



# Human Resource Issues in Public Administration: Workplace Harassment and Discrimination

(On the example of civil servants)

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## Abstract

*In Mongolia, the issues of workplace harassment, discrimination, human rights violations, mistreatment, and attitudes such as superiority and bullying have been widely discussed for example in the released news of advocacy service provider, the report of National Human Rights Commission of Mongolia, and the discussion of Parliamentary Subcommittee on Human Rights in recent years, but public awareness is still limited. Although legal documents, codes of conduct, and decisions are enacted to address unlawful and unethical issues like workplace discrimination and harassment implementation is poor, especially for government agencies. Therefore, there is an urgent need to better understand the causes of, and methods for eliminating, workplace harassment and discrimination through research that identifies the causes and offers recommendations to resolve the present state-of-affairs. A qualitative study using a survey involving civil servants of public administration, public service organizations, and public special agents were conducted from June to September 2020. The study sought to determine whether human rights violation occurs in public organizations, whether employees are discriminated against and harassed, and if there are any reasons or causes for these problems. Recommendations based on this research; then, some solutions are suggested for improvement.*

**Keywords:** Workplace Harassment, Discrimination, Physical Disability, Psychological Pressure

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## Understanding workplace harassment and discrimination

Mongolia has a duty as a member of the international community, to respect human rights, to ensure human rights and freedom without discrimination, and to comply with and prevent laws and regulations which are the progressive ideals of humanity in this regard. This is important as a member of the United Nations and as a constitutional declaration on the establishment of a human and civil democratic society, as well as for the implementation of national development policies. In accordance with this obligation, a total of 81 laws governing justice and equality are in force in Mongolia including 34 laws and 5 resolutions of the State Great Hural (parliament) regulating human rights, freedom, and non-discrimination.

The goal of ensuring constitutional human rights without discrimination and equality is directly related to human rights in the workplace, the right to work, and the right to development. However, our research result shows that human rights violations, inequality, discrimination, and harassment in the workplace are not uncommon and continue to have negative consequences.

### **Workplace harassment:**

There are 11 categories of workplace harassment, and the majority of complaints received by the National Human Rights Commission (97.5 percent are women and 2.5 percent are men)<sup>1</sup> are verbal, gesture, body language, and physical. There are also many cases where employees, not just employers and officials, harass each other. Therefore, both workers and employers need to be aware of workplace harassment and that harassment is human rights violation. Workplace harassment can be determined by analysing the following situations.

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<sup>1</sup>“Civil Service Reform and Ethical Approach” Consultation, Kh. Tsetsgee, National Human Rights Commission Officer, <http://itoim.mn/article/iIGMy/23479>

These include:

- Working conditions: monotonous, meaningless tasks, work without different options,
- Workload speed: too much work, too little work, time-constrained, stressful work,
- Working hours: unpredictable, rigid, inflexible, unchangeable
- Participation and monitoring: non-participation in decision-making, non-acceptance of proposals and initiatives, limited ability to monitor performance, speed, timing, methodology, and work environment
- Job status and professional development: job security, lack of support, under or over-support, underrate, inaccurate, ill-defined or unfair judgement, working under an over-skilled or incapable person
- Involvement in the organization: uncertain or conflicting
- Interpersonal relationships: managerial inconvenience, inattention, colleagues' unpleasant relationships, isolation from the colleagues, bullying, spreading rumours, insults, disgrace, defamation, violence
- In terms of organizational culture: vulgar relationships, poor leadership, unofficial, or non-formal relationship, unclear organization goals, objectives, and strategic structure
- Work-life balance: conflicts at home and work, lack of organizational support for work-life balance.

Types of discrimination in the workplace: There are several types of discrimination in the workplace. These include age, gender, ethnicity, origin, race, opinion, mental and physical disability, genetic information, and discrimination related to pregnancy or parenthood. In addition, discrimination in employment can occur in a number of situations. These include:

- Deliberately organizing or offering job advertisements to identify preferred candidates
- Eliminate potential candidates during recruitment (Due to high political influence in the civil service, trained personnel are denied the opportunity to work in the workplace)
- Denial or non-payment of compensation to some employees
- Salaries should be different for equally qualified employees in the same position
- Reducing the value of work based on differences of opinion and beliefs, and evaluating obvious differences based on personal interests
- Discrimination in disability, maternity and maternity benefits
- Failure to provide a favourable working environment such as using empty rooms and appliances or refuse to provide
- Intentionally underestimate or under evaluate an employee's performance, attempting to do so, not providing incentives or bonuses in connection with incorrect assessment.

Managers make a number of mistakes that can lead to workplace harassment and discrimination, such as lack of training to lead colleagues, teams, or workers, lack of knowledge of labour relations, lack of ethics and discipline, and lack of communication skills, which are especially unacceptable in the civil service. For example, interviews with civil servants surveyed revealed the following violations. It includes the use of inappropriate language, disregard opinions, the promotion of good ideas as one's own, harassment and discrimination based on appearance, ethnicity, language, territory, gender, or marriage.

While some office-holders, administrators, or long-serving employees treat their employees as "bosses" and cause them psychological pressure, co-workers have a variety of reasons for that, often including jealousy, hatred, teasing, attacks, assault, harassment, and slander against boss and co-workers.<sup>2</sup>

Workplace harassment is not always apparent but also remain hidden. In other words, workplace discrimination is dominated by violations of basic human rights principles, while harassment violates the principles of human relations, especially formal and official relations in Mongolia.

The Customer King HR Consulting Service identifies workplace harassment by the following characteristics. These include: 1/ bullying others and using intimidation to achieve their goals; 2/ use all tools, such as e-mail, telephone, or text, to pressure others to do their work, for example by demanding an immediate response; 3/ seeks to take full control and uses persuasion and conviction. Soon they begin to ask the person to do their own duties, or to teach them what they can and cannot do on the job; 4/ there is a tendency to defend oneself, for example, to try to show one's superiority, to control subordinates, to be reluctant when someone needs help, and to talk about being able to do one's job without anyone's help; 5/ someone should please, necessarily and has to do what he or she likes; 6/ constantly criticizes everything, destroys other people's self-confidence and lowers their reputation; 7/wants to be the centre of attention in the workplace and be in a good mood when he or she receives a lot of attention; 8/exalts himself and thinks he is hundred percent right, so he always makes fun of (skilled or better) employees who do

<sup>2</sup> It's time to end discrimination in the workplace, 2013 <https://m.zangia.mn/content/17510>

things in new ways.

Relationship between the concepts of discrimination and harassment: Workplace discrimination refers to actions of institutions and/or individuals within them, setting unfair terms and conditions that systematically impair the ability of members of a group to work. Workplace harassment differs from discrimination because it involves negative actions toward a worker due to attributes, such as race/ethnicity, gender, etc., that lead to a hostile workplace whereas discrimination involves unequal treatment or limiting of opportunities due to these attributes.<sup>3</sup> People who are discriminated against in the workplace are subjected to physical and emotional stress, depression, stagnation, and low self-esteem (the person who faced constant discrimination, abuse, insulted, ignored, ridiculed at work always feel like did something wrong). In other words, the stress associated with discrimination leads to physical disorders. In the course of the study, it was concluded that the harassment or a negative action was due to discrimination which is an unequal treatment. This is because there is a lot of harassment in the process of discrimination. This unfavourable attitude is reflected in co-workers, managers, and some clients.

