



## Nepal's Legal Framework against Sexual Harassment: A Comprehensive Review

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Workplace harassment

### ABSTRACT

**Background:** This in-depth analysis delves into Nepal's remarkable evolution in combatting and preventing sexual harassment through legal provisions. The review meticulously explores the policies articulated by the Nepal Law Commission, which have played a pivotal role in shaping the nation's approach to addressing and preventing sexual harassment.

**Objective:** It aimed to explore key legislative acts, amendments, and special provisions that set Nepal apart in the fight against sexual harassment, emphasizing the country's commitment to fostering safe and respectful environments.

**Methods:** The website of the Nepal Law Commission was the main information source, where 19 pertinent legislation pertaining to sexual harassment were carefully examined. Manual literature searches, desk reviews, and narrative reviews were used to synthesize the content. Both commonalities and distinct approaches were highlighted through a careful review and analysis of the specific sexual harassment-related laws of Nepal and comparison made in with neighboring South Asian countries.

**Results:** In comparison to South Asian countries, Nepal has a strong legal system that reflects its unwavering commitment to ending sexual harassment. It has a wide variety of legislation that places an emphasis on accessibility and inclusion. Nepal's legal landscape is commended for its clarity, inclusivity, and proactive measures, while challenges such as potential overlaps among laws and the need for integrated coordination are recognized.

**Conclusions:** The article emphasizes the continuous



evolution and refinement of Nepal's legal framework, underscoring the importance of ongoing efforts, public awareness, and international collaboration in shaping effective and inclusive policies against sexual harassment.

## **1. INTRODUCTION**

In recent years, Nepal has witnessed a transformative journey in the understanding and response to sexual harassment. Nepal has established a robust legal framework to address and prevent sexual harassment, reflecting a commitment to fostering safe and respectful environments. This article provides a comprehensive review of Nepal's legislative landscape by exploring the nuances of Nepal's legal approach.

According to Sex Discrimination Act 1984, 'Sexual Harassment' encompasses unwelcome and inappropriate behavior of a sexual nature, creating discomfort or a hostile environment. The term gained prominence after Mechelle Vinson's 1986 case against Meritor Savings Bank, where the U.S. Supreme Court acknowledged its significance in workplace settings (Vodanovich & Rupp, 2022). This recognition marked a turning point, establishing legal precedents that hold employers accountable for addressing and preventing sexual harassment. Since then, global efforts have led to the formulation of laws and guidelines defining and addressing such behavior, underscoring its significance in fostering respectful and safe environments. The #MeToo movement, gaining prominence around 2017, further illuminated the prevalence of sexual harassment globally, sparking discussions about power dynamics, consent, and cultural shifts (Johnson et al., 2019). Ongoing efforts extend beyond legal measures, aiming to cultivate respectful environments. The evolution of the term reflects a commitment to addressing and preventing sexual harassment, with societal

understanding continually shaped by legal developments and cultural movements.

In Nepal, combating sexual harassment requires a multifaceted approach, starting with the legal framework established by the 'Sexual Harassment at Workplace Act, 2015' (Nepal Law Commission, 2014a). The #MeToo movement in Nepal, reflected in personal stories shared online, plays a pivotal role in raising awareness and challenging the prevailing culture of silence. Education and awareness programs, exemplified by UN Women Nepal's initiatives (UN Women Nepal, 2023), are essential for lasting societal change. Government entities, including the National Women Commission, spearhead efforts (National Women Commission, 2023), while collaborations with NGOs, such as the NGO Federation of Nepal, and private sector engagement, as seen through Business for Social Responsibility (BSR) (Business for Social Responsibility, 2023), contribute to a comprehensive strategy. International support, exemplified by UNDP Nepal (UNDP, 2023), adds a global perspective to the local initiatives, collectively shaping a robust framework to address and prevent sexual harassment in Nepalese society.

The imperative need for this comprehensive review lies in providing a thorough understanding of Nepal's legal framework against sexual harassment. The primary purpose is to showcase the country's commitment, highlight strengths, identify challenges, and offer insights crucial for ongoing policy enhancements. This review aims to contribute to the broader discourse on combating sexual harassment, emphasizing the importance

of adaptive and responsive legal frameworks for fostering safe and respectful societies.

## 2. METHODS

The methodology employed for this comprehensive review involved a meticulous examination of Nepal's legislative landscape on sexual harassment. The primary sources of information included the Nepal Law Commission website, where 19 relevant laws addressing sexual harassment were thoroughly reviewed from October to December 2023. Manual literature searches were conducted using reputable sources such as Google Scholar, Pubmed, and Nepjol, employing keywords specified in the abstract. The review design adopted a desk review approach, utilizing narrative review methods to synthesize information. Additionally, policy arrangements pertaining to sexual harassment in Nepal's neighboring countries were scrutinized and discussed based on contextual relevance. The methodology ensured a comprehensive understanding of Nepal's legal framework.

