

TIME FOR CHANGE

ADVANCING LEGAL PROTECTIONS ON GENDER-BASED VIOLENCE AT WORK





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The International Labor Rights Forum is a human rights organization dedicated to advancing dignity and justice for workers in the global economy.

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TABLE OF CONTENTS

02 EXECUTIVE SUMMARY

03 I. AWARENESS: UNDERSTANDING THE PROBLEM

07 II. RESPONSIBILITY: THE ROLE OF GOVERNMENTS AND EMPLOYERS

10 III. LEGAL REFORMS: DEFINING INTERNATIONAL NORMS

12 IV. CONCLUSION AND RECOMMENDATIONS

15 ENDNOTES

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EXECUTIVE SUMMARY

Gender-based violence in the world of work is a common and pervasive human rights violation that threatens workers' wellbeing and productivity. Physical, verbal, psychological or sexual violence is considered gender-based if it is directed against an individual based on their gender (including gender identity/expression) or affects persons of a particular gender disproportionately.¹ Women, transgender, and gender non-conforming people are the primary targets and the perpetrators are mostly men, although cisgender men – particularly those who are or who are perceived to be gay or bisexual – can be targeted as well.

In June of 2018, the International Labour Organization (ILO) will hold a first discussion on a potential new ILO instrument on gender-based violence at work at the International Labour Conference in a committee composed of governments, employers, and worker representatives.²

This paper argues that the ILO should adopt the strongest instrument available – a Convention,

supplemented by a Recommendation – and focuses on how a new binding international standard would provide new strategies and tools to overcome the challenges that women and other marginalized people face in accessing the right to work free from gender-based violence.

The paper first seeks to build awareness about the scope of the problem and how gender-based violence prevents affected individuals from realizing their rights at work. It then considers the gaps in responsibility created by corporate policies or government laws that do not adequately address the problem. Third, it analyzes the legal gaps in international norms that do not fully define standards for protecting victims and preventing violence in the world of work. Finally, the paper outlines recommendations for governments, employers and unions, and shows how a new ILO Convention could define the standards and drive reforms to help overcome existing gaps in awareness, responsibility, and legal protections needed to prevent and remediate gender-based violence in the world of work.

The three gaps identified in this report are:

1. An awareness gap, because many people do not understand what gender-based violence is, what they can do to address it, or what their rights are, which has become evident from the recent shock expressed by mainstream media pundits about sexual assault scandals in Hollywood;
2. A responsibility gap, with many employers unaware of the extent of the problem and how to put preventive measures in place, or in denial about their responsibility especially to workers in their supply chains; and
3. Legal gaps in the extent to which national laws and international standards address the issue, thus making a new ILO Convention a critical guidepost to advancing national laws and policies to prevent and remediate gender-based violence at work.

I. AWARENESS:

UNDERSTANDING THE PROBLEM

Discrimination and the gender pay gap

Women's employment in the formal sector has been highly valued by economic development strategists, who note that women reinvest up to 90% of their incomes back into their families, compared to just 30 to 40% by men.³ Despite this appreciation of women's collective commitment to their families, women's domestic labor is undervalued in society, a phenomenon that is intricately linked with the systematic undervaluing of women's work in formal employment.

Sectoral and occupational segregation, discrimination, and low union density contribute significantly to gender gaps in employment rates and earnings. ILO calculations show that globally women's participation rate in the labor market is almost 27 percentage points lower than men's.⁴ Worldwide, women earn 77% of what men make.⁵ In some countries among salaried workers this difference is much more pronounced: in the Netherlands the gender wage gap for non-hourly employees is 42.4%, in Austria it is 38.1%, and in the United Kingdom it is 36.2%.⁶ When considering race and ethnicity, in addition to gender, the pay gap widens further: for example, in the United States Hispanic/Latina women earn 54% of what white men earn.⁷ These numbers are not only a reflection of the disproportionate employment of women in low-paid industries such as apparel manufacturing, retail sales, clerical, and in-home caregiving, but also a reflection of pay inequity for equal work.

