

**Ministry of Labour – Invalids  
and Social Affairs**

**International Labour  
Organization**

**RESEARCH REPORT**

**SEXUAL HARASSMENT  
AT THE WORKPLACE IN VIET NAM:  
An Overview of the Legal Framework**

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International Development (DFID), through the One UN Fund in Viet Nam*

**Ha Noi, March 2013**

## PREFACE

In Viet Nam, statistics and official figures on sexual harassment at the workplace are not readily available. Non-specific research on this issue however has been found. However, the available information gleaned from mass-media highlights that sexual harassment is widespread in workplaces.

When it occurs *sexual harassment* at the workplace, it violates the fundamental rights of workers, both female and male. Therefore workers need to be protected by the law. The International Labour Organization (ILO) considers *sexual harassment* in the workplace a serious form of sexual discrimination. Viet Nam's Labour Code adopted by the National Assembly on 18<sup>th</sup> June 2012 now has four articles concerning *sexual harassment*. This is a significant step forward to help address the issue itself. Nonetheless, the Labour Code continues to fall short of effectively prohibiting the sexual harassment and protecting the victims, as it does not provide a clear definition of sexual harassment nor does it obligate employers to take preventive measures or to establish complaint procedures in the workplace.

This research provides a summary of the issue of sexual harassment at the workplace in Viet Nam, an overview of international and national laws, policies and practical workplace measures and recommendations pertaining to sexual harassment in the workplace.

The research has been undertaken with technical support from the ILO and with cooperation from the Ministry of Labour, Invalids and Social Affairs (MOLISA). We acknowledge and thank the British Government for their financial support through the Department for International Development (DFID).

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On behalf of the research team  
M.Es Nguyen Thi Dieu Hong

## **LIST OF ACRONYMS**

- AWARE** : Alliance of Women for Action and Research
- CEACR** : Committee of Experts on the Application of Conventions and Recommendations
- CEDAW** : Convention on the Elimination of All Forms of Discrimination Against Women
- FGD** : Focus Group Discussion
- HIV/AIDS** : Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
- ILO** : International Labour Organization

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## EXECUTIVE SUMMARY

In many parts of the world, sexual harassment is recognized as a serious problem facing workers in their workplaces. In Germany, a survey indicated that 93% of workingwomen were victims of sexual harassment as of 1998. Nearly 6 out of 10 nurses in Australia have experienced sexual harassment. In the United States over 50% of women employees had been sexually harassed. In Canada 51% of women reported having experienced sexual violence at least once.<sup>1</sup> In India, a woman is sexually harassed every 12 minutes.<sup>2</sup> In China, a survey was conducted by the Women's Watch China in 2009, which found that 20 per cent of the interviewed 1,837 female respondents had experienced sexual harassment at work. A survey published in Hong Kong in 2007 showed that nearly 25 per cent of workers interviewed suffered sexual harassment. Of these, one-third of the victims were men. An *AWARE Singapore* study in 2008 also indicated that 54.4% of the 500 respondents had experienced some form of sexual harassment. These statistics highlight that sexual harassment is a global problem.<sup>3</sup>

In Viet Nam, statistics and official figures on sexual harassment are not readily available. Non-specific research on this issue has been found. However, the information gleaned from mass media highlights that sexual harassment is widespread at workplaces. The majority of the victims of sexual harassment in Viet Nam are women. Embarrassed and afraid of losing their job, many victims keep silent. Some confident victims have tried to come forward and seek recompense, but at present it is unclear how to make a claim against a case of sexual harassment because it is problematic, under current laws, to assert in court which specific right has been violated.

The new Labour Code adopted by the National Assembly on the 18<sup>th</sup> June 2012 now has four articles relating to sexual harassment. This is a significant step forward in helping to addressing the issue. Nonetheless, the revised Labour Code continues to fall short of effectively prohibiting the conduct and protecting the victims, as it does not provide for clear definitions of sexual harassment.

In this context, the ILO provided technical support to MOLISA to conduct a rapid assessment of sexual harassment in the workplace with the aim of providing a general overview of sexual harassment in the workplace in Viet Nam and to develop recommendations to help shed light on the need for implementation guidelines on sexual harassment in the workplace which elaborate the related articles in the amended 2012 Labour Code.

**The research aims** are (i) to provide a general overview of the sexual harassment in the workplace in Viet Nam; (ii) to provide an overview of international and national laws, policies and practical workplace measures addressing sexual harassment in the workplace,

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<sup>1</sup> D. K. Srivastava, *Progress of Sexual Harassment Law in India, China and Hong Kong: Prognosis for Further Reform*, HARVARD INTERNATIONAL LAW JOURNAL, VOLUME 51 – AUGUST 11, 2010, p. 172.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.



including a definition of sexual harassment that could be applied in Viet Nam; and (iii) to provide recommendations, including the justification for implementation regulations and/or guidelines, which expound upon the related articles in the new Labour Code; and measures for employers at company or factory level, and key social partners can use to prevent and address sexual harassment at the workplace.

This research uses a qualitative methodology, including (1) a **literature review** on relevant research conducted in Viet Nam; on international conventions, international and regional laws and policies and Vietnamese laws and national policies concerning sexual harassment at workplace; and (2) conducting **focus group discussions with key informants** in Ha Noi (three discussions) and Ho Chi Minh city (three discussions). The focus group discussions (FGD) aimed to learn more about issues drawn through reviewing and analysing the secondary data and available literature on sexual harassment in the workplace in Viet Nam and to reconfirm emerging issues through this reviewing and analysing. Participants of the focus group discussions were officials of the state management agencies; representatives of trade unions and workers; representatives of employers' organisations and entrepreneurs; people from research institutions and mass organizations; and students from four universities in Ha Noi. The total number of participants in 5 focus group discussions is 102 persons of which 72 persons are female and 30 persons male.

The Research Report consists of three key parts:

*A general overview of sexual harassment in the workplace in Viet Nam* is presented in Part II of the Report with three main sections, including: (1) Perceptions of sexual harassment in the workplace of different related parties; (2) Issue of sexual harassment in the workplace; and (3) Vietnamese laws and policies for addressing sexual harassment in the workplace.

Perceptions of sexual harassment vary within society. Sexual harassment at the workplace is an extremely sensitive issue. For most it is taboo, due to the limitations of traditional gender hierarchies. Vietnamese men, and a large number of Vietnamese women accept that because of culture women are a legitimate and natural target for flirting by men. Sexual harassment at the workplace is for the most part an issue of gender. Victims of sexual harassment are predominantly women who are usually in a low-ranking position which is below or dependent on the harassers. The victims also could be males. However, the number of females that become victims of sexual harassment at the workplace is far greater than males. Since there is no clear definition of what constitutes sexual harassment, there is a tendency to confuse sexual harassment at workplace with insensitive comments. Yet, a broad consensus exists on the key characteristics of sexual harassment, including conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men, which is unwelcome, unreasonable and offensive to the recipient.

Vietnam has very little research on sexual harassment, particularly research conducted on workplace sexual harassment. This suggests that the issue of sexual harassment suffers from inadequate attention, although it persists in the Vietnamese society. In fact, sexual harassment at the workplace can occur to individuals from all age groups, however, the risk is higher for young people ages 18 to 30 years old. Young attractive women are especially at risk.'. Forms of sexual harassment include verbal harassment such as

unwelcome flirting, wooing, lewd remarks, insults and put-downs, sexual comments (either in person or through phone), physical touching, suggestions of sexual intercourse, and sexual assault and rape. Sexual harassment can include threats or actions to penalise or withhold benefits if the victim does not provide the sexual favours. The mentioned punishment or withholding of benefits can refer to academic grades that are of great importance for college students, job offers, job promotions or pay rises. In other cases, the victim's job or success in education is not in jeopardy, but the sexual harassment can lead to a hostile working environment. Harassers and victims often know each other well. Cases of harassment occur between colleagues, supervisor and staff, or between individuals in a position of authority and their subordinates. It is noteworthy that due to fear of reprisals only a very few victims of sexual harassment come forward to speak about it, let alone go so far as to lodge a formal complaint. Many only seek help or report sexual harassment when harassment escalates to serious sexual assault, or when they move to different jobs. Due to East Asian cultural influences, victims of sexual harassment are often ashamed or embarrassed to tell family and friends about what has happened to them. They will often keep quiet about being sexually harassed for fear of losing their job. Sexual harassment may happen anywhere in workplaces, which means that harassment can take place not only in private working rooms, but also in public places, or on business trips.

Sexual harassment at work appears to be affected by occupational features. The lack of a clear definition of sexual harassment at work has led to the fact that judicial agencies, such as courts, have difficulties in charging accusers with sexual harassment and employers try to deny their responsibilities. Most importantly, the country's lack of enforceable legislation on sexual harassment in the workplace—including the lack of legal definitions, and legal and financial responsibilities of enterprises and employers, redress processes, payment of damages and fines—does not encourage victims to report their cases or lodge their complaints. It remains common that most sexual harassment at work is unaccounted for and not thoroughly or exhaustively processed.

Sexual harassment at work affects victims and their organizations in different ways. Victims of sexual harassment at work suffer both direct and indirect negative effects, including health, economic, social, psychological effects and difficulties in career development. There are also direct and indirect consequences to those enterprises and organizations where sexual harassment continually takes place, including a reduction in productivity and profit, damage to their institutional reputation, negative impacts on business relationships, loss of human resources, and an increase in the costs of such enterprise or unit.

As of the date of this research, sexual harassment at work remains unregulated by Vietnamese employment law, in general, and the labour code, in particular. Therefore, no regulations or guidelines on the mechanisms for handling cases of sexual harassment at work exist. Settlement of sexual harassment cases at work normally comes about through denouncement and subsequent legal action by the victim. Depending on the level of severity and scope of particular cases further procedures and process of criminal or civil laws, laws on administration, cadres and civil servants laws, or regulations of the Communist Party are also applied.

Although "sexual harassment" has not been directly referred to up to 2012, labour legislation clearly stated that the employer is strictly forbidden to discriminate against female

employees on grounds of sex or abuse their honor and dignity<sup>4</sup>. To the most serious types of sexual harassment such as rape and forcible or statutory rape, the Criminal Code contains detailed provisions and corresponding punishment. Therefore, if sexual harassment happens at workplace under the forms of forcible or statutory rape, it can be handled by criminal legislation. The provisions on sexual harassment at the workplace in the newly revised and amended Labour Code are a step forward in ensuring a safer and healthier working environment for all workers, however these do not contain a clear set of workable definitions of sexual harassment.

***International laws and policies for addressing sexual harassment in the workplace*** are expressed in Part III of the Report, including: the legal definitions of sexual harassment in the workplace; those relating to the identity of the perpetrator and of the victim; and also employers' obligations. This part of the report assesses legal procedures for addressing sexual harassment and the relevant remedies and sanctions applicable to offenders. Good practices and lessons learned are used as a basis for the recommendations in Part IV.

Although there is no specific prohibition on sexual harassment in Committee on the Elimination of Discrimination Against Women and ILO Conventions, both the CEDAW and the ILO's CEACR (Committee of Experts on the Application of Conventions and Recommendations) affirmed that sexual harassment, as a serious manifestation of sex discrimination and a violation of human rights, is to be addressed within the context of the Convention and should be an integral part of a legislative or other policy, independently of policies on discrimination on the basis of sex.

Since sexual harassment in the workplace was first recognized as a form of sex discrimination, an increasing number of countries in the world have enacted legislative provisions on sexual harassment. Whether provided for or regulated by laws, including anti-sexual harassment, equality and non-discrimination, labour, criminal or tort, sexual harassment is considered as crime and prohibited.

Most of the countries in which sexual harassment is directly prohibited include a definition in their legislation<sup>5</sup>. Some countries provide relatively succinct definitions, while others only state broadly that the "sexual harassment of women is prohibited" and rely on local legislatures to provide definitions of sexual harassment. Different definitions of sexual harassment in the workplace all make reference to types of conduct, sexual and employment factors, and especially emphasize that the conduct is unwanted or unwelcome by the recipients or against their will.

The legislative provisions that identify the potential perpetrators of sexual harassment can be very important to their effectiveness. The potential perpetrators are determined differently in different countries. They are variously defined as an owner, a manager, a fellow employee, a supervisor, and a prospective employer *inter alia*. Legislative provisions that define the harasser in neutral terms, for example as "any person", can also cover non-employers and non-employees. Although female employees are generally recognized as the

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<sup>4</sup> Clause 1 Article 111 Amended and Supplemented Labour Code 2007.

<sup>5</sup> D. McCann. *Sexual harassment at work: National and international responses, Conditions of Work and Employment Programme*, ILO, 2005.

victims most at risk from sexual harassment, most legislative prohibitions, however, are interpreted in neutral terms to apply to either “an employee” or to “a person”. Through this interpretation, both men and women can be protected equally by law as victims of sexual harassment.

Most sexual harassment legislation imposes responsibilities on employers. These obligations can define the immediate and appropriate action that employers have to take to correct any act of sexual misconduct towards employees in the workplace or can be an introduction of preventive measures. Procedures for sexual harassment complaints differ across jurisdictions and according to the branch of the law under which they are brought. Criminal law and civil law claims brought under general provisions are usually conducted according to the ordinary procedures. In some jurisdictions, special agencies, adjudicatory bodies and procedures have been introduced to respond to these kinds of concerns. The role of these agencies is usually to facilitate the filing of complaints, investigate them, and make an attempt at conciliation. A number of countries have introduced special procedures to be followed during sexual harassment claims to ensure that the complainant is treated sympathetically or to respond evidentially to the problems often encountered. Confidentiality provisions covering the investigation and conciliation proceedings are also common.

As a general principle, remedies and sanctions should ensure that sexual misconduct is stopped; that its victims are adequately compensated for their financial loss and emotional injury; and should also act as a deterrent to potential harassers, while encouraging employers to introduce preventive policies. Statutory remedies and sanctions may be specific demands of the harasser to stop his/her behavior or to perform any reasonable act or course of conduct to redress any loss or damage suffered. Provisions in these remedies and sanctions can encourage employers to introduce preventive policies and procedures for addressing sexual harassment in their workplaces and also can allow victims to ensure that all damages—including wage loss or promotion—must be remedied by employers due to failures in protecting their employees from sexual harassment.

Viet Nam should take a number of the following issues into consideration for the effective implementation of the provisions of the 2012 amendments and supplements to the Labour Code that concern sexual harassment at the workplace—a clear definition of sexual harassment at the workplace is especially important. This definition may be as follows: *“Sexual harassment is any act of a sexual nature and other conduct based on sex or gender stereotypes by a person, including verbal, non-verbal, or visual deeds, gestures and actions aimed at another person who does not desire and/or feels discomfort with such an act. Such act can be humiliating, create a problem of health and safety, or cause disadvantages to the victim relating to the benefits of his/her employment, including recruitment and promotion or creating an hostile working environment”*; and *“The term ‘at the workplace’ denotes any location where the acts of harassment occur and where the employee is situated because of the working position he/she is assuming or for his/her performing the assigned tasks.”*

The obligations of the employer to deter and address sexual harassment at the workplace should be clearly defined. The Government can encourage employers to put forward initiatives or measures to prevent and address sexual harassment in collectively bargained labour agreements or internal regulations of the unit. These obligations may

include education and public announcements to raise awareness on the adverse effects of sexual harassment, the internal procedures for dealing with sexual harassment when such acts occur, and a commitment to the grassroots trade union organization concerning the guarantee of a safe and healthy working environment.

