

THE HO CHI MINH NATIONAL ACADEMY OF POLITICS

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**PROTECTING WORKERS' RIGHTS AGAINST SEXUAL
HARASSMENT IN THE WORKPLACE IN VIETNAM**

SUMMARY OF DOCTORAL DISSERTATION

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INTRODUCTION

1. Rationale of the Study

Sexual harassment in the workplace (hereinafter abbreviated as SH) is a dangerous, global, transnational act that is increasingly attracting the attention of the international community, especially after the #MeToo movement in 2017. My sociological survey with the participation of 656 representative workers in Vietnam in 2024 also revealed an alarming figure: over 21% of surveyed workers reported having experienced sexual harassment. These statistics raise an alarm about this problem in Vietnam, demanding attention and decisive action from all levels, sectors, employers, and society as a whole.

Protecting workers' rights against SH is not only a legal obligation but also an essential requirement of modern human resource management and socially responsible corporate governance. Despite efforts, Vietnam still faces difficulties, particularly the lack of in-depth and comprehensive research on this issue. Furthermore, some current legal regulations have shortcomings in both content and implementation. Some existing laws are simplistic, failing to address preventive measures, support for victims, and penalties that are not sufficiently deterrent. These legal loopholes directly impact the protection of workers' rights from violations.

On the other hand, cultural and social factors, limited awareness among workers, a weak respect for others' rights, and difficulties in gathering evidence further complicate the situation. Prevention and training on this issue have not been implemented regularly and effectively, creating significant challenges in preventing sexual harassment of workers from an early stage. In the context of digital transformation and the increasing prevalence of online work, acts of sexual harassment in cyberspace are on the rise and causing severe consequences for victims. The legal mechanisms and policies protecting the rights of workers in the online environment in Vietnam are currently weak, mainly applying general regulations on traditional sexual harassment, without specific guidelines on identifying, collecting electronic evidence, or handling violations through digital platforms.

Furthermore, in recent years, at sessions of the UN Human Rights Council, Vietnam has repeatedly received recommendations on criminalising sexual harassment. In October 2024, the Vietnamese Government officially announced to the international community its acceptance of this recommendation. Therefore, practical experience demands in-depth and comprehensive research. Thus, the doctoral candidate chose the topic “*Protecting Workers' Rights against sexual harassment in the Workplace in Vietnam*” as their doctoral dissertation.

2. Research Purpose and Objectives

2.1. Research Purpose

This dissertation aims to build a theoretical foundation, present viewpoints, and propose solutions to strengthen the protection of workers' rights against SH in Vietnam.

2.2. Research Objectives

To achieve the above objectives, the dissertation focuses on addressing the following tasks:

First, to provide an overview of domestic and international research on protecting workers' rights against SH, identifying legal gaps that need further study.

Second, to build a theoretical foundation, systematise the legal basis, and analyse the factors affecting the protection of workers' rights against SH.

Third, to present and evaluate the current situation regarding protecting workers' rights against SH in Vietnam.

Fourth, to present viewpoints and propose solutions to protect the rights of workers against SH in Vietnam.

3. Research Subjects and Scope

3.1. Research Subjects

The research subjects of this thesis are theoretical and practical issues related to protecting workers' human rights against SH.

3.2. Research Scope

- Content scope: protecting the human rights of workers against SH in this thesis is understood as protection before, during, and after acts of sexual harassment in Vietnam. The acts of sexual harassment in Vietnam studied in this thesis do not include rape or sexual assault.

- Spatial scope: in Vietnam, with the experiences of some other countries serving only as a reference source for Vietnam.

- Timeframe: from 2019 to the present - from the time the 2019 Labour Code was adopted.

4. Theoretical Basis and Research Methodology

4.1. Theoretical basis

This thesis is built on the methodology of dialectical materialism and historical materialism. The research has flexibly applied the two principles, three laws, six basic categories, and the epistemological theory of Marxist-Leninist philosophy to analyse the content of each chapter.

The three main theories used in the thesis are: the Theory of Human Dignity, the Theory of Gender Discrimination, and the Theory of Indirect Responsibility.

4.2. Research Methodology

To achieve the research objectives, the thesis has combined many different specific methods: the human rights-based approach, the document research method, the analytical method, the synthesis method, comparative legal methods, sociological research methods, expert methods, and scientific forecasting methods.

5. Theoretical and Practical Significance of the Dissertation

5.1. Theoretical Significance: The thesis contributes to building a theoretical basis for protecting the right not to be subjected to SH through the study of domestic and foreign literature.

5.2. Practical Significance: The thesis has proposed appropriate solutions to protect the legitimate rights of workers before, during, and after being subjected to SH.

6. Structure of the Dissertation:

The thesis consists of an introduction, 4 chapters (10 sections), a conclusion, a list of the author's published research works related to the thesis topic, a list of references, and an appendix.

CHAPTER 1: LITERATURE REVIEW ON THE DISSERTATION TOPIC AND ISSUES REQUIRING FURTHER RESEARCH

1.1. Research related to the dissertation topic

1.1.1. The current state of domestic research

1.1.1.1. Theoretical research works on protecting workers' rights against sexual harassment in the workplace

Research on protecting workers' rights from SH in Vietnam has been relatively diverse. This group of works builds a system of viewpoints and a basic theoretical framework on human rights, on institutions protecting human rights in general, and on the right of workers not to be sexually harassed in the workplace in particular. The research focuses on clarifying the concept, the constituent elements of rights, the mechanisms, the protection measures, and the role of the institutions involved in protection. Some notable works include: the textbook “Theory and Law on Human Rights” by author Tuong Duy Kien (editor) in 2025, the textbook “Theory and Law on Human Rights” by the group of authors Nguyen Dang Dung, Vu Cong Giao and La Khanh Tung (editor) in 2011, the monograph “Ensuring Women's Rights in Vietnam Today” by author Nguyen Thi Bao in 2016, the monograph “Mechanisms for Ensuring Human Rights in Vietnam” by the group of authors Tuong Duy Kien, Le Van Trung, Tran Thi Hong Hanh in 2023, the monograph “Human Rights in Social Development” by the group of authors Tuong Duy Kien and Nguyen Thi Thanh Hai (co-editors) in 2024, and the scientific article “Some International Experiences on Improving Laws Related to Identifying Sexual Harassment Behaviors of Women”, by the group of authors Nguyen Thi Bich and Nguyen Thuy Duong in 2021.

1.1.1.2. Research Group on Law and Legal Improvement Regarding the Protection of Workers' Rights against sexual harassment in the workplace

These studies analyse Vietnam's legal system, the laws of several countries, and international conventions on preventing and combating SH, and offer proposals and recommendations to improve Vietnamese law in line with international standards, especially Convention No. 190 on Ending Violence and Harassment in the workplace. Some studies also propose criminalising SH. Notable works include: Tran Thi Huyen Trang (2021) with the article “The degree of compatibility between Vietnamese Labour law regulations on SH and the ILO Convention on Ending Violence and Harassment (No. 190)”, Phan Thi Lan Huong (2021), “Improving the law on handling sexual harassment in public places in Vietnam from the experience of some countries”, Doan Xuan Truong (2023), in the article “The Convention on Ending Violence and Harassment in the Workplace and its domestication in Vietnamese Labour law”, Thai Vu Hai Dang (2021) with the article “SH under Singaporean law and experience with Vietnam”, Nguyen Thi Ngoc Linh (2018) in the article “The need to add the crime of sexual harassment to the Penal Code”, Dang Viet Dat (2020) in the dissertation “Legal mechanisms to ensure

access to justice for female victims of sexual assault in Vietnam”, Nguyen Hoang Phuong Thao (2022) in the thesis “Vietnamese Labour Law on Preventing and Combating SH - Current Situation and Directions for Improvement”.

