 1995](#)¹¹²

Article 170. Sexual badgering

Anyone badgering another person, performing acts of an exhibitionist nature, articulating sexual proposals or constraining that person to sexual contact, is punished with imprisonment for up to 1 year or with a fine of up to 120 days, if more severe penalty is not applicable under another legal provision.

¹¹² Criminal Code, (Código Penal). Decree N. 48 (15 March 1995) available in Portuguese at http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=109&tabela=leis&so_miolo= (last visited 15 November 2019).
Unofficial translation by Compendium team.

[Labor Code, 2009](#)¹¹³

Article 28. Compensation for discriminatory act

The practice of discriminatory act to the detriment of a worker or job seeker entitles him/her to compensation for pecuniary and non-pecuniary losses, in accordance with the general law.

DIVISION II

Harassment ban

Article 29. Harassment

1 - Harassment is prohibited.

2 - Harassment is unwanted behavior, based on a factor of discrimination, practiced when accessing employment or during employment, work or professional training, with the purpose or effect of disturbing or embarrassing the person, affecting the person's dignity, or to create an intimidating, hostile, degrading, humiliating or destabilizing environment.

3 - Sexual harassment is any unwanted sexual behavior, in verbal, nonverbal or physical form, with the purpose or effect referred to in the preceding paragraph.

4 - Harassment provides the victim with the right to compensation, applying the provisions of the previous article.

5 - Harassment constitutes a very serious offense, without prejudice to any criminal liability provided for under the law.

6 - The complainant and the witnesses appointed by him/her may not be sanctioned, unless they act intentionally, based on statements or facts contained in the case file, judicial or non-judicial, triggered by harassment until final decision, without prejudice to the exercise of the right to defense.

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[Penal Code of Puerto Rico, 2012](#)¹¹⁴

Article 135: Any person whom, within the scope of a labor, teaching or service relationship, requests favors of a sexual nature for himself or for a third party, and subjects the conditions of work, teaching or services to their fulfillment, or through sexual behavior causes intimidating, hostile or humiliating situation for the victim will incur a less serious crime.

[Prohibition of Sexual Harassment in the Work Place, 1988](#)¹¹⁵

Article 1: This Legislature resolves and declares as a public policy of the Commonwealth of Puerto Rico that sexual harassment in employment is a form of discrimination based on sex and as such constitutes an illegal and undesirable practice that threatens the established constitutional principle that the dignity of the

¹¹³ Labor Code, (Código do Trabalho). Law N. 7 (12 February 2009) available in Portuguese at <http://cite.gov.pt/asstcite/downloads/legislacao/CT20032018.pdf#page=18> (last visited 15 November 2019). Unofficial translation by Compendium team.

¹¹⁴ Penal Code of Puerto Rico (Código Penal de Puerto Rico), Law 146 of (30 July, 2012), available at <http://www.lexjuris.com/lexlex/Leyes2012/CodigoPenal2012.pdf> (last visited 15 November 2019). Unofficial translated by compendium team.

¹¹⁵ Prohibition of Sexual Harassment in Work Place (Prohibición del Hostigamiento Sexual en el Empleo), Law No 17 of (22 April 1988), available at <http://procuraduria.uprm.edu/docs/ProhibicionHSEmpleo.pdf> (last visited 15 November 2019). Unofficial translated by compendium team.

human being is inviolable. It is the intention of this Legislative Assembly to prohibit sexual harassment in employment; impose responsibilities and set penalties.

Article 2. - Definitions

For the purposes of this law the following terms will have the meaning hereafter:

(1) Employee - Any person who works for an employer and who receives compensation for it or any job seeker. For the purposes of protection conferred by this law, the term used is interpreted in the widest possible way.

(2) Employer - Means any natural or legal person of any kind, the Government of the Commonwealth of Puerto Rico, including each of its three branches and its instrumentalities or public corporations, the municipal governments that for profit or without employ people through any kind of compensation and its agents and supervisors.

It also includes workers' organizations and other organizations groups or associations in which employees participate with the purpose of managing with employers about the terms and conditions of employment as well as employment agencies.