In addition to harassment and discrimination, there is the concept of bullying in the workplace. According to Desta Fekedulegn, bullying is also characterized as threats, harassment, or mistreatment – interpersonal behaviors that can manifest more specifically as incivility, ostracism, conflict, aggression, unwanted sexual attention, and abusive supervision. While this may seem mild and not serious, it can be exacerbated, causing harassment and discrimination, and in some cases, serious psychological harm, leading to dismissal. Scholars such as Cassandra A and Kerry Souza defined that workplace bullying or abuse involves actions that offend or socially exclude a worker or group of workers, or actions that have a negative effect on the person or group's work tasks. These actions are often status-blind and occur repeatedly and regularly over a period of time.<sup>4</sup>

ILO conventions and scientific definitions	
Discrimination	<p>(a) Any distinction, exclusion or preference made on the basis of race, color, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;</p> <p>(b) Such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organizations, where such exist, and with other appropriate bodies<sup>5</sup></p> <p>(c) Workplace discrimination generally characterized as unfair terms or conditions (e.g., reduced opportunity) or negative treatment based on personal characteristics or membership in a particular social group such as race, sex or age<sup>6</sup></p>
Harassment	<p>(a) The term “violence and harassment” in the world of work refers to a range of unacceptable behaviors and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment<sup>7</sup></p> <p>(b) Workplace harassment as persistent attempts on the part of one or more persons to annoy, wear down, frustrate or elicit a reaction in another. Harassment denotes continual behavior that provokes distress, frightens, humiliates or in some other way creates unpleasantness in the recipient<sup>8</sup></p> <p>(c) Workplace mistreatment is often broadly characterized as threats, harassment, or bullying – interpersonal behaviors that can manifest more specifically as incivility, ostracism, conflict, aggression, unwanted sexual attention, and abusive supervision<sup>9</sup></p>

<sup>3</sup>Cassandra A. Okechukwu, MSN, Sc.D., Kerry Souza, MPH, Sc.D., Kelly D. Davis, PhD, and A. Butch de Castro, MSN/MPH, PhD, Discrimination, Harassment, Abuse and Bullying in the Workplace: Contribution of Workplace Injustice to Occupational Health Disparities, 2014, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3884002/>

<sup>4</sup>Ibid

<sup>5</sup>Declaration on Fundamental Principles and Rights at Work, Discrimination (Employment and Occupation) Convention, 1958 (No. 111), [https://www.ilo.org/wcmsp5/groups/public/---ednorm/--declaration/documents/publication/wcms\\_decl\\_fs\\_85\\_en.pdf](https://www.ilo.org/wcmsp5/groups/public/---ednorm/--declaration/documents/publication/wcms_decl_fs_85_en.pdf)

<sup>6</sup>Desta Fekedulegn, Toni Alterman, Luenda E. Charles, Kiarri N. Kershaw, Monika M. Safford, d Virginia J. Howard, and Leslie A. MacDonaldf, Prevalence of workplace discrimination and mistreatment in a national sample of older U.S. workers: The REGARDS cohort study, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6612926/>

<sup>7</sup>Convention concerning the elimination of violence and harassment in the world of work, adopted by the conference at its one hundred and eighth session, Geneva, 21 June 2019 [https://www.ilo.org/wcmsp5/groups/public/-ed\\_norm/relconf/documents/meetingdocument/wcms\\_711570.pdf](https://www.ilo.org/wcmsp5/groups/public/-ed_norm/relconf/documents/meetingdocument/wcms_711570.pdf)

<sup>8</sup>Stig Berge Matthiesen and Ståle Einarsen, Bullying in the workplace: Definition, prevalence, antecedents and consequences, [https://www.researchgate.net/publication/281875418\\_Bullying\\_in\\_the\\_workplace\\_Definition\\_prevalence\\_antecedents\\_and\\_consequences](https://www.researchgate.net/publication/281875418_Bullying_in_the_workplace_Definition_prevalence_antecedents_and_consequences)

<sup>9</sup>Desta Fekedulegn, Toni Alterman, Luenda E. Charles, Kiarri N. Kershaw, Monika M. Safford, d Virginia J. Howard, and Leslie A. MacDonaldf, Prevalence of workplace discrimination and mistreatment in a national sample of older U.S. workers: The REGARDS cohort study, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6612926/>

Bullying	(a) The process by which various harmful acts against individuals are repeated over a long period of time.
	(b) Repeated acts using attempts to insult an individual or group of employees through revenge, cruelty, malice, or insults.
	(c) Bullying in the workplace means harassment, humiliation, social exclusion, or negative impact on someone's work. The definition of bullying includes repetitive and routine misconduct.
	(d) Bullying at work means harassing, offending, socially excluding someone, or negatively affecting someone's work. In order for the label bullying (or mobbing) to be applied to a particular activity, interaction or process it has to occur repeatedly and regularly (e.g. weekly) and over a period of time <sup>10</sup>

**Table 1. Differences and definitions of harassment, discrimination and bullying**

[Table 1 summarizes the concepts of harassment, discrimination, and bullying, summarizing international conventions and scholarly findings.]

As Table 1 shows, the concept of workplace harassment and discrimination is defined in detail in ILO conventions. The concepts of bullying and harassment are different in terminology, but are closely related in content, and can be thought of as interchangeable in some respects.

Consequence: Attitudes and circumstances resulting from workplace harassment and discrimination can negatively affect an organization's internal culture and employee ethics. This is defined, for example, as hostile work environment. Workplace harassment and discrimination can hamper employee productivity and performance, negatively affect the work environment, organizational culture, and the reputation of the job, and create an unfavourable environment. Unfavourable work environments are often caused by toxic leaders and are directly related to managerial skills. The authority of a senior executive is not to harass or discriminate, but to manage, oversee, and improve the activities of the organization or branch or division, and to act in accordance with the organization's goals and results.

In other words, authority is the right to govern, to rule, to be subordinated (to rule and obey); the ability to influence people's behaviour and actions through authoritative means, such as job reputation and law enforcement. However, rights are limited, and this limit is determined by the scope of functions. Authority is coercive power (based on punishment and intimidation do not lead to good results, but only to improper actions and unwillingness to work; however, the right punishment can be a hidden reward); incentive power (influence through incentives based on good performance); expert authority (influence through higher education, specialized knowledge, work experience, etc.); legal authority (legal rights, such as the right to rule, that are mandated to persons at the governing level); The power to emulate by personal behaviour (a leader's right based on positive, good personal qualities, which is respected and exemplified by others) is categorized, and it is important that these powers be used ethically to achieve the goals of the organization. In conclusion, interviews with civil servants show that negative attitudes, such as workplace harassment, discrimination, and bullying, have reached (are) to some extent and are likely to worsen. This not only negatively affects the culture and reputation of the organization, but also the reputation of the position, as well as the productivity, performance, and motivation of the employee. Also create an unfavourable atmosphere in the organization.

### **Workplace pressure and discrimination is a violation of human rights**

According to the International Labour Organization (ILO), social justice is about ensuring human rights, freedom, equality, and security, providing decent and productive jobs that respect individual dignity, ensuring that all working men and women have equal opportunities, enjoy their rights, and benefit from the activity. Labour is not a commodity, it is not a contract for higher profits or for a minimum wage; but labour is a dignified, proud, healthy, indispensable part of human development and a part of everyone's daily life.<sup>11</sup>

Labour standards<sup>12</sup> are aimed at ensuring the quality of human life and personal dignity, pride, goals and ideas. There are international conventions on human rights. Related topics include ILO Convention No. 29 on Forced Labour, ILO Convention No. 100 on Equal Remuneration, and ILO Convention No. 111 on Non-Discrimination (Occupation and Employment)<sup>13</sup>. According to the Constitution of Mongolia, the state is responsible to its citizens for creating economic, social, legal and other guarantees to ensure human rights and

<sup>10</sup>Ibid

<sup>11</sup><https://www.ilo.org/>

<sup>12</sup>International labour standards are legal documents agreed upon by the members of the ILO (government, employers and employees) and set out the basic principles and rights to work. These norms come in the form of conventions or recommendations. The Convention is an international legal instrument that must be ratified by member states, and its recommendations are guidelines for its implementation. In other words, while the Convention sets out the basic principles that countries that have ratified need to implement, the Recommendation is a document with more detailed instructions on how to implement those principles.

