Power Harassment in the Workplace

*Japan’s Ministry of Health, Labour, and Welfare report addresses a growing problem in the country’s workplace; definition and proposed guidelines offer new level of clarity to employers.*

**February 28, 2012**

A working group established by the Japanese Ministry of Health, Labour, and Welfare (MHLW) has issued a report that for the first time defines “power harassment” in Japan and makes proposals to both prevent and address the problem.

Although power harassment is not a new claim in Japan, over the last few years there has been a marked increase both in public awareness of the problem and in the number of claims filed with MHLW. In fiscal year 2010, for example, the MHLW received 39,405 inquires to its consultation line with respect to power harassment—a sixfold increase over 2002.

**Definition and Guidelines**

The report defines “power harassment” as any kind of behavior in which a superior takes advantage of his or her position in the workplace to cause co-workers physical pain or emotional distress, whether the person is superior by means of relative work position, physical size, or otherwise. Power harassment includes the actions of a supervisor toward a subordinate, interactions between equal colleagues, and the actions of a subordinate toward a supervisor.

The report defines six types of power harassment:

- Physical attacks (such as acts of force or violence)
- Psychological attacks (such as intimidation or verbal abuse)
- Segregation (such as ostracism)
- Excessive demands (such as assigning work that is impossible to perform or obviously unnecessary)
- Demeaning demands (such as assigning work clearly below the employee’s capability or providing no work at all)
- Intrusion upon the individual (such as intrusion into an employee’s personal life)
The report states that physical and psychological attacks and the disruption of personal relationships are never appropriate in a business context. However, there may be cases where certain excessive or demeaning demands or intrusion into an employee’s personal life may be appropriate depending on the type of business, corporate culture, or specific situation. It is recommended, therefore, that each company clearly define the scope of power harassment appropriate to its own workplace environment.

The report provides the following proposals that companies should adopt to prevent power harassment in the workplace:

- Make it clear that power harassment in the workplace will not be tolerated
- Establish appropriate employment regulations and guidelines and ensure that all employees are aware of and understand such regulations and guidelines
- Provide questionnaires to employees regarding power harassment
- Provide employee training on how to prevent and deal with power harassment
- Provide consultation services both inside and outside the company
- Determine who in the workplace is responsible for monitoring and handling reports of harassment
- Cooperate with outside experts
- Provide offenders with training to prevent any re-occurrence

Implications

With the new level of clarity offered by the MHLW’s definition and prevention guidelines, we anticipate that the number of power harassment claims will increase significantly. Accordingly, we recommend that employers in Japan review their current harassment policies closely and take appropriate steps to address power harassment in the workplace, such as by providing clear avenues of complaint and procedures for investigation and training.

How We Can Help

Both Morgan Lewis and TMI Associates have experience handling workplace harassment claims, including investigations, compliance reviews, general counseling, and litigation—always with an eye toward efficient and effective resolution.

If we can be of assistance to you in these matters, please feel free to get in touch with your Morgan Lewis contact or any of the following attorneys:

**New York**
David A. McManus  dmcmanus@morganlewis.com

**Tokyo**
Motoi Fujii  mfujiitmi.gr.jp
Gregory R. Salathé  gsalathe@morganlewis.com
Lisa Yano  lyano@morganlewis.com
Managing the Global Workforce Webinar Series
The Labor and Employment attorneys who were recently featured in *Getting the Deal Through: Labour & Employment* are bringing their analysis and commentary to a series of international-themed webinar events. This is a unique opportunity to hear about labour and employment issues in critical global markets, ask the attorneys questions, and receive a cross-border legal perspective on employment, labour, immigration, and benefits issues that will be invaluable to any organization managing a global workforce.

Join our webinar on **April 26** dedicated to employment issues in the **Greater Asian Market**—featuring the Morgan Lewis–TMI team. To view more information or register for this webinar and others in the series, please go to [http://www.morganlewis.com/documents/m/Events/2012/LEPG_GTDT_webinar_series_120068.html](http://www.morganlewis.com/documents/m/Events/2012/LEPG_GTDT_webinar_series_120068.html).

About Morgan Lewis–TMI
Morgan Lewis–TMI is a unique joint venture in Japan formed by Morgan, Lewis & Bockius LLP and TMI Associates. This is the first joint venture of its kind between major U.S. and Japanese law firms. Morgan Lewis–TMI is an equal partnership designed to leverage the strengths of both firms in serving our clients.

About Morgan, Lewis & Bockius LLP
With 22 offices in the United States, Europe, and Asia, Morgan Lewis provides comprehensive transactional, litigation, labour and employment, regulatory, and intellectual property legal services to clients of all sizes—from global Fortune 100 companies to just-conceived startups—across all major industries. Our international team of attorneys, patent agents, employee benefits advisors, regulatory scientists, and other specialists—nearly 3,000 professionals total—serves clients from locations in Beijing, Boston, Brussels, Chicago, Dallas, Frankfurt, Harrisburg, Houston, Irvine, London, Los Angeles, Miami, New York, Palo Alto, Paris, Philadelphia, Pittsburgh, Princeton, San Francisco, Tokyo, Washington, D.C., and Wilmington. For more information about Morgan Lewis or its practices, please visit us online at [www.morganlewis.com](http://www.morganlewis.com).

This LawFlash is provided as a general informational service to clients and friends of Morgan Lewis–TMI and Morgan, Lewis & Bockius LLP. It should not be construed as, and does not constitute, legal advice on any specific matter, nor does this message create an attorney-client relationship. These materials may be considered [Attorney Advertising](http://www.morganlewis.com) in some states. Please note that the prior results discussed in the material do not guarantee similar outcomes.

© 2012 Morgan Lewis–TMI. All Rights Reserved.