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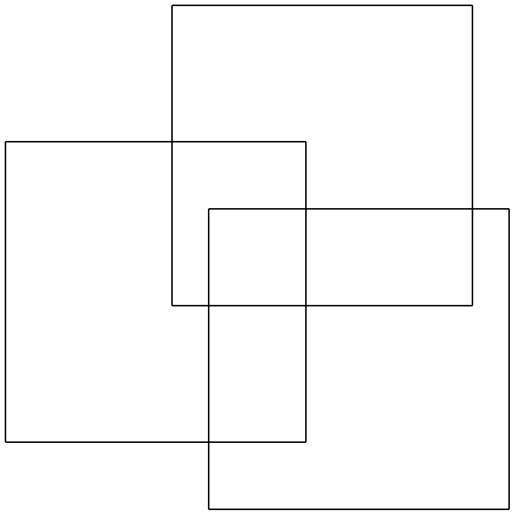
Geneva

Meeting of Experts on Violence against Women and Men in the World of Work

Background paper for discussion at the Meeting of Experts on Violence against Women and Men in the World of Work
(3–6 October 2016)



Conditions of Work and Equality Department

Geneva, 2016

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INTERNATIONAL LABOUR ORGANIZATION

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INTERNATIONAL LABOUR OFFICE, GENEVA

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Introduction

1. Violence in the world of work is a threat to the dignity, security, health and well-being of everyone. It has an impact not only on workers and employers, but also on their families, communities, economies and society as a whole. Indeed, violence in the world of work strikes at the heart of the efforts of the International Labour Organization (ILO) to promote the right of all human beings "to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity". [1] The issue has recently been brought into sharp focus at the global level, with the adoption of the 2030 Agenda for Sustainable Development, which calls for the achievement of full and productive employment and decent work for all women and men, the reduction of inequalities and the elimination of "all forms of violence against all women and girls in the public and private spheres". [2]

2. The need for international leadership on the issue of violence in the world of work has been highlighted recently in ILO forums. [3] The Governing Body of the ILO, at its 325th Session (November 2015), decided "to place a standard-setting item on 'Violence against women and men in the world of work' on the agenda of the 107th Session (June 2018) of the Conference" and "to convene a tripartite meeting of experts to provide guidance on which basis the Governing Body will consider, at its 328th Session (November 2016), the preparations for the first discussion of possible instruments by the Conference" (ILO, 2015a, paragraph 33(a) and (b)). The Meeting of Experts has been convened for 3–6 October 2016.

3. The Governing Body approved the following agenda for the Meeting of Experts:

- review existing understandings of what is considered to be violence in the world of work, related trends, forms and incidence;
- examine the gender dimensions of violence in the world of work;
- review the impact of violence in the world of work on workers and enterprises, including on workers' well-being and productivity, and firms' performance;
- identify groups of workers, enterprises, sectors and occupations more at risk of being subjected to violence;
- review responses to prevent and address violence in the world of work in national and international laws and regulations, collective agreements and enterprise policies; and
- provide, on the basis of the above, guidance for the standard-setting item on violence against women and men in the world of work that has been placed on the agenda of the International Labour Conference in June 2018. Guidance could include identifying

[1] Declaration concerning the aims and purposes of the International Labour Organization (Declaration of Philadelphia), II(a), 1944.

[2] Target 8.5, Goal 10 and Target 5.2.

[3] In 2015, the ILO highlighted the issue of violence during the 104th Session of the International Labour Conference (ILC), both in the resolution concerning the recurrent discussion on social protection (labour protection), and in Recommendation No. 204. This issue is, likewise, central to the ILO's centenary initiative on women at work.

forms of violence warranting priority consideration and responses thereto (ILO, 2016a, paragraphs 7–8).

4. This report serves as a technical background paper for the Meeting of Experts, in the light of the approved agenda. [4] The issue of violence is multifaceted, and not all dimensions can be discussed in this report. The report does not focus on specific areas of violence such as child labour and forced labour, which have been addressed in detail through recent standards. As violence in the world of work affects all sectors of economic activity around the world, including the private and public sectors and the formal and informal economies, the report examines the issue from the perspective of a general protection for all. It focuses on the types of violence in the world of work where international standards are absent or limited, particularly on physical violence, such as abuse; psychological violence, such as mobbing and bullying; and sexual violence, such as sexual harassment. It also takes into account the variety of workers and sectors affected.

The components of a definition of violence in the world of work

5. There is no single, universally accepted definition of the term "violence" in the world of work (Chappell and Di Martino, 2006; Barling, 1996). This fact results from differences in historical, legal and cultural contexts and differences in the perspectives of various disciplines, as the issue crosses multiple areas of regulation and research (de Haan, 2008, page 28). Moreover, the concept is evolving and some definitions are more comprehensive than others (Nova Scotia Department of Environment and Labour, 2006, page 1; Perrone, 1999, page 18).

6. As a result, this section sets out what have emerged over the past 20 years as the essential components of definitions of violence in the world of work. Aspects from the fields of non-discrimination and equality, occupational safety and health, health and welfare, among others, have been drawn together, as well as different perspectives from national, regional and international levels.

7. While there is variation in the nuances of how violence in the world of work can be defined, there is also a great deal of common ground. In particular, physical violence is widely considered to form part of a much broader spectrum of violence in the world of work that also includes psychological and sexual violence (Canadian Centre for Occupational Health and Safety, 2016; American Academy of Experts in Traumatic Stress, 2014; Chappell and Di Martino, 2006).

8. Over a decade ago, psychological violence was "emerging as a priority concern at the workplace" (ILO et al., 2002, page 3). In 1994, a European Commission expert meeting included physical and psychological violence in a definition of work-related violence (Milczarek, 2010, page 16). Also, The European Commission's "Improving quality and productivity at work: Community Strategy 2007–12 on health and safety at work" included "sexual and psychological harassment" as part of "violence at work" (European Commission, 2007, page 4). As one source observes:

> As the attention to the issue has grown, occupational safety specialists and other analysts have broadly agreed that responding to workplace violence requires attention to more than just an actual physical attack. Homicide and other physical assaults are on a continuum that also include domestic violence, stalking, threats, harassment, bullying, emotional abuse,

[4] The present report will be complemented by a forthcoming Law and Practice report on violence against women and men in the world of work.

intimidation, and other forms of conduct that create anxiety, fear, and a climate of distrust in the workplace. All are part of the workplace violence problem. Prevention programs that do not consider harassment in all forms and threats are unlikely to be effective (United States Department of Justice, 2004, page 13).

Physical violence

9. Physical violence is often the most visible type of violence, which can be understood as "the use of physical force against another person or group, that results in physical, sexual or psychological harm" (ILO et al., 2002, page 4). Some definitions use "force" and "violence" as synonyms, although it has been noted that force can be used without violence (Garver, 1968). Sometimes "force" and "power" are treated as synonyms, as in the World Health Organization (WHO) definition of violence: "Violence is the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, which either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation" (WHO, n.d.).

10. Within the scope of violence in the world of work, there is a tendency to focus on mass shootings committed by a "disgruntled employee" (Denenberg and Denenberg, 2012). However, these and other forms of physical violence are reported less frequently in the world of work in comparison with psychological violence (Riedel and Welsh, 2016; United States Department of Justice, 2004). For example, in 2010, the percentage of European workers who reported bullying and mobbing was double that of workers who reported physical violence (4 per cent in comparison with 2 per cent) (European Foundation for the Improvement of Living and Working Conditions (Eurofound), 2013, page 8).

Psychological violence

11. Psychological violence, also referred to as "emotional violence", spans verbal and non-verbal abuse, psychological and sexual harassment, bullying, mobbing and threats (Forastieri, 2012, page 114). Psychological violence includes acts such as manipulating a person's reputation, isolating the person, withholding information, assigning tasks that do not match capabilities or giving impossible goals and deadlines (Leymann, 1990; Milczarek, 2010, page 22). A common feature of psychological violence (although not always) is its repetition, and its cumulative effects make it an extremely serious form of violence (Chappell and Di Martino, 2006, page 17). An ILO definition refers to psychological violence as the "intentional use of power" which harms the "physical, mental, spiritual, moral or social states or development" of an individual (Forastieri, 2012, page 114).

12. Opinions differ over the words used to define various manifestations of psychological violence: a case in point is "bullying" and "mobbing". Bullying primarily refers to an individual who harasses another individual, while mobbing is usually considered the act of a group of people who "gang up" to harass an individual (Chappell and Di Martino, 2006, page 22). However, the terms mobbing, bullying and harassment are often used interchangeably, because of differences in fields of study or linguistic issues (Zapf et al., 1996, page 162). In Latin America, the English words "mobbing" and "bullying" are sometimes used interchangeably, as are the Spanish terms *hostigamiento moral* or *acoso*, and sometimes they are used very distinctly. In French, the term "moral harassment" *(harcèlement moral)* is generally used, but is sometimes translated into English as either bullying or mobbing. Although few national standards explicitly use the words "bullying" or "mobbing", developed and developing countries around the world use their own terms to describe similar behaviour.

Sexual violence

13. Sexual violence, according to the WHO, can be understood as "any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work" (Krug et al., 2002, page 149). Sexual violence in the world of work can combine elements of physical and psychological violence and can include a range of behaviour, such as unwanted comments, "jokes", brief physical contact and sexual assault (McCann, 2005, page 2).

14. Sexual harassment is an expression of this form of violence, and is frequently categorized in two ways: "quid pro quo" or "hostile working environment". Quid pro quo sexual harassment occurs when a job benefit – a pay rise, promotion or even continuing employment – depends on participating in some form of conduct of a sexual nature. Hostile working environment harassment covers conduct that creates an unwelcome, offensive working environment. It involves a range of behaviours, including sex-based comments (which need not be sexual in nature), disparaging remarks about the sex of the victim, innuendos and the display of sexually suggestive or explicit material. (Zweighaft, 1997). A single incident is enough to be considered sexual harassment; however, it often involves repeated behaviours (Chappell and Di Martino, 2006).

Gender-based violence

15. Physical, psychological and sexual violence can be considered to be gender-based if it stems from unequal power relationships between men and women (WHO, 2009, page 3) or if it is perpetrated against people because they do not conform to socially accepted gender roles (van der Veur et al., 2007, page 43). Gender-based violence is linked to patriarchy, which is "a system for maintaining class, gender, racial, and heterosexual privilege and the status quo of power" (Asian Pacific Institute on Gender-Based Violence, n.d.). In this connection, a survey of men from seven countries in Central America and the Dominican Republic describes how men's sense of "ownership" or "conquering" women sets the stage for sexual harassment at work (ILO, 2013c, page 12).

16. Women and girls are the "primary targets for GBV [gender-based violence]", and the perpetrators are mostly men (United Nations Population Fund, 2009, page 7; European Institute for Gender Equality, n.d.). Moreover, many types of violence in the world of work – sexual harassment, bullying, intimate partner violence – affect women disproportionately. However, gender-based violence can be committed by or against both women and men, such as violence against non-gender conforming men, including men who are or who are perceived to be gay, bisexual or trans. [5]

[5] The term "trans" refers to a variety of expressions of gender identity included in "transsexual", "transgender" and "transvestite".

17. Table 1 highlights the physical, psychological and sexual components of some definitions of violence in the world of work.

Table 1. The physical, psychological and sexual components of violence

Type of violence	Definition	Related concept	Definition
Physical	The use of physical force against another person or group, that results in physical, sexual or psychological harm. It includes among others, beating, kicking, slapping, stabbing, shooting, pushing, biting and pinching (ILO et al., 2002, page 3)	Assault	Includes any attempt at physical injury or attack on a person including actual physical harm (Chappell and Di Martino, 2006, page 30)
Psychological	Intentional use of power, including threat of physical force, against another person or group, that can result in harm to physical, mental, spiritual, moral or social development. It includes verbal abuse, bullying/mobbing, harassment and threats. (ILO et al., 2002, page 4) Psychological violence is often perpetrated through repeated behaviour, of a type, which alone may be relatively minor but which cumulatively can become a very serious form of violence (Di Martino et al., 2003)	Harassment	Any behaviour that demeans, humiliates, embarrasses, disturbs, insults or discomforts an individual, in whatever manner, by words, gestures, swearing or insults (Khalef, 2003, page 12) [A]ny conduct towards somebody based on their age, disability, HIV status, domestic circumstances, sex, sexual orientation, gender reassignment, ethnic background, colour, language, religion, political opinion, trade union affiliation or other opinion or belief, national or social origin, association with a minority, property, birth or other status that is unreciprocated or unwanted and which affects the dignity of women and men at work (Forastieri, 2012, page 15)
		Abuse	Behaviours which depart from reasonable conduct and involve the misuse of physical or psychological strength (Chappell and Di Martino, 2006, page 30)
		Threat	Encompass[es] the menace of death, or the announcement of an intention to harm a person or to damage their property (Chappell and Di Martino, 2006, page 30)
		Bullying/mobbing	A form of psychological harassment consisting in persecutory behaviour through vindictive, cruel, or malicious attempts to humiliate or undermine an individual or groups of employees, including unjustified, constant negative remarks or criticism, isolating a person from social contacts and gossiping or spreading false information (Di Martino and Musri, 2001, page 7) Repeated and over time offensive behaviour through vindictive, cruel, or malicious attempts to humiliate or undermine an individual or groups of workers (ILO et al. 2002, page 4)
		Mobbing	Negative form of behaviour, between colleagues or between hierarchical superiors and subordinates, whereby the person concerned is repeatedly humiliated and attacked directly or indirectly by one or more persons for the purpose and with the effect of alienating him or her (European Commission, 2001)

Type of violence	Definition	Related concept	Definition
Sexual	Any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work (Krug et al., 2002, page 149)	Sexual harassment	Incongruous and misplaced conduct of a sexual nature which offends and constitutes a threat to or humiliation of the person who undergoes it (Khalef, 2003, page 12) Any unwanted, unreciprocated, and unwelcome behaviour of a sexual nature that is offensive to the person involved, and which causes that person to be threatened, humiliated or embarrassed. It includes both quid pro quo and hostile environment harassment (Forastieri, 2012, page 133) * [A]ny form of unwanted verbal, non-verbal or physical conduct of a sexual nature […] with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment (European Council Directive 2002/73/EC, Article 2)

* See ILO, 2012, paragraph 789, for the Committee of Experts on the Application of Conventions and Recommendations' (CEACR) discussion of quid pro quo and hostile environment sexual harassment.

Source: Adapted from ILO, 2013a.

Where violence occurs in the world of work

18. Violence in the world of work cannot cover all situations of violence everywhere, or it would lose its specificity (Glenn, 2004, page 34). However, focusing exclusively on the traditionally understood physical workplace could exclude violence that takes place in the interstices of the actual place of work, such as stalking, assaults that occur commuting to or from work, or cyberbullying. [6] The terms used to shape the definition of violence itself – whether it be violence "in the workplace", "at work", "work-related" or "in the world of work" – potentially influence its scope, and, thus, the possibilities for action available to the tripartite partners.

19. In 2003, an ILO tripartite Meeting of Experts drew up a code of practice on workplace violence in services sectors and measures to combat this phenomenon that defined violence as "[a]ny action, incident or behaviour that departs from reasonable conduct in which a person is assaulted, threatened, harmed, injured". The code of practice covered "all places where workers need to be or to go by reason of their work", and discussed violence that was "a direct result" of work (ILO, 2004). This was an important advancement, focusing on a particular sector and setting. Now, over a decade later, the ILO's current standard-setting discussion is framed as "Violence against women and men in the world of work" and reflects both the progressive broadening of the term violence and the expansion of its scope. The notion of "world of work" helps capture work that takes place both within a traditional physical workplace, such as a factory or office, and in less typical settings, such as a street or in the home.

20. The notion of what work is and of where, and when, one works is broad. For example, commuting to work or traveling for work is now generally understood as falling within the

[6] In relation to cyberbullying, one source notes "'Work' is no longer a well-defined activity with sharp boundaries in terms of time, location and tools. All three have blurred boundaries, which serve to modify the understanding that employees and employers have of civility, bullying and the limits of their corresponding rights and obligations" (West et al., 2014).

scope of the world of work (ILO, 1996). Acts of violence do not necessarily have to occur exclusively in a physical "workplace" to be understood as violence in the world of work; rather, they may occur in circumstances related to, or that have an impact on, work, to be understood as such (Milczarek, 2010, page 19). With this more comprehensive approach, violence in the context of various forms of unpaid work in the formal and informal economies can be addressed – subsistence agriculture, food preparation, care for children and the elderly – and a range of modalities, such as apprenticeships, internships and voluntary work. This broader understanding of violence and its scope is in keeping with recent calls from experts to reconsider "the current conceptual definitions of *workplace, co-workers, and workplace violence* by scholars, policy-makers, and practitioners" (van de Griend and Messias, 2014, page 33).