<sup>13</sup>Sustaining Mongolia's Status in the European Union's Generalized System of Preferences by Strengthening National Compliance with International Labour Standards and Reporting Project 2018-2020

freedom, combating violations of human rights and freedom, and restoring violated rights (19.2). Ensuring and protecting is not a good deed of the government, but a constitutional obligation of the people to the government.

**Regarding the right to express one's opinion:** Article 19 of the Universal Declaration of Human Rights states that everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers<sup>14</sup>. Article 19 of the International Covenant on Civil and Political Rights states that everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice<sup>15</sup>. The government of a country has an obligation to international organizations to guarantee human rights and freedoms in accordance with international treaties and conventions. Mongolia is committed to complying with international human rights standards in accordance with domestic law. Article 16 of the Constitution of Mongolia provides for freedom of belief, freedom of expression, speech, publication, and peaceful demonstrations and rallies. The surveyed civil servants were asked if their right to express their opinion/views ensured. The explanation is described in Section 3.

**Regarding equal employment opportunities:** Article 16 of the Constitution of Mongolia states that a citizen of Mongolia has the right to "freely choose his or her profession, to be provided with favourable working conditions, to receive a salary, to take a vacation, and to run a private business". ILO Document on Equal Opportunities and Trends Convention No. 100 on Equal Remuneration (1951) requires member states to adhere to the principle of equal pay for equal work for both men and women. Certain methods should be introduced to determine whether the work is of equal value, and the methodology should be able to compare and measure the work<sup>16</sup>. However, there is no denying that discrimination in employment is becoming more common and serious in Mongolia. In addition to salaries, Mongolian public organizations have incentive mechanisms for employee performance and productivity. In order to determine how the non-salary incentive mechanism works for civil servants in the course of the survey, and asked if public employees receive incentives that are commensurate with the job they perform without any discrimination. Overall, 37.5% answered yes; 49.5% said no. Participants who answered "no" would be given a written explanation of why they were not accepted. Survey respondents have stated that "incentives are sometimes decided at the discretion of senior officials, for example, those who are close to management benefit more". This is seen as a violation of the principle of fair evaluation of employee performance and equal pay.

Civil servants have a special role to play in preventing and eliminating human rights violence. However, it can be concluded that public employees and officials are not fulfilling this role sufficiently. This is because the survey results show that the implementation of international human rights law is insufficient in the day-to-day activities of public officials. For example, there is a tendency to discriminate, harass, and mistreat on the basis of age, gender, ethnicity and opinion. These have led to the perception that human rights are being violated in public organizations, that civil servants are neglecting their duties, and that they are only performing their duties in a nominal way (not sincerely), due to the backwardness of their methods of operation and their failure to fully learn democracy. Therefore, public organizations have a responsibility to respect, ensure, and protect human rights, and to support individuals and societies in their fight for their rights, and it is important to build accountability through mechanisms. To sum up, workplace harassment and discrimination are human rights violations.

### **Laws and legal documents against work place harassment and discrimination**

There are about 70 laws, decrees, recommendations and other legal acts in Mongolia that directly regulate labour market relations. These documents include provisions against workplace harassment and discrimination. Some of these legal documents related to civil servants are summarized below:

- **Constitution of Mongolia, 1992:** No one shall be discriminated against on the basis of ethnicity, language, race, age, sex, occupation, position, religion, opinion or education.
- **Labour Law, 1999:** Prohibition of discrimination in employment, the employer is obliged not to discriminate against the employee, and not to establish advantages or to impose restrictions.
- **Law on Gender Equality, 2011:** Maintain labour relations free of gender discrimination, ensure gender equality in the workplace, prevent sexual harassment in the workplace, and create an environment that does not tolerate sexual harassment.
- **Law on Violations, 2017:** Not to use illegal methods such as demanding rights, using force, intimidation, or disseminating false information

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<sup>14</sup>Universal Declaration of Human Rights, <https://www.un.org/en/universal-declaration-human-rights/>

<sup>15</sup>International Covenant on Civil and Political Rights, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

<sup>16</sup>C100 - Equal Remuneration Convention, 1951 (No. 100), Article 1 and 2, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C100](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C100)

- **Civil Service Law, 2017:** the right to hold public office shall not be discriminated against on the basis of ethnicity, race, age, sex, social origin, status, wealth, occupation, position, religion, opinion, party affiliation or other public affiliation. Warn of potential negative consequences of management's decisions, regardless of whether they are in line with management's views.
- **Law on Prevention of Conflict of Interest and Coordinating public and private interests in the civil service, 2012:** An official who obeys the rule of law, performs his / her duties in a manner that is trustworthy, equal, fair and responsible to the public, and observes official ethics. The Anti-Corruption Agency shall be obliged to immediately notify the organization, if it is liable.
- **Government Resolution No. 258 on Strengthening Civil Service Discipline and Order, 2018:** Take measures to stop all forms of harassment and discrimination in the workplace, to include in the organization's internal regulations the responsibilities of officials who commit such acts, and to create a positive and stress-free working environment.
- **Code of Conduct for Public Administration and Service Employees, 2019:** not to use his / her official position to harass, subjugate and discriminate against others; to show prestige and be a good example to the employees under supervision; and to create a business-like atmosphere; to prevent conflicts of interest, to regulate conflicts; not to disturb the normal relations of the office by intimidating, insulting or harassing the employees under his / her supervision, not to give illegal assignments; to respect human rights, freedoms, inviolability, personal and family secrets, honour and reputation in official relations<sup>17</sup>.

Liability for harassment and discrimination in the workplace: The issue of teasing, discriminating, harassing or bullying someone in the workplace is more serious than just making jokes. Any form of harassment and discrimination in the workplace violates the constitutional right to work. Workplace harassment is manifested in physical, emotional, unfair, and persistent negative attitudes toward individuals or groups of workers, such as intimidation and bullying. Discrimination on the basis of marital status, place of birth, ethnicity, or position, unfair evaluation of job performance, deprivation of pay, unjustified dismissal, and intimidation continue to be the main reasons for applying for dismissal<sup>18</sup>. For example, Mongolia first included the issue of sexual harassment in the workplace in the Law on Gender Equality in 2011. The law provides for victim protection and compensation, but does not provide for the assessment of emotional harm. According to the 2016 Women's Foundation survey, 97.5 percent of those who were sexually harassed at work were women and 2.5 percent were men; 42.8 percent of these perpetrators are civil servants, of which 97.5 percent are men and 2.5 percent are women. In the last 6-7 years, the number of complaints related to sexual harassment in the workplace has increased dramatically<sup>19</sup>. There are a number of studies on sexual harassment in the workplace related to Gender Equality law (2011) in Mongolia. However, researches and statistics on other harassment and discrimination issues in workplaces are very rare.