## 3. RESULTS

### 3.1 LEGAL FRAMEWORK FOR PREVENTING SEXUAL HARASSMENT IN NEPAL

In establishing a robust legal framework for preventing sexual harassment in Nepal, a multitude of legislative acts and guidelines play a crucial role. The Crime Victim Protection Act, 2075 (Nepal Law Commission, 2018a), serves as a cornerstone by recognizing sexual harassment as a form of harm and ensuring victim confidentiality, coupled with a guarantee of compensation. This comprehensive approach reflects Nepal's commitment to safeguarding the rights and well-being of individuals, acknowledging the profound impact of sexual harassment on victims and emphasizing the need for redress.

Similarly, the Rights of Persons with Disabilities Act, 2074 (Nepal Law Commission, 2017a), takes a significant step in explicitly outlining protections against sexual misconduct and abuse for

individuals with disabilities. The act emphasizes special provisions for information and record-keeping, underscoring the nation's dedication to inclusivity and accessibility. By addressing the unique challenges faced by individuals with disabilities, Nepal aims to create an environment that is not only legally just but also socially equitable.

The legal landscape extends to specific situations, as seen in the Emergency Children's Rescue Fund (Operation) Guidelines, 2067 (Nepal Law Commission, 2010). Here, measures are defined to prevent sexual violence and exploitation against children in emergency situations. The guidelines categorize victims, enabling focused investigations, and underline the importance of maintaining confidentiality regarding sexual and reproductive rights. This demonstrates Nepal's commitment to protecting the most vulnerable members of society, ensuring that even in emergencies, the rights of children are prioritized and safeguarded.

The Crime Investigation Procedure (Amendment) Rules, 2075 (MOLJPA, 2017) further enhance the legal infrastructure by mandating physical evidence examination through medical tests in sexual offenses. This rule provides special rights for both women and men, ensuring the confidentiality of information related to sexual and reproductive rights. This meticulous legal approach reflects Nepal's commitment to justice and accountability in addressing the complexities of sexual harassment and places importance on scientifically sound evidence collection and examination.

Constitutional and legal safeguards go beyond specific cases to strengthen the overall protection against sexual harassment. The Constitution of Nepal itself ensures the right to live without discrimination, secure maternity, and reproductive health rights for everyone, including extending these rights to girls. Acts like the Health Service Act of Nepal 2053 (Nepal Law Commission, 1997) further bolster workplace regulations by establishing prohibitions against employees

engaging in sexual harassment or domestic violence. These regulations foster a safe workplace environment, aligning with Nepal's broader commitment to creating spaces free from harassment and violence.

The Commission on the Investigation of Disappeared Persons, Truth and Reconciliation, 2072, (CIEDP, 2014) grants special rights to sexual violence victims, acknowledging the sensitive nature of these cases. This includes compensation and a safe environment for victims to provide statements. The Compensation for Victims of Torture Act 2072 recognizes rape and sexual abuse as serious human rights violations, providing victims with special provisions and emphasizing the right to privacy. By doing so, Nepal acknowledges the gravity of these offenses and strives to provide appropriate redress to the victims.

In addition to workplace regulations, specific sectors are addressed with clarity and determination. The National Sports Development Act 2077 (MOYS, 2020) unequivocally terminates any employee involved in sexual misconduct, declaring them unfit for sports-related positions. The Privacy Act 2075 (Nepal Law Commission, 2018b) mandates the confidential treatment of sensitive information related to sexual matters, ensuring privacy as a fundamental right. Acts like the Labor Act 2074 (Nepal Law Commission, 2017b) and the Federal Parliament Secretariat Act 2064 (Government of Nepal, 2007) prohibit employees from engaging in sexual harassment, with provisions for their removal if found guilty.

The Political Parties Act 2070 (Nepal Law Commission, 2002) incorporates child sexual abuse as a political offense not subject to pardon, highlighting the moral responsibility of political entities to address and prevent such offenses. The Money Laundering Prevention Act 2064 (Nepal Law Commission, 2008) includes any form of sexual exploitation, including child sexual abuse, as an offense punishable under the act. This underscores Nepal's commitment to ensuring that sexual crimes, including those against children, are treated with utmost severity.