1.1.1.3. Group of practical research works on protecting the rights of workers against sexual harassment in the workplace

These works primarily use quantitative research methods to assess the prevalence of SH among workers in Vietnam. The results show that this is a common behaviour that takes many forms and seriously affects workers' health, dignity, and happiness. However, protective measures in practice are still limited and not effective enough to protect victims, leading to an unsafe working environment, and many female workers have to remain silent to maintain their jobs. Although the studies have made some recommendations to address the practical problem, these proposals are not comprehensive because they are limited in scope and research subjects, focusing mainly on a few specific provinces or cities. Dissertation: “Sexual harassment at work: A case study of working women in contemporary Vietnam” by Nguyen Thi Huong in 2023; the scientific article “Internal and External Barriers towards Sexual Harassment Prevention Efforts in the Workplace” by Nguyen Thi Thu Hong in 2022; the scientific article “Victims’ perspectives of sexual harassment prevention measures at work: Using victims’ voices to build an anti-harassment working environment” by Nguyen Thi Thu Hong, Le Thi Giang and Nguyen Anh Hai in 2023; the scientific article “The current situation of sexual harassment against female civil servants in Hanoi” by Luu Song Ha in 2019; the scientific article “Laws on Sexual Harassment in the workplace: Current Situation and Solutions for Improvement” by author Ho Thi Thanh Truc and a group of students in 2024, Scientific article “Prevention and Control of Sexual Harassment of Workers in the Workplace” by author Nguyen Ngoc Hai in 2022.

1.1.2. Research Abroad

1.1.2.1. Theoretical Research Works on Protecting the Rights of Workers against sexual harassment in the workplace

These research works have clarified many fundamental theoretical issues related to SH, including: the concept and nature of sexual harassment; the causes of violations. In addition, the studies analyse the factors affecting the protection of the right not to be sexually harassed in the workplace, as well as the obligations of responsible parties to protect workers. Some typical works that are commented on include: The book “Sexual Harassment of Working Women A Case of Sex” Catharine MacKinnon's 1979, “Social responsibility in labour relations: European and comparative perspectives” by Y. Konijn & A. Veldman in 2008, article “Sexual Harassment at Work: A Scoping Review of Reviews” by Liang, T in 2024, B. G. M. Frank J. Cavico et al.'s 2015 article “A Kiss Is But a Kiss: Cultural Mores, Ethical Relativism, and Sexual Harassment Liability”, Shoyab Mohammad's 2022 article “Sexual Harassment at Workplace and Its Implications”, Thakur, Anita's 2022 article “Crime Against Women with Reference to Sexual Harassment at Workplace”, Barbara A. Gutek's 2022 article “Sexual Harassment: Rights and Responsibilities” 1993...

1.1.2.2. Group of research works on law and improvement of laws on protecting workers' rights against sexual harassment in the workplace

These studies have presented and analysed the legal regulations of many countries worldwide related to SH and mechanisms for protecting workers' rights. Based on that, the authors have made recommendations to improve the law, thereby creating a basis for researchers to apply and compare with Vietnamese law. The selected representative works include: the thesis “A Critical Analysis of the SH” by Busisiwe Innocentia Moloi in 2022, the scientific paper “Sexual Harassment Against Women at Workplace” by Mona Bhatt & Sounak Poddar in 2018, the scientific paper “Divorcing Sexual Harassment from Sex: Lessons from the French” by L. Camille Hebert in 2013, and the research report “Sexual Harassment at Work: National and International Responses, Conditions of Work and Employment Programme” by Deirdre McCann in 2005.

1.1.2.3. Group of Practical Research Works Protecting Workers' Rights against sexual harassment in the workplace

The works in this group are mainly sociological survey reports and scientific reports from many countries, reflecting the prevalence of SH they face. This shows that protecting the right to SH is a complex issue that poses many challenges in practice. Notable works include: the sociological survey report “Violence against Women: A Europe-wide Survey” by the European Union Agency for Fundamental Rights in 2014, the sociological survey report “Still just a bit of banter? Sexual harassment in the workplace in 2016” by the Trades Union Congress in 2016, the research report “Everyone’s business: Fourth national survey on sexual harassment” by the Australian Human Rights Commission in 2018, and the research report, “Harassment and Violence in Canadian Workplaces: It’s (Not) Part of the Job”, by the Canadian Ministry of Labour in 2022.

1.2. Assessment of research related to the thesis topic

1.2.1. Achieved results

Through the review of domestic and foreign literature, it can be seen that scientific works have been developed. The following basic scientific knowledge forms the foundation for the doctoral candidate to refer to and apply in further research in the dissertation:

Firstly, in terms of theory, studies have approached the issue of SH from various perspectives, ranging from psychology and sociology to law. Scholars have identified part of the content of the right not to be sexually harassed against workers and the significance of protecting this right. The works also emphasise that protecting this right requires a comprehensive approach, not limited to addressing the issue, but also involving measures such as prevention and support, as well as remediation for victims. Some research has pointed out factors affecting the protection of the right not to be sexually harassed, such as culture, society, religious inequality, economic inequality, illiteracy and poverty, awareness, and the role of the media.

Secondly, in practice, several studies have proposed recommendations to improve the law, such as criminalising sexual harassment, improving institutions, and amending and supplementing some provisions regarding sexual harassment of persons in the service of the elderly. Many countries and international organizations have conducted large-scale and periodic surveys on the reality of sexual harassment and the practice of protecting the right not to be sexually harassed of persons in the service of the elderly.

1.2.2. Limitations and Gaps for Further Research

An overview of domestic and international studies shows that many works have addressed the protection of the right not to be sexually harassed of persons in the service of the elderly. These studies have provided essential theoretical, legal, and practical foundations, but there are still gaps that need to be filled.

Firstly, in terms of theory, domestic and international research has clarified some theoretical issues regarding sexual harassment of persons in the service of the elderly, such as concepts, forms, characteristics of sexual harassment of persons in the service of the elderly, and sanctions for handling such acts. Previous studies have been primarily introductory, lacking in-depth analysis and a rigorous theoretical framework. Some works indirectly mention some of the constituent elements of the right to freedom against SH, but these are inconsistent and incomplete. Most focus on presenting and analysing the laws governing sexual harassment of workers, but have not delved into building a complete theoretical system for protecting workers' rights against SH. Research on this issue from a human rights perspective is limited.

Secondly, in practice, research on the current state of protecting workers' rights in Vietnam has not received sufficient attention. Current recommendations from Vietnamese scholars are mainly fragmented and focus on improving the legal framework. Practical solutions are lacking and do not meet the needs. Notably, Vietnam still lacks in-depth dissertation-level research on protecting workers' rights against SH.

1.3. Issues requiring further research, research hypotheses, and research questions.

1.3.1. Issues Requiring Further Research

Through a review of domestic and international research works, this thesis identifies the following gaps that need further clarification:

Firstly, further research is needed to build and refine the theoretical and legal basis, protective measures, and factors affecting the protection of the right to freedom from SH.

