

**CARE International**

**RESPONSE TO ILO QUESTIONNAIRE ON:**

**“Ending violence and harassment against women**

**and men in the world of work”**

22 September 2017

CARE International

**RESPONSE TO ILO QUESTIONNAIRE ON:**

**“Ending Violence and Harassment against women and men in the world of work”**

CARE International strongly supports a new ILO Convention (with associated Recommendations) on **“Ending Violence and Harassment against women and men in the world of work”**, with a strong focus on the gender dimension of violence.

The Questionnaire sets out a positive and progressive possible future Convention, and we support it strongly. However, we have made detailed responses to the Questionnaire as we believe that there is a need for some additional considerations to be addressed and for some areas to be strengthened or clarified.

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*CARE International*

*21 September 2017*

## Questionnaire

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At its 325th Session (October 2015), the Governing Body 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 International Labour Conference for a double discussion. At its 328th Session (October 2016), following the Meeting of Experts on Violence against Women and Men in the World of Work (October 2016),<sup>1</sup> the Governing Body decided to replace the term “violence” with “violence and harassment” in the title of the item placed on the agenda of the 107th Session (June 2018) of the Conference.<sup>2</sup>

The purpose of the questionnaire is to request the views of member States on the scope and content of the proposed instrument or instruments, after consultation with the most representative organizations of employers and workers. Replies received should enable the International Labour Office to prepare a report for the Conference. The Office would be grateful if the replies could reach the Office by 22 September 2017. Respondents are encouraged, where possible, to complete the questionnaire in electronic format and to submit their replies electronically to the following email address: [VIOLENCEHARASSMENT@ilo.org](mailto:VIOLENCEHARASSMENT@ilo.org). Respondents may also submit their replies in hard copy to the Conditions of Work and Equality Department (WORKQUALITY) at the International Labour Office in Geneva.

### I. Form of the international instrument or instruments

*1. Should the International Labour Conference adopt an instrument or instruments concerning violence and harassment in the world of work?*

*Comments: Yes*

*2. If so, should the instrument or instruments take the form of:*

*(a) a Convention?*

*(b) a Recommendation?*

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<sup>1</sup> ILO: Final report, Meeting of Experts on Violence against Women and Men in the World of Work (3–6 October 2016), available at: [http://www.ilo.org/gender/Informationresources/Publications/WCMS\\_546303/lang-en/index.htm](http://www.ilo.org/gender/Informationresources/Publications/WCMS_546303/lang-en/index.htm); and Background paper for discussion at the Meeting of Experts on Violence against Women and Men in the World of Work (3–6 October 2016), available at: [http://www.ilo.org/gender/Informationresources/Publications/WCMS\\_522932/lang--de/index.htm](http://www.ilo.org/gender/Informationresources/Publications/WCMS_522932/lang--de/index.htm)

<sup>2</sup> GB.328/PV, para. 357(b); and GB.328/INS/17/5, available at: [http://www.ilo.org/wcmsp5/groups/public/--ed\\_norm/---relconf/documents/meetingdocument/wcms\\_533534.pdf](http://www.ilo.org/wcmsp5/groups/public/--ed_norm/---relconf/documents/meetingdocument/wcms_533534.pdf)

(c) *a Convention supplemented by a Recommendation, as two separate instruments or a single instrument comprising binding and non-binding provisions?*



*Comments:*

*A Convention, supplemented by a Recommendation, is essential to signal without ambiguity that violence and harassment is unacceptable, is the antithesis of decent work and demands serious and urgent attention. There is no internationally agreed definition of the term or scope of “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 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) is therefore meant to fill important gaps at international and domestic level in relation to occupations, sectors and forms of violence and harassment, by taking a comprehensive and integrated approach.*

*The instrument should take the form of a binding Convention, supplemented by a Recommendation, as two separate instruments. The only existing example of an ILO instrument that takes the form of a single instrument comprising binding and non-binding provisions is the Maritime Labour Convention of 2006, which consolidates 66 maritime labour instruments adopted by the ILO between 1920 and 1996.*

