

Recent advances in addressing workplace harassment in Taiwan and New Zealand

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Amidst a wave of high-profile #MeToo related allegations in Taiwan, the Cabinet has approved legislative amendments specifically aimed at addressing power-based harassment, targeting workplace harassment cases involving individuals in positions of power. New Zealand has also taken steps to enhance employee protection by granting more time to raise personal grievances for incidents of sexual harassment. This client update summarizes these two recent legislative changes.

Unveiling the resurgence of #MeToo cases in Taiwan sparking the recent legislative changes

Inspired by a Taiwanese political Netflix series called “Wave Makers”, Taiwan is currently experiencing the initial surge of a #MeToo movement. A significant turning point in the series occurs when a young female staff member decides to confide in the party spokeswoman about her experience of sexual harassment by a colleague. The words spoken by the party spokeswoman in the series - “Let’s not just let this go, okay? We can’t let things go easily. Otherwise, we’ll wither away and die” - have become a rallying cry for the #MeToo movement now sweeping Taiwan. Since then, multiple press reports have identified more than 90 allegations of sexual harassment cases recorded online. Some of the more high-profile cases reported publicly include:

Date	Summary of reported facts
May 31, 2023	A former staffer of the Democratic Progressive Party posted on social media claiming that the then-party's head of women's affairs dismissed her claim that she was sexually harassed by a film director and discouraged her from reporting the incident formally.
June 2, 2023	An exiled political activist and a former student leader of China's 1989 Tiananmen Square protests was alleged to have sexually assaulted two younger men. One of them alleged that there was a rape attempt in a hotel room in New York back in 2014.
June 2, 2023	One of the writers of "Wave Makers" claimed that she was sexually assaulted by an eminent poet alleging he had groped and kissed her at his home.
June 3, 2023	A veteran journalist claimed that a lawmaker had forcibly kissed her at a press event in 2014. On June 15, two people came forward in support of her claim.
June 8, 2023	A Taipei city councilor accused a pro-Nationalist political pundit of sexually harassing her at a private dinner with friends in 2022. The perpetrator later wrote an apology and suspended his YouTube channel. He also filed a judicial complaint with the Taipei District Prosecutors Office, seeking an investigation into himself.
June 19, 2023	An internet celebrity brought a criminal suit against a TV host and according to local media, at least 20 women have made accusations against that individual for sexual misconduct.
June 21, 2023	An influencer accused his former boyfriend, a popular actor and singer, of filming and leaking intimate videos of him without his consent. On July 4, the perpetrator was released on bail.
June 30, 2023	The CEO of the P.LEAGUE + professional basketball league temporarily stepped down from his post after an allegation of sexual harassment and assault was made against him by multiple entertainers.

July 12, 2023

The Taipei District Prosecutors Office said it is investigating sexual misconduct allegations against a Taiwanese television host who has allegedly violated the Narcotics Hazard Prevention Act, the Child and Youth Sexual Exploitation Prevention Act, and the Criminal Code by committing an obscene act against a male or female against their will.

Draft legislative amendments approved by the Cabinet in Taiwan

On July 13, 2023, the Executive Yuan approved stricter laws against sexual harassment proposing reforms to Taiwan's three gender equality laws which concern sexual harassment on campuses, in the workplace, and in other venues.

These laws include the Gender Equity Education Act, Gender Equality in Employment Act and the Sexual Harassment Prevention Act. The primary objective of these reforms is to bolster the existing legislation, specifically targeting power-based sexual harassment, while simultaneously enhancing protections for victims. The proposed amendments:

- Mandate the local government to intervene when an employee is sexually harassed by his or her employer or is not satisfied with their organization's handling of sexual misconduct claims.
- Require all employers to report all sexual misconduct claims to the local authorities.
- Require the labor bureau to intervene and ask the employer to remedy the situation when an employer is reported to have mishandled a sexual harassment claim.
- Increase the penalties for sexual harassment committed by individuals who are in a position of power in the workplace, including employers and supervisors of a company or an organization as well as others who instruct, supervise and attend to others as part of their job duties.
 - An employer or the highest representative of a company or organization governed by a labor bureau investigation or other relevant authorities who has sexually harassed an employee could face a fine up to NT\$1 million instead of the current fine NT\$100,000.
 - A supervisor of the company who has sexually harassed an employee could face a fine up to NT\$600,000.
- Allow a sexual harassment victim to seek damages from the perpetrator at the civil court up to five times the current level of damages allowed.
- Raise the criminal sentence to three years in prison instead of two for perpetrators convicted of sexual offences.
- Require employers to provide counseling or medical assistance to employees who have suffered from sexual violence at work.
- Extend the period for employees to report sexual harassment claims.
- Allow employees to take leave from work during the investigation being conducted against the employer.

It is anticipated that the proposed draft amendments will be approved by the legislature at the end of July 2023 and could take effect as soon as August 2023.

Amendments to employment laws in New Zealand

On June 13, 2023, the Employment Relations (Extended Time for Personal Grievance for Sexual Harassment) Amendment Act 2023 (the Act) came into effect. The Act extends the timeframe for employees to raise a personal grievance with their employers for sexual harassment from 90 days to 12 months.

Under the Act, the employee notification period starts from the date the action alleged to amount to sexual harassment occurred or came to the notice of the employee, whichever is later. The Act does not apply retroactively, which means if the sexual harassment event occurred or came to the notice of the employee before the Act came into force, the employee cannot rely on the extended time frame now provided under the Act.

Employers are required to reflect the extended time frame under the amended Act in employment agreements entered into from June 13, 2023, but are not required to amend existing employment agreements entered into prior to that time. In any event, existing employees will be covered by the extended time frame.

Prevention is better than a cure

Following the evolution of #MeToo into a global movement, there has been a surge in accusations of sexual harassment in the workplace in recent years. In Asia-Pacific too, #MeToo (and other forms of harassment) has gained greater prominence with more complaints being made and an increase in high-profile public cases as noted above.

It is crucial that employers focus their attention on harassment prevention efforts sooner rather than later to ensure that there is a clear framework in place. The framework must be communicated clearly, supported by senior management, to the point where it is trusted by employees, and used by them without fear of retaliation.

One of the benefits of taking proactive steps to prevent sexual harassment is that it may provide a defence for unlawful acts of sexual harassment committed by employees. However, in designing and implementing anti-harassment measures, an employer's motivation should be to prevent harassment from occurring in the first place, rather than being overly focused on legal liability. Based on our experience in handling and advising on harassment related matters, preventing harassment from occurring is far preferable to dealing with the dangers and consequences of it arising.

Examples of reasonably practicable measures to be taken by employers include implementing an effective policy against harassment, establishing reporting channels, conducting effective training and periodically reviewing and considering the effectiveness on the anti-harassment framework in place. These actions can help employers to demonstrate their commitment to countering harassment in the workplace and providing a safe working environment for its employees and other stakeholders.

For more details on effective anti-harassment policies and procedures, please refer to our three-part series on tackling sexual harassment risks in the workplace:

[Part one: Key legal elements and recent cases](#)

[Part two: How to conduct effective investigations](#)

[Part three: Critical harassment prevention measures](#)

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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