Responding to family violence through the world of work

21. Intimate partner violence (sometimes referred to as "domestic" or included under the wider notion of "family" violence) often spills over into the workplace, with a negative impact on workers' lives and the productivity of enterprises. In the past, violence between partners or spouses was not thought to be of concern for the world of work. Now, however, experts note that "[d]omestic violence can no longer be considered by businesses as a 'secret' issue with little or no effect on the workplace"; and "domestic violence spilling over into the workplace ... needs to be built into any comprehensive workplace violence typology" (Mollica and Danehower, 2014; Bowie, 2002).

22. The spillover of intimate partner violence into the world of work occurs when third parties commit violent acts against former or current partners at, or through, the workplace, by physically assaulting them or by stalking or harassing them by phone or email. For example, one study from the United States notes that of 648 women killed by criminal acts at work between 2003 and 2008, 142 were killed by intimate partners (Tiesman et al., 2012). Spillover can also go in the opposite direction, from the workplace to home (Holmes and Flood, 2013, page 10). Research indicates that men who work in certain organizational climates – for example, those that are highly violent, dangerous, where men are less dominant or that exclude women – are more likely to commit intimate partner violence at home (Melzer, 2002; Holmes and Flood, 2013). Also, some intimate partner violence does not "spill over" as such but, rather, occurs in relationships between workers and/or supervisors at work.

23. The impact of intimate partner violence, measured at the level of national economies, is substantial. In the United Kingdom, the cost has been estimated at approximately 16 billion British pounds in economic output, services and human and emotional costs (Walby, 2009, page 2). [7] The annual cost of domestic violence to the Australian economy during the period 2002–03 was estimated at 8.1 billion Australian dollars (Access Economics Pty Ltd, 2004, page vii).

24. As such, workplaces, and the overall economic context, are affected by intimate partner violence whether it occurs outside work or originates at work. The workplace is a unique entry point to detect and respond to such violence, and "[w]orkplaces are increasingly prominent sites for domestic violence prevention and intervention" (Holmes and Flood, 2013, page 15).

[7] Based on data from 2008.

Understanding violence in the world of work

25. An act of violence can be traced back to the perpetrator's own motivations and stress factors (personal, emotional, economic). It can also be seen through the lenses of gender, class, race and others. In addition, risk factors and psychosocial hazards can play a role (the physical workplace, the way work is structured and managed), as well as whether workers are organized or not. Imbalances in power relations and how power is applied can also play a significant role (Hamilton and Sharma, 1996, page 21).

Power relations

26. Power relations exist in every sphere of life; the world of work is no exception. Traditionally, "authority and control over others in the workplace has been considered a legitimate form of power, "because it derives from organizational positions that people occupy rather than from the people themselves" (Elliott and Smith, 2004, page 365). However, when misused, power can be a source of violence in the workplace, as in the example of bullying, where a power imbalance is considered a "core dimension" (Einarsen, 2005).

27. Those with more power at work greatly influence the behaviour of those with less power (Hershcovis and Barling, 2010, page 28). A supervisor who bullies a worker is sending a signal that such behaviour is acceptable. This can open the floodgates for co-workers to settle differences among themselves through what is called "lateral" violence.

28. There is also a power component to violence committed by workers against supervisors, such as "contrapower sexual harassment", which occurs when those with less formal power harass those with more formal power, showing the influence of gender, race, and class on power dynamics (Rospenda et al., 1998, page 40). For example, a male student who harasses a female senior faculty member, or a secretary who harasses a supervisor of a different race or ethnic group that is not considered "dominant" in society. Another example is "upward workplace mobbing", where workers harass supervisors, stemming, again, from the power of a dominant group (Shallcross, 2003, page 52).

29. The misuse of power can also be expressed by barring access to goods, services or resources. Examples include paychecks being withheld from migrant workers, and instances in which indigenous peoples are prevented from accessing land resources, thus impinging on their access to traditional occupations.

Gender in power relations

30. Traditionally men have held the majority of management and decision-making positions, while women have been over-represented in low-paid jobs with little or no organized representation. In this way, gender is deeply intertwined with power relations in the world of work, with the traditional balance of power favouring men (Holmes and Flood, 2013).

31. The arrival of a woman in a traditionally male-dominated industry can upset existing power relations and may lead men to "respond aggressively, reasserting not only their position of power but also their masculine identity" (Ness, 2012, page 664).

32. Some men reassert this power through sexual harassment, which can "serve as an equalizer against women in power, motivated more by control and domination than by sexual desire" (McLaughlin et al., 2012, abstract). This affects not only women but also men who do not conform to the predominant, masculine stereotypes (ILO, 2013b). It can, thus, create a more violent environment for everyone. Available evidence suggests that harassment, of both men

and women, most often occurs in male-dominated work settings (McLaughlin et al., 2012, page 627). A study of bullying in Norway revealed that "[w]hile organizations dominated by men had a prevalence rate [of bullying] of 11.5%, female-dominated organizations had a prevalence rate of 7.5%" (Einarsen and Skogstad, 1996, pages 194–195)

33. Sometimes, men punish women not only for entering traditionally male workplaces but also for leaving traditionally female work, especially unpaid household and care work at home. One study from Nigeria observes that women who work outside the home – and, thus, cannot carry out household responsibilities to the level expected by their male partners – are more at risk for intimate partner violence (Antai, 2011). These findings are similar to those of a study in India, which suggests that domestic violence is on the rise because men view the increased participation of women in the labour force as breaking traditional gender norms (Paul, 2016). Moreover, a study from Bangladesh describes how women with low bargaining power in paid work face greater chances of domestic violence (Heath, 2014).

Risk factors for violence in the world of work

34. While it may not be possible to address the broader risk factors of violence in society comprehensively through the world of work, positive working relationships and conditions that make violence less likely can be promoted.

35. The past 40 years have seen significant changes to work organization and working arrangements around the world, including the growth of non-standard forms of employment such as fixed-term, on-call, casual/temporary workers and the "conversion" of employees to self-employed subcontractor status. There has also been a growth in undeclared work and the informal economy that tends to be associated with poor working and employment conditions, increased volatility and limited, if any, social protection, which increases risk to workers' health. Also, there have been significant changes to the intensity of work and to psychosocial conditions at work (Quinlan, 2015, page 1).

36. Circumstances and conditions of work, as well as psychosocial conditions, have an impact both on the prevalence of violence at work and on the ability of victims to seek remedies.

Circumstances and conditions of work

37. The circumstances in which a person works have an impact on his or her exposure to violence at work (see box 1).

Box 1
Circumstances that can expose workers to violence

- Working in contact with the public.
- Working with people in distress.
- Working with objects of value (money, equipment or medicine).
- Working in resource-constrained settings (inadequately equipped facilities or insufficient staffing can lead to long waits and frustration).
- Unsocial working hours (such as at night, which can imply other risks such as finding safe parking places).
- Working alone or in relative isolation.
- Normalization of violence.
- The power to deny services (increases the risk of violence from third parties seeking those services).

Sources: Trinkoff et al., 2008; Di Martino, 2002.

38. Types of payment can have an impact on workers' exposure to violence; for example, the use of tip-based payment systems in hospitality industries can have an impact on sexual harassment from customers (Matulewicz, 2015).

39. Non-standard forms of employment, encompassing temporary employment; temporary agency work and other contractual arrangements involving multiple parties; ambiguous employment relationships; and part-time employment, are associated with mental health and harassment risks (ILO, in preparation a). Temporary workers, for example, are reported to be more susceptible to bullying and harassment, including unwanted sexual advances (Estrada et al., 2010; Quinlan, 2015; Tsuno et al., 2015). Studies from Japan indicate that temporary workers are more at risk of workplace bullying (Tsuno et al., 2015) and verbal abuse than workers holding open-ended contracts (McCurry, 2015). Similarly, a large survey undertaken in Quebec found both temporary workers and part-time workers were at greater risk of sexual harassment and occupational violence than their full-time permanent counterparts (Vézina et al., 2011, page 10). Moreover, in Australia, temporary workers, part-time workers and those with short-term contracts were found to be more vulnerable to unwanted sexual advances than workers with more secure contractual arrangements (LaMontagne et al., 2009).

40. Informal work in developing countries and undeclared work [8] in industrialized countries can be hazardous and may include exposure to violence. This is because such work typically falls outside the protection of labour law, and therefore, does not benefit from prevention mechanisms such as mandatory policies trainings and risk assessment, and the deterrent effect of sanctions and remedies for perpetrators and victims (Loewensen, 1997; Santana and Loomis, 2004). The growth of informal labour/undeclared work has led to weakened collective determination of working conditions (Woolfson, 2007). Reduced capacity for collective bargaining affects the likelihood that workplaces will have safety committees or health and safety representatives, as well as the capacity of workers to raise occupational safety and health concerns (Quinlan, 2015).

41. In some countries such as Brazil (Benach and Muntaner, 2013), efforts have been made at the regional or national level to organize informal workers and to campaign for regulatory protections such as access to compensation for injuries or to initiate more comprehensive occupational health care systems. Within the past ten years, all Member States of the European Union (EU) have introduced measures to combat undeclared work.

Normalization of violence

42. The expression "normalization of violence" is used to refer to situations in which violence occurs so frequently that it comes to be seen as a normal, or unquestioned, part of daily work, such as passengers verbally abusing bus drivers or customers sexually harassing waitresses. This has been observed in various sectors including health care, education, protective services and hospitality (Baby et al., 2014; Hillis, 2013; Matulewicz, 2015; Rasmussen, et al., 2013). In some professions, such as the police force, workers are often expected to internalize their emotions so as not to be perceived as weak; this makes them less likely to report bullying (Hillis, 2013). Moreover, in non-profit work, workers can be expected to be

[8] No official definition of undeclared work exists. The European Commission characterizes undeclared work as "any paid activities that are lawful as regards their nature but not declared to public authorities …" (COM(2007) 628 final, pp. 2-3). Undeclared work takes a variety of forms, ranging from that in a formal enterprise to clandestine work done by own-account workers. According to the European Commission, "undeclared work tends to be associated with poor working conditions for individuals and subsequent risks to workers' health".

so committed to their work that they are more willing to accept workplace violence as normal (Baines and Cunningham, 2011).

Psychosocial hazards

43. Article 32(1) of the Belgian Well-being of Workers Act of 4 August 1996 defines psychosocial risks at work as "the probability that one or more workers suffer psychological harm due to exposure to elements of the content, organization, or conditions of work, which may also be accompanied by physical harm, as a result of some aspects of the content or organization of the work, working or living conditions, or interpersonal relationships at work, over which the employer has an influence and which objectively constitute a risk." As such, these risks may stem "from economic insecurity, planned restructuring policies, task complexity, worker autonomy, lack or excess of work, rhythm of work, time allocation at work, and remuneration, among other factors" (van der Plancke, in press).

44. Psychosocial hazards for violence at work, particularly bullying and harassment, are linked to poor environmental and organizational structures at the workplace, and deficiencies in work organization and negative leadership behaviour can be considered hazards (Milczarek, 2010, pages 65–66). Bullying can stem from problems in work design (such as role conflicts); incompetent management and leadership; a socially exposed position [9] of the person subject to violence; a negative or hostile social climate and a culture that permits or rewards harassment (Milczarek, 2010, page 11). "[I]nsufficient staff, (…) lack of decision-making autonomy and inadequate relational care" are also risk factors (Banerjee et al., 2012). Studies conducted in Norway and Finland found statistical relationships between role conflict, low satisfaction with leadership, poor information flow and the prevalence of bullying (Vartia, 1996; Einarsen et al., 1994).

45. The ILO has identified work-related stress – the "harmful physical and emotional response caused by an imbalance between the perceived demands and the perceived resources and abilities of individuals to cope with those demands" – as a psychosocial hazard for violence in the world of work (ILO, 2016b, page 2). Data from Europe supports this observation (Eurofound, 2015, page 26).

Prevalence and trends of violence in the world of work

46. It is difficult to determine with certainty the trends regarding violence in the world of work. There is a dearth of statistics on work-related violence, particularly in developing countries. Furthermore, comparability of data is problematic because different concepts, definitions and methods are used to measure work-related violence and because statistics are often collected for a specific occupation, industry or group of victims (ILO, 2013a, page 44). Under-reporting is also a problem, due to fear of talking about the topic, the lack of reporting and monitoring systems in many countries and the normalization of violence (Milczarek, 2010; van de Griend and Messias, 2014).

[9] "Someone who could be considered 'socially exposed' might be someone others think of as 'different,' someone who is isolated in the system, someone considered a threat in some way, or someone who does not conform to the norms and mores of the organization." (Walser deLara, 2016, p. 13).

47. Nevertheless, a number of studies and surveys have been conducted in different countries that shed light on who experiences violence in the world of work, what kinds of violence they experience and where and with which frequency it occurs (ILO, 2013a, page 44).

Physical violence

48. Physical violence is frequently reported in occupations where workers deal directly with the public, such as education, health care, social work, public administration, accommodation and food services. In Quebec, Canada during the period 2007–08, exposure to physical violence across a broad sample of 69,000 workers from a range of economic sectors was recorded as 1.9 per cent. However, in the previous 12 months, 5 per cent of workers in the public sector reported having been physically assaulted, with health care and education sectors reporting the highest prevalence (Vézina et al., 2011). A 2012 study in Germany found that 56 per cent of health-care and welfare staff experienced physical violence (Schablon et al., 2012).

49. European research (Eurofound, 2015) has found that physical violence affects more men than women. The Argentine Advisory Office on Workplace Violence (OAVL) found similar results, reporting that, out of 450 cases of work-related violence received during the period 2006–08, 9 per cent of women workers and 11 per cent of men workers experienced some form of physical violence (Ministry of Labour (Argentina), n.d.). However, further comparative research needs to be done.

Psychological violence

50. Psychological violence is currently the most widely reported form of workplace violence in Europe, followed by sexual harassment and physical violence (Eurofound, 2015, page 16). In Belgium, between 2000 and 2010, studies found that some 10 to 15 per cent of workers reported that they had been harassed (van der Plancke, in press). In France in 2005, 8 per cent of women and 7 per cent of men reported that they had experienced moral harassment at work (Lerouge, 2010, pages 109–110).

51. In Japan, 625,572 labour dispute cases were brought before court counsellors from April 2002 to March 2003, of which 32,000 cases were related to harassment and bullying (Chappell and Di Martino 2006, page 13). Also in Japan, in a representative survey of 4,580 enterprises in 2012, 45.2 per cent of workers reported "power harassment" (another term for psychological harassment) (Lerouge and Naito, 2016). In the case of Chile, psychological violence was reported to have risen from an average of 3.5 per cent during the 1980s to 7 per cent in 1999 (Government of Chile, 2003, pages 98–99).

52. In Rwanda, during the period 2007–08, verbal abuse was the most widely reported form of workplace violence, involving 27 per cent of all those who experienced workplace violence, followed by bullying (16 per cent) and sexual harassment (7 per cent), while physical violence was the least prevalent (4 per cent) (Newman et al., 2011). In a study of workers in services sectors in Buenos Aires, the most predominant form of violence was psychological (Wlosko et al., 2014).

53. In Australia, one source estimates the prevalence of bullying at work to be between 22 and 33 per cent (Parliament of the Commonwealth of Australia, 2012, page 9). The same report notes violent "initiation ceremonies" in some sectors and cites the case of a 16-year-old apprentice who was wrapped in cling film and had sawdust forced into his mouth (pages 4–5). It also highlights the case of a 19-year-old waitress, who committed suicide after having experienced mobbing and physical violence. It has been estimated that 10–15 per cent of suicides in Sweden each year are a result of mobbing (Leymann, 1990).

54. Bullying through electronic technology (cyberbullying) is a new expression of psychological, and sometimes sexual, violence. This can include sending offensive or threatening emails, posting sexually explicit information and spreading rumours on social networking sites. The results of a study of employees from selected universities in the United Kingdom indicate that "[c]yberbullying through e-mail, text and web posts is as common in the workplace as conventional bullying" (University of Sheffield, 2012). In that same study, 14–20 per cent of respondents reported experiencing this form of bullying at least once a week. Another study from Germany in 2007, notes that 8 per cent of unionized teachers reported experiencing cyberbullying (Eurofound, 2015, page 59).

Sexual violence

55. Sexual violence is a prominent aspect of workers' lives – particularly women workers – around the world. In a South African study, 77 per cent of women reported experiencing sexual harassment at some point during their working lives (International Trade Union Confederation (ITUC), 2008). An unpublished study by the Global Horticultural Workers and Environmental Rights Network in Ethiopia reported that over 85 per cent of women experienced some form of sexual harassment (Jacobs et al., 2015, page 401). According to a review of studies on sexual harassment, in the EU "approximately one out of every two to three women, and one out of every ten men has experienced some form of sexual harassment or sexually unwanted behaviour" (European Commission, 1999, page 14).

56. A study reporting on the frequency with which women workers in Lebanon experience different kinds of sexual harassment asked women workers to respond to the question, "When you are at work, how often would you say that men make unwelcome physical contact, noises, comments, or gestures toward you or other women?" Four per cent responded "Every/most days", 5 per cent "Once in a while" and 14 per cent "Rarely" (International Foundation for Electoral Systems and the Institute for Women's Policy Research, 2010, pages 2–3).

