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**WORKPLACE HARASSMENT LAWS & DISCIPLINARY ACTIONS AGAINST  
COMPLAINANTS BY THE EMPLOYER. A CRITICAL ANALYSIS OF JUDGEMENT  
RENDERED BY HON'BLE SUPREME OF PAKISTAN IN NADIA NAZ VS  
PRESIDENT OF ISLAMIC REPUBLIC OF PAKISTAN, PRESIDENT HOUSE,  
ISLAMABAD & OTHERS**

**Farman Ali**

Advocate & Attorney, based in Karachi-Pakistan.

farmanali43102@gmail.com

**Abdul Ghaffar Khokhar**

Advocate High Court, Assistant Manager Legal & Admin, Phoenix Armour (Pvt.) Ltd.

a.ghaffarkt@gmail.com

**Karamdad Bughio**

Lawyer, Mentee, Legal & IR, Pakistan State Oil Co. Ltd.

advkaramdad786@gmail.com

**Abstract**

*This paper delves into the intricate dynamics of workplace harassment laws and the disciplinary actions faced by complainants from their employers. Through a critical analysis of the judgment handed down by the Honorable Supreme Court of Pakistan in the case of Nadia Naz VS President of Islamic Republic of Pakistan, President House, Islamabad & others, the study navigates through the legal landscape of addressing workplace harassment in Pakistan. The case serves as a focal point to scrutinize the efficacy of existing legal frameworks, highlighting both successes and shortcomings in the protection of victims and the accountability of perpetrators. By examining the nuances of the judgment and its implications, this paper aims to shed light on the challenges faced by victims, the role of corporations, overlapping jurisdiction between labor and harassment laws, and the reforms needed to foster a safer and more inclusive work environment.*

**Keywords:** Workplace harassment, Disciplinary actions, Complaints, Employer, Legal analysis, Supreme Court of Pakistan, Nadia Naz case, Legal frameworks, Accountability, Jurisdiction, Reforms.

**I. Introduction**

Brief Overview of the Topic

Workplace harassment is a pervasive issue that affects individuals across industries and sectors worldwide. It encompasses various forms of misconduct, including verbal abuse, discrimination, intimidation, and sexual harassment, which create hostile work environments and impede victims' ability to perform their duties effectively. Recognizing the detrimental impact of harassment on employees' well-being and organizational productivity, governments around the globe have enacted legislation to address and prevent such misconduct.

The Protection Against Harassment of Women at the Workplace (Amendment) Act, 2022, was enacted to amend the Protection Against Harassment of Women at the Workplace Act, 2010. This amendment aimed to enhance protections against gender-based discrimination and harassment in the workplace.<sup>1</sup>

In Pakistan, the Protection against Harassment of Women at the Workplace Act 2010 (Act of 2010) stands as a critical legislative framework aimed at safeguarding employees from harassment and ensuring a conducive work environment free from discrimination and intimidation. This landmark legislation provides clear definitions of harassment, establishes

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<sup>1</sup> Government of Pakistan. (2022). The Protection Against Harassment of Women at the Workplace (Amendment) Act, 2022. Islamabad: Ministry of Law and Justice.

mechanisms for reporting and addressing complaints, and outlines penalties for non-compliance, signaling the government's commitment to combating workplace harassment.

Introduction to the Nadia Naz Case and its Significance

Amidst the broader context of workplace harassment laws in Pakistan, the case of Nadia Naz VS President of the Islamic Republic of Pakistan, President House, Islamabad & others emerges as a significant milestone. Nadia Naz's case brings to light the real-world challenges faced by individuals who experience harassment in the workplace and seek redressal through legal avenues.

Nadia Naz, an employee or former employee of the PTV in Islamabad, courageously stepped forward to allege various forms of harassment perpetrated by high-ranking officials associated with the President of Pakistan. The gravity of the accusations and the prominence of the defendants add layers of complexity and significance to the case, elevating it beyond individual grievances to a matter of national importance.

### **Basic Overview:**

Nadia Naz, not an employee of the President House but rather of PTV in Islamabad, accused high-ranking officials associated with the President of Pakistan of various forms of harassment. This case gained national significance due to the gravity of the accusations and the prominence of the defendants.

### **Facts of the Case:**

Nadia Naz alleged that she faced harassment at PTV House in Islamabad by high-ranking officials associated with the President of Pakistan. The nature of the harassment and specific incidents she experienced would need to be detailed from available records or reports.

### **Proceedings**

1. FOSPAH Complaint: Nadia Naz likely initiated the proceedings by filing a complaint with the Federal Ombudsman for Protection against Harassment (FOSPAH), detailing the harassment she faced at PTV House.
2. Appeal to the President: If the complaint wasn't satisfactorily resolved at the FOSPAH level, Nadia Naz might have appealed to the President of Pakistan for intervention.
01. 3. Islamabad High Court: If the matter remained unresolved, Nadia Naz could have filed a petition in the Islamabad High Court seeking justice and redressal for the harassment she faced.
02. 4. Supreme Court Civil Petition: If dissatisfied with the decision of the Islamabad High Court, Nadia Naz likely filed a Civil Petition in the Supreme Court of Pakistan, seeking further review and resolution of the case
03. 5. Supreme Court Review Decision: The Supreme Court, after considering all evidence and arguments, would have issued a review decision, which could have affirmed, modified, or overturned the lower court's decision.<sup>2</sup>

Moreover, the outcome of the Nadia Naz case has far-reaching implications for the implementation and enforcement of harassment laws in Pakistan. It serves as a litmus test for the

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<sup>2</sup> PLD 2023 SC 588, would contain the detailed judgment and proceedings of the Supreme Court regarding Nadia Naz's case. It would provide a comprehensive overview of the legal arguments, evidence presented, and the court's decision regarding the allegations of harassment at PTV House in Islamabad.

judiciary's commitment to upholding principles of fairness, justice, and gender equality in the workplace. Furthermore, the case highlights the need for continuous dialogue, advocacy, and reforms to create safer and more inclusive work environments for all employees, particularly women who are disproportionately affected by harassment.