In Mongolia, the majority of workplace harassment and discrimination stems from relationships and miscommunication. Workplace harassment and discrimination resulting from relationships and miscommunication are generally addressed in legal regulations other than the Code of Conduct (see the provisions of the above laws). For example, overtime and forced labor that is not specified in the job description are common in the workplace. Therefore, it is time to pay attention to this, and Labor Law needs to be revised<sup>20</sup>.

**Duties and Responsibilities of Civil Servants:** The ability of civil servants to work in an ethical, non-violent and safe environment and to work in risk-free jobs is becoming increasingly important. It must be a human rights-oriented approach. The Constitution of Mongolia stipulates that “the state shall be responsible to its citizens for creating economic, social, legal and other guarantees to ensure human rights and freedoms, combating violations of human rights and freedoms, and restoring violated rights” (19.1) can be interpreted as a civil service with a sense of rights. However, the fact that our civil servants themselves are being harassed and discriminated against at work shows that it is important to raise awareness of this issue in society and the general public.

To summarize, Workplace harassment and discrimination are reflected in Mongolian laws to some extent, but need to be improved. Workplace harassment and discrimination also occur at the communication level. There is a need to clarify and add detailed provisions in the legal documents to regulate communication-related conflicts.

<sup>17</sup>Integrated legal information system, <https://www.legalinfo.mn/law/>

<sup>18</sup>Parliamentary Subcommittee on Human Rights, Discussion on “Harassment Free Environment”, 2019, <https://vip76.mn/content/64445>

<sup>19</sup>Ts. Adyakhishig, Senior Officer, Education and Research Division, National Human Rights Commission, <https://vip76.mn/content/64445>

<sup>20</sup>Discussion on “Workplace harassment free environment” in cooperation with the Parliamentary Subcommittee on Human Rights, the European Union and the United Nations, 2019, Ts. Otgontungalag, Head of the Labor Policy and Legal Policy Division of the CMTU-Committee of Mongolian Trade Union, <http://npost.mn/a/164873>

### Current situation: results of a survey participated by civil servants

The content of the survey included questions and interviews about the presence of workplace harassment and discrimination, its manifestations, who the perpetrators and victims are, why workplace harassment and discrimination occur, and how to address and prevent these issues. Prior to the survey, it was predicted that workplace harassment and discrimination would be around 30 percent. However, the results of the study showed high.

The survey was divided into two parts. Firstly, 13 indicators<sup>21</sup> (ethnicity and social origin, race, age, gender, religion, views and beliefs, disability, health, pregnancy, family status, genetic information, language and culture, membership in community organizations) to identify workplace discrimination. Secondly, 8 indicators (harassment which related to human rights violations<sup>22</sup>, personal harassment, physical harassment, harassment by authority, psychological harassment, sexual harassment, verbal harassment and bias) to identify workplace harassment conducted by questionnaire and interview. The 8 indicators for determining workplace harassment were the forms in which public employees and officials expressed their opinion concerning determining workplace harassment during interviews, and were the result of a survey that was compiled and re-examined. A total of 92 civil servants participated in the survey, of which 34 were local government agents (LGAs), 37 were public service agents (PSAs), and 21 were State special agents (SSAs). To be clear, the study with 8 indicators that focused to identify workplace harassment included "harassment - related to human rights violations". It is because it was likely to be connected to a human rights violation. The others (7 indicators) were associated with human relations and communication issues. In other words, discrimination is often interpreted in relation to basic human rights principles, while harassment is interpreted in human relations, including formal relations and communication in public organizations.

Here are the results of the survey. The results of the survey are presented separately by fields of special operational activity. First, to determine whether there is discrimination in public organizations.

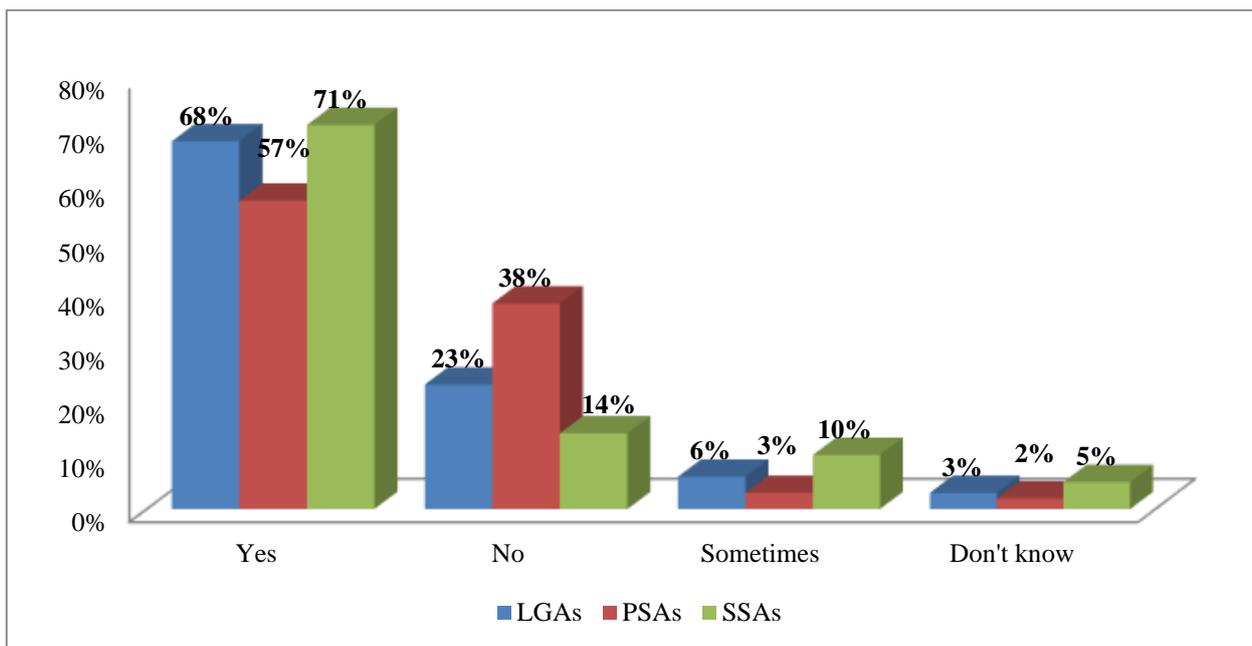


Figure1. Discrimination in public organizations

57% of the (37 participants) public service agents, 68% of the (34 participants) local government agents, and 71% of the (21 participants) State special agents answered that there is discrimination in the public organizations. Second, to seeks to identify what forms of discrimination exist in public organizations. This includes 13 indicators (basic human rights principles).

