

## Commission on the Status of Women 57th Session

### AUSTRALIA/ILO Side Event on the impact of domestic violence in the workplace

Wednesday 6 March 2013

#### Concept Note

##### Introduction

The 57<sup>th</sup> Session of the Commission on the Status of Women (CSW) - provides an opportunity for governments, in partnership with workers' and employers' organisations, civil society and the UN to take measures to eliminate and prevent of all forms of violence against women and girls, including in the world of work. This issue is recognised in the Beijing Declaration and Platform of Action, 1995 which calls for "a holistic and multidisciplinary approach to the challenging task of promoting families, communities and States that are free of violence against women", while recognising "the complexity of the social, community, organisational and individual change such an endeavour requires". It also recognised "that holistic prevention strategies target people across the multiple settings where they interact, such as schools, *workplaces*, health and social services, sporting clubs and faith institutions". The Committee on the Elimination of Discrimination against Women has stated that gender-based violence which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions is discrimination, and notes that the rights and freedoms include 'the right to just and favourable conditions of work'. They also state that 'equality in employment can be seriously impaired when women are subjected to gender-specific violence, such as sexual harassment in the workplace'.<sup>1</sup>

The ILO has traditionally addressed the issue of violence against women at work through the supervision of existing standards on gender equality, and particularly the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) which is ratified by almost all 185 member States. The Indigenous and Tribal Peoples Convention, 1989 (No. 169), Article 20(3) specifically calls for protection against sexual harassment<sup>2</sup>. Recent standards that refer

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<sup>1</sup> General recommendation No. 19 (11th session, 1992) made by the Committee on the Elimination of Discrimination against Women.

<sup>2</sup> Described as any unwelcome physical or verbal behaviour of a sexual nature, acceptance of which is explicitly or implicitly made a condition for favourable decisions affecting one's employment, or which has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, abusive or offensive working environment. See ILO: ABC of women workers' rights and gender equality (Geneva, 2007), pp. 165–166.

directly to gender-based violence include the Domestic Workers Convention, 2011 (No. 189), and the HIV and AIDS Recommendation, 2010 (No. 200).

In 2009 the International Labour Conference (ILC) adopted Conclusions on gender equality<sup>3</sup> which state, inter alia, that: *Sexual harassment and other forms of harassment are serious forms of discrimination across the world that undermine the dignity of women and men, negate gender equality and can have significant implications. Gender-based violence in the workplace should be prohibited; policies, programmes, legislation, and other measures, as appropriate, should be implemented to prevent it. The workplace is a suitable location for prevention through educating women and men about both the discriminatory nature and productivity and health impacts of harassment. It should be addressed through social dialogue, including collective bargaining where appropriate at the enterprise, sectoral or national level.*

The background report to the 98<sup>th</sup> Session<sup>4</sup> of the ILC noted that there had been an increase in policies and laws to address violence against women and girls but that enforcement remained a challenge. It also highlighted initiatives addressing violence at work going beyond sexual harassment at work as well as the effects of domestic violence spilling into the world of work. “No society seems to escape a culture of violence, including gender-based domestic violence, and the spill over effect into the workplace is inevitable”.<sup>5</sup>

The ILO’s Governing Body is discussing a possible future international labour standard on violence against women and men in the world of work.

### **Domestic and family violence**

In Australia the Australian Domestic and Family Violence Clearinghouse (ADFVC), a project of the Centre for Gender Related Violence Studies at the University of New South Wales funded by the Australian Government<sup>6</sup> has outlined in detail the extent of domestic violence in Australia. In its submission to the Consolidation of Commonwealth Anti-Discrimination Laws Discussion Paper: Improving Protection for Victims of Domestic Violence, ADFVC notes that: “Domestic violence is pervasive in all Australian communities, extending across cultural, ethnic and socioeconomic groups. The most recent ABS Personal Safety Survey in 2005 found that 15 per cent of Australian women had experienced physical or sexual violence from a previous partner, and 2.1 per cent from a current partner, further 4.9 per

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<sup>3</sup> Gender equality at the heart of decent work, Provisional Record 13, International Labour Conference, 98th Session (Geneva, 2009), Para 5.

<sup>4</sup> Report VI: Gender equality at the heart of decent work, ILC 98<sup>th</sup> Session 2009.

