



Ending violence and harassment against women and men in the world of work

CARE International's position on the new ILO Convention

This policy brief sets out CARE International's top line positions and comments on the suggested new International Labour Organization (ILO) Convention and Recommendation on 'Ending violence and harassment against women and men in the world of work'. This brief follows the consultation in 2017 with governments on whether to introduce such (a) new instrument(s) and, if so, in what form, and is based on CARE's submission for a positive and progressive future ILO Convention. An ILO report informed by the consultation will be released 28 February (tbc) ahead of discussion at the International Labour Conference 28 May - 8 June 2018. CARE will continue to put forward its positions and respond to reports to help ensure the best global agreement and national action possible to bring an end to violence and harassment at work place worldwide.

Introduction

CARE International strongly supports a new ILO Convention (with associated Recommendation) on 'Ending Violence and Harassment against women and men in the world of work', with a strong focus on the gender dimension of violence and the inclusion of the informal sector in the world of work. CARE considers that it is essential to signal without ambiguity that violence and harassment in the world of work is the antithesis of decent work and demands serious and urgent attention. The approach to dealing with violence and harassment in the world of work at both international and domestic level is often fragmented and limited in scope. The development of international standard(s) would fill important gaps at international and domestic levels in relation to occupations, sectors and forms of violence and harassment, by taking a comprehensive and integrated approach.

There is no internationally agreed definition of the term "violence and harassment in the world of work". Whilst several ILO instruments refer to violence and/or harassment, none of these instruments address violence and harassment as their primary aim, none define what is meant by violence and harassment, nor do they indicate the steps that governments, employers and workers' organisations should take to prevent, address and redress violence and harassment in the world of work. Further, these instruments tend to refer to only certain forms of violence or harassment and only cover specific groups or categories of workers.

The instrument should also recall the United Nations Guiding Principles on Business and Human Rights, recognising that violence and harassment in the world of work is a human rights violation and a threat to the dignity, health and security of individuals; and the ILO Convention 189 on Domestic Workers and its commitment to ensure the effective promotion and protection of the human rights of all domestic workers.

For an integrated approach to violence and harassment in the world of work, the ILO Convention should provide that member States: include a prohibition in law of all forms of violence and harassment in the world of work; ensure that relevant policies address violence and harassment; adopt a comprehensive prevention strategy; establish enforcement and monitoring mechanisms; provide remedies and support for victims; provide sanctions for perpetrators; and develop tools and guidance.

Reference to Gender-Based Violence. CARE suggests that explicit reference is made to gender-based violence in the instruments. Whilst violence and harassment in the world of work affects everyone, women are at greater risk. For CARE, physical, psychological and sexual violence can be considered gender-based if it stems from unequal power relationships between men and women (or people of other gender identities) or if it is perpetrated against people because they do not conform to socially accepted gender norms or roles. The majority of people affected by gender-based violence are women and girls most often at the hands of men and boys.

Definitions and scope. Violence and harassment is highly contextual and is often driven by dynamics operating both in the world of work and in greater society, including, but not limited to, power relations, gender norms, cultural and social norms, and discrimination. Whilst violence and harassment affects every sector and occupation, negative power relations, discrimination based on the intersectionality of various factors (such as gender and race), circumstances and conditions of work and psychosocial hazards can increase the risk of exposure to violence and harassment in the world of work.

For CARE, violence and harassment in the world of work can take several forms such as physical abuse including assault, battery, attempted murder and murder; sexual violence including rape and sexual assault; verbal abuse; bullying; psychological abuse and intimidation; sexual harassment; threats of violence and stalking. Whilst there are extreme forms of violence that are easily recognised, other seemingly less extreme forms of intimidation and harassment, sometimes taking place over extensive periods, can have equally devastating effects but are not always recognised in measures to address violence in the world of work.

