MEASURES TO PROTECT INDIVIDUALS' RIGHTS FROM SEXUAL HARASSMENT IN THE WORKPLACE

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Abstract - This article aims to explore measures to protect individuals' rights against sexual harassment and misconduct among employees in the workplace. It focuses on harassment and actions causing distress and discomfort, which constitute violations of personal rights and the right to work in a suitable environment. Such behavior negatively impacts employees' mental well-being and hinders their ability to perform effectively. The study reveals that Thai law currently protects employees from sexual harassment and coercion by employers, supervisors, or inspectors. These measures aim to prevent workplace issues arising from the misuse of authority that forces employees to be under certain power. These legal provisions align with the constitutional protection of individual rights, the Labor Protection Act, the Universal Declaration of Human Rights, and the International Labour Organization's labor laws. However, existing preventive measures are found to be inadequate when addressing rights violations occurring between co-workers in the same organization or establishment. These situations require a higher level of mutual trust in both professional collaboration and moral conduct compared to interactions with others. Therefore, it is recommended to amend the law to explicitly prohibit employees from committing acts of sexual harassment or misconduct toward their colleagues. Furthermore, administrative penalties should be introduced to address violations in such cases.

Keywords - harassment, employees, distressing misconduct

I. INTRODUCTION

Sexual Harassment in the Workplace Research. Sexual harassment refers to comments, speech, actions, or a combination of these that intentionally carry sexual implications, which the victim does not welcome, does not want to hear, does not want to see, and does not desire. Complaints regarding sexual harassment are a relatively new phenomenon in Thai society, as victims in the past often chose to remain silent and passive.

The workplace, which should be a safe space for professional activities, has instead become a battleground for harassment, affecting victims physically, mentally, and professionally. Sexual harassment in the workplace is no longer a distant issue but a real problem with widespread consequences. It not only directly affects the victims but also impacts organizational efficiency, damages the company's reputation, and has long-term economic repercussions for the country[1]. This academic article aims to examine solutions and recommendations regarding the Employee Rights Protection Act. Thailand is home to various organizations, both public and private, including numerous subdivisions within these sectors. Within these organizations, employers and employees work together, leading to legal gaps in addressing workplace harassment.

The study reveals that Thai law currently lacks provisions protecting employees from harassment by their fellow employees. Existing regulations primarily focus on protection in employer-employee relationships. Therefore, this study advocates for legislation that explicitly addresses harassment among employees. It is essential to investigate and implement relevant measures, as there is currently no specific law covering this issue. Therefore, this law should be proposed when compared with the Equality Act 2010 in the United Kingdom, the law holds employers legally accountable if their employees experience harassment by third parties. This legislation assigns a clear duty to employers, requiring them to take appropriate measures to protect their employees. Additionally, the Equality Act 2010 includes provisions that increase compensation in cases where employers neglect their legal responsibilities.

II.LITERATURE REVIEW

A. Comparison of Penalties Under Thai and International Laws

According to the Labour Protection Act, Section 16(11), employers, supervisors, managers, or inspectors are prohibited from engaging in sexual harassment or causing sexual nuisance toward employees. However, this law primarily addresses employer-employee relationships and does not extend protection to cases of harassment between employees. This gap highlights a legal deficiency, as there is currently no specific legislation covering such incidents. The only existing provision related to this issue is Section 397 of the Thai Penal Code, which protects individuals from actions or speech that constitute harassment or defamation.[2].

B. Penalties Under International Laws

United KingdomThe Equality Act 2010 classifies workplace sexual harassment, as well as harassment in other social contexts, as a violation of fundamental rights. Section 26 of the Act defines behaviors that constitute sexual harassment, including inappropriate physical actions, verbal remarks, and other offensive expressions. [3].

Federal Republic of GermanyGermany's primary objective is to protect employees in the workplace, recognizing that employers rely on employees for specialized expertise, financial contributions, and workplace relationships. German labor laws emphasize employee protection, explicitly addressing harassment cases involving verbal abuse, lewd remarks, or physical contact. All work-related regulations, including those on harassment, are comprehensively documented within German labor law.[4].

C.Legislative Intent of Labor Laws in Protecting Employees

According to the Royal Gazette, Volume 140, Section 20, the legislative intent behind labor law amendments is to align regulations with evolving work environments, including remote work and technology-based employment. The amendments aim to enhance employee well-being, improve working conditions, and protect privacy rights. These legal adjustments also ensure that employers, employees, and relevant stakeholders can easily access and understand labor laws, thereby promoting legal compliance.[5].

Section 23/1, Paragraph 3 establishes that once the official working hours have endedeither by mutual agreement between the employer and employee or upon the completion of assigned tasksemployees have the right to refuse any form of communication from their employer. The only exception is if the employee has provided prior written consent. The purpose of this law is to formally recognize and implement the "Right to Disconnect", ensuring that employees are not obligated to engage in work-related communication after their working hours [6]. This principle has already been established in the labor laws of countries such as France, Chile, and Portugal. Furthermore, this provision aligns with Section 32 of the Thai Constitution, which protects an individual's right to privacy, as well as Article 12 of the Universal Declaration of Human Rights (UDHR). By enshrining this right in Thai labor law, the legislation aims to safeguard employees from excessive work demands, protect their personal time, and clarify the boundary between working hours and rest periods. This legal protection is essential in preventing negative impacts on employees' health and overall well-being.

The referenced labor laws, constitutional protections, and international human rights declarations aim to protect both employers' and employees' rights. However, no explicit legal provisions currently exist in Thailand to protect employees from harassment by their fellow employees.