Gender-based violence

According to the World Health Organization, an

estimated 35% of women have experienced sexual or physical violence at home, in their communities or in the workplace in their lifetime.⁸ In some countries, the statistic is significantly higher. For example, the proportion of women who have experienced physical violence at least once in their lifetime is 76.8% in Tonga, 68.5% in Fiji, and 48% in Denmark. The proportion of women who have experienced sexual violence at least once in their lifetime is 41% in Costa Rica, 38.9% in Mexico, and 25% in Switzerland.⁹

Gender-based violence may impact the job performance of women, leading to lower pay, lack of promotions and other benefits, and contributes to the persistence, in some sectors, of a stereotype of women as incompetent workers. In some cultures, social norms surrounding the role of women, and the belief that a woman exposed to violence is "tainted", discourages women from seeking further employment. As a result, gender-based violence not only risks causing a significant deterioration of women's labor performance, but it also limits women's safety and confidence and has a negative impact on economic development.

Gender-based violence in the world of work takes place in all industries and sectors, but no international institution has collected comprehensive global statistics due to inconsistent or limited national-level reporting and the inconsistent definitions of violence, harassment and workplace used by different countries where such research does exist. In certain sectors the rates of sexual harassment are particularly high; for example, a U.S. Department of Labor study found that 88% of women in construction and extraction occupations reported sexual harassment at work.¹⁰

A survey of women parliamentarians conducted by the Inter-parliamentary Union found that 82% of the participants from 39 countries across five regions reported having experienced some form of psychological violence while serving their term, defined as “remarks, gestures and images of a sexist or humiliating sexual nature made against them or threats and/or mobbing to which they might have been subjected.” Social media was the primary channel with 44% reporting having received threats of death, rape, assault or abduction.”¹¹

An EU-wide survey conducted by the European Union Agency for Fundamental Rights found that 11% of women who have experienced physical and/or sexual violence by a non-partner indicated specifically that the perpetrator was from a work context, either a supervisor, colleague or customer.¹² If anything, these numbers may be underestimates due to women’s tendency to underreport on gender-based violence due to fear of not being believed, social stigma or retaliation. In fact, the U.S. Merit Systems Protections Board found that only 25% of harassed women tell anyone, and only 5% complain formally.¹³

The International Trade Union Confederation (ITUC) defines gender-based violence in the world of work as taking multiple forms, such as:

- Physical abuse, including assault, battery, attempted murder and murder
- Sexual violence, including rape and sexual assault
- Sexual harassment
- Verbal and sexist abuse
- Bullying
- Coercion
- Psychological abuse, intimidation and threats of violence
- Economic and financial abuse
- Stalking¹⁴

Workers in low-paid, precarious, informal and unorganized jobs are at greater risk of experiencing violence and harassment in the world of work, and women, people of color, indigenous people and migrants are over-represented in these jobs.¹⁵

Genders facing the highest rates of gender-based violence

Any worker can be at risk for gender-based violence – but some face a far greater risk. According to the ILO, lesbian, gay, bisexual, trans, and intersex (LGBTI) workers report a considerably greater incidence of violence in the workplace compared with non-LGBTI workers.¹⁶ Despite this fact, most research identifies women as the primary victims of workplace violence (without mention of whether the usage of “women” in the study is inclusive of transgender women), because of a lack of acknowledgement or attention to diverse genders by the researchers. As a result, the higher rates of violence do not translate to a greater availability of resources to address the problem.

The World Bank notes that transgender women face the highest rate of gender-based violence at work around the world but are often given the least attention.¹⁷ In a U.S. study, the National Coalition of Anti-Violence Programs (NCAVP) found that transgender people of color were 28% more likely to experience physical violence compared to people who were not transgender people of color. In addition, of the LGBTQI survivors of violence reporting their experiences to NCAVP, 16% of them reported that they had experienced the violence in their workplace.¹⁸ The Los Angeles LGBTQ Center surveyed 200 survivors, and found that the workplace was by far the most common place to experience assault, coming in at 30% of reports. In 29% of total cases, the perpetrator was a coworker or manager.¹⁹

Many factors influence whether or not someone is more likely to be a victim of workplace violence based on gender; to effectively work toward the eradication of gender-based violence it is necessary to approach the issue with an intersectional feminist lens, which examines how systems of oppression and discrimination overlap and, as a result, to ensure protections extend to people of all a/genders.²⁰

Gender-based violence limits women's ability to have a voice at work

Many advocates of women's empowerment focus on encouraging women to have more confidence, step forward, and lean in. Yet the prevalence of sexual harassment and violence at work makes this advice exceedingly difficult to follow for the majority of women workers around the world. This is a problem that ILRF has been documenting in Asia, Africa, and Latin America since 2005 and our grassroots partners report that little has changed. More recently, ILRF's 2015 report on Bangladesh, *Our Voices, Our Safety*, took a deeper look at the many layers of violence women garment workers experience at home, in transit, and at work.²¹