Secondly, further research is needed on the situation of workers subjected to sexual harassment and the current state of protecting the right to freedom from SH in Vietnam through secondary and primary research documents. Simultaneously, the thesis identifies and analyses the limitations of preventive, handling, support, and remedial measures for protecting this right and explains the causes of these shortcomings.

Thirdly, continue researching and proposing improved viewpoints and solutions for preventive, handling, support, and remedial measures to better protect the right to freedom from SH and the exploitation of workers, ensuring compliance with international law, economic, cultural, and social conditions, and practical needs in Vietnam.

1.3.2. Research Hypotheses and Research Questions

1.3.2.1. Research Hypotheses

Based on the results of the overview of the research situation, the thesis proposes the following research hypotheses: The theoretical basis and legal framework regulating the protection of the right of workers to freedom against SH and exploitation of workers in Vietnam are currently not entirely, uniformly, and effectively developed; at the same time, the implementation of relevant legal regulations in practice still has certain

limitations. These shortcomings lead to the fact that the protection of human rights and Labour rights in general, as well as the prevention, handling, and support for acts of sexual harassment against workers in particular, have not met the requirements outlined in the context of Vietnam's international integration.

1.3.2.2. Research Questions

The thesis is developed with the following research question:

On what theoretical and legal grounds, and with what solutions, can we enhance the effectiveness of protecting workers' rights against SH in Vietnam today?

Specific research questions:

First, what theoretical foundations and legal frameworks are needed to protect workers' rights against SH? What factors affect this? How can workers defend their rights from SH?

Secondly, what is the current practice of preventing, handling, supporting, and remediating SH for workers in Vietnam?

Thirdly, what solutions should be proposed to strengthen the prevention, handling, support, and remediation of SH for workers in Vietnam?

CHAPTER 2: THEORETICAL AND LEGAL BASIS FOR PROTECTING WORKERS' RIGHTS AGAINST SEXUAL HARASSMENT IN THE WORKPLACE IN VIETNAM

2.1. Theoretical basis for protecting the rights of workers against sexual harassment in the Workplace

2.1.1. Related concepts regarding protecting the rights of workers against sexual harassment in the Workplace

2.1.1.1. The concept of sexual harassment

Sexual harassment can be understood as unwanted sexual behaviour towards another person, violating their dignity and honour, and causing discomfort, fear, offence, or humiliation to another person.

2.1.1.2. Workplace

According to Vietnamese law, “workplace” is: “any place where the employee actually works according to the agreement or assignment of the employer, including places or spaces related to work such as social activities, seminars, training, official business trips, meals, telephone conversations, communication activities via electronic means, transportation arranged by the employer from home to work and vice versa, accommodation provided by the employer, and other places specified by the employer”.

2.1.1.3. Sexual harassment in the workplace

The concept of SH should be understood as: any behavior by any person toward another person in the workplace, including making sexual offers, suggestions, requests, or coercion in exchange for benefits, or performing unwanted sexual acts, expressed in words, actions, or any other form, that infringe upon human dignity and honor, while creating a threatening, humiliating, or offensive work environment. Thus, SH is a

manifestation of discriminatory behavior based on power or creating a hostile, threatening work environment. Sexual harassment is described as a range of actions related to harassing a person because of their gender, and such actions may include unwanted sexual advances, requests for sexual favors, verbal or physical harassment of a sexual nature, or creating a hostile work environment.

2.1.1.4. Protecting Workers' Rights

Protecting workers' rights can be understood as: the application of legal measures, organizations, and mechanisms by the state and other organizations to prevent and address acts that infringe upon the legitimate rights and interests of workers; promptly punishing and restoring violated rights, ensuring that workers fully and thoroughly enjoy the rights recognised by international and national law.

2.1.1.5. Workers' Rights Not to Be Sexually Harassed in the Workplace and Protecting Workers' Rights Not to Be Sexually Harassed in the workplace

The right not to be sexually harassed in the workplace is understood as a fundamental right of workers, protected by law, to ensure an equal, safe working environment free from SH in any form. If unfortunately violated, employees have the right to protection, access to support and remedial measures, and to request intervention and strict handling from employers and authorities.

Legally, protecting the right to SH is understood as: the legal obligation and responsibility of the state, employers, and other organizations to ensure that employees are not sexually harassed through preventive, remedial, and supportive measures to prevent and strictly handle violations and restore the legitimate rights and interests of victims.

2.1.2. Characteristics and Significance of Protecting the Right of Employees against sexual harassment in the Workplace

2.1.2.1. Characteristics

To better understand the nature of this process, five basic characteristics need to be considered: diversity, comprehensiveness, confidentiality, equality, non - discrimination, and socio-cultural aspects.

2.1.2.2. Significance

Protecting workers' rights against SH is essential and has significant implications for workers, employers, the work environment, and the broader community.

2.1.2. Measures to protect the rights of workers from SH

An effective protection system needs to be built on three main pillars: prevention, handling, support and remediation. These three groups of measures do not exist in isolation, but interact and support each other to create a comprehensive protection mechanism.

2.1.2.1. Measures to prevent sexual harassment in the workplace

The content of measures to prevent SH includes the following basic activities:

- Enacting a unified, consistent, and appropriate legal system to protect the rights of workers from SH;
- Enacting regulations and internal rules of enterprises on preventing SH;

- Organize training and awareness-raising sessions for employees, employers, and law enforcement agencies regularly;
- Enhance physical infrastructure (surveillance cameras, workspace).

2.1.2.2. Measures for Handling sexual harassment in the workplace

The constituent elements of measures for handling SH are defined as follows:

- A clear, transparent, and timely process for receiving and handling cases, ensuring the right to a fair trial for both victims and accusers;
- Strict and appropriate punishment;
- Effective and regular inspection and supervision.

2.1.2.3. Support and Remediation Measures for Victims of sexual harassment in the workplace

This group of measures includes two components:

- Support measures include providing legal, medical, and psychological counseling and protecting victims and accusers from retaliation.
- Remediation measures include compensation for damages, mandatory public apologies, injunctions or court orders, and attorney fees and other litigation costs.

2.1.3. Subjects of rights, subjects of obligations, and constituent elements of the right of employees not to be sexually harassed in the workplace.

2.1.3.1. Subjects of Rights, Subjects of Obligations, and the Content Constituting the Right of Workers Not to Be Sexually Harassed in the Workplace

Workers are the primary subjects entitled to request protection from acts of SH. Within the scope of this study, “worker” is understood in a broad sense to encompass any individual who performs work for an employer under a labour contract or agreement, receives a salary, and is subject to the employer's management and supervision. This concept is not limited to formal workers with legally recognised labour contracts, but also extends to those working in the informal sector, apprentices, trainees, volunteers, and those seeking or applying for jobs.

The entities obligated to participate in protecting the right to freedom from SH are the entire political system, including state and non-state institutions. State institutions include the legislative, executive, and judicial branches. Non-state institutions include socio-political organisations, social organisations, media agencies, and the business community.

2.1.3.2. Contents of the right of workers to freedom against sexual harassment in the workplace

Based on the nature and level of protection, it can be divided into two groups: the first focuses on prevention and ensuring a safe, sex-free working environment. The second group of rights focuses on handling violators and supporting victims.

