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C190

## ► Violence and harassment in the world of work:

A guide on Convention No. 190  
and Recommendation No. 206



▶ **Violence and  
harassment in the  
world of work:**

A guide on Convention No. 190  
and Recommendation No. 206

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## ▶ Contents

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List of boxes	vii
List of figures	viii
List of abbreviations and acronyms	ix
Acknowledgments	x
Foreword	xi
<b>1. Advancing international labour law: The right to a world of work free from violence and harassment</b>	<b>1</b>
1.1. Filling a gap in international labour standards	2
1.2. Advancing international labour law	5
1.3. The innovative elements of Convention No. 190 and Recommendation No. 206	5
<b>2. Defining “violence and harassment” in the “world of work”</b>	<b>7</b>
2.1. What is violence and harassment?	8
2.1.1. Gender-based violence and harassment	11
2.2. Who is protected?	17
2.2.1. Ensuring inclusion through accessibility	19
2.3. When and where does violence and harassment occur?	21
2.4. An inclusive, integrated and gender-responsive approach	23
<b>3. The rights-based framework to prevent and eliminate violence and harassment in the world of work</b>	<b>26</b>
3.1. The right to a world of work free from violence and harassment	28
3.2. The role of fundamental principles and rights at work in building a world of work free from violence and harassment	29
3.2.1. Ensuring equality and non-discrimination for women and groups in vulnerable situations	31
<b>4. The obligation to ensure protection from and prevention of violence and harassment in the world of work</b>	<b>37</b>
4.1. Defining and prohibiting violence and harassment	39
4.2. How can violence and harassment in the world of work be prevented?	40
4.2.1. How to protect informal economy workers?	44
4.2.2. Specific measures for highly exposed sectors, occupations and work arrangements	45
<b>5. The role of employers in prevention of and protection from violence and harassment</b>	<b>50</b>
5.1. Employers’ obligation to prevent violence and harassment in the world of work	51
5.1.1. The extent of employers’ responsibility	51
5.2. Adopting and implementing a workplace policy on violence and harassment	54
5.2.1. The duty of workers and their representatives to collaborate	57

5.3. Reinvigorating occupational safety and health to tackle violence and harassment	59
5.4. Providing accessible information and training	63
<b>6. The obligation to ensure effective enforcement and remedies</b>	<b>66</b>
6.1. Enabling reporting and improving enforcement	67
6.1.1. Ensuring easy access, safety, fairness and effectiveness	67
6.1.2. Protection before, during and after reporting or making a complaint	73
6.1.3. Support services	75
6.1.4. Appropriate and effective remedies	77
6.1.5. Sanctions	79
6.2. What do Convention No. 190 and Recommendation No. 206 provide in relation to monitoring mechanisms?	81
6.2.1. Improving data collection	84
<b>7. The promotion of policies and tools to accelerate social change</b>	<b>85</b>
7.1. Taking violence and harassment into account in relevant policies	86
7.2. Promoting guidance, training and awareness raising	87
<b>8. A call for ratification of Convention No. 190</b>	<b>90</b>
8.1. Why ratification is important?	91
8.2. How to proceed towards ratification of Convention No. 190?	91
8.3. How is the implementation of Convention No. 190 supervised?	92
Bibliography	95
Appendix I. List of laws, regulations and agreements from the case studies	102

## ► List of boxes

---

Box 1	Examples of definitions of violence and harassment in recent legislative reforms	10
Box 2.	Advancing protection against gender-based violence and harassment in work-related legislation	12
Box 3.	Examples of labour and employment provisions acknowledging the effects of domestic violence in the world of work and mitigating its impact	15
Box 4.	Examples of collective agreements and other measures addressing domestic violence in the world of work	16
Box 5.	Extending protection beyond employees	18
Box 6.	Ensuring accessibility in preventing and addressing violence and harassment in the world of work: Selected examples concerning people with disabilities	20
Box 7.	Protection from violence and harassment beyond the traditional physical workplace: Examples from recent laws and regulations	22
Box 8.	The right to a world of work free from violence and harassment in labour law and collective agreement provisions	28
Box 9.	Extending the scope of application of freedom of association and the right to collective bargaining as a pathway towards effective protection against violence and harassment	29
Box 10.	Ensuring equality and non-discrimination for all	32
Box 11.	Violence and harassment and protection of migrant workers	36
Box 12.	Prohibiting violence and harassment in work-related legislation and regulations: Some recent examples	39
Box 13.	Preventing violence and harassment in the world of work: Measures adopted by governments	41
Box 14.	Examples in recent legislative reforms and social partners' initiatives	44
Box 15.	Social and solidarity economy: An important ally in enabling a violence- and harassment-free working environment	45
Box 16.	Provisions addressing violence and harassment in selected sectors, occupations or work arrangements	45
Box 17.	Social partner and business-led initiatives in specific sectors	48
Box 18.	Violence and harassment and employers' responsibilities	52
Box 19.	Legal provisions requiring workplace policies on violence and harassment	55
Box 20.	Provisions related to workers' responsibilities	58
Box 21.	Violence and harassment as a safety and health issue to be included under OSH regulations	61
Box 22.	Recent provisions and initiatives on workplace violence and harassment preventive training	64
Box 23.	Workplace sexual harassment preventive training in the global garment industry: Experiences from the ILO-IFC Better Work Programme	64
Box 24.	Ensuring access to justice at the workplace level	68

Box 25. Violence and harassment and non-disclosure agreements	70
Box 26. Strengthening reporting and dispute resolution mechanisms external to the workplace	70
Box 27. Gender-responsive reporting and dispute resolution mechanisms: Some examples	72
Box 28. Ensuring privacy and confidentiality, and the right to remove oneself from a harmful situation	73
Box 29. Protecting against victimization and retaliation	74
Box 30. Examples of legislation and regulations providing protection and support to victims	76
Box 31. Remedies in case of violence and harassment at work: Recent examples	77
Box 32. Sanctions in case of violence and harassment at work: Recent examples	80
Box 33. Strengthening monitoring mechanisms	82
Box 34. Violence and harassment in relevant policies: Selected examples	86
Box 35. Examples of recent awareness-raising and other initiatives	88

## ► List of figures

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Figure 1. The journey towards the adoption of Convention No. 190 and Recommendation No. 206	6
Figure 2. Violence and harassment in the world of work: A broad range of terms	9
Figure 3. Inclusive, integrated and gender-responsive approach	25
Figure 4. Rights-based framework for the prevention and elimination of violence and harassment in the world of work	27
Figure 5. The pillars of the inclusive, integrated and gender-responsive approach	38
Figure 6. How can ratification be promoted?	92



## ► List of abbreviations and acronyms

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<b>AJS</b>	Association of Senegalese Jurists
<b>AMS</b>	Association of Musicians (Senegal)
<b>CEACR</b>	ILO Committee of Experts on the Application of Conventions and Recommendations
<b>CIP</b>	Chamber of Industries and Production (Ecuador)
<b>CMW</b>	United Nations Committee on the Protection of the Rights of Migrant Workers
<b>EU</b>	European Union
<b>GPS</b>	Global Positioning System
<b>HIV/AIDS</b>	Human Immunodeficiency Virus infection and Acquired Immunodeficiency Syndrome
<b>ICLS</b>	International Conference of Labour Statisticians
<b>ICSaW</b>	International Classification of Status at Work
<b>IFC</b>	International Finance Corporation
<b>LGBTIQ+</b>	Lesbian, gay, bisexual, transgender, intersex, queer and everyone else who feels part of the queer community
<b>NDA</b>	Non-disclosure agreement
<b>OSH</b>	Occupational safety and health
<b>She-Box</b>	Sexual Harassment Electronic Box (India)

## ► Acknowledgments

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## ► Foreword

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On 21 June 2019, the ILO Convention on Violence and Harassment, 2019 (No. 190), and its accompanying Recommendation (No. 206) were adopted by a large tripartite majority by the International Labour Conference of the ILO. The Conference adopted these instruments in the Organization's Centenary year, thereby reaffirming the continued relevance of its standard-setting role and the enduring value and strength of tripartism. On that same day, the Conference also adopted the ILO Centenary Declaration for the Future of Work with a clear commitment to end violence and harassment in the world of work. In that moment, governments, employers and workers from 187 countries made it clear that violence and harassment has no place in the world of work, and that everyone is entitled to be treated with dignity and respect.

For the first time, these new international labour standards provide a definition of what violence and harassment is and set out a common framework for preventing, addressing and eliminating it. They aim to help build a just, respectful and safe world of work for all through social dialogue.

Two years since its adoption, a number of countries have ratified Convention No. 190 and many others are in the process of considering following suit. On 25 June 2021, the Convention entered into force and ILO constituents and other relevant actors are turning to the ILO in search of guidance on how to give practical effect to the new instruments. This Guide seeks to respond to this demand by clarifying the definitions, core principles and measures enshrined in Convention No. 190 and Recommendation No. 206. It helps readers understand the scope of the instruments and sheds light on how member States have recently advanced in the prevention and elimination of work-related violence and harassment by providing a rich selection of examples of national laws, regulations, policies and other measures. The Guide also emphasizes how, alongside Convention No. 190, other ILO Conventions and Recommendations and their application can go a long way towards the prevention and elimination of violence and harassment in the world of work. The Guide will be available in a digital version to allow for its regular updating.

Violence and harassment in the world of work is a universal and entrenched problem, and eliminating it requires determination, perseverance and cooperation among the actors of the world of work. Governments, workers, employers and their representative organizations each have distinct responsibilities and complementary roles to play. By working together, the chance of a more respectful and dignified future of work for all will be greater. We hope that this Guide will be a useful reference to inform relevant efforts in our collective journey to a world of work free from violence and harassment.



Manuela Tomei,  
Director  
Conditions of Work and Equality Department



1

**Advancing international  
labour law: The right to a  
world of work free from  
violence and harassment**

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Adopted on 21 June 2019, the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019, are the most recent additions to the realm of international labour law. With their adoption, the right of everyone to a world of work free from violence and harassment has been clearly spelled out in international law, along with States' obligation to respect, promote and realize this right. These instruments represent a piece of paramount importance towards the achievement of the 2030 Agenda for Sustainable Development, particularly Sustainable Development Goals 5 (gender equality) and 8 (decent work and economic growth).

## ► 1.1. Filling a gap in international labour standards

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Convention No. 190 and Recommendation No. 206 are anchored in the Declaration of Philadelphia (1944), which states 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”. The need to protect the dignity of all human beings has been intrinsic to the work of the ILO since its outset. Throughout its history, the ILO has adopted a number of standards that have the objective of protecting workers in general, or certain categories of workers, against situations in which violence and harassment is present (see table at page 3) (ILO 2017a; 2016a). For instance, some of the illegal forms of work addressed in the **ILO fundamental Conventions** inherently relate to violence (ILO 2017a).<sup>1</sup> Other international labour standards either refer directly to various manifestations of violence and harassment in the world of work, or have been considered by the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) to cover certain manifestations of violence and harassment. A number of ILO instruments relate to **occupational safety and health (OSH)** and set out to protect workers' safety and health, including from the risk of violence and harassment.<sup>2</sup> Even if violence and harassment may not be explicitly addressed in these instruments, such conduct does constitute a health risk. ILO **social security instruments** set out the right to medical and allied care and rehabilitation, including psychological care and treatment for victims of work-related injuries (work accident or occupational diseases), and in case of general sickness. They also seek to ensure the provision of periodical payments in the event of temporary incapacity to work, permanent loss of earning capacity or death.<sup>3</sup>

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<sup>1</sup> The ILO Governing Body has identified eight “fundamental” Conventions covering subjects that are considered to be fundamental principles and rights at work: 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. These principles are covered by the ILO Declaration on Fundamental Principles and Rights at Work (1998) (ILO 2019a; 2018e). For more information see: [ILO, “Conventions and Recommendations”](#).

<sup>2</sup> ILO occupational safety and health (OSH) standards include the: Occupational Safety and Health Convention (No. 155) and Recommendation (No. 164), 1981; Protocol of 2002 to the Occupational Safety and Health Convention, 1981; Occupational Health Services Convention (No. 161) and Recommendation (No. 171), 1985; List of Occupational Diseases Recommendation, 2002 (No. 194); and Promotional Framework for Occupational Safety and Health Convention (No. 187) and Recommendation (No. 197), 2006.

<sup>3</sup> The main ILO standards on employment injury benefits are: Part VI of the Social Security (Minimum Standards) Convention, 1952 (No. 102); Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121); Employment Injury Benefits Recommendation, 1964 (No. 121); and List of Occupational Diseases Recommendation, 2002 (No. 194).

► Selected provisions on violence and harassment included in other ILO Conventions, Protocols and Recommendations.



► Conventions

- Forced Labour Convention, 1930 (No. 29), and its 2014 Protocol;
- Abolition of Forced Labour Convention, 1957 (No. 105)
- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- Minimum Age Convention, 1973 (No. 138);
- Worst Forms of Child Labour Convention, 1999 (No. 182)
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Indigenous and Tribal Peoples Convention, 1989 (No. 169)
- Private Employment Agencies Convention, 1997 (No. 181)



► Provisions on violence and harassment

Convention No. 29 defines forced or compulsory labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily” (Art. 2(1)). The “menace of a penalty” should be understood in a very broad sense, covering penal sanctions, as well as various forms of coercion, such as physical violence, psychological coercion, retention of identity documents, etc. The penalty here in question might also take the form of a loss of rights or privileges (ILO 2012).

While the instruments do not include an explicit prohibition of violence against trade union activities, the ILO, the Conference Committee on the Application of Standards and the Committee on Freedom of Association have – in line with the 1970 Resolution concerning trade union rights and their relation to civil liberties – consistently stressed the interdependence between civil liberties and trade union rights, and in particular the importance for trade unions to operate in a climate free from violence, pressure and threats of any kind (ILO 1970; 2012).

The worst forms of child labour inherently include physical and psychological violence and harassment (Convention No. 182, Art. 3(a)–(d)). In addition, possible exposure to violence and harassment is relevant for identifying hazardous work (Convention No. 138, Art. 3(1); Convention No. 182, Art. 3(d)) (ILO 2012).

Sexual harassment is considered a serious form of sex discrimination falling within the scope of the Convention (Art. 1) (ILO 2012). Definitions of discrimination should also include discrimination-based harassment as a serious form of discrimination, in particular racial harassment (ILO CEACR 2019).

Article 20(3) provides that workers belonging to indigenous peoples should enjoy protection from sexual harassment.

Article 8(1) calls for the adoption of measures to provide adequate protection for, and prevent abuses of, migrant workers recruited or placed in a Member State’s territory by private employment agencies.



► Conventions

► Maritime Labour Convention, 2006 (MLC, 2006)

► HIV and AIDS Recommendation, 2010 (No. 200)

► Domestic Workers Convention, 2011 (No. 189) and Recommendation (No. 201)

► Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)

► Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205)



► Provisions on violence and harassment

Guideline B4.3.1 requires the competent authority to ensure that the implications of harassment and bullying for health and safety are taken into account. Guideline B4.3.6 provides that, with respect to investigations, consideration should be given to the inclusion of problems arising from harassment and bullying.

Paragraph 14(c) requires measures to be taken in or through the workplace to reduce the transmission and alleviate the impact of HIV by, among other things, “ensuring actions to prevent and prohibit violence and harassment in the workplace”.

Article 5 requires Member States to take measures to ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence. Paragraph 7 of Recommendation No. 201 refers to the establishment of mechanisms to protect domestic workers from abuse, harassment and violence, including creating accessible complaint mechanisms, ensuring that all complaints are appropriately investigated and prosecuted, and establishing programmes for the relocation and rehabilitation of domestic workers subjected to abuse, harassment and violence.

Paragraph 11(f) calls for the adoption of a comprehensive policy framework, which should include “the promotion of equality and the elimination of all forms of discrimination and violence, including gender-based violence, at the workplace”.

Paragraph 15(e) states: “In responding to discrimination arising from or exacerbated by conflicts or disasters and when taking measures for promoting peace, preventing crises, enabling recovery and building resilience, Members should: ... (e) prevent and punish all forms of gender-based violence, including rape, sexual exploitation and harassment, and protect and support victims.”

## ► 1.2. Advancing international labour law

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All these provisions show how the ILO has addressed issues related to violence and harassment at work throughout the past decades (Chappell and Di Martino 2006; ILO 2017a; Trebilcock 2019). However, it has done so in a fragmented manner, protecting only certain groups and only from certain manifestations of violent and harassing behaviours. There was a need for a comprehensive instrument that could cover all instances of violence and harassment for all workers and other persons in the world of work, and in 2015, the ILO Governing Body decided that this gap needed to be filled. After extensive dialogue at the national, regional and international levels (summarized in figure 1), Convention No. 190 and Recommendation No. 206 were finally adopted at the 108th Session of the International Labour Conference (2019) by an overwhelming majority of ILO tripartite constituents (ILO 2016a; 2016b; 2017a; 2018a; 2018b; 2019b; 2019d).<sup>4</sup> As a binding international treaty, Convention No. 190 lays down the basic principles to be implemented by ratifying countries. Recommendation No. 206 accompanies Convention No. 190 by providing more detailed – although non-binding – guidance on how Convention No. 190 could be applied (ILO 2019a).

## ► 1.3. The innovative elements of Convention No. 190 and Recommendation No. 206

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Convention No. 190 **brings together equality and non-discrimination with safety and health at work in one instrument**, and places human dignity and respect at its core. The Convention recognizes that violence and harassment can constitute a **human rights violation or abuse**, and provides, for the first time, a **single composite concept of violence and harassment** (Art. 1)<sup>5</sup>. The Convention requires Member States to adopt an **inclusive, integrated and gender-responsive approach** to prevent and address such behaviours in the world of work (Art. 4(2)). This approach envisages action on prevention, protection, enforcement, remedies, guidance, training and awareness raising (Arts 4, 7-11), and takes into account **third parties** as both victims and perpetrators. In adopting this approach, Convention No. 190 requires States to recognize the **different and complementary roles and functions of governments, employers and workers, and their respective organizations**, taking into account the varying nature and extent of their respective responsibilities (Arts 4(3) and 9).

The Convention has a **broad personal scope of protection** (Article 2) and seeks to address **violence and harassment that occurs “in the course of, linked with or arising out of work”, both in the formal and informal economy, and whether in the private or public sector** (Article 3). The Convention has a strong focus on **inclusivity** (Arts 2 and 6) as well as **accessibility** (Arts 4(2), 9(d), 11(b)), and acknowledges that some groups and workers in certain sectors, occupations and work arrangements are especially vulnerable to violence and harassment (Arts 6 and 8). It embeds a strong **gender-responsive perspective** with a view to tackling root causes of discriminatory forms of violence and harassment.

Convention No. 190 and Recommendation No. 206 reaffirm the ILO’s crucial standard-setting role. They are tangible evidence of the enduring value and strength of **social dialogue among governments, employers’ representatives and workers’ representatives**, and that social dialogue and tripartism are essential to implementing these standards at the national level.

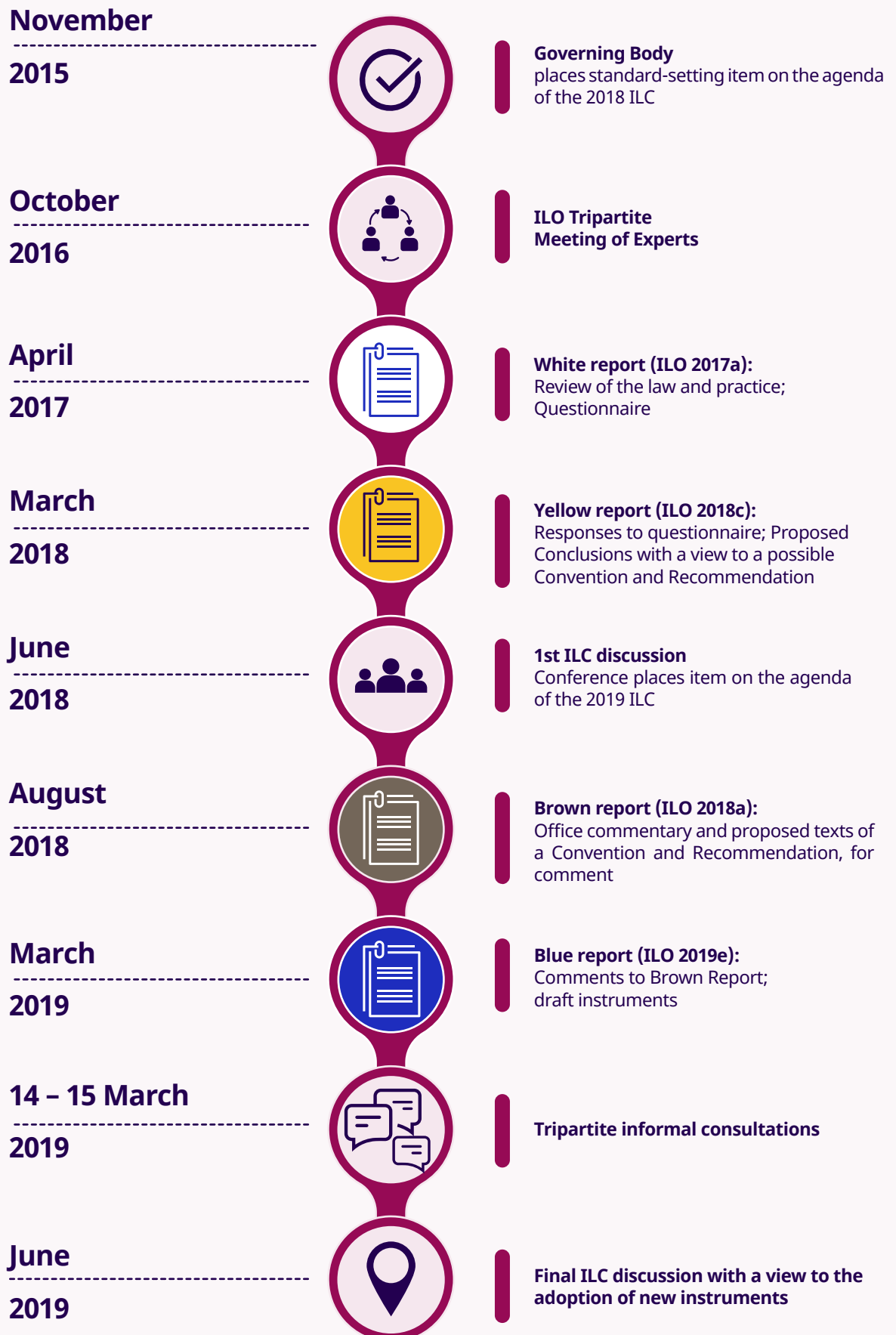
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<sup>4</sup> For the final record vote on Convention No. 190 and Recommendation No. 206, see ILO 2019c; 2019d.

<sup>5</sup> This single composite concept of violence and harassment is reflected in the language used in the Convention, which treats the phrase “violence and harassment” as a single unit. Hence the Convention (and this Guide) use singular verbs to refer to violence and harassment – for example, “violence and harassment is” rather than “violence and harassment are”.



Figure 1. The journey towards the adoption of Convention No. 190 and Recommendation No. 206





2

Defining “violence and harassment” in the “world of work”

---

Manifestations of violence and harassment in the world of work are diverse and multifaceted, and have changed over time. The variety of conduct, practices or threats that may be covered under the general term “violence and harassment” is very broad, and the norms and perceptions of unacceptable behaviour vary across contexts and cultures. Taking these realities into consideration, Convention No. 190 provides for a broad notion of violence and harassment, and for a rights-based framework for its prevention and elimination.

## ► 2.1. What is violence and harassment?

Convention No. 190 refers to violence and harassment as a single composite concept covering “a range of unacceptable behaviours, practices or threats thereof”, rather than providing a closed or uniform definition of what constitutes violence and/or harassment in the world of work.

### Definitions

#### ► Article 1

1. For the purpose of this Convention:
  - a. the term “violence and harassment” in the world of work refers to a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment;
  - b. the term “gender-based violence and harassment” means violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment.
2. Without prejudice to subparagraphs (a) and (b) of paragraph 1 of this Article, definitions in national laws and regulations may provide for a single concept or separate concepts.

This approach allows for the flexibility needed to cover various manifestations of violence and harassment, including new ones that emerge over time (ILO 2018b). It also allows for “violence and harassment” to cover a wide range of terms found in different legislation to describe the same or similar phenomena (see figure 2). These laws often acknowledge that there is no clear line between violence and harassment (ILO 2018b; 2019b).

The definition in Article 1(a) is comprised of two elements. The first is the prohibited conduct, which encompasses **“a range of unacceptable behaviours and practices, or threats thereof”**. The use of the term “range” clarifies that violence and harassment can be understood to encompass conduct of different natures, which can be either independent behaviours or a combination of behaviours, including escalating ones (ILO 2018b). Whether a **single occurrence** may be sufficient to be considered violence and harassment, or whether it must be **repeated conduct**, in all cases such conduct must be “unacceptable”, based on subjective and objective considerations (ILO 2019b). To be unacceptable, this conduct should **“aim at, be likely to result or result in physical, psychological, sexual or economic harm”**. The inclusion of “economic harm” along with physical, psychological and sexual harm ensures that all forms of violence and harassment are encompassed. Economic harm could consist of loss of income or property damages, but also restrictions in accessing financial resources, education or the labour market, including restricting a person’s ability to remain in or advance in the labour market.

**Figure 2. Violence and harassment in the world of work: A broad range of terms**





The definition does not include the **intent** as one of the constitutive elements.<sup>6</sup> By not including intent, Convention No. 190 adopts a pragmatic and **victim-centred approach**, which focuses on the unacceptability of the conduct, practices or threats, and on their effect on victims. The absence of any reference to perpetrators in the actual text of Article 1 reinforces the purpose of the instruments, which is to prohibit all forms of violence and harassment in the world of work, regardless of their source, whether it be:

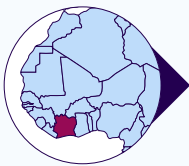
- a. by or against individuals exercising the authorities, duties or responsibilities of an employer (**vertical**)
- b. directed toward one’s peers (**horizontal**), or
- c. involving **third parties**, such as clients, patients, passengers or customers.

While Convention No. 190 proposes a single concept covering violence and harassment, it takes into account the diversity of national legal systems and regulatory approaches, and allows States to opt for a **single concept or separate concepts** in their definitions in national laws and regulations (Art. 1(2)), while ensuring that all the elements of the definition provided by Convention No. 190 are respected (ILO 2019e; 2019b). This provision relates directly to the **obligation** stemming from the Convention to “**define and prohibit violence and harassment in the world of work**” (Art. 7). This is essential, as legislation lays the foundation for a culture of respect, including at work, and can trigger lasting change in society. By promoting a culture of dignity and respect for all, the law plays a crucial role in the prevention and eradication of violence and harassment. It can guide the development of prevention programmes, promote accurate identification of causes and consequences, ensure investigation, and provide protection and support for complainants, among other things.

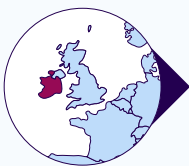
### ► Box 1. Examples of definitions of violence and harassment in recent legislative reforms



**Canada** defines “**harassment and violence**” as “any action, conduct or comment, including of a sexual nature that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an employee, including any prescribed action, conduct or comment” (Canada Labour Code (as amended in 2018), subsection 122(1)).



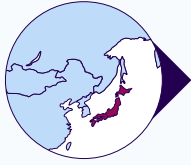
**Côte d’Ivoire** defines “**psychological harassment**” as “abusive behaviour, threats, attacks, words, intimidation, writing, attitudes, repeated actions against an employee, which have as their object or effect the deterioration of his working conditions and which as such are likely to affect his rights and dignity, to alter his physical or mental health or to compromise his professional future” (2015 Employment Code, art. 5(5)).



**Ireland** defines **bullying at work** as:

workplace bullying is repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment, which could be reasonably regarded as undermining the individual’s right to dignity at work. An isolated incident of the behaviour described in this definition may be an affront to dignity at work, but, as a once off incident, is not considered to be bullying (Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work Order 2020).

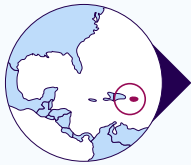
<sup>6</sup> In this regard, it is worth mentioning that within the framework of the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has already pointed out that the lack of intent or the existence of intent should not be relevant in harassment issues ; see ILO 2012.



**Japan** uses the terms **“power harassment”** to define acts and speech: (a) taking advantage of the harasser’s position of authority; (b) harming the workplace environment; and (c) beyond what is necessary or appropriate for work operation (Labour Policy Comprehensive Promotion Act, art. 30-2, para. 1, as amended in 2019) (Library of Congress 2020).

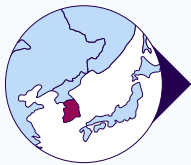


**Mexico:** On 23 October 2019, the Mexican Official Standard NOM-035-STPS-2018 (NOM-035) on psychosocial risk factors in the workplace – identification, analysis and prevention – entered into force. For the purpose of this standard, **“workplace violence”** is defined as “acts of harassment, bullying or ill-treatment against workers, which may harm their integrity or health” (art. 4.12).