57. Cultural, structural and economic reasons underpin sexual violence. For example, sexual harassment has been found to be most common in factories where workers are paid by the piece and supervisors are paid a fixed salary (Truskinovsky et al., 2014, page 30). In Haiti, for example, factory workers with a daily production target are more likely to express concern about sexual harassment than their peers who do not have daily production targets to meet (page 31).

58. While sexual violence has been found to be prevalent in low-paid factory work and supply chains (Truskinovsky et al., 2014; Fair Wear Foundation et al., 2013; Larson, 2013), it is also pervasive in traditionally high-income, male-dominated occupations such as science, technology, engineering and mathematics (Holland and Cortina, 2016; Grinberg, 2015).

59. Low female representation in trade unions is another factor in rates of sexual harassment at work. A study from eight countries in Africa suggests that a lack of female representation in workers' groups can help explain why issues of equality between men and women are largely absent in collective bargaining initiatives relating to workplace violence (Shindondola-Mote and Kalusopa, 2011).

Impact of violence in the world of work and beyond

60. Violence has profoundly negative impacts on workers and on their families, co-workers and employers – all of which deeply affects the world of work and pulls at the fabric of society.

Impact on workers

61. A Eurofound (2013) survey found that, following physical violence, workers were three times more likely to experience depression and twice as likely to report stress. After being bullied or harassed, workers were four times more likely to experience depression, three times more likely to report problems sleeping and twice as likely to report stress. Additional impacts of bullying are listed in table 2.

Table 2. Impacts of bullying on workers

■ Post-traumatic stress disorders	■ Lowered self-esteem
■ Depression	■ Chronic fatigue
■ Irritability	■ Suicidal thoughts
■ Anxiety	■ Headaches
■ Feelings of nervousness, insecurity and victimization	■ Musculoskeletal complaints and muscular tension
■ Sleep disturbances	■ Nausea/upset stomach
■ Burnout	■ Social withdrawal

Source: Caponecchia and Wyatt, 2011.

62. The lack of paid leave or health care to treat the consequences of violence can result in stress, and lengthy legal action can add emotional and financial costs to already traumatized workers (Parliament of the Commonwealth of Australia, 2012, page 13). Compensation systems, such as unemployment and social security, vary widely and often cover only a portion, if any, of the costs (Milczarek, 2010, page 80), and are not available to all workers.

63. Violence can leave a worker feeling trapped by "a toxic working environment, difficult financial circumstances and not having options for alternative employment" (Parliament of the Commonwealth of Australia, 2012, page 6). The majority of psychologically and sexually harassed workers suffer from anxiety, depression, headaches, sleep disorders, weight loss or gain, nausea, lowered self-esteem and/or sexual dysfunction (Caponecchia and Wyatt, 2011). This "detract[s] from employees' job performance, discourage[s] employees from remaining on the job, or keep[s] them from advancing in their careers" (Cihon and Castagnera, 2011, page 177). For women pieceworkers or tipped-wage workers the impacts are magnified, because refusing to tolerate customer sexual harassment can jeopardize a woman's ability to earn tips to support herself and her family (Jayaraman, 2013). As such, sexual harassment at work "undermines the long-term earning capacity of women workers and contributes to the gender wage gap" (Equal Rights Advocates, 2014, page 7).

64. The gender wage gap is also exacerbated by the "spillover" of intimate partner violence into the world of work. It is estimated that women workers in Viet Nam who experience intimate partner violence earn 35 per cent less than those not experiencing such violence (UN-Women, 2012, page iv). Moreover, it was estimated in the United States, based on data from 1995, that targets of severe intimate partner violence lost "a total of nearly 8.0 million days of paid work – the equivalent of more than 32,000 full-time jobs – and nearly 5.6 million days of household productivity as a result of the violence" (National Center for Injury Prevention and Control, 2003, page 1).

65. Violence may ultimately result in workers leaving a particular workplace or the workforce altogether. In fact, several studies indicate that the impact most strongly associated with

bullying at work is an increase in the worker's inclination to leave work (Milczarek, 2010, page 80). An Italian study found that 16 per cent of workers resigned after being targeted for violence. The same study found that women were twice as likely to resign as men. [10] Moreover, research suggests that violence is a predictor for dropouts and risk of elevated staff turnover (Eurofound, 2015, page 36).

66. As table 3 shows, not only workers directly experiencing violence but also their co-workers, friends and family can be severely affected.

Table 3. Workplace violence and harassment impact extends beyond the workplace

Co-workers witnessing workplace violence can experience:	Friends and family members of those subjected to workplace violence can experience:
■ Fear for their own safety	■ Fear of future threats and injury to the worker
■ Decreased workplace morale	■ Loss of family income
■ Denial and self-blame	■ Change in relationship with the worker and other family members
■ Increased stress	■ Stress within the family
■ Powerlessness	■ Disruption in activities of daily living
■ Conflict among co-workers	
■ Resentment towards the company	

Source: EverSafe, 2015.

Impact on enterprises and economies

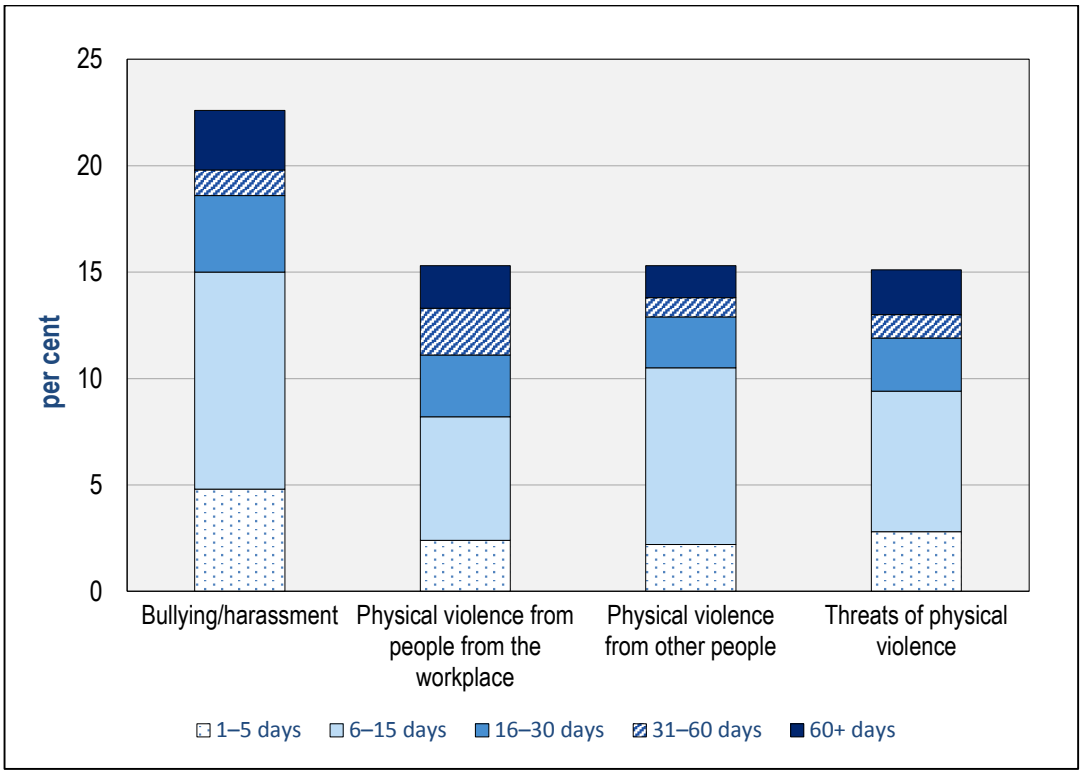
67. There are direct, financial costs to violence in the world of work, such as absenteeism, turnover, recruitment, litigation and compensation. There are also indirect costs of reduced productivity, and "knock on" effects which can harm the enterprise's reputation, image and competitiveness (Rayner et al., 2001).

68. Violence increases absenteeism and results in increased sick pay. Although compensation varies per company, enterprises will, at a minimum, incur administration expenses (Rayner et al., 2001). A study from the state of Minnesota in the United States demonstrates how costly even a small number of workplace violence incidents can be. For 344 non-fatal, work-related physical assaults, the total cost – including medical expenses, legal fees and lost workdays – were calculated at US$5,885,448 (McGovern et al., 2000).

69. It is estimated that in 2007 in the United Kingdom, "33.5million days were lost by UK organisations due to bullying related absenteeism, almost 200,000 employees would have left organisations and the equivalent of 100 million days productivity were lost as a result of bullying", which resulted in an estimated cost of around £13.75 billion (Giga et al., 2008, page 3). The figure below shows that, in Europe, more workers are absent from work because of bullying and harassment than because of physical violence committed from people from the workplace.

[10] Eurofound (2015, p. 36) draws on data from the Italian National Institute of Statistics (Istat, 2010).

Figure 1. Percentage of workers absent and number of absence days due to work-related health problems caused by violence



Source: Milczarek (2010), based on 2005 data from the Fourth European Working Conditions Survey. Countries surveyed are the EU27 (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom), plus Croatia, Norway, Switzerland and Turkey.

70. Several studies indicate that employee turnover due to violence entails even more significant costs than absenteeism, as it is expensive to recruit and train new workers (Rayner et al., 2001). For example, it was estimated that in 1988, sexual harassment cost the US Army over US$250 million with more than US$190 million of that in replacement (recruitment, training and transfer) costs (Faley et al., 1999, page 475).

71. If abused workers (or witnesses) remain in a company, their productivity is often compromised due to negative health effects, further increasing enterprise costs (Zapf et al., 2001; Einarsen et al., 2003; Giga et al., 2008, page 16; Parliament of the Commonwealth of Australia, 2012, page 11) Moreover, in the United States, for example, multimillion dollar lawsuits by workers alleging bullying and sexual harassment are becoming more common, adding to the overall costs of violence (Sattler and Otenti, 2015, page 5).

72. Data from the joint ILO/International Finance Corporation (IFC) Better Work Programme suggest that where sexual harassment is more prevalent, average business profits are negatively impacted. In garment factories in Jordan and Viet Nam, there was a strong negative correlation "between the average profits (total revenues less expenses) reported by managers and the average level of concern with sexual harassment reported in the workplace" (Brown et al., 2016).

73. There are reports of supervisors verbally abusing workers to punish them for missing production goals, in the belief this will increase profitability (Human Rights Watch, 2015). In addition to being a violation of workers' rights, the evidence available seems to challenge this assumption. For instance, in Viet Nam, garment factories with lower levels of verbal abuse have proven more profitable than those with higher levels (ILO, 2014a). This is

supported by studies from the health sector that link verbal abuse with reduced productivity for nurses (Judkins-Cohn, 2010).

Sectors and occupations with higher exposure to violence

74. Violence is present across the world of work, but some sectors and occupations report much higher, or unique, exposure to violence. Violence at work has been reported most extensively in services sectors [11] (Eurofound, 2015; Milczarek, 2010) and, for this reason, it is principally those sectors which are discussed below. However, this does not necessarily mean that other sectors do not experience comparable levels of violence. Rather, for reasons listed previously, including the normalization of violence, fear of reporting or dearth of statistics, there may be less data available.

75. As such, this section does not aim to cover all possible sectors or occupations affected by relatively higher levels of violence. Rather, it seeks to illustrate how certain working conditions and risk factors, including power imbalances, make violence more likely. Because violence comes from this convergence of factors, and not from occupations, it can occur in any sector, and, consequently, all sectors require protection.

Health-care sector

76. There are an estimated 71 million workers [12] in health occupations worldwide (Scheil-Adlung and Nove, in press, page 7). Health sector workers report some of the highest levels of violence (Jong et al., 2014). In the United States, rates of violence from clients against health-care workers were estimated at 16 times higher than any other service profession, with higher risks when working in non-institutional care settings (Campbell, 2014). In Rwanda, a 2007 study found that 39 per cent of health workers had experienced some form of workplace violence in the previous year (Newman et al., 2011). Previous country studies in health services showed similarly high prevalence rates; more than half of health workers surveyed had experienced at least one incident of physical or psychological violence in the previous year: "75.8 per cent in Bulgaria and 67.2 per cent in Australia; 61 per cent in South Africa; in Portugal 60 per cent in the Health Centre complex and 37 per cent in the hospital; 54 per cent in Thailand; 46.7 per cent in Brazil" (Di Martino, 2002, page 14). Psychological violence is reportedly more prevalent than physical violence, (Eurofound, 2014b), with bullying being the form of violence that most concerns nursing. Furthermore, "lateral" bullying between health-care workers is increasingly a focus of research (Kaminski and Sincox, 2012; Center for American Nurses, 2008).

[11] The services sectors include: commerce; education; financial and professional services; health services; hotels, catering and tourism; media and entertainment industries; postal and telecommunications services; public service; transport; and utilities (ILO, 2004).

[12] These include "workers in paid or self-employment in the public or private health sectors or in the broader health economy working as Health professionals, Health associate professionals and Personal care workers" (Scheil-Adlung and Nove, in press, p. 5). The ILO estimate is higher than the WHO estimate of 59 million workers in health-care facilities around the world because it uses different data sources and approaches. See WHO, http://www.who.int/occupational_health/topics/hcworkers/en/.

Public emergency services

77. In comparison with other occupations, public emergency service workers – police officers, medical staff and firefighters – are at high risk of experiencing violence. For example, policing is a "high-risk occupation where responding to violence often represents a routine hazard", and "frequent contact with members of the public and people in distress" can put police officers at additional risk (Chappell and Di Martino, 2006, pages 72–73). They can face serious psychological effects from job-related incidents such as death, serious injuries and life-threatening situations, which can generate considerable stress. Moreover, the "workplace" for emergency services can be nebulous; emergencies occur anywhere, emergency service workers are often in transit and there may be confusion over which workplace is liable when violence occurs at work. Furthermore, emergency service workers have high rates of post-traumatic stress disorder (PTSD), among other mental health disorders, especially after their rescue efforts fail to save lives. As PTSD is a classified disease on the ILO List of Occupational Diseases, employers have an obligation to protect and provide services to workers who are exposed to or experience it (ILO, 2010).

Education sector

78. There are an estimated 71 million public teachers in the world, from preschool through secondary education. [13] Several organizational factors make this sector uniquely vulnerable to violence, mainly affecting administrators and teachers (who are mostly women at this level) (Kelleher et al., 2011). The sector is characterized by intense interpersonal relations and lack of autonomy, in addition to demands for accountability about academic performance (ILO, n.d.a). In Canada in 2011, 80 per cent of teachers reported encountering violence at least once in their career (Wilson et al., 2011). Studies on primary and secondary teachers in Turkey and the Republic of Korea found that the most prevalent form of workplace violence (students targeting teachers) was psychological (49 per cent in Turkey and 67 per cent in the Republic of Korea) (Moon et al., 2015; Ozdemir, 2012). However, research at the university level in the United States suggests that "faculty concern about workplace harassment was more likely to be associated with colleagues (especially senior colleagues) and superiors much more frequently than with students" (Keashly and Neuman, 2010, page 50). Studies indicate that sexual harassment at the university level is reported more frequently by women faculty and staff than by men (Rayner et al., 2002).

Transport services

79. The size of the global transportation workforce is difficult to estimate. The European region employs an estimated 10.6 million people in the transport industry directly (Eurostat, 2015). Estimates for the international maritime industry are 1.5 million people, and for the airline industry 9.9 million people (Air Transport Action Group, 2016; ILO, 2013d; ILO, n.d.b). According to the International Transport Workers' Federation (ITF), bus and taxi drivers are more likely to experience violence than other groups within this sector and railway workers "report increased violence as employers reduce staffing levels" (ITF, n.d.a). While violence by passengers is a concern, the Federation of Transport Trade Unions in Bulgaria reported that almost half of all workplace violence experienced by women transportation workers was perpetrated by managers (16.3 per cent) or colleagues (33.3 per cent) (ITF, n.d.b, page 11). In maritime transport, there are "several recurrent psychosocial risk factors to which seafarers are exposed relating to workloads, stress, work–family balance, addictions,

[13] United Nations Educational Scientific and Cultural Organization (UNESCO) estimates for 2013. Institute for Statistics, Teachers by teaching level of education, accessed at: http://data.uis.unesco.org/Index.aspx?DataSetCode=EDULIT_DS&popupcustomise=true&lang=en.

violence and bullying" (Charbonneau, 2016). Bullying and harassment may be exacerbated by the fact that workers cannot leave their workplace at the end of their shift, or may be denied leaving the ship, because identity documents/visas are not recognized in a given port. One survey found that 43 per cent of respondents, who worked on either cruise ships or cargo ships/tankers, ranked stress/depression/anxiety as their top health challenges. Moreover, 17 per cent of respondents in the maritime industry noted that sexual harassment was an issue, but bullying was reportedly more prevalent than sexual harassment (ITF, 2015).