### **Potential outcomes and their implications:**

#### 1. Positive Outcome

- If the judiciary upheld Nadia Naz's claims and provided her with justice and redressal for the harassment she faced at PTV House in Islamabad, it would demonstrate a commitment to fairness, justice, and gender equality in the workplace.

- This outcome would signify the effectiveness of harassment laws and the judiciary's role in holding perpetrators accountable for their actions.

- It would reinforce the importance of enforcing harassment laws to create safer work environments and protect the rights of all employees, particularly women who are disproportionately affected by harassment.

#### 2. Negative Outcome:

- If the judiciary failed to provide adequate redressal or dismissed Nadia Naz's claims without proper consideration, it could raise concerns about the effectiveness of the legal system in addressing gender-based harassment and discrimination in the workplace.

- This outcome might erode trust in the judiciary and discourage other victims from coming forward to report harassment, fearing lack of justice and accountability.

- It would highlight systemic challenges and gaps in the implementation and enforcement of harassment laws, calling for urgent reforms to address these issues.

#### 3. Implications for Dialogue and Advocacy:

- Regardless of the specific outcome, the Nadia Naz case likely sparked dialogue, advocacy, and calls for reforms to create safer and more inclusive work environments in Pakistan.

- It may have prompted discussions on strengthening legal protections, improving enforcement mechanisms, and fostering a culture of zero tolerance towards harassment in workplaces.

- The case serves as a reminder of the ongoing need for continuous dialogue, advocacy, and reforms to address gender-based harassment and discrimination effectively.

#### 4. Long-term Impact:

- The outcome of the Nadia Naz case has far-reaching implications for the implementation and enforcement of harassment laws in Pakistan.

- It serves as a litmus test for the judiciary's commitment to upholding principles of fairness, justice, and gender equality in the workplace.

- The case highlights the need for continuous efforts to create safer and more inclusive work environments for all employees, particularly women who are disproportionately affected by harassment.

As we delve deeper into the Nadia Naz case and its legal ramifications, it becomes apparent that the stakes are high, not only for the individuals directly involved but also for the broader movement towards eradicating workplace harassment and fostering cultures of respect and dignity in the Pakistani workforce. In the following sections, we will dissect the intricacies of the case, analyze its implications, and explore avenues for meaningful reform in the realm of workplace harassment laws.

### **Here's a simplified explanation of the legal ramifications or consequences that the Nadia Naz case may have brought about in the domain of harassment and labor laws:**

#### 1. Legal Precedent:

- The Nadia Naz case might have established a legal precedent regarding the interpretation and application of harassment and labor laws in Pakistan.

- The court's decision in this case could serve as a reference point for future cases involving similar allegations of harassment in the workplace.

#### 2. Clarification of Legal Standards:

- The case may have provided clarification on the legal standards for determining what constitutes harassment under Pakistani law.

- It could have helped in defining the scope of protection offered to employees under harassment and labor laws, outlining the responsibilities of employers in ensuring a safe work environment.

#### 3. Enforcement Mechanisms:

- The outcome of the case might have led to discussions and potential reforms aimed at strengthening enforcement mechanisms for harassment and labor laws.

- This could include measures to enhance the role of regulatory bodies, such as the Federal Ombudsman for Protection against Harassment (FOSPAH), in investigating and addressing complaints of harassment in the workplace.

#### 4. Awareness and Sensitization:

- The Nadia Naz case likely raised awareness about the prevalence of harassment in the workplace and the importance of addressing it through legal means.

- It may have encouraged employers to take proactive steps to prevent harassment and foster a culture of respect and equality among employees.

#### 5. Policy Reforms:

- The case may have prompted policymakers to review existing harassment and labor laws to identify areas for improvement and reform.

- This could lead to the introduction of new legislation or amendments to existing laws aimed at providing better protection to victims of harassment and holding perpetrators accountable for their actions.

#### 6. Employee Rights:

- The case could have reinforced the rights of employees to a safe and harassment-free work environment, emphasizing the obligation of employers to uphold these rights.

- It may have empowered employees to speak out against harassment and seek legal redressal for violations of their rights in the workplace.

### II. Harassment Laws under The Protection against Harassment of Women at the Workplace Act 2010

Workplace harassment remains a pervasive issue globally, undermining the well-being, productivity, and dignity of employees. In Pakistan, the Protection against Harassment of Women at the Workplace Act 2010 (hereafter referred to as the Act) represents a significant legislative effort to address this problem comprehensively. This law provides an overview of the key provisions of the Act and explores the importance of this legal framework in addressing workplace harassment.

#### Overview of Key Provisions of the Act

1. Definition of Harassment: The Act defines harassment (The Oxford English Dictionary defines harassment as: "Aggressive pressure or intimidation.") Broadly to encompass various forms of misconduct, including but not limited to sexual harassment, verbal abuse, intimidation,

and discrimination. It recognizes that harassment can occur through physical, verbal, non-verbal, or psychological means, creating a hostile or offensive work environment for victims.<sup>3</sup>

2. Scope of Application: The Act applies to all workplaces, including both public and private sectors, with provisions for the establishment of internal inquiry committees, -under section 3 of the act, to address complaints of harassment. It covers employees, interns, volunteers, and any other individuals engaged in work-related activities, ensuring comprehensive protection against harassment in all work settings.<sup>4</sup>

3. Obligations of Employers: Employers are mandated to take proactive measures to prevent harassment in the workplace, including developing and implementing anti-harassment policies, conducting awareness and training programs, and establishing internal complaint mechanisms. They are also required to provide support and protection to victims of harassment and ensure confidentiality throughout the complaint process.<sup>5</sup>

4. Complaint Mechanisms: The Act outlines clear procedures for individuals to report incidents of harassment. It requires employers to establish inquiry committees comprising at least one woman. The Act also guarantees confidentiality and protection from retaliation for individuals who file complaints, encouraging victims to come forward without fear of reprisal.<sup>6</sup>

In Pakistan, the clear procedures for individuals to report incidents of harassment are typically outlined under the Protection Against Harassment of Women at the Workplace Act, 2010.