## II. Preamble

*3. Should the Preamble of the instrument or instruments recall that the Declaration of Philadelphia affirms that all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity?*

*Comments: Yes. Violence and harassment in the world of work is a human rights violation and a threat to the dignity, health and security of individuals. It strikes at the heart of the efforts of the International Labour Organization 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. It is unacceptable and incompatible with decent work.*

*4. Should the Preamble of the instrument or instruments reaffirm the relevance of the fundamental Conventions of the International Labour Organization?*

*Comments: Yes. The preamble should also recall the commitment of the International Labour Organization to promote decent work for all through the achievement of the goals of the ILO*

***Declaration on Fundamental Principles and Rights at Work and the ILO Declaration on Social Justice for a Fair Globalization.***

5. *Should the Preamble of the instrument or instruments state the right of everyone to a world of work free from violence and harassment, including gender-based violence?*

***Comments: Yes. It is particularly important that reference is made in the Preamble to gender-based violence. Whilst violence and harassment in the world of work affects everyone, women and those who do not conform to societal perceptions of gender roles and norms are at greater risk. For this reason, the ILO tripartite meeting of experts underscored that the gender dimensions of violence and harassment need to be addressed specifically in the instrument(s).***

6. *Should the Preamble of the instrument or instruments recall that violence and harassment in the world of work:*

- (a) *is a human rights violation, is unacceptable and is incompatible with decent work; and*
- (b) *affects workplace relations, worker engagement, health, productivity, quality of public and private services and enterprise reputation, and may prevent access to, and remaining and advancing in, the labour market, particularly for women?*

Comments: **Yes**

***The Preamble should 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 that the Guiding Principles refer to the International Labour Organization's Declaration on Fundamental Principles and Rights at Work.***

***The Preamble should also recall 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.***

7. *Should the Preamble of the instrument or instruments recognize that an inclusive and integrated approach, tackling underlying causes and risk factors, is essential to ending violence and harassment in the world of work?*

***Comments: Yes. 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. An integrated approach is necessary not only for prevention, but also for protection, rehabilitation, compensation and other remedial action.***

8. Should other considerations be included in the Preamble of the instrument or instruments? If yes, please specify.

**Yes. The Preamble should mention the wider concept of the world of work, a notion that would extend beyond the physical workplace and would include, for example, commuting to and from work, work-related social events and domestic violence where it impacts on the world of work.**

**Homes and public places should be covered by the new instrument or instruments. The preamble should also include as a workplace an employer's residence in the case of live-in domestic workers, even during leisure time. Homes should be included in the wider understanding of the world of work in order to include critical areas of work including: unpaid care work, work in family enterprises, home-based workers and teleworkers. Public places also need to be framed as a workplace in order to protect informal workers who are especially vulnerable to violence.**

**This notion should also include events related to the exercise of freedom of association, including especially the right to organize and collective bargaining.**

**Political workplaces including parliaments and political parties should be included as workplaces within the Convention, given the global prevalence of violence against women standing for national and local office.**

**There should be acknowledgement of unpaid care workers as a group under the coverage of the instrument or instruments. Although the instrument or instruments would be applicable to "the physical workplace, including public and domestic spaces where they are a place of work" this category of workers should be explicitly mentioned considering that such workers have not usually been under the coverage of ILO instruments.**

**The Preamble should recall other relevant international instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, the United Nations Convention on the Rights of Persons with Disabilities, and the United Nations Guiding Principles on Business and Human Rights.**

### **III. Definitions and scope**

9. For the purposes of the instrument or instruments should the expression "violence and harassment" be understood as a continuum of unacceptable behaviours and practices – whether a single occurrence or repeated – having the aim or effect of causing physical, psychological or sexual harm?

