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ИНСТИТУТ РЕПОРТАЖЕЙ ВОЙНЫ И МИРА

Policy Brief

WORKPLACE HARASSMENT IN KAZAKHSTAN:

*Problem analysis,
Legislative gaps and
recommendations*

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About PF «Meyerim»

«**Meyerim**» is a public foundation based in Aktau, Kazakhstan. Meyerim works to protect the rights of vulnerable citizens, through combating human trafficking, protecting the rights of vulnerable migrants, protecting the rights of children, as well as protecting women from violence. Meyerim cooperates with law enforcement agencies on a regional and national level, as well as Kazakhstan International Bureau of Human Rights and Rule of Law. Meyerim also actively participates in discussions on addressing and amending legislative acts aimed at combating human trafficking in Kazakhstan. The project leader is Aliya Narbay, and the coordinator is Kamila Yensegenova.

About IWPR

IWPR empowers local voices to drive change in countries in conflict, crisis and transition. Where hate speech and propaganda proliferate, and journalists and civic activists are under attack, IWPR promotes reliable information and public debate that makes a difference. With powerful new forms of disinformation driving social division, increasing digital security risks and escalating attacks on journalists, IWPR's mission to empower local voices is more important than ever. IWPR's core work is to strengthen the flow of credible, unbiased information, enabling journalists and civil society to inform, educate and mobilise communities. **IWPR empowers societies to find their own solutions, by strengthening local capacity to report on and advocate for accountability, freedom of expression and human rights.**

About The European Union

The European Union is an economic and political union of **27 European countries**. It is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. It acts globally to promote sustainable development of societies, environment and economies, so that everyone can benefit.

Executive summary

Sexual harassment in workplaces is a common problem in the Republic of Kazakhstan. This is partially a result of societal norms and gender stereotypes, that reinforces expectations to the behaviour of both men and women. This, among other things, means that there are fewer women in managerial positions, and there is a general lack of diversity in workplaces.

Furthermore, gender inequality in society is a contributor to the thriving of sexual harassment in workplaces in Kazakhstan, due to discrepancies in salary levels. There is a general lack of definition of what sexual harassment is in legislation, including how it should be addressed. Currently, victims of sexual harassment are largely unprotected against retaliative measures, and aggressors often face impunity for their actions. According to a recent survey, it is evident that sexual harassment persists. It is recommended for the Republic of Kazakhstan to implement legislative changes that directly defines and addresses sexual harassment, and provides for adequate punishment. It is also recommended for Kazakhstan to make implementation of sexual harassment policies mandatory in workplaces, and addressing societal and systemic issues of gender inequality and gender stereotypes from a childhood level. Furthermore, a larger proportion of women should be included on the top political and social levels in Kazakhstan, to show best-practices in trusting women in holding managerial positions.

What is sexual harassment and when does it occur?

The International Labour Organization (ILO) defines sexual harassment in the workplace in Convention No. 190 (2019) as «**unacceptable behaviours and practices, or threats thereof**», which are «**likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment**».

Sexual harassment in the workplace can take different forms:

- // verbal (cat calling, sexual anecdotes, comments or questions of a sexual character, etc.)
- // non-verbal (winking, kissing visuals, staring, etc.)
- // physical (any kind of unwanted physical touch, shoulder rubs, etc.)

It is essential to understand the **power relationship** between the victim and perpetrator, as there more than often is an imbalanced power relationship in place, where the perpetrator is superior to the victim, thus having power over the victim's job situation and even financial stability (if becoming fired for expressing discontent to harassment is a perceived risk from the victim's point of view).

It is also essential to note whether **consent** has been established (consent is not always given verbally and through words, as a person can be coerced into consenting, through threats, grooming, manipulation and financial pressure).

Sexual harassment in Kazakhstan

In a study published by UN Women in 2023, **82%** of respondents from Kazakhstan called the problem of sexual harassment «**significant**». In a survey made by IWPR's partner «**Meyerim**» in Aktau, the problem of sexual harassment was recognised by the majority of respondents. Sixty four percent indicated that the problem existed in their workplace, **only 23.1%** indicated that such a problem does not exist in their team. Seven percent found it difficult to answer.

Sexual harassment in Kazakhstan often happens as a result of **entrenched gender stereotypes**, which is seen in all layers of society. In wider society and workplaces alike, these stereotypes are seen in the expectations put upon men and women. Women are not very well represented in positions of power on a national level.

Gender stereotypes often control workplace behaviour and advancement in Kazakhstan. Women are expected to perform caretaking and housekeeping duties, and are often not seen as competent to lead. Due to expectations towards women in terms of caretaking and home duties, women can leave the workforce for years to take care of children, and are less likely to advance in a workplace hierarchy and build a progressive career - rather the contrary. Men are likewise subject to pressure and expectations in terms of their work and behavior, where sexual harassment in a workplace can be experienced as rewarding among peers.