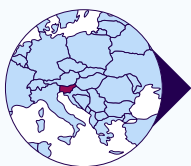


**Puerto Rico (United States of America)** defines **“workplace bullying”** as:

malicious, unwanted, repetitive and abusive conduct; arbitrary, unreasonable and/or capricious; verbal, written and/or physical; in a repeated manner by the employer, its agents, supervisors or employees, alien to the legitimate interests of the employer’s business, unwanted by the person, which infringes on his or her constitutionally protected rights, such as: the inviolability of the dignity of the person, the protection against abusive attacks on his or her honour, reputation and private or family life, and the protection of the worker against risks to his or her health or personal integrity in his or her work or employment. Such harassing conduct at work creates an intimidating, humiliating, hostile or offensive working environment, unsuitable for the reasonable person to perform his or her functions or tasks in a normal manner” (Law No. 90 of 2020, art. 4).



**The Republic of Korea** defines **“workplace harassment”** as “an act of an employer (or business owner) or employee (or worker) that causes physical or mental suffering or worsens the working environment of another employee/worker by taking advantage of his/her status or relationship within the workplace beyond the appropriate scope of work.” (Labour Standards Act (as amended in 2018), art. 76(2)).



**Slovenia:** Article 7 of the 2013 Employment Relationships Act distinguishes between harassment and bullying: **“harassment”** is defined as “any undesired behaviour associated with any personal circumstance” listed in the same article; while **“bullying”** at the workplace is defined as “any repetitive or systematic, reprehensible or clearly negative and insulting action or behaviour aimed at individual workers in the workplace or in connection with work”.

## 2.1.1. Gender-based violence and harassment

The notion of violence and harassment outlined in Article 1(a) of the Convention, explicitly includes **“gender-based violence and harassment”**. By embedding it in the overarching definition of violence and harassment, the elements of the offending conduct and the resulting or aimed impact are also applicable to the concept of gender-based violence and harassment (ILO 2018b, para. 273).<sup>7</sup>

<sup>7</sup> During the standard setting process, it was clear that the term “gender-based violence” included both hostile working environment and quid pro quo sexual harassment. However, for consistency with the concept of violence and harassment as a range, and in light of the recent outcry and public debates related to the #MeToo campaign, which have highlighted the significance of sexual harassment, including in the workplace, it was agreed to add a clear reference to sexual harassment, while cognizant of the fact that gender-based violence does include sexual harassment.

For further clarity, the Convention defines gender-based violence and harassment as “violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment” (Art. 1(b)):

- ▶ The reference to “**persons**” is significant, as it broadens the definition of gender-based violence compared to other international and regional instruments. While gender-based violence and harassment disproportionately affects women and girls – as the Preamble of Convention No. 190 recognizes – Convention No. 190 seeks to protect everyone from such behaviours.<sup>8</sup>
- ▶ The reference to “**sex or gender**” makes both the biological functions and characteristics that differentiate men from women (that is, sex) and the sociological differences between men and women that are learned and changeable over time (that is, gender) relevant to Convention No. 190 and Recommendation No. 206 (ILO 2012).

The definition of gender-based violence and harassment explicitly includes “**sexual harassment**”. As a serious manifestation of sex discrimination and a violation of human rights, sexual harassment has been addressed prior to the adoption of Convention No. 190 within the context of the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ILO 2012; 2020a; Cruz and Klinger 2011; ILO and UN Women 2019). Within that framework, and according to the 2002 General Observation of the ILO CEACR, definitions of sexual harassment contain the following two key elements:

- ▶ *Quid pro quo* – Any physical, verbal or non-verbal conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men, which is unwelcome, unreasonable, and offensive to the recipient; and a person’s rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person’s job; or
- ▶ *Hostile work environment* – Conduct that creates an intimidating, hostile or humiliating working environment for the recipient.

### ▶ Box 2. Advancing protection against gender-based violence and harassment in work-related legislation

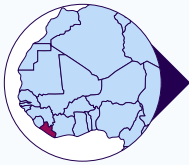
In recent years, many countries have introduced specific provisions in work-related legislations aimed at defining gender-based violence and harassment and, in particular, sexual harassment.

**Iraq:** Section 10 of the Labour Law No.37/2015 prohibits **sexual harassment** by providing that:



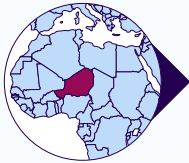
1. This law prohibits sexual harassment in employment and occupation, whether at the level of job search, vocational training, recruitment or work conditions and terms.
2. This law prohibits any other behaviour that creates a hostile, intimidating or offending work environment for those against whom this behaviour is directed.
3. Sexual harassment in accordance with the provisions of this law is any physical or verbal conduct of a sexual nature or other conduct based on sex, affecting the dignity of women and men, which is undesirable and unreasonable and insulting to those who are victim of this conduct, and the rejection by any person of this conduct, leading explicitly or implicitly, to a decision affecting his job.

<sup>8</sup> See Carlson and Olney, forthcoming.

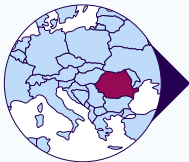


**Liberia** defines “**sexual harassment**” as:

- i. sexual conduct which is unwelcome, unreasonable, or offensive to the recipient, and which occurs in circumstances where a person’s rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person’s job; or
- ii. sexual conduct that creates an intimidating, hostile or humiliating working environment for the person that is subject to that conduct (Decent Work Act 2015, sect. 2.8(b)).

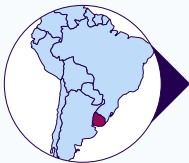


**Niger** defines “**sexual harassment** in the context of the performance of the employment contract” as “obtaining from others by order, intimidation, act, gesture, threat or coercion, favours of a sexual nature, as well as any other conduct of a sexual nature, with the effect of creating an intimidating, hostile or humiliating working environment for a person” (Decree No. 2017-682/PRN/MET/PS in regulation of the Labour Code, art. 122).



**Romania** defines “**gender-based violence**” as:

The act of violence directed against a woman or, as the case may be, a man, motivated by sex. Gender-based violence against women is violence that disproportionately affects women. Gender-based violence includes, but is not limited to, domestic violence, sexual violence, female genital mutilation, forced marriage, forced abortion and forced sterilization, sexual harassment, trafficking in human beings, and forced prostitution (Law No. 202, 2002 on equal opportunities and equal treatment for women and men (as amended in 2015 and 2018), art. 4).



**Uruguay:** Article 2 of the 2009 Sexual Harassment Act (as amended in 2017) defines “**sexual harassment**” as “a behaviour of a sexual nature, performed by a person of equal or different sex, not desired by the person to whom it is addressed and whose rejection produces or threatens to cause damage to her situation at work or in the teaching relationship, or that creates an intimidating, hostile or humiliating work environment for those to whom such conduct is directed”.

Convention No. 190 acknowledges that to be able to fully prevent and eradicate gender-based violence and harassment in the world of work, ratifying countries must address its root causes, such as multiple and intersecting forms of discrimination; unequal gender-based power relations; gender stereotypes; and gender, social and cultural norms that support violence and harassment. With a view to tackling the root causes of gender-based violence and harassment, as well as to reducing their harmful effects, Convention No. 190 calls for the adoption of a “**gender-responsive approach**”. Gender-responsiveness means intentionally employing gender considerations to affect the design, development, implementation and results of programmes and strategies, policies, laws and regulations, as well as collective agreements. This implies an approach that: reflects all girls’ and women’s realities; pays attention to their unique needs; ensures their participation in decision-making processes at all levels; values their perspectives; respects their experiences; and understands the developmental differences between girls and boys, women and men in all their diversity and throughout their life cycle. The ultimate aim is to empower girls and women, with a view to promoting gender equality in practice and achieving gender equity.

## Domestic violence and the world of work

Historically, domestic violence has been relegated as a “private” issue, with no connection to the public sphere or to the world of work. Significantly, Convention No. 190 recognizes the negative spillover effects that domestic violence can have in general on the world of work, including in relation to employment, productivity, and safety and health. The Convention also recognizes the positive contribution that governments, employers’ and workers’ organizations, and labour market institutions can play in mitigating the impact of domestic violence on the world of work (Preamble and Art. 10(f)). Domestic violence can represent a particular risk that impairs the health and productivity of all workers and other persons concerned, including individuals exercising the authority, duties or responsibilities of an employer (ILO 2020b; 2020c). Some work-related places, situations or instances – particularly those which are easily accessible by the public, such as schools, hospitals, public services or street markets, among others – can be places where domestic violence is unleashed. Likewise, domestic violence represents an even more relevant risk for particular work arrangements, such as working from home, as well as for some categories of workers, such as domestic, home-based or contributing family workers, many of whom are women working informally (ILO 2021c).

### ► Preamble

Noting that domestic violence can affect employment, productivity and health and safety, and that governments, employers’ and workers’ organizations and labour market institutions can help, as part of other measures, to recognize, respond to and address the impacts of domestic violence, and

### ► Article 10

Each Member shall take appropriate measures to: ...

(f) recognize the effects of domestic violence and, so far as is reasonably practicable, mitigate its impact in the world of work.

Following on from these provisions in the Convention, Paragraph 18 of Recommendation No. 206 sets out a number of measures that could be adopted to respond to and mitigate the impacts of domestic violence, such as:

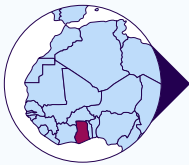
- a. leave for victims of domestic violence;
- b. flexible work arrangements and protection for victims of domestic violence;
- c. temporary protection against dismissal for victims of domestic violence, as appropriate, except on grounds unrelated to domestic violence and its consequences;
- d. the inclusion of domestic violence in workplace risk assessments;
- e. a referral system to public mitigation measures for domestic violence, where they exist; and
- f. awareness raising about the effects of domestic violence.

► **Box 3. Examples of labour and employment provisions acknowledging the effects of domestic violence in the world of work and mitigating its impact**

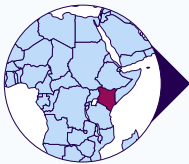
In recent years, countries have increasingly taken into account the effects of domestic violence on workers' well-being and productivity in their labour and employment provisions. A growing number of countries have introduced leave, whether paid or unpaid, for workers who are victims of domestic violence. Others have included domestic violence as a ground of discrimination in employment and occupation, and require employers to provide reasonable accommodations. Some have envisaged employers' duties to take preventive measures to protect the employee or other workers, or included domestic violence within the management of occupational safety and health (OSH). In addition, with a view to protecting specific categories of workers, such as domestic workers, against violence and harassment, some laws and regulations have extended the definition of "domestic violence" beyond traditionally understood family relationships to include those working in the domestic sphere.



**Canada:** Section 8 (Identification of risk factors) of the 2020 Work Place Harassment and Violence Prevention Regulations states as follows: "An employer and the applicable partner must jointly identify the risk factors, internal and external to the work place, that contribute to harassment and violence in the work place, taking into account: ... (b) **circumstances external to the work place, such as family violence, that could give rise to harassment and violence in the work place**".<sup>9</sup>



**Ghana:** The 2020 Domestic Violence Act prohibits all forms of **violence and harassment occurring in the household environment. Domestic workers** are included in the definition of the domestic relationship and are thus protected by the Act (*Graphic Online* 2020).



**Kenya:** The 2015 Protection Against Domestic Violence Act provides that, **in case of domestic violence, the victim or a representative of the victim, including employers, may apply to the Court for a protection order** (sects 2 and 8).

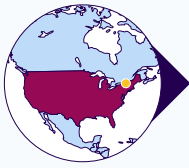
**Peru** in 2019 enacted the "Law to prevent, punish and eradicate violence against women in public and private sphere, and violence against family members". Article 11 foresees that, when the victim is an employee, the following rights should be guaranteed:



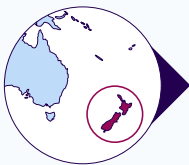
- a. **protection against dismissal** for causes related to such acts of violence;
- b. to **change workplace** without detriment to their conditions and terms of employment;
- c. five days of justified absence;
- d. **suspension of the employment relationship;** and
- e. the right to return to the same or similar position afterwards.

<sup>9</sup> Many Canadian provinces/territories are also moving in this direction. See, for instance, Yukon Territory, where section 19.05 of the 2020 Occupational Safety and Health Regulations provides that "if an employer becomes aware, or ought reasonably to be aware, that a worker is or is likely to be exposed to domestic violence in the workplace, the employer must take reasonable precautions to protect the worker and any other persons in the workplace who are likely to be affected".





**United States (New York State):** The New York State Labour Law includes **domestic violence as a ground of discrimination in employment and occupation** (sect. 593), and requires **employers to take reasonable accommodation**, which may include obtaining services from a domestic violence shelter, obtaining psychological counselling, participating in safety planning and obtaining legal services, assisting in the prosecution of the offense or appearing in court (sect. 22(c)).



**New Zealand:** The 2018 Domestic Violence – Victims’ Protection Act grants employees affected by domestic violence the right to:

- a. take at least ten days of paid domestic violence leave;
- b. ask for short-term flexible working arrangements. This can be for up to two months; and
- c. not be treated adversely in the workplace because they might have experienced domestic violence.

#### ► Box 4. Examples of collective agreements and other measures addressing domestic violence in the world of work

Social partners have also been very active. In several countries, **collective agreements and other measures** have been taken in relation to domestic violence, including training, provisions of flexible working arrangements, paid leave and support services.



**Argentina:** Farmacity developed a **Protocol for action in situations of domestic and workplace violence**. The Protocol provides **internal communication campaigns** and **prevention training**, including for personnel in decision-making positions, as well as **guidance on how to detect such instances, and approach and support victims** (*Tercer Sector* 2018).

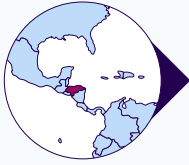


**Australia:** Many enterprise agreements include provisions for **paid family violence leave**, allowing workers to ask to **work part-time**; to **vary their working patterns**; to **temporarily change their work location**; to **change their work contact details**, such as phone and email address; and to **temporarily work from home or another location** so as to address family violence.<sup>10</sup>

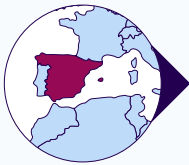


**Brazil:** The collective agreement signed in 2020 for the **banking sector** establishes employers’ duty to: provide employees with an **internal communiqué on prevention of domestic and family violence**; establish **support channels for victims** of such violence and other support measures, such as the **transfer of the victim of violence to another workplace**; ensure **confidentiality**; and **establish a line of credit or special financing for these victims** (Sindicato dos Bancarios 2020).

<sup>10</sup> As an example, see the Australian Jewish News Journalists Enterprise Agreement 2019 (Australia 2019). Since August 2018, family and domestic violence leave provisions have been inserted into all 122 of Australia’s modern awards, with a model clause developed for inclusion (Australia 2018).



**Honduras:** In 2020, the Asociación de Maquiladoras de Honduras launched a **campaign to help its members address domestic violence at work**. The campaign included virtual seminars, the development and implementation of a training programme for members, and the creation of communication materials, including a web page providing general information and useful resources (Asociación Hondureña de Maquiladores 2020).



**Spain:** The collective agreement for the **energy company** Endesa provides for **revised and flexible working hours, social care, legal assistance, protection orders and counselling for victims of domestic violence** (Spain 2020; ETUC 2017).

## ► 2.2. Who is protected?

Convention No. 190 builds on the understanding that no one should be subject to violence and harassment in the world of work (ILO 2018b).

### ► Article 2

1. This Convention protects workers and other persons in the world of work, including employees as defined by national law and practice, as well as persons working irrespective of their contractual status, persons in training, including interns and apprentices, workers whose employment has been terminated, volunteers, jobseekers and job applicants, and individuals exercising the authority, duties or responsibilities of an employer.
2. This Convention applies to all sectors, whether private or public, both in the formal and informal economy, and whether in urban or rural areas.

For this reason, its scope of protection is broad and goes beyond employees (Art. 2), and ensures protection to all **“workers” irrespective of their contractual status**, both in the formal and informal economy, and whether in the private or public sector (ILO 2019b; 2018b).<sup>11</sup> Moreover, the reference to **“other persons in the world of work”** further broadens the scope to cover persons in training, including interns and apprentices; jobseekers; volunteers and people whose contracts have been terminated, as well as “individuals exercising the authority, duties or responsibilities of an employer” (ILO 2018b; 2019b). It is important to recall that this broad scope of protection is in line and consistent with the latest statistical definition of “work”, as adopted by the International Conference of Labour Statisticians. It covers all jobs and work activities in all forms of work.<sup>12</sup>

<sup>11</sup> In light of the changing world of work, the broad formulation allows for the inclusion of workers in zero-hour contracts and other non-standard forms of employment, those working online in virtual workplaces or through platforms, and self-employed, home-based workers.

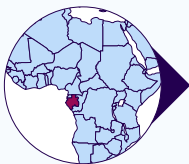
<sup>12</sup> In 2013, the 19th International Conference of Labour Statisticians (ICLS) adopted Resolution I on “statistics of work, employment and labour underutilization”, which introduces a “conceptually revolutionary definition” of work that makes it clear that work can be performed in any kind of economic unit, including households and communities, and can also include services that are not provided in the context of market transactions. This definition includes – but also transcends – work for pay or profit, and comprises “any activity performed by persons of any sex and age to produce goods or to provide services for use by others or for own use”. In 2018, the 20th ICLS went one step further in its Resolution I by providing a new International Classification of Status at Work (ICSaW-18), which covers all jobs and work activities in all forms of work, including own-use provision of services. See ILO 2018d.

### ► Box 5. Extending protection beyond employees

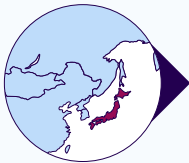
Recent labour law reforms seem to be moving in this direction and to extend protection against violence and harassment in the world of work to a variety of individuals, regardless of their contractual status.



**Canada:** The 2020 Standards for Work-Integrated Learning Activities Regulations specify that labour standards protections in relation to harassment and violence are applicable to **unpaid student internships** in the federally regulated private sector.



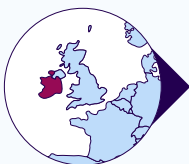
**Gabon:** The 2016 Law on the Fight against Harassment in the Workplace extends protection against harassment, moral and sexual harassment to all **employees, civil servants and trainees** (art. 3).



**Japan** prohibits harassment directed towards **subordinates**, but also towards **superiors**. Power harassment can happen between colleagues as well as workers with different employee statuses, such as **permanent employees and contract workers** (Power Harassment Prevention Act, 2020) (Library of Congress 2020).

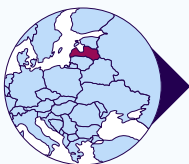


**The Philippines** prohibits sexual harassment at work among **peers**, against a **superior** and against **subcontracted employees** (Safe Spaces Act, 2018).

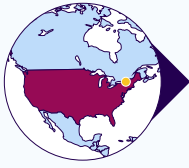


**Ireland:** The Code of Practice on Bullying at work specifies that bullying at work can **involve people in many different work situations and at all levels:**

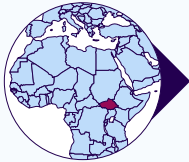
- manager/supervisor to employee;
- employee to supervisor/manager;
- one employee to another (or group to group);
- customer/supervisor/manager to business contact;
- client/customer to employee.



**Latvia:** According to the Law on Support for Unemployed Persons and Persons Seeking Employment as adopted on 9 May 2002 (last amended on 16 April 2020), **unemployed persons, persons seeking employment, and persons subject to the risk of unemployment** are protected from discrimination due to their sex, race or ethnic origin, and from conduct which is unwanted in the opinion of this person (including a conduct of a sexual nature), with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment. According to the last amendments on 16 April 2020 the **owners of micro entities and self-employed persons without income** are covered by the Law until the end of 2020.



**United States (New York State):** In 2018, New York State expanded its protection against sexual harassment to cover **independent contractors, subcontractors, consultants, and each of their employees, any other person providing services pursuant to a contract in the workspace**, such as equipment repair and cleaning, and “non-employee” designations, such as **“gig” workers, temps, or interns (paid or unpaid)** (Zweig 2020).



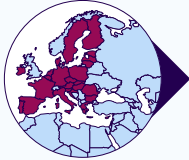
**South Sudan:** Article 7 of the 2017 Labour Act states, “No person shall sexually harass an **employee** or an **employer**.”

This broad scope of protection is at the origin of the “**inclusive approach**” called for by Convention No. 190. Given the diverse range of individuals protected by the Convention, a one-size-fits-all solution would have not been able to provide effective protection to everyone, as measures need to recognize and take into account the specificities and vulnerabilities of each individual or group, the different sectors or occupations where they operate, as well as work arrangements through which they provide work or are provided work, including possible interaction with **third parties**, where applicable.

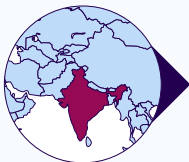
### 2.2.1. Ensuring inclusion through accessibility

With a view to providing effective protection from violence and harassment in the world of work, particularly to individuals or groups in vulnerable situations, Convention No. 190 has a strong focus on ensuring accessibility. The promotion of an inclusive workplace culture – including through reasonable accommodation – is essential to ensuring equality of opportunity and treatment, to protecting against discrimination, and to preventing and addressing violence and harassment. According to Convention No. 190 and Recommendation No. 206, accessibility is a core element to facilitate prevention, enforcement and redress, and awareness raising. The different needs of people with disabilities, individuals belonging to ethnic minorities, and migrant workers, among others, should be taken into account. In this regard, Convention No. 190 requires that tools, guidance, education and training be provided in accessible formats, which is essential for widespread and inclusive awareness raising (Arts 4(2)(g) and 11(b)). Information and training on the hazards and risks of violence and harassment, as well as on associated prevention and protection measures, also need to be in accessible formats (Art. 9(d)). Regarding enforcement, the Convention requires Members to ensure easy access to reporting and dispute resolution mechanisms and to remedies (Art. 10(b)). This would include ensuring that processes are accessible to all workers and other persons concerned on an equal basis.

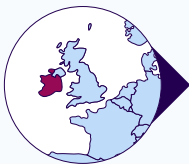
► **Box 6. Ensuring accessibility in preventing and addressing violence and harassment in the world of work: Selected examples concerning people with disabilities**



**European Union:** In the **Union of Equality Strategy for the Rights of Persons with Disabilities 2021–2030**, emphasis is placed on improving access to justice, legal protection, freedom and security for persons with disabilities through digitalization of judicial systems and scaled up accessibility of digital environments and communications. This includes increasing the accessibility of European Union (EU) law and policies, as well as providing training for staff and supporting learning of interpretation in International Sign Language.<sup>13</sup> The Action Plan on web accessibility aims at ensuring that EU websites, documents published on these websites, and online platforms comply with European accessibility standards (European Commission 2021).



**India:** The **Rights of Persons with Disabilities Act (Act No. 49 of 2016)** calls for the Government to take appropriate measures to prevent and protect persons with disabilities from all forms of abuse, violence and exploitation.



**Ireland:** The **Irish Harassment Order, 2012**, includes both accessibility regulations for people with disabilities and for people who do not speak English. It specifically requires that the content, form and implementation of the policy and procedures should be accessible to all, with adjustments made and steps taken to ensure accessibility, in particular for people with disabilities. Examples would include **the translation of policies and procedures into Braille or large print formats, or the making signers available**. The Order also states that certain measures may be necessary to ensure the accessibility of policies and procedures – for example, **the translation of policies and procedures into languages other than English, as appropriate, or the provision of interpreters**.



**Republic of Korea:** The **Act on Employment Promotion and Vocational Rehabilitation for Disabled Persons** was amended in 2018 to require **annual training to improve employees’ awareness of disabled persons to eliminate bias in the workplace**, to create stable working conditions and to expand employment of the disabled.

<sup>13</sup> See Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services.

## ► 2.3. When and where does violence and harassment occur?

Convention No. 190 and Recommendation No. 206 respond to the reality that acts of violence and harassment do not necessarily have to occur exclusively in a traditional physical workplace to be understood as prohibited work-related behaviours. Since work is performed in various settings and under different modalities, including through technology, these instruments seek to ensure protection in all places or circumstances related to work.

### ► Article 3

This Convention applies to violence and harassment in the world of work occurring in the course of, linked with or arising out of work:

- a. in the workplace, including public and private spaces where they are a place of work;
- b. in places where the worker is paid, takes a rest break or a meal, or uses sanitary, washing and changing facilities;
- c. during work-related trips, travel, training, events or social activities;
- d. through work-related communications, including those enabled by information and communication technologies;
- e. in employer-provided accommodation; and
- f. when commuting to and from work.

By applying to violence and harassment “occurring in the course of, linked with or arising out of work”, Convention No. 190 captures the **changing nature of work**, including new types and different modalities of work (ILO 2018b, in particular paras 180–184). The reference to “public and private spaces where they are a place of work” in Article 3 is intended to cover the situations of those in the informal economy, such as street vendors; domestic workers, who work in or for a private household or households; or home-based workers, who work in their own homes (ILO 2018a; 2016b). With the explicit mention of “work-related communications, including those enabled by information and communication technologies”, all kinds of communication, including email and social media, are covered (De Stefano et al. 2020). This is particularly important in light of the teleworking arrangements that have become increasingly common in recent years, including as a way to provide more flexibility to address both work and life responsibilities.

Other ILO standards – particularly OSH-related standards – also embrace a notion of the “workplace” as being wider than the traditional physical workplace. According to the ILO Occupational Safety and Health Convention, 1981 (No. 155), the term “workplace” covers all places where workers need to be or to go by reason of their work and which are under the direct or indirect control of the employer (Art. 3(c)). The Protocol of 2002 to the Occupational Safety and Health Convention, 1981, calls for information on measures taken regarding occupational accidents, diseases and other injuries to health, which arise “in the course of or in connection with work” (Preamble (e)). In the Protocol’s definition section, the term “dangerous occurrence” covers a readily identifiable event as defined under national laws and regulations with the potential to cause an injury or disease to persons at work or to the public (Art. 1(c)). The term “commuting accident” covers an accident resulting in death or personal injury occurring on the direct way between the place of work and (i) the worker’s principal or secondary residence; (ii)



the place where the worker usually takes a meal; or (iii) the place where the worker usually receives his or her remuneration (Art. 1(d)). The Occupational Safety and Health Recommendation, 1981 (No. 164), also provides that employers should be required to keep records relevant to OSH and the working environment. These include records of all notifiable occupational accidents and injuries to health that arise “in the course of or in connection with work” (Para. 15(2)) (ILO 2020d).

► **Box 7. Protection from violence and harassment beyond the traditional physical workplace: Examples from recent laws and regulations**

Recent legislative reforms have started to spell out **different places or instances** where violence and harassment **in the world of work** can occur beyond the traditional physical workplace. Among others, **online violence and harassment** is receiving increased attention either as a separate or standalone notion, or as a means through which violence and harassment can be perpetrated.

**Australia:** In January 2021, Safe Work Australia released guidance materials addressing sexual harassment, workplace violence and aggression to assist employers to ensure that the workplace is free from sexual harassment, violence and aggression (Australia 2021a; 2021b). The guides provides that, under OSH laws, a workplace means a place where work is carried out for a business or undertaking, which includes any place where a worker goes or is likely to be while at work. The guide on sexual harassment (Australia 2021a) further states that sexual harassment can happen:



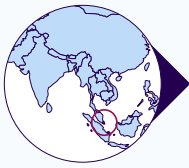
- at a worker’s usual workplace;
- where a worker is working remotely, including if the person’s workplace is their home;
- in a place where the worker is undertaking work at a different location, such as a client’s home or contractor’s home or work;
- where the worker is engaging in work-related activities such as conferences, training, work trips, work-related corporate events or a social activity like a Christmas party; or
- **by phone, email or online such as through social media platforms.**



**Canada (Ontario Province):** In January 2021, the Ontario Superior Court (in the case *Caplan v. Atas*) recognized a **new tort of internet harassment**. This was found necessary because other existing laws were insufficient to deal with serial stalking and an intent to cause fear, anxiety and misery to both targeted victims and people those victims care about.



**Philippines:** The 2018 Safe Spaces Act defines “**gender-based online sexual harassment**” as any conduct targeted at a particular person that causes or is likely to cause another mental, emotional or psychological distress; and fear of personal safety; sexual harassment acts, including unwanted sexual remarks and comments; threats; uploading or sharing of one’s photos without consent; video and audio recordings; cyberstalking and online identity theft (sect. 3).



**Singapore** has approved special provisions against stalking and **online harassment** under the 2014 Protection from Harassment Act. The provisions concerning online harassment prohibit the intentional or reckless issue of a communication that is threatening, abusive or insulting, which is heard, seen or otherwise perceived and likely to harass or cause alarm or distress or instil in a person fear or provoke violence. A 2019 amendment prohibits the publication of information identifying the victim or a person related to the victim in order to harass, threaten or facilitate violence against the victim (also known as “doxing”).

## ► 2.4. An inclusive, integrated and gender-responsive approach

Given the broad personal scope of protection – which includes individuals who may not be covered by labour law provisions – and with a view to ensuring effective protection against all forms of violence and harassment occurring “in the course of, linked with or arising out of work”, Convention No. 190 calls on ratifying countries to adopt, “**in consultation with representative employers’ and workers’ organizations, an inclusive, integrated and gender-responsive approach**” towards preventing and eliminating violence and harassment in the world of work (Art. 4(2)) (see figure 3):

- **Inclusive** refers to the broad personal scope of protection, as well as to the need to ensure consultations to better capture all different needs and realities.
- **Gender-responsive** calls for the need to tackling the root causes of gender-based violence and harassment, as well as for reducing their harmful effects.
- **Integrated** refers to the need to address the phenomenon in “labour and employment, occupational safety and health, equality and non-discrimination, and in criminal law, where appropriate” (Recommendation No. 206, Para. 2).