The Sexual Harassment (Prevention) Act, 2071 (Nepal Law Commission, 2014a) stands as a testament to Nepal's proactive approach by establishing necessary provisions for sexual harassment prevention in the workplace. This act not only prohibits any form of sexual misconduct but also ensures specific consequences for perpetrators, including the vacation of their position, thus providing justice for victims.

Nepal's robust legal framework demonstrates a steadfast commitment to combating sexual harassment, incorporating a diverse range of laws that prioritize inclusivity and accessibility. Strengths, such as clear victim confidentiality provisions and proactive measures against workplace harassment, are evident. However, addressing potential overlaps among laws and enhancing coordination for whole implementation remains a challenge. Ongoing efforts to raise public awareness and ensure effective utilization of these provisions are crucial. While Nepal's dedication to citizen well-being is evident, continuous evaluation and refinement are essential to meet emerging challenges and strengthen the legal framework further.

The policies concerning sexual harassment in the neighboring countries of Nepal (South Asia) are outlined as follows:

### **3.2 POLICIES FOR PREVENTING SEXUAL HARASSMENT IN INDIA**

Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (Ministry of Law & Justice, 2013): India has a dedicated act addressing workplace sexual harassment, emphasizing the establishment of Internal Complaints Committees (ICCs) in organizations.

Protection of Children from Sexual Offences (POCSO) Act, 2012: While primarily focusing on child sexual abuse, this act outlines stringent measures for the protection of children against sexual offenses.

Criminal Law (Amendment) Act, 2013 (Ministry of Law & Justice, 2013b): This amendment introduced changes to the

Indian Penal Code, including broader definitions and increased penalties for sexual offenses.

### **3.3 POLICIES FOR PREVENTING SEXUAL HARASSMENT IN PAKISTAN**

Protection against Harassment of Women at the Workplace Act, 2010 (Gazette of Pakistan, 2010): Pakistan, similar to India, has a dedicated act focusing on workplace harassment. It establishes Inquiry Committees and emphasizes a safe and enabling environment for women.

Criminal Law (Amendment) Act, 2016 (MoHR, 2016): This amendment introduced changes to the Pakistan Penal Code, addressing sexual offenses and providing increased penalties for certain crimes.

### **3.4 POLICIES FOR PREVENTING SEXUAL HARASSMENT IN BANGLADESH**

Sexual Harassment and Protection of Women and Children (Prevention) Act, 2009 (MOWCA, 2009): Bangladesh's act addresses sexual harassment at workplaces and other institutions, outlining preventive measures and the formation of complaint committees.

The Nari O Shishu Nirjatan Daman Ain, 2000 (Ministry of Law, 2000): While not solely focused on sexual harassment, this law in Bangladesh addresses various forms of violence against women and children, including provisions related to sexual offenses.

### **3.5 POLICIES FOR PREVENTING SEXUAL HARASSMENT IN SRI LANKA**

Protection against Sexual Harassment in the Workplace Act, 2015: Sri Lanka's legislation on workplace sexual harassment establishes procedures for complaints and investigations.

The Penal Code (Amendment) Act, No. 22 of 1995 (Penal Code, 1995): Amendments to the Penal Code address sexual offenses and prescribe penalties for such crimes.

### **3.6 POLICIES FOR PREVENTING SEXUAL HARASSMENT IN BHUTAN**

Bhutan Information, Communications and Media Act, 2006 (National Council of Bhutan, 2006): While not exclusively focused on sexual harassment, it includes provisions related to media ethics, which indirectly contribute to addressing harassment concerns.

Bhutan Penal Code, 2004 (Royal Government of Bhutan, 2004): The Penal Code includes sections on sexual offenses, defining crimes and specifying penalties.

## **4. DISCUSSION**

This discussion provides a nuanced exploration of sexual harassment policies in South Asian countries, centering on Nepal's distinctive approach. The primary focus is on Nepal's sexual harassment related laws in comparison to neighboring countries, emphasizing the policy landscape's key elements and variations.

Analyzing Nepal's legal framework against sexual harassment in comparison to other South Asian countries reveals both shared commitments and distinctive features. All nations in the region share a dedicated commitment to combating sexual harassment through specific/legislative measures. The international context, as reflected in the International Labor Organization's (ILO) efforts and the global impact of the #MeToo movement, sets a broader stage for understanding how nations address this pervasive issue. The legal provisions in Nepal, supported by acts such as the Sexual Harassment (Prevention) Act, 2071 (Nepal Law Commission, 2014b), showcase a distinctive approach with clear, comprehensive policies and stringent consequences for offenders, reflecting a versatile and robust strategy.