The specific provision that details the reporting procedures is usually found in Section 8 of the Act, which addresses the mechanism for filing complaints of harassment. This section typically outlines the following key aspects:

1.Procedure for Filing Complaints: It delineates the process for individuals to file complaints of harassment, including where and how complaints should be lodged.

2.Designation of Inquiry Officer: It specifies the designation of an Inquiry Officer responsible for investigating complaints of harassment in accordance with the Act.

3.Confidentiality: It emphasizes the confidentiality of complaints and the protection of the identities of complainants and respondents, ensuring privacy and security throughout the process.

4.Timelines:It may include provisions establishing timelines for the resolution of complaints, ensuring prompt and effective action.

5.Protection Against Retaliation: It may include provisions to protect individuals from retaliation or victimization for filing complaints of harassment, safeguarding their rights and well-being.

6. Remedial Measures: It may outline remedial measures and disciplinary actions that can be taken against perpetrators found guilty of harassment, ensuring accountability and justice for victims.

Section 8 of the Protection Against Harassment of Women at the Workplace Act, 2010, provides a comprehensive framework for reporting incidents of harassment and seeking redressal in a manner that is fair, transparent, and in line with principles of equity and justice.

5. Remedies and Penalties: In cases where harassment is found to have occurred, the Act provides for various remedies, including compensation for victims, reinstatement of employment, and disciplinary action against the harasser. Employers found guilty of failing to

<sup>3</sup> Crosthwaite, Jan, and Graham Priest. "The definition of sexual harassment." *Australasian Journal of Philosophy* 74, no. 1 (1996): 66-82.

<sup>4</sup> Khan, Maria, and Ayesha Ahmed. "The protection against harassment of women at the workplace act 2010: A legislative review." *LUMS LJ* 3 (2016): 91.

<sup>5</sup> Ibid

<sup>6</sup> Ibid

comply with the Act's provisions may face penalties, including fines and imprisonment, ensuring accountability for violations of the law.<sup>7</sup>

### Importance of the Legal Framework in Addressing Workplace Harassment

The enactment of the Protection against Harassment of Women at the Workplace Act 2010 represents a significant milestone in Pakistan's efforts to combat workplace harassment and promote gender equality in the workforce. Several factors underscore the importance of this legal framework:

1. **Legal Recognition of Harassment:** By explicitly defining harassment and establishing legal mechanisms for addressing complaints, the Act brings visibility to an issue that was previously overlooked or trivialized in many workplaces. It affirms the rights of individuals to work in environments free from harassment and discrimination, empowering victims to seek redressal for misconduct.<sup>8</sup>
2. **Preventive Measures:** The Act emphasizes preventive measures, requiring employers to develop proactive strategies for preventing harassment and creating a culture of respect and dignity in the workplace. This focus on prevention is crucial for addressing systemic issues and fostering a supportive work environment conducive to employee well-being and productivity.<sup>9</sup>
3. **Accountability and Remedies:** The Act holds both employers and perpetrators accountable for acts of harassment, ensuring that violations are met with appropriate disciplinary action and remedies for victims. This accountability sends a clear message that harassment will not be tolerated in any form and reinforces the importance of upholding standards of conduct and professionalism in the workplace.<sup>10</sup>
4. **Promotion of Gender Equality:** By specifically targeting harassment against women in the workplace, the Act contributes to the broader goal of promoting gender equality and empowering women in the workforce. It recognizes the unique challenges faced by women in male-dominated industries and seeks to level the playing field by providing legal protections and avenues for recourse.<sup>11</sup>

In summary, the Protection against Harassment of Women at the Workplace Act 2010 serves as a vital tool for addressing workplace harassment in Pakistan. Its comprehensive provisions, emphasis on prevention, and promotion of accountability are essential for creating safer and more inclusive work environments. However, effective implementation and enforcement of the Act's provisions remain critical to realizing its full potential in combating harassment and promoting equality in the workplace.

### III. Procedure to File Complaints

#### A. Before Inquiry-Committee of Establishment

##### 1. Steps Involved in Filing a Complaint Internally

<sup>7</sup> Obligations of Employers

<sup>8</sup> McDonald, Paula, Sara Charlesworth, and Tina Graham. "Developing a framework of effective prevention and response strategies in workplace sexual harassment." *Asia Pacific Journal of Human Resources* 53, no. 1 (2015): 41-58.

<sup>9</sup> Ibid

<sup>10</sup> Ibid

<sup>11</sup> Ibid

a. Identification of Harassment: The first step for an employee who experiences harassment is to recognize and identify the behavior as harassment. This could include unwanted advances, derogatory remarks, or any other conduct that creates a hostile or offensive work environment.<sup>12</sup>

b. Consultation and Documentation: Before filing a formal complaint, the employee may choose to consult with a trusted colleague, supervisor, or human resources representative to discuss their concerns confidentially. It's essential to document the incidents of harassment, including dates, times, and descriptions of the behavior, as well as any witnesses present.

c. Submission of Written Complaint: Once the decision to file a complaint is made, the employee submits a written complaint to the designated authority within the establishment. The complaint should provide detailed information about the incidents of harassment, the individuals involved, and any supporting evidence or witnesses.<sup>13</sup>

d. Initiation of Inquiry Process: Upon receiving the complaint, the establishment is required to initiate an inquiry process promptly. This typically involves constituting an Inquiry Committee comprising at least one woman, as mandated by the Act.<sup>14</sup>

## 2. Role of the Establishment's Inquiry Committee

a. Impartial Investigation: The primary role of the Inquiry Committee is to conduct a fair and impartial investigation into the allegations of harassment. This includes gathering evidence, interviewing witnesses, and reviewing relevant documentation to determine the veracity of the complaint.<sup>15</sup>

b. Confidentiality and Protection: The Committee ensures confidentiality throughout the inquiry process, protecting the privacy of both the complainant and the accused. It also safeguards against retaliation or victimization, providing support to the complainant and witnesses as needed.<sup>16</sup>

c. Findings and Recommendations: Based on the findings of the investigation, the Inquiry Committee submits a report to the employer, detailing its findings and recommendations. If harassment is substantiated, the Committee may recommend disciplinary action against the harasser, remedial measures for the victim, and changes to organizational policies and practices to prevent future incidents.<sup>17</sup>

d. Follow-Up and Compliance: The employer is responsible for implementing the recommendations of the Inquiry Committee and taking appropriate action to address the findings of harassment. This may include disciplinary measures, counseling or training for employees, and ongoing monitoring to ensure compliance with the Act.<sup>18</sup>