Over the past decades, criminal law has long been used as a principal bulwark against the commission of acts of violence and harassment, in particular physical and economic violence and harassment, including in the world of work (Chappell and Di Martino 2006; ILO 2016a; 2017a; Lippel 2016).

Yet based on the concept of violence and harassment in the world of work laid out in Convention No. 190 and Recommendation No. 206, criminal law alone may be insufficient. Criminal law criminalizes conduct considered to have surpassed a certain threshold of gravity, such as physical (including sexual) aggressions or “immoral acts” or threats. This, however, may not cover the wide range of unacceptable behaviours and practices that constitute violence and harassment in the world of work as per Convention No. 190.<sup>14</sup> In addition, criminal law focuses on sanctioning perpetrators rather than providing effective remedies to victims.

Prior to the adoption of Convention No. 190 and Recommendation No. 206, a variety of national instruments or branches of law have then been used as regulatory underpinnings enabling interventions to tackle violence and harassment at work, including constitutional law, equality and non-discrimination law, and OSH regulations. In calling for an **overall regulatory framework**, rather than imposing a single way forwards, Convention No. 190 and Recommendation No. 206 acknowledge that such frameworks may be shaped by taking into account national circumstances and legal systems (Convention No. 190, Art. 4(2); Recommendation No. 206, Para. 2). Not all situations will necessarily be covered by all laws and regulations, but it is important to see whether there are any gaps when the various laws and regulations are examined together.

<sup>14</sup> In this regard, although within the context of Convention No. 111, the ILO CEACR has stressed that criminal proceedings are insufficient in the case of sexual harassment at work, given “the sensitivity of the issue, the higher burden of proof, which is harder to meet, especially if there are no witnesses (which is often the case), and the fact that criminal law generally focuses on sexual assault or “immoral acts”, and not the full range of behaviour that constitutes sexual harassment in employment and occupation”; see ILO 2012.

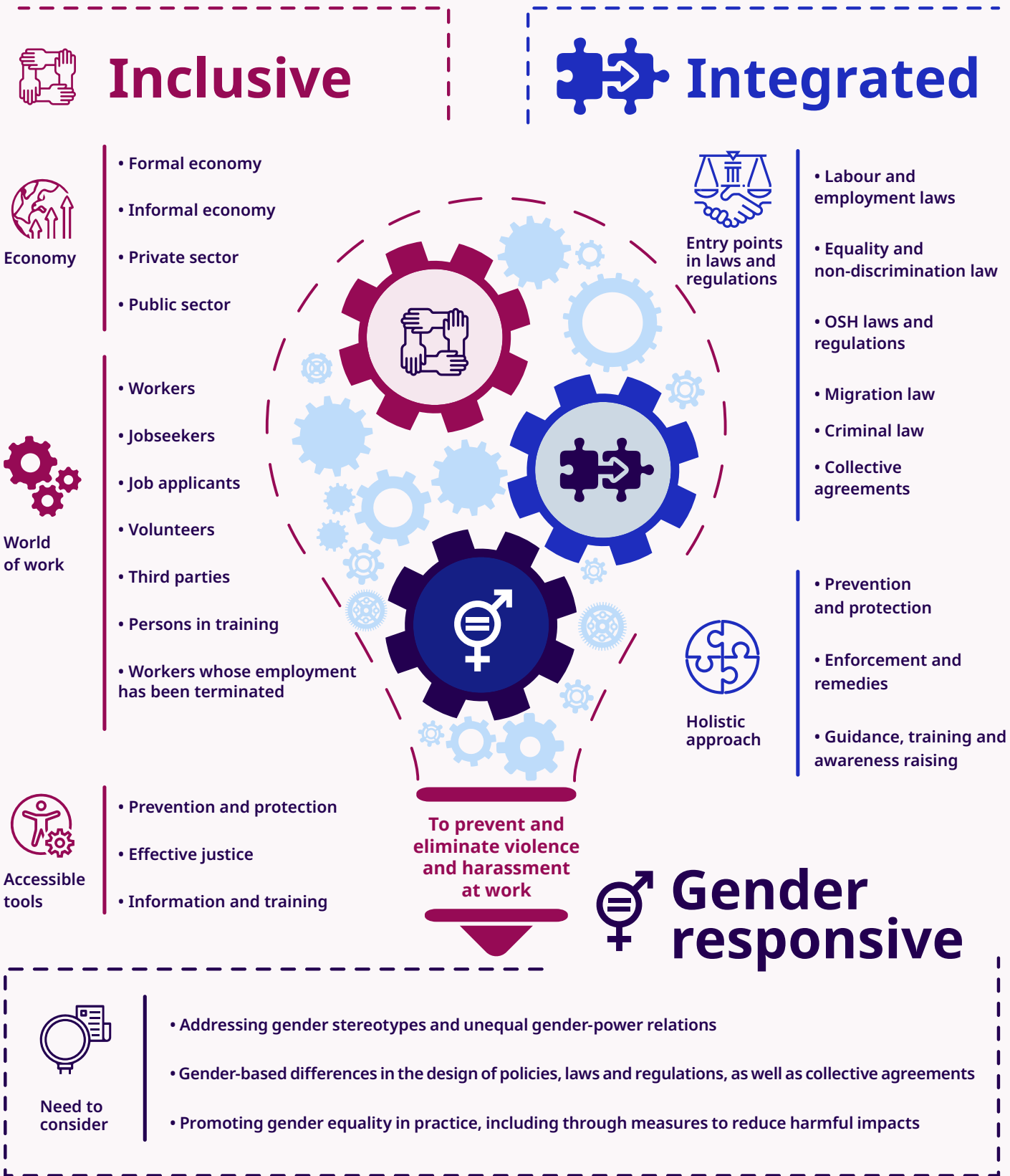
The “integrated” approach also refers to the need to have measures on prevention and protection (Convention No. 190, Arts 7–9; Recommendation No. 206, Paras 6–13); enforcement and remedies (Convention No. 190, Art. 10; Recommendation No. 206, Paras 14–22); and guidance, training and awareness raising (Convention No. 190, Art. 11; Recommendation No. 206, Para. 23). Each of these components are essential. Prevention and managements of hazards and risks would not be successful if training and awareness raising are not undertaken. Likewise, inefficient and ineffective enforcement mechanisms will not help deter and prevent future occurrences of violence and harassment.

The core elements of this overall inclusive, integrated and gender-responsive approach are listed under Article 4, and then further developed in the operational part of the instrument. Article 4(3) also provides that, in adopting and implementing such an approach, ratifying countries should take into account the different and complementary roles and functions of governments and of employers and workers (and their respective organizations) according to the varying nature and extent of their responsibilities.

#### ► Article 4

1. Each Member which ratifies this Convention shall respect, promote and realize the right of everyone to a world of work free from violence and harassment.
2. Each Member shall adopt, in accordance with national law and circumstances and in consultation with representative employers’ and workers’ organizations, an inclusive, integrated and gender-responsive approach for the prevention and elimination of violence and harassment in the world of work. Such an approach should take into account violence and harassment involving third parties, where applicable, and includes:
  - a. prohibiting in law violence and harassment;
  - b. ensuring that relevant policies address violence and harassment;
  - c. adopting a comprehensive strategy in order to implement measures to prevent and combat violence and harassment;
  - d. establishing or strengthening enforcement and monitoring mechanisms;
  - e. ensuring access to remedies and support for victims;
  - f. providing for sanctions;
  - g. developing tools, guidance, education and training, and raising awareness, in accessible formats as appropriate; and
  - h. ensuring effective means of inspection and investigation of cases of violence and harassment, including through labour inspectorates or other competent bodies.
3. In adopting and implementing the approach referred to in paragraph 2 of this Article, each Member shall recognize the different and complementary roles and functions of governments, and employers and workers and their respective organizations, taking into account the varying nature and extent of their respective responsibilities.

Figure 3. Inclusive, integrated and gender-responsive approach





3

The rights-based framework  
to prevent and eliminate  
violence and harassment in  
the world of work

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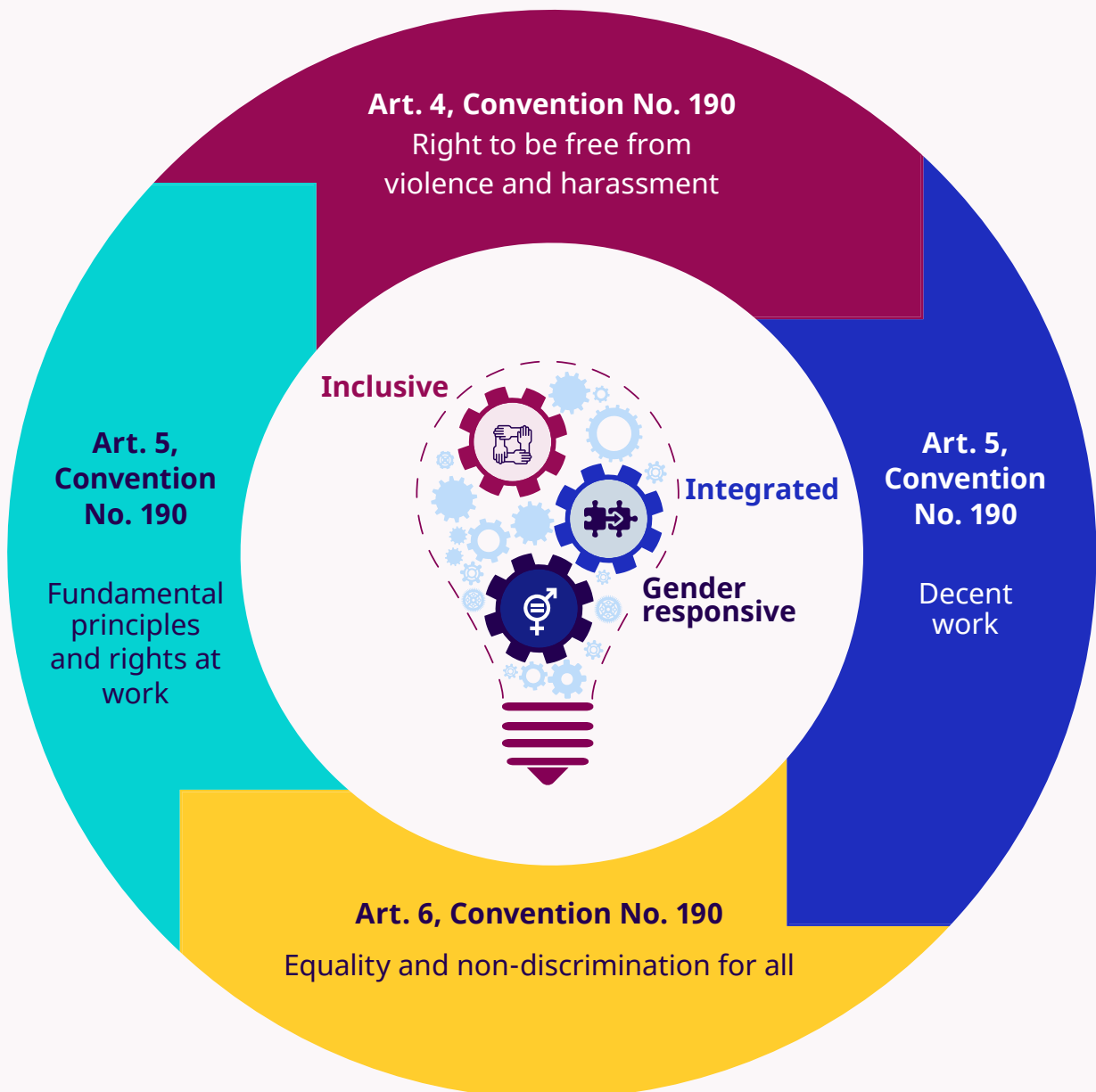


Convention No. 190 sets out a common blueprint to turn the right of everyone to a world of work free from violence and harassment into a reality for all. The underpinning elements of this framework are:

1. respecting, promoting and realizing the right of everyone to a world of work free from violence and harassment by adopting and implementing an inclusive, integrated and gender-responsive approach (Art. 4);
2. respecting, promoting and realizing fundamental principles and rights at work and promoting decent work (Art. 5);
3. ensuring the right to equality and non-discrimination for workers and other persons belonging to one or more vulnerable groups (Art. 6).

These core principles establish a rights-based framework towards the prevention and elimination of violence and harassment (see figure 4).

**Figure 4. Rights-based framework for the prevention and elimination of violence and harassment in the world of work**



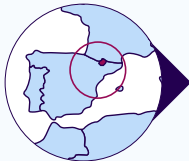
## ► 3.1. The right to a world of work free from violence and harassment

Convention No. 190 is the first international instrument that specifically recognizes the **right of everyone to a world of work free from violence and harassment** (Art. 4). Convention No. 190 and Recommendation No. 206 critically complement other international instruments, such as the International Covenant on Economic, Social and Cultural Rights and international labour standards on equality and non-discrimination and on occupational safety and health, which also provide protection from violence and harassment, but do so implicitly.<sup>15</sup>

### ► Box 8. The right to a world of work free from violence and harassment in labour law and collective agreement provisions

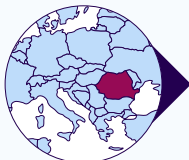
In recent years, a growing number of countries have increasingly stressed in their work-related legislation and regulations the right to be free from violence and harassment.

**Andorra:** Article 44(2) (rights of the salaried person) of the 2018 Labour Code states as follows:



In implementing the employment contract, the salaried person has the right: ...

- e. Not to be discriminated against directly or indirectly when being hired, or once hired, on the basis of birth, race, sex, sexual orientation, origin, religion, disability, opinion or any other personal or social condition, or affiliation, or no, to a trade union or political organization; ...
- g. **Respect for their privacy and consideration due to their dignity, including protection against harassment** for the reasons of letter e) above.



**Romania:** The Labour Code, as amended in 2020, states the right of all employee to a **job free from acts of moral harassment** (Art. 5.3).



**Iraq:** According to article 42 of the 2015 Labour Law:

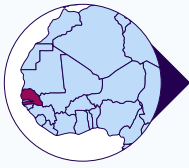
The worker has the following rights: ...

- a. To have equal opportunities and be recruited and work under equal conditions, without any discrimination.
- b. **To have a working environment, free from any harassment.**



**Italy:** The new collective agreement for the shipping industry signed on 16 December 2020, recognizes the right of every seafarer “to **work, train and live in an environment free from harassment and bullying on the grounds of sex, race and of any other nature**” (Confitarma et al. 2020).

<sup>15</sup> In connection with Article 7(b) of the International Covenant on Economic, Social and Cultural Rights, the Committee on Economic, Social and Cultural Rights has consistently stressed factors such as freedom from violence and harassment – including sexual harassment – as being fundamental to guaranteeing the right to just and favourable conditions of work. See also Chappell and Di Martino 2006; Lippel 2016.



**Senegal:** The Senegalese Interprofessional Collective Agreement signed on 30 December 2019 does not explicitly mention Convention No. 190. However, its main contents, including the **right to be free from violence and harassment** and the need for an inclusive, integrated and gender-responsive approach, are included.

## ► 3.2. The role of fundamental principles and rights at work in building a world of work free from violence and harassment

Convention No. 190 and Recommendation No. 206 recognize that the right to be free from violence and harassment in the world of work is inseparable and closely interrelated **with all fundamental principles and rights at work** and, more broadly, with **decent work**. Violence and harassment and decent work deficits often act as contributing causes and consequences of one another, as research has shown (ILO 2016b; de Bruijn 2020; Reuter et al. 2020; Cassino and Besen-Cassino 2019). After recognizing in its Preamble **that violence and harassment in the world of work is incompatible with decent work**, Convention No. 190 calls on States to respect, promote and realize the fundamental principles and rights at work, and to promote decent work, in order to prevent and eliminate violence and harassment (Art. 5).

**Freedom of association** and of the **effective recognition of the right to collective bargaining** are key means to both prevent and address situations of violence and harassment at work. Conversely, the denial of such rights is a significant factor in increasing the risk of experiencing violence and harassment (ILO 2017a).<sup>16</sup> In this regard, Recommendation No. 206 recommends that these fundamental rights should be ensured to “all workers and employers, including those in sectors, occupations and work arrangements that are more exposed to violence and harassment” (Para. 3).

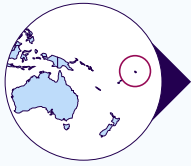
### ► Box 9. Extending the scope of application of freedom of association and the right to collective bargaining as a pathway towards effective protection against violence and harassment

In recent years, initiatives at different levels have been put in place to extend these fundamental rights to all workers, irrespective of their sectors of activity or nationality (IOE 2019; Jesnes, Ilsøe, and Hotvedt 2019). These are important steps, as they open the door to more effective protection, including against violence and harassment through collective agreements.

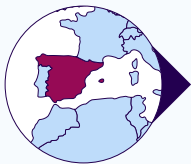


**France:** Article 60 of the Law of 8 August 2016 introduced a separate category of **self-employed who work for online platforms**. This law grants platform workers the right to constitute and to join a trade union, as well as the right to assert their collective interests through its intermediary.

<sup>16</sup> Although ILO instruments on freedom of association do not include an explicit prohibition of violence against trade union activities, the ILO CEACR has consistently stressed the interdependence between civil liberties and trade union rights, and in particular the importance for trade unions to operate in a climate free from violence, pressure and threats of any kind; see ILO 2012.



**Samoa:** Article 3 of the 2013 Labour and Employment Relations Act states: “This Act applies to: (a) every public body as defined under the Public Bodies (Performance and Accountability) Act 2001, whether or not duly incorporated by an Act of Parliament; and (b) all private or non-government business entities, including but not limited to business involving the **agricultural and fisheries sector.**” Articles 21 and 22 recognize the right to bargain collectively and to freedom of association, respectively.



**Spain:** The Self-employed Workers’ Statute (Act 201 of 11 July 2017) introduced a third category of workers in between employees and self-employed workers, known as “economically dependent self-employed”. In particular, article 11 defines these economically dependent self-employed as those who, in return for remuneration, carry out an economic activity or a profession personally, directly and predominantly for an individual or an organization on whom they are financially dependent, as granting them at least 75 percent of their income. The **dependent self-employed can form their own professional organizations** (such as trade unions) and negotiate working conditions by means of collective agreement.

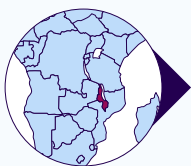
### Social partners’ initiatives



**Canada:** The workers’ organization Justice for Foodora Couriers was organized by a group of Foodora delivery riders in Canada to improve their fellow **food riders’** working conditions. They are mainly campaigning for fair compensation for dangerous work, paid sick leave, and a respectful workplace free from harassment and intimidation. They are preparing to join the Canadian Union of Postal Workers, and once this trade union is certified as their bargaining agent, Foodora will be legally required to negotiate with them as one group. They have also started developing relationships internationally with other riders who work for Foodora and other platforms, with an aim of improving working conditions for all delivery workers around the world (Eurofound 2021).



**Italy:** In 2018 in Bologna, following negotiations between the Riders Union Bologna; the Italian trade unions CGIL, CISL and UIL; the Municipality of Bologna; and the platforms Mymenu and Sgnam (and later followed by Domino’s pizza), the Charter of Fundamental Rights of **Digital Labour** in the Urban Context was signed. The Charter is organized around four chapters covering general provisions, including the right not to be discriminated against, the right to be informed, the right to protection – including to a fair wage, health and safety, protection of personal data – and the right to disconnect. The charter is not binding and only those who sign it (on a voluntary basis) must observe it (Bologna Municipality 2018).



**Malawi:** The Malawi Congress of Trade Unions has endeavoured to establish trade unions in the **informal economy**. The Malawi Government has registered these trade unions in recognition of the right to organize and to collective bargaining (ILO 2019f).

Respecting, promoting and realizing the right of everyone to a world of work free from violence and harassment cannot be achieved unless **forced or compulsory labour and child labour**, including its worst forms, which are inherently related to violence, are eliminated. In recent years, historic milestones have been achieved in this regard. In 2021, the ILO Protocol of 2014 to the Forced Labour Convention, 1930, reached 50 ratifications. The Protocol commits governments to taking effective measures to prevent forced labour, protect its victims and ensure their access to justice and remedies. In 2020, the ILO Worst Forms of Child Labour Convention, 2000 (No. 182), achieved its universal ratification. This confirms a global commitment that the worst forms of child labour – such as slavery, commercial sexual exploitation, and the use of children in armed conflict or other illicit or hazardous work that compromises children’s health, morals or psychological well-being – have no place in our society. While ratification by itself is not enough and implementation is vital if people’s lives are to change for the better, these ground-breaking achievements are positive and long-awaited developments, and represent a move towards the creation of a world of work free from violence and harassment.

The principle of **equality and non-discrimination** is intrinsically linked with violence and harassment (ILO 2012; 2017a; ILO CEACR 2019). This is evident not only by the fact that violence and harassment based on prohibited grounds is to be considered discrimination, but also by the fact that discriminatory laws and practices can contribute to perpetuate harmful social norms or gender stereotypes that can lead to violence and harassment (ILO 2019g). Recommendation No. 206 reminds ratifying countries that efforts to protect women and other groups from high risk of violence and harassment should not result in any forms of direct or indirect discrimination, such as the “restriction of their participation in specific jobs, sectors or occupations, or their exclusion therefrom, of women and groups referred to in Article 6 of the Convention” (Para. 12). Recent research shows that **reforming discriminatory laws** that, for instance, limit women’s ability to work, manage or inherit property, **contribute to reducing violence** (Htun and Jensenius 2020). Another study on the incidence of sexual harassment over the last two decades shows that as the gender gap in the labour market closes, sexual harassment reduces (Cassino and Besen-Cassino 2019).<sup>17</sup>

### 3.2.1 Ensuring equality and non-discrimination for women and groups in vulnerable situations

Promoting equality at work and tackling intersecting and multiple discrimination are key elements of any approach to prevent and end violence and harassment.<sup>18</sup> In this regard, Article 6 of Convention No. 190 requires Members “to adopt laws, regulations and policies that ensure the right to equality and non-discrimination in employment and occupation, including for women workers, as well as for persons belonging to one or more vulnerable groups or groups in situations of vulnerability that are disproportionately affected by violence and harassment in the world of work”. Research shows that **personal characteristics**, such as race or ethnicity, disability, sexual orientation and gender identity, HIV/AIDS status or family responsibilities may make individuals or groups more exposed to the risk of violence and harassment (ILO CEACR 2019; ILO 2020e; 2020f).

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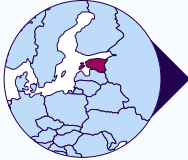
<sup>17</sup> The study focuses on the United States, and shows that this decline has disproportionately benefited white women, who are now much less likely to experience sexual harassment in the workplace than, for example, African-American women.

<sup>18</sup> Social policies that alleviate the burden of unpaid care work and promote a more equal share of family responsibilities are also essential, as they combat discrimination in the workplace and enable workers, particularly women, to combine family and wage work. See ILO 2018d; 2019g.



► Box 10. Ensuring equality and non-discrimination for all

### Sex, gender and family responsibilities

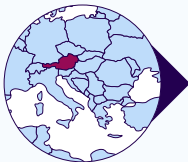


**Estonia:** According to paragraph 21 of the Strategy for Preventing Violence for 2015–2020, violence prevention is guided by a number of principles, including, inter alia, the following: “**Fostering gender equality is an important part of violence prevention.** By reducing gender inequality, it is possible to prevent violence and reduce the harm resulting from it. Gender equality concerns both men and women, therefore **violence prevention and reduction measures must be directed towards both genders in order to change stereotypical thinking, behaviour and gender roles at home, at work, at school and in the community.**”



**Japan:** From 1 June 2020, under the Law to Prevent Harassment in the Workplace, companies with more than 50 employees must put in place measures to prevent both sexual harassment and harassment related to **pregnancy, maternity, and childcare leave.** Companies must also take steps to punish harassers. Under the amended Child and Family Care Leave Act and Equal Opportunity Act, companies must establish measures to prevent superiors or colleagues from creating working environments that are hostile to employee pregnancy, childbirth or the taking of childcare or **caregiver leave** (Library of Congress 2020).

### Disability

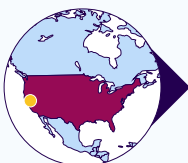


**Austria:** Per section 7(d) of the Employment of Persons with Disabilities Act, as amended: “**Harassment** exists if in conjunction with a disability, a person is subjected to undesirable, inappropriate or objectionable behaviour that is intended as or results in an attack on the dignity of the person concerned and the establishment of an intimidating, hostile, degrading or humiliating environment for the person concerned.”



**Azerbaijan:** Per article 6(3) of the Law on the rights of persons with disabilities No. 1153-VQ of 2018, **discrimination** based on disability is defined as “any distinction, exclusion or restriction **due to disability**, including the denial of reasonable accommodation”. The Law also seeks to ensure the protection of persons with disabilities from torture and other cruel, inhuman or degrading treatment or punishment, all forms of exploitation, violence, insults, and their privacy.

### Race, national origin and social origin



**United States (California):** In 2018, the California Code of Regulations (sects 11027 and 11028) were amended with a view to **broaden the definition of national origin** and to extend protection from discrimination to new categories of individuals. In particular, unless an employer can demonstrate a business necessity, restrictions concerning the speaking of any particular language are presumed unlawful. In addition, an employer cannot discriminate against a person based on their **level of English proficiency or accent** unless otherwise required to effectively fulfil job duties. Finally, any discrimination against employees due to their **immigration status** is prohibited, unless the employer shows “clear and convincing” evidence that its actions were necessary to comply with federal immigration laws.



**Hong Kong, China:** The 2020 Race Discrimination Ordinance defines **racial harassment** as, first, “**unwelcome conduct**” on the ground of race “in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated **that the other person would be offended, humiliated or intimidated by that conduct**”; second the creation of a **hostile or intimidating environment**. The ordinance follows the 2018 launch of the Equal Opportunity Commission’s **Racial Diversity and Inclusion Charter for Employers**, which provides a checklist of policies and practices for employers to commit to (Hong Kong, China 2018a).<sup>19</sup>

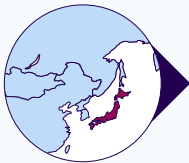
### Sexual orientation and gender identity



**Brazil:** In 2020, the Public Labour Prosecution Office’s Committee for the Promotion of Equal Opportunities and the Elimination of Discrimination at Work issued Technical Note 02/2020 to guide the agency in defending the rights of the LGBTQI+ population in the labour context. According to the Technical Note, employers (companies, public agencies, individuals, and professional unions, from all economic sectors and non-profit entities) are required to adopt measures to prevent LGBTQI+ employees, outsourced employees, interns or clients from being directly or indirectly exposed to **violence and harassment rooted in LGBTQI-phobia or transphobia or to sexual harassment and cyberbullying based on sexual orientation or gender identity**.



**Canada:** In June 2017, the Canadian Government amended the Human Rights Act to outlaw employment discrimination, including discrimination-based harassment, based on **gender identity and expression**.



**Japan:** Government guidance on the law on Harassment at Work states that **“outing” an LGBTQI+ person or insulting a person’s sexuality or gender identity** will constitute power harassment, and is prohibited (Library of Congress 2020).



**United States:** On 15 June 2020, in the case *Bostock v. Clayton County*, the Supreme Court of the United States ruled that the Civil Rights Act of 1964 protects employees from discrimination on the basis of **sexual orientation or gender identity**.

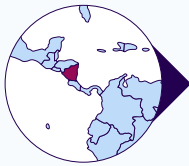
<sup>19</sup> Covering the areas of policy, culture and work environment, the Charter consist of a list of nine guidelines: i) implement racial equality and diversity policies for the organization; ii) establish fair recruitment, appointment, promotion, staff development and dismissal processes and criteria; iii) review the employment processes and policies regularly to remove barriers for people of all races; iv) raise awareness of the policies and principles of racial inclusion among staff; v) proactively encourage engagement with racial minorities from underprivileged and under-represented communities; vi) provide a safe and collaborative work environment for all employees; vii) make employees of all races feel involved and included; viii) have in place a formal grievance process for employees to report and receive redress for any discrimination; and ix) ensure grievances are dealt with swiftly, effectively and confidentially (Hong Kong (China) 2018b).

## HIV and AIDS



**India:** The **HIV Prevention and Control Act 2017** states:

No person shall, by words, either spoken or written, publish, propagate, advocate or communicate by signs or by visible representation or otherwise the feelings of hatred against any protected persons or group of protected person in general or specifically or disseminate, broadcast or display any information, advertisement or notice, which may reasonably be construed to demonstrate an intention to propagate hatred or which is likely to expose protected persons to **hatred, discrimination or physical violence** (chapter 1).



**Nicaragua:** Article 8(d) of Law on Violence against Women No. 779 of 2012 prohibits any forms of violence that “discriminate against women in public or private workplaces and hinder their access to employment, hiring, decent and equitable salary, promotion, stability or permanence in the same, demanding requirements regarding marital status, maternity, surgical sterilization, age, physical appearance, pregnancy test or Human Immunodeficiency Virus (**HIV/AIDS**) or any other test on the health status of women”.