According to the survey results, discrimination based on opinion/views and beliefs is high in public organizations, with 34% in public service organizations, 29% in local government organizations, and 30% in state special organizations. It should be noted that this is not only a matter of political views and beliefs, but also individual

<sup>21</sup>Universal Declaration of Human Rights, <https://www.un.org/en/universal-declaration-human-rights/>

<sup>22</sup>Harassment related to human rights violations - because it was likely to be connected to human rights violation

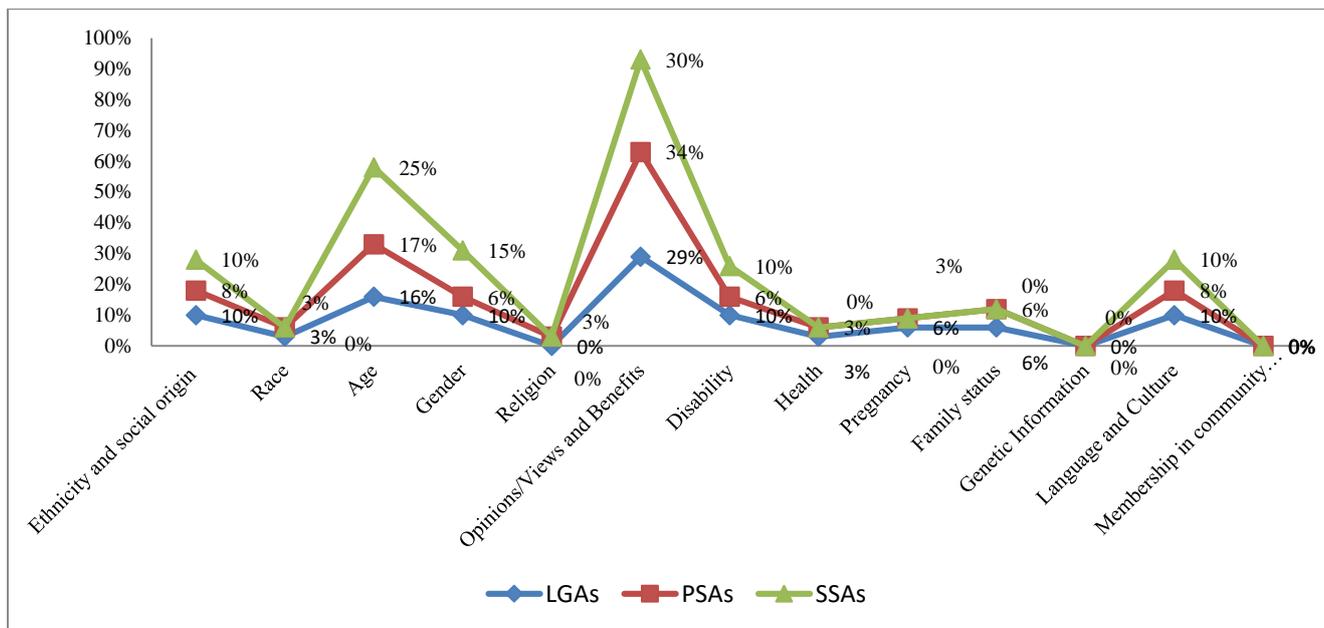


Figure 2. Forms of discrimination in public organizations

opinions, suggestions, criticisms and beliefs related to the performance and implementation of the work. The second indicator shows the "age" (16% LGAs, 17% PSAs, and 25% SSAs). Although Mongolia is a "young country" compared to the rest of the world, age differences are inevitable in terms of work experience, qualifications, dominance, and subordination in the workplace, and it is rude to discriminate in this way, actually. Third, ethnicity (10% LGAs, 8% PSAs, and 10% SSAs), gender (10% LGAs, 6% PSAs, and 15% SSAs), and language and culture (10% LGAs, 8% PSAs, and 10% SSAs) were ranked. Ethnicity and language and culture indicators were similar, at 8-10%. However, in terms of gender, the percentage of discrimination against state special organizations was higher (15%) than local government and public service organizations.

In the workplace, especially when issues of efficiency, productivity, performance, and quality of public organizations are important, and merit-based operations are discussed, the main goal of the civil service should not be to lead or promote anything from a "tiny" perspective. On the other hand, there is a need to learn to cultivate a culture that is different from personal interests and views, especially at the managerial level. The advantage, however, was that pregnancy; health, religion, and racial discrimination were minimal and almost non-existent.

The next main goal of the study was to determine whether there is harassment in public organizations.

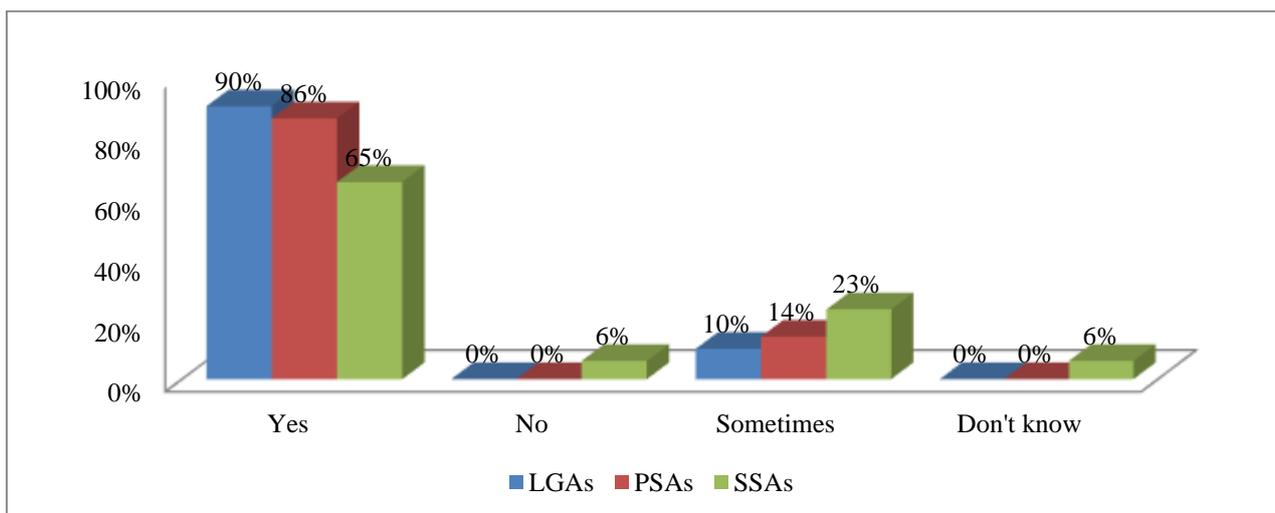


Figure3. Harassment in public organizations

90% of the (34 participants) local government agents, 86% of the (37 participants) public service agents, and 65% of the (21 participants) state special agents answered that there is harassment in public organizations. Looking at these indicators, it can be said that the majority of participants (or public employees) agreed that there is workplace harassment. Second, to seeks to identify what forms of discrimination exist in public organizations. This includes 13 indicators (basic human rights principles).