Gender-based violence in the workplace creates a significant hurdle for women workers to realize their collective bargaining power and, by extension, their ability to have a voice and seek equal treatment in society. In some contexts women who try to exercise their rights to join or form a union become targeted with violence and abuse. Examples include union activists experiencing violence at the hand of their employer or by thugs hired by the employer with the purpose of intimidating union members and undermining union activity. Men working in the Bangladeshi garment industry shared in interviews their observation that women faced noticeably worse abuse for raising their voices at work.²²

Many women who organize report being discouraged by their own family members from standing up for their rights. Women's activism in unions challenges the gender stereotype of women as submissive and, in fact, testimonies shared by women trade union activists point to an increased vulnerability to domestic violence as a result of union activism. Women garment workers in Central America have told ILRF that their husbands worried that they were seeing someone else while they were away from the home for union meetings and threatened to leave them if they continued in the union. Women trade unionists in Bangladesh reported violence and abuse by male family members and threats of divorce by their husbands in response to their union activity.

Defining the "world of work" to ensure a comprehensive approach to protection

Given the nature of how violence at work takes place, it is important to develop preventive standards at the company level as well as at both national and international levels that address the multiple ways in which work-related violence can happen. Vulnerable workers are threatened, for example, in more places than just the physical workplace. Two examples include:

Violence en route to work: Workers may face violence, including verbal and sexual harassment, during their commute to work. Exposure to such violence and abuse has a direct impact on a person's ability to work with her dignity and autonomy intact. In some countries, women workers are discouraged by their families, husbands and in-laws by going to work in fear of possible stigma resulting from any exposure to violence and abuse.²³

Domestic violence as a workplace issue: There is increased recognition of domestic violence as a workplace issue, mainly because violence experienced at the domestic level has a negative impact on a woman's ability to perform her job duties well and on her attendance record. In fact, in the U.S., nearly all (96 to 98%) of employed domestic violence victims experience problems at work related to the violence, 25% of rape victims lose their job within a year of the assault, and nearly 33% of women killed at work were killed by a current or former intimate partner.²⁴ Many employers are reluctant to deal with women who have undergone or are currently experiencing abuse, based on the presumption that such violence is a part of a woman's private life.²⁵ On the other hand, there are employers who are truly sympathetic to the issue of domestic violence faced by their women workers, but lack understanding in how to apply effective measures to support the victim.

In light of the array of ways in which workers are impacted by violence, an emerging definition of the "world of work" used in ILO reports includes: the physical workplace; commuting to and from work, particularly on employer-provided transportation; work-related trainings or social events; spaces that link workers to the workplace through technology; and the impacts of domestic violence on the workplace.²⁶

Our Voices, Our Safety: Bangladeshi Garment Workers Speak Out

Kalpona Akter, Executive Director, Bangladesh Center for Worker Solidarity

A woman is continuously pressured and asked many times. She's afraid that someone will find out and she's afraid what will happen if she becomes pregnant or her coworkers or her family find out. If there is a beautiful girl on the production floor, the supervisor can try to convince her that he's in love, or if she has a good relationship with him then he can increase her salary.

First it might be, "Let's go to the park." Later on he tries to convince her to have sex. "Let's have sex and maybe I'll let you leave the factory early at 5pm or 6pm or you can walk around the production floor without being harassed." She's also been trapped. "You need to continue this relationship with me or I'll tell others."

She is now afraid she will never be able to get married, or, if the community finds out, that they will look at her in a different way and think of her as a sex worker. If a woman has sex before she is married, she can rarely get married or she will be considered a prostitute for sleeping with multiple guys or she'll be considered a bad person. There are lots of rape cases involving women workers. The woman is always blamed. "She is bad; that's why it happened to her."

Nobody talks about the sexual harassment that workers are facing in the factory, in the street, and in the community. That needs to be talked about. These women aren't comfortable talking about that due to their culture. But there is a huge sexual harassment problem that they are facing from coworkers and middle managers and landlords, or the landlord's son, or in the local community or on the bus.

Anika Kazi,* sewing machine operator

In this factory, after a girl became pregnant, [the manager] called her to the office and scolded her a lot. "Why did you conceive the baby?" he demanded. This and that. She was scolded in very bad language.