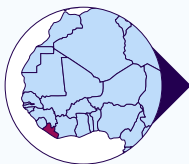
## Miscellaneous



**Albania** amended section 9(2) of its Labour Code, which prohibits discrimination in employment and occupation, by adding the grounds of **disability, HIV/AIDS or union affiliation** (Law No. 136/2015).



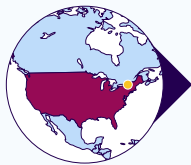
**France:** Over the years, including recently, the **list of prohibited grounds of discrimination** contained in article L1132-1 of the Labour Code has been extended, and now covers: origin; sex; mores (social habits); sexual orientation; gender identity; age; family situation; pregnancy; genetic characteristics; particular economic vulnerability; real or supposed belonging to an ethnic group, nation or alleged race; political opinions; trade union activities; holding of an elective office; religious beliefs; physical appearance; last name; place of residence; place of bank; health; loss of autonomy; disability; and capacity to express oneself in a language other than French.



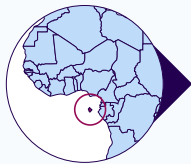
**Liberia:** The 2015 Decent Work Act prohibits direct and indirect discrimination against all persons who work or who seek to work on the grounds protected under Article 1(1)(a) of ILO Convention No. 111, as well as on a range of additional grounds including **tribe, indigenous group, economic status, community, immigrant or temporary resident status, age, physical or mental disability, gender orientation, marital status or family responsibilities, pregnancy and health status including HIV or AIDS status** (sects 2.4 and 2.7) (ILO CEACR 2016).



**Mexico** published an Executive Order referred to as “Olimpia Act” (Ley Olimpia) or “Digital Violence Act” that modifies the Criminal Code for Mexico City and the Law on Women’s Access to a Violence-Free Life in Mexico City. The amendments to articles 209 and 236 of the Mexico City Criminal Code provide that penalties are increased if digital violence is committed against **senior citizens, disabled, homeless or indigenous people**, or if digital or electronic media or any other device of communication are used as a means of committing the offence, as well as in cases where the offence uses images, audio or videos with an intimate sexual content (Mexico, n.d.).



**United States (New York State):** In 2019, New York State extended its protections against harassment to any protected category, including **age, race, creed, colour, national origin, sex, sexual orientation, gender identity or expression, military status, disability, predisposing genetic characteristics, familial status, marital status, lawful source of income, arrest and conviction, sexual and reproductive health, and domestic violence victim status** (Zweig 2020).



**Sao Tome and Principe:** Act No. 6/2019 of 16 November 2018 defines and prohibits direct and indirect discrimination based on the grounds of **ancestry and social origin, race, colour, age, sex, sexual orientation, marital status, family status, genetic heritage, reduced working capacity, disability or chronic illness, nationality, ethnic origin, religion, political or ideological beliefs and trade union membership** (sects 15–17).

In relation to the **identification of vulnerable groups and groups in situations of vulnerability**, Paragraph 13 of Recommendation No. 206 clarifies that this should be done in accordance with applicable international labour standards and international instruments on human rights. The only group in a vulnerable situation that Recommendation No. 206 specifically mention is “**migrant workers, particularly women migrant workers, regardless of migrant status**” (Para. 10). Migrant workers, particularly those in an irregular situation, are vulnerable to violence and harassment in the world of work at all stages of the migration cycle (ILO 2016c; 2017a; WHO 2020).<sup>20</sup> The fact that, in many instances, temporary migrant workers or migrants in irregular situations do not enjoy in law or in practice equality of treatment with national workers or may be excluded from the scope of application of individual and collective employment provisions exacerbates this situation and creates a higher degree of threat (ILO 2020g). This threat of violence and harassment is even more present for women migrant workers in these situations. For this reason, Paragraph 10 of Recommendation No. 206 invites Member States to “take legislative or other measures to protect migrant workers, particularly women migrant workers, regardless of migrant status, in origin, transit and destination countries as appropriate, from violence and harassment in the world of work”. Besides ensuring that individual and collective employment and labour law provisions also cover migrant workers, memoranda of understanding and bilateral agreements, when drawn in line with international labour standards, can contribute to ensuring the necessary protection for all concerned.

<sup>20</sup> In this regard, the United Nations Committee on the Protection of the Rights of Migrant Workers (CMW) and the Special Rapporteur on the Human Rights of Migrants have expressed the view that irregular entry or stay should not be considered a criminal offence, and that migrants in an irregular situation are not criminals per se and should not be treated as such. The CMW also considered that such criminalization fosters public perceptions that migrant workers and members of their family in an irregular situation are “illegal” or unfair competitors for jobs and social benefits, thereby fuelling discrimination and xenophobia. Building on this, and mindful that such criminalizing may increase the vulnerability of migrant workers to violations of their basic human rights, the ILO CEACR has stressed the particular importance of measures to combat stereotypes and prejudices of migrants as being more susceptible to engaging in crime or violence and to protect all migrant workers from racial discrimination and xenophobia (ILO 2016e, para. 294).

► **Box 11. Violence and harassment and protection of migrant workers**

Recent bilateral labour agreements contain provisions affirming that migrant workers should be treated in accordance with the laws of the host State or expressing their human rights as migrant workers (ILO 2017a). Recently, the new **Agreement between the United States of America, the United Mexican States, and Canada** (the successor to the North American Free Trade Agreement) encompasses specific reference to the need to ensure labour rights to migrant workers, including all fundamental principles and rights at work (arts 23.3 and 23.9), and to address any instances of “violence, threats, and intimidation against workers” (art. 23.7). The **Nepal-Jordan General Agreement, 2017**<sup>1</sup> also includes a specific provision on the need to ensure the right to equality and non-discrimination to migrant workers (Wickramasekara 2018).

<sup>1</sup> The full name of the agreement is the General Agreement in the field of Manpower between the Government of the Hashemite Kingdom of Jordan and the Government of Nepal.





# 4

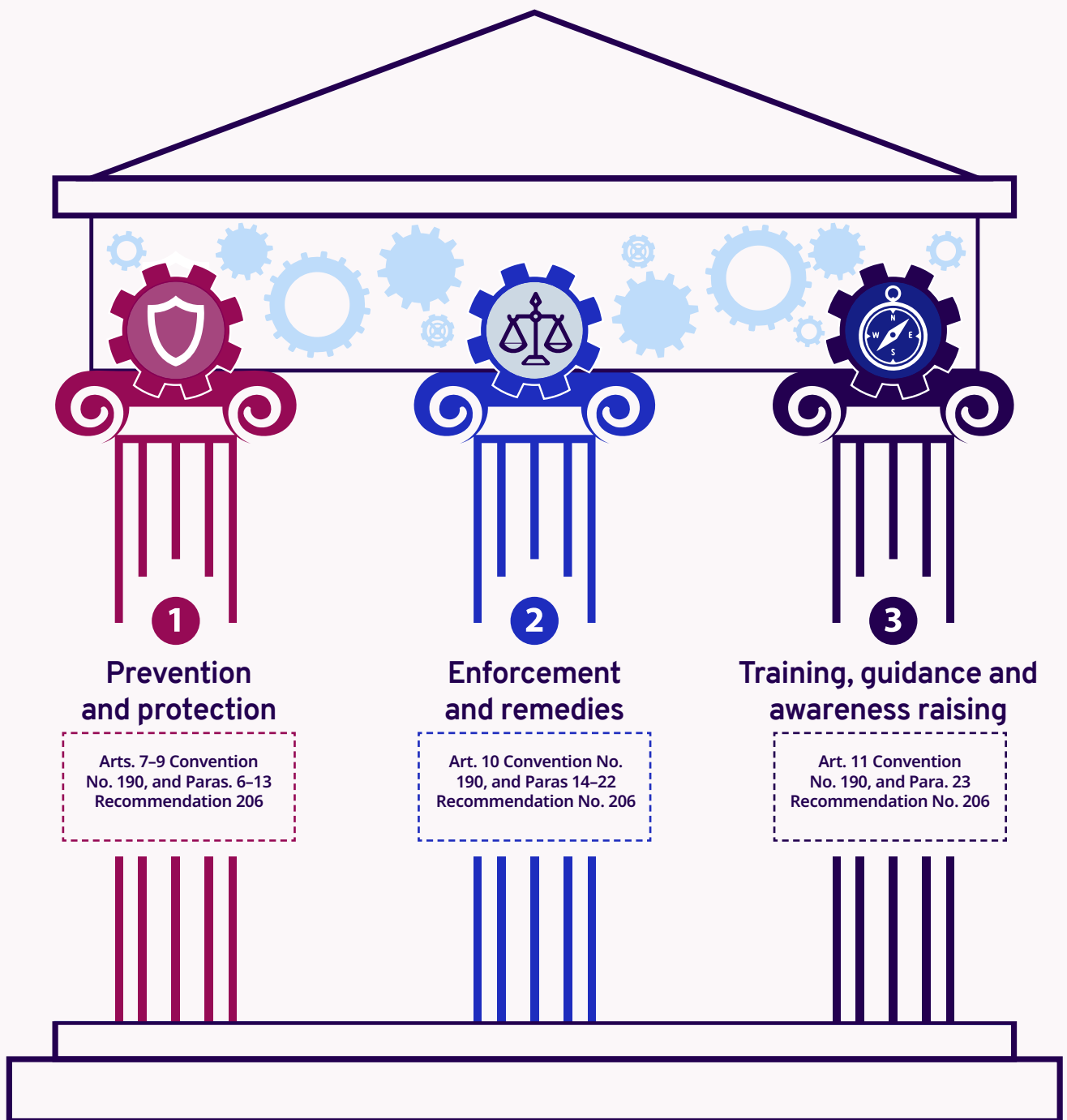
**The obligation to ensure protection from and prevention of violence and harassment in the world of work**

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Convention No. 190 requires ratifying countries to ensure protection from and prevention of violence and harassment in the world of work (Arts 7–9). This encompasses a range of different obligations, such as defining and prohibiting violence and harassment in the world of work in laws and regulations (Arts 4(2)(a) and 7), and adopting appropriate measures to prevent it (Art. 8), including by requiring employers to take specific measures (Art. 9) (see figure 5).

**Figure 5. The pillars of the inclusive, integrated and gender-responsive approach**



## ► 4.1. Defining and prohibiting violence and harassment

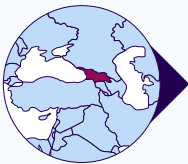
Convention No. 190 requires States to “adopt laws and regulations to define and prohibit violence and harassment, including gender-based violence and harassment” (Art. 7). Defining and prohibiting violence and harassment in work-related legislation often fills a void in the law because such behaviours have often gone under the radar for so long. While a **definition** in law and regulations is key for interpretation purposes, only a **prohibition** can have a particular effect on conduct, and could lead to behaviours that produce change in practice, thereby protecting individuals and effectively preventing violence and harassment.

### ► Box 12. Prohibiting violence and harassment in work-related legislation and regulations: Some recent examples

In recent years, a growing number of countries have introduced specific definitions and prohibitions of violence and harassment, or some of its forms, in work-related legislation, as explained in Chapter 2 (in particular section 2.1). While some of these prohibitions are still directed only at employers, others have a more general scope of protection and prohibit violence and harassment per se.



**Albania:** The new section 32(3) of the 2015 Labour Code **prohibits employers from harassing workers** with the purpose of, or resulting in, the degradation of working conditions to a degree that may result in a violation of the rights and dignity of the worker, damage the worker’s health, or inflict physical or mental damage to a worker’s future professional career.

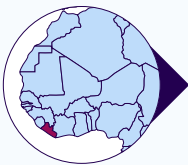


**Georgia:** Article 6 of the 2014 Law on Gender Equality explicitly prohibits

- a. **harassment and/or coercion** of a person with the purpose or effect of creating an intimidating, hostile, humiliating, degrading, or offensive environment;
- b. **any unwanted verbal, non-verbal or physical behaviour of sexual nature** with the purpose or effect of violating the dignity of a person or creating an intimidating, hostile, or offensive environment.

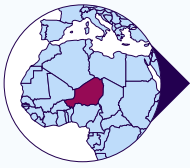


**Hong Kong, China:** Section 22A(1) of the Disability Harassment Ordinance **prohibits disability harassment** in the workplace as follows: “It is unlawful for a person who is a workplace participant to harass a person with a disability who is also a workplace participant at a workplace of them both.”



**Liberia:** Section 2.8 (Prohibition of sexual harassment) of the 2015 Decent Work Act provides as follows:

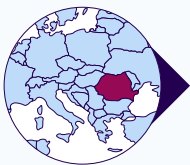
- a. **A person shall not directly or indirectly sexually harass a worker:**
  - i. in any employment practice; or
  - ii. in the course of a person’s employment.



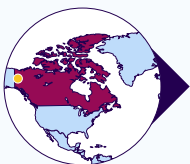
**Niger:** Article 122 of Decree No. 2017-682/PRN/MET/PS in regulation of the Labour Code provides as follows: “**Sexual harassment**, in the context of the performance of the employment contract, which consists of obtaining from others by order, intimidation, act, gesture, threat or coercion, favours of a sexual nature, as well as any other conduct of a sexual nature, with the effect of creating an intimidating, hostile or humiliating working environment for a person, is **prohibited**.”



**North Macedonia:** Article 3(3) of the Law on Equal Opportunities for Women and Men, states as follows: “**Discrimination, harassment and sexual harassment on the grounds of gender shall be prohibited in the public and private sector** in the spheres of employment and labour”.



**Romania:** following the provisions of Government Ordinance No. 137/2020, a new paragraph has been added to article 6 of Law No 202/2002 on equal opportunities and treatment between women and men. The new paragraph 1.2 states as follows: “**Moral harassment in the workplace on the basis of sex is prohibited**.”



**Canada (Yukon Territory):** The Occupational Safety and Health Act, as amended in 2020, mandates workplace policy to include a statement that “**violence and harassment in the workplace is prohibited**”.

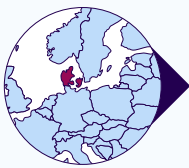
## ► 4.2. How can violence and harassment in the world of work be prevented?

Article 4(c) of Convention No. 190 calls for the adoption of a **comprehensive strategy** in order to implement measures to **prevent and combat** violence and harassment; while Article 8 requires countries to “take appropriate measures to prevent violence and harassment in the world of work”. This obligation applies to all possible occurrences of violence and harassment, as defined in Article 1, against persons covered under Article 2, and in all instances under Article 3, including commuting to and from work and online violence and harassment. Convention No. 190 does not encompass a list of specific measures, but allows countries the flexibility to implement the most appropriate measures based on national circumstances.<sup>21</sup>

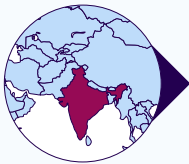
<sup>21</sup> According to the *Manual for Drafting ILO Instruments*, “the qualifier ‘appropriate’ is translated in French as approprié(e)(s) (i.e. adapted for a specific use or well adapted). In English it means ‘suitable’ or ‘proper’ depending on the circumstances” (ILO 2006, 114).

► **Box 13. Preventing violence and harassment in the world of work: Measures adopted by governments**

In recent years, some countries have extended the scope of labour law protection to include categories of workers traditionally excluded, such as domestic workers. Others have amended their criminal or penal codes to make some forms of violence and harassment as an offence or to provide for increased penalties in case of abuse of a power relation or labour authority. Others have adopted measures to tackle online violence and harassment, to make public transportation safer, and to address violence and harassment in the street.

**Extending the scope of labour law and OSH protection**

**Denmark:** The 2020 the Executive Order on **psychosocial working environment** specifically “**applies** to any work performed for an employer” (sect. 2.1), including “**work in the employer’s private household**” (sect. 2.2.). Protection extends to all **offensive behaviour**, including bullying and sexual harassment (sects 22–24) and **work-related violence** during working hours (sect. 25), with the latter defined as “the situation where persons who are not employees or employers of the company, including citizens and customers, use violence against employees or employers”.



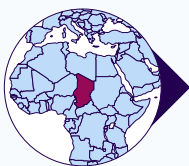
**India:** The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, which prohibits sexual harassment in the workplace also includes **domestic workers**. The law sets out employers’ obligations to provide a safe working environment as well as complaint mechanisms.



**Mexico:** In 2019, the Federal Labour Law and the Social Security Law were amended to extend protection to **domestic workers**, including protection against discrimination in employment conditions. Moreover, any action that seeks to undermine the worker’s dignity and integrity is also prohibited. Any dismissal that involves **gender-based violence and/or discrimination** shall be deemed an unjustified dismissal (Treviño 2019).



**Pakistan (Sindh Province):** The Sindh Women Agriculture Workers Bill passed in 2019 and provides rights to women who work in the **agriculture sector**, including farming, livestock and fisheries and related sectors. The law concerns their pay and minimum wages, gives them recognition, and ensures measures for promotion and protection of their rights. The law specifies that each of these women workers should perform **work free from all forms of harassment or abuse**.

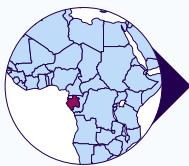
**Harassment as an offence under criminal law**

**Chad:** Article 341 of the Penal Code, as amended in 2017, states that “whoever imposes on a person, repeatedly, sexual remarks or behaviours that undermine his or her dignity because of their degrading or humiliating character, or creates an intimidating, hostile or offensive situation, commits the **offense of sexual harassment**”. The article further provides that “sexual harassment refers to the fact, even if not repeated, of using any form of serious pressure for the real or apparent purpose of obtaining an act of a sexual nature, whether it is sought for the benefit of the perpetrator or for the benefit of a third party”.



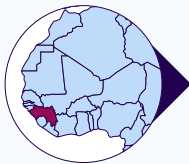
**Ecuador:** Article 166 of the Penal Code, as amended in 2014, under “**sexual harassment**”, states as follows:

A person who requests some act of a sexual nature, for himself or for a third [party], taking advantage of a situation of labour authority, teacher ... professional education or health, responsible personnel in the patient care and care or to maintain a bond family or any other form that implies subordination of the victim, with the threat of causing the victim or to a third party, an evil related to the legitimate expectations you may have in the field of said relationship, shall be punished with a custodial sentence one to three years.



**Gabon:** Article 402 of the Penal Code, as amended in 2018, provides the following:

Constitute **offenses against morals:** ... 3° any repeated behaviour, attitude or assiduous or suggestive speech, directly or indirectly attributable to a person who, misusing the authority or influence conferred on him by his functions or his social rank, aims to obtain sexual favours from an individual of either sex; ... Anyone who is guilty of sexual harassment referred to in point 3 of this article shall be punished by imprisonment for a term of not more than six months and a fine of up to 2,000,000 francs.



**Republic of Guinea:** Article 277 of the Penal Code, as amended in 2016, states the following:

**Sexual harassment** is the act of imposing on a person, repeatedly, conversations or behaviours of a sexual nature that either undermines that person’s dignity because of their degrading or humiliating character, or that create a situation that is intimidating, hostile or offensive to said person. Any form of serious pressure, even if it is not repeated, which aims, for a real or apparent purpose, at obtaining an act of a sexual nature, whether sought for the benefit of the perpetrator or for the benefit of a third party is assimilated to sexual harassment.

### Street harassment

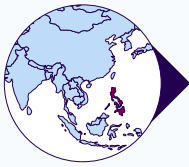


**France:** In 2018, a legislative measure (Law No. 2018-703) outlawed **sexual harassment in the street**, rendering catcalling and lewd or degrading comments a contravention punishable by on-the-spot fines of up to €750.



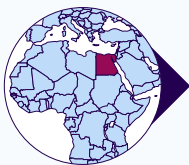
**Costa Rica:** A Law Against Street Sexual Harassment was adopted in 2020 with the aim to “guarantee the equal right, to all people, to transit or remain free from sexual harassment in **public spaces**, in private spaces of public access and in means of paid transportation of people, whether public or private, establishing measures to prevent and punish this expression of violence and sexual discrimination that threatens the dignity and security of people” (art. 1). Street sexual harassment is defined as “any conduct or conduct with a sexual connotation and of a one-way nature, without the consent or acquiescence of the person or persons to whom it is directed, with the potential to cause annoyance, discomfort, intimidation, humiliation, insecurity, fear and offence, which generally comes from a person unknown to the recipient and which takes place in public spaces or public access” (art. 1). Article 2 further provides that all public institutions are mandated to carry out **policies and actions for the prevention of street sexual harassment**, which contribute to eradicating gender prejudices based on the idea of superiority of men and inferiority of women, and to promote actions that include women.<sup>22</sup>

<sup>22</sup> In particular, article 2 mandates the National System for the Attention and Prevention of Violence against Women and Intrafamily Violence to incorporate and promote actions of prevention, intervention and attention to sexual harassment in public spaces and public access areas. In addition, the Law also requires the police, without exception, to include in their crime prevention and citizen security programmes specific actions on street sexual harassment.

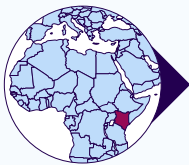


**Philippines:** The 2018 Safe Spaces Act defines and criminalizes **gender-based sexual harassment in public spaces**, which are defined as “streets and alleys, public parks, schools, buildings, malls, bars, restaurants, transportation terminals, public markets, spaces used as evacuation centres, government offices, public utility vehicles as well as private vehicles covered by app-based transport network services and other recreational spaces such as, but not limited to, cinema halls, theatres and spas” (art. 3).

### Public transportation

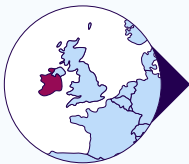


**Egypt:** The Egyptian National Railways identified several **measures to improve women’s safety**, including improved lighting, surveillance cameras, trained security staff in the most crowded stations, and a customer hotline. It also launched a gender training course for staff (Social Development Direct 2020a).



**Kenya:** A toolkit for public minibus transport providers in Nairobi has been developed. The toolkit includes a Customer Service Charter to **improve safety for women passengers**, and provides details about how to make a complaint. The Charter is displayed in buses and bus stations (UN-Habitat 2019).

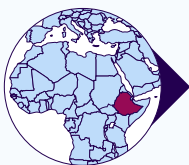
### Online violence and harassment



**Ireland:** In 2020, the Harassment, Harmful Communications and Related Offences Bill 2017 was adopted with a view to prohibiting and criminalizing the publishing of **intimate images of another person without their consent**.



**Mexico:** In 2020 the Law on Women’s Access to a Violence-Free Life in Mexico City was amended to extend the notion of violence against women to include **any acts carried out through information and communication technologies that threatens the integrity, dignity, intimacy, freedom, and private life, of women** or causes psychological, physical, economic or sexual harm or suffering, both in the private and public spheres, as well as any act that causes non-material loss to them and/or their families (Mexico, n.d.).



**Ethiopia:** In 2020, the legislature enacted the Hate Speech and Disinformation Prevention and Suppression Proclamation, which prohibits “**speech that deliberately promotes hatred, discrimination or attack** against a person or a discernible group of identity, based on ethnicity, religion, race, gender or disability” on social media via text, audio, images or video.



### 4.2.1. How to protect informal economy workers?

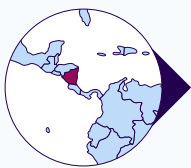
While Article 8 provides for a **general duty to take appropriate measures to prevent violence and harassment in the world of work**, it also calls on ratifying countries to include measures in relation to the **informal economy** and to those sectors, occupations and work arrangements in which individuals are more exposed to violence and harassment. In particular, in relation to the informal economy, Article 8 requires ratifying countries to:

- ▶ “recognize the important role of public authorities in the case of informal economy workers” (Art. 8(a)), and
- ▶ “taking measures to effectively protect such persons” (Art. 8(c)).

This provision was introduced to address the fact that many informal economy workers, particularly those who work in public spaces, such as street vendors and waste pickers, face violence and harassment from public authorities in the form of confiscation of goods, demand for sexual favours or forceful dispersion (ILO 2019b).

#### ▶ Box 14. Examples in recent legislative reforms and social partners' initiatives

In recent years, specific measures to protect informal economy workers have encompassed including informal economy workers within the scope of labour law, decriminalizing sidewalk vendors, easing legislation on granting permits, and ensuring their participation in relevant planning and decision-making processes.



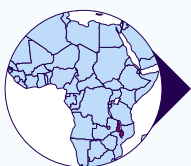
**Nicaragua:** The Integral Law on Violence against Women, 2014, explicitly includes **public officials as perpetrators of violence against women**. Article 2 defines “**violence in the public sphere**” as “one that, by malicious or reckless action or omission, takes place in the community, labour and institutional or any other environment, which is perpetrated against the rights of women by any person, by State authorities, or by public officials”.



**United States (California):** In 2018, the State of California enacted the Safe Sidewalk Vending Act with the purpose of legalizing and **decriminalizing sidewalk vending** across the state. Specifically, the bill establishes parameters for local regulation of sidewalk vending and prohibits local authorities from imposing criminal penalties on sidewalk vendors.



**Americas:** The Trade Union Confederation of the Americas adopted Resolution No. 9 “Workers in precarious and informal situations” at its 3rd Congress in 2016, which ratified its commitment to promote the extension of rights to **informal economy workers**, especially women, young people, Afro-descendants and migrant workers (ILO 2016d).



**Malawi:** The Tobacco and Allied Workers' Union of Malawi has introduced a number of measures to protect **women workers and young girls**, including a policy on sexual harassment, ratified by the Malawi Congress of Trade Unions and the Malawi Human Rights Commission in 2015 (ILO 2019f).

In addition, Paragraph 11 of Recommendation No. 206 recommends countries to provide resources and assistance for informal economy workers and employers (and their associations) in order to prevent and address violence and harassment in the informal economy when facilitating the transition to the formal economy. This provision builds on the ILO Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), which calls for the adoption of an integrated policy framework to facilitate such a transition. This should address, among others, “the promotion of equality and the elimination of all forms of discrimination and violence, including gender-based violence, at the workplace” (Para 11) (ILO 2020h; 2019f).

#### ► Box 15. Social and solidarity economy: An important ally in enabling a violence- and harassment-free working environment

Among other means, **cooperatives and other forms of social and solidarity economy** enable formalization by transforming what are often marginal survival activities into legally protected work, fully integrated into the mainstream economy. By providing opportunities for productive and decent employment, cooperatives have also been pivotal in improving working conditions, including preventing and addressing violence and harassment in the informal economy. In 2019 the International Co-operative Alliance approved the Declaration on Decent Work and Against Harassment, making a formal commitment towards the promotion of a decent working environment and zero tolerance for any form of sexual and moral harassment and violence in the workplace or for any misconduct, including intimidation, oppression, and discrimination, as well as any abuse of power.

Cooperatives can provide training on violence and harassment. For example, in Brazil, cooperatives have supported waste pickers to improve their income and facilitated negotiations with public authorities and private intermediaries, contributing to the improvement of occupational safety and health, legal and social protection, and prevention from violence and harassment (Dias 2020; 2016).

### 4.2.2. Specific measures for highly exposed sectors, occupations and work arrangements

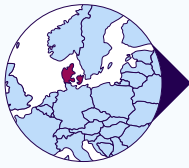
Article 8(b)–(c) of Convention No. 190 calls on ratifying countries to identify, in consultation with the employers’ and workers’ organizations concerned and through other means, the sectors, occupations and work arrangements in which workers and other persons concerned are more exposed to violence and harassment, and to take measures to effectively protect such persons. Paragraph 9 of Recommendation No. 206 identifies some of these sectors, occupations and work arrangements: night work, work in isolation, health, hospitality, social services, emergency services, domestic work, transport, education or entertainment.<sup>23</sup> In stating the above, it demonstrates that the instruments are not grounded in a “one-size-fits-all” approach, but rather on the idea that the effective prevention and elimination of violence and harassment requires a deep understanding of each specific context and work environment.

#### ► Box 16. Provisions addressing violence and harassment in selected sectors, occupations or work arrangements

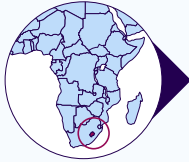


**China** adopted the first fundamental and comprehensive law for protecting **health workers**, which took effect on 1 June 2020. The law bans any organization or individual from threatening or harming the personal safety or dignity of health workers (*Global Times* 2019; *Lancet* 2020).

<sup>23</sup> For an overview of recent social partner initiatives in the entertainment sector, see ILO 2020i.



**Denmark:** Section 29 of the 2020 Executive order on psychosocial working environment provides that, “if the employee performs **solitary work**, which may involve a special risk of violence, the work must be arranged in such a way that the special risk of violence is countered. If the special risk of violence cannot be countered, the employee must not work alone”.



**Lesotho:** The 2020 **National Occupational Safety and Health Policy** explicitly specifies “**violence and harassment**” as one OSH issue that every organization or individual involved with **distribution and transport** shall be required to pay attention and monitor (Lesotho 2020).



**Moldova:** Items 6 and 9 of the Order of the Ministry of Education No. 861 approving the Code of Professional Ethics for Teachers (dated 7 September 2015) provides for a ban on any kind of harassment of **teaching staff**, regardless of the status and position of the harassing person, as well as a ban on sexual harassment and sexual relations with students, including by mutual consent.



