

Recommendations to ILO

1. Adopt an expansive definition of “worker” and “workplace” to ensure that all workers, workplaces, and forms of work are included in standards addressing workplace violence and harassment.

1.1. As presented in the Proposed Conclusions of Report V(2) on ending violence and harassment in the world of work, the term “worker” should cover persons in the formal and informal economy, including “(i) persons in any employment or occupation, irrespective of their contractual status; (ii) persons in training, including interns and apprentices; (iii) laid-off and suspended workers; (iv) volunteers; and (v) jobseekers and job applicants.”

1.2. The proposed definition of worker should explicitly include all migrant workers, regardless of their legal status in the place of employment.

1.3. As presented in the Proposed Conclusions of Report V(2), standards on violence and harassment in the world of work should cover situations, including “(a) in the workplace, including public and private spaces where they are a place of work; (b) in places where the worker is paid or takes a rest break or a meal; (c) when commuting to and from work; (d) during work-related trips or travel, training, events or social activities; and (e) through work-related communications enabled by information and communication technologies.”

1.4. The proposed situations should be expanded to include the following situations:

1.4.1. employer-provided housing;

1.4.2. recruitment sites, including day-labor recruitment sites;

1.4.3. home-based work; and

1.4.4. export processing zones linked to global supply chains, including those characterized by exemptions from labour laws, taxes, and restrictions on union activities and collective bargaining.

1.5. As presented in the Proposed Conclusions of Report V(2), “victims and perpetrators of violence and harassment in the world of work can be employers, workers and third parties, including

clients, customers, service providers, users, patients, and the public.”

1.6. The proposed definition of “victims and perpetrators” should be expanded to include the following roles:

1.6.1. Multi-national corporations and brands, suppliers, and labor contractors in production, agricultural, food processing, and other relevant contexts.

1.6.2. Private employment agencies as defined under Article 1 of the ILO Private Employment Agencies Convention, 1997 (No. 181), including any enterprise or person, independent of the public authorities, which provides one or more of the following labour market services: (a) services for matching offers of and applications for employment; (b) services for employing workers with a view to making them available to a third party (“user enterprise”); (c) other services relating to job seeking, such as the provision of information, that do not aim to match specific employment offers and applications.

2. Address risk factors for violence, including risk factors associated with the nature and setting of work and the structure of the labour market.

2.1. Address risk factors for violence rooted in the structure of the labour market. Consistent with the Report of the Committee of Experts convened by the ILO in October 2016, recognize gender based violence as a social rather than an individual problem, requiring comprehensive responses that extend beyond specific events, individual perpetrators, and victims/survivors (No. 35, para. 9).

2.2. Identify (1) garment and other global production networks and (2) migration corridors as sectors and sites in which workers, including women and migrant workers, are more exposed to violence and harassment. Take corresponding measures to ensure these workers are effectively protected.

2.3. Acknowledge particular risk factors for violence in global production networks and take the followings measures to control these risks:

2.3.1. Address cultures of impunity for violence in the workplace by prohibiting workplace retaliation and safeguarding fundamental rights to freedom of association and collective bargaining.

2.3.2. Extend labour protections to workers employed in situations that are not protected by labour law and other social protection frameworks.

2.3.3. Prohibit unrealistic production demands and piece-rate targets that accelerate production rates, extend working hours, create high-stress working environments, and foster abuse.

2.3.4. Address concentration of women and migrant workers in low-wage, contingent work, especially in the lower tiers of the supply chain.

2.3.5. Increase numbers of women in supervisory and managerial positions

2.3.6. Call for and implement living wage standards.

2.3.7. Protect the rights of home-based workers.

2.3.8. Require multi-national corporations, employers, contractors, and states to maintain effective remedies and safe, fair and effective dispute resolution mechanisms in cases of violence and harassment, including:

2.3.8.1. complaint and investigation mechanisms at the workplace level;

2.3.8.2. dispute resolution mechanisms external to the workplace;

2.3.8.3. access to courts or tribunals;

2.3.8.4. protection against victimization of complainants, witnesses and whistle-blowers; and

2.3.8.5. legal, social, and administrative support measures for complainants.

2.3.9. Provide workers with information and training on the identified hazards and risks of violence and harassment and the associated prevention and protection measures.

2.4. Recognize and address discrimination against women that intersects with other axes of discrimination, including low economic resources, migrant status, race, ethnicity, caste, tribe, religion, and disability.

3. Draw upon and strengthen definitions and prohibitions addressing violence against women by the Committee on the Elimination of Discrimination against Women (CEDAW) by applying these standards to gender based violence in the world of work.

3.1. The International Labour Conference should adopt standards on violence and harassment in the world of work. These standards should take the form of a Convention supplemented by a Recommendation.

3.2. Consistent with General Recommendation No. 19 on violence against women, adopted by the Committee on the Elimination of Discrimination against Women (CEDAW), ILO standards should include and address (1) “violence which is directed against a woman because she is a woman”; and (2) violence that “affects women disproportionately” (article 1). For instance, as documented in this study, women workers at the base of garment global production networks are disproportionately impacted by gendered patterns of employment that concentrate women in low-wage, contingent employment.