**Comments: Yes. 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. Practices and behaviours that give rise to psychosocial hazards and risks should be understood as included in this definition, particularly where they affect the dignity, security, health and wellbeing of the worker(s).*

*10. For the purposes of the instrument or instruments should violence and harassment in the world of work cover situations occurring:*

*(a) in the physical workplace, including public and domestic spaces where they are a place of work;*

*Comments: Yes. Public spaces are often the physical workplace for informal economy workers, whilst domestic workers, home care workers, home-based workers and teleworkers perform work in domestic spaces.*

*(b) in places where the worker is paid or takes meals;*

*Comments: Yes. This should extend to cover the immediate surrounding environment / neighbourhood / access routes to and from accommodation (e.g.: ensuring street lamps so it's safe for women to walk back to their hostels in the night).*

*Also, work-provided/related accommodation should be within the scope of the Convention. Many workers have to live in dormitories or other employer-provided accommodation which increases the risk of violence and harassment but this is insufficiently captured by existing legislation and rules.*

*(c) when commuting to and from work;*

*Comments: Yes*

*(d) during work-related trips or travel, at work-related events or social activities, and during work-related training; and*

*Comments: Yes*

*(e) through work-related communications enabled by information and communication technologies?*

*Comments: Yes. The ILO meeting of experts recognised that “inappropriate use of technology is also ... a source of concern” and that any new instruments “should also be able to respond to the new challenges and risks which might lead to violence and harassment in the world of work, such as those arising from changing forms of work and technology”.*

*Comments: The scope of violence and harassment in the world of work should 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, frequent changes in jobs and loss of employment. It can also result in an abusive partner stalking or harassing the worker at their workplace.*



*The scope of the Convention should also extend to measures to prevent and address violence from third parties, such as clients and members of the public.*

*The instrument or instruments should include a specific article on who the perpetrators could be, including hierarchical superiors, co-workers, public forces, as well as clients and members of the public. Including public forces is particularly important to protect informal workers and sex workers.*

*11. For the purposes of the instrument or instruments should the term “employer” include intermediaries?*

*Comments: Yes. Workers (including migrant workers) are often placed in employment through intermediaries, such as brokers, agencies and companies that recruit workers to perform work elsewhere than with the intermediary, including in private homes. It is important to avoid gaps in scope and coverage, consistent with the ILO Employment Relationship Recommendation, 2006 (No. 198).*

*However, what is missing is "third parties". For domestic workers this would also mean violence and harassment by family members and friends / family members of the employer, owners and employees of placement sites and agencies, as well as intermediaries, would be covered by the Convention. (Could be set here or under 13 or 49).*

*12. For the purposes of the instrument or instruments should the term “worker” cover persons in any employment or occupation, irrespective of their contractual status, and in all sectors of the economy – formal or informal – including:*

*(a) persons in training, internships and apprenticeships;*

*(b) volunteers;*

*(c) jobseekers; and*

*(d) laid-off and suspended workers?*

*Yes. Labour, occupational safety and health, non-discrimination and other laws that address violence in the world of work often apply work-related violence and harassment provisions only to persons in an employment relationship. The above categories are among those most at risk of being exposed to violence and harassment, yet tend to be outside the scope of existing laws and regulations addressing violence and/or harassment in the world of work. They should be specifically covered in the instruments.*

*It should also include:*

- *Domestic workers*
- *Home-based workers*
- *Workers in unpaid care work*
- *Workers in family enterprises*
- *Sex workers*



***The frequent stigmatisation and/or illegality of sex work increases the risk of violence and harassment, both from “clients” and from public authority workers, and reduces the possibility of remedy.***

13. *Should any other terms be defined by the instrument or instruments? If yes, please specify.*

*Comments: This question should be left open for the moment*

## IV. Content of a Convention

14. *Should the Convention provide that each Member should recognize the right to a world of work free from violence and harassment and adopt, in consultation with representative employers’ and workers’ organizations, an inclusive and integrated approach for the elimination of violence and harassment in the world of work that includes:*

*(a) prohibition in law of all forms of violence and harassment in the world of work;*