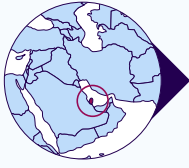
**Pakistan (Khyber Pakhtunkhwa Province):** Pakistan’s Khyber Pakhtunkhwa Province adopted the Healthcare Service Providers and Facilities (Prevention of Violence and Damage to Property) Act, 2020, which seeks to: ensure the protection and security of **healthcare workers and institutions**; prevent violence against healthcare personnel, patients and their attendants; prevent damage or loss to property and equipment in healthcare facilities, and ensure uninterrupted provision of healthcare services. It also broadens the relevant legal definitions to offer protection to healthcare workers across various cadres and healthcare settings (including private and public sectors, as well as affording protection to healthcare workers inside healthcare facilities and in the field). The Act further prohibits the obstruction and disruption of healthcare services, the entry of unauthorized weapons inside healthcare facilities, and elaborates the responsibilities of healthcare workers and facilities to protect the rights of patients and their attendants (ICRC 2021).



**Paraguay** adopted the *Guide to Occupational Safety and Health for **Domestic Workers*** in 2017. The Guide provides employers and workers with information on their respective rights and obligations in the field of OSH, including violence, harassment and psychosocial risks, and promotes existing mechanisms for these cases (ILO 2017b).



**Puerto Rico (United States):** Article 5 of Law No. 90 of 2020 states: “Where the workplace harassment situation arises **between employees of different employers**, such as employees of temporary employment agencies, security companies, maintenance companies or other contractors, who interact in a common workplace, all employers involved shall have an obligation to investigate the allegation of workplace harassment, regardless of whether or not they are the direct employer of the complaining employee.”



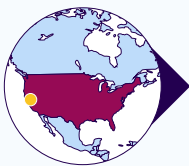
**Qatar:** With the ILO's assistance, a Guidance Tool has been developed as a resource to promote fair recruitment and employment standards in the **hospitality sector**. The Guidance aims to support hotel companies in Qatar to respond to labour rights challenges by implementing appropriate policies and by exercising thorough and ongoing human and labour rights due diligence (ILO 2020j).



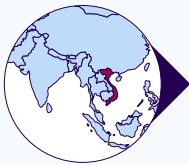
**Ukraine:** The 2018 law on amendments to some legislative acts of Ukraine concerning **anti-bullying (harassment) against teachers and students** defines bullying as "acts of participants in the educational process that involve psychological, physical, economic, or sexual violence, including the use of electronic communications ... as a result of which the victim's mental or physical health may have been harmed".



**United States:** A growing number of US states and cities have passed laws requiring **hotels** to provide emergency panic buttons to workers who provide in-room services. The buttons are GPS-enabled devices that alert security guards of a worker's location if he or she feels unsafe in a room. Some cities also require hotels to establish sexual harassment policies, conduct mandatory training and provide workers with a list of local services focused on preventing sexual harassment and assault.<sup>24</sup>



**United States (California):** In 2016, California adopted the SB-1299 Workplace violence prevention plans: **hospitals**. This Act identifies relevant components of any violence prevention plan, including: documentation and reporting, assessment of physical plant risk factors, use of surveillance and alarm systems, adequate staffing patterns, and training. It also states specifically that all healthcare workers who provide direct care to patients must receive, at least annually, training, and that all violent incidents be documented and reported, and investigated and debriefed.

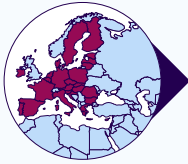


**Viet Nam:** The 2019 Labour Code explicitly prohibits employers of **domestic workers** from mistreating, sexually harassing, extracting force labour from or using force of violence against the domestic worker (art. 165).

In line with Article 12 of Convention No. 190, which states that the provisions of the Convention can be applied through "collective agreements and other measures consistent with national practice", several initiatives and measures have been recently developed and implemented by employers' and workers' organizations to ensure effective and tailored protection against violence and harassment in specific sectors (see box 17).

<sup>24</sup> For instance, in the State of Illinois, article 5 of Hotel and Casino Employees Safety Act states that each hotel and casino must equip employees assigned to work on their own in a guest room, restroom or casino floor with a portable emergency contact device or panic button that can be used to summon help if an employee reasonably believes there is an ongoing crime, sexual harassment or assault, or other emergency (Baratt 2019). Cities include New York, Chicago, Seattle and Santa Monica (Campbell 2019).

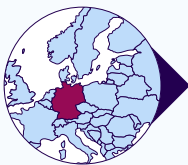
► **Box 17. Social partner and business-led initiatives in specific sectors**



**Europe:** In December 2018, the Trade Unions' National and European Administration Delegation and the European Public Administration Employers signed and adopted the **Multi-sectoral Guidelines to tackle third-party violence and harassment related to work**. The aim of the Guidelines is to ensure that each workplace has a results-oriented policy that addresses the issues of third-party violence. The document sets out the practical steps that can be taken by employers, workers and their representatives/trade unions to reduce, prevent and mitigate such a phenomenon (TUNED and EUPAE 2018).



**Finland:** In 2019, the Department of Justice published a guide – **Journalists and Hate Rhetoric** – as part of a campaign against hateful rhetoric, including by governmental and nongovernmental entities. Since 2019, Finland's media companies have joined forces and set up a "journalist support fund" to counter harassment. Additionally, the Union of Journalists of Finland has issued a guide for active journalists with advice on what to do if they are the target of a hate campaign (Library of Congress 2019).



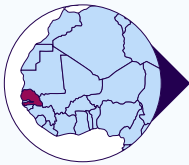
**Germany:** Deutsche Bahn AG, a German **railway company**, adopted in 2016 a company agreement "for equal treatment and protection against (sexual) harassment and discrimination", which includes training for managers and workers and helplines for victims, and has provided training on self-defence against physical and sexual violence perpetrated by clients (ETUC 2017).



**Italy:** The national collective agreement for **domestic workers**, in force since 1 October 2020, includes a common declaration acknowledging that violence and harassment in the domestic workplace constitutes abuse and a violation of human rights. Social parties to the agreement also committed to promote initiatives to counter any behaviour incompatible with human dignity (Fidaldo et al. 2020, art. 28). In addition, in 2015, the trade unions FENEAL-UIL, FILCA-CISL and FILLEA-CGIL developed and agreed upon a "code of conduct against harassment and violence in the workplace" that is now part of the national collective agreement of the **wood sector** (FederlegnoArredo et al. 2015).



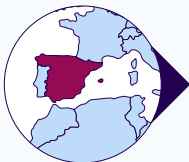
**Jordan:** Through Better Work Jordan, a joint initiative of the ILO and the International Finance Corporation, a three-year collective bargaining agreement was signed in 2019 between workers and employers in Jordan's **garment industry**. The agreement introduced a clause on the elimination of violence, harassment and discrimination in the workplace and among workers. This clause was the first of its kind in collective bargaining agreements in Jordan. Creating an internal grievance redress mechanism for all workers, the agreement also prohibits pre-employment pregnancy tests. A separate collective bargaining agreement was signed in 2019 for workers in the private education sector, which addressed two forms of violence and harassment in the world of work: sexual harassment and pay discrimination (General Trade Union of Workers in Textile, Garment and Clothing 2019).



**Senegal:** The Association of Musicians (AMS) and the Association of Senegalese Jurists (AJS) created a partnership with a view to supporting units in different parts of Senegal by using the network of jurists of the AJS. Senegalese **musicians** are offered psychological support and legal assistance to address issues of sexual harassment and gender-based violence. Furthermore, through this collaboration, “paralegals” have been trained among AMS members in order to strengthen the union’s capacity to assist its affiliates (ILO 2020f).



**South Africa:** A code of practice has been introduced by the South African Guild of Actors and Sisters Working in Film & TV setting out principles and policies for the elimination of sexual harassment in the **film and television industry** (ILO 2020i).



**Spain:** following an increase in online attacks on **journalists**, certain newspapers in Spain developed specific protocols to provide for procedures for journalists’ complaints, assessment of online harassment complaints by the newspaper’s social media team, consideration of withdrawal of comments from social media platforms, and referral to legal counsel and human resources for the purpose of filing legal actions (Library of Congress 2019).



**Uganda:** The Uganda **Hotel Owners’ Association** is promoting a programme aimed at strengthening the hotel industry’s response to HIV and AIDS in Uganda and protecting hotel workers from sexual harassment, through the provision of training to hotel managers and supervisors on issues covering violence, sexual harassment, and occupational safety and health (Social Development Direct 2020b).





# 5

**The role of employers  
in prevention of and  
protection from violence  
and harassment**

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## ► 5.1. Employers' obligation to prevent violence and harassment in the world of work

Convention No. 190 and Recommendation No. 206 call on ratifying countries to adopt laws and regulations requiring employers to “take appropriate steps commensurate with their degree of control to prevent violence and harassment in the world of work, including gender-based violence and harassment” (Convention No. 190, Art. 9).

### ► Article 9

Each Member shall adopt laws and regulations requiring employers to take appropriate steps commensurate with their degree of control to prevent violence and harassment in the world of work, including gender-based violence and harassment, and in particular, so far as is reasonably practicable, to:

- a. adopt and implement, in consultation with workers and their representatives, a workplace policy on violence and harassment;
- b. take into account violence and harassment and associated psychosocial risks in the management of occupational safety and health;
- c. identify hazards and assess the risks of violence and harassment, with the participation of workers and their representatives, and take measures to prevent and control them; and
- d. provide to workers and other persons concerned information and training, in accessible formats as appropriate, on the identified hazards and risks of violence and harassment and the associated prevention and protection measures, including on the rights and responsibilities of workers and other persons concerned in relation to the policy referred to in subparagraph (a) of this Article.

In the majority of countries, legislation requires employers to respect workers' right to equality and non-discrimination, and to protect workers' safety and health in the workplace. In addition, workers are typically compelled by law to comply with safety and health regulations. In some of these countries, occupational safety and health implicitly or explicitly includes risks and hazards that could lead to violence and harassment. In some countries, gender-based violence and harassment and/or other forms of discrimination-based harassment are themselves the object of specific preventive measures. Increasingly, the duty to prevent and protect against various forms of violence and harassment is recognized as a stand-alone obligation.

### 5.1.1. The extent of employers' responsibility

The obligations under Article 9 should be read in light of the concept of violence and harassment as defined in Article 1, the scope of protection as per Article 2, and in relation to all instances provided for in Article 3. However, employers' responsibility is qualified in two respects: first, the measures prescribed must be “appropriate” and correspond to the employers' “degree of control”; and second, they should be taken “so far is reasonably practicable”.<sup>25</sup>

<sup>25</sup> It should be noted that this is a common concept in OSH legislation, and indeed appears in Convention No. 155, whose Article 4(2) states as follows: “The aim of the policy [on occupational safety, occupational health and the working environment] shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment” (ILO 1979).

Even though these two qualifiers are not defined in Convention No. 190 or Recommendation No. 206, it is clear that employers cannot be responsible for situations, circumstances or persons beyond their degree of control. A degree of flexibility is foreseen. In other words, the measures taken should be commensurate with the means available and reasonable within a given context. It is thus a matter of each country ratifying Convention No. 190 to:

- i. identify the criteria that will be used to specify the “degree of control” held by employers; and
- ii. evaluate the measures to be taken and the means through which these measures will be implemented to prevent violence and harassment.

### ► Box 18. Violence and harassment and employers’ responsibilities



**Albania:** Section 32(1) of the Labour Code (Law No. 136/2015) provides that employers have an obligation to respect and protect the employment relationship **by taking all necessary measures to ensure the safety, mental and physical health of employees; to prevent and stop moral and sexual harassment through relevant sanctions; and to prevent any behaviour that would undermine the dignity of the employee.**



**China:** As of 2020, the amended Civil Code sets out new obligations, including for employers, in relation to sexual harassment. Article 1010 provides as follows:

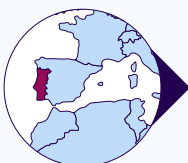
A person who has been sexually harassed against his will by another person through oral words, written language, images, physical acts, or the like, has the right to request the actor to bear civil liability in accordance with law. The State organs, enterprises, schools, and other organizations shall take **reasonable precautions**, accept and hear complaints, investigate and handle cases, and **take other like measures to prevent and stop sexual harassment** conducted by a person through taking advantage of his position and power or a superior-subordinate relationship, and the like.



**France:** From 1 January 2019, companies employing at least 250 employees must designate a person to guide, inform and support employees in the fight against sexual harassment and sexist behaviour (a so called “**harassment officer**”).<sup>26</sup>



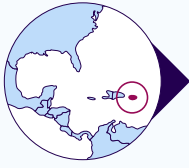
**Niger:** Article 122 of Decree No. 2017-682/PRN/MET/PS in regulation of the Labour Code provides: “The employer must take **all the necessary measures to prevent acts of sexual harassment.**”



**Portugal:** The Labour Code, as amended by Law No. 73/2017 of 16 August 2017, strengthens the legislative framework for the prevention of harassment by, inter alia, introducing an **obligation on companies with more than seven employees to adopt a code of conduct on harassment in the workplace** (art. 127(1)(k)), and to start disciplinary proceedings against an employee whenever an alleged harassment at work is revealed (art. 129(1)(l)). In 2018, a *Guide for the Elaboration of the Code of Good Conduct for the Prevention of and Fight against Harassment at Work* was published (Coelho et al. 2018).

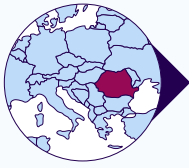
<sup>26</sup> In its practical guide, the French Government suggested the following role for the harassment officer: i) introducing awareness-raising measures and training measures for employees and managers; ii) directing employees towards competent authorities (labour inspector, labour doctor, official defender of the rights); iii) implementing internal procedures in order to encourage the reporting and processing of a situation of sexual harassment or sexist attitudes; iv) conducting internal investigations after the reporting of a situation of sexual harassment or sexist attitude (France 2019).





**Puerto Rico (United States):** Article 5 of Law No. 90 of 2020 states the following:

An employer who engages in, encourages or permits workplace harassment shall be civilly liable to the persons affected. It shall be the responsibility of every employer to **take the necessary measures to eliminate or minimize the occurrence of workplace harassment**. Therefore, every employer shall adopt and implement the necessary internal policies to prevent, discourage and avoid workplace harassment in its workplaces, as well as investigate all allegations and impose the corresponding sanctions in those cases where appropriate.



**Romania:** Article 2 of Law No. 202, 2002 (as amended in 2015 and 2018) on equal opportunities and equal treatment for women and men provides that central and local public institutions and authorities, civil and military, with more than 50 employees, as well as private companies with more than 50 employees, should identify an **employee to whom to assign tasks in the field of equal opportunities and treatment between women and men, including preventing and combating harassment at work**.



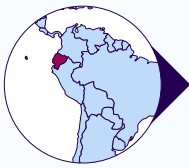
**Saudi Arabia:** Article 5(1) of the 2018 Anti-Harassment Law states:

The competent authorities in the government sector and in the private sector shall put in place the necessary measures to **prevent and combat harassment in their own working environments**, provided they include the following:

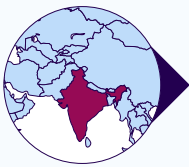
- a. **An internal complaints** mechanism in the sector;
- b. The **necessary procedures to ascertain the veracity and seriousness** of complaints in such a manner as to maintain their confidentiality;
- c. The **dissemination and communication** of such measures to those targeted by them.

The same article also provides: “The competent authorities in the government sector and in the private sector shall hold accountable – in disciplinary terms – any of those targeted by the measures in the event that they violate any of the provisions stipulated in this Act, in accordance with the established procedures.”

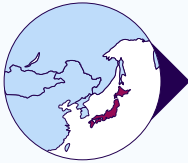
### Social partner and business-led initiatives



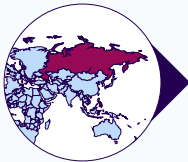
**Ecuador:** The Chamber of Industries and Production (CIP) has been developing several actions against gender-based violence. In particular, in October 2020, it launched a comprehensive **campaign** on the prevention and elimination of violence against women at work, at home, at school and in society (“*Más unidas, más protegidas*”). Many CIP member companies have also adopted codes of conduct/ethics that prohibit any kind of violence and harassment against women at work (Portal Diverso 2020).



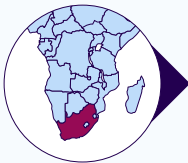
**India:** The bus company Bengaluru Metropolitan Transport Corporation created a Women’s Safety Committee with members from the commuters’ association, civil society organizations and police. Following a **survey** among bus users, the company installed **closed-circuit television cameras in buses and bus stations**. It also organized **gender sensitization training of male drivers and conductors**, and **targeted recruitment and training of women drivers and conductors** with a view to addressing gender-based violence and harassment in particular (Social Development Direct 2020a).



**Japan:** Established in the early 1950s by trade unions and consumer cooperatives to enable their members to access finance at a time workers were excluded from the financial sector, Rokin (Labour) Banks is a network of 13 **union-led cooperative financial institutions** operating all across Japan. They count over 51,000 member organizations that represent 11 million individuals, mostly workers, including low-income workers (Kurimoto, Koseki, and Breda 2019). Rokin Banks recently developed and adopted the “Rokin Harassment Guidelines”. The Guidelines provide protection against all forms of harassment, including by third parties. The personal and material scope of the Guidelines reflect Articles 2 and 3 of Convention No. 190. They provide a broad protection by establishing internal reporting and complaint mechanisms, by providing effective remedies and protection against retaliation, by establishing a consultation service for victims, and by creating referral mechanisms to external specialized agencies and trade unions to ensure that all forms of harassment reports are received centrally and that it is easy for workers to access such services (Rokin Banks 2021).



**Russian Federation:** In January 2021 the Russian **food delivery platform** Yandex included new terms and conditions on its policy. According to the new rules, the Yandex platform can **block or restrict users’ access to the functions of the services for aggression or a rude attitude towards couriers**. The company plans to **offer legal advice to couriers** who encounter such behaviours in the future (Khachatryan 2021).



**South Africa:** Agricultural company Country Bird has introduced a range of measures to improve physical safety and reduce gender-based violence and harassment risks during and after work. Following a series of incidents, Country Bird provided a **minibus service for workers after their night shift and increased the number of closed-circuit television cameras around the processing plant** (Social Development Direct 2020c).

## ► 5.2. Adopting and implementing a workplace policy on violence and harassment

Among the specific measures that ratifying countries should require employers to put in place is “adopting and implementing, in consultation with workers’ and their representatives, a workplace policy on violence and harassment” (Art. 9). This represents a key strategy in promoting a **violence and harassment-free working environment and culture**. Based on existing practices – and on elements provided for in Paragraph 7 of Recommendation No. 206 – these policies could, for instance, include, the employer’s commitment and responsibility to maintaining a safe environment (Para. 7(a) and (c)); definitions of violence and harassment; and relevant examples of prohibited behaviours, conduct and practices based on the specific context, sector and occupation.

It is advisable for such policies to establish **violence and harassment prevention programmes** with, if appropriate, measurable objectives (Recommendation No. 206, Para. 7(b)). It is also advisable to inform employees about their rights and responsibilities, which include the **disciplinary actions** that may derive from violations of such prohibitions (Recommendation No. 206, Para. 7(c)).

These policies should include encouraging employees to report behaviours and communications that could lead to violence and harassment, by providing **information on complaint and investigation procedures** and the employer's commitment to deal with any incidents in a timely and effective manner (Recommendation No. 206, Para. 7(d)–(e)). In this regard, it would be important that employers commit to **protecting individuals' right to privacy and confidentiality while balancing the right of workers to be made aware of all hazards**, as well as their **right not to be victimized or retaliated against** (Recommendation No. 206, Para. 7(f)–(g)). These policies should be communicated to employees regularly (in accessible formats, as appropriate) and consistently enforced.

### ► Box 19. Legal provisions requiring workplace policies on violence and harassment

In recent years, many countries have adopted provisions requiring employers to adopt workplace policies on violence and harassment, either as a stand-alone policy specifically dedicated to the issue of violence and harassment, or as part of their obligations stemming from their duty to provide a safe workplace under OSH regulations or from their duty to ensure a workplace free from discrimination.

**Canada:** Starting from January 1, 2021, employers working in a federally regulated industry or workplace, should develop a **workplace harassment and violence prevention policy** with the policy committee, the workplace committee or health and safety representative, depending on the size of the employer. A policy should normally:

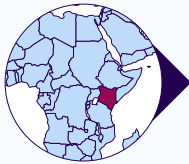
- include the employer's commitment to prevent and protect employees against harassment and violence;
- describe the roles of workplace parties in relation to harassment and violence in the workplace;
- describe the risk factors that contribute to workplace harassment and violence;
- list training that the employer will provide about workplace harassment and violence;
- include the resolution process employees should follow if they witness or experience workplace harassment or violence;
- include the reason for which a review and update of the workplace assessment must be conducted;
- include the emergency procedures that must be implemented when:
  - an incident poses an immediate danger to the health and safety of an employee;
  - when there is a threat of such an occurrence;
- describe how the employer will protect the privacy of the persons involved in:
  - an occurrence;
  - the resolution process for an occurrence;
- describe any recourse that may be available to persons involved in an occurrence;
- describe the support measures that are available to employees; and
- name the person designated to receive complaints related to the employer's non-compliance with the Code or Regulations (Canada, n.d.).







**France:** Article L1321-2 of the Labour Code as amended in 2016, introduces employers' obligation to have **internal regulations** stating, among others, "the provisions relating to moral and sexual harassment and sexist behaviour provided for by this code".



**Kenya:** The Employment Act requires that an employer with 20 or more employees must, after consulting with the employees or their representatives, if any, issue a **policy statement on sexual harassment**.



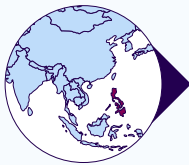
**Panama:** According to the 2018 Anti-Discrimination Law, every employer, public and private institution, and educational establishment are now responsible for developing **internal policies to prevent, avoid, discourage and penalize discriminatory acts such as sexual or other harassment, bullying in the workplace, racism and sexism**.



**Peru:** In July 2019, Peru introduced a new law requiring employers to adopt **anti-harassment policies and investigation procedures**, provide anti-harassment training, carry out annual sexual harassment risk assessments and set up a Sexual Harassment Committee or Delegate, depending on the size of the employer (Supreme Decree N° 014-2019-MIMP).

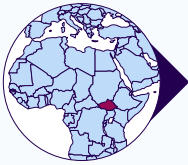
**Philippines:** Under section 17 the 2018 Safe Spaces Act, **employers or other persons of authority, influence or moral ascendancy in a workplace shall have the duty to prevent, deter or punish the performance of acts of gender-based sexual harassment in the workplace**. To this end, the employer or person of authority, influence or moral ascendancy shall:

- ▶ Disseminate or post in a conspicuous place a copy of the Act to all persons in the workplace;
- ▶ Provide measures to prevent gender-based sexual harassment in the workplace, such as the conduct of anti-sexual harassment seminars;
- ▶ Create an independent internal mechanism or a committee on decorum and investigation to investigate and address complaints of gender-based sexual harassment which shall (among others):
  - Designate a woman as its head and not less than half of its members should be women;
  - Protect the complainant from retaliation; and
  - Guarantee confidentiality to the greatest extent possible;
- ▶ Provide and disseminate, in consultation with all persons in the workplace, a code of conduct or workplace policy.



**South Sudan:** Article 7(3)–(4) of the 2017 Labour Act provides that:

3. An employer who employs twenty or more employees shall, after consulting with the employees' representatives, issue a **policy statement on sexual harassment**.
4. The policy statement shall contain, at a minimum:
  - a. the definition of sexual harassment ... and
  - b. a statement:
    - i. that every employee is entitled to work that is free of sexual harassment;
    - ii. that the employer shall take steps to ensure that no employee is subjected to sexual harassment;
    - iii. that the employer shall take such disciplinary measures as the employer deems appropriate against any person under the employer's direction who subjects any employee to sexual harassment.



In addition, the policy statement must include provisions related to confidentiality and prohibition of retaliation.<sup>27</sup>



**Ukraine:** Order No. 56 of 2020 issued by the Ministry of Social Policy approved Guidelines for the inclusion in collective agreements of provisions aimed at ensuring equal rights and opportunities for women and men in employment. The Guidelines recommend that **collective agreements include provisions on countering sexism, various forms of harassment, including sexual harassment, bullying and other forms of aggressive behaviour in the workplace**.<sup>28</sup>

## 5.2.1 The duty of workers and their representatives to collaborate

Convention No. 190 recalls the role that workers and other persons concerned should play, by referring to their “responsibilities” in relation to the workplace policy on violence and harassment (Art. 9(a)–(d)). Paragraph 7 of Recommendation No. 206 recommends that ratifying countries “should, as appropriate, specify in laws and regulations that workers and their representatives should take part in the design, implementation and monitoring of the workplace policy referred to in Article 9(a) of the Convention”. It further recommends that such policy should “specify the rights and responsibilities of the workers and employer” (Para. 7(c)). Both employers and workers have responsibilities towards preventing and refraining from violence and harassment in the world of work. Workers and other persons concerned have a general duty to take care of their own safety and health, and that of others who may be affected by their actions at work. Moreover, workers and their representatives play a critical role in cooperating with employers in the development of a workplace policy on violence and harassment, given their knowledge and familiarity with facility operations, process activities and potential threats, as well as a critical role in the effective adherence to and implementation of the policy's provisions (ILO 2020d).

<sup>27</sup> Article 5 of the Labour Law, 2017, provides a definition of “sexual harassment”, which may include the following acts:

a) Sexual or insensitive jokes, lewd suggestions, whistling, foul language, slurs, innuendos, leering and obscene gestures; b) Belittling comments on a person's anatomy or persistent demands for dates; c) Asking for sexual favours, asking about personal/sex life, explicit sexual suggestions in return for “rewards”; d) Unwanted physical contact of any sort, including touching, brushing and kissing; e) Display of pornographic and sexually suggestive pictures and/or sexual objects; f) Offensive written, telephonic or electronic communications; g) Indecent exposure or dressing; h) Sexual assault and rape; i) Unwelcome sexual advances, requests for sexual favours and other verbal or physical conduct of a sexual nature also constitute sexual harassment.

<sup>28</sup> The provisions may include a complaint procedure, respect for the principle of confidentiality and protection against retaliation, disciplinary rules, a training strategy, and raising employee awareness of these issues.

► **Box 20. Provisions related to workers' responsibilities**

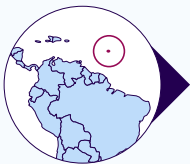
Some countries are introducing specific provisions requiring workers to refrain from violence and harassment at work.



**Djibouti:** Following amendments in 2018, articles 4 *bis* and *ter* of the Labour Code provide that **any employee who has engaged in mobbing or sexual harassment is liable to disciplinary action.**



**Ecuador:** Article 46(j) of the Labour Code, as amended in 2017, provides that the **worker is prohibited from committing acts of workplace harassment** towards a colleague, towards the employer, towards a hierarchical superior or towards a subordinate person in the company.



**Grenada:** The 2019 National OSH Policy states, among others, the following responsibilities for workers: **“Cooperate** with the employer in their compliance with the OSH Act, regulations or policies. **Take reasonable care** and not recklessly endanger health and safety of themselves or others. ... **Report health and safety issues**, including psychosocial factors and work-related stress, accidents, incidents or near misses to the elected HSR [health and safety representative]” (Grenada 2019, 14).

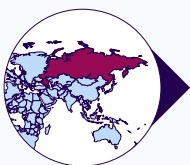
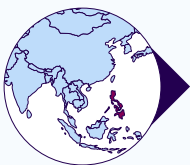


**Mexico:** According to section 47 of the Federal Labour Code, **the employer may terminate the employment relationship where a worker has committed an act of violence**, has insulted or mistreated co-workers, the employer or his/her family, the management personnel or clients and suppliers.

**Philippines:** Section 18 of the 2018 Safe Spaces Act provides:

**Employees and co-workers shall have the duty to:**

- a. Refrain from committing acts of gender-based sexual harassment;
- b. Discourage the conduct of gender-based sexual harassment in the workplace;
- c. Provide emotional or social support to fellow employees, co-workers, colleagues or peers who are victims of gender-based sexual harassment; and
- d. Report acts of gender-based sexual harassment witnessed in the workplace.



**Russian Federation:** Paragraph 6 of item 7.2 of the Internal labour regulations, Appendix 6 to the Collective Agreement of RUDN University for the years 2019–2022, defines the term “gross violation of labour duties” as sexual or other form of harassment of a student, colleague, as well as expressing a serious threats to them; insulting and humiliation of student’s dignity including cases of using methods of physical or psychological abuse of a student. This provision provides the employer’s right to hold an employee disciplinarily liable and even to dismiss an abuser for repeated gross violation if (s)he is considered a **“pedagogical worker”** (RUDN University 2019).

## ► 5.3. Reinvigorating occupational safety and health to tackle violence and harassment

Article 9(b)–(c) of Convention No. 190 acknowledges that **violence and harassment**, including gender-based violence and harassment, and its associated psychosocial risks, are not only an issue of discrimination and inequity, but also a **risk of impaired health**.

### ► Article 9

Each Member shall adopt laws and regulations requiring employers to take appropriate steps commensurate with their degree of control to prevent violence and harassment in the world of work, including gender-based violence and harassment, and in particular, so far as is reasonably practicable, to: ...

