

ITUC briefing: standard-setting discussion on violence and harassment in the world of work

Form of the instrument

The ITUC welcomes the decision of the standard-setting committee that the instruments should take the form of a Convention, supplemented by a Recommendation. The ITUC notes a number of concerns from governments that the Convention should not be too rigid and should contain sufficient flexibility to make it widely ratifiable.

The ITUC notes that a number of flexibility devices are included in the text of the Convention, and remains available to discuss on-going areas of concern with governments. It is, however, important that the text of the instruments give sufficiently clear direction to assist governments with transposition into national law and enable consistency in the application of the instruments.

Definition of "violence and harassment"

The concept of violence and harassment as constituting a "**range of behaviours and practices**" is important to maintain. A separate definition that rigidly defines what constitutes violence and what constitutes harassment would be overly prescriptive and would risk certain inappropriate or unacceptable behaviours or practices falling through the cracks, with no remedy for the victims.

A single definition in the Convention **would not prevent member States having separate definitions at national level**, as long as those definitions capture the concept of a range (or continuum) of unacceptable behaviours and practices. For example, the Ontario Occupational Health and Safety Act provides for a definition of workplace violence and a definition for workplace harassment. But the [official guidance](#) to the Act states that "*A continuum of inappropriate or unacceptable behaviours can occur at the workplace. This can range from offensive remarks to violence. Workplace harassment may escalate over time. Where harassment, including sexual harassment, in the workplace involves threats, attempts or acts of physical force, this would be considered to be workplace violence under the Act.*"

Definition of "worker"

The ITUC notes the concerns of some governments about the definition of the term worker. The ITUC believes that the definition of worker agreed by the Committee in 2018 would help to ensure that "no one is left behind" and all workers would enjoy the right to a working environment free from violence and harassment. The ITUC notes that the definition would apply "for the purposes of" this particular Convention, and therefore **would not have wider application**.

The ITUC also notes that in general, the practice of the ILO has been to give the broadest possible meaning to the term "worker". Introducing a narrow definition of "worker" would be a retrograde step at a time when we are seeking to be visionary and elaborate "future-ready" standards.

Strong focus on gender-based violence and harassment

It will be important to maintain the strong focus on gender-based violence that occurs throughout the text adopted by the Committee in 2018, in recognition of that gender-based violence is a reflection of prevailing gender inequalities in the world of work and victims are overwhelmingly women. A failure to recognise this would risk that measures adopted to address violence and harassment in the world of work prove to be wholly inadequate.

Scope of the world of work

The ITUC recognises the concern amongst some governments that the scope of the world of work is drawn too wide and appears to cover areas over which employers have no control. The ITUC notes that this particular section does not attribute responsibility, but clarifies what is to be understood by the “world of work”.

The ITUC would, nonetheless, welcome suggestions that would enable these concerns to be met, without restricting the scope of the Convention to the physical/contractual place of work. Many employer codes of conduct already recognise that measures to prevent and address violence and harassment need to extend beyond the contractual place of work (e.g. office premises) and normal working hours, to “**all work-related situations**”, such as training, business trips, work-provided transportation and social events.

The ITUC also notes that, whilst the Convention is addressed to governments, it will attribute responsibilities **not just to employers, but also to governments and workers, as appropriate and proportionate. For example:**

- **Workers** will have responsibility not to harass or commit acts of violence against fellow workers, including jobseekers etc., and third parties such as customers or clients. They could be liable to disciplinary action up to and including dismissal for doing so - or even to criminal charges depending on the nature of the incident(s)). Workers would also have a responsibility to collaborate and comply with any employer workplace policies and rules of behaviour in this respect.
- **Employers** would have the responsibility to put in place the necessary workplace policies, training, grievance mechanisms, codes of conduct, etc. They would also be more likely to be found vicariously liable and face stiffer penalties for acts committed by their workers towards other workers (including jobseekers) or even towards third parties, if they have no policies or prevention measures in place – or are failing to implement policies that exist.
- **Governments** will need to bring forward the legislation and measures required to transpose the Convention and ensure its implementation.

Inclusion of impact of domestic violence on the world of work

The impact of domestic violence in the world of work costs billions of dollars in terms of lost productivity, including through absenteeism. The ITUC notes that the Convention would not require that employers assume responsibility for domestic violence or its wider impacts. However, there are clear impacts of domestic violence on the world of work and forward looking governments and social partners are already taking steps to address these impacts. It would be strange, therefore, if a Convention that we want to be “future –ready” were to ignore this.

Marginalised and excluded groups

The ITUC has been particularly keen to see a recognition in the text of the link between discrimination and inequality and violence and harassment - i.e. that certain workers are more exposed to discrimination and inequality, leaving them more exposed violence and harassment. We had strongly agreed with (and indeed lobbied for) the inclusion of a non-exhaustive list that would specify certain groups of workers in this regard. However, given the polarised positions in the Committee in 2018, the ITUC wishes to focus on the intent behind the list, rather than the inclusion of the list itself: i.e. **that measures to prevent and address violence and harassment take account of the specific needs of workers made vulnerable by inequality and discrimination.**