***Comments: Yes. The Convention should require the prohibition in law of all forms of violence and harassment in the world of work, and in particular gender-based violence. Forms of violence and harassment should include psychosocial hazards and risks.***

*(b) ensuring that relevant policies address violence and harassment;*

*Comments: Yes*

*(c) adoption of a comprehensive prevention strategy;*

*Comments: Yes*

*(d) establishment of enforcement and monitoring mechanisms;*

*Comments: Yes*

*(e) provision of remedies and support for victims;*

*Comments: Yes*

*(f) provision of sanctions for perpetrators; and*

*Comments: Yes*

*(g) development of tools and guidance?*

***Comments: Yes. The above are essential to an integrated approach to violence and harassment in the world of work and should be further expanded on in the Recommendation.***

*If others please specify.*

*Comments:*

## A. Fundamental principles and rights at work and protection

15. *Should the Convention provide that, with a view to eliminating violence and harassment in the world of work, each Member should respect, promote and realize the fundamental principles and rights at work, namely freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation?*

*Comments: Yes.*

16. *Should the Convention provide that each Member should adopt national laws and regulations prohibiting all forms of violence and harassment in the world of work, and in particular all forms of gender-based violence?*

*Comments: Yes. This is essential to avoid gaps in scope and coverage. The Convention should make explicit reference to the prohibition of all forms of gender-based violence and harassment in particular. Physical, psychological and sexual violence can be considered gender-based if it stems from unequal power relationships or if it is perpetrated against people because they do not conform to socially accepted gender roles. Women and girls are the “primary targets” of gender-based violence, whilst men are most often the perpetrators. Violence, harassment and sexual harassment in the world of work affect women disproportionately.*

17. *Should the Convention provide that each Member should develop laws, regulations and policies ensuring the right to equality and non-discrimination for all workers, including for women workers as well as workers belonging to one or more groups disproportionately affected by violence and harassment, including:*

*(a) young workers;*

*(b) migrant workers;*

*(c) workers with disabilities;*

*(d) workers from indigenous and tribal peoples;*

*(e) lesbian, gay, bisexual, transgender and intersex workers;*

*(f) workers living with HIV; and*

*(g) workers from marginalized communities, such as caste-affected persons, and members of ethnic minorities?*

*If others please specify.*

*Comments: Yes. Preventing violence and harassment in the world of work is inextricably linked to ending discrimination, promoting equality and extending economic security. Where grounds of discrimination intersect, such as gender and race or disability, the risk of violence*

*and harassment is exacerbated. All of the above groups should be explicitly mentioned in the Convention. The list, however, should not be seen as exhaustive.*

*Further, special attention should be given to the situation of sex workers. Sex workers face particularly high risks of violence and harassment, certainly from “clients”, but also from public forces, especially where sex work is illegal or highly stigmatised.*

*18. Should the Convention provide that each Member should:*

*(a) take measures to ensure the prevention of violence and harassment in the world of work;*

*Comments: Yes. The role of collective agreements in mandating preventive measures, including to address psychosocial risks, should also be recognised.*

*(b) identify sectors, occupations and work arrangements in which workers are more exposed to violence and harassment; and*

*Comments: Yes. Whilst no workplace, group, sector or occupation is intrinsically vulnerable to violence and harassment, some could be at a higher risk. Particular sectors - 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 workers are also have a higher exposure to violence.*

*Sex workers also have a higher exposure to violence.*

*(c) take measures to ensure that such workers are effectively protected?*

*Comments: Yes*

*19. Should the Convention provide that each Member should adopt national laws and regulations requiring that employers take steps to prevent all forms of violence and harassment in the world of work, and in particular to:*

*(a) include violence and harassment and psychosocial risks under existing occupational safety and health management systems;*

*Comments: Yes*

*(b) adopt a policy, in consultation with workers and their representatives, outlining a zero-tolerance stance on all forms of violence and harassment;*

***Comments: Yes. Workers and their representatives should take part in the design, implementation and monitoring of such policies. In particular women should be encouraged and supported in becoming worker representatives in order to play a key role in consultations.***