- b. take into account violence and harassment and associated psychosocial risks in the management of occupational safety and health;
- c. identify hazards and assess the risks of violence and harassment, with the participation of workers and their representatives, and take measures to prevent and control them;

Over the past decades, a number of **ILO OSH instruments** have been set out to protect workers' safety and health. These standards include the:

- Occupational Safety and Health Convention (No. 155) and Recommendation (No. 164), 1981;
- Protocol of 2002 to the Occupational Safety and Health Convention, 1981;
- Occupational Health Services Convention (No. 161) and Recommendation (No. 171), 1985;
- List of Occupational Diseases Recommendation, 2002 (No. 194); and
- Promotional Framework for Occupational Safety and Health Convention (No. 187) and Recommendation (No. 197), 2006.

Even if these instruments do not specifically address violence and harassment, such conduct has always been considered as an obvious health risk (ILO 2020d). Convention No. 190 and Recommendation No. 206 now make it clear that violence and harassment – including gender-based violence and harassment – should be addressed through OSH management. Article 12 of Convention No. 190 specifies that “extending or adapting existing occupational safety and health measures to cover violence and harassment and developing specific measures where necessary” is one of the methods of applying the provisions of the Convention.<sup>29</sup> In a number of countries, OSH legislation already addresses **employers' duty to assess the various safety and health risks** associated with their workplace in order to identify, reduce, and whenever possible, prevent them. Although management is responsible for controlling risks, workers have a critical role to play in helping to identify and assess workplace hazards.

<sup>29</sup> This is of particular importance for workers in the informal economy. While OSH regulations contribute to protecting workers from OSH risks in the formal economy, those in the informal economy – which in some countries may represent the majority of workers – are often not covered by regulations related to working conditions or OSH due to the fact that the enterprises they work in may be unregulated or unregistered and may not be reached by labour inspection systems. The millions of workers operating in the informal economy may thus face increased vulnerability to violence and harassment, as well as difficulty seeking help or treatment following an incident, especially in the absence of social protection. There is, therefore, a need to continue to promote and strengthen OSH in informal workplaces through training, awareness and targeted programmes. See ILO 2018e.

**Many factors contribute to violence and harassment at work**, including psychosocial hazards and occupational stress (ILO 2020h). This being the case, Paragraph 8 of Recommendation No. 206 recommends:

The workplace risk assessment ... should take into account factors that increase the likelihood of violence and harassment, including psychosocial hazards and risks. Particular attention should be paid hazards and risks that:

- a. arise from working conditions and arrangements, work organization and human resource management, as appropriate;
- b. involve third parties such as clients, customers, service providers, users, patients and members of the public; and
- c. arise from discrimination, abuse of power relations, and gender, cultural and social norms that support violence and harassment.<sup>30</sup>

**Psychosocial risks** can be defined as those aspects of work design, organization, and management, along with their social and environmental contexts, that have the potential to cause harm. Psychosocial risks that cause occupational stress can also increase the risk of violence and harassment at work. Although violence and harassment can be induced by a number of individual, social and organizational factors, research shows that, for instance, bullying is likely to prevail in stressful working environments where workers are exposed to high levels of interpersonal conflict and noxious leadership styles (Johan Hauge, Skogstad, and Einarsen 2007). Other studies also show a vicious circle of psychosocial risks leading to harassment, which then leads back to psychosocial risks (ILO 2020d). Psychosocial risks vary between sectors, workplaces, groups of workers and occupations. They may include **third-party violence and harassment**, as well as **domestic violence**, when relevant. Some of the key and interrelated psychosocial hazards that could lead to violence and harassment, or that are in and of themselves expressions of harassment, may include:

- ▶ job content and control;
- ▶ workload and work pace;
- ▶ working time;
- ▶ physical working environment;
- ▶ organizational culture and function;
- ▶ leadership style;
- ▶ interpersonal relationships at work; and
- ▶ “normalization” of violence and harassment (ILO 2020d).

Furthermore, **discrimination, cultural and language differences, and other vulnerabilities** usually interact and intersect with psychosocial risks, thus having an impact on violence and harassment in the world of work. For these reasons, Convention No. 190 and Recommendation No. 206 call for workplace risk assessment and management to take into account all of the factors that may increase the likelihood of violence and harassment.

After identifying all hazards and assessing the associated risks, the next step is to **adopt appropriate measures to prevent or control such risks, in order to minimize their effects and to prevent similar occurrences in the future**.

<sup>30</sup> In 2016, the Meeting of Experts on Violence against Women and Men in the World of Work also identified a number of factors that increased the risk of violence and harassment, such as: a) working in contact with the public; b) working with people in distress; c) working with objects of value; d) working in situations that are not or not properly covered or protected by labour law and social protection; e) working in resource-constrained settings (inadequately equipped facilities or insufficient staffing can lead to long waits and frustration); f) unsocial working hours (for instance, evening and night work); g) working alone or in relative isolation or in remote locations; h) working in intimate spaces and private homes; i) the power to deny services, which increases the risk of violence and harassment from third parties seeking those services; j) working in conflict zones, especially providing public and emergency services; and k) high rates of unemployment (ILO 2016b, para. 9).

The identification of hazards and the assessment of risks of violence and harassment can also constitute a channel to address concerns that may be specific to persons with disabilities and other individuals or groups in vulnerable situations. Examples of measures to prevent and control risks may vary and depend upon the nature of the workplace and workforce, as well as on the specific sector where employers operate. These measures could include:

- establishing or updating facility access controls;
- installing security cameras;
- reviewing job descriptions to ensure that duties and responsibilities for workplace safety and security are defined clearly; and
- establishing response protocols in the event of workplace violence and harassment.

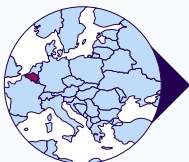
### ► Box 21. Violence and harassment as a safety and health issue to be included under OSH regulations

Recently, an increasing number of countries have included specific reference to violence and harassment and its associated psychosocial risks in the management of OSH, including within the scope of workers' compensation legislation.



**Australia:** A 2021 Guide published by Safe Work Australia characterizes **sexual harassment as a workplace hazard**, known to cause psychological and physical risks to health and safety (Australia 2021a). Employers are hence required to:

- review workplace behaviour and workplace health and safety policies, as well as current workplace practices, to ensure that risks of workplace sexual harassment are identified and appropriately addressed, and that relevant due diligence/officer obligations extend to workplace sexual harassment;
- ensure all workers are aware of and understand these policies and their rights and obligations in respect of sexual harassment;
- given the prevalence of remote working, ensure that all “workplaces” are included in such reviews; and
- ensure that internal reporting processes are capturing accurate and timely information about incidents.



**Belgium:** In 2014, the definition of **violence and harassment at work** provided for in OSH regulations has been amended to **include psychosocial risks**, including stress, burnout and interpersonal conflicts (Royal decree on prevention of psychosocial risks at work, 2014).

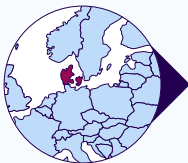




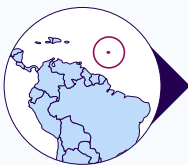
**Canada:** Section 8 (Identification of risk factors) of the 2020 Work Place Harassment and Violence Prevention Regulations states:

An employer and the applicable partner must jointly **identify the risk factors, internal and external to the workplace, that contribute to harassment and violence in the workplace**, taking into account:

- a. the culture, conditions, activities and organizational structure of the work place;
- b. circumstances external to the work place, such as family violence, that could give rise to harassment and violence in the work place;
- c. any reports, records and data that are related to harassment and violence in the work place;
- d. the physical design of the work place; and
- e. the measures that are in place to protect psychological health and safety in the work place.



**Denmark:** The 2020 Executive order on **psychosocial working environment** specifically includes **“offensive behaviour, including bullying and sexual harassment”** (sects 22–24), which is defined as “a situation where one or more persons grossly or several times expose one or more other persons in the company to bullying, sexual harassment or other degrading behaviour in the workplace. The behaviour must be perceived as degrading by the person being subject to this behaviour.” The order also includes **work-related violence**, which is defined as “the situation where persons who are not employees or employers of the company, including citizens and customers, use violence against employees or employers” (sect. 25). In both cases, the regulations provide that “at all stages, work must be planned, organised and executed responsibly with due regard to health and safety in both short and long term” (sects 22, 26 and 31). They also provide that, in case of **work-related violence outside of working hours**, “the employer must ensure that employees are given appropriate guidance in how to deal with work-related violent episodes outside of working hours and their run-up” (sect. 32(1)). Moreover, “for use during guidance, the employer must ensure that guidelines are established for the appropriate managing of work-related violent episodes outside of working hours and their run-up” (sect. 32(2)). Finally, section 34 also provides, “The employer must ensure that any employee who has been subject to work-related violent event outside working hours is offered assistance in reporting the incident to the police.”



**Grenada:** The 2019 National OSH Policy provides, “All workers are to be covered by this policy, whether full-, part-time or otherwise employed, including interns, the differently abled, prisoners and sub contractors. **Actions derived from this policy will be implemented in every workplace, whether in the public, private or informal sectors**, and will be equitable, inclusive and without discrimination. **Other persons who have cause to be within the workplace should also derive protection from this policy”** (Grenada 2019, 10).



**Mexico:** The Mexican Official Standard NOM-035-STPS-2018 (NOM-035) aims to **identify, analyse and prevent psychosocial risk factors in the workplace that can cause anxiety disorders**, severe stress disorders or adjustment disorders, arising from the nature of the work that employees carry out, among other matters. The risk factors include, among others, “family relationships, negative leadership and relationships; and violence in the workplace”. Companies with 16 or more employees are also required to:

- identify and analyse the risk factors;
- carry out a psychological evaluation and medical examination of an employee who presents symptoms of any alteration to his or her health; and
- create a programme to prevent and control risk factors, which may include a written prevention policy that promotes awareness and social support, and a means for employees to file complaints.



**Peru**, in July 2019, introduced legislation requiring employers to adopt anti-harassment policies and investigation procedures, provide anti-harassment training, and carry out **annual sexual harassment risk assessments**.<sup>31</sup>



**United Kingdom of Great Britain and Northern Ireland:** In 2020, the Equality and Human Rights Commission published some technical guidance on sexual harassment and harassment at work. The guidance calls on employers to reflect on where the **power imbalances** fall within their organization and consider what they might do to address them. In addition, it recommends carrying out a **sexual harassment risk assessment** by using the existing risk management frameworks traditionally used in the workplace health and safety context. Assessments should identify risks, such as power imbalances, job insecurity, lone working, the presence of alcohol, customer-facing duties, particular events that raise tensions locally or nationally, lack of diversity in the workforce, and workers being placed on secondment, as well as control measures to minimize such risks (United Kingdom 2020).

## ► 5.4. Providing accessible information and training

Another measure that ratifying States should require employers to take is providing workers and other persons concerned with information and training, in accessible formats as appropriate, on identified hazards and risks of violence and harassment and the associated prevention and protection measures, including on respective rights and responsibilities (Convention No. 190, Art. 9(d)). Providing information and training can contribute to a workplace culture conducive towards reducing the risk of violence and harassment. It also helps ensure that when violence or harassment does occur, workers know how to report it and which resources to access.

<sup>31</sup> Supreme Decree N° 014-2019-MIMP: The new regulations also require employers to adopt anti-harassment policies and investigation procedures, provide anti-harassment training, and carry out annual sexual harassment risk assessments.

Developing effective approaches and methodologies for training as a means for preventing violence and harassment is essential. Recent practice pays attention to enhancing dexterity in awareness skills and conflict management, or to challenging harmful social norms that have an impact in the world of work. Methodologies aimed at promoting workplace civility, equality and respect, bystander intervention, identifying unconscious bias, increasing emotional intelligence, and promoting more effective communication and supervisory skills, have all shown to be promising practices (McCann 2018).<sup>32</sup>

### ► Box 22. Recent provisions and initiatives on workplace violence and harassment preventive training



**Italy:** According to paragraph 3-*bis* of the Code of Equal Opportunities, as amended in 2018, employers are required, under article 2087 of the Civil Code, to ensure working conditions that guarantee the physical and emotional integrity and dignity of workers, and also to **agree with trade unions on informative and training initiatives aimed at preventing sexual harassment at work.**



**United States:** An increasing number of US states and cities have passed statutes requiring **sexual harassment training**, and other federal and state laws, regulations and court decisions have made it clear that employers should provide **anti-harassment training** to all employees in all states. California also requires employers to provide anti-harassment training in both English and Spanish. New York City adopted the 2018 Stop Sexual Harassment Act No. 96, which requires all employers with 15 or more employees to provide sexual harassment training annually for all employees, interns, independent contractors and freelancers. The city government has created a web site that provides the necessary training free of charge (New York City, n.d.).

### ► Box 23. Workplace sexual harassment preventive training in the global garment industry: Experiences from the ILO–IFC Better Work Programme

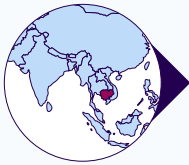
Since 2012, the ILO–IFC Better Work programme has provided technical assistance and capacity building on improving working conditions in the garment industry, including by tackling sexual harassment and promoting equality and non-discrimination.<sup>1</sup> Better Work's evidence and experience shows that sexual harassment can be reduced by:

- establishing anti-sexual harassment policy, setting up internal grievance mechanisms and establishing referral procedures to the relevant national authorities;
- aligning supervisors' and workers' pay incentives, for example, by avoiding high production quotas for workers but salary pay for supervisors;
- building capacity of managers, line supervisors and workers to prevent and respond to reports of sexual harassment through culturally sensitive training;
- enhancing communication and supervisory skills through training; and
- tackling organizational tolerance of sexual harassment through factory-wide awareness raising.

<sup>1</sup> For more information, see the Better Work website at <https://betterwork.org/>. Source: Brown, Dehejia, and Robertson 2018; Babbit, Brown, and Antolin 2020; Brown and Lin 2014; Truskinovsky, Rubin, and Brown 2014.

<sup>32</sup> For instance, programmes aiming at altering community norms and empowering bystanders to intervene to stop assault and harassment have produced good results. Bystander intervention training, for example, has been linked to behavioural and attitudinal changes, as well as a reduction in rates of assault on college campuses and in the US military (Hayes, Kaylor, and Oltman 2020; Danna et al. 2020; Mishra and Davison 2020).

This approach has proven to be effective:



**Cambodia:** As a result of ILO-IFC Better Work services, workers' reported their exposure to sexual harassment falling by nearly one response category on a four-point scale between 2015 and 2018.



**Jordan:** As a result of ILO-IFC Better Work awareness raising and specialized training, the probability that workers are concerned with sexual harassment in the factory decreased by 18 percentage point over the past six years.



6

**The obligation to ensure  
effective enforcement  
and remedies**

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Convention No. 190 and Recommendation No. 206 set out principles and guidance for States to put in place strong and effective reporting and dispute resolution mechanisms for addressing violence and harassment (Convention No. 190, Arts 4(2) and 10; Recommendation No. 206, Paras 14–22).

Violence and harassment, including gender-based violence and harassment, is often under-reported. Reasons for violence and harassment not being reported include, for instance, lack of information and awareness about what constitutes violence and harassment; fear of reprisal, including termination of employment; and lack of trust that the system will actually deliver remedies to make the complainant whole again.

Moreover, research shows that victims who do report cases often have worse careers, mental health, and physical health than those who do not formally complain. Some studies also show that investigations are often inadequate, that perpetrators are rarely sanctioned, and that complainants, particularly women and individuals belonging to vulnerable groups, frequently have to leave their jobs and interrupt their careers (Dobbin and Kaley 2020).

## ► 6.1. Enabling reporting and improving enforcement

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Article 10 of Convention No. 190 includes a number of measures based on existing practice at the national level that each country could implement or strengthen based on national circumstances. To proactively enable and encourage reporting of violence and harassment, and to effectively respond to such complaints, Convention No. 190 and Recommendation No. 206 state principles that should be ensured irrespective of the concrete procedure enacted at the national or workplace level, as explained below.

### 6.1.1. Ensuring easy access, safety, fairness and effectiveness

Complaint mechanisms can be either internal (within an enterprise) or external (through the Ministry of Labour or other relevant ministries, court systems, sectoral or collective mechanisms, specialized tribunals or courts, labour inspectorates, dispute resolution agencies, human rights and equality bodies, or other quasi-judicial bodies).

Regardless of the specific mechanism, Convention No. 190 and Recommendation No. 206 state that all these channels should be easily accessible, safe, fair and effective.<sup>33</sup>

**Internal complaint mechanisms** are often foreseen by labour legislation, including OSH regulations, and by collective agreements, and may require the complaint to be taken by the supervisor, or where the supervisor is the alleged perpetrator, by another person.

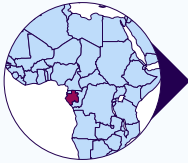
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<sup>33</sup> As a group of experts who contributed to the development of the ILO Examination of Grievances Recommendation, 1967 (No. 130) argued, “Fair and effective procedures ... which provide for an orderly outlet for grievances constitute a safety-valve which helps to prevent the outburst of serious disputes. Moreover, such procedures can contribute to a climate of mutual confidence between management and workers which is so necessary in labour-management relations” (ILO 1964, para. 39). Although, to date no single ILO instrument provides broad and comprehensive guiding principles for effective labour dispute resolution systems, some guidance and principles concerning individual labour disputes are spread throughout various instruments, including the ILO Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92), and the ILO Examination of Grievances Recommendation, 1967 (No. 130). More recently, the Indigenous and Tribal Peoples Convention, 1989 (No. 169), provides that the peoples concerned “shall be safeguarded against the abuse of their rights and shall be able to take legal proceedings, either individually or through their representative bodies, for the effective protection of these rights” (Art. 12). The Domestic Workers Convention, 2011 (No. 189), mandates to “take measures to ensure ... that all domestic workers, either by themselves or through a representative, have effective access to courts, tribunals or other dispute resolution mechanisms under conditions that are not less favourable than those available to workers generally” (Art. 16). Ensuring “effective access to justice” is also one of the policies recommended by the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). In general, and for a comparative analysis on this topic, see Ebisui, Cooney, and Fenwick 2016; ILO 2018f, ILO 2013.



► **Box 24. Ensuring access to justice at the workplace level**

Recently, steps have been taken in several countries to include specific procedures in case of violence and harassment, including by setting up dedicated internal committees or by providing anonymous reporting.



**Gabon:** Article 6 of the Law on the Fight against Harassment in the Workplace, 2016, provides, “The employee, the civil servant or the trainee who considers to be a victim of moral or sexual harassment may **inform, under confidential cover, staff representatives, the employer, the general inspection services or the labour inspection services.**” Article 8 further specifies, “**Staff representatives and union delegates in a company as well as the trade union organizations in the public sector have a right to be whistle-blowers.**”



**Mexico:** In March 2020, the Secretariat of Labour and Social Welfare issued a **model protocol to address and eradicate work violence** (Mexico 2020). This model protocol defines the **procedures or mechanisms to provide assistance to alleged victims of workplace violence, to identify the competent bodies that may provide support on these issues**, and to promote an organizational culture of gender equality and a work environment that helps eliminate workplace violence. The model protocol includes protection and conduct modification measures to avoid re-victimization and to help reduce incidences of violence. It also foresees the creation of an “**Attention and Follow-Up Committee**”, which is an internal committee with company and employee representatives authorized to assist and monitor the application of the protocol.



**Panama:** According to the 2018 Anti-Discrimination Law, every employer, public and private institution and educational establishment, must implement **internal procedures for individuals to bring harassment claims and for the resolution of such claims**. Pursuant to the Law, these proceedings must be **adequate and effective** to allow for the **swift resolution of claims**, while also ensuring **confidentiality and giving appropriate protection to the plaintiff and witnesses**.



**Peru:** In July 2019, Peru introduced a legislation requiring employers to set up a **Sexual Harassment Committee or Delegate**, depending on the size of the employer.<sup>34</sup> Workplaces with 20 or more employees must ensure they introduce an Intervention against Sexual Harassment Committee. In workplaces with fewer than 20 employees, an anti-sexual harassment delegate will assume the role of the Intervention Committee. If an incident of sexual harassment involves an outsourcing or intermediation company, the complaint should be filed with the main company or user, which must carry out the investigation procedure through its Intervention against Sexual Harassment Committee. The investigation procedure can be initiated by an involved party, at the request of the victim or a third party, or ex officio.

<sup>34</sup> Supreme Decree N° 014-2019-MIMP.

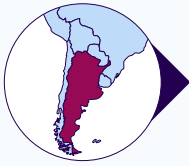


**United Kingdom:** According to technical guidance issued by the Equality and Human Rights Commission in 2020, employers should consider setting up reporting systems that will allow for **anonymous** reports. By being anonymous, such systems could: capture complaints that would otherwise go unreported; encourage complainants to come forward; and allow some form of action even if a full investigation is not possible. In addition, the Guidelines also recommend employers to make sure there are **trained workers who can support a complainant through the process of making a complaint**. These could be members of the human resources team or may be nominated “**guardians**” (United Kingdom 2020).

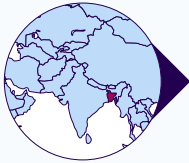


**Saudi Arabia:** According to the 2018 Anti-Harassment Law, **all organizations in the public and private sector are under an obligation to take steps to prevent harassment from occurring**. Employers are required to put in place an **internal complaints mechanism** and procedure that deals with matters confidentially, take remedial action for any breaches of the law, and not prevent or replace a victim’s right to separately raise a complaint to the competent authorities.

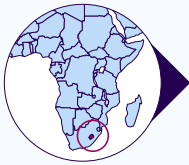
#### Social partner and business-led initiatives



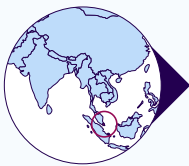
**Argentina:** The **Asociación Bancaria** adopted a protocol against Workplace Violence, Gender Violence and Gender-based Workplace Violence for the Banco de la Nación Argentina. The Protocol establishes an internal procedure to handle such cases, including instances of gender-based violence against LGBTIQ+ people. It includes specific reference to cyberbullying and also provides for ten days leave to victims of domestic violence (Banco Nación 2020).



**Bangladesh:** The **Accord on Fire and Building Safety in Bangladesh** is a legally binding agreement between global brands, retailers and trade unions to improve safety in the garment and textile industry. The Accord provides workers with an **independent grievance mechanism through which they can confidentially raise concerns about issues, including workplace violence, and be protected against retaliation**.



**Lesotho:** An **independent grievance mechanism** has been created to tackle sexual harassment in **Lesotho’s textile factories**. The oversight body has the power to investigate claims and compel factories to discipline or dismiss offenders (Abimourched et al. 2019).



**Singapore:** Tripartite partners have come together to develop the *Tripartite Advisory on Managing Workplace Harassment*, which serves as a practical guide for employers and employees to better prevent and manage harassment in the workplace. The Advisory emphasizes the importance of **proactive management and focuses on preventive measures to ensure a safe and conducive workplace**. It also suggests key steps and remedial actions that employers and affected persons can take in responding to harassment when it occurs (Singapore 2015).

**Conciliation, mediation and arbitration** may also be available or required when a complaint is lodged either internally (through dispute resolution or grievance procedures under collective agreements) or externally (through in-court conciliation, extrajudicial conciliation through autonomous procedures, or by public administration systems). Practice has shown that different approaches focusing more on generating an attentive and responsive dialogue by hearing both parties' voices, seem to overcome the adversarial nature of legalistic models, increase complainant satisfaction, and reduce retaliation (Dobbin and Kalev 2020).

### ► Box 25. Violence and harassment and non-disclosure agreements

In some jurisdictions, an increasing number of provisions aim at overcoming the practice to include disputes related to violence and harassment – and in particular gender-based violence and harassment and discrimination – within the scope of **non-disclosure agreements (NDAs)**. These NDAs typically include, among other things, confidentiality and mutual non-disparagement provisions, which prevent the parties from discussing the terms of the settlement as well as the circumstances surrounding the settlement. Following several high-profile scandals, some countries have taken measures to make sure that NDAs are not used to silence victims or whistle-blowers, irrespective of their contractual status, who allege any misconduct, particularly sexual harassment and other forms of discrimination-based harassment. In this regard, Article 10(c) of Convention No. 190 states that ratifying States should “ensure that requirements for privacy and confidentiality are not misused” (ILO 2019c, para. 828).

For instance, in 2020, the **United Kingdom's** arbitration service Acas has advised firms and workers against using NDAs to prevent someone from reporting sexual harassment, discrimination or whistle blowing at work (Acas 2020). In the **United States**, provisions have been introduced in many states to prevent the misuse of NDAs. For instance, in New Jersey, employers can no longer enforce NDAs relating to discrimination, harassment and retaliation claims against current or former employees under a law that became effective in March 2019 (Avallone and Meade 2019).

In the same year, New York State adopted regulations stating that a worker cannot be bound by any agreement signed after 11 October 2019 that prohibits the worker from disclosing harassment facts or settlement of a claim of harassment on any protected category basis unless that is the worker's preference.<sup>35</sup>

In recent years, many countries have embarked on legislative reforms to ensure that **external complaint mechanisms** for cases of violence and harassment in the world of work are safe, easy to access and provide timely processing, particularly in cases involving discrimination-based behaviours.

### ► Box 26. Strengthening reporting and dispute resolution mechanisms external to the workplace

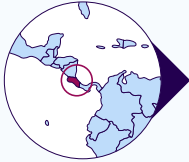


**Brazil:** In 2017 the Government enacted Ordinance No. 583, establishing the National Policy for Preventing and Confronting Moral and Sexual Harassment and Discrimination within the scope of the **Labour Prosecution Office's** mandate.

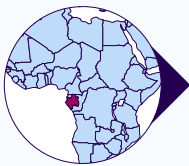
<sup>35</sup> If it is the worker's preference, then a three-step process must be followed: 1. the nondisclosure term must be written in an agreement in plain English and, if applicable, the worker's primary language as well; 2. the worker must be given at least 21 days to consider the non-disclosure term and seven days after signing to revoke consent; and 3. after the expiration of the revocation period, the worker and the employer must enter into a second agreement that includes the nondisclosure term and any other terms resolving the harassment claim (Zweig 2020).



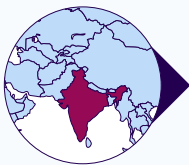
**Canada:** Under the **2019 Accessible Canada Act**, individuals can file an accessibility complaint if they have experienced physical or psychological harm, property damage or financial loss. The Federal Public Sector Labour Relations and Employment Board will deal with complaints related to accessibility for most federal public servants and parliamentary employees through the grievance process.



**Costa Rica:** Legislative Decree No. 9343/2015 on reforming labour procedures and amending the Labour Code established a **fast-track procedure for situations of labour discrimination suffered by vulnerable populations**, including migrants and refugees.



**Gabon:** Article 9 of the Law on the Fight against Harassment in the Workplace, 2016, states, “Any **representative trade union organization or any legally declared association** may, with the written agreement of the employee, bring any action on his/her behalf before the competent authorities or courts.”



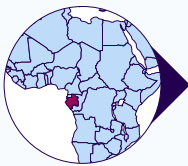
**India:** The **Sexual Harassment Electronic Box (SHe-Box)** is an effort of the Government of India to provide single window access to facilitate registration of complaints related to sexual harassment (in accordance with the Protection of Women from Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013). Once a complaint is submitted, it is directly sent to the concerned authority having jurisdiction to take action. Any woman can use the SHe-Box, irrespective of her work status, or whether she is working in an organized or unorganized business or in the private or public sector. The resources section of the SHe-Box contains detailed information on the issue of sexual harassment of women in the workplace. This includes a user-friendly Handbook on the Sexual Harassment Act and a training module to build the capacity of government officials (India, n.d.).

In relation to gender-based violence and harassment, Convention No. 190 provides that **complaint and dispute resolution mechanisms should be “gender-responsive”** (Art. 10(e)). This includes, for instance, designing and ensuring that judicial and non-judicial mechanisms are responsive to the barriers faced by victims of gender-based violence and harassment in seeking effective remedies and in reducing the harmful effects of such prohibited behaviours. Recommendation No. 206 offers further guidance, by recommending that courts be equipped with the necessary expertise and legal advice (Para. 16(a)-(c)); that assistance for complainants and victims, as well as guides and other information resources be provided (Para. 16(c)-(d)); and that the burden of proof be shifted, as appropriate, in proceedings other than criminal ones (Para. 16(e)).

► Box 27. Gender-responsive reporting and dispute resolution mechanisms: Some examples



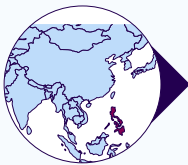
**Djibouti:** Following an amendment in 2018, article 4-*quater* of the Labour Code provides that, in case of any dispute related to **harassment**, including sexual harassment, the **burden of proof** is shifted. In particular, when the employee presents evidence suggesting the existence of harassment, “it is up to the defendant to prove that these acts do not constitute such harassment and that their decision is justified by objective elements unrelated to any harassment. The judge shall form his or her opinion after ordering, if necessary, all the investigative measures he or she deems useful.”



**Gabon:** Article 7 of the Law on the Fight against Harassment in the Workplace, 2016, provides, “The **burden of proof** of the facts constituting moral or sexual harassment lies with the victim. It is then up to the defendant to prove that these actions do not constitute harassment.”



**North Macedonia:** Article 33 of the 2006 Law on Equal Opportunities for Women and Men, as amended in 2015, provides, “(1) The person who considers that the right to equal treatment has been violated on the grounds of gender may file a lawsuit with a competent court. ... (3) The procedure shall be **urgent**.” Article 34 addresses which court will have competence in the matter, stating: “In the procedure for the protection of the right to equal treatment on the grounds of gender, the court where the permanent place of residence of the plaintiff is located shall be locally competent, besides the court of local competence.”