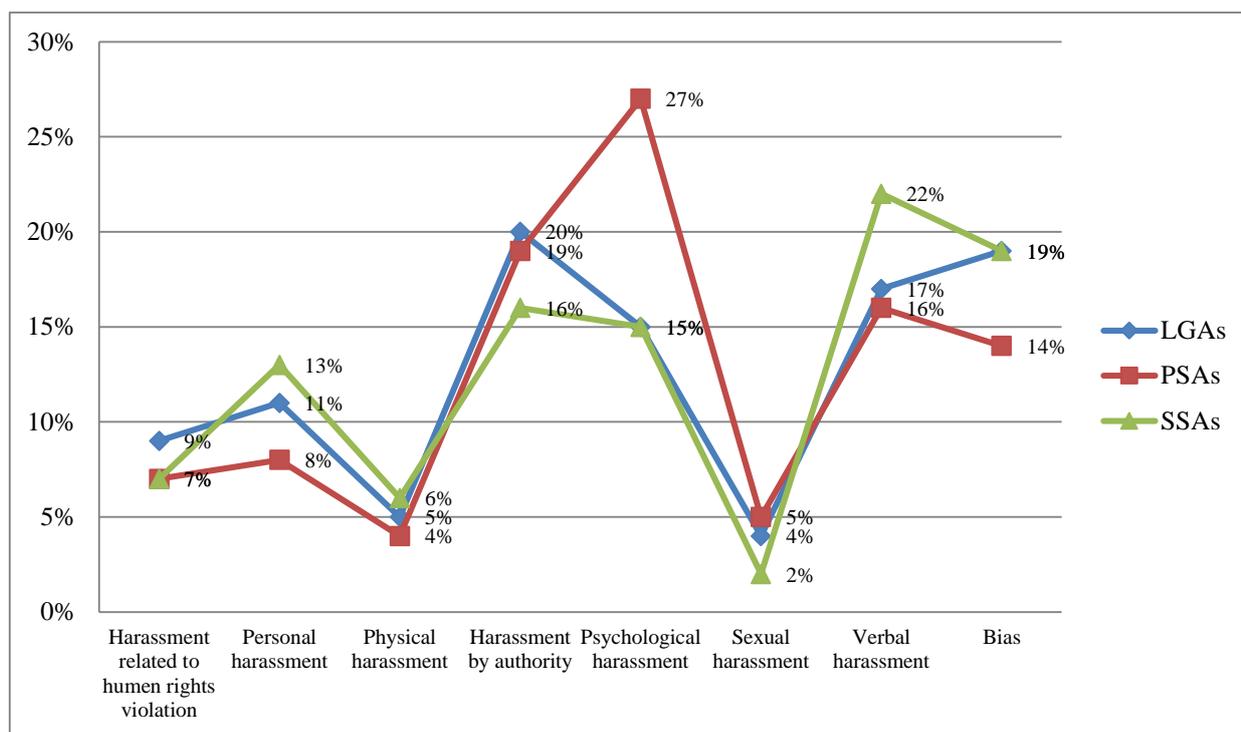


Figure4. Forms of harassment in public organizations

The study has shown mixed results in terms of workplace harassment. According to the survey results, the top three indicators of public service organizations are psychological harassment-27%, harassment by authorities -19%, and verbal harassment -16%. In contrast, the higher percentage of local government agents were first, harassment by authorities -20%, second bias -19%, third, verbal harassment 17%. However, in State special organizations, the highest indicator was verbal harassment which is 22%, next, bias 19%, the last one was harassment by authority 16%. The next went to the indicator "bias" which was 14%.

In general, public organizations are subject to harassment by authority (19% in service organizations, 20% in local government organizations, 16% in special organizations), verbal harassment (16% in service organizations, 17% in local government organizations, 22% in special organizations), and bias (14% in service organizations, 19% in local government organizations and 19% in special organizations). Overall, the survey found that civil servants were subject to workplace harassment (84%) and discrimination (64%).

One of the main objectives of the study was to identify the perpetrators of workplace harassment and discrimination. Five indicators were considered, and the individual indicators included external actors such as clients, citizens, and consumers.

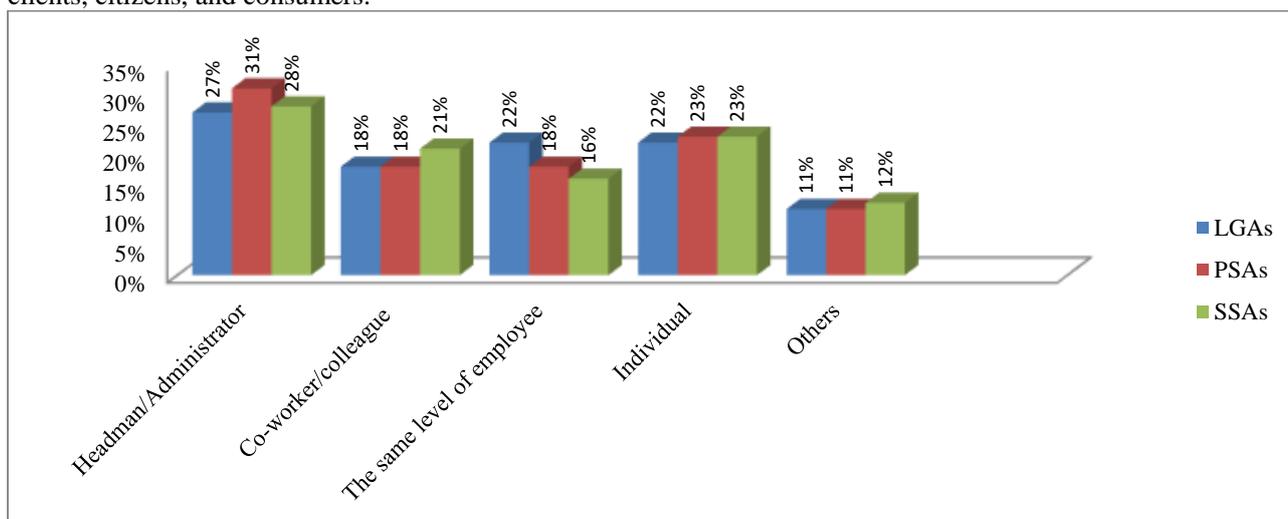


Figure5. Perpetrators of workplace harassment and discrimination in public organization

Respondents identified headman/administrator as the main causative agent of workplace discrimination and harassment (31% in service organizations, 27% in local government organizations, and 28% in special organizations). The second indicator is considered as individuals, colleagues, and employees of the same level.

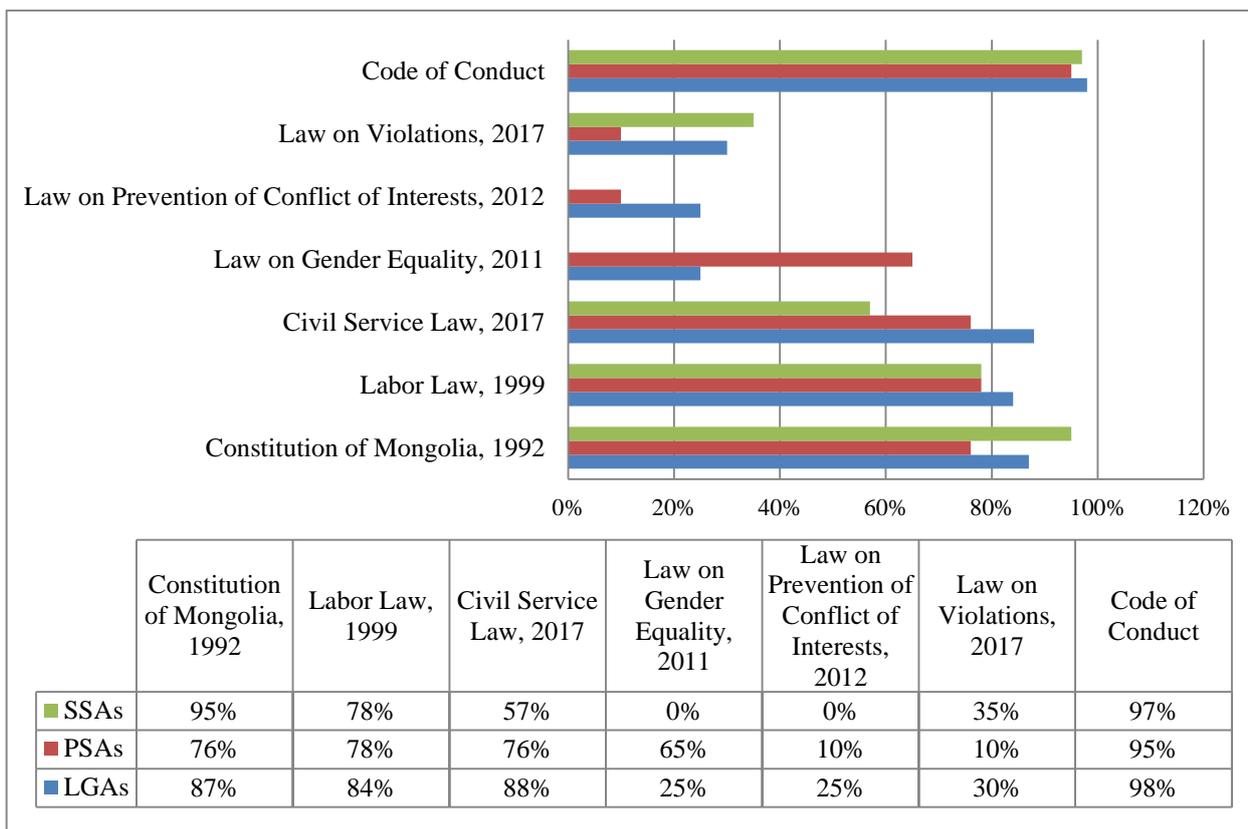
The next objective of the survey was to interview senior officials to determine the causes of harassment and discrimination, and to interview employees through questionnaires. This is because in the previous survey, participants identified executives, co-workers, and peers as the main subjects of discrimination and harassment in the workplace. When explaining the reasons for discrimination and harassment in the workplace, a senior official shall: 1 / exert pressure on a civil servant to perform his / her duties in a timely and quality manner; 2 / make principled demands in order to follow the rules of domination and subordination; 3 / new or young employees should learn to listen to management and argue that this is of educational importance.