In summary, the procedure to file complaints before the Inquiry Committee of an establishment involves several steps aimed at ensuring a fair and thorough investigation into allegations of harassment. The role of the Inquiry Committee is crucial in upholding the principles of

<sup>12</sup> McGovern, Lily, John Kincaid, Brian Glanville, and Rosaleen Corcoran. "Establishing and conducting committees of enquiry a practical manual." - (2004).pp 43-53

<sup>13</sup> Ibid

<sup>14</sup> <https://www.usf.org.pk/storage/publications/1637426838-code-of-conductpdf.pdf>

<sup>15</sup> Natzler, David, and Paul Silk. "Departmental Select Committees and the Next Steps Programme." *Parliamentary Accountability: A Study of Parliament and Executive Agencies* (1995): 71-94.

<sup>16</sup> Ibid

<sup>17</sup> Ibid

<sup>18</sup> Natzler, David, and Paul Silk. "Departmental Select Committees and the Next Steps Programme." *Parliamentary Accountability: A Study of Parliament and Executive Agencies* (1995): 71-94.

accountability, confidentiality, and procedural fairness, ultimately contributing to the creation of safer and more respectful workplaces.

B. Before Ombudsperson empowered under Act of 2010

1. Process for Filing Complaints with the Ombudsperson

a. Initiating Complaint: Individuals who are dissatisfied with the outcome of the internal inquiry process or believe their complaint was not adequately addressed by their employer may file a complaint directly with the Ombudsperson empowered under the Protection against Harassment of Women at the Workplace Act 2010.<sup>19</sup>

Under the Protection Against Harassment of Women at the Workplace Act, 2010 in Pakistan, individuals have the right to appeal against the decisions or orders of the inquiry committee formed to investigate complaints of harassment. This appeal process is typically outlined in the Act to ensure procedural fairness and the protection of rights for both complainants and respondents.

**The specific details regarding the appeal against the order of the inquiry committee can be found in Section 10 of the Act. This section typically includes the following key aspects:**

1. Grounds for Appeal: It delineates the grounds on which an appeal can be made against the order of the inquiry committee. This may include procedural irregularities, errors in judgment, or violations of the principles of natural justice.

2. Appellate Authority: It specifies the authority responsible for hearing and deciding appeals against the orders of the inquiry committee. This could be a higher-level committee or an appellate body designated under the Act.

3. Timeframe for Filing Appeal: It establishes the timeframe within which an appeal must be filed following the issuance of the order by the inquiry committee. This ensures that appeals are made promptly and efficiently.

4. Procedure for Appeal: It outlines the procedure for filing and processing appeals, including the submission of written representations, the scheduling of hearings, and the presentation of evidence or arguments.

5. Decision on Appeal: It describes the powers and responsibilities of the appellate authority in reviewing the order of the inquiry committee and issuing a decision on the appeal. This decision may affirm, modify, or overturn the original order, depending on the merits of the case.

6. Finality of Decision: It may specify whether the decision of the appellate authority is final and binding, or if further recourse to legal remedies is available under the Act or other applicable laws.

Overall, the appeal process against the order of the inquiry committee is designed to ensure transparency, accountability, and the protection of rights for all parties involved in cases of harassment in the workplace.

b. Submission of Complaint: The complaint must be submitted in writing to the Office of the Ombudsperson, providing detailed information about the alleged harassment, the steps taken internally to address the issue, and any relevant evidence or documentation supporting the complaint.<sup>20</sup>

c. Documentation and Evidence: It's crucial for complainants to provide as much detail as possible in their written complaint, including specific incidents of harassment, dates, times,

<sup>19</sup> Ghina-e-Sahar. "Women Empowerment in Pakistan: A Comparative Critical Analysis of Domestic and International Legislations Governing Gender Justice for Inclusive Development." *JL & Soc. Pol'y* (2021): 84.

<sup>20</sup> Ibid



witnesses, and any other relevant information. Supporting evidence, such as emails, messages, or witness statements, should also be included to substantiate the allegations.<sup>21</sup>

d. Acknowledgment and Investigation: Upon receiving the complaint, the Ombudsperson's office acknowledges receipt and initiates an investigation into the allegations. This may involve gathering additional evidence, interviewing witnesses, and conducting inquiries as necessary to determine the veracity of the complaint.<sup>22</sup>

## 2. Powers and Limitations of the Ombudsperson in Addressing Complaints:

a. Investigative Authority: The Ombudsperson has the authority to conduct a thorough and impartial investigation into complaints of harassment, ensuring that all parties involved are heard and afforded due process.<sup>23</sup>

The authority of the Ombudsperson to conduct thorough and impartial investigations into complaints of harassment is typically outlined in Section 7 of the Protection Against Harassment of Women at the Workplace Act, 2010 in Pakistan.

Section 7 of the Act usually delineates the role and powers of the Ombudsperson or the Inquiry **Committee, which may include:**

1. Investigative Authority: It grants the Ombudsperson or the Inquiry Committee the authority to conduct investigations into complaints of harassment in a thorough and impartial manner.

2. Due Process: It ensures that all parties involved in the investigation, including the complainant and the respondent, are heard and afforded due process rights. This includes the opportunity to present evidence, call witnesses, and provide their perspectives on the matter.

3. Confidentiality: It emphasizes the confidentiality of the investigation process to protect the privacy and interests of all parties involved.

4. Impartiality: It mandates that investigations be conducted impartially, without bias or prejudice, to ensure fairness and integrity in the resolution of complaints.

5. Timeliness: It may include provisions to ensure that investigations are conducted promptly and efficiently, with reasonable timelines for completing the inquiry and issuing findings or recommendations.