**Philippines:** The 2018 Safe Spaces Act requires employers to create an **independent internal mechanism** to investigate and address complaints of gender-based sexual harassment which shall adequately represent the management, the employees from the supervisory rank, the rank-and-file employees, and the union, if any; and **have a woman as its head and not less than half of its members should be women** (sect. 17).



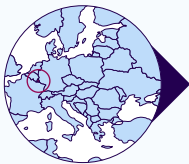
**United States (New York State):** As of 11 October 2019, the **standard for proving** a harassment claim has been significantly eased, and a worker no longer has to prove that the harassment was “severe or pervasive” or that a comparator was treated better or that they filed a complaint internally (Zweig and Davidoff 2019).

## 6.1.2. Protection before, during and after reporting or making a complaint

Convention No. 190 recognizes the **right of workers to remove themselves** from a work situation which they have reasonable justification to believe presents an imminent and serious danger to life, health or safety due to violence and harassment. Additionally, workers should be able to exercise this right without suffering retaliation or other undue consequences, while having a duty to inform their employers (Art. 10(g)).<sup>36</sup> This protection is found in relevant OSH standards. In particular, Article 13 of the Occupational Safety and Health Convention, 1981 (No. 155), which states, “A worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences in accordance with national conditions and practice.”

Throughout the reporting, investigation and dispute resolution process, Convention No. 190 calls for the **protection of privacy and confidentiality**, to the extent possible and as appropriate (Art. 10(c)). The confidentiality of complaints is essential to protecting the privacy of both the complainant and the alleged perpetrator. However, privacy and confidentiality should not impede an investigation. Related to this, ratifying States are also to “ensure that requirements for privacy and confidentiality are not misused” (Art. 10(c)).

### ► Box 28. Ensuring privacy and confidentiality, and the right to remove oneself from a harmful situation



**Luxembourg:** Article L.245-6(2) of the Labour Code, as amended in 2016, states, “The staff delegation, and the equality representative, if there is one, are empowered to assist and advise the employee who is the subject of sexual harassment. They are required to respect the **confidentiality** of the facts of which they are aware in this respect, except to be exempted from it by the harassed person.”



**Saudi Arabia:** Article 4 of the 2018 Anti-Harassment Law provides, “Any person who has access – by virtue of their work – to information about any instance of harassment is required to maintain the **confidentiality** of such information. The identity of the victim may not be revealed except when required by evidentiary procedures, the investigation or trial.”



**South Sudan:** Article 7 of the 2017 Labour Act requires that the workplace policies include specific provisions on the fact that “**the employer will not disclose the name of a complainant or the circumstances related to the complaint to any person** except where disclosure is necessary for the purpose of investigating the complaint or taking disciplinary measures in relation thereto”.



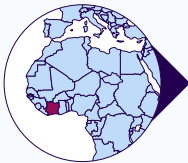
**United Kingdom:** The Employment Rights Act 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order 2021 **confers on workers, and not only employees, the right not be subjected to a detriment for leaving, or refusing to return, to their workplace in circumstances where they reasonably believe it would put themselves or others in serious or imminent danger, or for taking steps to protect themselves.**

<sup>36</sup> It is worth mentioning the particular case of those workers, particularly migrant workers, who might have greater difficulty leaving a harmful situation, either because their visas are tied to their employers, who could cancel it at any time, or because they would lose their shelter as well as their job (see ILO 2021c). Naturally, migrant domestic workers who live with their employers are the most vulnerable in that respect. In this regard, Paragraph 7 of the Domestic Workers Recommendation, 2011 (No. 201), suggests: “Members should consider establishing mechanisms to protect domestic workers from abuse, harassment and violence, such as: (a) establishing accessible complaint mechanisms for domestic workers to report cases of abuse, harassment and violence; (b) ensuring that all complaints of abuse, harassment and violence are investigated, and prosecuted, as appropriate; and (c) establishing programmes for the relocation from the household and rehabilitation of domestic workers subjected to abuse, harassment and violence, including the provision of temporary accommodation and health care”.



Convention No. 190 also protects **against any forms of victimization or retaliation against complainants, victims, witnesses and whistle-blowers** (Art. 10(b)(iv)). Protecting complainants from retaliatory actions is a fundamental part of safe and effective reporting, complaint procedures and dispute resolution mechanisms.

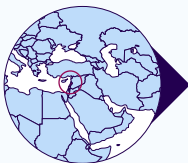
► **Box 29. Protecting against victimization and retaliation**



**Cote d'Ivoire:** Article 5 of the 2015 Employment Code provides that **no employee, person in training or in internship may be punished, dismissed or bore undue consequences in relation to matters relating to employment**, including recruitment and other terms and conditions, **for refusing to undergo the acts of moral or sexual harassment as well as for having testified to or reported such acts.**



**Italy:** According to paragraph 3-*bis* of the Code of Equal Opportunities, as amended in 2018, **the employer may not victimize workers who lodge a claim to request ascertainment of discrimination or of sexual harassment because of this.** Victimization refers to the adoption of disciplinary sanctions, changes in job descriptions, dismissals and transfers with direct or indirect negative occupational effects. Such protection shall not be awarded in case the claimant has been convicted.

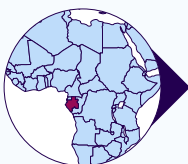


**Lebanon:** In 2020, Lebanon passed the Law to Criminalize Sexual Harassment and [for] Rehabilitation of Its Victims. This law provides **protection of victims from retaliation**, including in pay, promotion, transfer, contract renewal or disciplinary measures. The law contains whistle-blower protections and prohibits discrimination, abuse or disciplinary measures against people who report harassment or testify about the abuse. Such retaliation can be punished by up to six months in prison and a fine of 20 times the minimum wage.



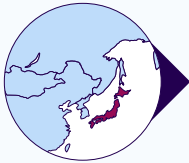
**Luxembourg:** Article L. 245-5 of the Labour Code, as amended in 2016, provides:

1. **The employee may not be the subject of reprisals because of his protests or refusals against an act or behaviour of sexual harassment** on the part of his employer or any other hierarchical superior, co workers or external persons in relationship with the employer.
2. Likewise, no employee may be the subject of reprisals for having testified to the acts defined in article L. 245-2 or for having reported them.
3. Any provision or act contrary to the two preceding paragraphs, and in particular any termination of the employment contract in violation of these provisions, is automatically void.

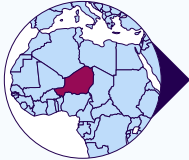


**Gabon:** Article 4 of the 2016 Law on the Fight against Harassment in the Workplace provides that:

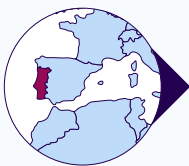
**No employee, civil servant, nor any person in training or in internship may be sanctioned, dismissed or subject to a discriminatory measure**, either direct or indirect, in particular in relation to remuneration, training, performance review, assignment, qualification, classification, professional promotion, transfer or renewal of contract **for having suffered or refused to undergo repeated acts constituting moral or sexual harassment or for having given testimony or statements against such acts.**



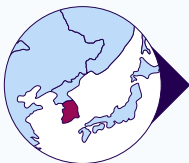
**Japan:** The new Anti-Power Harassment law includes a provision that **prohibits employers from dismissing employees** who report cases of harassment, or **treating such workers unfavourably** in any other way for reporting such cases (Library of Congress 2020).



**Niger:** Article 122 of Decree No. 2017-682/PRN/MET/PS in regulation of the Labour Code (10 August 2017) states as follows: **“No worker may be punished, or subjected to discrimination for having been a witness to acts of sexual harassment or for reporting them.”**



**Portugal:** The Labour Code, as amended in 2017, **strengthens protections against victimization and dismissal to victims and witnesses of harassment practices.** In particular, article 29(6) prevents the application of disciplinary sanctions against complainants or victims and witnesses, unless they acted with wilful misconduct, taking into account the circumstances mentioned in the proceedings triggered by sexual harassment or mobbing, until its final judgement with res judicata, regardless of the right to adversarial proceedings.



**Republic of Korea:** The 2018 law on workplace bullying includes **penalties for employers who retaliate** against any workers for reporting workplace bullying and harassment.



**South Sudan:** Article 7 of the 2017 Labour Act provides that the workplace policy includes **protection against retaliation** and, in particular, “that an employee who brings a complaint of sexual harassment in good faith shall not be disciplined, demoted, dismissed or otherwise prejudiced in such employee’s employment with the employer as a consequence”.

### 6.1.3. Support services

Among the possible measures to enable effective reporting and dispute resolution mechanisms and procedures, Convention No. 190 mentions “legal, social, medical and administrative support measures to complainants and victims” (Art. 10(b)(v)). Support services should be gender-responsive, particularly in case of gender-based violence and harassment (Art. 10(e)). In this regard, Recommendation No. 206 recommends:

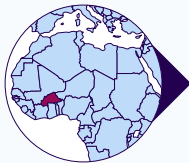
The support, services and remedies for victims of gender-based violence and harassment referred to in Article 10(e) of the Convention should include measures such as:

- a. support to help victims re-enter the labour market;
- b. counselling and information services, in an accessible manner as appropriate;
- c. 24-hour hotlines;
- d. emergency services;
- e. medical care and treatment and psychological support;
- f. crisis centres, including shelters; and
- g. specialized police units or specially trained officers to support victims (Para. 17).

► Box 30. Examples of legislation and regulations providing protection and support to victims



**Argentina:** The programme “*Acompañar*” provides **support to persons at risk of gender-based violence**. It seeks to promote the economic autonomy of women and LGBTQI+ persons by providing economic support and contributing to strengthen the network of support services for these persons to cover basic expenses in organizing and developing an autonomous and free project of life (Argentina, Ministry of Justice and Human Rights 2020).



**Burkina Faso:** The 2015 Law on Preventing, Punishing and Repairing Violence against Women and Girls and Caring for Victims provides that “before the competent courts, the victim, if she does not have the means to procure a lawyer, **is to be assisted by a court-appointed lawyer**. They can also be represented by a person of their choice or by an approved human rights defence association, in case of emergency or in case of extreme vulnerability found medically” (art. 21).



**Italy:** In January 2021 the Constitutional Court ruled that all victims of gender-based violence and harassment are entitled to **free legal aid and assistance** (*Giurisprudenza Penale* 2021).



**North Macedonia:** The 2006 Law on Equal Opportunities for Women and Men, as amended in 2015, provides that “the person filing the complaint shall **be exempted from payment of administrative fee and another charge**” (art. 22(6)).



**Peru:** The Ministry of Labour (via Supreme Decree N° 014-2019-TR) created the programme “*Trabaja sin acoso*” (“Work without Harassment”), whose objective is to intervene in a timely and adequate manner for the protection of victims of sexual harassment at work. The service includes **orientation to victims, including legal assistance**, as well as legal advice during the internal procedures of investigation and punishment of sexual harassment and in judicial processes that seek to protect and repair the affected labour rights. The programme also offers **psychological assistance** to victims.

### 6.1.4. Appropriate and effective remedies

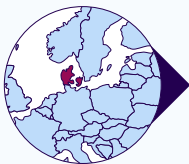
Article 10 of Convention No. 190 requires ratifying States to ensure appropriate and effective remedies. In this regard, Recommendation No. 206 recommends that remedies could include:

- a. the right to resign with compensation;
- b. reinstatement;
- c. appropriate compensation for damages;
- d. orders requiring measures with immediate executory force to be taken to ensure that certain conduct is stopped or that policies or practices are changed; and
- e. legal fees and costs according to national law and practice (Para. 14).

By requiring appropriate and effective remedies, Convention No. 190 and Recommendation No. 206 call for effective enforcement of legal rights and redress, which, when appropriate and possible, could provide restitution and relief to the person whose rights have been infringed, and could have a dissuasive effect on potential perpetrators. These effective remedies depend on a variety of factors, including the severity of the conduct and the legal pathways chosen by the plaintiff in each legal system. The explicit reference to “reinstatement” as well as to “orders requiring ... that certain conduct is stopped or that policies or practices are changed” highlights that, in case of violence and harassment, monetary damages may be inadequate to fix the harm.<sup>37</sup>

Within the context of the effective remedies provided for by Convention No. 190 and Recommendation No. 206, the importance of **employment injury benefits** for victims of violence and harassment at work is also recognized. In particular, Recommendation No. 206 recommends that “victims of violence and harassment in the world of work should have access to compensation in cases of psychosocial, physical or any other injury or illness which results in incapacity to work” (Para. 15). Physical injury and some mental disorders are compensable injuries under employment injury insurance and workers’ compensation schemes if the event triggering the injury or illness arises out of and/or in the course of employment. Such schemes ensure access to necessary medical care as well as counselling, rehabilitation and reintegration for affected workers. These schemes also provide cash benefits to victims and their families (in case of death), which prevent them from falling into poverty and social exclusion due to loss of income, loss of earning capacity and income support, as the case may be (Chappell and Di Martino 2006; Lippel 2016; ILO 2018g).

#### ► Box 31. Remedies in case of violence and harassment at work: Recent examples



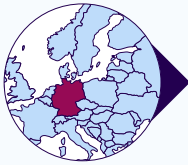
**Denmark:** Sexual harassment and violence at work are included in and compensated under **employment injury insurance** and are overseen by the Labour Inspectorate, part of the Danish Working Environment Authority (Eurofound 2015).



**Canada:** Violence and harassment at work are fully integrated in the workers’ compensation schemes of a number of provinces and territories (such as, Quebec, Saskatchewan and Ontario) and give rise to a range of **benefits provided in case of employment injury**.<sup>38</sup>

<sup>37</sup> The importance of adequate remedies has been stressed regularly by the CEACR, including the need to grant reinstatement where appropriate; see ILO 2012; 1996. For instance, the CEACR considers that in the “context of protection against victimization, where someone has been dismissed due to raising a complaint, reinstatement is normally the most appropriate remedy” (ILO 2017a, para. 328).

<sup>38</sup> For more information, see: [Association of Workers’ Compensation Boards of Canada, “Boards/Commissions”](#).



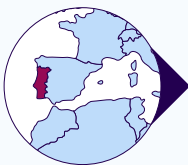
**Germany**, in 2017, adopted the Network Enforcement Act (NetzDG), which imposes a duty on host providers to **delete harassing messages** published by third parties on their platforms upon notification. Providers must comply within 24 hours after receiving a user complaint if the content is “clearly illegal”, otherwise, they have seven days to comply. Noncompliance results in fines. The requirement applies only to networks that have 2 million or more registered users in Germany.



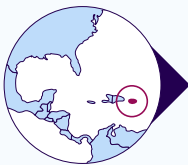
**Peru**, in 2019, enacted the Law to prevent, punish and eradicate violence against women in private and public spaces. Article 11 foresees that:

When the victim is an employee, the following rights should be guaranteed:

- a. protection against dismissal for causes related to such acts of violence;
- b. to change workplace without detriment to their conditions and terms of employment;
- c. five days of justified absence;
- d. suspension of the employment relationship, and the right to return to the same or similar position afterwards.



**Portugal:** The Labour Code, as amended in 2017, provides that the employer is responsible for the **compensation for damages arising from occupational diseases resulting from the practice of sexual harassment or mobbing** (art. 283(8)). Article 283(9) states, “The responsibility for the payment of compensation for damages arising from occupational disease provided for in the previous number is **social security**, under the terms legally established, which is subrogated to the rights of the worker, in proportion to the payments made, plus interest for late maturity.”



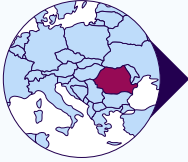
**Puerto Rico (United States):** Act No. 83-2019 provides for 15 days **leave in case of sexual harassment at work**.



**United States (New York State):** As of 11 October 2019, a worker prevailing on a harassment claim shall, by law, recover **reasonable attorney fees** from an employer and may recover **punitive damages** as well as **economic and compensatory (emotional injury) damages** (Zweig 2020).



**Republic of Korea:** The Industrial Accident Compensation Insurance Act, as amended in 2018, includes the following definition of “occupational illness”: “illness caused by **work-related mental distress** due to harassment in the workplace, such as verbal abuse by customers/clients, etc.” (Collins, Ornstein, and Tucker 2019).



**Romania:** Article 26 of Law No. 202 of 2002 on equal opportunities and equal treatment for women and men, as amended in 2015 and 2018, states:

Whenever it finds that there has been an act of moral harassment in the workplace, **the court may, under the law:**

- a. order the employer to take all necessary measures to stop any acts or acts of moral harassment in the workplace in respect of the employee concerned;
- b. order the reintegration into the workplace of the employee concerned;
- c. order the employer to pay compensation to the employee in the amount equal to the equivalent of the wage entitlements which he has been deprived of;
- d. order the employer to pay the employee compensatory and moral damages;
- e. order the employer to pay the employee the amount necessary for the psychological counselling that the employee needs, for a reasonable period determined by the occupational health practitioner;
- f. order the employer to change the employee's disciplinary records.



**Slovenia:** Article 8 of the 2013 Employment Relationships Act provides:

[I]n the event of a breach of the prohibition of discrimination or harassment in the workplace, **the employer is liable to the candidate or employee for damages under the general rules of civil law. Non-pecuniary damage caused to a candidate or employee also considers mental pain.** ... When assessing the amount of monetary compensation for non-pecuniary damage, it must be taken into account that it is effective and proportionate to the damage suffered by the candidate or employee and that it discourages the employer from repeated violations.

### 6.1.5. Sanctions

Article 10(d) of Convention No. 190 states that ratifying countries should “provide for sanctions, where appropriate, in cases of violence and harassment in the world of work”. Sanctions refer to consequences for ill-behaviour, and their nature depend on the circumstances, on the behaviour being punished, and on the specific jurisdiction in which the complaint or claim is lodged or the legal pathway chosen. Sanctions may therefore refer to both disciplinary measures, and other civil, administrative or criminal sanctions, where appropriate. Recommendation No. 206 further specifies, “Perpetrators of violence and harassment in the world of work should be held accountable and provided counselling or other measures, where appropriate, with a view to preventing the reoccurrence of violence and harassment, and facilitating their reintegration into work, where appropriate” (Para. 19).

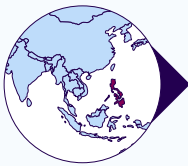


► Box 32. Sanctions in case of violence and harassment at work: Recent examples

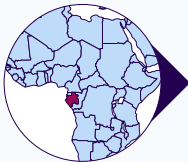


**Bahrain:** Article 192 of the Labour Law, as amended in 2018, states:

Any worker who commits sexual harassment against another worker, during work or because of it, by reference, speech, act or by any other means, shall be liable for a **prison sentence** for a period not exceeding one year or a fine of no more than one hundred Bahrain dinars. If the perpetrator is a supervisor or a representative of a supervisor, he or she shall be liable for a prison sentence for at least six months period or a fine of no less than five hundred Bahrain dinars and not exceeding one thousand Bahrain dinars or by either penalty, and not exceeding one thousand Bahrain dinars or by either penalty.



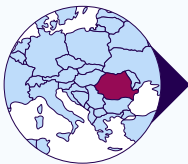
**Philippines:** Section 19 of the 2018 Safe Spaces Act foresees **fin**es in case of non-compliance with provisions related to employers' preventive duties or **in case of not taking action on reported acts of gender-based sexual harassment committed in the workplace.**



**Gabon:** The 2016 Law on the Fight against Harassment in the Workplace states that "without prejudice to the **criminal sanctions** provided for by the applicable legislation, any perpetrator of moral or sexual harassment in the location of work or during work, incurs major **disciplinary sanctions** pursuant to applicable laws" (art. 10).



**Iraq:** The 2015 Labour Law states, "Shall be punished by **imprisonment** for a period not exceeding six months and a fine not exceeding one million dinars or by any of the two sanctions, whoever violates the provisions of the articles contained in this chapter relating to child labour, discrimination, forced labour and sexual harassment, as the case may be" (art. 11-2).



**Romania:** Article 26 of Law No. 202 of 2002 on equal opportunities and equal treatment for women and men, as amended in 2015 and 2018, provides for a **fine** in case an employer does not comply with the measures ordered by the court in a judgment related to violence and harassment.

## ► 6.2. What do Convention No. 190 and Recommendation No. 206 provide in relation to monitoring mechanisms?

Under Convention No. 190, ratifying countries are required to establish or strengthen monitoring mechanisms to monitor and enforce compliance in relation to legislation regarding violence and harassment (Arts 4(2)(d) and 10(a)) and to ensure effective means of inspection and investigation, including through labour inspectorates and other competent bodies (Art. 4(2)(h)).

Labour inspection is a vital public function that lies at the core of promoting and enforcing decent working conditions and respect for fundamental principles and rights at work. Inspection is instrumental in the protection of labour rights and the promotion of safe and secure working environments for all workers (ILO 2020k). The ILO Labour Inspection Convention, 1947 (No. 81), and its 1995 Protocol define the functions and powers of labour inspectors, including supervision, injunction and sanctioning powers.<sup>39</sup> According to Article 3 of Convention No. 81, the functions of the system of labour inspection shall be:

- a. to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work ... ;
- b. to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions;
- c. to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.

In addition, Article 12 of Convention No. 81 states:

Labour inspectors provided with proper credentials shall be empowered:

- a. to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection;
- b. to enter by day any premises which they may have reasonable cause to believe to be liable to inspection; and
- c. to carry out any examination, test or enquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed.<sup>40</sup>

Article 13(1) further provides that “**labour inspectors shall be empowered** to take steps with a view to remedying defects observed in plant, layout or working methods which they may have reasonable cause to believe constitute a threat to the health or safety of the workers”. In addition:

In order to enable inspectors to take such steps they shall be empowered, subject to any right of appeal to a judicial or administrative authority which may be provided by law, to make or to have made orders requiring

- a. such alterations to the installation or plant, to be carried out within a specified time limit, as may be necessary to secure compliance with the legal provisions relating to the health or safety of the workers; or

<sup>39</sup> The Labour Inspection (Agriculture) Convention, 1969 (No. 129), similar in content to Convention No. 81, requires ratifying States to establish and maintain a system of labour inspection in agriculture.

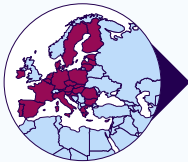
<sup>40</sup> In relation to examinations, Article 12(1)(c) of Convention No. 81 further specifies that labour inspectors shall be empowered: (i) to interrogate, alone or in the presence of witnesses, the employer or the staff of the undertaking on any matters concerning the application of the legal provisions; (ii) to require the production of any books, registers or other documents the keeping of which is prescribed by national laws or regulations relating to conditions of work, in order to see that they are in conformity with the legal provisions, and to copy such documents or make extracts from them; (iii) to enforce the posting of notices required by the legal provisions; (iv) to take or remove for purposes of analysis samples of materials and substances used or handled, subject to the employer or his representative being notified of any samples or substances taken or removed for such purpose.

- b. measures with immediate executory force in the event of imminent danger to the health or safety of the workers (Art. 13(2)).<sup>41</sup>

Along with labour inspectorates, other national bodies may be in charge of monitoring legislation related to violence and harassment in the world of work. For instance, many countries have an **independent national body** in charge of monitoring and implementing human rights and anti-discrimination legislation; others have bodies that focus on specific groups, such as women (ILO 2017a).

Convention No. 190 provides that ratifying States should “ensure that labour inspectorates and other relevant authorities, as appropriate, are empowered to deal with violence and harassment in the world of work, including by issuing orders requiring measures with immediate executory force, and orders to stop work in cases of an imminent danger to life, health or safety, subject to any right of appeal to a judicial or administrative authority which may be provided by law” (Art. 10(h)).<sup>42</sup> In this regard, Paragraph 21 of Recommendation No. 206 specifies that not only the mandate of national bodies responsible for labour inspection and OSH should cover violence and harassment in the world of work, but also bodies responsible for equality and non-discrimination, including gender equality. Recommendation No. 206 further recommends that labour inspectors and officials of other competent authorities should receive gender-responsive training with a view to identifying and addressing violence and harassment, including psychosocial hazards and risks, gender-based violence and harassment, and discrimination against particular groups of workers (Para. 20).

### ► Box 33. Strengthening monitoring mechanisms



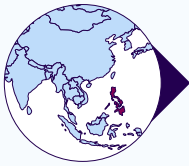
**Europe:** In 2018, the Senior Labour Inspectors' Committee published a non-binding ***Guide for Assessing the Quality of Risk Assessment and Risk Management Measures with Regard to Prevention of Psychosocial Risks*** (European Commission 2018). The purpose of the Guide is to help national labour inspectorates to develop inspection procedures and to increase the confidence of labour inspectors when addressing the quality of risk assessments and risk management measures with regard to psychosocial risks. Psychosocial risks specifically include workplace problems such as harassment and bullying, violence at work and work-related stress. The Guide provides concrete examples, as well as concrete guidance on how to carry out an inspection using a preventive approach to psychosocial risks, including violence and harassment.

<sup>41</sup> With respect to domestic work, labour inspectors are often not allowed in private households to inspect cases of abuse (ILO 2016e). Article 17 of Convention No. 189 does state, however, that Members “shall develop and implement measures for labour inspection, enforcement and penalties with due regard for the special characteristics of domestic work, in accordance with national laws and regulations” and that “such measures shall specify the conditions under which access to household premises may be granted”. Some countries grant permission to labour inspectors to enter private households with judicial authorization, while others have enhanced cooperation with the judiciary with regard to legal presumptions, indicators of abuse, authorization of inspection visits, and urgent judicial procedures for gaining access to the household. For instance, in Spain, Act No. 36/2011 of 10 October 2011 (the Labour Courts Regulatory Act) provides that the General Inspectorate of Labour and Social Security may request judicial authorization to inspect home premises, even where the owner objects or is likely to object, provided that the inspection is related to potential administrative proceedings before the social courts or is intended to enable any other inspection or monitoring related to fundamental rights or freedoms. In Finland, section 9 of the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (Act No. 44/2006) states that an inspection may be carried out within the sphere of domiciliary peace (privacy), under the adequate authorization procedures, if there is reasonable cause to suspect that the work performed on the premises or the working conditions pose a threat to an employee's life or health.

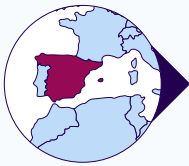
<sup>42</sup> The Labour Inspection Convention, 1947 (No. 81) and its 1995 Protocol define the powers of labour inspectors, including supervision and injunction. Enforcement and sanctions should be combined with the provision of information and technical advice, to support employers in the prevention of occupational accidents and diseases.



**Finland:** The Act on Equality between Women and Men, 1987 (as amended in 2014), provides that the Equality Ombudsman and the **Equality and Gender Equality Board shall monitor compliance** in private activities and in public administration and business (sect. 16). Section 17 further specifies that the Equality Ombudsman has the right to obtain, free of charge, the information necessary for the authorities to monitor compliance, as well as the right, within a reasonable time limit set by him, to obtain from everyone the information or documents necessary for monitoring compliance.



**Philippines:** The 2018 Safe Spaces Act mandates **different entities and bodies to monitor** its provisions, including the Department of Labour and Employment for the private sector and the Civil Service Commission for the public sector, which shall conduct yearly spontaneous inspections to ensure compliance of employers and employees with their obligations under the Act. In addition, the Act also places responsibility on the Department of Education, the Commission on Higher Education, and the Technical Education and Skills Development Authority for conducting regular spontaneous inspections to ensure compliance of school heads with their obligations under this Act.



**Spain:** In 2009, **technical criteria for the intervention of labour inspectors in cases of violence and harassment at work** were adopted. Both internal and third-party violence – of both a physical and psychological nature (including sexual, moral and discriminatory harassment) – are covered. The document contains the procedure to be followed by labour inspectors in those cases, as well as the injunctions measures, including the power to order the suspension of work in case of imminent threat to workers’ health, and sanctions provided by the OSH, labour and criminal regulations. As an annex, it includes an explanatory guide for the detection and appraisal of violence and harassment-relevant behaviours.<sup>43</sup> In 2021, **technical criteria for the intervention of labour inspectors in relation to psychosocial risks, which explicitly include harassment and other inappropriate conduct**, were also approved.



**Uruguay:** Article 5 of the Sexual Harassment Law 2009, as amended in 2017, states that “the State will be responsible for designing and implementing awareness, education and supervision policies for the prevention of sexual harassment in the workplace and teaching environment, both in the public as in private fields”, and foresees the General Labour and Social Security Inspectorate as the body competent to monitor compliance in the public and private sphere. In addition, article 8 provides that **“the Inspectorate will have broad powers to investigate the reported facts ... to interrogate the complainant, the accused and witnesses and to collect all relevant evidence”, and to issue notifications and sanctions.** Article 10 further provides that “when trade unions receive complaints regarding sexual harassment, they are entitled to request to the Inspectorate General of Labour and Social Security the initiation of inspection in the workplace”.

<sup>43</sup> For an overview of other EU countries, see European Commission 2016.

### 6.2.1. Improving data collection

The development of effective regulations and policies to support a world of work free from violence and harassment requires the collection of timely, comprehensive and reliable data. However, data on violence and harassment are often limited as a result of cultural taboos, shame or fear of speaking up, as well as lack of clarity on what constitutes unacceptable behaviour. Recommendation No. 206 calls Member States to “make efforts to collect and publish statistics on violence and harassment in the world of work disaggregated by sex, form of violence and harassment, and sector of economic activity, including with respect to the groups referred to in Article 6 of the Convention” (Para. 22).