Domestic work

80. The ILO estimates that there are 67 million domestic workers [14] over the age of 15 worldwide, 80 per cent of whom are women (ILO, 2015e, page 6). Domestic workers are often excluded from the legal coverage of labour laws and social security regimes, as domestic work is not regarded as work. However, when they are protected by labour law, they may not benefit from it in practice as they often work informally (ILO, 2013f, page 43). Violence in this sector is ubiquitous. Isolation in private homes makes these workers more vulnerable to violence and makes it easier for perpetrators to act with impunity. A study found that live-in domestic workers in Brazil, especially those younger and less educated, were at higher risk of sexual assault than their counterparts who resided in their own homes (DeSouza and Cerqueira, 2009). The estimated 11.5 million international migrant domestic workers are particularly vulnerable to violence (ILO, 2015e, page xiii). Migrant domestic workers are subject to violence throughout the migration cycle, which includes recruitment in the worker's home country and transit to the country of destination. Migrant domestic workers often enter the country of destination through sponsorship programmes, where they are fully dependent on their employer, to whom their visas are tied, further deepening the power imbalance and making it less likely that they report violence.

Agriculture and the rural economy

81. Today, approximately 46 per cent of the world's population and 40 per cent of the global working age population live in rural areas; a significant number depend on agriculture for their livelihood (ILO, in preparation b). The agricultural sector is one of the largest sources of employment for women in developing countries, where they "comprise, on average, 43 per cent of the agricultural labour force … ranging from 20 per cent in Latin America to 50 per cent in Eastern Asia and sub-Saharan Africa" (Food and Agriculture Organization, 2011, page 5). Agricultural workers and, in particular, migrant workers and women, are vulnerable to discrimination and psychological and sexual harassment. [15] In a study of 400 women employed in commercial agriculture in Kenya, 90 per cent had experienced or observed sexual abuse at their workplace (International Labour Rights Forum, 2002). The situation is compounded by limited labour law coverage and poor labour inspection services, if any.áá

[14] According to the Domestic Workers Convention, 2011 (No. 189), Article 1(a), "'domestic work' means work performed in or for a household or households".

[15] See the ILO's *Code of practice on safety and health in agriculture* (2011b), which has an extensive section on addressing violence in agriculture.

Textiles, clothing, leather and footwear

82. Tens of millions of workers in the developing world work in the garment sector (ILO, 2014b, page 9). "The world's clothes are produced in conditions that are often substandard, where workers may not have a good understanding of their rights" (ILO, n.d.c). Young women with relatively low skills comprise a high share of employees in this industry, which is often one of the few accepted forms of formal wage employment for women in many developing countries. "Women represent on average 68 per cent of the workforce in the clothing industry, 45 per cent in textiles, and 46 per cent in the leather and footwear industries, and in some countries, women can constitute as much as 90 per cent of the employees in these industries" (page 12). A study of a textile factory in Mexico highlighted organizational conditions that facilitated violence, such as prohibiting workers from speaking with colleagues, setting unrealistic workloads, spreading rumours and pressuring them illegally to speed up production (Garcia-Rivera et al., 2014).

Groups of workers with higher exposure to violence

83. Potentially, everyone can experience violence in the world of work. However, perpetrators target some groups more frequently because of perceived (or actual) differences in gender, ethnicity, sexual orientation or ability (Tripathi and Singh, 2016), using such perceived differences as a justification for violence. As a result, some members of these groups experience greater violence than the general population, not because they are inherently different but because they lack social power.

84. As with the previous discussion of sectors affected by violence, the following list of groups is not exhaustive. However, it illustrates the complex interplay of perceived differences and power relations that can lead to greater vulnerability to violence in the world of work.

Pregnant women workers and working parents

85. Some forms of violence in the world of work affect women uniquely, such as "maternity harassment" [16] or "maternal mobbing" which is widespread around the world (ILO, 2016c). Evidence shows that pregnant workers, as well as women and men returning from maternity or parental leave, can experience harassment and bullying by co-workers, subordinates or superiors. Requests for breastfeeding breaks or other family-friendly working arrangements can also result in harassment. This can include humiliating treatment, emotional abuse, removal of adequate office space, demotion or pay decrease, relocation of the place of employment and other pressures aimed at isolating workers and forcing them to quit (Giunti, 2015; Addati et al., 2014; Masselot et al., 2012). For example, a 2015 study in the United Kingdom found that one in five mothers experienced harassment as a result of their pregnancy or of their flexible working requests being approved (Equality and Human Rights Commission, 2015).

[16] Maternity harassment is "the practice of harassing a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth, or a worker because of family responsibilities" (ILO, 2016c, p. 57).

Young women and men

86. Young workers are particularly exposed to workplace violence because of their oftentimes subordinate positions (Quinlan, 2012). Studies among teachers in Croatia and doctors in training in Slovenia show that young workers are more vulnerable to harassment and "are probably harassed by their older colleagues" (Eurofound, 2015, page 21). One study on workers in the German health and welfare system showed similar results (Schablon et al., 2012). Young women workers can be particularly exposed to sexual violence at work, especially those beginning their professional careers (Canadian Labour Congress, 2015).

Persons with disabilities

87. Worldwide, there are an estimated 785–975 million people aged 15 years and over with disabilities, a potentially large labour pool (WHO, 2011). However, "[d]ata from several countries show that employment rates for people with disabilities are below that of the overall population … with the employment ratio varying from lows of 30% in South Africa and 38% in Japan to highs of 81% in Switzerland and 92% in Malawi" (page 237). Although less represented in the labour market, data from the British Workplace Behaviour Survey, 2007–08 in the United Kingdom suggest that "those respondents with a disability were significantly more likely to report violence at work: 21 per cent with a learning difficulty or psychological problem, 9 per cent of those with a physical disability (e.g. deaf, blind) and 8 per cent of those with 'any other' disability experienced violence compared to 5 per cent of those without disabilities" (Jones et al., 2011). Also reported in the United Kingdom, disabled persons and persons with long-term illnesses are "over twice as likely as other employees to report experiencing discrimination, bullying or harassment in the workplace" (Equality and Human Rights Commission, 2011, page 86). Systematic acts of physical, psychological and sexual violence committed against persons with disabilities in hospitals or psychiatric institutions are reported in all regions of the world (Human Rights Watch, 2016; Disability Rights International – Guatemala, 2015; Office of the United Nations High Commissioner for Human Rights, 2013; WHO, 2011). This is a world of work issue, as the perpetrators in these institutional settings are often those working there.

Migrant workers

88. According to recent ILO estimates, there are over 150 million migrant workers in the world of whom 83 million are men and 66 million are women (ILO, 2015c, page iii). Migrant workers, particularly those in an irregular situation, are vulnerable to violence in the world of work. Usually without avenues to pursue formal employment, they are pushed to find highly insecure work in the informal economy (United Nations Office on Drugs and Crime, 2015), where exploitative work conditions, coercion and exploitation are more common. Racism, discrimination and xenophobia in host countries increases the risk of violence (Husn et al., 2015). Violence can occur at all stages of the migration cycle, with studies showing that recruiters, agents and employers can be sources of, and contributors to, violence. A recent study by the International Organization for Migration found that 73 per cent of migrant workers in the Middle East and North Africa had experienced psychological violence, and a further 61 per cent had experienced physical abuse. All respondents in the study reported having had their identity documents withheld and 87 per cent that they had been confined to their place of employment (Husn et al., 2015). If migrant workers seek help or leave their employer because of work-related violence, they face possible arrest or deportation.

Indigenous peoples

89. Spread over 90 countries, there are approximately 370 million members of indigenous peoples, making up about 5 per cent of the world's population (Sustainable Development Knowledge Platform, 2016). Traditionally, indigenous peoples worked – and many continue to work – in occupations relying on land or other natural resources (Dhir, 2015). As such, violence related to control over land and natural resources can severely affect the exercise of their occupations and livelihood activities, as has been reported in the context of oil and gas extraction on traditional lands (Organisation for Economic Co-operation and Development, 2002). Bullying has been observed to have a "disproportionate effect" on Aboriginal and Torres Strait Islander health workers in Australia, leading to higher levels of absenteeism and burnout (Australian Human Rights Commission, 2011). In the United States during the period 2002–11 there was a "higher rate of workplace violence" against American Indian and Alaska Natives in private sector and government employment "than whites, blacks, Hispanics and Asians" in similar employment (United States Department of Justice, 2013, page 6) Furthermore, historical oppression can manifest itself as "lateral violence" by indigenous peoples against other indigenous peoples, "created by experiences of powerlessness, and is an end product of … oppressive and discriminatory policies and laws" (National Congress of Australia's First Peoples, 2012).

Lesbian, gay, bisexual, trans and intersex persons

90. The number of lesbian, gay, bisexual, trans and intersex (LGBTI) persons is difficult to estimate (Bozon et al., 2009; Gates, 2011; Guasp, 2013; Spiegelhalter, 2015). [17] In the United States, it has been estimated that the number of gay and lesbian workers is between 3 and 12 per cent of the workforce (Day and Greene, 2008, page 639). Although LGBTI workers are a minority, they report several times greater incidence of violence in the workplace: a survey in the United Kingdom found that whereas only 6.4 per cent of heterosexuals reported being bullied at work, 13.7 per cent of gay men, 16.9 per cent of lesbians and 19.2 per cent of bisexuals were bullied (Hoel et al., 2014, page 11). Drawing on data from Argentina, Costa Rica, France, Hungary, India, Indonesia, Montenegro, South Africa and Thailand, it has been observed that "LGBT persons frequently experience discrimination and harassment in education, which hampers employment prospects. Discrimination continues in access to employment and throughout the employment cycle, and can, in extreme cases, result in LGBT workers being bullied, mobbed, and sexually or physically assaulted" (ILO, 2015d, page 1). This can result in increased rates of anxiety (Pakula, 2016), stress (Meyer, 2003), self-harm and suicide (Liu and Mustanski, 2012).

People living with HIV

91. There are an estimated 35 million people living with the human immunodeficiency virus (HIV) worldwide, the virus that causes the acquired immunodeficiency syndrome (AIDS) (Joint United Nations Programme on HIV/AIDS (UNAIDS), 2015). Violence against people living with HIV is widespread in employment, education and health care and ranges from beatings to sexual assault and murder. There is an established link between violence and HIV transmission, illustrating a complex interplay of abusive power relations, dangerous gender norms and negative stereotypes against the LGBTI community. In Cambodia, poor working conditions and sexual harassment in the formal economy may push young women workers to pursue sex work, which can increase their vulnerability to HIV (ILO, 2011a).

[17] "LGBTI is an abbreviation that covers lesbian, gay, bisexual, transsexual, transgender, transvestite, and intersex people" (UNAIDS, 2011a, p. 27). The abbreviation LGBTQI also includes people who identify as queer.

Data from Argentina suggest that barriers to obtaining formal work may force people living with HIV, especially trans women, to sell sex as a survival strategy (ILO, 2014c). Because of violence, some women in sex work may not be able to negotiate condom use (Zhang et al., 2012, page 1021). According to a comprehensive study In the Asia and the Pacific region, many people living with HIV "had been refused promotion or the nature of their work had changed: ranging from 8% (Cambodia and Fiji) to 52% (Pakistan)" (UNAIDS, 2011b, page 37).

International and regional responses to violence in the world of work

International labour standards

92. The ILO Conventions and Recommendations on forced labour and child labour directly address illegal forms of work which amount to violence. Some other instruments address certain forms of violence, or violence against certain groups of workers. The terms "violence", "harassment" and "sexual harassment" are explicitly mentioned in only a few instruments related to specific occupations or groups. Occupational safety and health instruments, while not explicitly mentioning violence, require certain measures to protect both the physical and mental health of workers. These instruments have been an important entry point to address violence in the world of work, albeit in a fragmented manner, and there remain gaps with respect to certain occupations and groups of workers.

93. While this report does not focus on forms of work amounting to violence that are specifically and clearly addressed in existing standards, this section of the report sets out the full range of instruments under which violence is, or could be, addressed.

Addressing violence under ILO instruments

Forced labour

94. Article 2(1) of the Forced Labour Convention, 1930 (No. 29) defines forced or compulsory labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". The use of violence is a means of compelling a worker to work, and is a clear indicator of a situation amounting to forced labour within the meaning of the Convention.

Child labour

95. The child labour Conventions do not expressly refer to protection against violence. However, hazardous work, as defined under Article 3(1) of the Minimum Age Convention, 1973 (No. 138) and Article 3(d) of the Worst Forms of Child Labour Convention, 1999 (No. 182) relates to work that can damage a child's physical and psychological health and can be construed as being broad enough to encompass acts of violence. Under Convention No. 182, the use of children in armed conflict (Article 3(a)) and for illicit activities (Article 3(c)) also exposes children to physical, psychological and sexual abuse. Paragraph 3 of the accompanying Worst Forms of Child Labour Recommendation, 1999 (No. 190) provides that in determining the types of work referred to under Article 3(d) of the Convention, and in identifying where they exist, consideration should be given, inter alia, to work which exposes children to physical, psychological or sexual abuse.

Discrimination

96. Under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), ratifying States undertake to declare and pursue a national equality policy with a view to eliminating any discrimination in employment and occupation, including sex discrimination. [18] Sexual harassment is considered a serious manifestation of sex discrimination to be addressed in the context of the Convention (ILO, 2012, paragraph 789). The Committee of Experts on the Application of Conventions and Recommendations (CEACR) urges governments to take effective measures to prevent and prohibit sexual harassment, including:

> (1) (*quid pro quo*): any physical, verbal or non-verbal conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men, which is unwelcome, unreasonable, and offensive to the recipient; and a person's rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person's job; or (2) (*hostile work environment*): conduct that creates an intimidating, hostile or humiliating working environment for the recipient. [19]

97. Harassment based on other grounds enumerated in Article 1(1)(a) could also be addressed within the context of the Convention, namely, race, colour, religion, political opinion, national extraction or social origin, or any additional grounds established pursuant to Article 1(1)(b).

Freedom of association

98. The prohibition of all forms of violence or threats affecting trade union activities has long been considered an essential element of freedom of association. While the Conventions relating to freedom of association and collective bargaining do not explicitly refer to violence in the world of work, the resolution of 1970 concerning trade union rights and their relation to civil liberties, adopted by the International Labour Conference at its 54th Session, as well as the comments of the supervisory bodies, stress the importance of the right to life, security and the physical and moral integrity of the person and of a climate free of violence for the exercise of trade union rights, with a broad understanding of "violence", including pressure or threats of any type.

99. Violence against trade unionists is examined under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), as civil liberties and trade union rights are considered an essential condition for the exercise of freedom of association. Article 1(1) of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) specifically states that "Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment." Such acts have been found to include anti-union harassment. [20]

Indigenous and tribal peoples

100. The first ILO instrument to refer explicitly to sexual harassment is the Indigenous and Tribal Peoples Convention, 1989 (No. 169). Article 20(3) provides that Governments should adopt measures to ensure that workers from indigenous peoples are not subject to working

[18] Article 2; Article 3(a).

[19] See CEACR, general observation, Convention No. 111, 2003, p. 463.

[20] See CEACR, Serbia, Convention No. 98, observation, 2010.

conditions hazardous to their health and that they enjoy protection against sexual harassment.

Workers living with HIV

101. The HIV and AIDS Recommendation, 2010 (No. 200) provides in Paragraph 14(c) that measures should be taken in or through the workplace to reduce the transmission of HIV and alleviate its impact by "ensuring actions to prevent and prohibit violence and harassment in the workplace".

Domestic workers

102. Article 5 of the Domestic Workers Convention, 2011 (No. 189) requires measures to be taken to ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence. Paragraph 7 of the Domestic Workers Recommendation, 2011 (No. 201) provides that "[m]embers should consider establishing mechanisms to protect domestic workers from abuse, harassment and violence" including accessible complaint mechanisms to report cases; ensuring that all complaints are investigated and prosecuted, as appropriate; and establishing programmes for the relocation and rehabilitation of domestic workers, including the provision of temporary accommodation and health care. Paragraph 21(a) calls on members to consider establishing a hotline for migrant domestic workers and raising employers' awareness of their obligations by providing information on good practices.

Seafarers

103. Concerning seafarers, the text of the Maritime Labour Convention, 2006 (MLC, 2006) has been amended to refer specifically to "harassment and bullying". The amendments, adopted in June 2016, reflect a proposal made by the group of Seafarers at the Special Tripartite Committee in February 2016. The amendments included Guideline B4.3.1 relating to health and safety protection and accident prevention, which states that the competent authority should ensure that the implications for health and safety are taken into account in the area of harassment and bullying. The amendments also included Guideline B4.3.6 on investigations, which provides that consideration should be given to including "problems arising from harassment and bullying" as a subject of investigation.