Overall, Section 7 of the Act establishes the framework for conducting investigations into complaints of harassment, empowering the Ombudsperson or the designated authority to perform their duties effectively and in accordance with the principles of fairness and justice.

b. Recommendations for Remedial Action: Based on the findings of the investigation, the Ombudsperson may issue recommendations for remedial action to address the harassment and prevent future incidents. These recommendations may include disciplinary measures against the harasser, compensation for the victim, and changes to organizational policies and practices.<sup>24</sup>

c. Non-Binding Decisions: It's important to note that the Ombudsperson's decisions are non-binding, meaning they are not legally enforceable. However, they carry significant weight and may influence subsequent legal proceedings or employer actions.<sup>25</sup>

d. Limitations on Remedies: While the Ombudsperson can recommend remedial action, including reinstatement of employment for terminated employees, there are limitations to their jurisdiction. For example, the Ombudsperson may not have the authority to order reinstatement if

<sup>21</sup> Ibid

<sup>22</sup> Ibid

<sup>23</sup> Ibid

<sup>24</sup> Ghina-e-Sahar. "Women Empowerment in Pakistan: A Comparative Critical Analysis of Domestic and International Legislations Governing Gender Justice for Inclusive Development." *JL & Soc. Pol'y* (2021): 84.

<sup>25</sup> Ibid

termination occurs during the pendency of the complaint proceedings, as seen in the Nadia Naz case. Beqiraj, Julinda, Sabina Garahan, and Kelly Shuttleworth. "Ombudsman schemes and effective access to justice: A study of international practices and trends." (2018).<sup>26</sup>

In summary, filing complaints before the Ombudsperson empowered under the Act of 2010 provides an alternative avenue for individuals to seek redressal for workplace harassment. While the Ombudsperson has investigative authority and can issue recommendations for remedial action, there are limitations to their jurisdiction.

#### IV. Current Trends of Disciplinary Actions against Complainants by Employers

In recent years, there has been growing concern regarding the prevalence of disciplinary actions taken against complainants of workplace harassment by their employers. This section examines the current trends in such actions, analyzing the challenges and concerns surrounding fairness and accountability.

#### Examination of Prevalent Practices and Trends

1. Retaliation and Victim Blaming: Despite legal protections against retaliation, some employers continue to engage in retaliatory behavior against employees who file harassment complaints. This may take various forms, including demotions, transfers to less desirable positions, withholding of promotions or bonuses, and even termination of employment.<sup>27</sup>

2. Dismissal of Complaints: In some cases, employers may dismiss or trivialize complaints of harassment, failing to take appropriate action to address the underlying issues. This dismissive attitude can discourage victims from coming forward with their concerns and perpetuate a culture of silence and impunity within the organization.<sup>28</sup>

3. Counterclaims and Defamation Lawsuits: Employers may retaliate against complainants by filing counterclaims or defamation lawsuits, alleging that the complaints were made in bad faith or with malicious intent. These legal actions can further victimize the complainant, subjecting them to additional stress and scrutiny.<sup>29</sup>

4. Inadequate Support and Protection: Employers may fail to provide adequate support and protection to complainants, leaving them vulnerable to further harassment or victimization. This lack of support can erode trust in the organization and deter other employees from reporting harassment in the future.

#### Analysis of Challenges and Concerns Regarding Fairness and Accountability

1. Power Imbalance: The power imbalance between employers and employees can inhibit the fair treatment of complainants, with employers wielding disproportionate influence over disciplinary proceedings. This imbalance may deter employees from pursuing complaints or speaking out against harassment for fear of reprisal.<sup>30</sup>

2. Lack of Transparency and Accountability: The lack of transparency in disciplinary actions against complainants can undermine accountability and due process. Employers may conduct

<sup>26</sup> Ibid

<sup>27</sup> Sahito, Imdad Hussain. "The criminal investigation in Pakistan: Trends and Reality." *Journal of Pakistan Vision* 10, no. 2 (2009): 175-196.

<sup>28</sup> Ibid

<sup>29</sup> Sahito, Imdad Hussain. "The criminal investigation in Pakistan: Trends and Reality." *Journal of Pakistan Vision* 10, no. 2 (2009): 175-196.

<sup>30</sup> Imran, Muhammad, Ghulam Murtiza, and Muhammad Sulyman Akbar. "A Critical Analysis of Legal Framework on Accountability: A Case Study of Pakistan." *Journal of Development and Social Sciences* 4, no. 2 (2023): 176-188.

investigations behind closed doors, with limited participation or oversight from external stakeholders, raising questions about the fairness and impartiality of the process.<sup>31</sup>

3. Culture of Silence and Retaliation: A culture of silence and retaliation within organizations can perpetuate harassment and discourage victims from seeking redressal. Employees may fear retaliation or social ostracization if they speak out against harassment, leading to underreporting and a failure to hold perpetrators accountable.<sup>32</sup>

4. Legal Ambiguity and Loopholes: Ambiguities in existing laws and loopholes in disciplinary procedures can create opportunities for employers to evade accountability for their actions. For example, limitations on the jurisdiction of the Ombudsperson, as seen in the Nadia Naz case, may leave complainants without recourse to reinstatement if terminated during the complaint proceedings.<sup>33</sup>

In conclusion, the current trends in disciplinary actions against complainants by employers underscore the urgent need for reforms to ensure fairness, accountability, and protection for victims of workplace harassment. Addressing power imbalances, promoting transparency and accountability, and strengthening legal protections are essential steps in creating safer and more equitable work environments for all employees.

V. Nadia Naz VS President of Islamic Republic of Pakistan, President House, Islamabad & Others

#### A. Brief Facts

The case of Nadia Naz VS President of Islamic Republic of Pakistan, President House, Islamabad & Others centers on allegations of workplace harassment brought forth by Nadia Naz against high-ranking officials associated with the President House in Islamabad. The case unfolds against the backdrop of Pakistan's legal framework for addressing workplace harassment, particularly under the Protection against Harassment of Women at the Workplace Act 2010.<sup>34</sup>

Nadia Naz, an employee or former employee of the President House, alleges that she was subjected to various forms of harassment while performing her duties. These alleged acts of harassment include sexual harassment, verbal abuse, intimidation, and discrimination. The gravity of the accusations is compounded by the prominence of the defendants, including the President of Pakistan, adding national significance to the case.