Overall, statistics on work-related violence and harassment are collected through three main categories of sources:

- ▶ **Administrative sources** include OSH registries of accidents/illness related to work, police records, compensation records of insurance companies, court records and hospital records. These sources have a limited scope, as they usually capture only cases of physical violence, and are subject to a high-degree of under-reporting when the violent incidents do not lead to severe injuries or fatal outcomes.
- ▶ **Establishment surveys** are generally not seen as an adequate data source, as they collect information from employers instead of workers themselves, and employers do not usually have appropriate procedures in place to record cases of violence and harassment.
- ▶ **Household surveys or individual surveys** allow for information to be collected directly from the population exposed to or the victims of the violent incidents, and can cover all forms of violence. Therefore, they present some advantages over the two other sources despite the challenges involved in their implementation.

The ILO is working towards the development of international statistical standards on measurement of work-related violence and harassment. The future statistical guidelines will be an essential tool for countries seeking to improve their data collection and will enable them to produce reliable, comparable and policy-relevant statistics.



7

**The promotion of policies  
and tools to accelerate  
social change**

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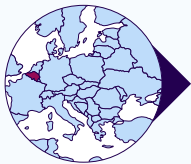


Convention No. 190 sets out measures to enable and accelerate a more in-depth socio-cultural change and a shift towards a paradigm of respect, safety and security for all at work. Articles 4(2) and 11 call on ratifying countries, in consultation with representative employers' and workers' organizations, to address violence and harassment in relevant policies; to develop tools, guidance, education and training; and to raising awareness, in accessible formats as appropriate.

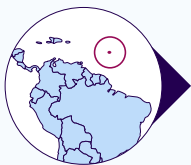
## ► 7.1. Taking violence and harassment into account in relevant policies

Article 11(a) of Convention No. 190 calls for “violence and harassment in the world of work [to be] addressed in relevant national policies, such as those concerning occupational safety and health, equality and non-discrimination, and migration”. In light of the complexities of this multifaceted issue and the wide range of individuals who need protection, violence and harassment should be mainstreamed into all relevant policies related to the world of work. By doing so, ratifying countries would be able to ensure a holistic approach, and benefit from specific entry points and measures brought about by different policy interventions.

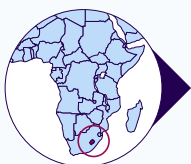
### ► Box 34. Violence and harassment in relevant policies: Selected examples



**Belgium:** The **Third National Action Plan to combat all forms of gender-based violence** (2015–2019) put forward measures to raise awareness about **human trafficking and other forms of violence and harassment**, including among refugees and migrants and in sectors where exploitation for economic purposes may be taking place. In particular, attention is paid to the hospitality, construction, agriculture, manufacturing and fisheries industries. Priority is given to projects developed jointly with trade unions in order to find more effective and robust ways to prevent trafficking. Some measures are intended to improve access of victims to certain rights, such as recovery of unpaid salaries.<sup>44</sup>

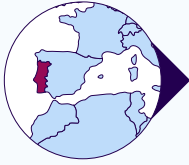


**Grenada:** The **National OSH Policy** foresees the **role of the Ministry of Health in supporting the Ministry of Labour in health promotion at the workplace**, including in the area of “the cessation of smoking, excessive alcohol consumption, drug abuse, promiscuity, **stress, anger, violence and avoidance of other behaviours which are detrimental to life**” (Grenada 2019, 16).



**Lesotho:** The 2020 **National Occupational Safety and Health Policy** explicitly specifies “**violence and harassment**” as **one OSH issue** that every head of department or institution in the public service and every member of the public service shall be required to pay special attention to and monitor (Lesotho 2020).

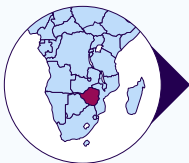
<sup>44</sup> The National Action Plan also contains several other operational initiatives including optimizing and effectively applying legal instruments; training for relevant professionals; improving victim protection and specialized services; maintaining international attention on the issue and coordinating actions; and sensitizing frontline staff, civil society actors and the general public to trafficking (Belgium 2015).



**Portugal:** The **National Strategy for Equality and Non-Discrimination for 2018–30** (“Portugal + Igual” – ENIND), approved by Resolution No. 61/2018 of the Council of Ministers, sets as a specific objective to prevent and address violence against women and domestic violence, including by promoting a culture of non-violence and tolerance.



**South Africa:** The South African Government explicitly acknowledged online gender-based violence in the **National Strategic Plan on Gender-Based Violence and Femicide 2020–2030**. Online violence against women is defined as: “any act of gender-based violence against a woman that is committed, assisted or aggravated in part or fully by the use of Information and Communications Technology (ICT), such as mobile phones and smartphones, the internet, social media platforms or email, against a woman because she is a woman, or affects women disproportionately”. Within the next five years, the Government plans to conduct studies on the impact of online violence against women and roll out cyber violence awareness programmes and strategies to respond to online gender-based violence (South Africa 2020).

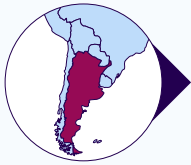


**Zimbabwe:** The **2020 National Labour Migration Policy** takes into account violence and harassment, and in particular gender-based violence and harassment. The National Policy particularly aims to ensure that labour migrants’ rights during both inward and outward migration – and especially the rights of women labour migrants, who are more vulnerable to gender-based violence, sexual abuse and human trafficking – are upheld in line with the ILO Decent Work Agenda during all the three stages of the migration process (Zimbabwe 2020).

## ► 7.2. Promoting guidance, training and awareness raising

To accelerate a socio-cultural change and to equip relevant authorities, as well as employers and workers and their respective organizations, with the information and tools necessary to prevent and eliminate violence and harassment within their respective areas of influence, Convention No. 190 calls on ratifying countries to provide guidance, training and resources, in accessible formats as appropriate (Art. 11(b)). Paragraph 23 of Recommendation No. 206 stresses the role that key actors could play in this regard, such as those in the education, justice and media sectors. In addition, Article 11(c) of the Convention also requires States to undertake initiatives such as awareness-raising campaigns. Awareness raising is an important component of a broader strategy to prevent and eliminate violence and harassment, but Convention No. 190 and Recommendation No. 206 remind us that it is not effective as a standalone strategy. Its full potential can only be achieved within the broader context of an inclusive, integrated and gender-responsive approach.

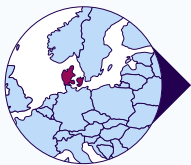
► Box 35. Examples of recent awareness-raising and other initiatives



**Argentina:** The Office of Advice on Workplace Violence of the National Ministry of Labour, Employment and Social Security established an **Observatory on Workplace Violence**, which provides data on people who consult on and report cases of workplace violence in the metropolitan area of Buenos Aires. The Observatory generates information on consultations and complaints, develops guidance on prevention of violence and harassment in the world of work, as well as other tools and awareness-raising materials (Argentina, Chamber of Deputies of Entre Rios Province 2020).



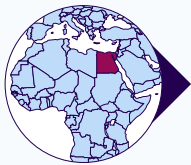
**Brazil:** In 2017 the Federal Labour Prosecution Office in Brazil, in partnership with the ILO, developed **guidance on preventing and tackling sexual harassment at work** (Brazil, Public Ministry of Labour and ILO 2017).



**Denmark:** The social partners and the Danish Working Environment Authority have recently launched a **campaign to prevent sexual harassment and unacceptable and offensive conduct at the workplace**. Following the 2018 amendment of the Act on Equal Treatment of Men and Women, social partners and the Working Environment Authority have joined forces for the campaign “Where’s the limit?”, further bringing into focus the prevention of sexual harassment. The goal of the campaign is to prevent unacceptable and offensive conduct in the workplace and, by doing so, it aims at creating a working environment and workplaces free from sexual harassment.<sup>45</sup>



**Ecuador:** The Council of the Judiciary has developed **policies** to prevent violence, mistreatment and/or sexual exploitation, and to ensure **access to justice and protection for women victims of violence, irrespective of their migration status** (Ecuador 2016).



**Egypt:** The National Council for Women, in partnership with the Ministry of Manpower, the Federation of Egyptian Industries and others, launched an **awareness-raising video on the role of business owners and companies in providing safe workplaces for women** (UN Women Arabic 2020).



**Nepal:** With the support of the ILO, the Government carried out a review of national laws and policies in addressing gender-based violence, which was validated by employers’ and workers’ organizations and led to an approved blueprint for future actions. As a follow-up, and with the support of the ILO, a **Convention No. 190 Action Group has been established**, whose members have been nominated by the Government and workers’ and employers’ organizations. The Action Group coordinates **capacity-building activities for employers’ and workers’ organizations** (ILO 2021a).

<sup>45</sup> As part of the campaign, a website has been set up to provide material regarding the subject. The material includes, for example, a campaign video and a leaflet with ten recommendations on how to prevent and handle sexual harassment. A tool for dialogue has also been developed, comprising a range of dialogue cards intended to facilitate discussions about and prevention of sexual harassment in the workplace (Norrbon Vinding 2019).



**Paraguay:** The Ministry of Women has developed a programme called “*Empresa Segura*” (Safe Enterprise) that aims to raise awareness and provide guidance on managing situations related to, among others, gender violence and a fair and safe work environment. The activities carried out to date include **training on “conflict management and referral of cases”**, which targets general managers and unit chiefs. The training is coordinated by specialized psychologists, and uses techniques to prevent and identify violence against women (Paraguay, n.d.).



**Peru:** The Ministry of Labour and Promotion of Employment has created **training and awareness-raising materials for employers and workers on harassment at work** (Peru 2019).



**South Africa:** In 2020, the Minerals Council South Africa launched a **campaign to address sexual and gender-based violence and harassment in South Africa’s mines and in mining and labour-sending communities**. The campaign encourages all member companies, others in the industry and residents of mining communities and labour-sending areas to take action against gender-based violence and abuse in their workplaces and communities, and where they observe any such incidents, not to stand aside but rather to report those incidents and take any other appropriate action (Minerals Council South Africa 2020).



8

## A call for ratification of Convention No. 190

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Pursuant to Article 19(5)–(7) of the ILO Constitution, ILO Member States have the obligation to submit any Convention and Recommendation adopted by the International Labour Conference to their competent national authority, with a view to the enactment of relevant measures, including the ratification of Conventions (ILO 2019a). According to the ILO Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), Member States shall undertake tripartite consultations on the proposals to be made to the competent authority in connection with the submission of Conventions and Recommendations (Art. 5(1)).

## ► 8.1. Why ratification is important?

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Ratification is a formal procedure whereby a State accepts the Convention as a legally binding instrument. Ratifying an international convention like Convention No. 190 sends an important signal to individuals and to the international community about the State’s commitment to take all measures necessary to prevent and address violence and harassment in the world of work. Moreover, Convention No. 190, as with all international labour standards, can play an important role in the design of laws and regulations, as these instruments provide authoritative guidance on law and policy. Where Conventions have been ratified, they entail international law obligations for the countries concerned (ILO 2019a).

## ► 8.2. How to proceed towards ratification of Convention No. 190?

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Each country has its own internal process for ratifying international Conventions, which often involves a decision or approval by the national legislature. Countries that have ratified the ILO Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), have an obligation “to operate procedures which ensure effective consultations, with respect to the matters concerning the activities of the International Labour Organisation ... between representatives of the government, of employers and of workers” (Art. 2) (ILO 2019a, 50). Once the internal ratification process is completed, the Government submits an instrument of ratification to the Director-General of the ILO for registration. The Convention enters into force – that is, becomes legally binding – for the country 12 months following registration of its instrument of ratification by the Director-General.<sup>46</sup>

The procedures of submission to the competent national authorities and of ratification are a unique opportunity to spark social dialogue on the content of the Convention and the measures needed to implement it. Ensuring social dialogue is of paramount importance. All actors of the world of work need to be involved, and listened to. Social dialogue leads to better outcomes since it provides more practical information, and offers a range of approaches and solutions by those directly concerned. Engaging in tripartite consultation also helps bring the Convention to the knowledge of a broader public and build a sense of ownership, which is likely to result in ensuring effective implementation. Participation of representative workers’ and employers’ organizations in social dialogue should be on an “equal footing”, according to ILO Convention No. 144, and representation should be gender-responsive and inclusive.

In moving forward towards ratification, a country may opt for an assessment of their current legislative framework with a view to taking stock of existing laws, regulations and practices dealing with violence and harassment and to identifying relevant gaps. Taking into account the actual provisions in laws and regulations, and the areas identified where better protection is needed, one or more regulatory initiatives based on defined policy objectives can be prepared.

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<sup>46</sup> An adopted Convention normally comes into force 12 months after being ratified by two Member States. Following ratification by Uruguay and Fiji, Convention No. 190 came into force on 25 June 2021.



## ► 8.3. How is the implementation of Convention No. 190 supervised?






The implementation of international labour standards is supervised by ILO supervisory bodies, whose nature is unique at the international level. The ILO supervisory system, comprising the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and the ILO Conference Committee on the Application of Standards (CAS), regularly examines the application of standards in Member States and point out areas where they could be better applied (ILO 2019a).<sup>47</sup>

Once a country has ratified Convention No. 190, it is required, according to Article 22 of the ILO Constitution, to report regularly on the measures it has taken for its implementation. When submitting its first report, the Member is asked to complete a detailed report form correspondingly adopted by the Governing Body (ILO 2021b). Every six years, governments have to provide reports detailing the steps they have taken in law and practice to apply the Convention, and provide replies to comments issued by the CEACR. Governments are required to submit copies of their reports to employers' and workers' organizations. These organizations may comment on the government reports, or send comments directly to the ILO on the application of Conventions, following Article 23 of the ILO Constitution (ILO 2019a).

### Figure 6. How can ratification be promoted?




If a country has not ratified Convention No. 190 yet...

#### ► What can employers' and workers' organizations do?






-  Put a written request to the Government to find out whether Convention No. 190 has been submitted to the competent authorities for possible ratification and whether the ratification is under consideration;
-  Require a tripartite consultation at the national or sectoral level;
-  Develop, join and/or support international and national campaigns, and mobilize members in support of Convention No. 190;
-  Contact the most representative organizations in the country and coordinate with them;
-  Raise awareness of Convention No. 190 and conduct assessments among members to understand the situation and challenges in relation to its effective implementation.

<sup>47</sup> In addition, a number of complaints-based procedures exist; see ILO 2019a.






### ► What can Parliamentarians do?

-  Put an oral or written question to the Government during Question Time to find out whether ratification is under consideration, and if not, to determine why Convention No. 190 has not yet been ratified;
-  Encourage a parliamentary debate on the question;
-  Work with the Ministry of Labour or any other relevant and competent ministries, social partners, media and civil society to mobilize public opinion in support of Convention No. 190.

### ► What can civil society organizations do?

-  Lobby government representatives and/or employers' or workers' organizations for the ratification of Convention No. 190;
-  Keep institutions accountable for national and global commitments made by governments concerning the ratification and implementation of Convention No. 190;
-  Develop, join and/or support international and national campaigns in support of the ratification and implementation of Convention No. 190;
-  Mobilize members and other civil society organizations to create a movement in support of Convention No. 190;
-  Make your voice heard offline and online, including by using the hashtag #RatifyC190.

### ► What can individuals do?

-  Get in contact with social partners and ask about any ratification prospects;
-  Join international and national campaigns, and mobilize friends, your community and civil society in support of Convention No. 190;
-  Create a movement in support of Convention No. 190;
-  Be active and make your voice heard offline and online, including by using the hashtag #RatifyC190;
-  Become an agent of change wherever your work.



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## ► Appendix I. List of laws, regulations and agreements from the case studies

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### **Albania**

2015 – Ligji n° 136/2015 date 5.12.2015 per disa shtesa dhe ndryshime ne ligjin n° 7961 per Kodin e punes

### **Andorra**

2018 – Llei 31/2018, del 6 de desembre, de relacions laborals

### **Australia**

2018 – Fair Work Commission – Decision: 4 Yearly Review of Modern Awards – Family and domestic Violence Leave, FWCFB 3936

2021 – Preventing Workplace Sexual Harassment: National Guidance Material

2021 – Preventing Workplace Violence and Aggression: National Guidance Material

### **Bahrain**

2018 – Decree No. 59 of 2018 amending the 2012 Labour Law [Arabic only]

### **Bangladesh**

2018 – The Bangladesh Accord on Fire and Building Safety

### **Belgium**

2014 – Arrêté royal relatif à la prévention des risques psychosociaux au travail

2015 – National Action Plan to Combat All Forms of Gender-Based Violence, 2015–2019

### **Brazil**

2017 – Portaria No 583, de 22 de Maio de 2017

2020 – Ministry of Labour, Public Labour Prosecution Office, Committee for the Promotion of Equal Opportunities and the Elimination of Discrimination at Work – Technical Note 02/2020 on Defence of LGBTQIA+ Rights

### **Burkina Faso**

2015 – Loi N° 061-2015/CNT, Portant Prevention, Repression et Reparation des Violences a l'égard des Femmes et des Filles et Prise en Charge des Victimes

### **Canada**

2019 – Accessible Canada Act (S.C. 2019. c. 10)

2019 – Canadian Human Rights Act (R.S.C., 1985, c. H-6)

2020 – Standards for Work-Integrated Learning Activities Regulations (SOR/2020-145)

2020 – Yukon Territory – Occupational Safety and Health Regulations (Order-in-Council 2020/121)

2021 – Canada Labour Code (R.S.C., 1985, c. L-2)

2021 – Work Place Harassment and Violence Prevention Regulations (SOR/2020-130)

### **Chad**

2017 – Code Pénal (Loi n°2017-01 du 8 mai 2017)

### **China**

2020 – Civil Code of the People's Republic of China

**Costa Rica**

2016 – Reforma Procesal Laboral, Decreto Legislativo N° 9343

2020 – Ley Contra Acoso Sexual Callejero N° 9877

**Côte d’Ivoire**

2017 – Le code du travail ivoirien

**Denmark**

2020 – Danish Working Environment Authority’s Executive Order No. 1406 on psychosocial working environment

**Djibouti**

2018 – Loi n° 221/AN/17/8ème L du 25 juin 2018 modifiant et complétant la loi n°133/AN/05/5ème L du 28 janvier 2006 portant Code du travail

**Ecuador**

2014 – Código Orgánico Integral Penal

2016 – Una vida libre de violencia: Manual sobre qué hacer y cómo actuar frente a situaciones de violencia de género

2017 – Ley Orgánica Reformatoria a la Ley Orgánica del Servicio Público y al Código del Trabajo para prevenir el acoso laboral

**Ethiopia**

2020 – Hate Speech and Disinformation Prevention and Suppression Proclamation (Proclamation No. 1185/2020)

**European Union**

2018 – TUNED and EUPAE – “TUNED and EUPAE Joining the Multi-Sectoral Guidance to Tackle Third-Party Violence and Harassment Related to Work”

2019 – Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services

2020 – Union of Equality Strategy for the Rights of Persons with Disabilities 2021–2030

**France**

2016 – Loi n° 2016-1088 du 8 août 2016 relative au travail, à la modernisation du dialogue social et à la sécurisation des parcours professionnels

2016 – Article L1321-2, Code du travail

2018 – Loi n° 2018-703 du 3 août 2018 renforçant la lutte contre les violences sexuelles et sexistes

2019 – Ministry of Labour – Harcèlement sexuel et agissements sexistes au travail: prévenir, agir, sanctionner

2020 – Article L1132-1, Code du travail

**Gabon**

2016 – Loi n° 10-216 du 5 septembre 2016 portant sur la lutte contre le harcèlement professionnel

2019 – Code pénal (Loi n°042/2018 du 05 juillet 2019)

**Georgia**

2016 – Law on Gender Equality 2010, as amended in 2016

**Germany**

2017 – Network Enforcement Act (NetzDG)

**Grenada**

2019 – Grenada National Occupational Safety and Health (OSH) Policy



**Guinea**

2016 – Code Pénal (Loi N° 2016/059/AN)

**Hong Kong, China**

2018 – The Racial Diversity and Inclusion Charter for Employers

2020 – Cap. 487 Disability Discrimination Ordinance

2020 – Cap. 602 Race Discrimination Ordinance

**India**

2013 – The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (Act No. 14 of 2013)

2016 – Rights of Persons with Disabilities Act (Act No. 49 of 2016)

2017 – The Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 (Act No. 16 of 2017)

**Iraq**

2015 – Labour Law

**Ireland**

2012 – Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2012 (S.I. No. 208/2012)

2020 – Industrial Relations Act 1990 (Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work) Order 2020 (S.I. No. 674/2020)

2020 – Harassment, Harmful Communications and Related Offences Act 2020 (No. 32 of 2020)

**Italy**

2015 – FederLegno Arreda, FeNEAL, FILCA, and FILLEA – Codici di Comportamento da adottare nella lotta contro le molestie sessuali e Il mobbing

2018 – Codice delle pari opportunità tra uomo e donna a norma dell'articolo 6 della legge 28 novembre 2005, n. 246

2018 – Bologna Municipality – Carta dei diritti fondamentali del lavoro digitale nel contesto urbano

2020 – Fidaldo, Domina, FILCAMS-CGIL, FISASCAT-CISL, UILTuCS, and Federcolf – Contratto collettivo nazionale di lavoro sulla disciplina del rapporto di lavoro domestico

2020 – Confitarma, Assarmatori, Assorimorchiatori, Federimorchiatori, Filt-Cgil, Fit-Cisl, and Uiltrasporti – Trasporti – Settore privato dell'industria armatoriale: Accordo rinnovo CCNL, 16 dicembre 2020

**Jordan**

2019 – General Trade Union of Workers in Textile, Garment and Clothing – Collective Bargaining Agreement 2019

**Kenya**

2012 – Employment Act, revised

2015 – Protection Against Domestic Violence Act 2015

**Latvia**

2020 – Law on Support for Unemployed Persons and Persons Seeking Employment

**Lebanon**

2020 – Law to Criminalize Sexual Harassment and [for] Rehabilitation of Its Victims [Arabic only]

**Lesotho**

2020 – National Occupational Safety and Health Policy of the Kingdom of Lesotho

**Liberia**

2015 – Decent Work Act, 2015

**Luxembourg**

2018 – Code du travail

**Mexico**

2018 – Norma Oficial Mexicana NOM-035-STPS-2018, Factores de riesgo psicosocial en el trabajo- Identificación, análisis y prevención

2019 – Ley Federal del Trabajo

2020 – Secretariat of Labor and Social Welfare – Modelo de Protocolo para prevenir, atender y erradicar la violencia laboral en los centros de trabajo

**Moldova**

2015 – Miniserul Educației Ordin Nr. 861 din 07.09.2015 pentru aprobarea Codului de etică al cadrului didactic

**New Zealand**

2018 – Domestic Violence—Victims’ Protection Act (2018 No 21)

**Nicaragua**

2014 – Ley Integral contra la Violencia Hacia las Mujeres y de Reformas a la Ley No. 641, “Código Penal” (Ley N° 779)

**Niger**

2017 – Décret n°2017-682/PRN/MET/PS du 10 août 2017 portant partie réglementaire du Code du Travail

**North Macedonia**

2012 – Law on Equal Opportunities for Women and Men

**Pakistan**

2020 – Khyber Pakhtunkhwa Province – Healthcare Service Providers and Facilities (Prevention of Violence and Damage to Property) Act (Act No. XLV of 2020)

2020 – Sindh Province – The Sindh Women Agricultural Workers’ Act (Act No. V of 2020)

**Panama**

2018 – Law No. 7 of 14 February 2018

**Paraguay**

Ministry of Women – “Sello Empresa Segura”

**Peru**

2019 – Decreto supremo que aprueba el Reglamento de la Ley N° 27942, Ley de Prevención y Sanción del Hostigamiento Sexual (N° 014-2019-MIMP)

2019 – Decreto Supremo que crea el Servicio de Orientación y Acompañamiento para los casos de hostigamiento sexual en el trabajo – “Trabaja Sin Acoso” (N° 014-2019-TR)

2019 – Ley para prevenir, sancionar y erradicar la violencia contra las mujeres y los integrantes del grupo familiar (Ley N° 3036)

2019 – Trabajo sin acoso: Guía práctica para la prevención y sanción del hostigamiento sexual en el lugar de trabajo en el sector privado y público

**Philippines**

2018 – Safe Spaces Act (Republic Act 11313)

**Portugal**

2017 – Lei 73/2017

2018 – Resolução do Conselho de Ministros N° 61/2018

2019 – Lei 93/2019

**Puerto Rico (United States)**

2019 – Ley de Licencia Especial para Empleados con Situaciones de Violencia Doméstica o de Género, Maltrato de Menores, Hostigamiento Sexual en el Empleo, Agresión Sexual, Actos Lascivos o de Acecho en su Modalidad Grave (Ley Núm. 83-2019)

2020 – Ley Para Prohibir y Prevenir el Acoso Laboral en Puerto Rico (Ley Núm. 90-2020)

**Republic of Korea**

2018 – Act on the Employment Promotion and Vocational Rehabilitation of Persons with Disabilities (Act No. 16652)

2019 – Labor Standards Act (Act No. 5309)

**Romania**

2018 – Lege nr. 202 din 19 aprilie 2002 privind egalitatea de șanse și de tratament între femei și bărbați

2020 – Codul muncii actualizat 2020 (Legea 53 din 2003)

**Russian Federation**

2019 – RUDN University – Изменения и дополнения в Коллективный договор федерального государственного автономного образовательного учреждения высшего образования «Российский университет дружбы народов» (РУ ДН) на 2019–2022 годы

**Samoa**

2013 – Labour and Employment Relations Act, 2013 (No. 7 of 2013)

**Saudi Arabia**

2018 – Royal Decree No. M/96, Dated 16 Ramadan 1439 A.H. approving the Anti-Harassment Law

**Senegal**

2019 – Convention Collective Nationale Interprofessionnelle

**Singapore**

2014 – Protection from Harassment Act, 2014 as amended in 2019

2015 – Ministry of Manpower – Tripartite Advisory on Managing Workplace Harassment

**Slovenia**

2013 – Zakon o delovnih razmerjih (ZDR-1)

**South Africa**

2020 – National Strategic Plan on Gender-Based Violence & Femicide: Human Dignity and Healing, Safety, Freedom & Equality in Our Lifetime

**South Sudan**

2017 – Labour Act 2017 (Act No. 64)

**Spain**

2009 – Criterio Técnico 69/2009 sobre las Actuaciones de la Inspección de Trabajo y Seguridad Social en Materia de Acose y Violencia en el Trabajo

2017 – Ley 20/2007, de 11 de julio, del Estatuto del trabajo autónomo

2020 – Resolución de 4 de junio de 2020, de la Dirección General de Trabajo, por la que se registra y publica el V Convenio colectivo marco del Grupo Endesa

2021 – Criterio Técnico 104/2021, sobre Actuaciones de la Inspección de Trabajo y Seguridad Social en Riesgos Psicosociales

#### **Turkey**

2012 – Act No. 6356 of 7 November 2012 on Trade Unions and Collective Labour Agreements

#### **Ukraine**

2018 – Закон України про внесення змін до деяких законодавчих актів України щодо протидії булінгу (цькуванню) (ВВР, 2019, № 5, ст.33)

2020 – Наказ Міністерства соціальної політики України про затвердження Методичних рекомендацій щодо внесення до колективних договорів та угод положень, спрямованих на забезпечення рівних прав і можливостей жінок та чоловіків у трудових відносинах (№ 56)

#### **United Arab Emirates**

2019 – Federal Law No. 8 on Regulation of Labour Relations

#### **United Kingdom**

2020 – Sexual Harassment and Harassment at Work: Technical Guidance

2021 – The Employment Rights Act 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order 2021

#### **United States**

2016 – California – SB-1299 Workplace violence prevention plans: hospitals

2018 – California – SB-946 Sidewalk vendors

2018 – New York City – Stop Sexual Harassment Act, Local Law No. 96

2018 – New York City – “Sexual Harassment Prevention Training”

2019 – California – SB-778 Employers: sexual harassment training: requirements

2021 – New York State – Labor Law - LAB §593

#### **Uruguay**

2017 – Ley de Acoso Sexual. Prevencion y Sancion en el Ambito Laboral y en las Relaciones Docente Alumno (Ley N° 18561)

#### **Viet Nam**

2019 – Bộ luật Lao động 2019 (Bộ luật số 45/2019/QH14)

#### **Zimbabwe**

2020 – National Labour Migration Policy for Zimbabwe

#### **Bilateral and multilateral agreements**

Jordan and Nepal – 2017 – General Agreement in the field of Manpower between the Government of the Hashemite Kingdom of Jordan and the Government of Nepal

Canada, Mexico and United States –2018 – Agreement between the United States of America, the United Mexican States, and Canada North American Free Trade Agreement



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International Labour Organization  
Route des Morillons 4  
1211 Geneva 22  
Switzerland



## **Violence and harassment in the world of work:**

**A guide on Convention No. 190  
and Recommendation No. 206**

**Gender, Equality, Diversity and Inclusion Branch (GEDI) Conditions of Work and Equality Department**  
International Labour Office (ILO) 4, Route des Morillons CH-1211 Geneva 22, Switzerland. Tel: +41 (0) 22 799 6111

[www.ilo.org/ged](http://www.ilo.org/ged)