Clear, simple and effective procedures that are fair and transparent and protect against retaliation empower victims of sexual harassment to stand up, report and file a complaint against the perpetrator. Remedial measures taken when sexual harassment occurs must include full compensation for financial losses related to dismissal, related sick leave or physical and mental injuries. These sanctions will be effective in deterring sexual harassment from occurring. Thus, the Government Decree guiding the implementation of the Labour Code amended and supplemented in 2012 with administrative sanctions for acts committed in contravention of relevant labour legislation should prescribe a wide range of penalties for those who commit acts of sexual harassment. It is necessary to have a sliding scale of penalties—depending on the severity of the acts—to discourage offenders’ further aggravated actions. In addition, other forms of discipline can also be applied to the perpetrator including reprimands, extension of the waiting time for wage increment, demotion and dismissal.

*Conclusions and Recommendations* are provided in Part IV of the Report.

Sexual harassment at the workplace in Viet Nam is a social challenge that needs to be addressed. This has been shown in the approach of the Party and the State in bringing this phenomenon into the revised and amended Labor Code of 2012. There are some recommendations as follows:

**Recommendations relating to the implementation of the related articles on sexual harassment in the workplace in the revised Labour Code 2012**

1. Enhancing the awareness of employers and employees on the existence of different forms of sexual harassment at the workplace, relevant preventive measures and the applicable legal framework for preventing and addressing sexual harassment.
2. It is essential to have a legal document guiding the implementation of the relevant articles of the newly revised and amended Labour Code of 2012 related to sexual harassment at the workplace.
3. Enhancing training courses on sexual harassment and providing documentation or guidebooks on the prevention of sexual harassment at the workplace.
4. Conducting further sociological research at a national level in terms of the scope and extent of sexual harassment at the workplace to have a database for the development of above-mentioned legal document.
5. Encouraging legal initiatives and implementing pilot models at enterprise level to assist the development of codes of conduct/practice for prevention and addressing sexual harassment at the workplace or including this issue into collective agreements or enterprise’s internal rules or regulations.

### **Recommendations relating to enterprise-level measures for addressing sexual harassment at the workplace**

1. Enterprises need to consider their own policies on the prohibition of sexual harassment to avoid resulting in the employee using their right stated in Article 37 in the newly revised and amended Labor Code 2012. This may lead enterprises to lose skilled workforce that is lacking in a highly competitive labour market.
2. Active dissemination and education of the worker's right to be respected in terms of dignity and honor<sup>6</sup> and to have a safe and clean environment where sexual harassment does not occur.
3. Management in enterprises need to be trained regularly on the obligations they have to ensure that their staff are free from sexual harassment. Training courses should provide them with skills and approaches in addressing sexual harassment at the workplace.

### **Recommendations relating to Role of workers' organizations and other organizations in addressing sexual harassment at the workplace**

1. Trade Union organizations need to negotiate with employers to bring forward the issues of prevention and prohibition of sexual harassment at the workplace into collective agreements or enterprise's internal rules and regulations. Trade Unions can develop training manuals and conduct training courses for their members on the employee's right to be protected from sexual harassment as well as skills to address sexual harassment when it occurs. Trade Unions can also develop education and communication programmes to enhance the awareness of their members to help prevent sexual harassment at the workplace. Such programmes can be mainstreamed within the implementation of National Program and National Strategy on Gender Equality in the periods of 2011-2015 and 2011-2020.
2. The employers' organizations should provide guidance on the most effective ways to train the managers and entrepreneurs about sexual harassment in the workplace. It is also important to collaborate with State agencies to pilot methods of developing a workplace code of conduct to help prevent sexual harassment at the workplace, or to bring these issues into the collective agreements or elsewhere the enterprise's internal rules or regulations.
3. Women's organizations and other mass organizations can be catalysts to help promote and support victims of sexual harassment at the workplace, especially encouraging them to report sexual harassers.

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<sup>6</sup> Article 6 Labour Code revised 2012

## I. INTRODUCTION

### 1.1 BACKGROUND

In many parts of the world, sexual harassment is recognized as a serious problem facing workers in their workplaces. In Germany, a survey indicated that 93% of workingwomen were victims of sexual harassment as of 1998. Nearly 6 out of 10 nurses in Australia have experienced sexual harassment. In the United States over 50% of women employees had been sexually harassed. In Canada 51% of women reported having experienced sexual violence at least once.<sup>7</sup>

Incidents of sexual harassment are increasing exponentially—especially in Asian countries, where over half the world’s population resides. In India, a woman is sexually harassed every 12 minutes.<sup>8</sup> In China, a survey was conducted by Women’s Watch China in 2009, which found that 20 per cent of the 1,837 female respondents interviewed had experienced sexual harassment at work. The study reported that only 45.6 per cent of the victims took the issue up with the harasser, and only 34.3 per cent reported the harassment to managers. Fewer than 20 per cent called the police or took civil legal action. 51.3 per cent of the respondents surveyed said harassment had lowered their work efficiency, whereas 47.8 per cent said they resented going to work, 43 per cent stated that they made more errors at work and 32.7 per cent noted that the harassment had made them skip work more often; 28 per cent of the respondents stated they wanted to change jobs because of the sexual harassment. A survey published in Hong Kong in 2007 showed that nearly 25 per cent of workers interviewed suffered sexual harassment. One-third of the victims were men. While 20 per cent of the female victims reported the harassment to managers, only 6.6 per cent of the male victims reported their grievance because they felt too embarrassed to face what they deemed as “ridicule”<sup>9</sup>. An *AWARE Singapore* study in 2008 also indicated that 54.4% of the 500 respondents had experienced some form of sexual harassment; with 58.3% female respondents and 42% male respondents being sexually harassed at the workplace<sup>10</sup>. This underscores the point that sexual harassment is not a problem faced by women alone. The above statistics affirm that sexual harassment is a pervasive global problem.<sup>11</sup>

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<sup>7</sup> D. K. Srivastava, *Progress of Sexual Harassment Law in India, China and Hong Kong: Prognosis for Further Reform*, HARVARD INTERNATIONAL LAW JOURNAL, VOLUME 51 – AUGUST 11, 2010, p. 172.

<sup>8</sup> Ibid.

<sup>9</sup> Sources: “Survey finds one in five women sexually harassed”, in *China Daily*, 4 May 2011; ILO: *Sexual harassment at work*, fact sheet (Geneva, 2007); ILO: *Equality at work: The continuing challenge* (Geneva, 2011), p.27.

<sup>10</sup> Sources: Research study on Workplace Sexual Harassment 2008. AWARE Sub-Committee on Workplace Sexual Harassment, 2008. AWARE Singapore, p.18.

<sup>11</sup> D. K. Srivastava, “Progress of Sexual Harassment Law in India, China and Hong Kong: Prognosis for Further Reform”, *Harvard International Law Journal*, Volume 51 – August 11, 2010, p. 173.

In Viet Nam, statistics and official figures on sexual harassment are not readily available. Non-specific research on this issue however has been found. In a recent research on decent work for domestic workers conducted by the Institute for Family and Gender Studies<sup>12</sup>, the issue of sexual harassment was cursorily mentioned. However, the available information gleaned from mass-media highlights that sexual harassment is widespread at workplaces. The majority of victims are women. Embarrassed and afraid of losing their job, many victims keep silent. Some confident victims have tried to come forward and seek recompense, but at present it is unclear how to make a claim against a case of sexual harassment because it is problematic, under current laws, to assert in court which specific right has been violated. .

Sexual harassment at work is a violation of the fundamental rights of workers. Both female and male workers therefore they need be protected by the law. The ILO considers sexual harassment at work as a serious form of sex discrimination. The ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) has emphasized that sexual harassment should be addressed within the requirements of Convention No. 111 on the elimination of discrimination and promotion of equality in employment and occupation. Sexual harassment undermines equality at work by calling into question the integrity, dignity and wellbeing of workers. The productivity of enterprises is also impaired as sexual harassment weakens the basis upon which workplace relationships are built. In view of what it underscores as the "gravity and serious repercussions of this practice", the CEACR urges governments to take appropriate measures to prohibit sexual harassment in employment and occupation. To fulfill the requirements of Convention No. 111, ILO tripartite constituents in member States need to ensure effective implementation of non-discrimination law at local level and adopt policies and workplace measures that show concrete results in eliminating discrimination and realizing equal opportunity and treatment at work for everybody.

Action on the problem of sexual harassment against women is an area where substantial efforts have taken place in many countries in Asia over recent years. Sexual harassment was outlawed in China in 2005 and subsequent provincial regulations specify the measures that are needed to ensure effective implementation of the national non-discrimination standards in practice. Another example is Pakistan where the Protection against Harassment of Women at the Workplace Act (2010) is supplemented by a Code of Conduct included in the Schedule to the Act, which outlines the measures that employers should take to address sexual harassment at the workplace as a part of their management policy. In Japan, the Ministry of Health, Labour and Welfare issued a guideline in 2007 on the measures that the employers are required to take in relation to the problems occurring in the workplace arising out of

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<sup>12</sup> Institute for Family and Gender Studies, *Decent work for domestic workers in Viet Nam*, Ha Noi, 2012. Labour and Social Publishing House.



sexual remarks and conduct, in accordance with Article 11(2) of the Equal Employment Opportunity Law; accordingly, all workplaces will have to develop and implement clear guidelines on the protection, elimination, reporting and settlement of sexual harassment disputes.

In Viet Nam, until very recently, national legislative articles did not even contain a definition of sexual harassment, and moreover labour legislation did not recognize sexual harassment as a workplace issue, therefore the requisite measures to address it in an adequate manner have not yet been undertaken. The new Labor Code adopted by the National Assembly Office on 18 June 2012 now has four articles mentioning “sexual harassment”, including Article 8 strictly prohibits “maltreating a worker and committing sexual harassment at the workplace”; Article 37 provides that an employee, who is maltreated or sexually harassed, shall have the right of unilateral termination of labor contract; Article 182 states that a domestic worker shall have an obligation to “report to the authoritative agency if his/her employer has acts of sexual harassment”; and Article 183 strictly prohibits the employer to mistreat, sexually harasses his/her domestic workers. Considering that the current Labour Code has no provisions on sexual harassment, this in itself is a significant step forward in addressing the issue. Nonetheless, the revised Labour Code falls short of effectively prohibiting the conduct and protecting the victims, as it does not provide clear definitions of sexual harassment.

Within the framework of ILO-Viet Nam Project VIE/12/01/OUF “Support for the implementation of the Revised Labour Code focusing on Industrial Relations and gender related issues”, a gender component seeks to contribute to strengthening the legal framework for reducing gender discrimination in labour, employment and occupation, and promoting equitable decent work opportunities for women and men. The project’s gender component aims at enhancing institutional capacities to implement the decent work dimension of the Gender Equality Law, and the National Strategy and National Programme on Gender Equality for the periods 2011 – 2020 and 2011-2015 respectively. In line with the project’s work plan for July to December 2012 the ILO and MOLISA carried out preparatory activities for the implementation of labour legislation through regulations and/or guidelines on gender-based violence with focus on sexual harassment in the workplace. In this context, ILO is providing technical support to MOLISA to conduct a rapid assessment on sexual harassment in the workplace with an expectation to provide a general picture of sexual harassment in the workplace in Viet Nam and develop recommendations to advocate for the needs of implementation guidelines on sexual harassment in the workplace which elaborate the related articles in the amended 2012 Labour Code.

## 1.2 PURPOSES AND SCOPE OF RESEARCH

### **The research has the following goals:**

- To provide an general overview of the issue of sexual harassment in the workplace in Viet Nam;
- To provide an overview of the international and national laws, policies and practical workplace measures addressing sexual harassment in the workplace, including a definition of sexual harassment that could be applied in Viet Nam;
- To provide recommendations, including: i) the justifications for having an implementation regulation and/or guideline, which elaborate the related articles in the new Labour Code; ii) measures for employers and workplaces at company or factory level; and iii) recommendations relating to key social partners in preventing and addressing sexual harassment at the workplace.

### **The research consists of three main sections:**

*General overview of sexual harassment in the workplace in Viet Nam* is presented in Part II of the Report. This section reviews perceptions of sexual harassment in the workplace of different related parties; the current situation and effects of sexual harassment in the workplace; and current relevant mechanisms concerning sexual harassment. This section also reviews the applicable national laws and policies relating to sexual harassment in the workplace and their effectiveness. Data on these issues was collected from reviewing available literature and through five focus-group discussions with key informants conducted in Ha Noi and Ho Chi Minh City.

*International laws and policies for addressing sexual harassment in the workplace* is expressed in Part III of the Report, including: legal definitions of sexual harassment in the workplace; identity of the perpetrator and of the victim; and employers' obligations. This section also assesses legal procedures for addressing sexual harassment and remedies and sanctions for offenders. Good practices and lessons learned are used as a basis for recommendations put forward in Part IV.

*Recommendations* are provided in Part IV of the Report and focused on issues: i) relating to the implementation of the related articles on sexual harassment in the workplace in the revised Labour Code 2012; ii) relating to enterprise-level measures for addressing sexual harassment at the workplace; and iii) relating to role of workers' organizations and other organizations in addressing sexual harassment at the workplace.

## 1.3 RESEARCH METHODOLOGY

Given that in Vietnam sexual harassment in the workplace is a relatively new concept, a taboo subject for harassed victims and the research have to be conducted in a short period of time<sup>13</sup>, research methodology for this study consisted of two components as follows:

**1.3.1 Literature review:** This component aims: to analyse news about sexual harassment and findings from relevant research conducted in Viet Nam; to review international conventions, international and regional laws and policies concerning sexual harassment at workplace; and to assess Vietnamese laws, national policies, and ideas of interested parties for prevention of sexual harassment at workplace.

**1.3.2 Focus group discussion with key informants:** The focus group discussions (FGD) aimed at learning more about issues drawn from key findings from the reviewed and analysed secondary data and available literature on sexual harassment in the workplace in Viet Nam, and then to highlight emerging issues through this process. The focus group discussions also help to draw out perceptions, opinions and knowledge of employees and employers at enterprise's level, the government officials, employees' and employers' representatives, and people from other mass organizations that address the issue of sexual harassment at workplace. A collection of comments provided and measures suggested by participants helped the research team make their recommendations more practical and feasible. It also provides important suggestions and input highlighting the need to implement further regulations and guidelines on sexual harassment in the workplace that elaborate on the existing related articles in the amended Labour Code 2012.

The research team recognises that it requires a proactive involvement from employees, employers, union representatives, relevant state agencies, labour organisations and research organisations to take effective steps against workplace sexual harassment and sexual harassment can occur at anytime of one's work-life, including schooling time. Therefore, the present study was designed to include a focus group discussion devoted only to students. Five FGDs were held—three in Ha Noi and two in Ho Chi Minh City. These focus groups were constituted of officials of the state management agencies, representatives of trade unions and workers organizations, representatives of employers' organisations and entrepreneurs organizations, representatives of other research institutions and mass organizations, and also students from four universities in Ha Noi. To be exact:

- 19 officials of the state management agencies, including leaders at department level and experts (*11 females and 8 males*);

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<sup>13</sup> The study began since August 15, 2012.