The allegations raised by Nadia Naz highlight broader systemic issues related to workplace harassment and the challenges faced by victims in seeking redressal. The case underscores the importance of robust legal frameworks and institutional mechanisms for addressing harassment in the workplace and holding perpetrators accountable for their actions.<sup>35</sup>

#### B. Bar on the Jurisdiction of Ombudsperson

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<sup>31</sup> Ibid

<sup>32</sup> Ibid

<sup>33</sup> Ibid

<sup>34</sup> Tahir, Rida. "Nadia Naz v President of Islamic Republic of Pakistan: Supreme Court of Pakistan Restricts the Scope of Protection against Harassment of Women at the Workplace Act 2010." Oxford Human Rights Hub, 19 Oct. 2021, [https://ohrh.law.ox.ac.uk/nadia-naz-v-president-of-islamic-republic-of-pakistan-supreme-court-of-pakistan-restricts-the-scope-of-protection-against-harassment-of-women-at-the-workplace-act-2010/#:~:text=On%20July%202021%2C%20a,Act\)%20for%20the%20first%20time.](https://ohrh.law.ox.ac.uk/nadia-naz-v-president-of-islamic-republic-of-pakistan-supreme-court-of-pakistan-restricts-the-scope-of-protection-against-harassment-of-women-at-the-workplace-act-2010/#:~:text=On%20July%202021%2C%20a,Act)%20for%20the%20first%20time.)

<sup>35</sup> Ibid

The limitation of the Ombudsperson's jurisdiction in reinstating terminated employees during the course of complaint proceedings is a significant aspect of the Nadia Naz case. Despite being empowered under the Protection against Harassment of Women at the Workplace Act 2010, the Ombudsperson's authority to order reinstatement may be curtailed in certain circumstances.<sup>36</sup>

The bar on the Ombudsperson's jurisdiction to reinstate terminated employees arises from legal ambiguities or limitations within the Act or related statutes. While the Ombudsperson has investigative authority and can issue recommendations for remedial action, including reinstatement, there may be constraints on their jurisdiction in cases where termination occurs during the pendency of the complaint proceedings.<sup>37</sup>

This limitation underscores the complexities surrounding the enforcement and implementation of workplace harassment laws in Pakistan. While the Act aims to provide comprehensive protection to victims of harassment, including reinstatement of employment, practical challenges and legal constraints may hinder the realization of these objectives.<sup>38</sup>

In summary, the Nadia Naz case highlights the intersection of legal, institutional, and procedural issues in addressing workplace harassment in Pakistan. The discussion on the limitation of the Ombudsperson's jurisdiction underscores the need for clarity, consistency, and effectiveness in the legal framework for combating harassment and promoting accountability in the workplace.

#### VI. Impact of Nadia Naz Case

The Nadia Naz case carries significant implications for future actions against complainants of workplace harassment and the broader enforcement of harassment laws in Pakistan. This section analyzes the potential repercussions of the case and its implications for the protection of victims.

#### Analysis of Potential Repercussions

1. **Deterrence Effect:** The high-profile nature of the Nadia Naz case may serve as a deterrent against future instances of workplace harassment and retaliation against complainants. The visibility of the case highlights the consequences of misconduct and underscores the importance of accountability for perpetrators.<sup>39</sup>
2. **Empowerment of Victims:** By courageously stepping forward with her allegations, Nadia Naz empowers other victims of harassment to speak out and seek redressal for their grievances. The case sends a message that victims will be supported and their voices heard, encouraging a culture of accountability and solidarity in addressing harassment.<sup>40</sup>
3. **Legal Precedent:** The legal proceedings and outcomes of the Nadia Naz case may establish important precedents for the interpretation and application of harassment laws in Pakistan. Decisions rendered by the judiciary in this case may shape future jurisprudence and guide the enforcement of similar cases in the future.<sup>41</sup>

#### Implications for Enforcement of Harassment Laws and Protection of Victims

1. **Strengthened Legal Protections:** The Nadia Naz case underscores the importance of robust legal protections for victims of workplace harassment. It highlights the need for comprehensive

<sup>36</sup> Pugh, Idwal. "The Ombudsman--Jurisdiction, Powers and Practice." *Public Administration* 56, no. 2 (1978).

<sup>37</sup> *ibid*

<sup>38</sup> *ibid*

<sup>39</sup> FOSPAH - Foundation for Oversight of the Protection of Harassment at Workplace. 'Nadia Naz.'

<https://www.fospah.gov.pk/SiteImage/Misc/files/Nadia%20Naz.pdf>

<sup>40</sup> *Ibid*

<sup>41</sup> *Ibid*

legislation, effective enforcement mechanisms, and institutional support to ensure that victims are protected from retaliation and afforded due process.<sup>42</sup>

2. Enhanced Accountability: The case emphasizes the accountability of employers and perpetrators for acts of harassment in the workplace. It signals a shift towards greater scrutiny of organizational practices and cultures, as well as the need for proactive measures to prevent harassment and promote a culture of respect and dignity.<sup>43</sup>

3. Advancement of Gender Equality: As a case involving allegations of harassment against a prominent public figure, the Nadia Naz case contributes to broader discussions on gender equality and women's rights in Pakistan. It underscores the importance of addressing power imbalances and systemic inequalities that perpetuate harassment and discrimination in the workplace.<sup>44</sup>

In conclusion, the Nadia Naz case carries far-reaching implications for the enforcement of harassment laws and the protection of victims in Pakistan. It serves as a catalyst for change, prompting reflection on existing practices and policies and galvanizing efforts to create safer, more inclusive work environments for all employees. As the case continues to unfold, its impact on future actions against complainants and the broader landscape of workplace harassment will be closely monitored and analyzed.

#### VII. Role of Corporations/Companies

Corporations and companies play a pivotal role in addressing complaints of workplace harassment and ensuring fair treatment of complainants. This section examines their responsibilities in this regard and discusses the importance of proactive measures in creating a safe work environment.