(1) Group 1 includes the rights: Right to personal freedom, Right to work in a safe environment, Right not to be discriminated against based on gender, and Right to equality.

(2) Group 2 includes the following rights: The right to protection of human dignity (or dignity), the right to the highest health standards, the right to protection of personal

information confidentiality, the right to complain and denounce, and the right to access remedies.

2.2. Legal basis for protecting the rights of workers against sexual harassment in the Workplace

2.2.1. International legal regulations on protecting the rights of workers against sexual harassment in the workplace

International law has established many regulations and rules emphasizing the prevention and suppression of sexual harassment of workers, aiming to ensure the right of each worker to work in a safe and healthy environment. Some notable international documents include: the Convention on Discrimination in Employment and Occupation No. 111 of 1958 and its recommendations, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) of 1979 and its recommendations, ILO Convention No. 190, ILO Convention No. 191 and Recommendation No. 206, the Vienna Declaration and Programme of Action of 1993, and the Beijing Platform for Action of 1995.

Regarding remedial measures, international legal instruments have established a robust legal framework for addressing SH. Resolution 48/104 of the United Nations General Assembly (1993) defines sexual harassment as a form of violence against women and requires states to apply criminal, civil, or administrative sanctions. ILO Convention 189 (2011) requires the protection of domestic workers from violence and harassment, and establishes mechanisms for complaints and prosecution. The Council of Europe Convention (2011) provides for criminal sanctions against all unwanted sexual acts, while ILO Convention 190 and Recommendation 206 emphasize transparent complaint mechanisms, legal assistance, and shifting the burden of proof in some instances. More recently, Resolution A/RES/78/331 (2024) reaffirms the “zero tolerance” policy for sexual exploitation and abuse, emphasising timely investigation, confidentiality, prioritising victims' rights, and strengthening the accountability of states.

Regarding support and remediation measures, these provisions are quite comprehensive in international documents. ILO Convention No. 189 (2011) concerning domestic workers requires the provision of emergency shelter, resettlement and rehabilitation for victims. Convention No. 190 adds measures to protect whistleblowers, victims, and witnesses; provides legal, medical, and psychological support; ensures gender-sensitive response mechanisms; and guarantees the right to refuse to work in hazardous conditions. Recommendation No. 206 emphasises measures Such as Compensation, job re-employment, counselling, hotlines, temporary housing, and support for reintegration into the workforce, especially for vulnerable groups such as migrant or informal workers.

2.2.2. Vietnamese Legal Regulations on Protecting Workers' Rights against sexual harassment in the workplace

Regarding preventive measures, the 2019 Labour Code (hereinafter abbreviated as Labour Code) recognises workers' right not to be subjected to sexual harassment and stipulates the employer's obligation to develop and implement measures to prevent it (Articles 5 and 6). Clause 3 of Article 8 reaffirms that this is a prohibited act, and the definition of SH is codified in Clause 9 of Article 3. In addition, the Labour Code also

has other related provisions such as: Clause 7 of Article 67 allows collective bargaining content to include the prevention of violence and sexual harassment; Point d, Clause 2, Article 118 requires that Labour regulations contain provisions on preventing sexual harassment, and Clause 1, Article 135 reflects the state's policy on ensuring gender equality and preventing sexual harassment of workers. Some of these regulations were further explained in detail in Decree 145/2020/ND-CP.

Regarding disciplinary measures, Point d, Clause 2, Article 35 of the Labour Code allows employees who have been harassed to terminate their employment contract without prior notice unilaterally. For violators, Clause 2, Article 125 of the 2019 Labour Code provides for dismissal as a disciplinary measure and requires businesses to specify this in their labour regulations clearly. Sexual harassment of domestic helpers can be subject to administrative penalties ranging from 15-30 million VND according to Decree 12/2022/ND-CP, and even heavier penalties (50-75 million VND) for domestic helpers, demonstrating a determination to strengthen deterrence and protect victims. Although the 2015 Penal Code (amended and supplemented in 2017 and 2025) does not have a separate crime for sexual harassment, if this act seriously infringes upon the honor and dignity of the victim, the perpetrator may be prosecuted for the crime of humiliating another person under Article 155.

Regarding support and remedial measures, victims have the right to sue the perpetrator of sexual harassment in court to claim compensation for damages, in accordance with Article 34 of the 2015 Civil Code and Clause 1 of Article 592 of the 2015 Civil Code. Accordingly, the perpetrator of harassment must compensate for damages to honor, dignity, reputation, and emotional distress, with a maximum amount not exceeding ten times the basic salary. Resolution 02/2022/NQ-HĐTP provides specific guidance on the conditions for liability for compensation, including the infringing act, actual damages, and causal relationship. In addition, the offender must apologise to the victim, publicly or privately, as requested by the victim. Regulations protecting whistleblowers from retaliation are stipulated in the Whistleblower Law of 2018. Depending on the specific circumstances, the competent authority will apply the protective measures set out in Articles 56 to 58.

2.2.3. Legal regulations of some countries around the world on protecting workers' rights against sexual harassment in the workplace

Legal experiences that Vietnam can learn from other countries include: regulations on annual training and education on preventing SH in the United States, South Korea, and Romania; strict regulations in some countries when criminalising sexual harassment; the responsibility of employers when they do not act reasonably and implement timely preventive measures; the burden of proof being shifted to employers as many European countries are applying; and regulations protecting victims and whistleblowers from retaliation as in Canada, South Korea, and the United States. In particular, the issue of protecting information about incidents has received attention and is specifically regulated by law in many countries, such as India, Germany, Canada, and Croatia. The mechanism for filing complaints and denunciations on behalf of others is also very humane in India, Australia, and the Netherlands.

2.3. Factors Affecting the Protection of Workers' Rights against sexual harassment in the Workplace

Seven factors affecting the protection of workers' rights against SH include: laws, economics, societal awareness, socio-cultural factors, gender stereotypes, social prejudices, and media. These factors have both positive and negative impacts on the protection of rights and interact with each other.

CHAPTER 3. THE CURRENT SITUATION OF PROTECTING WORKERS' RIGHTS AGAINST SEXUAL HARASSMENT IN THE WORKPLACE IN VIETNAM

3.1. The Situation of Workers Experiencing sexual harassment in the Workplace in Vietnam

3.1.1. The Situation of Sexual Harassment of Workers in the Workplace in Vietnam: Reports and Secondary Documents

According to a 2021 report by UN Women, sexual harassment of workers is a sensitive issue in Vietnam, and there is still a lack of official statistical data from relevant agencies. Surveys conducted with several leaders at the Ministry of Interior, the Vietnam General Confederation of Labour, the Vietnam Women's Union, and provincial Departments of Interior Affairs yielded similar results. Therefore, research data related to this issue is primarily accessed through reports from international and non-governmental organisations, as well as research by domestic and foreign scholars. A 2013 report by the Ministry of Labour, Invalids and Social Affairs showed that 78.2% of sexual harassment victims were female, mainly aged 18-30. In addition, research by ActionAid in 2015, 47.9% of female factory workers reported having experienced sexual harassment more than once in their lives. A 2021 report by UN Women indicated that 11.4% of Vietnamese women had experienced sexual harassment at some point in their lives.