- 22 representatives of trade unions' and employee's groups, including VGCL, construction, education and health trade unions, and trade union's members of enterprises belonging the following industries: textile, garment, transportation, real estate, public work, animal husbandry and food processing, electronics, mechanics and joint venture (*15 females and 7 males*);
- 22 representatives of employers' organizations and entrepreneurs, including VCCI, Women entrepreneurs' Council, Sai Gon Women entrepreneurs' Club and enterprises belonging the following industries: textile, garment, transportation, real estate, public services, aquatic and seafood processing, pharmaceutical products, printing and commerce (*19 females and 3 males*);
- 10 researchers of research institutes in Ha Noi (*7 females and 3 males*) and 6 representatives of mass organizations (*5 females and 1 male*); and
- 23 students of National Economics University, Law University, Foreign Trade University and University of Social Science and Humanity in Ha Noi (*15 females and 8 males*).

Focus group discussions covered the following topics: i) Facts, consequences and perceptions of workplace sexual harassment in Vietnam; ii) Prevention of workplace sexual harassment and solutions in labour standards legislation: feasibility and potential improvements for implementation guidelines; iii) Aspects of international laws on sexual harassment that are applicable in Vietnam.

### **1.3.3 Research limitations**

This research was limited as research and data is not readily available that is specific to workplace sexual harassment in Vietnam, or sexual harassment complaints. Moreover, sexual harassment in the workplace was introduced into the Vietnamese legal system only after the amended Labor Code came in effect in 2012. Hence, qualitative information collected from focus group discussions and news stories gave ground for reflections around the facts of sexual harassment in Vietnam. Focus group discussions were organized in public, with an average of 20 participants for each, and it is therefore hard to gain in-depth insights into experiences of sexual harassment at workplace.

## II. GENERAL OVERVIEW OF SEXUAL HARASSMENT IN THE WORKPLACE IN VIETNAM

### 2.1 PERCEPTION OF SEXUAL HARASSMENT IN THE WORKPLACE

At the time of this research, sexual harassment in the workplace remains an extremely sensitive issue, an taboo restricted by the limitations of traditional gender roles in Viet Nam. Vietnamese men, and a large number of Vietnamese women accept that—because of culture—women are a legitimate and natural target for flirting by men. This is a basic assumption that for the most part remains unchallenged by the majority of society. The perception does not rely so much to the actual biological differences between men and women, but to the gender or social roles that are attributed to men and women in social and economic life, and the norms and perceptions about male and female sexuality in societies<sup>14</sup>. Women, through the centuries have been perceived to be, and therefore are socially conditioned from an early age to be, subordinate to men. Women are also expected to be compliant and sexually passive while men are socialized to believe that they are the ones to initiate sexual relationships. In most societies and situations, men are more likely to start sexual harassment than women, as many societies tolerate or even encourage sexually aggressive behaviour by men<sup>15</sup>. Such cultural perception however results in a gender bias that impacts on the lives of Vietnamese girls and women, enabling Vietnamese men to justify their sexual misdeeds and therefore justify sexual harassment. Women are afraid to speak up about sexual harassment—including sexual teasing, intentional touching by men at workplaces and other social settings—no matter how frustrated, embarrassed and angry they might feel. “*Sexual harassment comes in many forms and its victims are often reluctant to report because they think such sexual misconducts as cultural norms*” said a male government official participating in focus group discussions.

Focus group discussions also reveal that sexual harassment at workplace is a gender issue. Gender refers to the social differences and relations between men and women which are learned, change over time, and vary widely both within and between cultures. Gender roles vary in societies, by age, class, race, ethnicity, culture, religion or ideology, and by the geographical, economic and political environment, and changes in the roles of men and women often occur in response to changing economic, natural or political circumstances. Sexual harassment is a clear form of discrimination based on sex and gender roles and norms, from both a conceptual and legal perspective<sup>16</sup>. Victims of sexual harassment are mostly women, who are usually in a low-ranking position, under supervision or dependent upon the harassers. “*People in positions of authority have greater opportunity to commit*

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<sup>14</sup> Haspels, N. et al. *Action against sexual harassment at work in Asia and the Pacific* (ILO, Bangkok, 2001).

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

*sexual harassment*”, said a female student joining focus group discussions. It was surprising that many discussants of the focus groups, particularly male students, stated that the victims could be males. “*My uncle shared that he worked for a bank’s branch with a 50-year-old female boss when he was just a fresh graduate with limited social and working experience. One day, the boss asked him to drop by her house to fix her broken water heater because she was afraid that strange repairer would case her house for stealing. He agreed without any hesitation. While he was busy fixing the broken water heater in her bathroom, the elder boss started stripping and cover herself with a towel. Then she walked into the bathroom and asked if my uncle finished fixing so she could take a shower. My uncle was so scared that he left immediately. The following day, my uncle resigned from his job*”, said a male student in focus group discussions. Yet, discussants agreed that the number of females falling into victims of sexual harassment at workplace is far greater than males. This perception confirms media reports of sexual harassment incidents occurring so far (see Boxes from 1-5).

Perceptions of sexual harassment vary within society. Male libido and women’s dress and appearance are often cited as reasons for why women are sexually harassed. However, this does not explain why elderly women or women who work in factory uniforms still get harassed, nor why women who are considered ‘suitably covered’ within the norms and standards of their community are also targeted. Moreover, it does not clarify why some men harass and others do not. In all cases libido can never be a sound justification for the abuse of power<sup>17</sup>.

Since there is no clear definition of what constitutes sexual harassment, there is a tendency to confuse sexual harassment at the workplace with insensitive comments. About ten percent of the 102 members of focus group said they do not know anything about sexual harassment and do not care about it, either. The majority of this apathetic group were students. Flirting and sexual teasing has widely been seen as a cultural norm, and part of everyday work life. The perception that jokes of a sexual nature between male and female colleagues, mostly in verbal form, could be a source of stress relief in the workplace was found to be common and widely accepted among group discussions. “*At my office, it is very popular for both men and women to enjoy sexual jokes during their free time, and laugh together. Can we blame such workplace fun as sexual harassment? Impossible!*” stated a female researcher participating in focus group discussions. Participants of training workshop about sexual harassment at workplace in Hanoi<sup>18</sup> also displayed a similar confusion during group discussions. These attitudes affect how to determine whether an act would be considered sexual harassment at the workplace and how it might be dealt with. As the ‘workplace’ is not just a place of work, and there are both professional and social

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<sup>17</sup> Haspels, N. et al. *Action against sexual harassment at work in Asia and the Pacific* (ILO, Bangkok, 2001).

<sup>18</sup> Co-hosted by Ministry of Labour - Invalids and Social Affairs’ Gender Equality Department and International Labor Organization Office in Hanoi on November 1-2, 2012.

dynamics that occur in the workplace, and workers are social beings, workplaces present a place where men and women may interact, joke, form friendships or sometimes negative relations. Some interactions even negative ones are acceptable, and some not, and it is the unacceptable forms of interaction that need to be addressed. The key difference between sexual harassment and ‘flirting’ or ‘wooing’ is that sexual harassment is *unwelcome and unreciprocated* behavior. Sexual harassment is not consensual sexual behavior between two people who are attracted to each other. It also has nothing to do with mutual attraction or friendship<sup>19</sup>.

Universal consensus exists on the key characteristics of sexual harassment, including conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men, which is unwelcome, unreasonable and offensive to the recipient. A female state official focus group discussant defined sexual harassment as harassing conduct by a specific individual that abuses other individuals physically and deprives their rights to freedom. Sexual harassment at workplace can come in various forms. It may include acts of verbal, non-verbal and gestures. *“I was involved in many extracurricular activities such as dancing and singing when I was an undergraduate. Some instructors touched us and made lewd remarks that I consider a type of sexual harassment. I think acts of sexual harassment not only include physical contacts, but also speech and gestures”*, said a female student focus group discussant. *“Forced sexual intercourse and rape are the most serious sexual offences”*, said a male researcher during focus group discussions.

To effectively prevent and address sexual harassment at the workplace, clear and powerful legislation on this issue is critically important. *“Developing legislative strides is very critical in combating sexual harassment at workplace and providing effective prevention”*, commented a male state employee focus group discussant. The legislative measures should be detailed, clear, and powerful enough to protect victims and prevent further harassing acts. Viet Nam’s amended Labor Code, which was adopted in 2012 and will enter into force in May 2013, has already set forth policies banning sexual harassment at workplace. Yet, implementation of these policies might be unsuccessful in real-life situations because the law fails to give clear definitions of sexual harassment. *“It is a must to define sexual harassment based on the Vietnamese culture and real situation,”* commented a male state employee focus group discussant. *“In the meantime, while there is no legal code exclusively designed to prevent sexual harassment, the issue should be included in a provision of the country’s Labor Code”* a male state employee focus group discussant.

## 2.2 THE ISSUE OF SEXUAL HARASSMENT IN THE WORKPLACE

Vietnam has very little research on sexual harassment, particularly research conducted on workplace sexual harassment. This suggests that although sexual harassment

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<sup>19</sup> Haspels, N. et al. *Action against sexual harassment at work in Asia and the Pacific* (ILO, Bangkok, 2001).

persists in the Vietnamese society, it suffers from inadequate attention. However, during the past three years the news media has frequently reported on cases of sexual harassment cases at the workplace . Many of these cases have also led to serious consequences.

### **2.2.1 Current situation**

Although no quantitative information was available, focus group discussions found that women are more likely to be victims of sexual harassment. *“At my hometown, a secondary school teacher who is my aunt’s best friend shared with my aunt that a high school administrator asked her to satisfy his special demand in order to get transfer from her municipal school to his high school. His demand has nothing to do with her education and work experience. He demanded sex from her. My aunt’s friend eventually refused to give into the administrator’s sexual demand. I think this story is an example of sexual harassment”* stated a female student focus group discussant. Sexual harassment cases reported in the news media give support to this viewpoint (see Boxes from 1-5). Nevertheless, research on Decent Work for domestic workers in Vietnam conducted by the Institute for Family and Gender Studies in 2011 highlighted that both male and female domestic workers were subject to sexual harassment<sup>20</sup>. In fact, sexual harassment at workplace can happen to individuals from all age groups, however, the risks are higher for young people aged between 18 and 30 years. Both students and full-time employees recognize this characteristic. Young attractive women are especially at risk.

#### **Box 1**

##### **Dak Lak: Central Highlands University’s Female Student Lodged a Complaint of Sexual Harassment against Her Professor**

A 22-year-old senior college student of the Economics and Business Administration Department, the Central Highlands University, just filed a sexual harassment charge against her thesis instructor. She reported that the professor had sent her sexually suggestive phone calls and messages. He also sent her relentless proposals for dates at coffee shop and made threatening sexual advances. He had threatened to fail her thesis if she turned down his demand for sexual intercourse. The confrontation reached its peak on June 22. Enraged with the harassed student’s constant refusals, the professor texted to threaten and ordered her to meet him at a hostel on Nguyen Cong Tru Street the following night.

Source: Reporter, Labor Newspaper, No.151/2011, Monday, July 4, 2011, p. 7

Given the lack of quantitative data, it is hard to draw any conclusion about the types and frequency of sexual harassment at workplace. Yet, focus group discussions singled

<sup>20</sup> Institute for Family and Gender Studies, *Decent work for domestic workers in Viet Nam*, Ha Noi, 2012. Labour and Social Publishing House, p. 108.



out verbal harassment as the most common. *“Nowadays, sexual jokes and lewd remarks are very popular at workplace. However, when sexual jokes cross the line and become dirty jokes, they will eventually amount to sexual harassment,”* stated a female researcher focus group discussant. The research of the Institute for Family and Gender Studies also noticed that the most frequent sexual harassment of domestic helpers is by seducing, flirting conversations (5.6%)<sup>21</sup>. Sexual harassment cases reported in the news media (see Boxes from 1-5) gave the researchers a general idea of various forms of sexual harassment and the methods for dealing with these. Forms of sexual harassment include verbal harassment such as unwelcome flirting, wooing, lewd remarks, insults and put-downs, sexual comments (either in person or through phone), physical touching, suggestions of sexual intercourse, and sexual assault and rape.

Sexual harassment can include threats or actions to penalise or withhold benefits if the victim does not provide the sexual favours. The mentioned punishment or withholding of benefits can refer to academic grades that are of great importance for college students, job offers, job promotions or pay rises. In other cases (see Box 4) the work of the victim’s job or success in education is not in jeopardy, but the sexual harassment leads to a hostile working environment.

**Box 2**  
**Deputy Head of Local Communist Party Got Fired  
for Committing Sexual Harassment**

Dental nurse Tran Thi Xuan Nguyet had made up her mind that enough was enough. She decided to come forward to lodge complaints of sexual harassment against Dr. Nguyen Duc Thinh, her supervisor and head of the Otolaryngology Department at Soc Trang General Hospital.

Nguyet charged Thinh with sexually assaulting her when the two had been on late duty together in early 2012. The otolaryngologist had locked himself and the victim in the department’s staff room, then turned on her and made sexual demands. However, the doctor denied the charge and defended that he had just placed his arms around the nurse’s neck for fun. He insisted that his act was done without malicious intent. As such, the doctor got away with only a minor penalty from the Soc Trang Province’s Health Department.

Upset with this settlement, Nguyet took the issue to higher authorities. After further investigation, the provincial inspection commission concluded that Thinh had committed sexual harassment against female staff in the workplace, violating professional ethics of a health worker, the party, and the hospital. As a result, the local communist party decided to dismiss the harasser from his current position on July 5<sup>th</sup>.

Source: H. Duong, Youth Newspaper, Friday, July 6, 2012, p. 4

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<sup>21</sup> Ibid.

Focus group discussions pointed out that patriarchal behaviour, traditional perceptions about female submission and male dominance, female sexuality, and lack of respect of women's rights leads to acts of sexual harassment. Inequalities in the positions of men and women exist in all societies and sexual harassment at work is a manifestation of unequal power relations, usually, if not exclusively, between men and women. Men are often placed in more senior and better paid positions than women and as such, women are much more likely to be victims of sexual harassment precisely because they lack power, are in more vulnerable and insecure positions, and may lack self-confidence, or have been socialized to suffer in silence<sup>22</sup>.

### **Box 3**

#### **Female Teachers Accused Head of Bao Lam District's Education and Training Division of Sexual Harassment**

L.T.N, a female teacher at a primary school in Cao Bang City still suffered from emotional distress when recalling how Hoang Dinh Thien, head of Bao Lam District's Education and Training Department, had sexually assaulted her.

#### **Nobody dares to come forward due to lack of power in relation to the perpetrator**

"It has been a while since the assault occurred, yet the feeling of shock still remains. I was a young teacher at the district's boarding school. Electricity went off that night while my roommate was busy cooking in kitchen. Feeling lonely, I decided to pull out my boyfriend's letters and started reading. The candlelight suddenly went out, while I was half way through a page. Then I heard a male whispering: "Honey, I am here". So horrified, I grabbed the flashlight from my bed head, but the man acted faster. He locked one of my arms tightly, and tried to rip my pant off with his other free hand," said L.T. N.

"Fighting back the attacker, I screamed for help. When hearing me, my roommate rushed to the room and shined flashlight on the attacker. We found out he was the head of Bao Lam's Education and Training Department. The assault haunted me so much that I wanted to quit teaching job. I only got rid of the fear when moving to Cao Bang City," continued L.T.N.

Similar to L.T.N., H.T.H, a female teacher at Na Don Primary School, was also sexually assaulted by this man. She constantly received his repeated relentless proposals for business meeting at hotels and motels across the Cao Bang Province. "I tactfully refused his demands many times, but he kept baiting me with false promises of job promotion and preferential treatment at work," H.T.H recalled.

However, rumors go around the district that there are many more young teachers on the list of Thien's sexual assault victims. Yet, nobody has ever come forward to report him for fear of reprisal. Only those who already secured job transfer summon enough courage to speak out his misconduct.