3.3. Consistent with General Recommendation No. 19, the definition of violence should include acts that inflict physical harm, mental harm, sexual harm or suffering, threats of any of these acts, coercion, and deprivations of liberty (article 6).

4. Ensure a duty among MNCs and their suppliers to obey national laws and respect international standards pertaining to realization of ILO fundamental principles and rights at work.

4.1. Noting the limits to jurisdiction under national legal regimes, the ILO should move towards a binding legal convention regulating global supply chains.

4.1.1. Standards under this convention must be at least as effective and comprehensive as the UN Guiding Principle on Business and Human Rights and existing OECD mechanisms, including the 2011 OECD Guidelines for Multinational Enterprises.

4.1.2. The Convention should include the following components, among others:

4.1.2.1. Impose liability, sustainable contracting, capitalization and/or other requirements on lead firms.

4.1.2.2. Establish regional and supply chain specific inspection mechanisms with monitoring and enforcement powers, including individual complaint mechanisms and field investigation authority.

4.1.2.3. Require transparent and traceable product and production information.

4.1.2.4. Address the special vulnerability of women and migrant workers on GVCs.

4.1.2.5. Limit the use of temporary, outsourced, self-employed, or other forms of contract labor that sidestep employer liability for worker protection.

5. Pursue a Recommendation on human rights due diligence that takes into account and builds upon existing due diligence provisions that are evolving under the United Nations Guiding Principles on Business and Human Rights and the 2011 OECD Guidelines for Multinational Enterprises.

5.1. Take the following complementary measures to protect workers employed in global value chains:

5.1.1. Recognize the right to living wage as a human right and establish living wage criteria and mechanisms.

5.1.2. Promote sector-based and transnational

collective bargaining and urge countries to remove national legal barriers to these forms of collective action.

5.1.3. Expand work towards the elimination of forced labour, including promoting ratification and implementation of the Forced Labour Convention, 1930 (No. 29), Protocol to the Forced Labour Convention 1930 and accompanying Recommendation, 2014.

5.1.4. Continue programs to ensure social protection, fair wages, and health and safety at every level of GVCs.

6. Consistent with the Roadmap of the ILO programme of action 2017-21 arising out of the work of the 105th Session (2016) of the ILO on decent work in global supply chains, knowledge generation and dissemination of research to inform ILO global supply chain programming should include gender based violence and risk factors for gender based violence.

6.1. Research the spectrum of gender based violence impacting women workers in garment and other supply chains:

6.1.1. Since women represent the greatest majority of garment workers, the situation of women should be urgently included in monitoring programmes to assess the spectrum of their clinical, social, and personal risks.

6.1.2. Research should include physical harm, mental harm, sexual harm or suffering, threats of any of these acts, coercion, and deprivations of liberty.

6.1.3. Research should document (1) violence which is directed against a woman because she is a woman; and (2) violence that affects women disproportionately due to gendered patterns of employment that concentrate women in low-wage, contingent employment.

6.1.4. Research should consider not only the workplace, but also related situations including training, recruitment and placement, commutes to and from work, and housing contexts where employers exhibit significant control over the

daily lives of workers.

6.1.5. Require an urgent, epidemiological study into deaths and disabilities resulting from conditions of work and life of garment workers. This information should be made available publicly and to international agencies.

6.1.6. Research design and planning should be sensitive to the barriers women face in discussing and reporting violence, including workplace retaliation, social stigma, and trauma associated with recounting situations of violence. Due to these factors, quantitative approaches to documenting gender based violence risk underreporting and may not produce insight into the range of violence women face, associated risk factors, and barriers to reporting.

6.2. Research adverse impacts of purchasing practices upon:

6.2.1. Core labour standards for all categories of workers across value chains.

6.2.2. Wages and benefits for all categories of value chain workers. This research should aim to satisfy basic needs of workers and their families.

6.2.3. Access to fundamental rights to food, housing, and education for all categories of value chain workers and their families.

6.3. Research the range of global actors that may have leverage over GVCs including investors, hedge funds, pension funds and GVC networks that define industry standards such as Free on Board (FOB) prices.

6.3.1. This line of research should include investigation of the mechanisms deployed by authoritative actors within GVCs that contribute to violations of fundamental principles and rights at work, including but not limited to attacks on freedom of association, collective bargaining, forced overtime, wage theft and forced labour.

6.4. Research into the types of technical advice needed by OECD government participants taking a multi-stakeholder approach to address risks of

adverse impacts associated with products.

7. Organize a Tripartite Conference on the adverse impact of contracting and purchasing practices upon migrant workers' rights. This conference should focus on:

7.1. The intersection of migrant rights and ILO initiatives to address violence against men and women in the world of work and Decent Work in Global Supply Chains.

7.2. Protection of migrant rights as conferred under the UN International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.