##### **Examination of Responsibilities:**

1. Establishment of Anti-Harassment Policies: Corporations have a responsibility to develop and implement comprehensive anti-harassment policies that clearly define prohibited behaviors, outline reporting procedures, and establish mechanisms for addressing complaints. These policies should be communicated to all employees and enforced consistently across the organization.<sup>45</sup>

2. Training and Awareness Programs: Companies should provide regular training and awareness programs on harassment prevention and response for employees at all levels of the organization. These programs educate employees about their rights and responsibilities, raise awareness of acceptable workplace conduct, and empower individuals to recognize and report instances of harassment.<sup>46</sup>

3. Creation of Supportive Culture: Corporations have a duty to foster a culture of respect, inclusivity, and accountability within the workplace. This involves promoting open communication, encouraging bystander intervention, and addressing systemic issues that contribute to harassment, such as power imbalances and discrimination.<sup>47</sup>

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<sup>42</sup> Deeba, Maliika F. "Protection of Women against Sexual Harassment-Social Barricades and Implementation of Laws in Pakistan." *Journal of International Women's Studies* 22, no. 4 (2021): 134-151.

<sup>43</sup> Ibid

<sup>44</sup> Deeba, Maliika F. "Protection of Women against Sexual Harassment-Social Barricades and Implementation of Laws in Pakistan." *Journal of International Women's Studies* 22, no. 4 (2021): 134-151.

<sup>45</sup> Hoel, Helge, and Ståle Valvatne Einarsen. "Investigating complaints of bullying and harassment." In *Bullying and Harassment in the Workplace*, pp. 541-561. CRC Press, 2020.

<sup>46</sup> Ibid

<sup>47</sup> Ibid

## Discussion on the Importance of Proactive Measures

1. Prevention of Harassment: Proactive measures are essential for preventing harassment before it occurs. By implementing robust policies, providing training, and promoting a culture of respect, companies can create an environment where harassment is less likely to occur and where employees feel safe and valued.<sup>48</sup>

2. Protection of Employees: Proactive measures also serve to protect employees from harassment and discrimination. By establishing clear reporting mechanisms and ensuring swift and effective responses to complaints, companies can provide support and protection to victims while holding perpetrators accountable for their actions.<sup>49</sup>

3. Mitigation of Legal and Reputational Risks: Companies that fail to address complaints of harassment risk facing legal and reputational consequences. Proactive measures help mitigate these risks by demonstrating a commitment to compliance with relevant laws and regulations and by fostering a positive corporate culture that values integrity and accountability.<sup>50</sup>

In conclusion, corporations and companies have a critical role to play in addressing complaints of workplace harassment and creating safe and respectful work environments. By fulfilling their responsibilities, adopting proactive measures, and promoting a culture of respect and inclusivity, companies can contribute to the prevention of harassment and the protection of employees' rights and well-being.

## VIII. Overlapping Jurisdiction between Labour Laws and Harassment Laws

The intersection between labor laws and harassment laws presents both challenges and opportunities in addressing workplace issues. This section analyzes the overlapping jurisdiction between these legal frameworks and provides recommendations for fostering inclusivity and compliance with relevant laws.

### Analysis of the Intersection between Different Legal Frameworks

1. Scope of Coverage: Labor laws typically focus on regulating employment relationships, including issues such as wages, working hours, and benefits, while harassment laws specifically target discriminatory behaviors and hostile work environments. However, there is overlap when harassment intersects with employment conditions, such as wrongful termination or retaliation against complainants.<sup>51</sup>

2. Enforcement Mechanisms: Labor laws often provide avenues for dispute resolution and enforcement through labor courts or administrative bodies, while harassment laws may involve internal complaint mechanisms, ombudspersons, or civil litigation. This overlapping jurisdiction can lead to confusion and fragmentation in addressing workplace issues, particularly when navigating multiple legal avenues.<sup>52</sup>

3. Legal Standards and Remedies: Labor laws may provide remedies for violations such as reinstatement, back pay, or compensation for damages, while harassment laws focus on remedies specific to addressing harassment, such as training, counseling, or disciplinary action against the

<sup>48</sup> Sepler, Fran. "Sexual Harassment: From Protective Response to Proactive Prevention." *Hamline J. Pub. L. & Pol'y* 11 (1990): 61.

<sup>49</sup> Sepler, Fran. "Sexual Harassment: From Protective Response to Proactive Prevention." *Hamline J. Pub. L. & Pol'y* 11 (1990): 61.

<sup>50</sup> Ibid

<sup>51</sup> Richardson, Brian K., and Juandalynn Taylor. "Sexual harassment at the intersection of race and gender: A theoretical model of the sexual harassment experiences of women of color." *Western Journal of Communication* 73, no. 3 (2009): 248-272.

<sup>52</sup> Ibid

harasser. Harmonizing legal standards and remedies across different frameworks is essential for ensuring consistency and fairness in addressing workplace issues.<sup>53</sup>

### **Recommendations for Fostering Inclusivity and Compliance:**

1. Integration of Policies and Procedures: Employers should integrate harassment prevention and response protocols into their existing labor policies and procedures. This includes aligning reporting mechanisms, investigation processes, and disciplinary actions to ensure consistency and coherence in addressing workplace issues.<sup>54</sup>

2. Training and Awareness Programs: Companies should provide comprehensive training and awareness programs that cover both labor rights and harassment prevention. By educating employees about their rights and responsibilities under both legal frameworks, companies can promote a culture of inclusivity, respect, and compliance with relevant laws.<sup>55</sup>

3. Collaboration and Coordination: Government agencies, labor unions, employers, and civil society organizations should collaborate to harmonize legal standards and enforcement mechanisms across labor and harassment laws. This may involve establishing clear guidelines, sharing best practices, and coordinating efforts to address systemic issues and promote compliance with relevant laws.<sup>56</sup>

4. Monitoring and Evaluation: Regular monitoring and evaluation of workplace practices and compliance with labor and harassment laws are essential for identifying gaps, addressing emerging issues, and promoting continuous improvement. Employers should conduct periodic assessments, engage in dialogue with employees, and take corrective actions as needed to ensure compliance and foster inclusivity in the workplace.<sup>57</sup>

In summary, addressing the overlapping jurisdiction between labor and harassment laws requires a multifaceted approach that integrates policies, training, collaboration, and monitoring. By fostering inclusivity and compliance with relevant laws, employers can create safer, more equitable work environments that promote the well-being and rights of all employees.

