

## **New Anti-Harassment Law Introduced In Japan**

Since taking office in 2012, Japanese Prime Minister Shinzo Abe has made female empowerment a prominent part of his economic policies, dubbed “Abenomics”. In 2013, he expressed his ambition to make Japan a country “in which women can shine”. However, critics cite Japan’s 2019 year-on-year eleven-place fall in the global gender equality rankings, produced by the World Economic Forum, as proof those policies are not helping women. Those same critics identify the failure to tackle pervasive workplace "power harassment" as a major stumbling block.

However, from 1 June 2020, large companies in Japan are obliged to ban harassment directed at employees by their superiors, as part of wider efforts by Shinzo Abe to improve working conditions for men and women. Under the Law to Prevent Harassment in the Workplace, companies with more than 50 employees must put in place measures to prevent both sexual harassment and harassment related to pregnancy, maternity, and childcare leave. Companies must also take steps to punish harassers.

With this law, Japan is now no longer “the only high-income OECD nation without a law prohibiting sexual harassment in the workplace.” Nevertheless, campaigners have criticized the new law for not penalising noncompliant companies and for failing to protect freelancers, job applicants and LGBT persons. As a result, Japan still falls short of the Convention on Violence and Harassment in the Workplace, adopted last year by the International Labour Organisation.

### **POWER HARRASSMENT**

Power harassment or “pawa hara” is a Japanese term for abusive, discriminatory or exploitive behaviour directed at employees by their superiors. Although harassment is a problem worldwide, Japan’s rigid hierarchy and culture of micromanagement and subservience have created a work environment where power harassment is pervasive. Eighty-two percent of employees over 35 years old have suffered power harassment in some form, according to En Japan, a job-search site. And complaints about workplace harassment and bullying reached a record 82,000 nationwide in the 2018 fiscal year. Women are disproportionately affected, with a third of women being treated for mental illness citing workplace harassment as the source of their poor mental health, according to a Japanese government report.

## THE LAW TO PREVENT HARASSMENT IN THE WORKPLACE & ITS CRITICS

The new law outlines six categories of power harassment; physical abuse, emotional abuse, deliberately isolating an employee, overworking an employee, consistently assigning work below an employee's skill level, and infringing on an employee's privacy.

Companies with more than 50 employees are now legally obliged to prohibit power harassment and to carry out measures to prevent such harassment, such as providing employee education and training. Where these preventative measures fail, companies are obliged to have procedures in place for employees to report harassment and to offer suitable dispute resolution services. The law protects employees from retaliation for reporting harassment.

However, the application of the law to job applicants is unclear, as the law only states that "similar steps" should be taken. Furthermore, the law does not apply to freelancers, who are already refused minimum wage, statutory sick-pay, maternity leave, and childcare leave. In contrast, the ILO's Convention on Violence and Harassment in the Workplace requires workplace protections to be afforded to both.

On the other hand, the law is the country's first to protect LGBT persons in the workplace. Government guidance on the law states that "outing" an LGBT person or insulting a person's sexuality or gender identity will constitute power harassment, and is prohibited. However, Japan is still without any specific legislation prohibiting discrimination in employment on the basis of sexuality or gender identity, and an LGBT person can still be denied employment or dismissed because of their sexuality or gender identity.

The government plans to introduce harsh penalties for government employees perpetrating power harassment, but the law itself does not penalise companies for failing to comply. The government has threatened to name and shame uncooperative companies, but whether that will prove effective is unclear.