Transition to the formal economy

104. The Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) calls for an integrated policy framework that addresses the elimination of all forms of discrimination and violence, including gender-based violence at the workplace. [21] The Recommendation also calls on member States to take "immediate measures to address the unsafe and unhealthy working conditions that often characterize work in the informal economy; and promote and extend occupational safety and health protection to employers and workers in the informal economy." [22]

Occupational safety and health

105. Several ILO occupational safety and health instruments, while not mentioning violence explicitly, provide some elements for addressing violence in the world of work. Under the Promotional Framework for Occupational Safety and Health Recommendation, 2006

[21] Paras 10 and 11(f).

[22] Para. 17(a) and (b).

(No. 197) which accompanies the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) a number of provisions pertain to measures to promote health and safety generally. Some instruments refer to both physical and mental health. For example:

– According to Article 3(e) of the Occupational Safety and Health Convention, 1981 (No. 155), the term "health", in relation to work, includes the physical and mental elements affecting health which are directly related to safety and hygiene at work. Under Articles 4 and 5, States parties are required to put in place a national occupational safety and health policy which includes training, protection from reprisals for complaints and the adaptation of working time and work organization to the physical and mental capacity of the worker. Under Article 13, a worker may remove him/herself from a work situation which the worker has a reasonable justification to believe presents an imminent and serious danger to his/her life or health.

  Under the Convention, the situation concerning workers who face violent clients where the workers' supervisors had ordered them to press ahead and carry out their duties has been examined, as well as regarding burnout and high levels of stress in the public sector. [23] The campaign of the Government of the Republic of Korea to address emerging occupational risks related to psychological factors and work-related stress was also recently acknowledged. [24] Paragraph 3(e) of the Occupational Safety and Health Recommendation, 1981 (No. 164) provides that measures should be taken in pursuance of the national policy on occupational safety, occupational health and the working environment for the "prevention of harmful physical or mental stress due to conditions of work".

– The ILO list of occupational diseases based on the List of Occupational Diseases Recommendation, 2002 (No. 194) was updated in 2010 and now covers mental and behavioural disorders, including PTSD, given that a direct link has been established between the exposure to risk factors at the workplace and mental disorders (ILO, 2010).

– The Occupational Health Services Convention, 1985 (No. 161) calls in Article 1(a)(i) for the establishment and maintenance of a safe and healthy working environment which will facilitate optimal physical and mental health in relation to work. It also calls in Article 5 for the identification and assessment of the risks from health hazards in the workplace; surveillance of the factors in the working environment and working practices which may affect workers' health; and advice on planning and organization of work, including the design of workplaces.

Working time

106. Some provisions of the Night Work Convention, 1990 (No. 171) are aimed at protecting the health, safety and well-being of night workers in view of the specific conditions of their work and their special needs. In this regard, Article 9 provides for appropriate social services for night workers. Under the Convention, "social services" refers to a broad range of measures, examples of which are included in Paragraphs 13–18 of the Night Work Recommendation, 1990 (No. 178), such as collective transport arrangements and suitably equipped resting facilities. Paragraph 12 provides that the employer should take the necessary measures to maintain during night work the same level of protection against

[23] See CEACR, Finland, Convention No. 155, observation 2010.

[24] See CEACR, Republic of Korea, Convention No. 155, direct request, 2014. See also: Sweden, Convention No. 155, observation, 2014.

occupational hazards as by day, in particular avoiding, as far as possible, the isolation of workers.

Social security

107. The ILO social security instruments provide for medical care in case of any morbid condition, whatever its cause, as well as for periodical payments in case of loss of earning capacity in case of sickness. The main ILO standards on employment injury benefits are: Part VI of the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Employment Injury Benefits Convention, 1964 [Schedule I, as amended in 1980] (No. 121), the Employment Injury Benefits Recommendation, 1964 (No. 121) and Recommendation, No. 194.

108. Both Part VI of Convention No. 102 and Convention No. 121 provide for benefits for the consequences of occupational accidents and diseases. Article 32 of Convention No. 102, in combination with Article 1(1)(a), provides for an open definition of occupational accidents. Article 8(a) of Convention No. 121 requires ratifying States to prescribe a list of occupational diseases, comprising at least those enumerated in Schedule I thereto. This schedule, as amended in 1980, however, does not include any diseases that could be caused by violence at work and the CEACR has not yet addressed any diseases caused by violence.

Scope and application under ILO instruments

109. Through several of the above instruments, the notion of the "workplace" goes beyond the physical place where work is done. Convention No. 155, for example, in Article 11 requires member States to hold inquiries and collect and publish information on occupational accidents, diseases and other injuries to health which arise in the course of or in connection with work. Additionally, the Protocol of 2002 to Convention No. 155, Article 1, specifies that the term "occupational accident" covers an occurrence arising not only in the course of work, but "arising out of" work. The Protocol also calls for a number of measures to be taken relating to "commuting accidents", defined as an accident resulting in death or personal injury occurring on the direct way between the place of work and the worker's home, the place where the worker takes meals or where the worker receives remuneration. The definition proposed for "industrial accidents" in Paragraph 5(a) of Recommendation No. 121 covers any accidents "regardless of their cause, sustained during working hours", at "any place where the worker would not have been except for his employment". Paragraphs 5(b) and (c) call for the inclusion of commuting accidents that occur while the worker prepares for work and on the way to and from work.

110. The scope of persons covered is broad under a number of instruments. For example, Convention No. 111, provides for a wide personal scope of application by defining 'discrimination in employment and occupation' without listing who can be a perpetrator or victim. Convention No. 111 also clarifies that 'employment and occupation' includes access to employment and vocational training, as well as to particular occupations. Traditional occupations pursued by indigenous peoples, such as subsistence farming, handicraft production or hunting, are also "occupations" within the meaning of Convention No. 111 (ILO, 2012, paragraph 752). The scope of protection of the Protocol of 2014 to the Forced Labour Convention, 1930, similarly does not limit the scope of the instrument to employee-victims, instead applying to 'all victims'. Under Recommendation No. 200, harassment should be prohibited and prevented "in the 'workplace', leaving open who can be possible perpetrators and victims. The general scope of Recommendation No. 200 covers all workers working under all forms or arrangements, and at all workplaces, including persons in any employment or occupation; those in training, including interns and apprentices; volunteers; jobseekers and job applicants; and laid-off and suspended workers. The Recommendation

also covers all sectors of economic activity, including the private and public sectors and the formal and informal economies.

United Nations initiatives

111. A number of United Nations (UN) initiatives focus on youth, families, domestic violence and protecting women against sexual abuse, although they rarely address the issue of violence from a world of work perspective. One notable exception is the work of the WHO, which specifically addresses multiple forms of violence at work including sexual harassment, threats, assault and bullying (Krug, 2002, pages 18–19). In addition, under the Convention on the Elimination of All Forms of Discrimination against Women, violence in the world of work is considered in the context of the provision on the elimination of discrimination. [25]

112. The mandate of the UN Special Rapporteur on violence against women, its causes and consequences, was created following the adoption in 1993 by the UN General Assembly of the Declaration on the Elimination of Violence against Women (A/RES/48/104). Article 2 of the declaration provides that the concept of violence encompasses "sexual harassment and intimidation at work" as well as "physical, sexual and psychological violence occurring in the family". The Special Rapporteur is mandated to collect information, including individual complaints, on violence against women and to recommend measures to eliminate it. The agreed conclusions of the 2013 UN Commission on the Status of Women on the elimination and prevention of all forms of violence against women and girls refer to the need to respond to, prevent and eliminate all forms of discrimination and violence, including sexual harassment at the workplace. [26]

113. In June 2016, the UN Human Rights Council voted to appoint an Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (A/HRC/32/L.2/Rev.1). Violence and discrimination against LGBT people are at the core of the Expert's mandate, who will be in charge of raising awareness and of identifying and addressing the causes of these issues, as well as of supporting national efforts to combat them. The resolution appointing an Independent Expert calls on the private sector, among others, to cooperate with the Expert in the fulfilment of his/her mandate.

114. With a view to raising public awareness and increasing political will to prevent and eliminate all forms of violence against women, the UN Secretary-General launched the campaign *UNiTE to End Violence against Women* in 2008. UNiTE identifies violence against women as a human rights violation that can take various forms, including intimate partner violence, discrimination and sexual harassment.

Regional regulations

115. A range of enforceable regional regulations on violence in the world of work exist within Europe. The vast majority of the 47 member States of the Council of Europe have ratified

[25] In its general comment on Article 11 of General Recommendation No. 19 (11th Session, 1992), the Committee on the Elimination of Discrimination against Women recognizes that sexual harassment in the workplace is a form of gender-specific violence which can seriously impair equality in employment and can constitute a health and safety problem.

[26] UN Commission on the Status of Women, Agreed conclusions on the elimination and prevention of all forms of violence against women and girls, E/2013/27-E/CN.6/2013/11 (2013).

the Revised European Social Charter of 1996 monitored by the European Committee of Social Rights. The States parties to the Charter, in consultation with employers' and workers' representatives, undertake to promote awareness, information and prevention of sexual harassment and moral harassment in the workplace. [27] Within the EU, occupational safety and health and equality directives tackle violence at work from both a prevention and prohibition perspective. For example, Directive 89/391/EEC requires employers to ensure the health and safety of workers at work, which, according to the European Agency for Safety and Health at Work (EU-OSHA), includes protection against external violence and bullying (EU-OSHA, 2002). EU equal treatment Directives 2000/43/EC [28] and 2000/78/EC [29] prohibit harassment based on the grounds of racial or ethnic origin, religion, belief, disability, age or sexual orientation, as a form of discrimination in employment and occupation. Similarly, Directive 2006/54/EC [30] prohibits both harassment and sexual harassment as forms of discrimination, both in the form of hostile work environment and of quid pro quo.

116. In the Americas, 32 out of 35 States of the Organization of American States have ratified the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women. The Convention, which has influenced a number of laws in the region, [31] requires member states to enact domestic laws and other measures to prevent, punish and eradicate violence (physical, sexual and psychological violence, as well as sexual harassment in the workplace) against women. It also requires the implementation of procedures to deal effectively with complaints in a timely manner and mandates states parties to gather statistics relating to the causes, consequences and frequency of violence against women.

117. In the African region, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, commonly known as the Maputo Protocol, was adopted by the African Union (currently with 36 ratifying Member States) in July 2003. Article 13(c) of the Protocol requires States parties to take measures to combat and punish sexual harassment in the workplace. From the 1997 Declaration on Gender and Development adopted by the Heads of State or Government of the Southern African Development Community came the 2008 Protocol on Gender and Development. Under Article 20 of the Protocol, the States parties agreed to enact and enforce legislation prohibiting all forms of gender-based violence by 2015. More specifically, Article 22 requires States parties to enact laws and implement policies, strategies and programmes prohibiting sexual harassment in all spheres, to provide deterrent sanctions for perpetrators and to ensure the equal representation of women and men in bodies competent to hear sexual harassment cases.

[27] Article 26 of the Revised European Social Charter.

[28] Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

[29] Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

[30] Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

[31] For example, Argentinian Law No. 26.485/2009 on the Comprehensive Protection to Prevent, Punish and Eradicate Violence against Women in Areas where They Develop Their Interpersonal Relationships; and Brazilian Federal Law No. 11.340/2006 (known as Maria da Penha Law).

Initiatives of international, regional and sectoral workers' and employers' organizations

118. International trade unions and employer federations have expressed high-level commitment to addressing violence at work, including psychosocial risks, work-related stress, burnout, organizational cultures, gender equality, discrimination, sexual violence, pregnancy, maternity and parental harassment.

119. The European social partners have adopted non-binding instruments that provide practical guidance on preventing and managing different forms of violence in the world of work, namely, the Framework agreement on work-related stress in 2004 and the European framework agreement on harassment and violence at work in 2007. [32] The European social partners were also among the 100 official campaign partners of the 2014–15 Healthy Workplaces Campaign promoted by EU-OSHA, *Healthy Workplaces Manage Stress*, to raise awareness of stress and psychosocial risks at the workplace. In addition, they provided practical tools and guidance on the positive aspects of psychosocial risks management. Moreover, in 2010, European social partners from various sectors including health care and education adopted guidelines to prevent third-party violence and harassment at work.

120. In 2014, the International Organisation of Employers (IOE) issued a policy brief which recognizes that employers have a duty to ensure a safe workplace for all their employees and that workplace violence is not only a human rights issue but also an economic one, as it impairs productivity, hampers job performance, and results in higher absenteeism, turnover and accidents. The brief states that verbal and physical abuse and harassment disproportionately affect women and that combating such conduct is in the employers' interest (IOE, 2014, page 6).

121. Significant action against domestic violence spillover has been taken by the European Trade Union Confederation (ETUC). One of the objectives of the ETUC Action Programme on Gender Equality is to address the link between domestic violence and workplace rights. Key actions set forth by ETUC with respect to this issue include sharing trade unions' practices on how to prevent and deal with domestic violence and developing strategies to handle workplace violence and harassment (ETUC/CES, 2012, page 11).

122. Specific initiatives have been undertaken by workers' and employers' organizations, jointly or separately, in sectors in which workers are exposed to specific forms of workplace violence, for example because of work in isolated locations, night work or contact with customers. For instance, the International Council of Nurses, Public Services International, the WHO and the ILO collaborated in the adoption of framework guidelines on workplace violence in the health sector (ILO et al., 2002, pages 3–5). A toolkit to prevent third-party violence in commerce was developed by the European social partners for commerce in 2009, with a view to developing a sectoral approach to the prevention of third-party violence (EuroCommerce, 2009).

123. Specific tools to combat workplace violence have also been developed for the transport sector. The European Transport Workers' Federation and the European Community Shipowners' Associations have agreed to develop a project to eliminate workplace harassment and bullying in the shipping sector. Protecting seafarers from harassment is also the focus of the Guidance on Eliminating Shipboard Harassment and Bullying adopted by the International Chamber of Shipping and the ITF; the International Air Transport

[32] Other social partners at the European level referenced the 2007 agreement, calling on affiliates to implement it in their sector at the national level. See for example, Eurogas EPSU/EMCEF, Joint Declaration on Violence at Work, 15 November 2007; and EURELECTRIC/EPSU/EMCEF, Joint Declaration on Harassment and Violence at Work, November 2007.

Association also adopted the Guidance on Unruly Passenger Prevention and Management in 2012 (IATA, 2015, page 11).

National regulatory responses to violence in the world of work

Statutory and case law overview

124. National legislation and case law regulate workplace violence from different angles and through various means, increasingly addressing less-visible forms of violence, such as psychological and sexual harassment. The law in this area has been evolving quickly in recent years, along with the growing recognition of the pervasiveness of a wide range of forms of violence that have an impact on the world of work.

125. Regulatory responses generally fall into three categories, namely: mandatory prevention and management measures, often found in occupational safety and health legislation; prohibitions of various forms of violence, sometimes aimed solely at the employer and commonly found in labour law, criminal law, and/or discrimination legislation; and tort, contract and civil law, building on existing duties of fair treatment and respect for the dignity of workers. Several countries also have specific laws on violence against certain groups of workers, such as women, which include specific provisions on workplace violence.

126. The most commonly addressed forms of violence are sexual harassment, domestic violence and discriminatory harassment based on specific grounds. A number of countries regulate physical and/or psychological harassment and sometimes use the terms "bullying" and/or "mobbing". The term "violence" itself may sometimes appear in legislation, either as an umbrella term encompassing harassment or as a separate concept. Many laws regulating violence in the world of work come in the form of prohibitions against violence or the right of workers to be free from violence.

127. Traditionally, safety and health legislation protects workers from visibly dangerous working situations related to the handling of machinery and hazardous substances. As such, mandatory preventive measures do not always explicitly include psychological and physical harm stemming from violent conduct. Increasingly, national laws – including occupational safety and health regulations and working environment laws – explicitly or implicitly impose a duty on the employer to prevent violence in the workplace, occasionally outlining the preventive and management measures to be taken.

128. In the absence of specific provisions addressing violence at work, it is often possible to bring a claim by having recourse to general principles of common law, contract law, tort/civil liability law or constitutional law.

129. Sanctions for workplace violence range from mandatory training or termination of the perpetrator's contract to payment for moral and material damages and/or the imposition of fines on the negligent employer. Sanctions may include imprisonment for the perpetrator and/or employer in some cases. Remedies for workplace violence include material, punitive and moral damages, workplace counselling and/or transfer for the victim and/or perpetrator, institutional or other changes, reinstatement or payment of wages in the case of constructive dismissal, and workers' compensation for victims suffering from an occupational illness due to workplace violence.

Scope and application of national laws relating to violence

130. In many countries, for purposes of applying laws regarding violence, the "workplace" is meant as the physical place where the employee performs his/her professional duties. However, violence in the world of work often affects workers outside of their physical place of work, including during commuting, at work-related social events and while teleworking (through email, for example). In response, broader concepts of the workplace exist in some jurisdictions. In Zambia for example, the workplace is defined under the Occupational Health and Safety Act of 2010 more broadly than merely the physical place of work, and includes "any place where the employees work or are likely to work, or which they frequent or are likely to frequent in the course of their employment or incidental to it." Notably, US courts have held that harassment committed at a professional training course, a company-sponsored party, a non-workplace parking lot and anywhere else co-workers may socialize and interact can create a hostile working environment (Gelms, 2012, pages 259–264). Codes of practice and guidelines may extend the scope of the workplace, rather than the law itself. The Malaysian Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace, for example, states that workplace sexual harassment includes any employment-related sexual harassment occurring outside the workplace as a result of employment responsibilities or the employment relationship.