<sup>22</sup> Haspels, N. et al. *Action against sexual harassment at work in Asia and the Pacific* (ILO, Bangkok, 2001).

**“We are aware of the rumors, but have not looked into the matter because involved female teachers withdraw their complaints,”**

“I heard rumors spreading around the district’s female teachers that Thien has sexually assaulted young teachers under his supervision. A teacher had filed a harassment claim against him to relevant authority. But I do not understand why she suddenly withdrawn her complaint,” explained Nguyen Duy Lai, Chairman of Bao Lam District’s People Committee.

Lai insisted that he never shielded wrongdoings by covering up for his staff. “If the rumors are proven, Thien is a sex addict and need to be punished to protect female teachers. His demand for sexual intercourse with teachers under his supervision is unethical, not to mention Thien leads the district’s education and training department. This report of sexual assault should be investigated promptly to assure young teachers,” said Lai. The chairman promised to take necessary steps to follow up the complaint, and have suitable sanctions.

Trinh Huu Khang, director of Cao Bang Province’s Education and Training Department, shared the same viewpoint. “Sexual harassment is unacceptable behavior for anyone, not to mention the alleged harasser is an educator and a leader. Given the available evidence, we will undertake to treat the complaint seriously to rescue reputation of the province’s education sector and protect young teachers in future,” said the director.

Source: Sa Ha, Dat Viet Online Newspaper,

Available at <http://baodatviet.vn/Home/phapluat/Hang-loat-co-giao-to-truong-phong-GDDT-cuong-buc/201210/240452.datviet>

The harassers and sexual harassment victims often know each other well. Harassment can occur between colleagues (Box 4), supervisors and staff (Boxes 3 and 5), or between individuals in a position of authority and dependents. The research of the Institute for Family and Gender Studies found that domestic workers were sexually harassed by their employers in eight out of ten cases of domestic abuse. Only two victims were sexually abused by outsiders<sup>23</sup>. During focus group discussions, students raised concerns over occurrences of sexual harassment within relationship of unequal power or authority, mostly between teachers and students. The possibility of applying the Labor Code to deal with sexual harassment of students by teachers was questioned. Similar concern over sexual harassment of patients by doctors was also extensively discussed. As discussed above, the gender, and/or social roles which are attributed to men and women in social and economic life, interact with perceptions about male and female sexuality to form commonly held beliefs, or myths, about sexual harassment. The problem with these beliefs is that they tend to mask the root cause of sexual harassment, that is, unequal power relations and as such make it difficult to address the issue<sup>24</sup>.

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<sup>23</sup> Institute for Family and Gender Studies, *Decent work for domestic workers in Viet Nam*, Ha Noi, 2012. Labour and Social Publishing House, p. 109.

<sup>24</sup> Haspels, N. et al. *Action against sexual harassment at work in Asia and the Pacific* (ILO, Bangkok, 2001).

It is noteworthy that due to fear of reprisals only a very few victims of sexual harassment come forward to speak about it, let alone go so far as to lodge a formal complaint. Many only seek help or report sexual harassment when harassment escalates to serious sexual assault, or when they move to different jobs (see boxes 3 and 4). A large impediment for many victims of sexual harassment is that many women are aware that they will be automatically blamed for having ‘provoked’ sexual harassment and the stigma that is placed on women who report harassment is therefore a major deterrent for many victims. Lack of support from family, colleagues or peers also inhibits a victim from seeking redress<sup>25</sup>. Even when the perpetrator is penalized, the public perception that the woman was either the cause of the incident, or that her ‘morals’ are questionable continue to plague the victim. The view that women ‘ask for it’ is so deeply entrenched in some cultural contexts and communities that victims of sexual harassment are blamed and ‘tainted’ for the rest of their lives. A woman’s ‘chastity’ will be questioned once she is involved in something related to sex, even if she was the victim<sup>26</sup>. Focus group discussions put the blame on the East Asian culture. Sexual harassment has been hidden behind a wall of silence as victims are often ashamed or embarrassed to report family and friends about what happened to them. They will keep quiet about being sexually harassed for fear of losing their job.

Results of group discussions have shown that sexual harassment may happen anywhere in workplaces, which means sexual harassment may take place not only in private working rooms, but also anywhere at working offices, public places, or on business trips. Sexual harassment also may happen at the dormitory of labourers (case mentioned in Box 3), restrooms (case mentioned in Box 4). “*For students like us, such happening [sexual harassment] may happen at classroom, where cultural, extra curriculum activities take place, teachers’ places upon asking for grades, or in the dormitory room*”, said a girl student participating in focal group discussion. This is a notable point to guide in the compliance with those aspects of the Labour code related to sexual harassment at work.

**Box 4:**

**Male teacher sexually harasses a female colleague in Ninh Thuan province:  
Detailed investigation and strict solution required (21/11/2011)**

On 26 May 2011, the Van Lam Primary School held the closing ceremony of school year 2010 – 2011, and had a party at Dong Duong Restaurant on Ngo Gia Tu Street, Phan Rang City. After the party, the schoolteachers went to Toan Thinh karaoke. As reported by Mrs. V.D.H, when she was washing her hands in the restroom, looking through the mirror, she saw Mr. Tu Cong Linh, a male teacher of the school at her back. She was so scared and intended to walk out, but Mr. Linh suddenly held her back and quickly closed the restroom door. Hearing Mrs. H.’s shouting, Ms. Chau Thuy Quynh, a female colleague standing outside, tried to push the door for Mrs. H to escape but was pulled back by Mr. Linh. After a while, Mrs. H managed to get out. And she explained that Mr. Linh had used number of bad words insulting her after his unsuccessful harassment, in front of many teachers of the

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

school, which made her depressed and placed her under great stress. She continuously submitted letters to the school's board of rectors and regulatory education department to request for a comprehensive investigation and strict solution. A much different from complaint by Mrs. V.D.H and report by Ms. Chau Thuy Quynh, on 28 May 2011, Mr. Tu Cong Linh prepared a "report" submitted to the board of rectors, telling that Mrs. H had slandered him. According to the report of Mr. Linh, he went to the restroom to see Mrs. H in order to have amicable settlement of minor conflicts between them, and no harassment behavior occurred.

On 30 May 2011, the Van Lam Primary School submitted a report to Education and Training Sub-Department of Thuan Nam District, concluding that it was Mr. Linh's fault for going into the restroom at an inappropriate time and for using words offensive to his female colleague. The school requested Mr. Linh to apologize Mrs. H and her family. The Van Lam Primary School concluded "Mr. Linh's holding hands of Mrs. Huong in the restroom without consent of Mrs. Huong has violated professional ethics of teachers" and requested Mr. Linh to write a personal reviewing letter.

On 26 August 2011, based on the working results with the Disciplinary Board, and in the disciplinary session Mr. Linh acted dishonestly by reading the other reviewing letter instead of the letter submitted to the school, the Headmaster of the Van Lam Primary School issued a Decision punishing Mr. Tu Cong Linh through a warning penalty. At the same time, the school sent a letter to Education and Training Sub-Department of Thuan Nam District, presenting results of the meeting on reviewing punishment applied to Mr. Linh. The school headmaster explained "Mr. Linh had dishonest attitude, and the school would like to request the Education and Training Sub-Department transfer Mr. Linh to another school to avoid his negative impacts on the school's general performance, especially when it is aiming to become a national standard school".

Mr. H.D.N, husband of Mrs. V.D.H, revealed that his family is suffering a lot from the wrongdoing of Mr. Tu Cong Linh. Mr. H.D.N was so upset "The processing of such case has shown the transparency in both letters and decision of relevant education units. However, the man committing the wrongdoing still ignores the punishment and compliance accordingly".

For teachers in the Van Lam Primary School, who witnessed the case, all agreed that Mr. Linh deserves the punishment. However, the situation became more complicated when the Van Lam Primary School suddenly called for a meeting with related individuals on one single issue: "cancellation of punishment imposed on Mr. Linh." This made Mrs. H extremely angry and she sent pressing letters to authorities. As a result, not a long time after the decision of punishing Mr. Tu Cong Linh, an unexpected order from the Chairman of People's Committee of Thuan Nam District requested the Headmaster of the Van Lam Primary School quickly review procedures, process and legal basis of the relevant case. In compliance with the mentioned order of the District Chairman, the Disciplinary Board of the school called for a meeting on 18 November 2011 to review and reconsider the case, and reached an agreement on cancelling the punishment imposed on Mr. Tu Cong Linh.

Talking to us on 1 December 2011, Mr. Kieu Tang, Headmaster of the Van Lam Primary School revealed that the school's decision is primarily based on "amicable" settlement between Mr. Linh and Mrs. H.

*Source:* Thach Son – Xuan Thanh, DAI DOAN KET Newspaper, Readers – Democracy – Law column.

Available at <http://daidoanket.vn/index.aspx?Menu=1479&Chitiet=42667&Style=1> and <http://vtc.vn/538-313070/giao-duc/thay-giao-quay-roi-nu-dong-nghiep-trong-nha-ve-sinh.htm>

Sexual harassment at work appears to be affected by occupational factors. “In the livestock industry, our works are all related to animal insemination and delivery, which effects our speech and behaviours as well, making it sometimes difficult to distinguish between jokes, work or sexual harassment” said an HR staff of a enterprise, participating in the focal group discussion. It is noted that most of sexual harassment cases posted on mass media occur in the two industries of health and education (please see more details from Box 1 to Box 4). This coincides with comments of representatives participating in the focal group discussions (five discussions in total). International experience highlights that sexual harassment is not about love or mutual affection but instead about the abuse of power. This may explain why sexual harassment cases occur most frequently in the education and health sectors, where there are marked power differences between teachers and doctors on the one hand and students, patients or nurses on the other hand. Results of focal group discussions also have assumed that people vulnerable to sexual harassment are those of low qualification and professional positions such as receptionists, secretaries, housemaids, cleaners and domestic workers. However, sexual harassment also happens to people of high qualification and professional positions under complicated circumstances.

As mentioned above, there is clear need for a legal corridor to prevent and handle sexual harassment at work. The lack of definitions of sexual harassment at work has partially led to the fact that victims are deemed as “*slanderers or maligners*” and employers would decline their responsibilities by considering such happenings as “*personal matters of workers which the company should stand outside*”. It is difficult for judicial agencies such as courts to charge accusers with sexual harassment (please see more details in Box 5). The essential characteristic of sexual harassment is that it is unwanted and unwelcome by the recipient and not friendly behavior that is welcome and mutual. In relation to this it is important to note that the intent of the harasser is not determinative. It is the recipient who determines whether the conduct is unwelcome or not<sup>27</sup>. Most importantly, the country’s lack of enforceable legislation on sexual harassment at workplace, including legal definitions, legal and financial responsibilities of enterprises and employers, redress processes, payment of damages and fines, has not encourage victims to report their cases or lodge their complaints.

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<sup>27</sup> Haspels, N. et al. *Action against sexual harassment at work in Asia and the Pacific* (ILO, Bangkok, 2001).

Possibly, because of a lack of trust in thorough and strict treatment of behaviour that does “not respect honour, personal dignity and improper treatment to employee”<sup>28</sup> the victims mentioned in Box 3—in spite of filing a lawsuit to relevant authority—dropped their claim. In the meantime, according to Decree No. 47/2010/ND-CP dated 6 May 2010 of the Government on administrative sanctioning of violations of the Labour Code, “A *fine of between VND5,000,000 and VND15,000,000*” shall be imposed on “*those beating employees or hurling their honour and dignity but not to the level of penal liability examination under law or ill-treating or forcing employees against the labour law*”<sup>29</sup> and must remedy such as “*Compensating expenses for medical examination and treatment to recover employees' health*”<sup>30</sup> if any. Moreover, the shortage of clear and standard procedures for handling and resolving issues at enterprise level has caused lengthy processing, taking a lot of time. In addition, victims rarely feel satisfied with results so they have to bring the issue to court; all the while those guilty people remain insufficiently aware of their offensive behaviour. It remains the case that most sexual harassment at work has not been thoroughly and completely processed (please see more details in Boxes 3, 4 and 5).

**Box 5:**  
**Lawsuit due to sexual harassment by boss**

In early December 2011, Mrs. M filed a lawsuit in the People’s Court of a district in HCMC, because she was illegally dismissed—claiming for compensation for damage to her honour and dignity as she had been insulted by her boss for a long time.

**Long lasting harassment?**

Mrs. M told that she was an employee of Company K since January 2011, under management of Mr. C, the team leader. At first, she received a lot of help and support from Mr. C in communicating with customers and company work as well. But after a while, Mr. C started behaving improperly towards her. She reacted to personal comments but Mr. C ignored all. Afterwards, Mr. C continued his harassment through touching, hand holding, and fondling when no one was around. If there was time Mr. C grabbed her in his arms. She could not stand this situation anymore, so she reported him directly to the Director of the company and asked for a transfer to another unit.

After one week, suddenly, on 15 January 2011, she received the Company’s notice of her dismissal from Mr. C,—the reason stated was a failure to fulfill her duties. After giving the notice to her, Mr. C added that she was fired because of slandering him.

She tried to ask for appointment with the Director to clarify the situation, but she failed. Therefore, she filed a lawsuit against the illegal decision of the Company, requesting compensation of VND20 million from Company K, which included salary, severance

<sup>28</sup> Clause 3 of Article 8, Labour Code amended and revised in 2007.

<sup>29</sup> Clause 2 of Article 17

<sup>30</sup> Clause 3 of Article 17

allowance. At the same time, she requested Mr. C apologize to her in front of the entire Company for saying that she slandered him, because it was the truth that she was sexually harassed by him. Suffering from his harassment for a long time, she demanded a compensation of VND20 million from Mr. C for mental anguish caused by to her honour, dignity insulation.

### **“I was slandered”**

At the reconciled session at the Court, Mr. C. disagreed with the request made by Mrs. M for a public apology, as he believed that the Company had decided to dismiss Mrs. M, and he only announced that decision. Moreover, he said Mrs. M slandered him. He did not have any improper behaviour towards Mrs. M. and many people could testify his morals.

The representative of Company K. affirmed that the Company decided to dismiss Mrs. M due to her frequently being late for work. In addition, Mrs. M. often was excused from work for personal matters. The representative of Company K also confirmed a business conflict between Mrs. M and Mr. C. But it was personal matter of the two that the Company did want to involve itself in. Therefore, requests of Mrs. M. were all deemed unreasonable and the Company could not meet any of them.

### **Difficult to prove?**

In the discussion about this case, one judge of the Civil Tribunal, People’s Court of Ho Chi Minh City revealed that there was a dispute in employment contract termination. If Company K. wished to terminate contract with Mrs. M. due to her failure to fulfill duties, the Company should made records of her violations of business regulations at least twice a month, which would be basis for the Company to issue its decision. On the other hand, such contract termination must be informed in advance, not just making an announcement in a perfunctory manner.

Additionally, it was the opinion of Mrs. M. that she was dismissed because of reporting sexual harassment by Mr. C to the director, and this had not been clearly proved. Mr. C affirmed that he did not carry out harrassment. If Mrs. M could not prove her charge against him, she would be at risk of being accused of slandering Mr. C. It was very important for Mrs. M to collect and prepare sufficient evidences to prove her charge against Mr. C.