<sup>5</sup> Ibid, paragraph 83, paragraph 3.1.

<sup>6</sup> Part of implementation of the Australian Government’s National Action Plan to Reduce Violence against Women and their Children, 2010-2022.

cent of Australian men had experienced violence from a previous partner and 0.9 per cent from a current partner, since the age of fifteen.<sup>7</sup>

ADFVC noted that the negative impact of domestic violence on victims' employment outcomes has broader economic ramifications. The total cost of lost productivity associated with domestic violence is estimated at \$484 million in 2002/3, set to rise to \$609 million by 2021. This includes costs associated with both victims and perpetrators' absenteeism, misuse of work resources by perpetrators and retraining and rehiring costs due to staff turnover.<sup>8</sup>

In the UK domestic violence was estimated to cost the economy £2.7 billion a year in decreased productivity, lost wages and sick pay, with the total direct and indirect costs, including pain and suffering, estimated to be \$23 billion annually.<sup>9</sup>

In USA, the Presidential Memorandum entitled "Establishing Policies for Addressing Domestic Violence in the Federal Workforce" stated that domestic violence causes two million injuries each year, and an average of three women in the United States die each day as a result of domestic violence. "The effects of domestic violence spill over into the workplace. The Centres for Disease Control and Prevention estimate that domestic violence costs our Nation \$8 billion a year in lost productivity and health care costs alone, and other studies have suggested that the full economic impact is even higher. Many victims of domestic violence report being harassed in the workplace or experiencing other employment related effects."<sup>10</sup>

## **Workplaces**

ILO's Working paper on Gender-based violence<sup>11</sup> and the background paper<sup>12</sup> to the Expert Group Meeting both recognise the workplace as a key context in which to address violence against women and girls with a view to prevention. ILO's tripartite constituency provides privileged access to the world of work where often violence occurs, especially in sectors where females dominate such as health services, social services, education and domestic work and in the retail sector. The ILO Report: Domestic workers across the world: Global and regional statistics and the extent of legal protection<sup>13</sup> concluded "Very low wages, excessively long hours, the absence of a weekly rest day, *risks of physical, mental and sexual*

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<sup>7</sup> ADFVC Submission to Consolidation of Commonwealth Anti-Discrimination Laws Discussion Paper, January 2012, paragraph 3.1.

<sup>8</sup> Ibid, paragraph 3.2.2

<sup>9</sup> Gender-based violence in the world of work: Overview and selected annotated bibliography, ILO Working Paper 3/2011, page 14.

<sup>10</sup> The Presidential Memorandum- Establishing Policies for Addressing Domestic Violence in the Federal workforce, The White House, April 2012.

<sup>11</sup> Op. cit, page 14.

<sup>12</sup> Prevention of violence against women and girls: Background paper prepared by Lara Fergus, Australia for Expert Group Meeting on Prevention of Violence against Women and Girls, Bangkok, Thailand, 17-20 September 2012, para 4.7, page 51.

<sup>13</sup> ILO, January 2013

*abuse* and restrictions on freedom of movement are some of the problems that have frequently characterized the working conditions of domestic workers worldwide”. Violent incidents in the health sector alone, a sector with 80 per cent female workforce, account for 25 per cent of workplace violence, prevention strategies including codes of practice, framework guidelines and working papers have been developed for these sectors. The hotels, catering and tourism, financial services, performing arts, journalism and postal and transport services sectors are also focussing efforts in this regard.<sup>14</sup>

High risk groups for gender-based violence in the workplace are girls and boys in child labour, forced and bonded labourers, migrant workers, domestic workers, health service workers and sex workers.<sup>15</sup>

Social dialogue and collective bargaining can be effectively used to address the common challenges posed by gender-based violence and assist workplace partners to develop appropriate company policies and collective agreements. Workers’ organisations have recognised the human rights as well as social impacts of violence against women and girls.