131. While there are currently no workplace-specific laws about cyber-harassment, courts are being confronted with this issue and are responding to it as a question of the scope of the "workplace." For instance, in Australia, cyber-harassment is considered "workplace" bullying only if comments posted on social media are read by the harassed employee while at work. [33] Conversely, a US court has expanded the concept of the workplace to include the internal electronic bulletin board used to carry out the harassing behaviour. [34]

132. The laws on violence in the world of work often apply only to those in an employment relationship and sometimes exclude particular categories of workers. Certain jurisdictions widen the scope of workplace violence legislation to explicitly include those outside of the generally understood employment relationship. The Labour Code of Guinea, for example, applies not only to remunerated employees but also to apprentices, interns, and employers in 'liberal professions'. Recognizing that violence in the world of work – and, in particular, sexual harassment – does not necessarily occur only when employment begins, in some jurisdictions potential employees and applicants are also covered by laws on sexual, [35] discriminatory, [36] or other type of harassment. [37]

"Violence" under national laws

133. The term "violence", or an alternative blanket term for all forms of violence in the world of work, is rarely comprehensively defined and regulated. More frequently, various form of violence are regulated in a piecemeal fashion in individual provisions, with different levels

[33] *Bowker* v. *DP World Melbourne Limited* [2014] FWCFB 9227.

[34] *Blakey* v. *Continental Airlines, Inc*., 751 A.2d 538 (2000).

[35] For example, the Philippine Anti-Sexual Harassment Act of 1995.

[36] For example, the Employment and Labour Relations Act (Act No. 6 of 2004) of the United Republic of Tanzania.

[37] For example, the Slovenian Employment Relationship Act of 2013.

of protection and sanctions applying to the different forms of violence. However, there are now a number of countries with broad definitions and a wide scope of regulation (see box 2).

Box 2
Examples of legislative definitions of workplace violence

In the province of Buenos Aires, Argentina, workplace violence in the public sector is understood as "the act of public officials and/or employees or third parties related directly or indirectly to them, who making use of their hierarchical position or of circumstances related to their function, engage in behaviours that violate the dignity, physical, sexual, psychological and/or social integrity of the worker, manifesting an abuse of power through the use of threats, intimidation, terrorization, wage inequality, harassment, physical, psychological and/or social maltreatment."

Under the Labour Code of Guinea, workplace violence consists of every situation in which an employer or worker is persecuted, threatened or assaulted, psychologically or physically during the execution of his/her work in the workplace.

The Mauritius Labour Act of 2008 defines violence at work as including sexual harassment, harassment, assaults, verbal abuse, bullying and use of aggressive gestures, words or acts.

Under the two labour laws of Bosnia and Herzegovina, gender-based violence means any act inflicting physical, psychological, sexual or economic damage or suffering, as well as a threat of committing such acts which seriously constrains persons in their rights and freedoms based on the principle of gender equality at work or in relation to work.

* Law No. 13.168/2004 against violence in the workplace in the public sector of the Province of Buenos Aires.

Preventing violence

134. Most countries have legislation that imposes a general duty on employers to ensure and protect the health and safety of workers in the workplace. In some of these countries, health and safety implicitly or explicitly includes physical and psychological health. Increasingly, the duty to prevent and protect against various forms of violence is explicitly provided for.

135. Often, the law does not explicitly mention violence as posing a risk to the health and safety of workers in the workplace. However, the employer's duty of care which in at least 55 countries explicitly includes both physical and mental health, [38] may sometimes be interpreted as implicitly covering the threats to workers' health and safety that result from violence in the workplace. Certain agencies in charge of the enforcement of occupational safety and health statutes, such as the Occupational Safety and Health Administration (OSHA) (United States Department of Labor, 2002, page 2) and Safe Work Australia (2013, page 5), have issued non-binding guidelines affirming that the duty should, in fact, be interpreted this way.

[38] ILO Global Database on Occupational Safety and Health Legislation (LEGOSH), accessed at http://www.ilo.org/dyn/legosh/en/f?p=14100:1:0::NO::: (ILO, Geneva).

Box 3
The relationship between violence and psychosocial risk

Many countries require employers to take preventive measures regarding psychosocial risks that lead to work-related stress. The Netherlands Working Conditions Act, 1999 specifies that the notion of employment-related psychosocial pressure includes sexual intimidation, aggression and violence.

Under the Venezuelan Occupational Law on Prevention, Conditions and Workplace Environment, negative working conditions, including the degradation of the work environment, isolation and failure to provide workers job positions matching their skills (all understood as psychosocial risks), are considered to constitute a form of harassment.

Where psychological, physical and sexual violence are not recognized as psychosocial risks, some countries recognize the influence of psychosocial risks on whether violence occurs in the workplace. In El Salvador, employers have a duty to put in place psychosocial risks prevention programmes, which must establish a mechanism to investigate and promptly detect psychosocial risks, including on the causes and effects of violence against women and sexual harassment at the workplace. *

* El Salvador, Decree No. 86/2012 approving the regulation concerning the management of risk prevention in the workplace.

136. Legislation often puts the responsibility on the employer to take steps to prevent violence in the workplace. Depending on the jurisdiction, employers are required to take steps to prevent the occurrence of psychosocial pressure, [39] psychological abuse, [40] threats of violence, [41] harassment and sexual harassment, [42] moral harassment, [43] or several of the above. The 2006 Colombian Law on Harassment in the Workplace mandates the prevention of workplace harassment, which can take multiple forms including violence against physical or moral integrity and sexual freedom, offensive verbal expressions, persecution, discrimination and inequality. The employer's duty of care for employees may also extend to violence and psychological injuries. In Argentina, for example, labour courts have argued in harassment cases that due to the breach of the obligation to ensure dignified working conditions or safety and hygiene in the workplace, employers may be held responsible for their own acts and/or those of others and, as such, have a duty to repair the harm caused. [44]

137. Some countries indicate precisely which preventive measures must be adopted. Some – such as El Salvador, under Decree No. 86/2012 – require or permit employees and/or their representatives to participate in the creation of preventive measures to protect the health and safety of the employee against workplace violence. Prevention duties often take the form of a mandatory company policy on one or more forms of violence, which is often required to be posted prominently. [45] Sometimes there exists a duty to create internal rules, guidelines

[39] Under the Dutch Working Conditions Act of 18 March 1999, for example.

[40] Under the Turkish Debts Law (2011), for example.

[41] Under the Finnish Occupational Safety and Health Act No. 738/2002, for example.

[42] Under the Israeli Prevention of Sexual Harassment Law, No. 5758-1998; the Labour Code of Comoros (Law of 28 June 2012); Costa Rican Law No. 7.476/1995, for example.

[43] Under the French Labour Code, for example.

[44] For example, the National Employment Appeals Chamber, Sala II Expte No. 31.939/09 Sent. Def. No. 100.146 of 16 Feb. 2012 «*R. F., P* v. *Citytech S.A.* s/mobbing" (González – Maza).

[45] For example, the Kenyan Employment Act (No. 11 of 2007).

or codes of practice on workplace violence; [46] The duty often also requires the employer to undertake a risk-assessment procedure in order to identify specific risks to workers' health and safety, and/or warn them if there are risks of violence and to provide training. [47]

Protecting against violence

138. The most commonly addressed form of workplace violence is sexual harassment; [48] in all regions, except the Middle East and North Africa, a majority of countries have some form of law regulating workplace sexual harassment (International Bank for Reconstruction and Development (IBRD) and World Bank, 2015). Sexual harassment is defined differently in various jurisdictions and is often found in anti-discrimination law, such as in the Republic of Korea [49] and Australia, [50] or in criminal law, as is the case in many Latin American and African countries (UNDP, 2014, page 16). However, it has been found that "addressing sexual harassment only through criminal proceedings is normally not sufficient, due to the sensitivity of the issue, the higher burden of proof, which is harder to meet, especially if there are no witnesses (which is often the case), and the fact that criminal law generally focuses on sexual assault or "immoral acts", and not the full range of behaviour that constitutes sexual harassment in employment and occupation" (ILO, 2012, page 331). [51] Increasingly, countries are including definitions and prohibitions of sexual harassment in labour laws, [52] or through specific statutes, as is the case in Israel [53] and the Philippines. [54]

139. Certain national laws limit the scope of protection against sexual harassment to women. However, many laws on sexual harassment adopt a wide protection that encapsulates all forms and possible victims and perpetrators. [55] Notably, in the United States same-sex sexual

[46] For example, the Chilean Labour Code. See also: Israeli Prevention of Sexual Harassment Law No. 5758-1998.

[47] For example, the French Labour Code; Republic of Korea, Equal Employment and Support for Work–Family Balance Reconciliation Act No. 3989 of 1987, amended by Act No. 8781 of 2007; El Salvador, Decree No. 86/2012 approving the regulation concerning the management of risk prevention in the workplace.

[48] 114 out of the 173 countries examined have legislation regulating sexual harassment in employment.

[49] Republic of Korea, Equal Employment and Support for Work-Family Balance Reconciliation No. 3989 of 1987 amended by Act No. 8781 of 2007.

[50] Australian Sex Discrimination Act of 1984.

[51] For example, Convention No. 111 Kuwait – CEACR, observation, 2010; and Qatar – CEACR, direct request, 2011.

[52] For example, the Labour Code of Guinea and the Saint Lucia Labour Act No. 37 of 2006.

[53] Israeli Prevention of Sexual Harassment Law No. 5758 of 1998.

[54] Philippine Anti-Sexual Harassment Act of 1995.

[55] For example, the Canadian Labour Code (RSC, 1985, c. L-2).

harassment not motivated by sexual desire is considered as a form of discrimination based on sex. [56]

140. Workplace violence is variously regulated under terms such as mobbing, [57] bullying, [58] violence [59] or harassment. [60]

141. The prohibition of harassment is generally applicable to the employer. However, in some cases, employees are also required to refrain from committing acts amounting to harassment against their co-workers or managers. [61] In few cases, persons outside of an employment relationship are covered under the prohibition and protection against violence. This is the case in Belgium for example, where third parties who are in contact with the workplace, apprentices, interns and non-employees performing work under the authority of another person (subcontractors and similar professional categories) are prohibited from committing "violence, harassment and sexual harassment." [62]

142. Bullying and harassment, while often addressed in labour law can also be covered through tort and civil law (such as the US tort of intentional infliction of emotional distress, or the UK tort of harassment). The tort of negligence, as well as the breach of the duty of care, can also constitute a valid basis for claims in common law courts (Squelch and Guthrie, 2010, page 33). [63] In Japan, courts have recognized the existence of the tort of power harassment meant to protect employees from those who have greater organizational power and based on the obligation of compensating harm caused to others (Hsiao, 2015, pages 82 and 84). Contract law may also allow for claims related to workplace violence, with violence considered a breach of the employer's contractual obligations. For example, Italian jurisprudence considers the occurrence of mobbing as a breach of the employer's contractual obligation to adopt measures to safeguard the physical and moral integrity of employees under article 2087 of the Civil Code. [64]

143. Intimate partner violence is a rapidly expanding area of regulation. Recognizing that intimate partner violence often affects the ability of victims to enter or remain in the workplace, 79 countries have intimate partner/family violence legislation that specifically addresses

[56] *Oncale* v. *Sundowner Offshore Services, Inc.*, 523 US 75 (1998).

[57] For example, the Labour Law of the Federation of Bosnia and Herzegovina and Resolution No. 472/2012 on Mobbing of Paraguay.

[58] For example, the Polish Labour Code; Labour Code of Chile; Employment Rights Act of 2008 of Mauritius.

[59] Canada Labour Code (RSC, 1985, c. L-2).

[60] For example, the Employment Relationship Act of 2013 of Slovenia.

[61] For example, the Finnish Occupational Safety and Health Act No. 738/2002.

[62] For example, the Belgian Act of 4 August 1996 On Well-Being of Workers in the Performance of their Work.

[63] *Connes* v. *Molalla Transp. Sys. Inc*., 831 P.2d 1316 (1992).

[64] Supreme Court of Cassation, Labour Section, Judgment No. 4774 of 6 March 2006.

"financial" or "economic" intimate partner violence [65] (World Bank, 2015, pages 20–21). In a number of cases, economic violence provisions directly relate to the world of work. In Nepal, for example, preventing a partner from accessing employment opportunities and economic resources is prohibited. [66]

144. A number of countries are acknowledging the workplace as a privileged entry point for addressing intimate partner violence by allowing employers to assume a positive role in identification and protection. The law of Puerto Rico, for example, establishes that an employer can request a protection order in favour of his/her employees against visitors or any other person found in the workplace if one of his/her employees has been a victim of domestic violence in the workplace. [67] The state itself may use existing workplace benefits to protect victims. For example, statutory paid leave is available to victims of domestic violence in the Canadian Province of Manitoba, [68] the US states of Oregon [69] and California [70] and in the District of Columbia, [71] in Italy [72] and in India. [73]

Box 4
Family economic violence and the case of Brazil

The relationship between domestic violence and the ability to enter and remain in employment has been recognized in Brazil, where the Government has used the workplace as an entry point for protecting victims.

Federal Law No. 11.340/2006 concerning domestic violence, known as the *Maria da Penha law*, establishes that the retention, subtraction or partial or complete destruction of the victim's working tools is a form of domestic violence. Furthermore, it authorizes the judge to order the employer to maintain the employment relationship of a victim of domestic violence and, when necessary, to grant the victim leave from work for a maximum of six months.

Under Complementary Law No. 150/2015 concerning domestic workers, if the employer commits any form of domestic or family violence against any person covered by article 5 of the Maria da Penha law (which includes those living in a permanent space shared by people, with or without family ties), the domestic worker has the right to terminate the employment contract for just cause due to the employer's fault. This recognizes the unique circumstances that domestic workers face living in a hostile environment created by domestic violence, either against them or against another person.

[65] The World Bank defines financial or economic violence as "any conduct or behavior involving the use or misuse of the partner's consent regarding their financial resources or assets, including the deprivation, retention or subtraction of money or property or by other means making or attempting to make a woman financially dependent by maintaining control over financial resources".

[66] Nepalese Domestic Violence (Crime and Punishment) Act 2008. See also: the Kenya Protection against Domestic Violence Act (No. 2 of 2015).

[67] Law No. 54/1989 on Prevention and Intervention in Domestic Violence of Puerto Rico.

[68] Manitoba Employment Standards Code Amendment Act (Leave for Victims of Domestic Violence, Leave for Serious Injury or Illness and Extension of Compassionate Care Leave).

[69] Oregon Family Leave Act.

[70] California Labor Code.

[71] 2012 District of Columbia Code.

[72] Legislative Decree No. 80 of 15 June 2015.

[73] Indian Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013.

Regulating working conditions and sectors and special measures for specific groups

145. Some countries have adopted legislation to respond to the specific needs of workers who may face an increased risk of violence due to their working environment. In Finland, employers are required under the Occupational Safety and Health Act No. 738/2002 to ensure that health risks (including from harassment) to employees who work alone are avoided or minimized. Similarly, in British Columbia (Canada), employers are required under Work Safe Regulation 4.22.1 to develop a procedure to ensure the safety of workers handling money if working in isolation at late-night retail premises. Under the 2012 Labour Law of the State of New York (US), employers are obliged to carry out a specific risk assessment, taking into account the possibility of assault against employees because they work, for instance, as teachers, public transport drivers, health-care workers, night workers, or handle money.

146. For temporary agency workers, who are employed by an agency, but work on the premises of a user firm, confusion may arise regarding occupational health and safety responsibilities, including in respect of violence. For this reason, a number of jurisdictions impose legal obligations on user firms with respect to temporary agency workers. For example, EU Directive 91/383/EEC, provides for equal treatment of temporary agency workers compared with those hired directly by the user firm, in respect of occupational safety and health at work. Under the Directive, Safety, hygiene and health at work are the responsibility of the user firm.[74] In Estonia for example, Pursuant to the Occupational Health and Safety Act, an employer must ensure conformity with occupational health and safety requirements in every work-related situation, including where work is performed by temporary agency workers.