*Source:* Hoang Yen. Available at

<http://phapluattp.vn/20120213112225668p1063c1016/kien-vi-cho-rang-bi-sep-quay-roi-tinh-duc.htm>

## **2.2.2 Effects of sexual harassment at the workplace**

Based on the results from focal group discussions and analysis of media information, it is easily seen that sexual harassment at work has a variety of effects on victims and their organizations .

### ***2.2.2.1 Effects of Sexual harassment on victims***



Victims of sexual harassment at work have to suffer both direct and indirect effects, including health, economic, social, psychological effects and difficulties in career development.

*Health:* Victims of sexual harassment may face health problems, both physical and mental. First of all, health problems include irritation, anger and shame like the case mentioned in Box 1. In case of rape, victims may be assaulted and injured, or at risk of HIV/AIDS and sexually transmitted diseases, or even unwanted pregnancy. Victims of sexual harassment may become depressive (like the case in Tay Nguyen University), highly stressed and traumatised (case mentioned in Box 3), or undergo psychological crisis (case mentioned in Box 4).

*Economic:* Sexual harassment at work also has effects on economic conditions of victims, whose majority are women. For victims to suffer psychological disturbances like cases mentioned in Boxes 1, 3 and 4 it is difficult for them to concentrate on their work. They may lose motivation and enthusiasm in their work as well, which will result in low productivity and poor performance, directly affecting their income. Victims of sexual harassment may also have to leave their favorite job (See Box 3) or lose their jobs due to rejecting flirtations or report against harasser (See Box 5).

*Social:* Generally, women who suffer from sexual harassment encounter negative attitudes from other people and wider society. Victims are usually seen as complicit. *“There is no smoke without fire”, “sexy dressing, or immoral behaviour or something like that”* said a female employee participating in focal group discussion.

In case of sexual harassment, women are likely to face troubles in their own families. *“I was under great stress at work, had to try a lot to continue my job. The worst thing is that every time I make love with my husband, I am reminded of the actions of the male colleague, so I’m scared of my husband. I wonder if he does harassment to his female colleagues. Gradually, my fear of men keeps growing, I cannot live with this”* explained a female victim of sexual harassment. Sexual harassment also affects work relationships between employees and damage professional ethics (See Boxes 2, 3 and 4).

*Psychological:* Sexual harassment also causes serious psychological effects. Women who are victims of sexual harassment live in shame, fear people talking behind their back, are afraid of jealous husbands, and are afraid of losing trust in other people (See Boxes 4 and 5). Losing their job or breaking the peace in their family relationships can make victims suffer from depression or even make them commit suicide.

*Personal career development:* Victims of sexual harassment may confront difficulties in their career development. Continual harassment may distract victims from work, detract from their enthusiasm in work, and as a result, they may have to quit or be forced to quit (See Boxes 3 and 5). Moreover, if they try to fight by

reporting or filing lawsuit, they will have to suffer the retaliation and may have no opportunities for their career development.

#### ***2.2.2.2 Effects of sexual harassment on organisation/institution***

Enterprises and organizations, units where sexual harassment continually takes place bear direct and indirect consequences, including a reduction in productivity and profit, damage to their own reputation, negative impacts on business relationships, loss of human resources and an increase in the running costs of such enterprise or unit.

*Reduction in productivity and profit:* A healthy and safe working environment is extremely important for the productivity and profit of an institution. But in case of working environment with risk of sexual harassment, employees will be worried and have to find their own solutions. They will lose trust in other employees and encounter difficulties in working with their colleagues. “*Electronic assembly requires accuracy, meaning high concentration. Even talking is not allowed, let alone seeing if anyone teases or irritates us,*” said a female employee participating in focal group discussion. Employee’s distraction in work, especially production line, may seriously affect productivity, or even cause occupational accident, resulting in a reduction in profit of the institution.

*Damage to reputation:* In case of sexual harassment exposed to the public, reputation of such institution will fade away. Public trust and reputation in such institution might be destroyed, especially industries requiring standards of professional ethics that are stricter than others, such as education and health (See Boxes 1 to 4).

*Business relationships:* When the employer sexually harasses an employee, their business relationship will be significantly damaged. In particular, these cases cause disputes in the rights and benefits of related parties (See Box 5) if the problem becomes more serious, and working atmosphere will be adversely affected accordingly.

*Loss of skilled employees:* Sexual harassment can result in skilled employees or those trained by such institution leaving their jobs. If a continuous environment allowing sexual harassment is known about publicly, it may be very difficult for the institution to attract skilled employees. In other words, it such an institution will have less opportunities to retain skilled employees due to serious impacts of sexual harassment.

*Increase of costs:* Institutions must pay expenses related to sexual harassment including lawsuits, and additional recruitment and training costs (due to increasing employee turnover resulting from either victim or harasser quitting their job). The more sexual harassment cases appear, the higher the relative costs are.

### 2.2.3 Mechanisms for addressing sexual harassment in the workplace

To date, sexual harassment at work is not governed by Vietnamese law in general, and by its labour code in particular. Therefore, no regulations or guidelines on the mechanisms for handling cases of sexual harassment at work are applicable.

Sexual harassment cases are normally settled based on provisions of the Labour Code (as amended and revised in 2007) regarding obligations of employer to respect the honour and dignity of employees, and to treat employees professionally<sup>31</sup> for cases in enterprises. For cases in agencies and other units enjoying the State Budget the provisions on communication in public offices<sup>32</sup> of the Law on Governmental Officials 2008 and prohibitions on cadres and civil servants<sup>33</sup> of the Law on Civil Servants 2010. However it is practically very difficult to cite such provisions when handling with cases of sexual harassment at work, as much depends on the relationship between the victim and harasser.

In the first case, acts deemed as “not respecting honour, dignity”, “insulting honour, dignity”, “treating improperly”, “having an impolite attitude” are excused from being classified as harassment because they are considered part of everyday merrymaking at work. In addition, for enterprises, the Labour Code only promulgates the obligations of the employer to respect honour, dignity of employees and treat them properly, with no provisions on the obligations of employees towards each other, which has causes the enterprise management to ignore their responsibility for protecting against cases of sexual harassment (See Box 5). In the meantime, for agencies and units enjoying the State Budget the Law on Governmental Officials 2008 and Law on Civil Servants 2010 stipulates those obligations of colleagues to each other, and not senior officers or servants to their subordinates.

Settlement of cases of sexual harassment at work normally is achieved by the victim bringing the case and a lawsuit forward. Depending on level of severity and the scope of case, there is varying applicability of procedures and processes of criminal or civil laws (See Boxes 1 and 5) or procedures and process of laws on administration, cadres and civil servants laws, or regulations of the Communist Party (See Boxes 2, 3 and 4).

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<sup>31</sup> Clause 3 of Article 8, Labour Code amended and revised in 2007.

<sup>32</sup> Article 16. Communication culture at public offices

*1. In communication at public offices, cadres and civil servants shall adopt a polite attitude and respect.*

*3. While performing public duties, cadres and civil servants shall adopt polite manners; and preserve the prestige and honour of their agencies, organizations and units and colleagues.*

<sup>33</sup> Article 19. Employees are not allowed to

*5. Insult honour, dignity, reputation of others while conducting occupational work.*

## 2.3 LAWS AND POLICIES FOR ADDRESSING SEXUAL HARASSMENT IN THE WORKPLACE

Up until the amendments and supplements to the Labour Code 2012, the concept of sexual harassment had not yet been mentioned in Vietnamese legislation. Therefore no policies or measures aimed at preventing sexual harassment at the workplace existed. However, as mentioned above (See Section 2.2.3), acts of sexual harassment have been still addressed by other related legal provisions.

### 2.3.1 Laws on sexual harassment in the workplace

Although sexual harassment had not been specifically referred up to 2012, labour legislation clearly stated that the employer is strictly forbidden to discriminate against female employees on the ground of sex and otherwise abuse their honor and dignity<sup>34</sup>. “Abuse of employee’s honor and dignity” is the exact nature of sexual harassment, which is defined by international organizations and other countries in their legislation and policies. Similar provisions are stated in Law on Governmental Officials 2008 (for people working in the State management agencies) in Article 16 on communication in public offices, and in Law on Civil servants 2010 (for people working in the public specialized agencies) in Article 19 on acts forbidden for civil servants. These provisions are aimed at preventing and ending acts or words that are considered as insulting to the honour and dignity of others in the workplace. However, as a clear and detailed interpretation of what are such acts and words are is lacking, this leads to limitations in the applicability of such provisions in preventing and ending the acts and words that constitute sexual harassment.

The Criminal Code of Viet Nam also contains provisions including the suitable punishment for rape and forcible and statutory rape as the most serious types of sexual harassment. Thus, if sexual harassment happens at workplace in the form of forcible and statutory rape, it will be handled by the relevant criminal legislation.

#### **Criminal code (2000)**

##### ***Article 111(1) Rape***

– Those who use violence, threaten to use violence, or take advantage of the victims’ condition of being unable to defend themselves or otherwise resort to deception in order to have sexual intercourse with the victim against the latter’s will shall be sentenced to between 2 and 7 years of imprisonment.

##### ***Article 113(1) Forcible sexual intercourse***

– Those who employ trickery to induce persons dependent on them or

<sup>34</sup> Clause 1 Article 111 Amended and Supplemented Labour Code 2007.

persons being in dire straits to have sexual intercourse with them against their will shall be sentenced to between 6 months and 5 years of imprisonment.

Sexual harassment is strictly prohibited by the amended and supplemented Labour Code 2012 in four relevant articles: Article 8 strictly prohibits “maltreating a worker, committing sexual harassment at the workplace”; Article 37 provides that an employee, who is maltreated, or sexually harassed, shall have the right of unilateral termination of their labor contract; Article 182 states that a domestic worker shall have an obligation to “report to the authoritative agency if his/her employer commits acts of sexual harassment”; and Article 183 strictly prohibits the employer to mistreat, sexually harass his/her domestic workers.

The provisions on sexual harassment at the workplace in the newly revised and amended Labour Code are a step forward in ensuring a safe and healthy working environment for all workers, although they do not refer to clear definitions of sexual harassment. Such legal provisions cannot be properly complied with without a clear interpretation of what is sexual harassment is, and how “at the workplace” should be understood. The Labour Code provides the right of unilateral termination of labor contract to workers that are sexually harassed to protect them. However, lacking the definition of sexual harassment can result in a labour dispute when such a provision is only alleged. The same situation can occur to a domestic worker when he/she “reports that his/her employer has acts of sexual harassment to the authoritative agency”.

It is important to understand that sexual harassment is precisely an act that insults “the employee’s honour and dignity”<sup>35</sup> and a workplace is defined as any place where the employee must be due to his/her position or to fulfill his/her assigned duties, this includes the case of a female teacher who was sexually harassed by a male colleague in a restaurant during an end of year party (Box 4). Measures to prevent and address sexual harassment can be easily and effectively implemented if such issues are clearly stipulated in legal provisions.

### **2.3.2 Identity of the perpetrator and of the victims**

The legislation pointing out clearly the potential perpetrators and victims of sexual harassment is very important. The provisions prohibiting sexual harassment in the newly revised Labour Code can be understood to apply to employers, employees and ‘other people’ who commit acts of sexual harassment in the workplace. ‘Other people’ may refer to someone from partner agencies, clients, customers, and contractors. For example, a doctor can be guilty of sexually harassing his/her patients and a teacher can be guilty of sexually harassing his/her student (See Box 1). Similarly, according to Article 37, an employee can unilaterally terminate his/her

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<sup>35</sup> Point a Clause 2 Article 6 Revised and amended Labour Code 2012.

labor contract if he/she is sexually harassed by an employer, another employee, or a person from outside the institution. This issue should be clarified further for legal purposes.

On the other hand, with gender-neutral provisions on sexual harassment at the workplace, the Labour Code 2012 recognizes that the potential perpetrators and victims of sexual harassment can be both women and men. This reflects a reality that not only women but also men can be victims, and moreover, that not only men but also women can be perpetrators.

### **2.3.3 Employer's obligations**

Even though there are no provisions on sexual harassment, the 2007 Labour Code stated that the employer has obligations to respect the honor and dignity of the employee, and to behave properly toward the employee<sup>36</sup>. These obligations are repeated in Article 6 of the revised 2012 Labour Code. However, in the practice of implementing labour legislation there is currently no link between an employer's obligations and the prevention of sexual harassment in the workplace. Employers normally do not want to get involved in incidents, which can negatively affect their reputation, and these are not clearly stated in legislation. A tendency exists among employers who consider sexual harassment in the workplace as a personal problem and use this to thereby avoid their responsibilities.

#### **Box 6: No sexual harassment in Company commitment**

Phuong Nam Garment Joint Stock Company

#### **COMPANY COMMITMENT**

##### **I. OVERVIEW**

Phuong Nam Garment Joint Stock Company was established on the 1<sup>st</sup> April 2001 under the Decision No. 09/2001-QD-BCN dated 20<sup>th</sup> February 2001 of the Minister of Industry on the equitization of two factories, No. 5 and No. 6 of Phuong Dong Garment Company under Viet Nam Garment Corporation.

##### **II. IMPLEMENTATION CRITERIA**

###### **1. Forced labour**

The company does not use any type of forced labour such as criminal, slavery, trafficked workers or other related types.

###### **2. Adolescent labour**

<sup>36</sup> Clause 3 Article 8 Revised and amended Labour Code 2007.

The company does not use workers under 15 years old—the age at which child labour is stipulated by the Labour Code of the Socialist Republic of Viet Nam.

**3. Harassment or maltreatment**

The company ensures that all its employees are respected and duly treated. None of them are maltreated and physically, sexually, psychologically or verbally harassed. Scolding, swearing, verbal insults are not allowed to employees.

**4. Stigma, non-discrimination**

The company ensures that none of its employees are discriminated against on the grounds of race, religion, sex, age and political opinions in recruitment, including in areas of outsourcing, wages, welfare, promotion, discipline, labour contract termination or retirement.

**5. Health and safety**

The company ensures that all its employees work in a safe and healthy working environment, free of accidents and unexpected injuries. All employees are entitled to annual health checks.

**6. Association and collective bargaining**

The company ensures that the workers' right to free association and collective bargaining is recognized and respected.

**7. Working hours and extra working hours**

The company ensures that the working time including extra working hours do not exceed 60 hours per week; and do not exceed 4 hours per day.

**8. Wage**

The company ensures that payment for the workers is at least equivalent to minimum wage regulated by national laws.

For extra working hours:

- Normal working days:	150% the wage unit price;
- Sunday:	200% the wage unit price;
- Holidays, New Year Holidays:	300% the wage unit price.

**9. Welfare**

The company ensures compliance with labour legislation on social welfare funds, including social insurance, health insurance and others.

1<sup>st</sup> July 2005

Director General

Pham Thanh Cong

(signed)

Notably, although there are no regulations on sexual harassment in the workplace, Vietnamese enterprises, especially export-oriented businesses and hospitality industries have brought the issue of sexual harassment prohibition into their policies, including in enterprise's commitments with their partners (See Box 6) or even integrated into their enterprise internal rules or regulations and collective agreements. *"In my hotel, meaning my workplace, this (sexual harassment) has happened, at least*

*twice. Therefore, when we prepared our collective agreement which was submitted to the Provincial Department of Labour - Invalids and Social Affairs, our Trade Union also put this in and considered it as one point to remind employees”* said a representative from the hotel service sector [male] participating in the focus group discussions.