Sharmin Akhtar,* quality controller

I came to Savar to work. It will recess at 12am. If I tell them, "Sir, my home is far away. I can't work. Let me go home. Someone else stay instead of me," they will say, "No. Since you came to work, you have to do your duty whether it is 12 o'clock or three o'clock. If you can't do your duty now, you will lose your job." So if they don't recess, I must go on working carrying all the dangers in my head.

Taslina Sultana,* sewing machine operator

As female workers, we have to deal with barriers everywhere. When we are in the street we face barriers, and then in the factory. Even in the house we have barriers, don't we? We have to attend to all of our domestic duties before we leave the house. When we are traveling to work we deal with harassment. If we are two minutes late at the factory, we have to hear things like, 'Is this your father's factory?' We women can only shed tears. Everyone is a victim of abuse: by their husbands, by the company, by the garment factory owners. If we could be a little liberated from this abuse, all women workers, wherever we are, whatever factory we work for, or maybe we work for a household, that would be the biggest achievement for me.

* This is a pseudonym due to the worker's need to remain anonymous for concern of retaliation for speaking out. Any similarity to an actual garment worker's name is purely coincidental.

II. THE RESPONSIBILITY GAP: ROLE OF EMPLOYERS AND GOVERNMENTS

From a purely financial perspective, it is in the interest of employers to address the issue of gender-based violence because they may incur direct financial costs owing to absenteeism of victims following experiences of violence and decreased quality of work.²⁷ In addition, any resulting publicity or lawsuit can affect the work climate and the company's public image.

Additionally, the United Nations Guiding Principles on Business and Human Rights (UNGPs) delineate the responsibility of all business enterprises, regardless of size, to conduct human rights due diligence.²⁸ The UNGPs underscore the obligation for transnational corporations to adopt adequate measures for the prevention, mitigation, and where appropriate, remediation of human rights violations at subcontractors in their production supply chains. This responsibility is independent of a particular government's ability or willingness to uphold international human rights law. In other words, a company has the obligation to know the risks to workers in their supply chain and put in place measures to help prevent and remediate abuse.

Transnational corporations will point to their vendor codes of conduct, which typically state that discrimination, verbal and physical abuse, and sexual harassment are not tolerated. Yet, worker interviews conducted by ILRF, most recently for the *Our Voices, Our Safety* report, show that workers often do not trust the auditors either from the corporations or contracted by the corporations. Even if they did, talking about gender-based violence can be cause for tremendous shame. Therefore, corporate-controlled auditing will rarely be effective at identifying gender-based violence, also because auditors usually only speak with workers pre-selected by the employer or in the

presence of the employer.

The responsibility of corporations to look more deeply at the problems of gender based violence in work places they own and their supply chains is multiplied by the weak coverage in most countries' legal coverage of the issue. The majority of countries have some form of legislation in place relating to aspects of gender-based violence, albeit these laws lack consistency in definition, protection and implementation, and may not be specific to the workplace. At least 119 countries have passed laws on domestic violence, 125 have laws on sexual harassment and 52 have laws on marital rape.²⁹

In a study of 80 countries' laws, the ILO found that 60 of them regulate physical and psychological forms of violence and harassment in the world of work and 65 specifically regulate sexual violence and harassment in the world of work.³⁰ Whereas 14 of the countries regulate sexual harassment in both criminal and labor law, others locate it in only one of these or in anti-discrimination law, occupational safety and health law, or in a separate statute.

Government support services for victims generally focus on domestic or criminal violence, while workplace issues fall under the purview of labor inspectors, who may not be sufficiently trained or resourced to adequately address the issue of sexual violence. Victims who do file a claim may not immediately have the option of seeking safe haven, such as a safe house, as they might in cases of domestic violence. Instead, they may have to continue working alongside the perpetrator as their case winds its way through an internal company grievance process or the courts. This can result in more subtle, sustained harassment that jeopardizes their ability to perform effectively.

The lack of specific attention to violence that occurs in the workplace, combined with the reluctance among victims to report such cases for fear of retaliation by the perpetrators, results in many cases of work-related violence going unresolved. As a result, employers are either unaware of the

problem because it was not reported, or they may be complicit in the violations already and threatening the victim with reprisals if they do report it. This creates a paradoxical situation from which the victim cannot escape if they want to keep the job.

Kalpona Akter, Executive Director of the Bangladesh Center for Worker Solidarity, explained just how difficult it is for women workers to open up about gender-based violence:

We convened a set of four sessions with the same group of 20 women, women who are leaders and had known our worker center for some time already, to talk about gender-based violence against women at work. There were two weeks between each session. In the first one, no-one said anything except that we shouldn't talk about this. During the second session, they said "okay, let's talk about it," and started listening, but said that they don't know anyone who has been affected. During the third workshop, they started sharing experiences of friends, but no-one admitted that anything had happened to them.