*(c) identify hazards and assess the risks of violence and harassment, with the participation of workers and their representatives, and take measures for their prevention and control; and*

***Comments: Yes***

*(d) inform and train workers on the identified hazards and risks of violence and harassment and the associated prevention and protection measures?*

***Comments: Yes. Training should also be extended 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.***

***Training should also be extended to labour inspectors.***

**Other Comments:**

***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.***

*20. Should the Convention provide that each Member should take appropriate measures to ensure the monitoring and enforcement of national laws and regulations regarding violence and harassment in the world of work?*

***Comments: Yes and monitoring and enforcement should include domestic inspections in the case of domestic workers.***

*21. Should the Convention provide that each Member should ensure that all workers have easy access to safe, fair and effective dispute resolution mechanisms in cases of violence and harassment, including:*

*(a) complaint and investigation mechanisms at the level of the economic unit;*

***Yes. Such mechanisms, both within and external to the economic unit, should recognise the role of trade unions in dispute resolution.***

*(b) access to courts or tribunals;*

***Comments: Yes***

*(c) dispute resolution mechanisms external to the economic unit;*

*Comments: Yes (see 21 (a) also). The absence of effective and accessible dispute resolution mechanisms within and external to the economic unit creates an additional risk factor for violence and harassment.*

*(d) protection against victimization of complainants, witnesses and whistleblowers;*

*Comments: Yes. Extending protection to witnesses and whistleblowers, as well as complainants, is crucial. Often workers experiencing violence and harassment do not come forward for fear of retaliation or reprisals, resulting in violence and harassment continuing unsanctioned and the risk of a culture of impunity. Whistleblowers and witnesses can play a crucial role in raising the alarm and establishing the facts surrounding violence and harassment. Yet very few jurisdictions protect witnesses and whistleblowers, who can also face acts of victimisation.*

*(e) appropriate remedies;*

*Comments: Yes. 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. This often leaves workers with incapacitating physical and/or mental health conditions to pay substantial expenses out of pocket. This is especially the case for workers holding contracts that limit access to social security benefits.*

*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.*

*(f) legal, social and administrative support measures for complainants; and*

*Comments: Yes*

*(g) sanctions for perpetrators?*

*Comments: Yes. Sanctions must be effective, dissuasive, appropriate and proportional to the seriousness of the violence and harassment. The full range of disciplinary, civil, administrative and criminal sanctions should be available.*

*22. Should the Convention provide that each Member should adopt additional measures to ensure that victims of gender-based violence in the world of work, whether in urban or rural areas, should have effective access to specialized and expeditious dispute resolution mechanisms as well as to specialized support, services and remedies?*

*Comments: Yes*

23. *Should the Convention provide that workers have the right to remove themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger of violence and harassment, without suffering undue consequences?*

***Comments: Yes. In many countries, workers have a general right to be free from undue consequences (such as termination of contract or other disciplinary action) when stopping work in a situation that puts their health at risk. The Convention should also provide that labour inspectors should be mandated to address violence and harassment and should have the power to stop work in the case of work-related violence and harassment.***

***And in the case of migrant domestic workers, without the consequences of repatriation or deportation.***

*(c) awareness-raising campaigns and other initiatives are developed with the aim of eliminating violence and harassment in the world of work, including gender-based violence?*

***Comments: Yes***

***And should be specifically designed to reach those in informal places of work, including at home and in public places***

24. *Should the Convention provide that each Member should, in consultation with representative employers' and workers' organizations, take measures to ensure that:*

*(a) violence and harassment in the world of work is addressed in relevant national policies, such as occupational safety and health, equality and non-discrimination, including gender equality, and migration policies;*

***Yes. National labour and employment policies should also be included here. Recognising the interlinkages between frameworks such as equality, anti-discrimination, intersectionality and occupational health and safety frameworks is essential to an integrated approach.***