The scope of violence and harassment in the world of work should also cover situations occurring in the domestic sphere, where these impact on the world of work. Domestic abuse/intimate partner violence can, for example, cause disrupted work histories, high rates of absenteeism, lower personal incomes, and frequent changes in jobs and loss of employment. The scope of the ILO Convention should also extend to measures to prevent and address violence from third parties, such as clients and members of the public. Family members and friends/ relatives of employers should be included in the list of third parties, where private homes are workplaces.

Sectors and places of work. CARE considers that the instrument(s) should explicitly include a wide concept of the world of work, a notion that would extend beyond the physical workplace and would include commuting to and from work, work-related social events and domestic violence where it impacts on the world of work.

The instrument should include homes and public places. It is important to frame public places as a workplace in order to protect informal workers who are especially vulnerable to violence. Political workplaces including parliaments and political parties should be included as workplaces within the ILO Convention, given the global prevalence of violence against women standing for national and local office. This notion should also include events related to the exercise of freedom of association, including especially the right to organize and collective bargaining.

CARE recommends that homes are included in the wider understanding of the world of work in order to consider unpaid care work, work in family enterprises, home-based workers and teleworkers. CARE suggests to also include the employer's residence as a workplace in the case of live-in domestic workers. Unpaid care workers should be explicitly mentioned considering that such workers have not usually been under the coverage of ILO instruments.

Whilst no workplace, group, sector or occupation is intrinsically vulnerable to violence and harassment, some could be at a higher risk. For example, workers in frontline services such as public emergency services, social care, health and education, as well as in the transport and hospitality sectors - have reported relatively higher incidence. Working alone, in isolated or intimate spaces or at night can also increase risk of exposure to violence and harassment, as can working in highly segregated occupations (for instance women working in male dominated sectors such as construction and transport). Workers in informal, precarious and non-standard forms of employment and workers who cannot effectively exercise their rights to freedom of association and collective bargaining are also likely to be more at risk of violence and harassment. Domestic and sex workers also have a higher exposure to violence.

Dispute resolution mechanisms. The ILO Convention should provide that each member State should ensure that all workers have easy access to safe, fair and effective dispute resolution mechanisms including: complaint and investigation mechanisms which, both within and external to the economic unit, should recognise the role of trade unions in dispute resolution; access to courts or tribunals; and dispute resolution mechanisms external to the economic unit.

In many instances the only 'remedy' available to workers experiencing violence and harassment is to leave the job. In cases of sexual or physical assault the only remedy available may be through the criminal system, which can be slow and expensive, and requires a high burden of proof. Although violence and harassment can lead to physical and mental illness, only a small number of countries consider the health consequences of work related violence and harassment as compensable occupational illnesses under workers' compensation insurance. In cases in which keeping the job entails significant risks of further violence or harassment in retaliation, programs should be put in place for victims easily find alternative possibilities of employment.

Prevention measures. Regarding protection measures, in addition to developing and implementing workplace policies on violence and harassment and establishing prevention programmes with measurable objectives, CARE suggests employers publish key (anonymised) data, disaggregated by sex as well as reporting on risks identified and the plans established to mitigate those risks, and to provide remedy in cases of actual harassment and violence. Such publication should cover not only direct employees but also workers further up and down the value chain. Employers should also be required to publish their analysis of the risks of workplace violence and harassment throughout their value chain and the steps they are taking to mitigate these risks and to provide remedies to victims of workplace violence and harassment. Such workplace policies should extend to the entire value chain, bearing in mind companies' responsibilities under the UN Guiding Principles on Business and Human Rights.

CARE believes it to be of utmost importance that workers and their representatives take part in the design, implementation and monitoring of workplace policies.

Women's participation in the ILO process and beyond. Women should be encouraged and supported in becoming worker representatives in order to play a key role in consultations both in the ILO Convention process, and in the long-term implementation of the ILO Convention in national law and regulations, and in engagement with implementation, enforcement and remediation authorities and employers. Governments and trade unions should consult widely with women's groups and CSOs in their national contexts in 2018 and beyond to bring in their experience.