However, discriminatory and harassing co-workers explained that some employees may be harassed due to years of service and whether someone likes it or not, have to adapt to the environment and colleagues' behavior. What was observed during the survey was that, unfortunately, some civil servants are harassed and discriminated against their superiors, but on the other hand, they harass and discriminate new employees or others in some ways. The explanations have been received in writing, though can't be possible to provide percentages. The explanations are summarized in Table 2.

Causes of harassment and discrimination		Reasons for being a victim of workplace harassment and discrimination
Management level staff (Focus Interview)	Civil servant / employee (Reply in writing)	Civil servant / employee (Reply in writing)
1) Related to complete tasks on time 2) Related to the quality of the task 3) Follows the rules of domination and subordination 4) Related to discipline 5) Make principled demands 6) The task must be completed without giving any reason 7) Sometimes pressure needs to adapt 8) learn by scolding 9) There is no need to talk too much about management 10) Stop acting arbitrarily	1) Because of many years of experience 2) Because of lack of education and experience 3) The new employee must adapt 4) Must follow majority opinion 5) Aimed at reducing the tendency not to be too odd 6) Follows the boss's attitude 7) Senior employee always respected and better in every ways 8) There is nothing wrong with a little bullying 9) Even if you have knowledge and skills, have to feel the environment 10) There must be control over someone	1) Not long after starting work 2) It's hard to adapt because lived in abroad for many years 3) Try not to quarrel 4) Management does not respect the views of employees, behaves arbitrarily - it is better to remain silent 5) Management is morally and ethically flawed — afraid of losing job 6) Management lacks leadership skills, but oppressive 7) Colleagues are incompetent, only followers and better be cautious 8) The organization sees bullying as a culture 9) A leader who likes to be in trouble - it's useless to say anything 10) I can't resist - I'm scared

**Table 2 Causes of harassment and discrimination**

During the survey, it was necessary to determine whether the respondents were aware of the legal documents on workplace harassment and discrimination. This was the result of a high rate of public employees acknowledging that there was pressure (84%) and discrimination (64%) in the workplace (breaking the research hypothesis). Participants were asked to name legal documents on workplace harassment and discrimination. In doing so, it is assumed that the answer will be given within the framework of 7 laws that must be known to civil servants (Constitution of Mongolia, 1992; Labor Law, 1999; Civil Service Law, 2017; Law on Gender Equality, 2011; Law on Prevention of Conflict of Interests, 2012; Law on Violations, 2017; Code of Conduct for Civil Servants). The following answers were given by the participants.



**Figure 6 Knowledge of legal documents on workplace harassment and discrimination of civil servants**

According to the survey, different answers were given in writing depending on the specifics of the sector. It can be concluded that civil servants are generally knowledgeable about the Constitution (87%-LGAs, 76%- PSAs, 95%-SSAs), the Labor Law (84%-LGAs, 78%- PSAs, 78%-SSAs), the Code of Conduct for Civil Servants (98%-LGAs, 95%- PSAs, 97%-SSAs), and the Civil Service Law (88%-LGAs, 76%- PSAs, 57%-SSAs). Most officials responded to these laws in a survey.

However, only a few participants wrote the Law on Gender Equality (25%-LGAs, 65%- PSAs, 0%-SSAs), the Law on Prevention of Conflicts of Interest (25%-LGAs, 10%- PSAs, 0%-SSAs), and the Law on Violations (30%-LGAs, 10%- PSAs, 35%-SSAs). For example, there were almost no participants (10-25%) in the drafting of the Law on Prevention of Conflicts of Interest, but some noted the Law on the Police (2017) and the Law on the Prosecutor (2017). Also, only public service agents marked (65%) the Law on Gender Equality, assuming this, because of the majority of female employees. Civil servants almost did not mention the Law on Prevention.

Generally, the legal knowledge of public servants was assessed as good. Also, civil servants are aware of the relevant laws, but are subject to workplace harassment and discrimination, suggesting that this study needs to be deepened. However, the purpose of this section of the study (on the law) is limited only to determine whether you know the legal documents.

In conclusion, workplace harassment and discrimination are common in public organizations. This is confirmed by a survey of civil servants. In terms of discrimination, the highest rates of discrimination against employees are based on their opinion/views and beliefs, age, ethnicity, and family status which based on the property. However, the advantage is, there is little or no discrimination in pregnancy, health, religion or race. When it comes to workplace harassment, power or authority based harassment, psychological and verbal harassment are common in all public organizations. Unfortunately, the fact that civil servants are victims, on the other hand, cause problems to others as well. Seems, workplace harassment and discrimination become “wicked problems” and should be fixed sooner.

**Ways to prevent workplace harassment and discrimination: recommendations**

There are a number of reasons for workplace harassment and discrimination in Mongolia. These include:

First, within the framework of the Law: The Law on Labor, the Law on Violations, and the Law on Civil Service do not clearly define the concept of “workplace harassment and discrimination. This is stated in the report of the National Human Rights Commission of Mongolia (2018) “A comprehensive anti-discrimination law to avoid all forms of discrimination on the basis of ethnicity, religion, sexual orientation, gender, language, opinion, mental

or physical disability. No significant steps have been taken so far to ensure the implementation of the recommendations for the adoption of the legislation<sup>23</sup>. I agree with this statement after the study.

Second, within the organization: Second, within the Organization: It is not clear whether an employee will be protected at that time of a violation of his or her rights in the workplace. Although there are ethics committees and trade union committees in government agencies, some survey participants commented that there was a tendency for the authorities to take matters into their own hands, or to make decisions that depended on the authorities, or to ignore them.

Third, within the organization's internal activities: the employer does not explicitly address workplace harassment and discrimination in its internal labour regulations, also, does not provide information to employees (as mentioned in the research section).