*(b) guidance, resources and other tools are provided to workers, employers and their representatives, and to enforcement authorities regarding violence and harassment in the world of work; and*

***Comments: Yes. The resources should include training.***

***Also, it is essential that enforcement authorities are adequately staffed and trained to ensure effective implementation of commitments.***

*(c) awareness-raising campaigns and other initiatives are developed with the aim of eliminating violence and harassment in the world of work, including gender-based violence?*

***Comments: Yes***

***And should be specifically designed to reach those in informal places of work, including at home and in public places***

## E. Means of implementation



25. *Should the Convention provide that each Member should implement its provisions through laws and regulations, as well as through collective agreements or other measures consistent with national practice, including by extending existing occupational safety and health measures to cover violence and harassment or adapting them and developing specific measures where necessary?*

*Comments: Yes*

## V. Content of a Recommendation

### A. Fundamental principles and rights at work and protection

26. *Should the Recommendation provide that in adopting an inclusive and integrated approach to end violence and harassment in the world of work, Members should address all forms of violence and harassment in the world of work in labour, occupational safety and health, and equality and non-discrimination law, as well as in criminal law where appropriate?*

*Comments: Yes*

27. *Should the Recommendation provide that Members should ensure that workers in sectors, occupations and work arrangements with a higher incidence of violence and harassment fully enjoy freedom of association and the right to collective bargaining in accordance with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)?*

*Comments: This should be part of the Convention, since it concerns fundamental labour rights, which are also foundational. Additionally, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) are key to enabling workers and employers to build workplaces free from violence and harassment and Members should ensure that all workers fully enjoy the rights in these Conventions. The Recommendation could give guidance to Members to pay special attention to ensuring that workers in sectors, occupations and work arrangements with a higher incidence of violence and harassment fully enjoy these rights.*

28. *Should the Recommendation provide that Members should take measures to:*

*(a) encourage collective bargaining at all levels as a means of preventing and addressing violence and harassment in the world of work; and*

*(b) facilitate such collective bargaining through the collection and dissemination of information on trends and good practices regarding the negotiation process and the content of collective agreements?*

*Comments: Yes. Collective bargaining at enterprise, sectoral and national level, as well as through Global and Regional Framework Agreements, are an essential part of an effective*



***industrial relations system for preventing, addressing and redressing harassment and violence in the world of work.***

*29. Should the Recommendation provide that with a view to eliminating violence and harassment in the world of work, Members should recognize the effects of domestic violence on the world of work and take measures to address them?*

***Comments: The need for Members to recognise the effects of domestic violence on the world of work should be addressed in the Convention. The Recommendation should give guidance on measures Members can take to address the effects of domestic violence on the world of work, drawing from existing legislation, policies and collective bargaining agreements.***

*30. Should the Recommendation provide that Members should take legislative or other measures to protect migrant workers, and particularly women migrant workers, in origin, destination and transit countries, against violence and harassment, including gender-based violence?*

***Comments: Yes. This should apply irrespective of the status of the migrant worker. The particular vulnerabilities of women migrant workers to violence and harassment should be recognised in the Recommendation, consistent with the ILO Multilateral Framework on Labour Migration 2006.***

## **B. Prevention measures**

*31. Should the Recommendation provide that occupational safety and health provisions on violence and harassment in national laws, regulations and policies should take into account occupational safety and health instruments of the International Labour Organization, including the Occupational Safety and Health Convention, 1981 (No. 155), and Recommendation, 1981 (No. 164); the Occupational Health Services Convention, 1985 (No. 161); the Night Work Convention, 1990 (No. 171), and Recommendation, 1990 (No. 178); and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)?*

***Comments: Yes***

*32. Should the Recommendation provide that, in developing and implementing workplace policies on violence and harassment, employers should:*

*(a) establish violence and harassment prevention programmes with measurable objectives;*

***Comments: Yes – and should 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 workplace policies should extend to the entire value chain, bearing in mind companies' responsibilities under the UN Guiding Principles on Business and Human Rights.***

