

Laws related to protection of women from harassment at work place in Bhutan

Despite strong political commitment and a supportive legal and policy framework, gender-based violence and violence against women and children in Bhutan remains a significant problem. Sexual harassment continues to go unnoticed and unreported to a large extent as in many cases victims are unsure about where to seek help from or whether their experience would be considered as sexual harassment.

As per the Penal Code of Bhutan (Sections 205 and 206), “a defendant shall be guilty of sexual harassment, if the defendant makes unwelcome physical, verbal or non-verbal abuse of sexual nature, and the offence of sexual harassment is a petty misdemeanor and of criminal nature. Sexual harassment includes staring or leering, unwelcome touching, suggestive comments, taunts, insults or jokes, displaying pornographic images, sending sexually explicit emails or text messages, and repeated sexual or romantic requests. It also includes behaviors such as sexual assault, stalking or indecent exposure. The Constitution of the Kingdom of Bhutan 2008 (Article 9 (17) and (18)” whereby the state endeavors to take appropriate measures to eliminate all forms of discrimination and exploitation against women including trafficking, prostitution, abuse, violence, harassment and intimidation at work in both public and private spheres; and ensure that children are protected against all forms of discrimination and exploitation including trafficking, prostitution, abuse, violence, degrading treatment and economic exploitation); and the Domestic Violence Prevention Act 2013 and the Child Care and Protection Act 2011 includes commitment and appropriate redressal and protection measures to eliminate sexual harassment.

Sexual harassment at the workplace is referred to as “unwelcome verbal, visual, or physical conduct of a sexual nature that is severe or pervasive and affects working conditions or creates a hostile work environment”. It is the most stereotypical form of sexual harassment. There are numerous assumptions about sexual harassment like - it occurs on rare occasions; it is trivial and harmless flirtation; if not intentionally done it is not sexual harassment; victims are all females. However, the truth is that “sexual harassment is rampant and at least 40 to 60 percent of working women have experienced sexual harassment in the workplace at least once in their lifetime; victims of sexual harassment suffer from psychological symptoms and often are forced to resign from work; the issue is that even if its unintentional it is unwelcome; and males can also be objects of sexual harassment.

In an effort to respond to and provide assistance on issues related to sexual harassment the Labor and Employment Act 2007 (Sections 16 to 20) and under its “Regulations of Working Conditions 2012” requires all employers of companies registered under the Companies Act of the Kingdom of Bhutan 2000 and enterprises with a capital input in excess of 1 million ngultrums, to have a Sexual Harassment Policy and a written complaints procedure for victims to lodge a formal complaint against the harasser. The Civil Service Act of Bhutan 2010 (Section 38 (g)) and the Bhutan Civil Service Rules and Regulations 2017 (Section 3.3.14) under the Code of Conduct for Civil Servants provides a clear definition of sexual harassment and a sexual harassment complaints redressal mechanism with the introduction of the “Go To Person” under the Civil Service Support Desk. Further, the National Commission for Women and Children introduced the implementation of the “Internal Framework to Address Gender Issues at the Workplace” as

a mandatory indicator under the Annual Performance Agreement for all government ministries, agencies and Dzongkhags. This Framework puts in place a sexual harassment complaints procedure for dealing with sexual harassment within the sector and comprises the appointment of a Committee and a focal point for dealing with sexual harassment issues. It also includes sensitization on sexual harassment and creating a gender friendly and conducive work environment for women at the workplace.

The Standard Operating Procedure (SOP) for Case Management for Women and Children in Difficult Circumstances developed by the NCWC, provides a comprehensive coordination framework involving all the key service providers and a step by step procedure for handling complaints. As such, in addition to the above mechanisms that are available for workplace sexual harassment, an individual may also choose to report to the Royal Bhutan Police, the National Commission for Women and Children (NCWC), health or counselling services or any relevant Civil Society Organization. Walk-in complaints, reporting by telephone and complaints through the Toll Free Helplines of RBP (113) and the NCWC (1098) are the ways by which individuals can lodge complaints on sexual harassment that occur in any kind of setting (at homes, schools, institutions, shelters, public places, work places, etc.).

While concerted efforts are being made by all the service providers working to reduce or eliminate the protection issues faced by women and children, it is crucial that players at all levels provide full commitment towards strengthening the prevention and protection system through adequate support especially in providing the supportive environment and specialized services that are critically needed.