This gender inequality and power imbalance in wider society means that more than often, leadership positions are given to men, which creates an unequal power balance between the genders, and together with gender stereotypes, it provides ample opportunity for sexual harassment to thrive.

Sexual harassment has serious consequences to victims, workplaces and the economy.

- The victims can experience physical and psychological consequences (post-traumatic stress disorder (PTSD), insomnia, nausea, gastrointestinal issues, etc.)
- The workplace can experience loss of workforce (if victims quit or are fired), lack of efficiency (when victims or colleagues perform less well due to experiencing or witnessing sexual harassment)

The economy and society can be damaged due to healthcare costs for victims, tax losses (when victims are sick or leave their work, they do not pay taxes) and similar.

Kazakhstan's legislation on sexual harassment

Kazakhstan has no laws that govern all aspects of sexual harassment in the workplace, leaving authorities, law enforcement and workplaces in an insufficient position to deal with the widespread issue.

Victims of sexual harassment can file statements with law enforcement only through other legislation that does not address the dynamics of sexual harassment efficiently. **Such legislation include:**

- Article 108 of the Criminal Code: Mild infliction of bodily harm
- Article 120 of the Criminal Code: Rape
- Article 123 of the Criminal Code: Coercion to sexual intercourse, sodomy, lesbianism or other actions of a sexual nature
- Article 434 of the Administrative Code: Petty Hooliganism

Legislation has also been used against victims of sexual harassment. In a number of cases, victims, who have complained about sexual harassment, have been met with defamation lawsuits and have been ordered by court to refute their statements. Article 73-3 and Article 456-2 of the Administrative Code (Slander and knowingly distributing false information) have been used in such a way.

Such jurisprudence creates an environment where perpetrators of sexual harassment face impunity, and victims are wrongly blamed for speaking up.

Recommendations to Kazakhstan

In order to address the issue in Kazakhstan of sexual harassment at work, a multi-faceted approach must be applied. This concerns the legislative level, with revisions of Kazakhstan's Labour Code, but also would entail requirements towards the public and private sectors, as well as civil society, in implementing policies that address the issue comprehensively.

As discussed above, sexual harassment in workplaces and attitudes towards women, including gender stereotypes, are closely interrelated. When women are expected to be caretakers, have less favourable conditions of advancing in a career, are in a less favourable financial position than their male peers, conditions for sexual harassment can thrive more easily. When men view women as property, as lower standing, and as caretakers and not intellectually capable of holding higher positions, sexual harassment is much more common, as we can see through studies and research. Teaching men and women to respect boundaries, to understand the concept of consent, and address issues of toxic masculinity, would be a way to embed a gender-transformative approach in addressing systemic issues like sexual harassment. Through ensuring that women and men are paid equally in terms of experience and qualifications, and that women are encouraged into seeking managerial positions, a greater diversity can be more common, and can help erode some of the problems that result in sexual harassment. This approach should be started from top-down, from appointment of ministers (ensuring that women are represented on governmental level). Since less than a fifth of ministers and parliament members in Kazakhstan are women, there are very significant possibilities of improvement. Implementing policies that support and promote inclusion of women will show a good example to employers and employees alike, in the equal opportunities of women.

Recommendations on the legislative level

Kazakhstan can prevent much sexual harassment through developing legislation, which directly addresses sexual harassment in workplaces. Moreover, trainings and policies should become a legal requirement to ensure that law enforcement, public bodies, the Prosecutor, and companies operating in Kazakhstan are able to address, and also preventively work with the issue. Finally, steps should be made to change the widespread gender inequality in Kazakhstan, which stems from societal norms and stereotypes attributed to each gender. Such stereotypes can be addressed by changing school curricula, so the problem is met from a childhood level, ensuring wider gender equality for future generations. A zero-tolerance approach to sexual harassment should also be included in Kazakhstan's political life, particularly for members of parliament or ministers.