Furthermore, according to the UN Population Fund's 2024 statistics, approximately 20% of workers experienced violence or SH. Notably, a CARE survey in the garment industry found that nearly one-third of female workers had experienced sexual harassment in the past 12 months. In addition, a survey by the ILO and Navigos Search in early 2023 showed that 17% of middle-level staff had been propositioned by superiors for sexual favors. The reported rate of sexual harassment among workers varies across studies, depending on the time period, survey subjects, survey scope, and research methodology.

3.1.2. The Situation of Sexual Harassment Among Workers in the Workplace in Vietnam: Results of a 2024 Sociological Survey

A survey of 656 representative workers in 9 provinces and cities in Vietnam on the situation of SH reveals an alarming picture of this problem. The percentage of workers who have experienced SH is 21.2%, a significant number. Notably, the opposite gender is the most frequently affected by SH, accounting for 37.5%, and the rate of female victims (26.1%) is almost double that of male victims (14.2%), clearly reflecting gender inequality in this issue. Regarding frequency, most victims suffered sexual harassment 1 to 2 times, and the rate of victims experiencing sexual harassment more frequently tends to decrease. The perpetrators are mostly colleagues, followed by superiors, customers,

and a small number of other individuals, indicating that sexual harassment can occur in many positions and in various relationships within the workplace. In terms of form, physical and verbal sexual harassment account for the majority, with rates of 74.8% and 70.5% respectively, while nonverbal sexual harassment accounts for the lowest rate (21.6%).

3.2. Results, limitations, and causes of protecting workers' rights against sexual harassment in the Workplace in Vietnam

3.2.1. Results of protecting workers' rights against sexual harassment in the Workplace in Vietnam

3.2.1.1. Workplace Sexual Harassment Prevention

First, the current state of sexual harassment prevention based on secondary reports and documents:

With the efforts of the entire political system and other individuals and organizations in society, Vietnam has made certain progress in protecting workers from SH as follows:

- The system of legal documents and policies in Vietnam is increasingly complete.
- The results of achieving the goals and targets on gender equality in 2022 show significant progress compared to previous years. Vietnam's gender equality index ranks 72nd out of 146 countries, up 11 places from 2022 and 15 from 2021.
- Regarding the issuance of documents, most localities have performed very well, with official documents and plans on training and prevention of gender-based violence being complete and regular.
- Regarding communication and training, attention has been paid and integrated into the content on gender equality and prevention of gender-based violence.
- In the field of international cooperation, many positive results have also been achieved. The Ministry of Labour, Invalids and Social Affairs has signed a Memorandum of Cooperation with the ILO to promote international Labour standards in Vietnam, and cooperated with UN Women within the framework of the National Strategy on Gender Equality for the period 2021–2030, with financial support of approximately US\$0.66 million funded by the Australian Government. Subsequently, the People's Committee of Ho Chi Minh City also signed a Memorandum of Understanding with UN Women for the period up to 2025 and continues to implement the project “Safe and Friendly City for Women and Girls” with professional support from UN Women. The issue of preventing and combating sexual harassment of children and young people is also given attention and acknowledged in the content of the memorandum of cooperation between the units.

Secondly, the current state of sexual harassment prevention through the results of the 2024 sociological survey:

A survey of 162 leaders and managers found that state management agencies and employee representative organisations have undertaken numerous activities to prevent and combat sexual harassment within their units. Specifically, 47.5% of respondents said they had received legal documents related to this issue, 50% received guidance documents, and 37% received training and workshops. However, more than 27% of respondents said their organisation had not organised any activities to prevent and combat

sexual harassment. Awareness of sexual harassment among both employees and employers has shown significant progress. According to the 2024 survey, more than 80% were able to identify the basic forms of sexual harassment.

Besides the positive aspects, Vietnam also has some limitations: the survey results on employees' and managers' awareness of SH showed no difference. Both employees and managers had an average awareness rate (over 53%), indicating that their understanding of the law on SH is incomplete. Only about one-third of employees in both groups fully identified SH. More than half of the employees admitted that they did not know how to report or complain. Overall, a large percentage of employees still do not recognise this behaviour and need further training and education.

3.2.1.2. Handling of sexual harassment in the workplace

Currently, In Vietnam, there are still no official statistical reports summarizing the situation and results of handling sexual harassment cases involving victims of sexual abuse at both the central and local levels annually. The lack of comprehensive reports and periodic data has led to a serious shortage of statistical data, analytical information, and comprehensive assessments of this issue. Most information about cases is reflected through the press and media.

Inspection, examination, and monitoring of the implementation of regulations to prevent and combat sexual harassment have also not been conducted regularly and continuously. Some agencies and units still consider this a “sensitive” issue or prioritise it over others, leading to lax supervision and a lack of responsibility in handling cases. As a result, many cases remain unresolved, causing victims to lose faith in the current protection mechanisms.

The survey results show that over 60% of victims chose to “avoid, leave”, or “silently endure”. Only 8% bravely fought back and reacted to the harasser, and 17% chose to complain to their employer's representative or to government organizations. Similarly, very few survey participants considered reporting to the police or filing a lawsuit in court (less than 3%). Most survey participants expressed a desire for Vietnam to have stricter penalties to punish perpetrators of sexual harassment. A large majority of workers and managers agreed that criminal penalties should be applied to those who have already been administratively penalised for this behaviour and then reoffend (86.7% and 84%, respectively). The reason for this desire is that workers believe the current administrative penalties for this behaviour are too light and insufficient as deterrents (79.3%).

3.2.1.3. Support and Remediation for Victims of sexual harassment in the workplace

Currently, support for victims of SH lacks uniformity and comprehensive implementation. Specifically, psychological support services, legal counselling, and protections against retaliation or discrimination remain very limited.

Based on a 2024 sociological survey, the statistical results of sexual harassment victims' opinions clearly show a lack of support from employer representatives and workplace organisations, such as labour unions, women's associations, and youth unions. The majority of victims expressed dissatisfaction, even complete dissatisfaction, with the level of support they received. Dissatisfaction and complete dissatisfaction accounted for

the majority of assessments regarding support from grassroots trade unions, employer representatives, women's associations, youth organisations, and state agencies, with percentages of 76.2%, 64%, 59.7%, 59%, and 38.1% respectively. Although a small number of respondents expressed satisfaction with support from state agencies, this percentage was low, at only about 24%.

The statistical results also showed that many victims were dissatisfied with how employers handled their complaints and denunciations of sexual harassment for various reasons. Nearly half of the victims (48.9%) stated that employers provided support, but it was ineffective; 26.6% said they received no resolution at all; and only 20.1% believed the support was effective and the issue was resolved. This indicates a significant gap in the provision of effective support to victims. These organizations do not seem to have truly met the expectations and needs of the victims.

3.2.2. Limitations in protecting workers' rights against sexual harassment in the Workplace

3.2.2.1. Limitations in preventing sexual harassment in the workplace

Firstly, according to the independent review report on 10 years of implementing the Law on Gender Equality by the Ministry of Labour, Invalids and Social Affairs, it states: “In Vietnam, sexual harassment of workers is not yet considered a form of discrimination based on gender”. Furthermore, the Labour Law and the Law on Gender Equality of 2006 do not stipulate this content. However, this is inconsistent with international law.

Secondly, the concept of SH in Vietnam's Labour Code (Clause 9, Article 3) still has limitations and is not truly clear and complete compared to international standards: it lacks the form of “exchange” sexual harassment, focuses only on the behavior of the harasser without addressing the consequences suffered by the victim, and the scope of the employee subject is narrow, not in line with the spirit of Article 2 of ILO Convention No. 190.