147. In Israel, New Jersey (US), [75] Tamil Nadu (India), [76] and Turkey (Kaplan, 2013, pages 4–10) specific laws have been adopted addressing violence against health-care workers. These laws require the employer to take preventive measures to combat violence in the health sector, including by establishing a violence prevention committee, [77] or by attaching criminal penalties and civil remedies to the violent acts. [78]

148. Harassment is sometimes interpreted as being included under general discrimination provisions. [79] While discrimination-based protection may be limited to addressing harassment which takes place based on a protected characteristic (for example based on race, colour, sex, religion, political opinion, national extraction, social origin, sexual orientation, disability, etc.), it has often been a starting point for countries to address violence in the workplace. Sometimes discriminatory harassment provisions exist in tandem with other

[74] EU Directive 91/383/EEC on the safety and health at work of workers with a fixed-term or a temporary employment relationship. Under the Directive, "temporary employment relationship" refers to "temporary employment relationships between a temporary employment business which is the employer and the worker, where the latter is assigned to work for and under the control of an undertaking and/or establishment making use of his services".

[75] New Jersey Violence Prevention in Health Care Facilities Act.

[76] Tamil Nadu Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Act, No. 48 of 2008.

[77] New Jersey, op. cit.

[78] Act No. 48, op. cit.

[79] For example, Title VII of the United States Civil Rights Act of 1964.

workplace violence protections. For example, the Labour Law of the Federation of Bosnia and Herzegovina prohibits sexual harassment, harassment based on protected grounds, gender-based violence and mobbing. With respect to workers with disabilities, Australia and the United Republic of Tanzania have adopted specific statutes protecting persons with disabilities from harassment and discrimination in employment. [80] Other jurisdictions provide that disability-based harassment, similarly to sexual harassment, can take the form of a hostile working environment, for example in the United States [81] and Honduras, [82] and EU Directive 2000/78/EC.

149. Indigenous peoples' homes, natural surroundings and traditional areas are often profoundly important sources of livelihoods and an essential source of identity, culture and tradition. Thus, land alienation and restrictions on accessing natural resources could be considered acts of violence that threaten their traditional occupations and livelihoods (Dhir, 2015, page 152). Therefore, legislation that protects indigenous people's land rights – and that ensures consultation and participation – could be an important tool for preventing violence. [83] The 2001 Land Law in Cambodia, for example, embraces the concept of communal land rights, allowing the granting of collective land titles to indigenous communities by the State while recognizing traditional land management systems (Dhir, 2015, page 34).

150. Moreover, it is recognized that indigenous peoples and those discriminated against on grounds of their social origin ("caste" or "class") face increased harassment, indignity and violence for various historical, social and economic reasons. In response, the Indian Parliament has taken a number of legislative measures to improve the situation of the scheduled castes and tribes, [84] including the 1989 Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act and 1995 Rules. The Act establishes criminal liability for a number of specifically defined atrocities, and special courts and other mechanisms have been set up to oversee the effective implementation of the law.

National, sectoral and workplace collective agreements

151. At the national and sectoral levels, a number of collective agreements include the regulation of various forms of violence. In South Africa, for example, parties to the Safety and Security Sectoral Bargaining Council Agreement on sexual harassment in the workplace (18 January 2011) agreed to implement policies to address and eliminate sexual harassment by and towards co-employees and third parties. Measures include the adoption of reporting, advice and assistance measures and a formal and informal procedure for complaints.

[80] Australian Disability Discrimination Act of 1992; Tanzanian Persons with Disabilities Act of 2010.

[81] Americans with Disabilities Act as interpreted in *Flowers* v. *Southern Regional Physician Services, Inc*., 247 F.3d 229 (5th Cir. 2001); *Fox* v. *General Motors Corporation*, 247 F.3d 169 (4th Cir. 2001).

[82] Honduras Law on Equity and Comprehensive Development for Persons with Disabilities, Decree No. 160-2005.

[83] Convention No. 169 provides guidance on measures that should be undertaken to safeguard such rights.

[84] An official designation recognized under the Constitution referring to indigenous peoples in India.

152. Collective agreements approach the issue in a variety of ways, which can include requiring preventive measures to be taken, [85] or defining and prohibiting forms of violence. [86] Legislation in some countries requires that collective agreements include clauses addressing workplace violence. [87] In Quebec (Canada) for example, under the Act Respecting Labour Standards, collective agreements must include a clause stating the right of every employee to be free from psychological harassment.

153. Sectoral collective agreements in a number of countries provide paid leave and other entitlements to victims of domestic violence, for example, Australia (Baird et al., 2014, page 190), the United Kingdom (UNISON, 2014, page 16), Yukon (Canada) [88] and Brazil. [89] In Brazil, under the collective agreement signed by the postal company Correios, women employees who are victims of domestic violence have priority in respect of transfer to another unit, city or state. The company is also required to create workers' committees mandated to instruct employees on how to identify cases of domestic violence and other human rights violations. [90]

154. Some collective agreements establish bodies charged with addressing violence. In Argentina for example, the General Collective Agreement for the National Public Administration establishes a Commission for Equal Treatment and Opportunities which aims at creating and promoting policies and actions to eradicate violence in the workplace.

155. Enterprises are increasingly acknowledging the need for protective and preventive measures relating to violence. In 2011, for example, a collective agreement was signed by nine of the largest banks in Brazil, namely: Bradesco, Itaú, Unibanco, Santander, HSBC, Citibank, Caixa Econômica Federal, Votorantim, Safra and BicBanco. Under the agreement, banks are obliged to combat any act of harassment, make periodical evaluations of the programme, including by collecting statistics on prevalence, and create indicators to evaluate their performance. In addition, they are required to establish an internal mechanism that includes complaint, investigation and sanctioning procedures. [91] Workplace agreements from Volkswagen and Opel address mobbing, discrimination and sexual harassment, and specify preventive measures and the consequences of prohibited conduct (Graham, 2003/4, page 58). Global unions have entered into framework agreements addressing workplace violence and harassment with various multinational companies, including Unilever, [92]

[85] The Argentinian Collective Agreement for the Professors of National University.

[86] For example, the Memorandum of Understanding between the Commonwealth of Massachusetts and the National Association of Government Employees for a successor agreement (2014).

[87] For example, the Labour Code of Gabon. See also: Labour Act of Zimbabwe.

[88] Collective agreement between the Government of Yukon and the Yukon Teachers' Association, Effective 1 July 2012 to 30, June 2015, Art. 19.03.

[89] For example, the Brazilian metallurgists collective agreements, both of the ABC/SP region (1 Sept. 2013 to 31 Aug. 2015) and of the city of São Paulo (1 Nov. 2014 to 31 Oct. 2015). See also the Brazilian Eletrobras collective agreement (1 May 2013 to 30 March 2015).

[90] Correios collective agreement (1 Aug. 2015 to 31 July 2016).

[91] Contraf-CUT and FEBRABAN, Protocol to the Prevention of Conflicts in the Workplace (2011), Brazil.

[92] IUF-IndustriALL-Unilever: Joint Commitment to prevent workplace sexual harassment by IndustriALL, IUF and Unilever, 2016.

ThyssenKrupp, [93] H&M [94] and Enel. [95] Furthermore, H&M and Enel state that they will promote the implementation of the agreement down the supply chain and among suppliers.

Complaints, sanctions and remedies

Complaint mechanisms

156. Complaint mechanisms can be either internal (within an enterprise) or external (through the Ministry of Labour, court system, sectoral or collective mechanisms, specialized tribunals or courts, labour inspectorates, dispute resolution agencies, human rights and equality bodies or other quasi-judicial bodies). Complaint mechanisms are widely available for grievances of workplace violence. Internal complaint mechanisms are often required by labour legislation, [96] including occupational safety and health regulations, and by collective agreements, and may require the complaint to be taken by the supervisor, or where the supervisor is the perpetrator, another person. [97] Some laws require complaints to be confidential, in order to protect the employee who has been a victim of violence in the world of work and also to encourage complainants to come forward. [98]

157. Conciliation, mediation and arbitration may also be available or required when a complaint is lodged either internally (through dispute resolution or grievance procedures under collective agreements) or externally (through in-court conciliation, extrajudicial conciliation through autonomous procedures and by public administration systems). In South Africa, for example, sexual harassment cases can be addressed through an internal mechanism of dispute resolution, or can be referred to the Commission for Conciliation, Mediation and Arbitration. Should conciliation fail, parties can opt for litigation before the labour courts or agree to arbitration. [99]

158. Under the Zimbabwe Labour Act, labour officers must attempt to settle cases of sexual harassment through conciliation or arbitration. The Non-Discrimination Act No. 1325/2014 of Finland favours a reconciliation procedure between the parties, which may be initiated by the Non-Discrimination Ombudsman and validated by the National Non-Discrimination and Equality Tribunal.

159. Where no internal mechanism exists for making complaints, or where such mechanisms have been exhausted, there will often exist a right of the worker to bring his/her complaint to

[93] International Framework Agreement between ThyssenKrupp AG et al. and IndustriALL Global Union, 2015.

[94] Global Framework Agreement between H&M Hennes & Mauritz GBC AB and IndustriALL Global Union and Industrifacket Metall on Compliance and Implementation of International Labour Standards at the Suppliers of H&M Hennes & Mauritz GBC AB, p. 2.

[95] EN Global Framework Agreement, 2013.

[96] For example, Paraguay Resolution No. 472/2012 on Mobbing.

[97] For example, the Ontario Occupational Health and Safety Act, RSO 1990, c. 0.1.

[98] For example, the Law on Harassment in the Workplace No. 1.010/2006 of Colombia.

[99] For example, the Employment Equity Act of South Africa. See also: Labour Code of Chile.

administrative and/or judicial bodies, such as the labour or other courts, [100] to the Ministry of Labour or other relevant administrative agencies, [101] or to human rights bodies. The Australian Human Rights Commission, for example, can investigate and resolve complaints regarding discrimination, harassment and bullying; in doing so, it promotes a conciliation procedure, which can result in an apology, reinstatement, compensation for lost wages, changes to a policy or the development and promotion of anti-discrimination policies.

160. Even when legislation on workplace harassment does exist, its implementation may not be effective. The burden of proof can be a significant obstacle. In a number of countries, the burden of proof for complaints of harassment is on the alleged victim who may support his/her claim based on evidence in the form of documents, witnesses and recordings of conversations with the alleged harasser (Gamonal and Ugarte, 2012). [102] The CEACR considers that shifting the burden of proof to the employer "is a useful means of correcting a situation that could otherwise result in inequality" (ILO, 2012, page 367). In recent years, a number of countries around the world have amended their legislation to provide for the shifting of the burden of proof to the employer in discrimination and harassment cases. [103] For instance, in Europe, under Directive 2006/54/EC, Member States are to ensure that the burden of proof is shifted to the respondent when facts from which may be presumed that there has been discrimination, which includes harassment as one of its forms, are established.

161. Protection for the worker from retaliation/reprisals from employers or co-workers for filing or participating in a workplace violence complaint is a fundamental part of a comprehensive protection regulation and is a common feature in many occupational safety and health laws. Protection from reprisals usually includes protection from dismissal for both complainants and witnesses. It may also include protection from retaliatory mobbing from co-workers and employers. [104] This is the case in China, North America and the EU, and in many Latin American countries. [105] In many countries, workers have a general right to be free from undue consequences when stopping work in a situation that puts their health at risk. [106] In Germany for example, under the 2006 General Act on Equal Treatment, employees have the right to refuse to work if the employer does not take suitable measures to stop harassment in the workplace.

[100] For example, Title VII of the Civil Rights Act of 1964.

[101] For example, Canadian Labour Code. See also: the Employment Act 2006 of Uganda.

[102] For example, the Consolidated Labour Laws of Brazil; Regulation on Law No. 27.942 on the Prevention and Punishment of Harassment of Peru.

[103] For example, the Israeli Employment (Equal Opportunities) Law No. 5748-1988; Australian Sex Discrimination Act of 1984; Title VII of the United States Civil Rights Act of 1964; Labour Code of Comoros; Employment Equity Act of South Africa.

[104] For example, the South African Protected Disclosure Act 26 of 2000.

[105] Regulation on Law No. 27.942 on the Prevention and Punishment of Harassment of Peru; Protection Against Sexual Harassment Act of 1996 of Belize; Chinese Law on the Protection of Rights and Interests of Women; Title VII of the United States Civil Rights Act of 1964; EU Directive 2006/54/EC.

[106] Such protection is found in many occupational safety and health regulations and is a requirement under Convention No. 155.

Sanctions and remedies

162. Where the violence complaint remains internal, the options available to the employer may be terminating the contract of the perpetrator, [107] providing training, seeking the possibility of an agreement between the parties including through conciliation and mediation, or taking other measures to resolve the issue. For example, the Regulation on the Law No. 27.942 on the Prevention and Punishment of Harassment of Peru, allows the employer to take precautionary measures, including moving the harasser or the victim, if the latter so requests, the temporary suspension of the harasser, psychological assistance to the victim and the issuance of restraining orders against the harasser.

163. Sweden has been a forerunner in adopting a restorative, non-punitive approach to workplace violence, by inviting employers to find solutions to victimization. Solutions include asking for the help of external consultants (such as the occupational health services) if deemed necessary, inviting the victimized employee to consult a psychologist or taking measures such as training or transfer to other duties in case of "acute disagreements and intractable interpersonal problems". [108] In Colombia, employers have a duty to establish an internal, confidential, conciliatory and effective procedure to overcome the cases of harassment in the workplace, and training activities and group therapy can be carried out in the workplace to improve the relationship among the colleagues. [109]

164. In situations where a case is taken to court, penalties for violations of prevention measures can range from fines [110] to imprisonment. [111] Some courts have awarded damages as compensation for psychological harassment as an occupational illness. [112] In Japan, courts allow for compensation to be paid to the families of workers who committed suicide for having been victims of "power harassment" (Hsiao, 2015). In Finland, compensation is extended to aggressions committed by third parties (Eurofound, 2015, page 38). Damages awarded in civil lawsuits arising from harm caused by workplace violence may include compensation for medical expenses, economic harm and psychological harm, [113] as well as punitive damages. [114] Courts in some jurisdictions, including in Spain (Velázquez, 2010) and Canada (Lippel, Sikka, 2010), have interpreted workers' compensation legislation to allow

[107] For example, the Employment Act 1980 of Swaziland.

[108] Guidance on section 5 and section 6 of the Ordinance of the Swedish National Board of Occupational Safety and Health containing provisions on measures against victimization at work of 1993.

[109] Law on Harassment in the Workplace No. 1.010/2006 of Colombia.

[110] For example, the Dutch Working Conditions Act of 1999; Israeli Prevention of Sexual Harassment Law No. 5758-1998; Pakistani Protection against Harassment of Women at the Workplace Act of 2010.

[111] Criminal Code of Niger; Criminal Code of Saint Lucia.

[112] For example, the French Court of Cassation's Social Chamber, Pourvoi No. 05-41489, 15 Nov. 2006.

[113] For example, the German Act Implementing European Directives Putting Into Effect the Principle of Equal Treatment.

[114] For example, the United States Civil Rights Act, 1964.

workers to recover compensation from occupational illnesses caused by employment, including those caused by violence and harassment.

165. In a number of countries, employers may be found liable for negligence or breach of a duty of care or contract when a co-worker of the employee-victim is the perpetrator of a violent act in the workplace. In these cases, financial or other sanctions may be applied to the employer and/or the harassing co-worker may be dismissed. Further, the doctrine of vicarious liability allows for the employer to be held liable for the acts of his/her employees committed within the scope of employment. For instance, in France, the employer is liable for the actions committed by subordinates even if the employer is not directly responsible for their occurrence (JILPT, 2013, page 52).

166. In the absence of specific legal provisions about workplace violence, courts also make direct reference to constitutional provisions and principles, such as workers' rights and the right to dignity, equality and integrity, the inviolability of privacy, private life, honour and image or the right to dignified and equitable working conditions. Victims are then entitled to compensation upon the violation of such rights. [115]

National accountability and monitoring mechanisms

Labour inspectorates

167. Countries that have laws addressing workplace violence increasingly provide instructions to labour inspectors on how to proceed in cases of harassment once a complaint is initiated by the victim. This is the case for example, in Colombia, [116] Costa Rica [117] and Kenya. [118] In certain countries, labour inspectors are instructed to raise awareness during inspections regarding workplace violence. [119]

168. Occasionally, the law will impose a duty on the employer, workers' representative or manager to involve the labour inspectorate. In Belgium, for example, the Welfare Control Directorate has to be alerted by the prevention adviser when, during the procedure of formal psychosocial intervention following an act of violence in the workplace, he/she believes that a grave and immediate danger for the workers exists.

169. In some jurisdictions, labour inspectorates undertake targeted inspections regarding certain forms of workplace violence. In Spain, for example, labour inspectors can carry out

[115] For example, the Superior Labour Court of Brazil, AIRR – 445-89.2013.5.04.0013, date of judgment: 2 Dec. 2015, Minister Rapporteur: Mauricio Godinho Delgado, 3rd Chamber, date of publication: DEJT 11 Dec. 2015. See also: National Employment Appeals Chamber of Argentina (CNAT), 2nd Chamber, Order No. 31.939/09, Final Judgment No. 100.146 of 16 Feb. 2012, "*R. F., P* v. *Citytech S.A.* s/mobbing" (González – Maza).