The global commitment to addressing sexual harassment is underscored by the Sustainable Development Goals (SDGs) adopted by all 193 United Nations member states in 2015. SDG 5 emphasizes eliminating gender-based violence, while SDG 8 focuses on achieving decent work for both women and men (UN, 2016). This global dedication aligns with the efforts of South Asian countries, including Nepal, to combat sexual

harassment within their respective legal frameworks.

The #MeToo movement, which gained global momentum in 2017, brought heightened attention to the issue of sexual harassment. Trending in over 85 countries within just 10 days, this movement prompted discussions worldwide, leading to proposals for stricter regulations and improved enforcement of existing laws. Two years later, the International Labor Organization (ILO) took a significant step by enacting a long-awaited international agreement addressing workplace sexual harassment (Heymann et al., 2023). This global perspective highlights the interconnectedness of efforts to combat sexual harassment and the need for comprehensive legal frameworks.

Nepal's Legal Landscape: Embedded in Nepal's legal framework against sexual harassment is the Sexual Harassment (Prevention) Act, 2071 (Nepal Law Commission, 2014a), exemplifying the nation's commitment to addressing this issue comprehensively. This legislation explicitly prohibits all forms of sexual misconduct within the workplace and ensures specific consequences for offenders, including the vacation of the perpetrator's position, emphasizing the severity of these offenses. Nepal's policy stands out for its clarity, comprehensiveness, and strict measures against sexual misconduct in professional settings. In this specific context, (Paudel, 2023) highlights the gravity of these offenses and advocate for robust measures to prevent sexual harassment in the workplace, forming a crucial aspect of Nepal's legal landscape against such misconduct.

When comparing the sexual harassment policies of Nepal and India, both nations prioritize addressing workplace harassment by establishing Internal Complaints Committees (ICCs). In India, the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (The Gazette of India, 2013), places a significant emphasis on creating safe working environments for women, aligning

with constitutional principles of equality (Gupta, & Garg, 2020). Conversely, Nepal's policy sets itself apart by explicitly delineating consequences for offenders, establishing a more robust deterrent against sexual misconduct. This distinct approach underscores Nepal's dedication to curbing harassment and fostering a secure workplace environment through stringent measures, potentially serving as a model for comprehensive anti-sexual harassment frameworks. Similarly, the majority of countries, addresses this issue discreetly within its legal framework (ILO Regional Office for Asia & the Pacific, 2001).

In the realm of Nepal's legal framework against sexual harassment, a comparative analysis with neighboring countries reveals notable distinctions. While Bangladesh's Sexual Harassment and Protection of Women and Children (Prevention) Act, 2009 (MOWCA, 2009), extends its reach beyond workplaces to include various institutions, Nepal's approach stands out for its versatility and stringency. The comprehensive nature of Nepal's framework, encompassing diverse sectors and outlining explicit consequences for offenders, reflects a commitment to a more adaptable and rigorous strategy. Sri Lanka's Protection Against Sexual Harassment in the Workplace Act, 2015 (Government of Srilanka, 2015), focuses primarily on workplace sexual harassment. In contrast, Nepal's policy demonstrates a broader scope, addressing sexual misconduct in emergencies, sports, and specific sectors, showcasing a dedication to creating harassment-free spaces across various contexts. Bhutan's Information, Communications and Media Act, 2006 (Government of Bhutan, 2006), indirectly addresses harassment concerns in the media industry. Nevertheless, Nepal's policy, with its explicit consequences for offenders, aligns more closely with a comprehensive commitment to preventing sexual harassment across diverse sectors.

Shared Commitments in South Asia: All South Asian countries, including Nepal, share a commitment to combat sexual harassment through specific legislation. In

India, the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (The Gazette of India, 2013), emphasizes the establishment of Internal Complaints Committees (ICCs) in organizations. Pakistan, similar to India, has a dedicated act focusing on workplace harassment the Protection against Harassment of Women at the Workplace Act, 2010 (The Gazette of Pakistan, 2010) establishing Inquiry Committees and emphasizing a safe and enabling environment for women. Bangladesh's Sexual Harassment and Protection of Women and Children (Prevention) Act, 2009, addresses sexual harassment at workplaces and other institutions, outlining preventive measures and the formation of complaint committees. Sri Lanka's Protection against Sexual Harassment in the Workplace Act, 2015, focuses primarily on workplace sexual harassment, establishing procedures for complaints and investigations.