### **2.3.4 Procedures for addressing sexual harassment in the workplace**

Acts that violate internal labour rules or regulations of enterprises, agencies, are normally dealt by workplace disciplinary measures. Due to the fact that no provisions on sexual harassment in the workplace exist up until now, no procedures for addressing sexual harassment in the workplace exist. However, in practice sexual acts, which insult “the employee’s honour and dignity” are still dealt with by the ordinary procedures of currently correlative laws depending on the seriousness of alleged acts (See Boxes 1 - 5).

In the future, the procedures for handling breaches of workplace discipline should be applied to address cases of sexual harassment in the workplace. These procedures are stipulated in Article 123 which sets out the principles and procedures for settling violations of workplace disciplinary regulations in the revised Labour Code 2012 with the following steps: a) the employer must be able to prove the employee's fault; b) there must be the participation of the representative of the Executive Committee of the Trade Union of the enterprise; c) The employee must be present and has the right to defend him/herself or ask for a defense by a solicitor, a people's defender or any other person; in case of people under 18 year-old, there must be participation of parents or legal guardians; d) The proceedings of a disciplinary case regarding a violation of the labor discipline must be preserved in writing.

### **2.3.5 Remedies and sanctions**

Article 17 of the Governmental Decree No. 47/2010/ND-CP dated 6 May 2010 on penalties of acts violating labour legislation states that a person, who beats or insults an employee’s honour and dignity without being subjected to investigation for penal liability, shall receive a fine of between VND5,000,000 and VND15,000,000 and shall provide remedies to overcome consequent losses, such as the compensation of medical examination and treatment costs to the employee if they arise. The Criminal code (2000) provides that those who commit rape shall be sentenced to between 2 and 7 years of imprisonment, and those who commit forcible sexual intercourse shall be sentenced to between 6 months and 5 years of imprisonment. Thus, a person who commits one of above mentioned acts shall be dealt with accordingly without reference to whether he/she is an employer or employee or outside person.



The newly revised Labour Code 2012 specifies that a harassed employee has a right of unilateral termination of their labor contract<sup>37</sup>. According to this Labour Code, only employees, who unlawfully unilaterally terminate the labour contract, shall be liable for payment of compensation for costs of training (if any) to his/her employer<sup>38</sup>. The costs of training in accordance with the provisions of the Government include “all items of expenditure with regular vouchers of fees for trainers, training materials, the hire of classrooms, machines, equipment, experimental material, and other supporting costs for trainees, including wages, social and health insurance contributions for trainees during the training time. In case the training is abroad, the training costs shall include travel costs, and subsistence expenses incurred during the training time<sup>39</sup>. Thus, in order to avoid punitive actions leading to big losses, such as the exit of highly trained human resources, employers should prevent and end sexual harassment occurring in their agencies, enterprises or organisations.

In addition to this, the Labour Code also highlights ways to deal with the person who breaches labour discipline. These ways include reprimand, extension of the period for wage, increase to no more than six months, removal from office, and dismissal<sup>40</sup>. Thus, an employee who harasses his/her colleague/s can be dealt with in one of the above-mentioned ways depending on the seriousness.

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<sup>37</sup> Article 37

<sup>38</sup> Clause 3 Article 43

<sup>39</sup> Clause 3 Article 62

<sup>40</sup> Article 84 Labour Code revised 2007 and Article 125 Labour Code revised 2012

### III. INTERNATIONAL LAWS AND POLICIES FOR ADDRESSING SEXUAL HARASSMENT IN THE WORKPLACE

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted in 1979 when awareness of sexual harassment at workplace was only beginning to emerge; therefore it did not contain a specific prohibition. However, in its General Recommendation No. 19 (11<sup>th</sup> session, 1992), the CEDAW characterized “gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms, is discrimination” and therefore a breach of CEDAW<sup>41</sup>. The Recommendation notes that “equality in employment can be seriously impaired when women are subjected to gender-specific violence, such as sexual harassment in the workplace”<sup>42</sup>. The Recommendation also states that all parties should take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, sexual assault and sexual harassment in the workplace<sup>43</sup>.

The 1993 General Assembly Declaration on the Elimination of Violence Against Women affirmed that violence against women constitutes a violation of women’s rights and fundamental freedoms<sup>44</sup> and calls on States to condemn it and pursue a policy to eliminate it<sup>45</sup>.

The United Nations Fourth World Conference on Women, held in Beijing in 1995, adopted a Platform for Action, includes provisions on sexual harassment in the workplace<sup>46</sup>. It calls on governments, trade unions, employers, community and youth organizations, and NGOs to eliminate sexual harassment<sup>47</sup>. More specifically, governments are urged to enact and enforce laws and administrative measures on sexual and other forms of harassment in the workplace<sup>48</sup>. Parties at the enterprise level are called upon to develop workplace policies<sup>49</sup>. In addition, the Platform calls for the generation and dissemination of gender-disaggregated and sex-specific data and information on all forms of violence against women, including sexual harassment<sup>50</sup>.

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<sup>41</sup> General Recommendation No. 19 on Violence against Women, 1992. Paragraph 7.

<sup>42</sup> Ibid. Paragraph 17.

<sup>43</sup> Ibid. Paragraph 24(t)(i)

<sup>44</sup> Declaration on the Elimination of Violence against Women, General Assembly Resolution 48/104 of 20<sup>th</sup> December 1993, 85<sup>th</sup> Plenary Meeting.

<sup>45</sup> Ibid. Article 4.

<sup>46</sup> Paragraphs 113, 120, 126, 178, 224, 290.

<sup>47</sup> Paragraph 126(a). Paragraph 178 also calls on women’s organizations and employees to take measures on sexual and racial harassment.

<sup>48</sup> Paragraphs 128 and 178, and Strategic Objective F.6.

<sup>49</sup> Paragraph 178.

<sup>50</sup> Paragraph 206.

The Discrimination (Employment and Occupation) Convention, 1958 (No. 111), addresses discrimination in employment on a number of grounds, including sex, and requires that ILO member States declare and pursue a national policy designed to promote equality of opportunity and treatment with a view to eliminating discrimination. Like CEDAW, the Convention was adopted before widespread awareness of the issue of sexual harassment was achieved. However, in its General survey on the fundamental Convention concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, 2008, CEACR affirmed that the Committee has consistently expressed the view that sexual harassment—as a serious manifestation of sex discrimination and a violation of human rights—is to be addressed within the context of the Convention<sup>51</sup>. Moreover, the Committee stated that the elimination of sexual harassment should “be an integral part of a legislative or other policy, independently of policies on discrimination on the basis of sex”<sup>52</sup>.

Sexual harassment undermines equality at the workplace by calling into question the integrity, dignity and well being of workers. It damages an enterprise by weakening the bases upon which work relationships are built and impairing productivity. Over the years, the Committee has consistently expressed the view that sexual harassment—as a serious manifestation of sex discrimination and a violation of human rights—is to be addressed within the context of the Convention. Given the gravity and serious repercussions of sexual harassment, the Committee recalls its general observation highlighting the importance of taking effective measures to prevent and prohibit sexual harassment at work. Such measures should address both quid pro quo and hostile environment sexual harassment, and the Committee’s general observation provides further guidance in this regard.

Source: Committee of Experts: *General survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalisation, 2008* (Geneva, ILO, 2012), paragraph 789, p. 330.

Only the Indigenous and Tribal Peoples Convention, 1989 (No. 169) refers to prohibition of sexual harassment in the workplace. It provides that governments shall do everything possible to prevent any discrimination between workers belonging to the peoples to whom the Convention applies and other workers, including taking measures to ensure that they enjoy protection from sexual harassment<sup>53</sup>.

Since sexual harassment in the workplace was first recognized as a form of sex discrimination, an increasing number of countries in the world have enacted legislative provisions on sexual harassment. According to Deirdre McCann<sup>54</sup>, there

<sup>51</sup> ILO: *General survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalisation, 2008* (Geneva, ILO, 2012), paragraph 789, p. 330.

<sup>52</sup> Source: Committee of Experts: *Special survey on the application of Convention No. 111 on Discrimination in Employment and Occupation* (Geneva, ILO, 1996), paragraph 179, p. 16.

<sup>53</sup> Article 20(3)(d).

<sup>54</sup> D. McCann. *Sexual harassment at work: National and international responses, Conditions of Work and*

are mainly adopted approaches. Firstly, in many countries, specific acts of harassment have been categorized as a form of some other kind of prohibited conduct, such as sexual assault or defamation, without explicitly referring to “sexual harassment”. This approach was common in many jurisdictions even prior to widespread awareness of the whole range of forms which sexual harassment can take. Secondly, in a number of countries, sexual harassment has been explicitly referred and recognized by their courts and tribunals as a distinct form of some broader type of prohibited behavior. Most commonly, it has been recognized as a form of sexual discrimination and prohibited under equality or anti-discrimination laws. Finally, legislatures have enacted legislation, or amended existing provisions, to specifically prohibit workplace sexual harassment. There are almost 50 countries in which sexual harassment is universally and directly prohibited at the national or federal level, including Argentina, Australia, Austria, Bangladesh, Belgium, Belize, Canada, Costa Rica, Croatia, the Czech Republic, Denmark, Dominican Republic, Fiji, Finland, France, Germany, Guyana, Honduras, Iceland, Ireland, Israel, Japan, the Republic of Korea, Latvia, Lesotho, Lithuania, Luxembourg, Malta, Mauritius, Namibia, the Netherlands, New Zealand, Norway, Panama, Paraguay, the Philippines, Poland, Portugal, Romania, Slovakia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, the United Republic of Tanzania, Uruguay, Venezuela. The majority have taken this step very recently: at least 35 have legislated against sexual harassment for the first time over the period since 1995, including Costa Rica, Finland, Panama, Paraguay, the Philippines, Sri Lanka, Switzerland (1995); Belize (1996); Guyana, Japan, Uruguay (1997); Honduras, Ireland, Israel, Lithuania, Mauritius, Portugal, South Africa, the United Republic of Tanzania, Thailand (1998); Fiji, Japan, Venezuela (1999); Bangladesh, Iceland, Luxembourg (2000); Denmark (2001); Norway, Romania (2002); Croatia, Malta, Poland, Slovakia (2003); the Czech Republic, Latvia (2004)<sup>55</sup>.

D. McCann also indicates that sexual harassment may be addressed under more than one legal branch in the same jurisdiction. In Canada and New Zealand, for example, sexual harassment is explicitly proscribed under both labour law and human rights law. And in those countries in which sexual harassment is specifically prohibited in legislation, cases may also be brought forward under other branches of the law. In the Netherlands, for example, criminal law provisions have been used despite specific labour law provisions, while in Japan, claims for sexual harassment can be made under both equality legislation and tort law.

Countries have enacted national-level legislation devoted to sexual harassment, including Belize (Protection against Sexual Harassment Act), Costa Rica (Law on Sexual Harassment in Employment and Education), Israel (Law on

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*Employment Programme*, ILO, 2005.

<sup>55</sup> D. McCann. *Sexual harassment at work: National and international responses*, *Conditions of Work and Employment Programme*, ILO, 2005.

Sexual Harassment in Employment and Education), Luxembourg (Law on Protection against Workplace Sexual Harassment) and the Philippines (Anti-Sexual Harassment Act)<sup>56</sup>. Some of them are hybrid laws that establish legislative regimes for the prohibition of sexual harassment through provisions drawing on elements from different branches of the law. The Philippines Anti-Sexual Harassment Act, for example, allows victims of sexual harassment the option of filing a criminal complaint, making an administrative complaint within the workplace or bringing a civil case for damages<sup>57</sup>.

In many countries, provisions on sexual harassment have been included in their equality and sex discrimination laws, including in: Australia (Sex Discrimination Act); Austria (Equality of Treatment Act); Denmark (Gender Equality [Consolidation] Act); Finland (Act on Equality between Women and Men, 1995); Germany (Act to Establish Equality for Men and Women); Guyana (Prevention of Discrimination Act, 1997); Honduras (Law on Equal Opportunities for Women); Iceland (Act on the Equal Status and Equal Rights of Women and Men); Ireland (Employment Equality Act, 1998); Japan (Equal Employment Opportunity Act); Republic of Korea (Equal Employment Act); Lithuania (Law on Equal Opportunities); Malta (Equality for Men and Women Act); Mauritius (Sex Discrimination Act); Netherlands (Equal Treatment Act); Norway (Gender Equality Act); Romania (Law on equal opportunities); South Africa (Employment Equity Act); Sweden (Equal Opportunities Act, 1991); Switzerland (Law on Equality); and Venezuela (Organic Law on the Rights of Women to Fairness and Equality)<sup>58</sup>. The argument made is that, since sexual harassment is directed primarily at women, they are disproportionately subjected to detrimental treatment in the labour force and it is therefore a form of sex discrimination. The sex discrimination approach is particularly prevalent in countries in which equality or anti-discrimination legislation is the only route available to victims of sexual harassment.

Labour law is also used to combat sexual harassment in the workplace. In more than one-third of countries, specific provisions on sexual harassment are included in labour legislation, including Belgium (Law on the Wellbeing of Workers, 1996); Canada (Canada Labour Code); Czech Republic (Labour Code); Dominican Republic (Labour Code); France (Labour Code); Latvia (Labour Code); Lesotho (Labour Code); Mauritius (Labour Act); Namibia (Labour Act, 1992); Netherlands (Working Conditions Act 1998); New Zealand (Employment Relations Act, 2000); Panama (Labour Code); Paraguay (Labour Code); Poland (Labour Code); Slovakia (Labour Code); Spain (Worker's Statute); Thailand (Labour Protection Act, 1998)<sup>59</sup>; and recently Malaysia (Employment [Amendment] Act 2012). The New Zealand

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<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

<sup>58</sup> D. McCann. *Sexual harassment at work: National and international responses*, *Conditions of Work and Employment Programme*, ILO, 2005.

<sup>59</sup> Ibid.

Employment Relations Act 2000, for example, contains a set of provisions which address sexual harassment as a “personal grievance” against the victim’s employer that can be pursued through a procedure outlined in the Act. In addition to these kinds of specific measures, other prohibitions in labour law may be interpreted to encompass sexual harassment in individual cases. Certain kinds of labour laws have been particularly prevalent in the legal treatment of sexual harassment, most notably in provisions of unfair dismissal, law on contract of employment, and health and safety laws. Unfair dismissal provisions have been interpreted to cover dismissals arising from sexual harassment in three sets of circumstances: when a worker is dismissed for refusing to engage in sexual activity, complaining about sexual harassment or taking legal action; where a victim is forced to resign and claims constructive dismissal; and where an employer is held to be justified in dismissing the harasser. Laws regulating contracts of employment, which specify the contractual rights and duties of employees and employers, are also used to tackle sexual harassment. In some jurisdictions, the rights and duties of the contract of employment have been held to include a duty not to engage in certain forms of sexually harassing behavior. Finally, health and safety laws have been interpreted in ways that protect victims of sexual harassment and indirectly prohibit some of its forms. In Canada, for example, provincial occupational health and safety laws have been applied, and in Trinidad and Tobago, sexual harassment has been recognized and prohibited as a breach of the right to enjoy a safe working environment.

Prohibition of sexual harassment is included in the national human rights legislation of three countries: Canada (Canadian Human Rights Act), Fiji (Human Rights Commission Act, 1999) and New Zealand (Human Rights Act, 1993)<sup>60</sup>. These statutes apply to harassment in a range of contexts, including education and housing, but refer specifically to workplace harassment.