[116] Colombia, Law 1.010/2006; Ministry of Labour of Colombia, *Manual of the Labour and Social Security Inspectorate*.

[117] Costa Rica – CEACR, direct request, 2013, Convention No. 111.

[118] Kenya – CEACR, direct request, 2011, Convention No. 111.

[119] For example, Namibia – CEACR, direct request, 2013, Convention No. 111.

campaigns in the sectors most vulnerable to violence (such as schools, hospitals, retail stores), can impose fines on employers for violations of occupational safety and health requirements and can order cessation of work, in case of imminent threat to workers' health (including the risk of psychological illness) (Velázquez, 2010). [120]

Specialized bodies

170. Many countries have an independent national body in charge of monitoring and implementing human rights and anti-discrimination legislation. Most of these bodies – which have names such as office of the ombudsperson, human rights commission, equality board – often have purely advisory powers and carry out activities of promotion, [121] education, [122] and advice, [123] and provide legal assistance or representation for court proceedings. They may also, however, initiate investigations, issue reports, guidelines and model regulations, [124] codes, and recommendations, or have a quasi-judicial role, and issue legally binding decisions. This is the case for instance in Cyprus, Denmark, Hungary, Lithuania, Portugal and Romania.

Statistical data collection and Ministry of Labour complaint collection

171. The collection of data on workplace violence complaints is important for the development of informed law and policy addressing workplace violence.

172. However, as discussed earlier, statistics on work-related violence are sporadic and scarce, and comparability of data is problematic. Although countries within the EU have the most readily available statistics, data consistency and comparability remains an issue.

173. Currently, statistics on work-related violence are collected either through administrative sources or household-based or establishment-based surveys. Work-related violence is typically captured in administrative sources such as police records, compensation records of insurance companies, crime records, court records and hospital records. The scope of administrative sources is too limited to represent all forms of violence. It is usually cases of violence that are physical in nature which are captured (ILO, 2013a).

[120] See: Spanish Code of Practice for Labour Inspectors on Harassment and Violence at Work No. 69/2009. The Code covers both internal and third-party violence, both physical and psychological in nature.

[121] For example, El Salvador – CEACR, observation, 2012, Convention No. 111.

[122] The South African Human Rights Commission, together with the Danish Institute for Human Rights, has developed the Human Rights and Business Country Guide, which addresses harassment in the workplace with regard to people living with HIV/AIDS, LGBTQI persons and women. It also explains how victims of harassment can access remedies, file grievances and seek redress.

[123] In Brazil, for example, the Secretariat's Ombudsperson's Office for Women's Affairs provides a free violence hotline for women that can be accessed all over the country.

[124] For example, Costa Rica – CEACR, direct request, 2012, Convention No. 111.

174. Surveys on domestic and workplace violence are often conducted on an ad hoc basis, and only a minority of countries systematically collect statistical data. [125] Countries that collect statistics on workplace violence complaints include Uruguay (Sociedad Uruguaya de Gestion de Personas, 2015), Argentina, [126] and the United States. [127] Countries that collect rates of exposure to violence include the United States [128] and Finland. [129]

National, sectoral and workplace policies, codes of practice and other initiatives

Policies, institutes, programmes

175. Many countries have national policies to target violence against women, and/or occupational health and safety, some of which cover workplace violence. [130] In Brazil, for example, the National Policy on Workers' Health and Safety addresses psychological harassment as one of the causes of death and sickness of workers and calls attention to the health issues caused by aggression and violence in the workplace. [131]

Box 5
Examples of violence prevention policies and actions for the world of work

- Uruguay created in 2013 a national policy, through the National Women's Institute, called "Quality with Equity" that operates as a certifiable standard which recognizes companies that include in their internal polices a commission which receives and monitors cases of sexual harassment.
- The Korean Institute for Gender Equality Promotion and Education provides various training programmes to public officials, including sexual harassment counselling education, and sexual harassment and sexual violence prevention education. *

*See: http://www.kigepe.or.kr/usr/eng/sub01/intro.asp.

[125] For example, workplace violence is one of the indicators taken into consideration in the Netherlands periodic Working Conditions Survey.

[126] Through the Argentine Advisory Office on Violence in the Workplace.

[127] The Equal Employment Opportunity Commission (EEOC) collects statistics on the charges filed under Title VII of the Civil Rights Act 1964, the Age Discrimination in Employment Act and the Americans with Disabilities Act, including harassment suits.

[128] The National Institute for Occupational Safety and Health of the United States.

[129] Work and health surveys also addressing violence at work are carried out by the Finnish Institute of Occupational Health every three years.

[130] Ministry of Women and Family of Tunisia, *National Strategy for the Prevention of Violence against Women* (2012) and Ministry of Family and Feminine Condition of Algeria, *National Strategy for the Prevention of Violence against Women* (2007–11), both address sexual harassment in the workplace. See also: the National Gender Policy (PNG) (2009–18) of Mali and its first action plan (2011–13), and the National Policy on Gender Equity and Equality (2007–17) of the National Womens' Institute of Costa Rica.

[131] Ministry of Labour and Ministry of Social Security and Health, National Policy on Workers' Health and Safety, established by the Portaria Interministerial No. 153/2004, para. 27 (Nov. 2004).

National and sectoral guidelines and codes of practice

176. Some national agencies, including in Australia, Canada, Singapore, the United Kingdom and the United States, in charge of monitoring, enforcing and implementing occupational safety and health regulations, have enacted guidelines dealing with harassment or bullying at work (Safe Work Australia, 2013; Canadian Centre for Occupational Health and Safety, 2016; Ministry of Manpower, Singapore, 2015; Health and Safety Executive, United Kingdom, 2006; National Institute for Occupational Safety and Health, United States, 2012; United States Department of Labor, 2011, 2009).

177. In some countries, guidance has been provided on discriminatory harassment, such as against persons with disabilities in South Africa, [132] and on harassment related to particular occupations, such as on domestic workers in Brazil, taxi and for-hire drivers in the United Kingdom, and social service and health-care sectors in the United States (Ministry of Labour and Social Security (Brazil), 2015; United States Department of Labor, 2010). In addition, many countries have issued codes of good practice or guidelines addressing sexual harassment in the workplace. [133] For example, the Zero Tolerance for Sexual Harassment Code of Conduct has to be adopted by every employer in Pakistan, pursuant to the Protection against Harassment of Women at the Workplace Act of 2010.

Box 6
Codes of practice helping victims access remedies: South Africa

In South Africa, the Amended Code of Good Practice on the Handling of Sexual Harassment Cases in the Workplace provides for a wide coverage of those who may be considered victims as well as of those who may be considered liable or responsible for sexual harassment, including job applicants, clients, suppliers, contractors and others having dealings with a business.

The broad approach of the Code to victims and perpetrators of sexual harassment allowed the Labour Appeal Court to hold an employer liable for harassing an employee of another company working on a joint project. The Court held that even though they were not co-employees, there was still a disparity of power between them based on age and seniority. Additionally, despite the fact that the perpetrator's conduct was neither physical nor persistent, but limited to one incident, it still constituted sexual harassment. [*]

[*] *Simmers* v. *Campbell Scientific Africa (Pty) Ltd* (C751/2013) [2014] ZALCCT 34.

178. Guidance tools have also been developed by workers' and employers' organizations at the national level. For instance, the Canadian Union of Public Employees produced a Workplace Violence and Harassment Prevention Kit, which includes information on relevant legislation, preventive guidelines, a sample inspection checklist and ways to prevent violence. Similarly, UNISON, the UK public service union, issued a guide for safety representatives on bullying, which explains the basics of the legislation and effective solutions for the workplace. The Zambia Federation of Employers in 2011 issued a Code of Conduct for Employers of Domestic Workers in Zambia, which advises employers of domestic workers not to subject the employee to, or allow the employee to be subjected to "any abuse, either physical, psychological, sexual or verbal in the work environment."

[132] South African Code of Good Practice on Employment of Persons with Disabilities.

[133] Botswana Code of Good Practice on Sexual Harassment in the Workplace (2002); South Africa Amended Code of Good Practice on the Handling of Sexual Harassment Cases in the Workplace (1998); National Institute of Women of Uruguay, Procedural Guide to Approach Sexual Harassment in the Workplace (2009); Ministry of Human Resources of Malaysia, Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace (2000).

Workplace initiatives, training and awareness raising

179. Workplaces are responding to violence in a variety of ways, such as assessing health and safety risks associated with violence, including working conditions and psychosocial risks. It is difficult to identify bullying through standard risk prevention management systems, because most assessment measures use quantitative techniques that do not easily capture individual cases. As such, some workplaces prefer to identify bullying through the complaints of the affected worker or colleagues (Velázquez, 2016). Once risks are identified, workplaces have chosen to draft codes of conduct covering workers and clients or adopt specific policies (Safe Work Australia, 2013). For example, when Nicaraguan garment factories implemented anti-sexual harassment policies, worker concerns about sexual harassment fell by 29 per cent (Brown et al., 2016).

180. Workplace training, such as on masculinities,[134] can play a powerful role in challenging stereotypes and transforming culture inside and outside work (Holmes and Flood, 2013). An example from the United States is "Men and Women as Allies", a workplace behaviour-change model that "address[es] the impact of domestic violence in the workplace with links to male-to-male violence and workplace bullying" (Wagner, 2012, page 107).

Box 7
Preventing sexual harassment at the workplace in Jordan

In 2013, the joint ILO/IFC Better Work Programme encouraged implementation of harassment policies and provided training to managers, supervisors and workers in a garment factory in Jordan. As a result, workers' understanding of the implications of sexual harassment increased by over 40 per cent. Likewise, the ability of the supervisors and managers to respond to sexual harassment increased by over 40 per cent.

Source: ILO, 2014d.

181. Business leaders are realizing the significant role that "transformational leadership" (where leaders demonstrate inspirational motivation, intellectual stimulation and individualized consideration) plays in reducing bullying (Appelbaum et al., 2012; Beugré et al., 2006). A study in 25 primary and secondary schools in Turkey found that principals who possessed transformational leadership characteristics improved the organizational health of their school and, as a result, teachers experienced less workplace bullying (Cemaloğlu, 2011). Supervisors are also decreasing the risk of violence by shifting power differentials. A study of a Mexican textile factory describes the gains made when a piecework system overseen by male supervisors changed to self-managed teams: "Most notably, recalibrating the manager–worker power differential on the shop floor translated into fewer cases of sexual harassment" (Plankey-Videla, 2012, page 116).

Gaps analysis

182. Violence affects women and men in every sector, in both the formal and informal economies, in all occupations, at every level. Violence also affects certain sectors and groups of workers in unique ways and at different rates. There is a lack of coherence and coordination between laws that seek to address violence in the world of work. This section summarizes the main gaps in preventing and addressing violence against women and men in the world of work. Currently, there is no international legal standard that addresses such violence and provides a definition and scope for it. However, there is a wealth of experience from national

[134] Masculinity, or masculinities, in the context of gender equality, is understood as a social, cultural and temporal construct, rather than a biological one. The term relates to perceived notions and ideals about how men should or are expected to behave in a given setting.

legislation, policies and collective agreements throughout the world that could form a basis for such a standard or standards.

183. *Scope and definition.* A major gap in legislation regulating workplace violence is the scope of who is covered, and where and when they are covered. Domestic workers, for example, often have greater vulnerabilities to workplace violence, but they are often not covered by relevant legislation. Contract arrangements may also limit coverage for workers more at risk of violence. Similarly, many labour laws define the concept of "workplace" very narrowly, often limiting it to the physical place of work. As discussed in this report, violence can occur while commuting to work, at work-related social events, and via technology that blurs the line between workplaces, "domestic" places and public spaces. Comprehensive definitions of both worker and workplace (to encompass the diversity of the world of work) encompass those most at risk of violence.

184. Violence in the world of work, where it is regulated, is often addressed in a piecemeal fashion. Physical violence, which is the most visible form of violence in the world of work, is often a focus. However, the constant, grinding effects of psychological and sexual violence that humiliate and degrade workers and employers can be even more insidious and destructive. Decent work cannot exist in such an environment of violence.

185. A broad definition of "violence" could also help overcome stereotypes about perpetrators and victims. For example, legislation that only prohibits sexual harassment against women effectively bars male victims from seeking remedies. Also, where the definition of bullying recognizes only managers as possible perpetrators, bullying between co-workers is not prohibited. As there are indications that hierarchical status does not necessarily shield particular groups, including as a result of interactions associated with gender, race and class, from violence by perpetrators at all levels, the issue of who can be a victim and perpetrator could be further expanded. This expansion could also include those working under the authority of another person, even where they fall outside of the employment relationship, such as interns, apprentices, contractors, and temporary agency workers; and third-parties who come in contact with the workplace, such as customers, patients or clients.

186. *Prevention.* Another substantial gap concerns prevention and management of violence in the workplace. Although employers in most countries have a general duty to protect the health and safety of workers, this duty does not always include protection against violence. In many countries, occupational safety and health management systems require workplace policies, risk assessments, duties to inform, internal complaints mechanisms and investigations regarding workplace risks. Explicitly including risks of violence under these systems could ensure safer workplaces. Specifically addressing psychosocial hazards for violence at work, linked to the environmental and organizational structure of the workplace, as well as specific circumstances and conditions of work that can increase exposure to violence, could have a considerable influence in preventing violence.

187. *Domestic/intimate partner violence spillover.* Despite the demonstrated impact of intimate partner violence (in human and financial terms) on the world of work, few countries prohibit economic intimate partner violence, which can deprive victims of the economic means to leave an abusive relationship and can prevent victims from entering and remaining in the workforce. There are, however, an increasing number of laws and collective agreements addressing the consequences of domestic violence, including through leave and support provisions.

188. *Protecting against violence in the world of work.* A number of countries take a criminal justice approach to addressing workplace violence, but this is not always effective in dealing with more "normalized" forms of violence, such as sexual harassment and bullying. Clearly prohibiting the various forms of violence in a coherent and comprehensive manner within laws addressing labour, occupational safety and health, equality and non-discrimination and

enacting specific laws on the subject, as well as establishing internal and external complaints mechanisms allows workers, employers, trade unions, labour inspectors, human rights bodies, courts and tribunals to ensure rights exist and are respected. Where neither criminal nor labour law addresses violence in the world of work, often the only recourse for employee-victims is to quit and seek compensation through the courts based on tort or contract law. Without a restorative or transformative process for the individual or enterprise, this does little to change workplace culture and, thus, prevent violence.

189. There is a growing understanding that workers with illnesses resulting from violence in the world of work need financial support. However, only a small number of countries consider the health consequences of workplace violence as compensable occupational illnesses. This leaves workers with incapacitating physical and/or mental health conditions to pay substantial expenses out of pocket. There are also often limitations on remedies, with only damages available and not reinstatement. Depending on the form of contract, remedies – and access to social security benefits – may be further limited.

190. *Groups in situations of greater vulnerability to violence.* While world of work violence affects all people in all sectors and occupations, many groups of people experience violence more frequently, or in unique ways. For prevention and protection from violence in the world of work to be effective, there is a need to reckon and take into account the specific needs and circumstances of members of such groups.

191. *Accountability and monitoring mechanisms.* Many countries lack comprehensive national policies that target violence (including gender-based violence) in the world of work. With some notable exceptions, labour inspectors, judges and other stakeholders are not provided with training on identifying risks of violence and are not always given powers to stop work where those risks exist. Adding to this, data on the prevalence of workplace violence is not widely collected, yet is needed to inform law and policy.

192. *Workers' and employers' organizations.* Many workers' and employers' organizations are responding to violence in the world of work with campaigns, codes of practice and awareness-raising initiatives. However, collective agreements, which can solidify practical mechanisms to prevent and address violence, do not often contain references to the various forms of violence. Where they do, the provisions are generally aspirational and do not provide clear duties for all parties. Having a central role in the world of work, workers' and employers' organizations can take a range of proactive measures to prevent and address violence.

193. *Towards an instrument on violence against women and men in the world of work.* This report has highlighted a need for ILO guidance on preventing and addressing violence against women and men in the world of work. The basic principles and measures to prevent and address violence could be stated in general terms in a Convention, which could be complemented by detailed provisions set out in a Recommendation.

194. The possible new instruments could set out a systematic and comprehensive approach, addressing violence in the world of work through prevention, prohibition, victim protection, enforcement and monitoring.

195. It would, therefore, seem appropriate for such new ILO instruments to contain provisions:

- setting out a comprehensive definition of violence along with the scope of application of the instrument;
- promoting a systematic approach to prevention, potentially drawing on lessons learned from other international safety and health instruments;

- promoting effective complaints mechanisms for violence that are accessible, effective and protect victims and witnesses from reprisals;

- promoting working conditions and organizational climates that empower workers to access existing protection mechanisms in practice, in order to overcome abusive power relations;

- calling for the development, in cooperation with workers' and employers' organizations, of policies, guidelines, codes of practice, awareness campaigns and other initiatives aimed at eliminating violence in the world of work;

- promoting the systematic collection of statistics on violence against women and men in the world of work.

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