Finally, during the fourth workshop one woman recounted that she had been raped multiple times by her supervisor under threat. He used economic fear, forcing her to go to the factory on the weekend saying that she would lose her job if she didn't and then he raped her. The next time he used fear of shame, saying he had a video from the first time and that he would use it against her if she didn't have sex with him again.

After that, everyone else started speaking and it was our own #metoo moment. It turned out that all the women in the group had their own story of sexual violence or harassment at work.

The Difference Women's Leadership Can Make ***Organized Women in the Banana Industry***

The Coordinating Body of Latin American Banana and Agro-Industrial Workers Unions (COLSIBA) was founded in 1993 as an answer to the international crisis of the banana market, an industry historically plagued with extreme working hours, precarious contracts, health and safety hazards, wage theft, lack of social security benefits and widespread violence against trade unionists. It functions at a regional level in all countries that produce and market bananas, pineapples and sugar with members in Peru, Ecuador, Colombia, Panama, Costa Rica, Nicaragua, Honduras, Guatemala and El Salvador. COLSIBA has been globally recognized as one of the one of the most distinguished voices in the region advocating for respect for labor, human and union rights, especially for women workers.

COLSIBA provides education, capacity-building, organization, communication, mobilization, denunciation, mediation and solidarity to the 42 affiliated unions and 45,000 workers it represents across the hemisphere. For more than 20 years COLSIBA's Women's Committee has developed strategies to address women's issues on plantations and lift women's roles within the family, community and union. They have done all this inside an industry that primarily employs men and as a result have been able to start organizing in agricultural sectors, such as in the melon industry, which has a majority of women workers.

The Female Banana Workers Regional Agenda was established in 2001 (and renewed every two years) to tackle work and social conditions, employment/unemployment, occupational health and safety, leadership, and politics for women. Together, they have developed an agenda of pro-women clauses to include in collective bargaining proposals and strengthened the leadership of women workers, such that women now have equal representation in leadership roles within the federation.

COLSIBA's Women's Committee meets with women labor leaders from the Caribbean, Africa and Asia to share experiences and develop action plans to lift the standard of living for women on banana plantations. Every time COLSIBA meets, within the region or during the World Banana Forum, an entire day is dedicated to the discussion of gender equity.

In 2001, COLSIBA, the International Union of Foodworkers (IUF) and Chiquita signed a historic international framework agreement that ensured Chiquita's commitment to respect freedom of association in all of its Latin American banana operations. In 2013, the Women's Committee secured a clause in Chiquita's Code of Conduct that implemented a zero tolerance for sexual harassment; three cases of sexual assault have been resolved in favor of women workers since then.

III. LEGAL REFORMS: DEFINING INTERNATIONAL NORMS

In a context of widespread and institutionalized forms of gender-based violence, international labor standards can play a key role in guiding and persuading governments to adopt policies and practices that protect workers and in instructing transnational corporations on their human rights due diligence. This section reviews existing international standards in this area, the benefits they provide, and their shortcomings in adequately addressing gender-based violence in the world of work. The following review of five international instruments illustrates the extent to which international norms currently fail to adequately address the complex nature of gender-based violence at work. Even where the issue is referenced specifically, such as in the Domestic Workers Convention, the population covered by the instrument is limited.

The existing conventions and standards are too narrowly focused to effectively combat the deeply-rooted gender norms and power relations that foster gender-based violence in the world of work. Existing anti-discrimination laws deal with a multitude of issues such as the wage gap, forms and types of work. Yet they do not cover all the various forms of gender-based violence that occurs at work, including physical, verbal and emotional abuse, or violence that takes place outside the traditional workplace boundaries. Nor do they address the underlying social norms that prevent survivors from coming forward or actions that employers can take to support employees who experience domestic or intimate partner violence.

Additional protections are needed that address all forms and types of labor, from female political candidates and corporate executives to women

trade unionists and human rights defenders to women working at sub-contractors in transnational supply chains. The issue of workplace violence cannot be subsumed under other forms of gender-based discrimination, and it cannot be considered a women-only issue given that transgender and gender non-conforming people experience higher rates of gender-based violence. Therefore, it is necessary to develop laws and policies providing a comprehensive coverage of the issue, addressing the underlying causes and promoting effective solutions for ending gender-based violence in the world of work.