D. **Universal Declaration of Human Rights (UDHR)**

The Universal Declaration of Human Rights (UDHR) is a globally agreed document that serves as a guideline for achieving freedom and equality by protecting the human rights of all individuals, everywhere. For the first time in history, nations collectively recognized that human rights and freedoms must be safeguarded to ensure that people can live with liberty, equality, and dignity. The declaration was formally adopted on December 10, 1948, by the United Nations, which had been newly established after the world had witnessed "barbarous acts... which have outraged the conscience of mankind" during World War II. This historic adoption laid the foundation for freedom, justice, and peace. The drafting of the UDHR began in 1946, initially led by a committee with representatives from various countries, including the United States, Lebanon, and China. Later, the drafting committee expanded to include representatives from Australia, Chile, France, the Soviet Union, and the United Kingdom to ensure that the document reflected diverse cultural, religious, and political perspectives from around the world. Eventually, the declaration was endorsed by the United Nations Human Rights Council and the UN General Assembly in 1948 [7].

The Universal Declaration of Human Rights outlines 30 fundamental rights and freedoms that every human being is entitled to, and no one can take them away. These rights have become the cornerstone of international human rights law and continue to be upheld today. The UDHR remains the most translated document in the world.

In relation to the topic under discussion, several key rights outlined in the UDHR are relevant:

1. Equality at Birth – All human beings are born free and equal in dignity, rights, and liberty.
2. Right to Work – Everyone has the right to work, to choose their occupation, and to be protected as employees.
3. Quality of Life – Every individual is entitled to fundamental rights and freedoms in all aspects of life, including within their family and workplace, as a good quality of life directly affects mental well-being and productivity.
4. Inviolability of Rights – No one has the right to take these freedoms away. No provision in the UDHR can be interpreted as granting any state, group, or individual the authority to destroy or

undermine the rights and freedoms set forth in the declaration.

Thus, the Universal Declaration of Human Rights emphasizes that everyone is entitled to the same rights and freedoms and must be treated equally, without discrimination. No distinctions should be made based on race, skin color, gender, language, religion, political beliefs, birth status, or prejudice, as doing so would lead to violations of human rights.

E.Labor Laws in the International Labor Organization

The Convention concerning Discrimination in Employment and Occupation, 1958 (No. 111) defines discrimination as any distinction based on race, color, gender, religion, political opinion, national origin, or social background, which results in the loss of or impacts equality of opportunity or treatment in employment or occupation. In many countries, discrimination in employment based on physical and intellectual disabilities, age, marital status, pregnancy, sexual orientation, wealth, or HIV status is also strictly prohibited. Convention No. 111 explicitly prohibits discrimination in any form, whether direct or indirect [8].

This convention highlights that workplace protections are designed to safeguard employees in all aspects. However, there is still no legislation ensuring equal protection among employees themselves.

F.Rights and Freedoms of Individuals under the Constitution

The term "rights", as defined in the Royal Institute Dictionary (1982), refers to the power to act freely as recognized by law. Meanwhile, "freedom" means an individual's ability to think, act, or speak as they wish.

According to Section 4 of the Constitution, human dignity, rights, and freedoms of individuals are protected [9].

Recognizing rights, freedoms, and responsibilities is crucial in ensuring that individuals do not infringe upon the rights and freedoms of others. It is a fundamental principle of society that people may exercise their rights and freedoms as long as they do not cause harm to others. The current constitution guarantees rights, freedoms, and equality for all.

III.ANALYSIS

Thailand faces significant workplace harassment issues in various forms, particularly in professional environments. Some incidents can be controlled, while others cannot. Harassment manifests in different ways. For example, casual teasing among colleagues can sometimes involve inappropriate or sexually suggestive remarks, prolonged staring, verbal comments, or unsolicited messages.

Many people may not recognize these behaviors as harassment, especially when followed by phrases like "just joking" or "just teasing". This normalization leads to a culture where speaking up is discouraged. In reality, all forms of harassment—whether physical assault, molestation, verbal teasing, staring, or whistling—constitute sexual harassment.

Currently, Thailand has enacted labor protection laws that specifically regulate relationships between employees. However, there are no legal provisions addressing harassment among employees themselves. This gap in legislation leaves employees vulnerable. In contrast, countries like the United Kingdom and Germany have clear protective measures, recognizing that a productive workforce is essential for national development. Employers rely on employees, and without proper protections, workplace efficiency and overall progress are hindered.

IV. SYNTHESIS

The study reveals that Thailand lacks specific legal measures to address workplace harassment. Existing labor protection laws focus primarily on employer-employee relations, with no explicit provisions covering employee-to-employee harassment. The research highlights that workplace harassment is widespread in Thailand, yet there are no concrete preventive measures. Additionally, many victims and witnesses choose to remain silent, either due to fear, uncertainty, or indifference. This reflects a societal tolerance for workplace harassment, which must be addressed. Addressing this issue would ensure that potential victims feel safer and more secure at work. If organizations collectively work toward eliminating harassment, fostering awareness, and establishing clear guidelines on verbal, non-verbal, and physical conduct, they can create a harassment-free work environment. Implementing effective intervention measures will also provide support and protection for victims and act as a deterrent to future harassment cases.

V.CONCLUSION AND FUTURE WORK

The study found that Thailand currently lacks clear measures and laws to protect individuals from workplace harassment between employees. Therefore, Thailand should implement measures and legal protections similar to those in the United Kingdom and the Federal Republic of Germany, where labor laws explicitly outline clear regulations. These legal frameworks help prevent workplace harassment in those countries effectively.

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