Article 3. - Sexual harassment in work place consists of any type of unwanted sexual approach, requests of sexual favors and any other verbal or physical conduct of a sexual nature when one or more of the following circumstances occur:

(a) When submitting to such conduct becomes implicitly or explicitly a term or condition of a person's employment.

(b) When the submission or rejection of such conduct by the person becomes the basis for someone to make decision regarding that person employment or with respect to employment affecting that person.

(c) When that conduct has the effect or purpose of unreasonably interfering with that person's work performance or when it creates an intimidating hostile or offensive work environment.

Article 4. - To determine whether the alleged conduct constitutes harassment sexual in employment all the circumstances of the facts will be considered. The determination of the legality of an action will be based on the facts of each particular case.

Article 5. - An employer shall be responsible for incurring sexual harassment in work place not only for their actions, but also for the actions of their agents or supervisors regardless of whether the specific acts, subject of controversy were authorized or prohibited by the employer, and regardless of whether the employer knew or should be aware of such behavior.

The employment relationship in particular will be examined for the purpose of determining whether the person who committed the sexual harassment acted in his/her capacity as agent or as supervisor of the employer.

It will not be necessary to establish that the agent or supervisor who committed the sexual harassment directly supervised the complainant.

Article 6. - An employer shall be liable for acts of sexual harassment between employees, in the workplace if the employer or his/her agents or his/her supervisors knew or should have known such conduct, unless the employer proves that he/she took immediate action and appropriate to correct the situation.

Article 7. - An employer shall be responsible for acts of sexual harassment in employment towards his/her employees in the workplace by persons not employed by him/her. Thus, if the employer or his/her agents

or his/her supervisors knew or should have known the conduct and did not take immediate and appropriate action to correct the situation, for the purposes of this article, the employer shall be considered liable for the conduct of agents and employees who are under his/her control and for any other legal responsibility that the employer may have regarding the conduct of persons who is not employed by he/she.

Article 8. - When the employer grants employment opportunities or benefits as a result of the submission of a person to the sexual approaches or sexual requests of the employer or his/her agents or his/her supervisors, the employer shall be responsible for sexual harassment in work place towards those employees who were denied such opportunity or benefit.

Article 9. - An employer shall be liable under the provisions of this law when performing any act that has the effect of adversely affecting the opportunities, terms and conditions of employment of any person who has opposed the employer's practices that are contrary to the provisions of this law, or that has filed a complaint or claim, has testified, collaborated or in any way participated in an investigation, procedure or hearing that is urged under this law.

Article 10. - Every employer has the duty to keep the workplace free from sexual harassment and intimidation and must clearly state its policy against sexual harassment before its supervisors and employees, and ensure that they can work safely and with dignity. Fulfilling the obligation imposed on the employer to prevent, discourage and avoid sexual harassment in employment, the employer must take the measures that are necessary or convenient for that purpose, including but not limited to the following:

- (a) Clearly express to their supervisors and employees that the employer has a strong policy against sexual harassment in employment.
- (b) Implement the necessary methods to raise awareness and publicize the prohibition of sexual harassment in employment.
- (c) Give sufficient publicity in the workplace, for applicants, to the use of the rights and protection conferred upon them and granted under this Act, under Act No. 69 of July 6, 1985, of the Act No. 100 of June 30, 1959, as amended and of the Constitution of the Commonwealth of Puerto Rico.
- (d) Establish an adequate and effective internal procedure to address complaints of sexual harassment.

Article 11. - Sanctions.

Any person responsible for sexual harassment in work place as defined in this Law shall incur civil liability: (1) for an amount equal to double the amount of damages that the act caused to the employee or job applicant: or (2) for an amount not less than three thousand (3,000) dollars at the discretion of the Court in those cases in which the pecuniary damages could not be determined.

In the judgment issued in civil actions filed under the preceding provisions, the Court may order the employer to employ, promote or replace the employee in his/her employment and to cease and desist from the act in question.

Article 12. - The party that is responsible for the conduct that is forbidden under the provisions of this law shall pay the fees of lawyers and the costs of the procedure established by the corresponding Court.

Article 13. - In order to initiate judicial proceedings under this Law, it will not be necessary to exhaust administrative remedies.



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