*(b) outline the rights and responsibilities of workers and employers;*

*Comments: Yes*

*(c) ensure that workers and their representatives are consulted, informed and trained;*

*Comments: Yes*

***In particular women should be encouraged and supported by employers, trade unions and civil society in becoming worker representatives in order to play a strong and meaningful role in consultations, both in the Convention ratification process, and in the long term implementation of the Convention in national law and regulations, and in engagement with implementation, enforcement and remediation authorities and employers.***

*Special efforts should be made to*

*(d) provide information on complaint and investigation procedures; and*

*Comments: Yes*

*(e) ensure that all internal and external communications related to violence and harassment are duly considered and acted upon?*

*Comments: Yes*

*33. Should the Recommendation provide that workplace risk assessments should take into account factors that increase the likelihood of violence and harassment, in particular psychosocial hazards and risks, including those arising from third parties such as clients and the public, and the presence of negative power relations, gender norms, cultural and social norms, and discrimination?*

***Comments: Yes. The need for measures to address third party violence should also be recognised in the Convention.***

***Yes, family members and friends / relatives of employers should be included in the list of third parties, where private homes are workplaces.***

*34. Should the Recommendation provide that Members should:*

*(a) adopt specific measures for sectors, occupations and work arrangements which are more exposed to violence and harassment, including night work, work in isolation, services, health care, emergency services, domestic work, transport, education and entertainment; and*

*(b) ensure that these measures do not in any manner exclude or restrict the participation of women or other groups of workers?*

*Comments: Yes*

## C. Enforcement, monitoring and victim support

35. *Should the Recommendation provide that appropriate remedies in cases of violence and harassment referred to in question 21 should include, among others:*

*(a) reinstatement;*

*Comments: Yes*

*(b) compensation for material and non-material damages;*

*Comments: Yes*

*(c) injunctive relief ordering the employer to ensure that certain conduct is stopped or requiring that policies or practices be changed; and*

*Comments: Yes*

*(d) legal fees and costs?*

*Comments: Yes*

36. *Should the Recommendation provide that victims of violence and harassment should have access to compensation in cases of psychosocial or physical disability or incapacity to work?*

***Comments: Yes. The Recommendation should also provide that access to such compensation should be extended to those not adequately protected by labour law and other relevant laws.***

37. *Should the Recommendation provide that specialized and expeditious dispute resolution mechanisms for gender-based violence referred to in question 22 should include:*

*(a) courts with expertise in cases of gender-based violence;*

*Comments: Yes*

*(b) fast-track processes;*

*Comments: Yes*

*(c) shifting the burden of proof;*

*Comments: Yes*

*(d) legal advice and assistance for complainants; and*

***Comments: Yes. This should include access to free legal advice and assistance.***

*(e) guides and other information resources available in the widely spoken languages of the country?*

*Comments: Yes*

*If others please specify.*

*Comments:*

*38. Should the Recommendation provide that specialized support, services and remedies for victims of gender-based violence referred to in question 22 should include:*

*(a) leave for victims of domestic violence;*

*Comments: Yes*

*(b) flexible work hours for victims of stalking and domestic violence;*

*Comments: Yes*

*(c) support to help victims re-enter the labour market;*

*Comments: Yes*

*(d) counselling and information services, including at the workplace;*

*Comments: Yes*

*(e) 24-hour hotlines;*

*Comments: Yes*

*(f) emergency services;*

*Comments: Yes*

*(g) medical care and treatment;*

*Comments: Yes*

*(h) crisis centres, including shelters; and*

*Comments: Yes*

*(i) special police units to support victims?*

*Comments: Yes*

*If others please specify.*

*Comments:*

39. *Should the Recommendation provide that perpetrators of violence and harassment should be assisted through counselling or other appropriate measures with a view to preventing the reoccurrence of violence and harassment and facilitating their reintegration into work?*

**Comments: Yes, where appropriate.**

40. *Should the Recommendation provide that labour inspectors should have the mandate to address violence and harassment and be empowered to issue:*