Support and guidance at the national level. Member States should develop and implement gender sensitive guidelines and training to assist judges, labour inspectors, police officers and other public officials in fulfilling their mandate regarding violence and harassment as well as to assist employers in preventing and addressing violence and harassment and also in terms of enforcement and access to justice. Labour inspectors, judges and others involved in the enforcement and administration of justice are seldom provided with training on identifying risks of violence and harassment. This is especially relevant for gender based violence, where there is often a gap in the knowledge, expertise and sensitivity of those entrusted with the enforcement of protections against such conduct.

The Recommendation should also outline the rights and responsibilities of workers and employers and ensure workers and their representatives are consulted, informed and trained. Training should be extended to labour inspectors and to those involved in taking measures to prevent and control hazards and risks of violence and harassment, such as occupational health and safety officers, human resources personnel, managers and supervisors. Moreover, companies should be required to ensure appropriate and adequate training of employees / employer councils or boards who investigate from within the company. All individuals engaged in inspecting for, and addressing violence and harassment

in the workplace, including labour inspectors and internal corporate staff, need to be specifically trained to identify ways in which intersecting identities (such as gender, race, class, caste and sexual orientation) can play a role in exacerbating the risk and/or effects of violence and harassment for some employees disproportionately when compared to others. Training programmes and materials for journalists and other media personnel on gender-based violence should include identifying corporate responsibilities on transparency, risk analysis and mitigation, and effective remedies throughout the value chain.

The Recommendation should call for Member States to provide resources and assistance for informal economy workers and their associations to prevent and address violence and harassment, including gender-based violence, in the informal economy. This would be consistent with the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), which calls for the adoption of an integrated policy framework to facilitate the transition to the formal economy that addresses, among others, the promotion of equality and the elimination of all forms of discrimination and violence, including gender-based violence, at the workplace. Such integrated strategies should combine a broad range of policy areas to achieve the transition to formality, including improving national legal frameworks, strengthening occupational safety and health (OSH) and labour inspection, organising informal workers and extending the coverage of social protection.

Global value chains. The importance of global value chains and their impact on the conditions faced by workers, not only in formal situations such as Tier 1 factories, but also throughout the value chain, including home-based and informal workers must be addressed in the instruments. For instance, many garment value chains include sub-contracting to Tier-2 factories and to homeworkers, often via agents. This complexity adds to the risk of poor conditions for workers including violence and harassment. The companies at the top of these value chains drive, via demanding purchasing practices, pressure down the value chain which gives rise to significantly increased risks of violence and harassment at work.

CARE calls on the ILO to have the ILO Convention recognise the United Nations Guiding Principles on Business and Human Rights, and preferably build on their Respect and Remedy requirements of businesses with obligations to pay particular attention to the risks of violence and harassment at work within their Human Rights Due Diligence processes; to publish their risk analyses and mitigation plans; and to provide specialised remedies which recognise the particularly sensitive nature of the impact of violence and harassment at work. Responsibility for violence and harassment in the workplace should not only extend to supply chains but should also extend to distribution and retail channels where a brand or manufacturer plays a major role in the value chain.

Conclusion. A progressive new ILO Convention and Recommendation are needed. In CARE's view, the scope of the ILO Convention and Recommendation must reflect the needs of the women we support: that violence and harassment at work includes not just physical, but also psychological and sexual aspects; that practical protections against work-related violence and harassment reach all workers, including those working in private homes, in the informal economy, and in small and medium-sized enterprises; and that the world of work is considered to cover not only the traditional physical workplace, but also commuting to and from work, public spaces including for informal workers such as street vendors, and the home, in particular for homeworkers and domestic workers.

A new ILO Convention would require governments to pursue an integrated approach to address violence and harassment in the world of work, delineating clear responsibilities for public and private employers, workers and their respective organizations, and governments, and joint strategies and collaboration. An integrated approach is necessary not only for prevention, but also for protection, rehabilitation, compensation and other remedial action.

Further information is available on the CARE Insights '[Ending violence and harassment at Work](#)' pages.