Fourth, for employees: People are unaware that they are being harassed or discriminated against in the workplace. They are not interested in laws, rules, and regulations. Some people think it's a joke among the workers; even though, he doesn't like it, doesn't see it as a violation, and hopes that it won't happen again. There are many cases where an employee complains after the salary reduction and dismissal occurred. For example, in the 2019 report of the National Human Rights Commission of Mongolia, nine complaints of workplace harassment were filed, two after resignation, two after the demotion, and three after disciplinary action.<sup>24</sup>

Ways to prevent workplace harassment and discrimination:

1) All civil servants surveyed (92) were asked about possible ways to prevent workplace harassment and discrimination. Their answers were grouped into 10 indicators. These include: Amendments to the Civil Service and Labour Law against discrimination and harassment in the workplace (89%), strict adherence to the Code of Conduct (35%), and the implementation of the merit system in its original form (37%), training on formal relations (61%), urgent learning from foreign experience (51%), non-use of acquaintances at the management level (72%), immediate dismissal of political party members in public organizations (75%), increase the competitiveness of civil servants (63%), to appoint professionals to managerial and specialized positions (76%), and to resolve complaints promptly and take action against those responsible (73%).

2) Based on the causes of workplace harassment and discrimination: a) There is a need to increase participation. First, increase employee participation. In order to increase employee participation, they need to be provided with an understanding of what workplace harassment is and what discrimination is, and to be trained, educated and informed about it; Continuously provide information on this issue, and work proactively for this purpose, for example, when leaders, managers, and elders mention the law and regulations during meetings and public events, warn, and approach, reconcile, and advise in such a way that one party does not harm the other. , to carry out instructional work, to study and understand the rules and regulations of the employee, to implement them in his / her work, to request explanations on issues that he / she does not know or do not understand, and to seek clarification from the relevant specialist; second, to improve the work and increase the participation of the Ethics Committee, the Human Resources department of the organization, and the trade unions. To this end, the units should organize trainings on the schedule, provide electronic information on a regular basis, publish statistics on these issues and regularly present them to the management of the organization, thereby fostering the culture of the organization; b / Promptly respond to complaints and grievances. Firstly, employees should report violations, and secondly, units such as the Ethics Committee, Organizational Human Resources department, and trade unions should identify and stop the causes of violations in a timely manner, compile statistics, and evaluate them so that there are no more violations, and also, to monitor the presence; c / Monitoring mechanisms, such as comprehensive, permanent, timely, and sectoral oversight systems should be improved by incorporating them into the organization's internal procedures, and effective solutions such as feedback and mutual understanding should be clarified.

3) Study and apply the best practices of other countries' mechanisms to regulate workplace harassment and discrimination. For example, the concept of psychological harassment is enshrined in the civil and other laws of developed countries, and there are procedures for resolving and compensating for harassment. In the United States, for example, workplace harassment is considered a human rights violation, and employers are encouraged to take appropriate action to prevent, and correct unlawful harassment, and to make it clear to their employees not to use unwanted harassment<sup>25</sup>. To make this effective, it is important to establish a grievance process, provide managers and employees with anti-harassment training, manage them promptly and appropriately when an employee complains, and ensure that employers are free to address employee concerns and resolve them. There is also a law on "whistle blowers". Examples include the Republic of Korea's Whistle Blower Protection Act (2011) and the

<sup>23</sup>National Human Rights Commission of Mongolia, 2019, <https://nhrcm.gov.mn/>

<sup>24</sup>Ibid

<sup>25</sup>US Equal Employment Opportunity Commission <https://www.eeoc.gov/harassment>

United States Whistle Blower Protection Act (1989). Some countries have provisions to protect Whistle Blowers in the Civil Service Law, the Criminal Code, and the Anti-Corruption Law, while others have enacted separate Whistle Blower laws. In general, the legal framework for countries with Whistle Blower protection systems has two main points. First, to change the organization's culture by encouraging and increasing opportunities to disclose information about misconduct within the organization, and second, to create step-by-step protections and incentives for employees to disclose misconduct without fear of risk<sup>26</sup>.

4) There is a need to implement ethical management, management leadership, and employee behavior based on organizational culture. The ethical principles of civil servants include concepts as honesty, integrity, diligence, trust, respect, and commitment. It is aimed at protecting the dignity of civil servants, improving the morale of civil servants, and defining and enforcing specific ethical standards for civil servants that reflect the specifics of the civil service. Researcher Carol W. Lewis (2005) emphasizes the values and basic principles of civil servants a) Accountability (accountability for actions and inactions, openness, transparency, listening to others, responsiveness), b) Integrity (law) to follow, to treat the process fairly, to distribute fairly), c) to be fair or equitable (to work in the public interest, to be objective, to be multi-stakeholder), d) to avoid harm and kindness to be kind, to help others), e) to do good, to always strive to do right and good deeds<sup>27</sup>. Details of these issues need to be incorporated into the organization's internal rules, improved, and managed, and then incorporated into the organization's behaviour, practices, and culture.

## Conclusion

Mongolia has 34 laws regulating human rights, freedoms and non-discrimination, 5 parliamentary resolutions, and 81 laws regulating justice and equality. However, research shows that human rights abuses, inequalities, discrimination, and harassment in the workplace are not uncommon and continue to have negative consequences. Both workplace harassment and discrimination are human rights violations. However, the concept of discrimination is considered as a human rights violation by combining the opinions of the surveyed civil servants. However, workplace harassment has not been explained in detail, so it is seen as a matter of interpersonal relations and communication and ethical rather than a human rights violation. The survey found that there was a high level of discrimination in the workplace in public organizations. It should be noted that the prevalence of discrimination in the public sector is not a matter of political views or beliefs, but rather of opinions, suggestions, criticisms and beliefs related to the performance of work. Subsequent indicators found discrimination on the basis of "age", ethnicity, gender, and family status. The advantage is that there is very little or no risk of pregnancy, health, religion or racial discrimination in Mongolian public organizations.

In terms of workplace harassment, psychological harassment, harassment by authority, and verbal harassment had the highest rates. Even though the legal knowledge of civil servants against workplace harassment and discrimination is sufficient, it is also unfortunate that the bullies and discriminators in the workplace are not only at the management level but also their colleagues. So, this issue is needed to be taken an action immediately.

Civil servants have suggested a number of ways to address these problems in the workplace. Their responses were categorized into 10 indicators. The highest rates were the amendments to the Civil Service and Labour Law against discrimination and harassment in the workplace, the appointment of professionals to the civil service, the immediate removal of political party members from the public sectors, prompt resolving of complaints, and the proposals to take action against the culprits and not to use acquaintances at the management level were considered important.

In the future, to reduce workplace harassment and discrimination a/ increase participation (employees, management, trade unions, ethics committees, etc.), b/ informatization (currently, there is no statistics, no research, at any stage), c/ training, d/ there is no detailed regulation on how to protect the dignity and rights of employees who have been subjected to workplace harassment or discrimination (should be explained to the employee from the date of employment or be noted in the job description; therefore, human rights in these workplaces should be explained, it is necessary to intensify the activities of the units responsibility for ensuring the right to work, to eliminate dependence or influence on administrative officials, to create conditions for active work towards the goal), e/ to organize prompt action on complaints and grievances (any discrimination against employees), to be free from pressure, not to cause such problems, in the event of a conflict, the organization has the right to file complaints, for example, to provide counselling, regular training and advocacy, to protect victims, to provide psychological support, to compensate for work, and to improve the economy. f) monitoring mechanisms (comprehensive, permanent, timely, sectoral, etc.) need to be improved, and effective solutions such as feedback and mutual understanding need to be clarified.

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<sup>26</sup>D. Dulamsuren, Head of the Prevention and Education Division of the Anti-Corruption Agency, Commissioner in Charge

<sup>27</sup>Carol W.Lewis and Stuart C.Gilman, 2012, "The Ethics Challenge in Public Service: Problem solving guide" A Wiley Imprint, p.30

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