We analyzed the following five existing conventions and standards based on how comprehensively they address gender-based violence at work.

Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)

CEDAW is an international treaty adopted by the United Nations General Assembly (UNGA), intended to function as an international women's bill of rights. CEDAW deals in detail with women's rights in the public and private domain, advocating a strong stance on equality and non-discrimination. CEDAW has been ratified by 189 countries. Only six United Nations member states have not ratified CEDAW; these are the United States, Iran, Palau, Somalia, Sudan, and Tonga.³¹

When the Convention was initially adopted in 1979, it did not contain any provision related to gender-based violence. This gap was later addressed in 1992 through the adoption of the General Recommendation No. 19 on Violence Against Women,³²

which discusses gender-based violence as a form of discrimination, thereby bringing the issue under the purview of the CEDAW protections. The General Recommendation defines violence against women as “violence that is directed against a woman because she is a woman or that affects women disproportionately.”³³ In reference to article 11 of CEDAW, on the obligations of states to take all appropriate measures to eliminate discrimination against women in employment, General Recommendation 19 asserts that “equality in employment can be seriously impaired when women are subjected to gender-specific violence.”³⁴

CEDAW provides no specific guidance, however, as to the actions that governments and employers should take on the issue of gender-based violence. While it identifies the problem and ways in which it impacts women at work, it does not provide substantive recommendations beyond “act with due diligence” to prevent violence.

United Nations Guiding Principles on Business and Human Rights

The UNGPs address gender-based violence in the context of conflict-affected areas, instructing transnational corporations and employers to “assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence.”³⁵ However, the UNGPs are mute on the necessity of addressing gender-based violence in places that are not designated as conflict zones. They also lack specific instructions on actions for states and corporations to take for the prevention and remediation of gender-based violence.

ILO Convention on Discrimination in Respect of Employment and Occupation

The ILO has addressed the issue of gender equality in several Conventions, signaling a commitment to combat discrimination based on gender norms and stereotypes. ILO Convention 111, on Discrimination in Respect of Employment and Occupation, is one of the eight Core Conventions of the ILO. Although it provides a detailed description of different forms

of discrimination, it does not discuss the issue of gender-based violence and its adverse impact on participation, performance and human dignity.³⁶ The Convention has been ratified by 173 member States, not including the United States.³⁷

ILO Domestic Workers Convention

The ILO Domestic Workers Convention, passed in 2011, is considered a landmark in international law pertaining to the rights of domestic workers.³⁸ It delineates an obligation of each member state to ensure that “domestic workers enjoy effective protection against all forms of abuse, harassment and violence,”³⁹ Since a vast majority of domestic workers are women and girls,⁴⁰ the Convention addresses labor standards of particular pertinence to them. The Domestic Workers Convention has thus far only been ratified by 24 member states, not including the United States.⁴¹ Unfortunately, the Convention is only applicable to one sector of the workforce.

UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children

This Protocol adopted by the UN General Assembly, and known in short-hand as the Palermo Protocol for the Italian city where it was agreed to in 2000, is another example of the acknowledgement of the issue of sexual violence in relation to a particular group of people. Article 9 calls for states to establish comprehensive policies, programs and other measures to “prevent and combat trafficking in persons” and to protect victims, “especially women and children, from revictimization.”⁴² Women and girls are disproportionately affected by human trafficking, especially sex trafficking, in which they are deprived of their right to bodily autonomy, freedom of movement and basic human dignity.⁴³ Still, the provisions in the Palermo Protocol are only in relation to the worst forms of gender-based violence and refer only to individuals who have been trafficked.

IV. CONCLUSIONS AND RECOMMENDATIONS

An inclusive ILO Convention on the prevention and remediation of gender-based violence at work, supplemented by a Recommendation, would advance the UN Sustainable Development Goals on gender equality and decent work. The development of such a convention will go a long way towards addressing the barriers that prevent workers from asserting their rights to work free from gender-based violence by:

- raising awareness about root causes and solutions;
- defining responsibilities for governments, employers and unions; and
- advancing legal reforms globally as countries work to align with a more clearly defined international standard.

The process of creating a binding standard has the potential to generate constructive dialogue among employer, union and government representatives, and would provide the opportunity for the international community to come together on solutions. While the international community has taken commendable steps to incorporate anti-discriminatory policies into labor regulations, the phenomenon of gender-based violence has often been forgotten or subsumed in the policy discussions.