“From a trade union perspective, violence against women is not only a violation of human rights, but also a type of violence which has a direct and detrimental impact on a woman’s access to paid work (e.g. because the victim cannot fully participate in the labour market due to the mental and physical consequences of the abuse) and, as a consequence, on her income and on society as a whole.”<sup>16</sup>

The business case is also compelling with direct costs associated with the victim’s absenteeism, turnover, illness and accidents, disability or death and indirect costs including victims’ decreased functionality and performance, quality of work and production. Violence can also include destruction of property, negatively affect motivation and commitment amongst staff, loyalty to the enterprise, working climate, the firm’s public image and even openness to innovation and knowledge building.<sup>17</sup> Court cases on harassment and violence can divert and drain an enterprise’s budget.<sup>18</sup>

The ILO Committee of Experts on the Application of Conventions and Recommendations in its General Observation concerning Convention No. 111 (published in 2003), noted that sexual harassment is a form of sex discrimination and should be addressed within the requirements of the Convention. It observed that “sexual harassment undermines equality at work by calling into question integrity and dignity and the well-being of workers. It

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<sup>14</sup> ILO Report VI, op cit, paras 84 and 85.

<sup>15</sup> Gender-based violence in the world of work, op cit. page 17.

<sup>16</sup> Gender (in) equality in the labour market: an overview of trends and developments, ITUC Report March 2009, page 42.

<sup>17</sup> Di Martino, V. “Violence at the workplace: The global response”, Africa Newsletter on Occupational Health and Safety, issue 12, 2002, page 5.

<sup>18</sup> Gender-based violence in the world of work, op cit, paragraph 4.7.

damages an enterprise by weakening the bases upon which work relationships are built and impairing productivity.”

The Australian Human Rights Commission (AHRC) conducted a national telephone survey between May and August 2012 to investigate the prevalence, nature and reporting of sexual harassment<sup>19</sup> in Australian workplaces over the past five years (2012 National Survey).<sup>20</sup>

#### **Key Findings of Telephone Survey by AHRC**

- One in five (21%) people in Australia have been sexually harassed since the age of 15. One third of women (33%) have been harassed, compared to less than one in ten (9%) men.
- A majority (68%) of those people were harassed in the workplace. A quarter of women (25%) and one in six men (16%) have experienced sexual harassment in the workplace.
- Thirteen per cent of the Australian population aged 15yrs or older has witnessed sexual harassment in the workplace first hand or been informed about it subsequently.
- Only one in five (20%) respondents who were sexually harassed made a formal report of complaint.
- Almost half (45%) of respondents indicated that sexual harassment stopped after they made a formal report or complaint.
- The vast majority (74%) of those who made a formal report or complaint were satisfied or completely satisfied with the complaint process.
- Nearly one third (29%) of respondents who reported sexual harassment indicated that their complaint had a negative impact on them (e.g. victimisation, demotion).

### **The link between domestic violence and workplaces**

Less well recognized is the impact of broader violence against women and girls on workplaces. Intimate partner and domestic and family violence, for example while not necessarily occurring in the workplace itself, has direct and indirect impacts on workers and workplaces, again for example in terms of absenteeism, ill-health and reduced productivity. Employers can build their organisational capacity to appropriately identify and respond to risk or incidents of such violence.

“Crucially, workplaces are also contexts through which the social norms that contribute to such violence are shaped and can be changed. Women may seek assistance for experiences of violence (whether occurring inside or outside the workplace setting) through workplace support mechanisms and collegial networks”.<sup>21</sup>

There is evidence that over 60 per cent of victims of domestic violence are in paid work, and violence has a damaging, yet often hidden, impact on victims’ working lives.

The 2011 Safe at Home, Safe at Work? National Domestic Violence and the Workplace Survey (National Workplace Survey), found that 30 per cent of 3,611 respondent workers

<sup>19</sup> Based on the legal definition of sexual harassment.

<sup>20</sup> Working without fear: Results of the Sexual Harassment National Telephone Survey AHRC, Oct 2012.

<sup>21</sup> Prevention of violence against women and girls: Background paper. Op cit, page 51.

had experienced some form of domestic violence over the course of their lifetime, with 25 per cent having experienced it more than 12 months ago and five per cent within the past 12 months.

Of the respondents who had experienced domestic violence, nearly half reported that it had affected their capacity to get to work, through either physical restraint, hiding/stealing keys or transportation money or refusal/failure to show up to care for children. Nineteen per cent of respondents who had experienced domestic violence reported that the violence had impacted on them in the workplace; abusive calls and emails and the abusive person attending the workplace were the most common form of abuse experienced. The impacts on workers included feeling distracted, tired or unwell, having to take time off (for medical, legal or social services advice) and being late to work.