Victims of sexual harassment may also have recourse to tort law in a significant number of countries. In these jurisdictions, their treatment constitutes a civil wrong for which they can be granted a remedy, usually in the form of damages. Where no specific provisions exist, the only available form of redress is often the interpretation of existing torts, such as personal injury, assault and battery, or defamation, extended to incidences of sexual harassment. Through this approach, tort law is potentially applicable in most countries. In some, it is the primary mechanism through which victims can seek legal redress<sup>61</sup>.

Sexual harassment is also prohibited under the criminal law of some countries. At least eight national-level jurisdictions have enacted criminal provisions, including Bangladesh (Suppression of Violence against Women and Children Act), Costa Rica (Penal Code), Mauritius (Criminal Code), Spain (Penal

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<sup>60</sup> D. McCann. *Sexual harassment at work: National and international responses, Conditions of Work and Employment Programme*, ILO, 2005.

<sup>61</sup> Ibid.

Code), Sri Lanka (Penal Code), United Republic of Tanzania (Penal Code), and Venezuela (Law on Violence Against Women and the Family, 1998)<sup>62</sup>. In Venezuela, for example, legislation addresses harassment as a form of violence against women. In addition to prohibition under criminal law, sexual harassment laws provide for a whole range of remedies and sanctions derived from different branches of the law, including criminal sanctions. In Israel, the Prevention of Sexual Harassment Law of 1998 designates sexual harassment as both a criminal offence and a civil wrong, making the perpetrator liable both to imprisonment and to compensate the victim.

In short, whether provided or regulated by laws—including anti sexual harassment, equality and non-discrimination, labour, criminal or tort—sexual harassment is considered as crime and is prohibited.

In the following analyses on laws and policies for preventing and addressing sexual harassment in the workplace, the research team mainly concentrates in Asian countries, but also other countries if necessary.

### 3.1 LEGAL DEFINITIONS OF SEXUAL HARASSMENT IN THE WORKPLACE

The Committee on the Elimination of Discrimination Against Women in its General Recommendation No. 19 defined that “sexual harassment includes such unwelcome sexually determined behavior as physical contact and advances, sexually coloured remarks, showing pornography and sexual demand, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment”<sup>63</sup>.

There is no definition on sexual harassment at the workplace in ILO’s Conventions, the CEACR has highlighted that effective measures are taken to prevent and prohibit sexual harassment at work should address both **quid pro quo** and **hostile environment sexual harassment**<sup>64</sup>—two principal forms of harassment. “Quid-pro-quo” harassment refers to a demand by a person in authority, such as a supervisor, for favors in order to obtain or maintain a professional benefit—be it recruitment, a wage increase, a promotion or training opportunity, a transfer or job security. This type of harassment takes place most often in the form of (sexual) blackmail; i.e. demanding (sexual) favours in exchange for a job benefit. A hostile working environment harassment refers to verbal, non-verbal or physical conduct that creates an intimidating, offensive, humiliating, abusive or poisoned working environment, and

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<sup>62</sup> Ibid.

<sup>63</sup> Paragraph 18.

<sup>64</sup> ILO: *General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, 2008* (Geneva, ILO, 2012), paragraph 789, page 330.

interferes with people’s performance at work<sup>65</sup>. It is clear that both the Committee on the Elimination of Discrimination Against Women and the CEACR emphasize two principal forms of harassment—quid pro quo and hostile environment sexual harassment.

Most of the countries in which sexual harassment is directly prohibited include a definition in their legislation<sup>66</sup>. Some countries provide relatively succinct definitions, while others only state principally that “sexual harassment of women is prohibited” and empower local legislatures to provide definitions of sexual harassment.

In Malaysia, the Penal Code was the only law that dealt with sexual harassment until recently. Under this code, sexual harassment is narrowly defined only to cover physical harassment. However, an amendment to the Employment Act of 2012 has taken a significant step forward in addressing sexual harassment in the workplace as now containing a number of provisions on sexual harassment, including a definition of sexual harassment, complaint procedures and penalties for non-compliance of the complaint procedure.

**Penal Code, amended in 2006 of Malaysia**

Word or gesture intended to insult the modesty of a person

**Section 509** – “Whoever, intending to insult the modesty of any women, utters any words, makes any sound or gesture or exhibit any object, intending that such word or sound shall be heard, or such gesture or object shall be seen by such woman, shall be punished with imprisonment for a term which may extend to 5 years or with fine, or with both”

**Employment (Amendment) Act 2012 of Malaysia**

**Paragraph 2.2. (g)** – “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;’

In China, a national law against sexual harassment eventually passed in 2007 as part of the Protection of Women’s Rights and Interest Law, revised in 2005. The Protection of Women’s Rights and Interest Law prohibits sexual harassment against women by men, and states that when a woman is subjected to sexual harassment, she has the right to report the matter to the authorities. The law further declares that

<sup>65</sup> ILO: Equality and non-discrimination at work in East and South-East Asia: Guide. 2012.

<sup>66</sup> D. McCann. *Sexual Harassment at Work: National and international responses, Conditions of Work and Employment Programme*, ILO, 2005.



sexual harassment against a woman violates public security management regulations, and that the wrongdoer can be subjected to administrative penalties as well as civil claims<sup>67</sup>. Sexual harassment is not defined in the Protection of Women's Rights and Interest Law, but in provincial laws such as Measures for Implementation of the above-mentioned Law.

**Law on the Protection of Women's Rights and Interests (amended on August 28, 2005) of China**

**Article 40**

Sexual harassment against women is prohibited. Women victims have the right to lodge a complaint against the employer and relevant authorities.

**Article 58**

Any violation of a stipulation prescribed in this Law that results in sexual harassment or domestic violence against women will constitute a violation of the public security administration, the victim may require the public security organ to give the violator an administrative punishment or may initiate a civil action in the people's court.

**Anhui Province's Measures for the Implementation of the Law on the Protection of Women's Rights and Interests (2007)**

**Article 34**

Sexual harassment against women through physical contact, verbal abuse, written text, pictures, text messaging and other forms that contain sexual contents or are sexually related and are against the woman's will is prohibited.

Women victims have the right to make a complaint with the working unit and relevant authorities. The women's federation, legal aid organizations, public security and other relevant departments shall provide support for women victims according to their own scope of responsibilities.

**Shanghai's Measures for the Implementation of the Law on the Protection of Women's Rights and Interests (2007)**

**Article 32**

Sexual harassment against women in the forms of spoken and written language, pictures, text messaging and physical contact is prohibited. Women victims have the right to make a complaint with the working unit and relevant authorities.

The relevant departments and employers shall take necessary measures to prevent

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<sup>67</sup> Article 58

and stop sexual harassment against women.

According to Anhui Province's Measures to Implement the Protection of Women's Rights and Interest Law, sexual harassment includes sexual advances such as embracing a woman, kissing her on lips, touching her body, sharing details of pornographic movies, whistling, staring at a woman's body, and sending lewd messages through mobile phones without her express or implied consent. While, in Shanghai, sexual harassment against women is prohibited in the forms of groping women in public, using sexually suggestive language—whether in jest or otherwise, and sending text messages or explicit sexual pictures. It appears that the Anhui legislation gives a somewhat wider definition of sexual harassment than the Shanghai's one. Thus, sexual harassment can be differently addressed in different administrative regions.

In Pakistan, a definition on sexual harassment is provided in details in a Code of conduct for employees prescribed by the Protection Against Harassment of Women at Workplace Act 2010. This definition emphasizes two typical forms of sexual harassment - quid pro quo and hostile environment sexual harassment.

**Code of conduct for employees prescribed by**  
Pakistan "Protection Against Harassment of Women at Workplace Act 2010"

**Article 1(i)**

"Sexual 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;...

Definitions of sexual harassment in the workplace in Malaysia, China (at a provincial level) or Pakistan particularly and in other countries generally all include reference to types of conduct, sexual and employment factors, and especially emphasize that the conduct is unwanted or unwelcome by receivers or against their will.

### 3.2 IDENTITY OF THE PERPETRATOR AND VICTIM

The legislative provisions that identify the potential perpetrators of sexual harassment can be very important to their effectiveness. The potential perpetrators are differently determined in different countries. The Pakistan the Protection Against Harassment of Women at Workplace Act 2010, for instance, prohibits owners, managers and fellow employees from sexually harassing others at the workplace. In Belize, an employer, a

supervisor<sup>68</sup>, a prospective employer<sup>69</sup> and an employee<sup>70</sup> can be held responsible for sexual harassment. Thai legislation covers the actions of bosses, chiefs, work supervisors and work inspectors<sup>71</sup>, while in Malaysia, the law provides that both employer and employee can be charged with sexual harassment<sup>72</sup>.

These provisions are also important in encouraging employers to introduce preventive measures to protect their workers from harassment. In developed countries the conduct of non-employer and non-employees—such as contractors, customers, and clients—are also regulated by law<sup>73</sup>. The New Zealand Employment Relations Act explicitly prohibits sexual harassment by non-employees<sup>74</sup>, as does the German Protection of Employees Act<sup>75</sup>. Legislative provisions that define the harasser in neutral terms, for example as “any person”, can also cover non-employers and non-employees.

A common view is that female employees are generally recognized to be the primary victims of sexual harassment. This seems to affect targeted groups regulated by national laws that have been put in p. For example, the Law on Protection of Women’s Rights and Interest in China, the Protection Against Harassment of Women at Workplace Act 2010 in Pakistan, and the Labour Protection Act 1998<sup>76</sup> in Thailand consider only women and children as victims of sexual harassment.

However, the increasing awareness that perpetrators of sexual harassment can be of either sex has influenced legislators and decision-making bodies. National laws have also adopted differing perspectives on who can bring forward a claim as a victim of sexual harassment<sup>77</sup>. The Employment (Amendment) Act 2012 of Malaysia clearly points out that both employer and employee can be victims of sexual harassment<sup>78</sup>. Legislations in a number of countries clearly show that both women and men can be victims of sexual harassment<sup>79</sup>. The Law on the Wellbeing of workers 1996 of Belgium is an clear example<sup>80</sup>.

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<sup>68</sup> Belize: Protection Against Sexual Harassment Act, 1996. Article 3(1).

<sup>69</sup> Ibid. Article 3(2).

<sup>70</sup> Ibid. Article 3(3).

<sup>71</sup> Thailand: Labour Protection Act, 1998, Section 16.

<sup>72</sup> Malaysia: Employment (Amendment) Act 2012. Article 81a.

<sup>73</sup> D. McCann. *Sexual harassment at work: National and international responses, Conditions of Work and Employment Programme*, ILO, 2005.

<sup>74</sup> New Zealand: Employment Relations Act 2000, Article 108(2).

<sup>75</sup> German: Protection of Employees Act, Section 3(2).

<sup>76</sup> Article 16.

<sup>77</sup> D. McCann. *Sexual harassment at work: National and international responses, Conditions of Work and Employment Programme*, ILO, 2005.

<sup>78</sup> Article 81A

<sup>79</sup> Ibid.

<sup>80</sup> Chapter V, Article 32

Most legislative prohibitions, however, are interpreted in neutral terms to apply to either “an employee” or to “a person”. Through this interpretation, men may also be protected by law as victims of sexual harassment.

### 3.3 EMPLOYER’S OBLIGATIONS

Most sexual harassment legislation imposes responsibilities and obligations on employers. These obligations can be immediate and detail appropriate action that employers have to take to correct any act of sexual harassment towards employees in the workplace, where the employer, his agents or his supervisors know or are informed of such conduct or can be an introduction of employer’s preventive measures<sup>81</sup>. In Malaysia, for example, employers are responsible to inquire into a complaint upon its receipt<sup>82</sup>. Nonetheless, the Malaysian law appears to be rather passive rather than proactive when it comes to the prevention of sexual harassment, because employers are obliged to respond to the sexual harassment complaints when they are made, but the law does not make it an employer obligation to prevent sexual harassment from happening.

Employers in Pakistan have to constitute a standing Inquiry Committees to look into complaints of sexual harassment; designate a Competent Authority for the implementation of a code of conduct for employees prescribed by Protection Against Harassment of Women at Workplace Act 2010; conduct awareness sessions about the code and the consequences of sexual harassment at workplace for its employees, and also have to respond to any and all queries of the Ombudsperson<sup>83</sup>.

Provincial/Municipal regulations in China for the implementation of the Law on Protection of Women’s Rights and Interest all specify that employers are obliged to take necessary measures to prevent and stop sexual harassment of women<sup>84</sup>. Particularly, the local regulations of Guangdong and Jiangsu also indicate specific measures, such as establishing appropriate environment and putting in place necessary complaint and investigation procedures. In the Philippines, the Anti Sexual Harassment Act contains detailed provisions obliging employers to issue rules and regulations prescribing appropriate behavior, procedures and sanctions.

### 3.4 PROCEDURES FOR ADDRESSING SEXUAL HARASSMENT IN THE WORKPLACE

Procedures for sexual harassment complaints differ across jurisdictions and according to the branch of the law under which they are brought forward under. Criminal

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<sup>81</sup> Article 4.

<sup>82</sup> Article 81b.

<sup>83</sup> Code of Conduct for Employees. Section 5 and 10.

<sup>84</sup> Provinces Jiangxi, Sha’anxi, Shanghai City, Anhui, Ningxia Hui Autonomous region, Guangdong, Zhejiang, Sichuan, Jiangsu, Hebei and Beijing.

law and civil law claims brought under general provisions are usually conducted according to the ordinary procedures.

In some jurisdictions, special agencies, adjudicatory bodies and procedures have been introduced to respond to these kinds of concerns<sup>85</sup>. In Pakistan, for example, the Ombudsperson is appointed for this task<sup>86</sup>. The role of these agencies is usually to facilitate the filing of complaints, investigate them, and attempt conciliation. Where conciliation is not successful, they may be empowered to bring an enforcement action, authorize the complainant to take the case to court, represent her in court proceedings, or, occasionally, adjudicate on the claim. Although their effectiveness depends on their human and financial resources, due to their investigatory powers and expertise in sexual harassment complaints, enforcement agencies can support victims throughout the process<sup>87</sup>.

A number of countries introduce special procedures to be followed in sexual harassment claims, which ensure that the complainant is treated sympathetically or respond to the evidential problems often encountered. For example, procedural provisions can allow the complainant to request that an investigator of the same sex be assigned to her case or trade unions can bring claims forward on behalf of their members<sup>88</sup>. Confidentiality provisions covering the investigation and conciliation proceedings are also common. Such provisions can, for example, preclude agency staff from discussing the complaint or the identities of the parties or allow for private hearings, where appropriate. Tanzanian legislation allows for *in camera* examination of evidence and limits publication of the details of the complaint<sup>89</sup>. Where conciliation is attempted, there may also be provisions that protect the victim from being obliged to face the alleged harasser.

### 3.5 REMEDIES AND SANCTIONS

As a general principle, remedies and sanctions should ensure that sexually harassing behavior is stopped; that its victims are adequately compensated for their financial loss and emotional injury; and should act as a deterrent to potential harassers, while encouraging employers to introduce preventive policies. Statutory remedies and sanctions can be specific demands of the harasser to stop his behavior or to perform any reasonable act or course of conduct to redress any loss or damage suffered.

The Malaysian Employment (Amendment) Act 2012 states that when a complaint of sexual harassment that is made by an employee against another

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<sup>85</sup> D. McCann. *Sexual harassment at work: National and international responses*, *Conditions of Work and Employment Programme*, ILO, 2005.

<sup>86</sup> Protection Against Harassment of Women at Workplace Act 2010. Section 7.

<sup>87</sup> D. McCann. *Sexual harassment at work: National and international responses*, *Conditions of Work and Employment Programme*, ILO, 2005.