- Sexual harassment should be clearly defined in legislation, and the definition should entail not only physical forms of unconsensual harassment, but also verbal and non-verbal forms of harassment, as well as psychological pressure
- Sexual harassment should be addressed in the Labour Code, and the offense must be punishable by law through, for instance, fines or applicable prison sentences
- Sexual harassment legislation should protect not only full-time workers, but also freelancers, part-time workers, casual staff, seasonal workers, volunteers, interns, informal workers, domestic workers, migrant workers and similar
- The judicial should cease to allow for victims of sexual harassment to be charged for defamation, and protect victims from further risks of retaliation from the aggressor or workplace
- Make anti-sexual harassment policies and equal opportunities policies mandatory for all employers working with employees in Kazakhstan (international and local companies alike)
- Guidelines for investigating sexual harassment should be established within Kazakhstan's Ministry of Labour (labour inspectors), the Prosecutor, the Ombudsperson, as well as law enforcement, with mandatory regular trainings

- Trainings should include knowledge on sensitivities in working with victims of trauma
- Mandatory trainings on combating of sexual harassment should be regularly held in all public offices
- Implementation of, if possible, anonymous whistleblower channels, where cases of sexual harassment can be reported
- Make gender equality a mandatory topic in school curriculums, ensuring a gender transformative approach to addressing gender stereotypes
- Data on sexual harassment should be stored and analysed for policy updates and future legislative amendments
- Raise public awareness on labour rights and zero tolerance for sexual harassment in workplaces

Recommendations for companies and workplaces

Companies and workplaces in Kazakhstan are in need of a streamlined approach to sexual harassment. This includes making workplace policies mandatory, and having ways to address the issue, both internally and legally, streamlined. Policies should be implemented, and gender inequality should be directly addressed during the hiring process, women should be encouraged to seek managerial positions, and a zero-tolerance policy towards sexual harassment should be implemented. Through ensuring these things, companies are better equipped to maintain a healthy working culture, where employees can bear or even enjoy working, and where sexual harassment is unable to thrive.

- An up-to date sexual harassment policy and equal opportunities policy should be developed and implemented according to ILO standards

- Regular trainings on the anti-sexual harassment policy and ways to spot and address sexual harassment in the workplace. Differentiated trainings should be held among managers and common workers, as managers have a different role in addressing the issue of sexual harassment in the workplace
- A zero-tolerance policy should be implemented, so aggressors will not be able to continue harassing behaviour
- Implement mandatory whistleblower channels that are anonymous, if possible, and make sure that non-anonymous whistleblowers will be duly protected against retaliations. Consider several reporting channels, so HR departments will not be sitting solely on claims of sexual harassment
- Duly and respectfully investigate cases of sexual harassment, keeping in mind potential trauma, psychological or financial pressure exerted on victims. Safeguard victims from retaliations in the workplace, particularly if they report on a manager. Investigations should be strictly confidential, even from managers, if applicable
- Ensure that company policies are regularly reviewed and updated
- Utilise anti-harassment statements in job ads, to ensure the topic is considered even before an employee joins the company
- Promote commitment to policies from leaders in particular, and encourage leaders to set a positive example to staff by refraining from engaging in sexual harassment
- Encourage hiring more women into managerial roles, and refrain from using only women in traditionally «female» roles in employment: secretaries, cleaning, note taking, etc.
- Ensure equal and fair pay according to experience and qualifications, regardless of gender

Suggestions for compulsory points to national mandatory sexual harassment and equal opportunities policies

As mentioned above, Kazakhstan is recommended to make it a national requirement for employers to implement anti-sexual harassment policies. The ILO has developed standards for such policies to assist employers in developing their own sexual harassment policies, drawing from international best-practices. These guidelines serve as a valuable resource for employers seeking to establish a workplace free from sexual harassment.

ILO recommendations include making legislation, which includes:

- A clear and concise definition of sexual harassment describing it as unwelcome acts of a sexual nature, which offends, humiliates, or intimidates the victim (including situations where sexual activity is solicited as a condition of employment (using coercion, threats or different forms of convincing)
- Ensuring a safe working environment free from discrimination and harassment, and recommends
- Implementing a zero-tolerance approach to sexual harassment in workplaces, as aggressors should not have impunity
- Ensuring that all incidents of sexual harassment should be taken seriously and swiftly investigated
- Ensuring that perpetrators found guilty of sexual harassment will face disciplinary actions, up to and including dismissal
- Implementing policies, which should guarantee that all complaints will be treated respectfully and confidentiality, and no one will face retaliation for reporting on sexual harassment
- Ensuring that policies cover all individuals within the workplace, including employees, clients, customers, casual workers, contractors, and visitors.

- Recognising that sexual harassment can occur both within a workplace's premises and outside, such as during social events, business trips, training sessions, or conferences (such a broad scope ensures that the policy addresses all potential scenarios where sexual harassment might occur)
- Making regular trainings on sexual harassment on all levels of the workplace hierarchy
- Establishing clear reporting mechanisms and whistleblower possibilities
- Ensuring the presence of support systems for victims
- Regular monitoring and evaluation of the policy's effectiveness are also recommended, and can ensure that it remains relevant and effective in preventing sexual harassment

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