Thirdly, the term “in the workplace” in the Labour Code does not adequately reflect the broad temporal and spatial scope of this behaviour. Nowadays, sexual harassment occurs between employees or with employers, customers, and partners, and frequently takes place online or through electronic means. It can occur at any time, not necessarily during working hours.

Fourthly, there is currently inconsistency in the use of the term sexual harassment via telephone and electronic means. Fifth, Vietnam has not yet enacted a specific law against the SH.

Sixth, SH is not regulated by the Law on Gender Equality or by other specialised laws (except the Labour Law).

Seventh, sexual harassment of workers is not a mandatory element in collective bargaining.

Eighth, Vietnam has not yet stipulated mandatory reporting obligations for employers. Regarding SH.

Ninth, the fact is that there are no specialized reports on sexual harassment of workers, and the annual work reports in localities do not include a separate category

requiring reporting on the situation of sexual harassment of workers, so the aggregated data and statistics on this issue in Vietnam are still lacking.

Tenth, enforcement of regulations on sexual harassment of workers remains inconsistent and ineffective.

Eleventh, organisations such as trade unions and inspectorates are not effective in protecting workers against SH.

Twelfth, many workers are unaware of their rights when subjected to sexual harassment of workers, leading them to accept often, endure, and not know how to report or complain.

Thirteenth, some leaders and managers have not correctly understood “SH” believing that this behavior is not dangerous, not worth worrying about compared to other issues in the enterprise, and is a “shameful” matter, so they keep it secret internally.

Fourteenth, a few enterprises have not paid attention to the prevention of sexual harassment, such as: not issuing internal regulations or rules on SH not training employees, arranging work areas inappropriately, placing restrooms far from the workplace, requiring female employees to entertain clients outside of Labour agreements, allowing the use of alcohol in the workplace, and many female employees not being aware of how to protect themselves, such as inappropriate speech and clothing.

Fifteenth, Vietnam has not yet ratified Convention No. 190 and Convention No. 191 on safe and healthy working environments in 2023.

Sixteenth, Vietnam lacks international cooperation and experience sharing in preventing and combating sexual harassment of workers.

Seventeenth, the current situation of sexual harassment of workers in Vietnam has not been fully and comprehensively assessed. Although the law has basic regulations on preventing and combating sexual harassment, there is a lack of a comprehensive and accurate database on the reality of sexual harassment in agencies and businesses nationwide.

Eighteenth, backward views in Confucianism, such as “valuing men over women” still exist in some places, especially in mountainous, remote, and rural areas, as well as in the thoughts of older people.

Nineteenth, many businesses have not yet issued or implemented regulations to prevent and combat sexual harassment of workers. Furthermore, the law has not yet clearly guided the criteria for internal regulations and codes of conduct in agencies and businesses to ensure consistent implementation.

3.2.2.2. Limitations in handling sexual harassment in the workplace

Firstly, the regulations on administrative penalties in Clause 3, Article 11, and Clause 4, Article 30, of Decree No. 12/2022/ND-CP are incomplete: they lack supplementary forms of punishment and remedial measures, and they are inconsistent with the content of the legal norm and the name of the law.

Secondly, sexual harassment in general and sexual harassment of workers in particular are only subject to administrative penalties, not criminalisation. This creates a significant discrepancy, as Vietnam has accepted the UN Human Rights Council's request to criminalise this act.

Thirdly, Clause 2, Article 125 of the Labour Code allows employers to dismiss individuals who commit sexual harassment, provided this is stipulated in the labour regulations. However, this regulation is limited because businesses with fewer than 10 employees are not required to issue written internal regulations (Clause 1, Article 118), leading to a lack of legal basis for handling violations. Meanwhile, Clause 3, Article 8 of the same law clearly defines sexual harassment as a prohibited act that needs to be dealt with severely.

Fourth, the Labour Law does not regulate the process and procedures for receiving and resolving complaints and denunciations from employees, but allows employers to regulate them through their internal regulations and rules arbitrarily. This leads to a situation in which each business issues its own regulations and procedures for handling complaints and denunciations, without any scientific basis or specific guidance.

Fifth, currently, Vietnam lacks comprehensive regulations and mechanisms to protect victims of SH, especially in cases where victims are harassed by business owners, domestic helpers, or workers in the informal sector.

Sixth, Vietnamese law currently does not stipulate the employer's responsibility to compensate victims of sexual harassment; instead, the harasser is usually held responsible.

Seventh, Vietnamese law does not yet stipulate sanctions for employers who violate their obligations to prevent, handle, and support victims of SH.

Eighth, Vietnam has not yet applied information technology to prevent and detect SH in cyberspace and on electronic platforms, nor has it used technology to manage, monitor, report, and resolve complaints and denunciations.

Ninth, the 2015 Code of Conduct on SH and the 2019 Handbook of the Ministry of Labour, Invalids and Social Affairs (MOLISA) on preventing sexual harassment allow employers flexibility in choosing disciplinary measures depending on the severity of the violation. However, regarding acts of sexual harassment against employees, according to Clause 2, Article 125 of the Labour Code, the disciplinary measure of dismissal must be applied.

Tenth, in reality, many victims find it difficult to prove or gather evidence of sexual harassment against employees, so they cannot file formal complaints to protect themselves.

Eleventh, the law does not yet stipulate the legal responsibility and obligations of online platform owners when sexual harassment occurs.

3.2.2.3. Limitations in supporting and remediating victims of sexual harassment in the workplace

Firstly, Vietnamese law does not clearly recognize the right to complain, denounce, and the right to protection of personal information in cases of sexual harassment against workers.

Secondly, Vietnamese Labour law and administrative law lack regulations on sanctions for defamation or retaliation against those who report or complain about sexual harassment against workers.

Thirdly, the Vietnamese labour law lacks measures to promptly remedy and support those affected by sexual harassment against workers, and the criteria for compensation for damages to workers are not clearly defined.

Fourthly, current Vietnamese labour law provides only general requirements and lacks specific guidance on the content, methods, and measures for protection. This practice shows that the lack of specific regulations on information security has become a significant barrier to victims' access to justice.

Fifth, Vietnam lacks sufficient psychological counseling centers for victims (as noted by experts A1, A4, and A5). Furthermore, many large-scale organisations also lack psychological counsellors and dedicated support staff for victims of sexual harassment.

Sixth, the scope of those entitled to file complaints about SH is narrow. Vietnamese law currently only allows victims of sexual harassment or witnesses to file complaints and denunciations; there is no mechanism for filing on behalf of the victim in cases where the victim suffers serious psychological and health damage.

3.2.3. Causes of limitations in protecting workers' rights against sexual harassment in the workplace

The protection of workers' rights against SH in Vietnam remains limited due to complex, overlapping factors. Based on 7 influencing factors, the researcher identified 7 main causes of the limitations, including: inadequacies in the legal system and law enforcement, limited material and human resources for preventing and combating sexual harassment, insufficient awareness among stakeholders about the right not to be sexually harassed in the workplace, outdated culture, society, and social prejudices, rigid gender stereotypes, the ineffective role of the media, and the lack of ratification of international conventions.