The pervasive and sensitive nature of gender-based violence, and the fear and stigma associated with reporting to employers or authorities, requires specific attention in international law and national laws. A separate ILO Convention, accompanied by a Recommendation, would provide much-needed attention to the issue of gender-based violence and could provide specific guidance for companies, state actors and trade unions to work on unmasking and addressing the power relations and discriminatory behaviors and attitudes that are at the root of it and ultimately preventing this tragic epidemic from continuing.⁴⁴

According to the ITUC, an ILO Convention on gender-based violence at work, accompanied by a Recommendation, could cover:⁴⁵

- A broad definition of violence and harassment in the world of work in its diverse and multiple forms, including 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.
- A strong focus on gender-based violence and harassment in the world of work. Provisions to prevent violence and harassment in the world of work. Measures to protect and support workers affected by violence and harassment in the world of work, without discrimination as to race, ethnicity, language, religion, political or other opinion, national/social origin, property, marital status, sexual orientation, HIV/AIDS status, migrant or refugee status, age, disability, or place of work.
- A description of the groups most at risk of experiencing violence and harassment in the world of work such as women, LGBTI workers, indigenous and migrant workers, workers living with HIV/AIDS or disabilities, workers in the informal economy, and people trapped in forced or child labor.
- Measures to address the impact of domestic violence in the world of work.
- A broad definition of the “world of work”.
- Provision of various employment and social security rights for complainants, including the right to reduce or reorganize working hours.
- Specific provision for the appropriate and sensitive treatment of complainants of violence and harassment, including protection from reprisals or penalties for making the complaint.

Recommendations for All Three – Governments, Employers, and Trade Unions:

- Support a new ILO Convention, supplemented by a Recommendation, to set a baseline for taking action to eradicate gender-based violence in the world of work.

Recommendations for Governments:

- Adopt and implement comprehensive regulations on gender-based violence at work applicable to all employers regardless of size and providing protections for independent contractors and informal sector workers, establishing accessible complaint mechanisms that will encourage survivors to come forward, and sufficient resources for investigations, litigation, local service providers and anti-violence groups.
- Ratify the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), ILO Convention on Discrimination in Respect of Employment and Occupation (111), and ILO Domestic Workers Convention (189).
- Require the protection of all applicable labor standards in government procurement supply chains.
- Address gender-based violence and harassment at work as a core obligation of labor inspection processes.
- Encourage companies to adopt worker-driven monitoring mechanisms, encouraging more active participation of workers and trade unions in creating a safe and decent working environment for people of all genders.⁴⁶

Recommendations for Employers:

- Conduct due diligence as required in the UN Guiding Principles on Business and Human Rights for all workers in supply chains.
- Adopt a zero-tolerance approach towards gender-based violence at work, through supporting and adopting worker-led monitoring and complaint mechanisms.
- Establish non-judgmental and accessible complaint mechanisms and reporting services that will encourage victims of violence to come forward.
- Establish an independent unit with worker and management representatives, with clear confidentiality protocols and the ability to protect complainants, that can investigate claims of harassment, separate from the chain of corporate command.
- Introduce affirmative policies, with specific information on supporting victims of violence, and disseminate this information among all employees.
- Ban employer-mandated confidentiality provisions such as non-disclosure agreements in monetary settlements for sexual assault and harassment.

Recommendations for Trade Unions:

- Raise the issue of gender-based violence at work in negotiations and discussions with employers and include clauses in collective bargaining agreements designed to improve prevention, protection and empowerment.
- Negotiate workplace policies which set out sanctions for perpetrators, disseminate information to ensure that workers understand procedures related to reporting, and provide support for victims of violence and harassment at work.
- Provide support for victims of domestic violence, such as helping the survivor obtain temporary paid leave, counselling, legal assistance, medical attention, changes to the work schedule, safety measures and other accommodations.
- Raise awareness about workplace violence and the importance of prevention, and carry out advocacy campaigns to implement effective policies on gender-based violence at work.
- Encourage the active participation of all workers to report and monitor problems that occur at the place of work, through bystander training and other awareness-raising activities, worker committees and other tools to change workplace culture. Such worker-led monitoring mechanisms can lead to a sustainable and more effective mode of preventing and providing remedy for victims of gender-based violence.
- Encourage active participation of women and other marginalized workers in trade union activities, giving them a stronger voice in the collective bargaining process.

