

Overview (Protection against Harassment of Women at Workplace Act, 2010)

Introduction:

Protection against Harassment of Women at Workplace Act was passed in March 2010 for entire Pakistan. It makes sexual harassment of women in the workplace and in public spaces a criminal offence.

Workplace

‘Workplace’ has been defined as: Place of work or the premises where an organization or employer operates and includes building, factory, open area or a larger geographical area where the activities of the organization or of employer are carried out and including any situation that is linked to official work or official activity outside the office.

Objective

The objective of this act is to create a safe working environment for women, which is free from harassment, abuse and intimidation to facilitate their right to work with dignity. It will also enable higher productivity and a better quality of life at work. This law is not only restricted to workplaces, it is applicable to all public spheres and adult students of educational institutions.

Purpose of the Legislation

The main purpose of the legislation is to create a safe working environment where women are able to contribute towards the economy of the country without any fear of harassment, abuse or discrimination. Moreover, the statement of purpose states that the Act adheres to the Universal Declaration of Human Rights (‘UDHR’), the Convention on the Elimination of All Forms of Discrimination against Women (‘CEDAW’) and International Labor Organization (‘ILO’) Convention for Equal Remuneration for Men and Women for Work and The Discrimination Employment and Occupation Convention of 1958). It is to be noted that all of the international conventions have been ratified by Pakistan and serve to protect an individual’s right to work.

Harassment

Unwelcome sexual advances, requests for sexual favours or other verbal or physical conduct of a sexual nature that interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment constitute sexual harassment.

3 significant forms of sexual harassment in the work place are:

- Abuse of authority
- Creating a hostile environment
- Retaliation

Sexual harassment can take many forms. These include:

- Unwelcome sexual advances
- Demanding sexual favours in exchange for job security
- Verbal or physical conduct of a sexual nature
- Rumour spreading and malicious gossip in the work place
- Obstructing performance and/or advancement upon refusal to comply

Work Environment for Women in Pakistan.

The work environment for women, in a male-dominated society like Pakistan, is often hostile and antagonistic hindering their contribution to their country's development as well as their right to employment. Various studies have found that social constraints and an aggressive work environment discourage women from seeking employment. To encourage women to join the labour force the government has set a quota for women but often even the minimum quota of 10% remains unfilled. Though women have been working in senior positions and running businesses in the private sector, these have been few in number. However, in recent years, there has been a gradual increase in the number of women working in the government and the private sector despite the obstacles they face. Various forms of discrimination and harassment experienced by women are: At home: discriminating against and demeaning the girl child, deriding the woman working at home, not allowing women to make decisions, and being violent. On the streets: catcalling, touching, teasing and intimidating. On public transportation: touching, pushing, and using vulgar language. In public places: staring, touching, intimidating, behaving aggressively, chasing and being violent. At the work place: leering, staring, making passes, discriminating, abusing authority for sexual favours, flirting, and inflicting violence.

Inquiry Committee and Penalties

Section 3 of the Act requires all organizations, including federal and provincial government organizations, private institutes as well as educational institutes to have an Inquiry Committee. The Inquiry Committee consists of three members where at least one member has to be a woman and a complaint can also be made against any member of the Inquiry Committee itself. The members of the Committee are required to make sure that the environment of the inquiry process is not intimidating and to decide cases without any bias. The powers of the Inquiry Committee are described in Section 5 of the Act, which include the power to summon and enforce attendance of any person and examine them on oath, to require the discovery and production of any document, to receive evidence on affidavits, and to record evidence. The Inquiry Committee has the power to medically examine the complainant and to make recommendations to the Ombudsman for appropriate action. Furthermore, the Committee has the power to keep the proceedings confidential. The Inquiry Committee upon its findings can award minor or major penalties to the accused. Minor penalties include censure, withholding for a specific period, stoppages, or recovery of compensation payable to the complainant from the pay or any other source of income of the accused. Major penalties include demotion to a lower post, compulsory retirement, removal/dismissal from service and a fine.

Conclusion

The Protection against Harassment of Women at the Workplace Act 2010 must be appreciated since it is the first of its kind to address harassment as a significant legal issue, which is violative of a woman's right to work in Pakistan. By protecting a woman's right to work, the Act affirms the Government's commitment towards fulfilling its international treaty obligations such as those under UDHR and CEDAW. Moreover, it has allowed women to raise their voice against harassment at the workplace and has provided them an equal opportunity to earn livelihood, which will eventually lead to greater women participation in the workforce and the economy of the country. However, the Government of Pakistan needs to take several legal measures to ensure the effective implementation of the Act.