CHAPTER 4. ORIENTATIONS AND SOLUTIONS FOR PROTECTING WORKERS' RIGHTS AGAINST SEXUAL HARASSMENT IN THE WORKPLACE IN VIETNAM

4.1. Orientations on Protecting Workers' Rights against sexual harassment in the Workplace in Vietnam

Four key perspectives have been identified: Protecting the right to SH while ensuring the principle of “victim-centered” protection and maintaining balance and harmony with the work environment, based on a unified, synchronized, and appropriate legal system, requiring a legal system that conforms to international legal standards and incorporates progressive aspects from other countries; paying attention to protecting the right to SH of vulnerable groups and workers in the informal sector.

4.2. Solutions for Protecting Workers' Rights against sexual harassment in the Workplace in Vietnam

4.2.1. Solutions for Preventing sexual harassment in the workplace

Firstly, lawmakers should clearly stipulate in the Labour Code that: “SH is a form of gender discrimination”. The reason is to ensure compatibility with international law and to align with the nature of this behavior.

Secondly, a clearer and more comprehensive definition of SH is needed, encompassing “exchange” sexual harassment. The concept proposed by the researcher is “the conduct of any person toward another in the workplace, including making sexual offers, suggestions, requests, or coercion in exchange for benefits, or performing unwanted sexual acts, expressed in verbal, physical, or any other form, that infringe upon human dignity and honor, and create a threatening, humiliating, or offensive work environment”.

Thirdly, the phrase “in the workplace” should be changed to “In the world of work” to ensure comprehensive coverage of the spatial and temporal context in which sexual harassment occurs. Fourth, remove the phrases “via telephone” or “on the telephone” from Clause 2b and Clause 3 of Article 84 of Decree 145/2020/ND-CP to align with the 2023 Electronic Transactions Law.

Fifth, the Law on Prevention and Control of Sexual Violence and Harassment should be enacted soon to provide timely and detailed guidance on regulations related to sexual harassment of non-commissioned persons. Based on the laws against SH in several countries, the main content of this law includes the following components: subjects of regulation, scope of regulation, definition of terms, procedures for receiving and processing sexual harassment (subjects, time, content of implementation); burden of proof; regulations on preventive measures, handling measures, support and remediation measures; rights and responsibilities of competent authorities and sanctions for violators.

Sixth, the act of sexual harassment of non-commissioned officers should be included. V. Incorporate the Law on Gender Equality. Specifically, add point d to Clause 3, Article 13 of the 2006 Law on Gender Equality: “ensuring the right of workers not to be sexually harassed in the workplace”. At the same time, the 2006 Law on Gender Equality needs to explicitly state that: “SH is a form of gender-based violence”.

Seventh, amend Clause 7, Article 67 of Decree 145/2020/ND-CP to mandate that negotiating parties select content on “prevention and combating violence and SH” for collective bargaining.

Eighth, establish a mandatory reporting obligation for employers regarding information and results of resolving sexual harassment cases, while strengthening their accountability.

Ninth, require mandatory annual reports on sexual harassment of workers in the province.

Tenth, to effectively prevent and combat sexual harassment, close coordination between state agencies, social organisations, and businesses is necessary. At the same time, to strengthen the prevention and control of sexual harassment against victims of sexual abuse, the state needs to increase its budget for building and improving the legal system and infrastructure, and invest in highly qualified human resources to effectively carry out the work of issuing and reviewing legal documents.

Eleventh, enhance the activities and responsibilities of trade unions and inspection agencies.

Twelfth, strengthen the dissemination and education of laws on preventing and combating sexual harassment against victims of sexual abuse in Vietnam.

Thirteenth, implement mandatory capacity-building programs for judges, prosecutors, lawyers, police officers, medical personnel, and leaders of agencies and businesses... on the strict application of legal regulations and ensuring gender sensitivity in their work with victims of sexual harassment.

Fourteenth, businesses should install comprehensive camera systems in public areas within their premises. Employees need to have the knowledge and skills to report and collect evidence effectively. Furthermore, for cases of online sexual harassment, individuals, law enforcement agencies, or employers with access to the perpetrator's account should be empowered to conduct investigations and gather evidence.

Fifteenth, promptly consider ratifying ILO Conventions 190 and 191.

Sixteenth, strengthen international cooperation.

Seventeenth, a comprehensive national survey on SH in Vietnam is needed.

Eighteenth, strive to eliminate social prejudices and outdated Confucian notions such as “preferring men over women”.

Nineteenth, clearly stipulate the mandatory requirement for all agencies and businesses to issue internal regulations to prevent and combat sexual harassment of employees.

4.2.2. Solutions for Addressing sexual harassment in the workplace

First, improving the legal framework for administrative penalties for sexual harassment of workers:

- Decree No. 12/2022/ND-CP needs to add two additional forms of punishment: confiscation of evidence and means used in the administrative violation, or mandatory recovery and submission of materials, documents, leaflets, articles, and images used to commit the administrative violation. Deportation should be applied to foreigners who have already been penalized for sexual harassment of workers but continue to violate the law before the penalty period expires.

- Decree No. 12/2022/ND-CP needs to add remedial measures such as “publicly apologizing for the act committed, except in cases where the victim does not request it” and “mandating correction of false or misleading information”.

- Decree No. 12/2022/ND-CP needs to revise the title of Article 11 or move the content of Clause 3 of Article 11 to another position.

Secondly, some acts of sexual harassment against non-violent persons should be criminalised.

The doctoral candidate proposes including this act in the group of crimes infringing on the inviolable rights to health, life, honor, and dignity in the Penal Code as follows: “Article... Sexual Harassment

Whoever commits one of the following acts shall be sentenced to imprisonment from 06 months to 03 years: a. Physical harassment, repeated despite being warned but still reoffending; b. Suggesting or proposing sexual relations in exchange for benefits; c. Continuously following or stalking another person, causing feelings of fear and insecurity; d. Continuously harassing through electronic means, seriously affecting their life and honour, or disseminating their private information without their consent.

Secondly, committing the crime in one of the following cases shall be punishable by imprisonment from 3 to 7 years: a. The victim is a person in a dependent or particularly vulnerable state due to age, illness, disability, addiction, pregnancy, or significant physical or mental impairment; b. Committing the crime in an organized manner, committing the crime against multiple people; c. Committing the crime 2 or more times; d. Causing the victim to commit suicide.

Third, add the content “as stipulated in the labour regulations or law” to Clause 2, Article 125 of the Labour Code, to ensure that units that are not required to issue labour regulations can dismiss employees who commit acts of sexual harassment against workers.

Fourth, Vietnamese labour law should outline the basic steps and procedures for filing complaints and denunciations, as well as for resolving them.

A 7-step process for handling, including: receiving complaints; appointing a professional to investigate the case; applying corrective measures (which can be applied at any step if deemed necessary); resolving internal disputes through mediation if the case is not serious; establishing and convening a disciplinary committee; notifying the results; and organizing the implementation of the disciplinary action.

Fifth, expanding the jurisdiction of the courts in resolving sexual harassment cases in the workplace:

Judges should be empowered to issue restraining orders against the accused (the harasser) and, if deemed necessary, to apply safety protection measures for the victim, to minimise the risk of retaliation and avoid “victimization”. The court's ruling should be binding on the employer and serve as the basis for disciplinary action against the offender later. Eligible cases should be considered for expedited proceedings to protect victims quickly. Victims of sexual harassment by employers, domestic helpers, and workers in the informal sector have the right to sue in court.