<sup>88</sup> Australia: Human Rights and Equal Opportunity Commission Act.

<sup>89</sup> United Republic of Tanzania: Criminal Procedure Act, 1995.

employee has been proven, the employer has the right to take disciplinary action, including: dismissing the employee without notice; downgrading the employee; or imposing the punishment of suspension without wages for a period of maximum two weeks; and when the complaint of sexual harassment is made by a person other than an employee, such person will be brought before an appropriate disciplinary authority to which the person is subject to<sup>90</sup>. When sexual harassment is committed by an employer against any employee, the employee may terminate his/her contract of employment without notice and still is entitled to wages as if the complainant has given the notice of the termination of contract and termination benefits and indemnity as provided by laws<sup>91</sup>. The Act also provides that any employer, who fails to inquire into complaints of sexual harassment or to inform the complainant of the refusal of inquiry and the reasons for the refusal, commits an offence and is liable to a fine not exceeding 10,000 Malaysian ringgit<sup>92</sup>.

The Labour Protection Act 1998 of Thailand stipulates that any person, who commits sexual harassment of either women or children, is punished with a fine not exceeding Baht 20,000<sup>93</sup>. In Pakistan, the Pakistan Penal Code (amended 2010) provides that sexual harassment at any place, including a workplace is considered as a crime. It is punishable by a fine of up to Rupees 500,000 or imprisonment up to 3 years or both<sup>94</sup>.

Provisions on remedies and sanctions can encourage employers to introduce preventive policies and procedures for addressing sexual harassment in their workplaces and also can allow victims to require all damages—such as loses earnings or promotion—to be remedied by employers due to a failure in protecting their employees from sexual harassment.

### 3.6 LESSONS LEARNED FOR VIET NAM

Facing the actual situation of sexual harassment at the workplace described in section 2.2 and the system of policies to prevent and deal with sexual harassment described in section 2.3, Viet Nam needs to take a number of the following issues into considerations for the effective implementation of the provisions of the Labour Code amended and supplemented in 2012 concerning sexual harassment at the workplace.

▪ ***A clear definition on sexual harassment at the workplace is extremely important.*** The existing situation in Viet Nam demonstrates that sexual harassment has occurred at various levels, including suggesting sexual intercourse, touching, holding hands,

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<sup>90</sup> Article 81c

<sup>91</sup> Article 81e.

<sup>92</sup> Article 81f.

<sup>93</sup> Article 147.

<sup>94</sup> Article 509

caressing, “accidentally” touching, putting hands around somebody’s neck, and hugging somebody’s body, to texting explicit messages, making unwanted phone calls, and making illicit appointments, and most seriously raping (cases in Boxes 1 - 5). However, these acts may not be considered sexual harassment if they are not stipulated in any legal normative document. In the current state of affairs, the perpetrators may also question that on what legislative basis they are accused of sexual harassment acts?

More importantly, when empowering employees to unilaterally terminate their employment contracts when they fall victim to sexual harassment, the Labour Code amended and supplemented in 2012 did not take into account the fact that the exercise of this right may cause workplace disputes over the rights applicable to the employees and employers. The absence of a clear definition of acts of sexual harassment is likely to lead to increasing or incessant lawsuits combined with an inability to penalize acts of sexual harassment that apparently involve victims and offences.

Not only a clear interpretation of “sexual harassment” is required, but also the need to clarify how “at the workplace” should be construed. Like all the countries that have definitions of *sexual harassment at the workplace*, such elements including constituent acts, the involvement of sexual factors, associated with employment and special emphasis on the uninvited nature of such acts or acts that are committed against their will, are indispensable for Vietnamese law.

The research team would recommend the definitions as follows:

*“Sexual harassment is any act of a sexual nature and other conduct based on sex or gender stereotypes by a person, including verbal, non-verbal, or visual deeds, gestures and actions aimed at another person who does not desire and/or feels discomfort with such an act. Such act can be humiliating conduct, creating a problem on safety and health of or causing disadvantages to the receiver that relate to the benefits from his/her employment, including recruitment and promotion or creating an hostile working environment”; and*

*“At the workplace means any location where the acts of harassment occur and where the employee is situated because of the working position he/she is assuming or for his/her performance of assigned tasks.”*

▪ ***Obligations of the employer to deter and address sexual harassment at the workplace should be clearly defined.*** To effectively deter sexual harassment from occurring at the workplace and to ensure that the employer respects the employees’ “honour and dignity”, it is necessary to concretize obligations of the employer. In an effort to remedy the lack of clear provisions in the Labour Code amended and supplemented in 2012 on the employer’s obligations to deter and address sexual harassment at the workplace, in the legal normative documents guiding this Code, the

Government can encourage employers to put forwards initiatives or measures to prevent and address sexual harassment in the collective labour agreements or internal regulations of the unit. These obligations may include educational or awareness raising activities on the adverse effects of sexual harassment, the internal procedures for dealing with sexual harassment when such acts occur, and a commitment to the grassroots trade union organization concerning the guarantee of a safe and healthy working environment.

▪ ***Procedures for addressing sexual harassment in the workplace:*** Clear, simple and effective procedures that are fair and transparent and protect against retaliation will empower victims of sexual harassment to stand up, report, and file a complaint against the perpetrator. The data shows that due to the shortage of clear procedures, very many cases related to sexual harassment were not thoroughly resolved. This has resulted in a loss of trust by the victims, who then choose silence as the next best option.

To be able to effectively deter and deal with sexual harassment at the workplace at different levels, it is necessary to apply a range of methods. For sexual harassment acts that are minor, reconciliation efforts can be resorted to and trade union organizations should play an important role. The women's and youth organizations should also be empowered to make accusations on behalf of their members in order to protect victims that have limited knowledge of applicable legislation.

The regulations on the responsibilities of the perpetrator to provide evidence of not committing sexual harassment should not be laid down so as to reduce a psychological and legal burden for victims who are predominantly women and are predominantly in a dependent position.

▪ ***Remedial measures and sanctions:*** As analyzed above, sexual harassment at the workplace leaves behind unexpected effects on both the victims and the organizations where they work; therefore, effective remedial measures and sanctions must be in place.

The remedial measures to be taken when sexual harassment occurs and effects the working life of the victim, include full compensation for financial losses related to dismissal, taking sick leave, or for physical and mental injuries.

Sanctions are effective in deterring sexual harassment. Thus, a Government Decree guiding the implementation of the Labour Code (amended and supplemented in 2012) on administrative sanctions for acts committed against labour legislation should prescribe in detail a range of penalties for those who commit acts of sexual harassment. Different levels of penalties should be prescribed depending on the severity of the acts to discourage recidivism. In addition, workplace disciplinary



measures including reprimands, extension of the waiting time for wage increment, demotion and dismissal should also be applied to the perpetrators.

## IV. CONCLUSIONS AND RECOMMENDATIONS

### 4.1 CONCLUSIONS

1. Perceptions of sexual harassment at the workplace vary within society and are affected by gender-based stereotype. Since there is no clear definition of what constitutes sexual harassment, there is a tendency to confuse sexual harassment in the workplace with insensitive comments. This attitude affects whether an act is considered to be sexual harassment in the workplace and how to deal with it.
2. Sexual harassment in the workplace is a gender issue. Victims of sexual harassment are predominantly women, who are usually in a low-ranking position, and work under the supervision of, or are dependent on the harassers. Men can also be victims of sexual harassment in the workplace, but their number is far fewer than that of women.
3. Sexual harassment at the workplace can occur to individuals from all age groups, however, the risk is higher for young people aged between 18 and 30 years of age. Those particularly at risk of sexual harassment are people with lower qualifications and lower professional positions. However, sexual harassment also happens to people with higher qualification and higher professional positions under complicated circumstances. Those who commit sexual harassment and their victims often know each other well. Harassment can occur between colleagues, supervisors and staff, or between individuals in a position of authority and dependents.
4. Forms of sexual harassment include verbal harassment such as unwelcome flirting, wooing, lewd remarks, insults and put-downs, sexual comments (either in person or through phone), physical touching, suggestions of sexual intercourse, and sexual assault and rape.. Verbal harassment is the most common.
5. Sexual harassment in the workplace can be either associated with or unconnected with career prospects of the harassed person, and may affect their ability to obtain or keep certain professional rewards, such as successful completion of education and training, recruitment into a job, keeping a job, a wage increase, a promotion, or a transfer. Otherwise sexual harassment that does not include a demand for a sexual favour in exchange for a job benefit may disadvantage the victim by creating a hostile working environment.
6. Results of focus group discussions have shown that sexual harassment may happen at any location in working environments. Sexual harassment at work also appears to be affected by occupational features.
7. Lack of practically enforceable legislation relating to sexual harassment at workplace—including as legal definitions, legal and financial responsibilities of

enterprises and employers, redress processes, and payment of damages and fines—has led to victims remaining silent.

8. Sexual harassment at work has various negative effects on victims and their organizations. Victims of sexual harassment at work suffer from both direct and indirect effects, including health, economic, social, psychological effects and hindered career development. Enterprises and organizations where sexual harassment continually takes place suffer from direct and indirect consequences to their organizations, including reduction in productivity and profit, damage to their reputation, negative impacts on business relationships, loss of human resources and increased running costs.

9. Even though reference is made to sexual harassment in the newly revised Labour Code 2012, it falls short of effectively prohibiting the conduct and therefore protecting its victims, as it does not provide a clear definitions of sexual harassment.

## 4.2 RECOMMENDATIONS

Sexual harassment at the workplace in Viet Nam is a social challenge that needs to be addressed. This has been shown in the approach of the Party and the State in bringing this phenomenon into the revised and amended Labor Code of 2012. There are some recommendations as follows:

### **4.2.1 Recommendations relating to the implementation of the related articles on sexual harassment in the workplace in the revised Labour Code 2012**

1. It is important to enhance the awareness of employers and employees on the existence of forms of sexual harassment at the workplace, preventive measures, and legal framework on preventing and addressing sexual harassment. This can be immediately implemented by mainstreaming sexual harassment into the dissemination activities of the newly revised and amended Labour Code 2012 as well the legal documents guiding its implementation. Dissemination and awareness raising activities should be regularly conducted and evaluated in order to improve best practice on how to address sexual harassment in the workplace, and also to forewarn and inform of forms of sexual harassment to enable potential victims to avoid them.

2. It is essential to have a legal document guiding the implementation of the relevant articles of the newly revised and amended Labour Code of 2012 related to issues of sexual harassment at the workplace. Due to the scope and complexity of the issue, this document should be in the form of a Governmental Decree. The main contents of the document can be seen in Annex 1. While waiting for a Governmental Decree on sexual harassment in the workplace, all related issues can be integrated in relevant legal documents as the following:

- Definition of sexual harassment in the workplace, remedies and sanctions can be integrated into the Governmental Decree on penalties for acts in violation labour legislation.
- Obligations of employers to prevent and address sexual harassment in the workplace can be integrated in the Governmental Decree on collective agreement, internal rules or regulations of enterprises.
- Procedures for addressing sexual harassment in the workplace can be integrated in the Governmental Decree on procedures for handling violations of labour regulations.

3. Enhancing training courses on sexual harassment and providing documentation or a handbook on the prevention of sexual harassment at the workplace. The training can be organized in modular form, including knowledge, skills, education and communication on the prevention of sexual harassment at the workplace, as well as counseling and guiding legislation.

4. Conducting further sociological research at the national level to learn more about the scope and extent of sexual harassment at the workplace with the aim of creating a database for the development of the aforementioned legal document. There is great need for group specific research on the effects of sexual harassment at the workplace, in particular with domestic workers and students, as well as with a number of specific sectors where sexual harassment is more likely to occur, such as health, education and tourism.

Research should also focus on the legal feasibility setting up a mechanism to handle complaints about sexual harassment at the workplace.

5. Encouraging legal initiatives and implementing a pilot model at the enterprise level for developing codes of conduct for the prevention and confronting of sexual harassment at the workplace, or otherwise including this issue into the internal rules or regulations of collective agreements or enterprise.

#### **4.2.2 Recommendations relating to enterprise-level measures for addressing sexual harassment at the workplace**

Sexual harassment at the workplace will be effectively addressed when enterprises have their own proper policies.

1. Enterprises need to consider their own policies on the prohibition of sexual harassment to avoid the repercussion of the employee using their right stated in Article 37 in the newly revised and amended Labor Code of 2012. Such an eventuality can lead enterprises to lose their skilled workforce which is in extreme demand in the highly competitive labour market.

2. While waiting for a Government legal document to provide guidelines for the implementation of the related Articles in the newly revised and amended Labor Code of 2012 concerning sexual harassment at the workplace, there should be active dissemination and education of the worker's right to be respected in terms of dignity and honor and to have a safe and clean environment where sexual harassment does not occur.

3. Managerial persons in enterprises need to be regularly trained on their responsibility to ensure that their staff did not face sexual harassment. Training courses should provide them with the skills and sensitivity to address sexual harassment at the workplace.

#### **4.2.3 Recommendations relating to the role of workers' organizations and other organizations in addressing sexual harassment at the workplace**

Preventing and addressing sexual harassment at the workplace can only be effectively achieved with the support of the different social partners. These organizations play different roles in protecting and supporting victims of sexual harassment.

1. Trade union organizations need to negotiate with employers to highlight the issue of prevention and cessation of sexual harassment at the workplace into collective agreements or the internal rules or regulations of enterprises. Trade unions can develop training manuals and conduct training courses for their members on the employee's right to be protected from sexual harassment as well as the skills needed to address sexual harassment when it occurs. Trade Union can also develop education and communication program to enhance the ability of their members to prevent sexual harassment at the workplace. Such program can be mainstreamed within the implementation of National Program and National Strategy on gender equality in the periods of 2011-2015 and 2011-2020.

2. The employers' organizations should offer guidance on the most effective ways to train managers and entrepreneurs about sexual harassment at their workplace. It is important to collaborate with State agencies to carry out pilots to develop a code of conduct on the prevention of sexual harassment at the workplace, or otherwise bring these issues into collective agreements or enterprises internal rules or regulations.

3. Women's organizations and other mass organizations can play catalytic role in promoting and supporting victims of sexual harassment at the workplace, especially encouraging them to report sexual harassers.



**ANNEX: Main contents of the Governmental legal document on sexual harassment in the workplace:**

***Chapter/Section 1. General regulations, including the following articles:***

- (i) Scope and beneficiaries:
- (ii) Explanation of Terms, including: Harassment; Sexual Harassment; Workplace. Need to detail on all forms of possible sexual harassment.
- (iii) The rights that employee have recourse to after being sexually harassed;
- (iv) The obligations of employers to prevent and control sexual harassment in the workplace.

***Chapter/Section 2. Methods of preventing and controlling sexual harassment at the workplace, including:***

- (i) Increased education, communication, and awareness raising on the prevention of sexual harassment at the workplace;
- (ii) Training on the prevention of sexual harassment at work, which can be integrated into business training courses for newly recruited workers and annual training for workers in OSH;
- (iii) Encouraging businesses to adopt Codes of conduct on sexual harassment;
- (iv) Encouraging businesses to include content on the prevention of sexual harassment at the workplace into their collective labor agreements, or business rules and regulations.

***Chapter/Section 3. Procedures for addressing sexual harassment at the workplace:***

***Chapter/Section 4. Remedies and sanctions for sexual harassment at the workplace:***

- (i) Remedies for sexual harassment at the workplace
- (ii) Sanctions for sexual harassment at the workplace

***Chapter/Section 5. Articles for Implementation***

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