**Distinctive Features of Nepal's Legal Framework:** Nepal distinguishes itself with a clear, comprehensive approach to combating sexual harassment. The Crime Victim Protection Act, 2075 (Nepal Law Commission, 2018) , serves as a cornerstone by recognizing sexual harassment as a form of harm and ensuring victim confidentiality, coupled with a guarantee of compensation. Similarly, the Rights of Persons with Disabilities Act, 2074, takes a significant step in explicitly outlining protections against sexual misconduct and abuse for individuals with disabilities. The legal landscape extends to specific situations, as seen in the Emergency Children's Rescue Fund (Operation) Guidelines, 2067, where measures are defined to prevent sexual violence and exploitation against children in emergency situations. The Crime Investigation Procedure (Amendment) Rules, 2075, enhance the legal infrastructure by mandating physical evidence examination through medical tests in sexual offenses. Constitutional and legal safeguards go beyond specific cases to strengthen overall protection against sexual harassment.

In addition to workplace regulations, specific sectors are addressed with clarity and determination. The National Sports Development Act 2048 (Nepal Law Commission, 2048) unequivocally terminates any employee involved in sexual misconduct, declaring them unfit for sports-related positions. The Privacy Act 2075 (Nepal Law Commission, 2018b) mandates the confidential treatment of sensitive information related to sexual matters, ensuring privacy as a fundamental right. Acts like the Labor Act 2074 (Nepal Law Commission, 2017b) and the Federal Parliament Secretariat Act 2064 (Federal Parliament, 2064) prohibit employees from engaging in sexual harassment, with provisions for their removal if found guilty. The Political Parties Act 2070 (Nepal Law Commission, 2058) incorporates child sexual abuse as a political offense not subject to pardon, highlighting the moral responsibility of political entities to address and prevent such offenses.

A commonality exists in the dedication of all nations to combat sexual harassment through specific legislation, particularly with a focus on workplace issues. However, Nepal stands out with its clear, comprehensive policies and stringent consequences for offenders, showcasing a versatile and robust approach. Specific challenges and opportunities within Nepal's framework include addressing potential legal overlaps among countries, emphasizing the need for enhanced coordination. Ensuring effective public awareness and utilization of legal provisions is crucial for success, with individual awareness being vital for reporting incidents and seeking redress. Recognizing the evolving nature of the issue, Nepal, like other South Asian countries, demonstrates a commitment to continuous evaluation and refinement of policies to effectively address emerging challenges within its unique context.

Within the context of Nepal's legal framework against sexual harassment, the pertinent Act emerges as a robust structure, placing a distinct emphasis on workplace regulations and extending its purview to

specific scenarios like emergencies, sports, and various sectors. The explicit consequences prescribed for offenders not only function as punitive measures but also act as a potent deterrent, fostering a safer environment and establishing formidable legal barriers against sexual misconduct. Addressing the potential overlaps among laws and ensuring seamless coordination for effective implementation are imperative considerations to fortify Nepal's legal framework. Ongoing initiatives, including heightened public awareness, maximizing the utilization of provisions, and fostering collaborative efforts, are vital for the continual evolution of Nepal's policies. The proactive approach and unwavering commitment to citizen well-being exhibited by Nepal provide valuable insights for ongoing regional discussions and potential enhancements to sexual harassment policies.

## 5. CONCLUSIONS

Nepal has made significant strides in establishing a robust legal framework to combat sexual harassment, exemplifying a steadfast commitment to creating safe and respectful environments. The comprehensive review highlights the strength of Nepal's legislative landscape, addressing sexual misconduct not only in workplaces but also in specific contexts such as emergencies, sports, and various sectors. The country's proactive approach, marked by explicit provisions and consequences for offenders, sets it apart in the South Asian region. However, challenges remain, particularly in addressing potential overlaps among laws and ensuring unified coordination for effective implementation. As Nepal continues its commitment to combating sexual harassment, ongoing efforts in raising public awareness, maximizing the utilization of provisions, and fostering collaboration are essential for the continuous evolution and refinement of its legal framework.

In the broader South Asian context, the comparative analysis reveals shared commitments across countries, with

dedicated legislation, a focus on workplace harassment, and amendments to strengthen legal measures. The discussion highlights the need for continuous evaluation and refinement to address emerging challenges collectively. Nepal's proactive stance and commitment to citizen well-being offer valuable insights for regional discussions, emphasizing the importance of adaptive and responsive legal frameworks. As the region collaboratively navigates the complexities of sexual harassment, the journey towards fostering safe and respectful societies requires sustained efforts, awareness, and international collaboration to shape effective and inclusive policies.

## 6. DECLARATION

### Conflicts of Interest

None.

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### Authors' Contributions

TS initiated the idea and wrote the paper. The literature review and discourse were collaboratively undertaken with contributions from BA, MP, RS, and TS. BA, in addition to playing a pivotal role in editing, also managed the communication with the publication processes. The final draft, which will be published, has received approval from each author in unanimity.

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