*(a) interim orders of non-compliance in cases of violence and harassment; and*

*(b) orders to stop work in cases of violence and harassment or an imminent and serious danger of violence and harassment?*

**Comments: Yes. The mandate for labour inspectors to address violence and harassment should also be recognised in the Convention.**

**Inspection strategies should be put in place regarding the wider concept of the world of work.**

*If others please specify.*

**Comments:**

41. *Should the Recommendation provide that labour inspectors should undergo gender sensitive training with a view to identifying and addressing violence and harassment, psychosocial hazards and risks, gender-based violence, and discrimination against particular groups?*

*If others please specify.*

**Comments: Yes. Such training should also include the ability to identify and address the effects of multiple and intersecting forms of discrimination.**

42. *Should the Recommendation provide that the mandate of national bodies responsible for occupational safety and health or equality and non-discrimination, including gender equality, should include violence and harassment in the world of work?*

**Comments: Yes**

43. *Should the Recommendation provide that Members should collect and publish sex-disaggregated statistics on violence and harassment in the world of work, including gender-based violence?*

**Comments: Yes. Data on the prevalence of workplace violence and harassment, though rarely collected and often not sex-disaggregated, is needed to inform law and policy.**

**Members should also require the publication by employers of sex-disaggregated statistics on violence and harassment in the world of work, including gender-based 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.*

#### D. Support and guidance at the national level

*44. Should the Recommendation provide that national policies on occupational safety and health, equality and non-discrimination, including gender equality, and gender based violence, including violence against women, should address violence and harassment in the world of work?*

*Comments: Yes*

*45. Should the Recommendation provide that Members should develop, implement or disseminate, as appropriate:*

*(a) programmes aimed at addressing factors that increase the likelihood of violence and harassment, including negative power relations, gender norms, cultural and social norms, and discrimination;*

*Comments: Yes*

*And should be specifically designed to reach those in informal places of work, including at home and in public places*

*(b) 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;*

*Comments: Yes. This is important not only in terms of support and guidance, but is particularly important 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.*

*It is also important that States ensure that they provide adequate numbers of suitably-trained officials.*

*(c) model codes of practice, workplace policies and risk assessment tools, either general or sector-specific, for all forms of violence and harassment, taking into account the specific situations of disproportionately affected workers;*

*Comments: Yes*

*(d) awareness-raising campaigns that convey the unacceptability of violence and harassment, in particular gender-based violence, and address discriminatory attitudes and stigmatization of complainants and victims;*

*Comments: Yes*

***And should be specifically designed to reach those in informal places of work, including at home and in public places***

*(e) gender-sensitive curricula at all levels of education;*

*Comments: Yes*

*(f) training programmes and materials for journalists and other media personnel on gender-based violence, including its underlying causes and risk factors; and*

*Comments: Yes*

***The training should include corporate responsibilities on transparency, risk analysis and mitigation and effective remedies throughout the value chain.***

*(g) campaigns aimed at fostering safe, healthy and harmonious workplaces free from violence and harassment?*

*Comments: Yes*

*46. Should the Recommendation provide that Members should 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?*

***Comments: Yes. 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 OSH and labour inspection, organising informal workers and extending the coverage of social protection.***

## VI. Special problems

*47. Are there unique features of national law or practice that are liable to create difficulties in the practical application of the instrument or instruments?*

*Comments:*



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48. (For federal States only) In the event of an instrument or instruments being adopted, would the subject matter be appropriate for federal action or, wholly or in part, for action by the constituent units of the federation?

Comments:

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49. Are there any other relevant problems or issues not covered by the present questionnaire that ought to be taken into consideration when drafting the instrument or instruments?

If yes, please specify.

Comments:

***Yes. The present questionnaire does not address 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. 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 (e.g. global brands and retailers) drive, via demanding purchasing practices, pressure down the value chain which gives rise to significantly increased risks of violence and harassment and work. The Convention should at the very least 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.***