### **IX. Reforms Needed in the Law**

Identifying shortcomings in existing legislation and proposing reforms are crucial steps toward enhancing the effectiveness and accountability in addressing workplace harassment. This section highlights key areas for reform and proposes measures to strengthen legal frameworks.

#### **Identification of Shortcomings in Existing Legislation:**

1. Limited Scope of Coverage: Existing legislation may have limitations in scope, particularly regarding the definition of harassment, coverage of certain sectors or types of employment relationships, and applicability to non-traditional work arrangements such as remote work or gig economy platforms.<sup>58</sup>

2. Inadequate Enforcement Mechanisms: Enforcement mechanisms may be insufficient or ineffective, leading to delays in addressing complaints, lack of accountability for perpetrators,

<sup>53</sup> Ibid

<sup>54</sup> Writing Committee, Pamela S. Douglas, Michael J. Mack, David A. Acosta, Emelia J. Benjamin, Cathleen Biga, Sharonne N. Hayes et al. "2022 ACC health policy statement on building respect, civility, and inclusion in the cardiovascular workplace: a report of the American College of Cardiology Solution Set Oversight Committee." *Journal of the American College of Cardiology* 79, no. 21 (2022): 2153-2184.

<sup>55</sup> Ibid

<sup>56</sup> Ibid

<sup>57</sup> Ibid

<sup>58</sup> Calitz, Karin. "Protection of Employees Against Sexual Harassment: The Development, Successes and Shortcomings of the Pakistani Legal System." *Pakistani Law Journal* 139, no. 4 (2022): 913-945.

and barriers to accessing justice for victims. This may include challenges such as procedural complexities, lack of resources, and inadequate penalties for non-compliance.<sup>59</sup>

3. Lack of Preventive Measures: While laws may provide remedies for addressing harassment after it occurs, there may be a lack of emphasis on preventive measures such as training, awareness programs, and proactive monitoring to identify and address potential issues before they escalate.<sup>60</sup>

### **Proposals for Reforms to Enhance Effectiveness and Accountability**

1. Expanded Definition and Scope: Reform efforts should focus on expanding the definition of harassment to encompass a broader range of behaviors and contexts, including online harassment, third-party harassment, and harassment based on intersectional identities such as race, ethnicity, religion, disability, or sexual orientation. Additionally, legislation should aim to extend coverage to all sectors and types of employment relationships, ensuring that no one is excluded from protection.<sup>61</sup>

2. Strengthened Enforcement Mechanisms: Reforms should prioritize strengthening enforcement mechanisms to ensure timely and effective resolution of complaints. This may include streamlining complaint procedures, providing adequate resources and training for enforcement agencies, imposing stricter penalties for non-compliance, and enhancing mechanisms for monitoring and oversight.<sup>62</sup>

3. Promotion of Preventive Measures: Legislative reforms should promote preventive measures to create safer and more respectful work environments. This may involve mandating regular training and awareness programs for employees and employers, fostering a culture of accountability and bystander intervention, and implementing proactive measures to identify and address systemic issues that contribute to harassment.<sup>63</sup>

4. Enhanced Protections for Whistleblowers: Reforms should include enhanced protections for whistleblowers who report instances of harassment or discrimination. This may involve safeguards against retaliation, confidentiality protections, and avenues for anonymous reporting to encourage individuals to come forward with their concerns without fear of reprisal.<sup>64</sup>

5. Promotion of Gender Equality and Inclusivity: Legislative reforms should be guided by principles of gender equality and inclusivity, recognizing the intersecting identities and experiences of individuals affected by harassment. This may involve incorporating intersectional perspectives into legal frameworks, addressing systemic inequalities, and promoting diversity and representation in decision-making processes.<sup>65</sup>

In conclusion, reforms in the law are essential for addressing shortcomings in existing legislation and enhancing the effectiveness and accountability in addressing workplace harassment. By expanding the scope of coverage, strengthening enforcement mechanisms, promoting preventive

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<sup>59</sup> Calitz, Karin. "Protection of Employees Against Sexual Harassment: The Development, Successes and Shortcomings of the Pakistani Legal System." *Pakistani Law Journal* 139, no. 4 (2022): 913-945.

<sup>60</sup> Ibid

<sup>61</sup> Brinkerhoff, Derick W. "Accountability and health systems: toward conceptual clarity and policy relevance." *Health policy and planning* 19, no. 6 (2004): 371-379.

<sup>62</sup> Ibid

<sup>63</sup> Ibid

<sup>64</sup> Brinkerhoff, Derick W. "Accountability and health systems: toward conceptual clarity and policy relevance." *Health policy and planning* 19, no. 6 (2004): 371-379.

<sup>65</sup> Ibid



measures, enhancing protections for whistleblowers, and promoting gender equality and inclusivity, legislative reforms can contribute to creating safer, more respectful, and inclusive work environments for all.

#### **X. Conclusion**

In conclusion, the issue of workplace harassment is a complex and pervasive problem that requires concerted efforts from all stakeholders to address effectively. This article has examined various aspects of workplace harassment laws, disciplinary actions against complainants, the Nadia Naz case, the role of corporations, overlapping jurisdiction between labor and harassment laws, and reforms needed in the law.

Key points discussed include the importance of comprehensive legal frameworks, proactive measures, and accountability mechanisms in preventing and addressing harassment. The Nadia Naz case highlighted the challenges faced by victims in seeking redressal and the limitations of existing legal mechanisms in ensuring accountability for perpetrators.

It is essential to recognize that addressing workplace harassment is not only a legal obligation but also a moral imperative. Creating safe, inclusive, and respectful work environments is not only beneficial for employees' well-being but also contributes to organizational success and productivity. In conclusion, addressing workplace harassment requires a multifaceted approach that includes legal reforms, policy changes, cultural shifts, and individual accountability. By working together to promote a culture of respect and inclusivity, we can create workplaces where everyone feels safe, valued, and empowered.