TIME FOR CHANGE

ENDNOTES

¹ See ILO, p. 10, http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_553577.pdf; ITUC, p. 10: “Gendered violence is violence perpetrated against women because they are women. It also includes violence perpetuated against those who do not conform to dominant gender stereotypes or those who do not conform to socially accepted gender role,” <https://www.ituc-csi.org/IMG/pdf/ituc-campaigntoolkit-en.pdf>; or European Commission, http://ec.europa.eu/justice/gender-equality/gender-violence/index_en.htm

² This discussion follows on a resolution adopted by the International Labour Conference at its 98th Session (2009), calling for the prohibition of gender-based violence in the workplace and for policies, programs, legislation and other measures to be implemented to prevent it.

³ United Nations Association in Canada (UNAC), 2012, <http://unac.org/wp-content/uploads/2012/10/International-Day-of-the-Girl-Eng-Final.pdf>

⁴ ILO, “Women at Work: Trends 2016,” 2017, p. 28, http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_457317.pdf

⁵ See, for example, <http://www.un.org/sustainabledevelopment/blog/2017/03/un-launches-platform-of-champions-calling-to-end-global-gender-pay-gap/>; <http://www.unwomen.org/en/news/in-focus/csw/equal-pay> or <https://www.23percentrobbery.com>

⁶ ILO, “Women at Work: Trends 2016,” 2017, p. 28-29, http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_457317.pdf

⁷ AAUW, “The Simple Truth About the Gender Pay Gap,” 2017, p. 11, https://www.aauw.org/aauw_check/pdf_download/show_pdf.php?file=The-Simple-Truth

⁸ World Health Organization, Department of Reproductive Health and Research, London School of Hygiene and Tropical Medicine, South African Medical Research Council, “Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence,” 2013, p. 2, http://apps.who.int/iris/bitstream/10665/85241/1/WHO_RHR_HRP_13.06_eng.pdf

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¹⁰ National Women’s Law Center, “Women in Construction: Still Breaking Ground,” p. 2, 8, <https://nwlc.org/resources/women-construction-still-breaking-ground/>

¹¹ Inter-Parliamentary Union, “Sexism, harassment and violence against women parliamentarians,” 2016, p. 3, <http://archive.ipu.org/pdf/publications/issuesbrief-e.pdf>

¹² European Union Agency for Fundamental Rights, “Violence against Women: an EU-wide survey,” 2014, p. 49, <http://fra.europa.eu/en/publication/2014/violence-against-women-eu-wide-survey-main-results-report>

¹³ Studies by researchers at the United States Merit Systems Protection Board, as cited in Elizabeth Kristen, Blanca Banuelos, and Daniela Urban, “Workplace Violence and Harassment of Low-Wage Workers,” 36 Berkeley J. Emp. & Lab. L., 2015, p. 171, <http://scholarship.law.berkeley.edu/bjell/vol36/iss1/4/>

¹⁴ International Trade Union Confederation (ITUC), “Stop Gender Based Violence at Work: Support an ILO Convention,” p. 2, https://www.ituc-csi.org/IMG/pdf/stop_gender_based_violence_at_work_en_final.pdf

¹⁵ ITUC, “Campaign Toolkit: Stop Violence and Harassment in the World of Work,” 2017, p. 7 (Box 3), <https://www.ituc-csi.org/IMG/pdf/ituc-campaigntoolkit-en.pdf>

¹⁶ ILO, 2017, “Ending violence and harassment against women and men in the world of work,” p. 25, http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_553577.pdf

¹⁷ The World Bank, 2015, “Gender-based violence: lesbian and transgender women face the highest risk but get the least attention,” <https://blogs.worldbank.org/voices/gender-based-violence-lesbian-and-transgender-women-face-highest-risk-get-least-attention>

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⁴⁴ For an example, the Domestic Workers Convention (2011) shed much-needed light on crucial issues affecting women domestic workers, who are extremely vulnerable to abuse and violence owing to the hidden nature of their work. Similar attention on the issue of gender-based violence can incentivize trade unions, civil society organizations and corporations to pay more attention to this prevalent, yet often ignored, issue in the world of work. For more information on the Domestic Workers Convention, see: http://www.ilo.org/ilc/ILCSessions/100thSession/media-centre/press-releases/WCMS_157891/lang--en/index.htm

⁴⁵ ITUC, “Campaign Toolkit: Stop Violence and Harassment in the World of Work,” 2017, p. 7 (Box 3), <https://www.ituc-csi.org/IMG/pdf/ituc-campaigntoolkit-en.pdf>

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