Sixth, regulating the indirect legal liability of employers

In line with the laws of countries such as Serbia, the Philippines, Sweden, the United States, and the United Kingdom, Vietnam should also regulate employers' indirect legal liability. The 2019 Vietnamese Labour Law should add the following: “When sexual harassment by an employee occurs, the employer is still liable unless they can prove that they took reasonable care to prevent and remedy the violation and the employee made an unreasonable error in implementing internal procedures”.

Seventh, through research on sanctions in several countries such as India, Spain, Slovenia, Bosnia and Herzegovina, and Belgium, and comparing them with sanctions for similar acts in Decree 12/2022/ND-CP, the researcher proposes applying a fine of 15 million to 50 million VND in administrative penalties for employers violating regulations on preventing and protecting workers against SH.

Eighth, using technology to improve the reporting system, complaint management, and monitoring of the implementation of policies to prevent sexual harassment.

Approximately half of the experts interviewed (14/30) suggested that Vietnam should use technology for reporting, filing, and managing complaints, as well as for monitoring the implementation of policies to prevent sexual harassment. This shows the

need for applying technology to enhance the effectiveness of sexual harassment prevention efforts.

Ninth, to ensure consistent and effective law enforcement, the 2015 Code of Conduct and the 2019 Ministry of Labour, Invalids and Social Affairs' Handbook on preventing sexual harassment of workers should be amended to clearly stipulate that the only disciplinary measure for acts of sexual harassment against workers is dismissal. This aims to eliminate the possibility of abuse, enhance deterrence, protect victims, and ensure consistency with the Labour Law.

Tenth, after consulting the legislative experiences of several European countries, the researcher proposes that the burden of proof for sexual harassment against workers should be allocated at a 60:40 ratio, meaning that the victim of sexual harassment is not required to provide direct evidence of the harassment but only needs to state relevant factual elements such as: testimony from colleagues or witnesses, evidence of email or text message exchanges, social media exchanges, medical certificates (if any), etc.; Subsequently, the employer is responsible for cooperating to provide evidence or information they possess (images, videos from company cameras, personnel records, etc.). Finally, the Court, the employer, and competent agencies and organisations handling complaints and denunciations are permitted to accept electronic evidence, including audio recordings, video recordings, emails, and electronic data from messaging platforms and social networks.

Eleventh, the researcher proposes adding the responsibilities and obligations of online platform owners to the Labour Law and stipulating administrative penalties for them, similar to those for employers, in cases of online sexual harassment.

4.2.3. Group of solutions for supporting and addressing victims of sexual harassment in the workplace:

First, it is necessary to clearly define the right to complain, report, and protect the confidentiality of the personal information of victims, witnesses, and whistleblowers in the Labour Law, to provide a solid legal basis for better protecting workers' rights against sexual harassment. In addition, the researcher proposes adding the prohibited act of sexual harassment of workers to Clause 3, Article 35 of the 2013 Constitution as follows: “Discrimination, sexual harassment, forced Labour, and the use of workers below the minimum working age are strictly prohibited”.

Second, drawing on legislative experience in several countries (Canada, South Korea, and the United States), Article 86 of Decree 145/2020/ND-CP should be amended to include the prohibited act of “slandering or retaliating against those who complain or report sexual harassment of workers”. Furthermore, reference should be made to South Korean law. Vietnam should also include regulations on sanctions for defamation or retaliation against complainants and whistleblowers of sexual harassment and exploitation of workers in the decree on administrative penalties in the Labour sector, as follows: “In the case where the manager, employer representatives who treat complainants or whistleblowers of sexual harassment unfairly will be fined from 30 to 40 million VND”.

Third, supplementing timely and adequate support and remediation measures.

Based on legislative experience in the United States, India, Switzerland, and South Korea, the following should be added: the right to terminate employment contracts with compensation; reinstatement; appropriate compensation for damages; orders requiring immediate enforcement of measures to ensure that certain behaviors stop or policies change; job reassignment based on the victim's needs; granting victims up to one month of leave; reasonable costs for witnesses, experts, and legal fees and expenses. At the same time, emphasis should be placed on support and rehabilitation measures for victims of sexual harassment, such as support for reintegration into the labour market, counselling and information services, a 24/7 hotline, emergency services, and medical care. and psychological.

Fourth, through consultation with the laws of several countries, such as India, Germany, Canada, and Croatia, and some suggestions from experts, some forms of information security measures that Vietnam should consider applying include:

- Issuing regulations that absolutely prohibit the disclosure of personal information of victims, complainants, and whistleblowers, including during the verification, investigation, or announcement of the results of the handling process.
- Establishing a mechanism for anonymous reporting or through an independent third party, such as a trade union or Labour inspection agency, to ensure that complainants are not pressured or discriminated against in the workplace.
- Ensuring limited contact between relevant parties during the investigation process, temporarily transferring the position of the victim or accused person to ensure privacy and psychological safety (if deemed necessary).
- Establishing a system for storing and encrypting case data according to the information security standards of state agencies, to prevent leakage or unauthorized access. illegal.
- Add stricter penalties for those who disclose information about the incident.

Fifth, establish more community psychological counselling centres and psychological counsellors at agencies and businesses, as well as assign officers to monitor and act as focal points at the unit. In addition, at the unit level, a dedicated officer (for organisations with 200 or more employees) or a part-time officer (for organisations with fewer than 200 employees) should be appointed to monitor, supervise, and report on cases of gender-based violence and sexual harassment against workers.

Sixth, expand the scope of entities that can file complaints and denunciations.

Vietnam should expand the scope of entities that can file complaints and denunciations against SH against workers by allowing trade unions or employee representative organizations, colleagues, or anyone who knows about the incident to file a complaint on behalf of the victim in cases where the victim is unable to do so due to physical or mental incapacity.

CONCLUSION

SH constitutes a serious violation of human rights and human dignity, reflects gender inequality, and poses a threat to the working environment. This dissertation approaches the issue from a human rights perspective, contributing both scientific and practical foundations for protecting the right to be free from SH in the context of

international integration and digital transformation. Through a review of domestic and international studies, the dissertation identifies gaps in both academic research and practice, particularly the lack of comprehensive and systematic studies on protecting employees' right against SH in Vietnam. On that basis, the dissertation develops a theoretical framework, clarifying key concepts, characteristics, rights holders and duty bearers, as well as three groups of protective measures: prevention, handling, and support and remediation. At the same time, the study identifies seven factors affecting the protection of this right, namely: laws, economics, awareness of social actors, socio-cultural factors, gender norms, social prejudices, and the media. The dissertation analyzes current Vietnamese law and international experience, emphasizing the importance of confidentiality, effective complaint mechanisms, employer responsibilities, and victim support. Empirical survey results show a high prevalence of workplace sexual harassment but a low reporting rate, reflecting a gap between policies and laws on the one hand and their implementation on the other.

On this basis, the dissertation proposes a set of coordinated solutions, including: improving the legal framework (such as considering the criminalization of sexual harassment, and refining labor and administrative laws), strengthening awareness-raising, expanding the authority of dispute resolution bodies, enhancing legal, psychological, and medical support for victims, and appropriately shifting the burden of proof. The dissertation contributes to the enrichment of theory and the improvement of policies and laws, aiming to build a safe, fair working environment in line with international standards.

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