In many instances, the abuser targets the victim at work or their capacity to get to work in order to force them to resign or abandon their job, or get them fired or disciplined. Once the victim loses their job, it can be difficult, if not impossible, to leave the violent relationship: without an independent income source, the victim is unlikely to have the means to pay rent or mortgage repayments and other necessary expenses. This is supported by range of research findings: a United States Government review found that 24 – 52 per cent of victims reported losing a job, at least in part, due to domestic violence. Women who are victims of domestic violence have more disrupted work histories, on average have lower personal incomes, have had to change jobs frequently and are more likely to be employed in casual and part time work than women with no experience of violence. Income security and employment are identified as a key structural supports to women leaving violence relationships.<sup>22</sup>

Experts recommend that States, employers, trade unions, community and youth organisations and non-governmental organisations, as appropriate: Foster collaboration between employer and other organisations, and with women's and other civil society organisations – especially those with expertise in engaging men and boys for gender equality – to recognise the role of organisations/institutions in prevention of violence against women and girls. Such a role is not only limited to addressing violence, discrimination and harassment within the organisation itself, but also extends to the organisation/institution as a 'change-maker,' capable of contributing to the transformation of attitudes, practices and social norms in their communities and society as a whole.<sup>23</sup>

In Australia the ADFVC project has fostered collaboration between employers, workers and the community by promoting the inclusion of domestic violence clauses into enterprise agreements and providing guidance on key principles for these clauses. There are some 73

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<sup>22</sup> ADFVC Submission to Consolidation of Commonwealth Anti-Discrimination Laws Discussion Paper, op cit, paragraph 3.2.1.

<sup>23</sup> Report of the Expert Group Meeting on Prevention of Violence against Women and Girls, Bangkok, Thailand September 2012.

such clauses in Australia.<sup>24</sup> The Project also promotes ‘How to’ guides with model policies, procedures and safety plans.<sup>25</sup>

One, often invisible repercussion of domestic and family violence is discrimination; individual women and men may be discriminated against because they either have been, or are currently, in a violent domestic or family situation. Discrimination against victims and survivors of domestic and family violence may occur in any area of public life, including in employment. For example, discrimination may occur where a woman’s employment is terminated because her abusive partner frequents her place of work. Discrimination can have grave consequences for the individuals affected, including compounding the already significant harm of the original acts of violence and impeding the ability of victims and survivors to transition out of violent situations.

Introducing domestic and family violence as a separate ground of discrimination in anti-discrimination laws can help to clarify and strengthen existing discrimination laws, which otherwise only provide limited protection to victims and survivors. It can complement workplace-based strategies for addressing domestic and family violence, notably inclusion of domestic and family violence clauses in collective agreements, especially in situations where workplace entitlements have been exhausted. Finally prohibiting discrimination on the grounds of domestic and family violence can play an educative function by revealing this harmful form of discrimination and human rights violation and highlighting its impact on the individual and its implications in employment.

## **Objective**

The objective of the panel discussion is to stimulate dialogue and propose relevant policy recommendations on how decent work can contribute to eliminating and preventing all forms of violence against women and girls, including in the world of work.

Panellists will be encouraged to provide examples of country experiences of successful policies that combat violence in the world of work and in particular address the impact of domestic violence in the workplace.

## **Conclusion**

While sexual harassment at work is covered by a wide body of ILO standards that address discrimination, and training materials and research address this aspect, gender-based violence is not only a question of discrimination. Gender-based violence is also an occupational safety and health issue, a socio-economic issue. As such, it needs to be addressed within the framework of a comprehensive approach encompassing the four

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<sup>24</sup> See Safe at Home Safe at Work Project Update <http://www.dvandwork.unsw.edu.au/domestic-and-family-violence-clauses>

<sup>25</sup> <http://www.dvandwork.unsw.edu.au/how-guides-model-policies-procedures-and-safety-plans>

pillars of the Decent Work Agenda: creating jobs, guaranteeing rights at work, extending social protection, and promoting social dialogue with gender equality and non-discrimination as cross cutting objectives.

Decent work can be achieved when there are productive and quality employment opportunities for both women and men. Ending gender-based violence in the world of work is one of the critical steps toward this goal.