

HIV-related violence and harassment in the world of work

In June 2019, at the Centenary Conference of the International Labour Organization (ILO), the Violence and Harassment Convention (No. 190) and its accompanying Recommendation (No. 206) were adopted. The global community has made it clear that violence and harassment in the world of work will not be tolerated and must end. These landmark instruments were developed by the world of work actors (representatives of governments, employers and workers), and set out a common framework to prevent and address violence and harassment based on an inclusive, integrated and gender-responsive approach.

The Convention recognizes that everyone has the right to a world of work free from violence and harassment. It offers broad protection and applies to the public and private sectors, to the formal and informal economy, and in urban and rural areas.

In the discussions leading up to the adoption of the instruments, discrimination based on HIV status was identified as an important factor increasing the risk of violence and harassment.¹ Likewise, the exposure to violence and harassment may increase HIV risk. Many forms of stigma and discrimination faced by people living with HIV can lead to (or are themselves) violence and harassment. Examples include, amongst others, shaming people living with HIV, treating them as “contagious”, and isolating them from co-workers.

► What is HIV-related stigma and discrimination?

The terms “stigma” and “discrimination” are commonly used to describe mistreatment of people living with HIV. Generally speaking, HIV-related stigma is a negative perception of people living with HIV. For example, the stereotype that they “have no morals” or are a “sinful group², or that they are not productive at work. Of course, these stereotypes are unfounded.

HIV-related discrimination occurs when a less favorable treatment is explicitly or implicitly based on the real or perceived HIV status of that person. This may include, for instance, denying job opportunities to them or paying them less. HIV-related discrimination refers also to apparently neutral situations, regulations or practices, which in fact result in unequal treatment of people living with HIV. For instance, mandatory travel requirements for work may indirectly discriminate where there are HIV-related immigration restrictions.⁴

Stigma is

“the social mark that, when associated with a person, usually causes marginalization or presents an obstacle to the full enjoyment of social life by the person infected or affected by HIV.”³

Discrimination is

“any distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation”, as referred to in the Discrimination (Employment and Occupation) Convention, 1958 (No.111), and Recommendation, 1958 (No. 111).⁵

1 ILO. 2016. Final Report. Meeting of Experts on Violence against Women and Men in the World of Work (3-6 October 2016), Appendix, para. 12; ILO. 2017. Eliminating violence and harassment against women and men in the world of work, Report V(1), International Labour Conference, 107th Session, Geneva, p. 30.

2 See Greeff, M., et. al. 2008. “Experiences of HIV/AIDS Stigma of Persons Living with HIV/AIDS and Nurses Involved in their Care from Five African Countries”, in African Journal of Nursing and Midwifery, Vol. 10(1), pp. 9-16.

3 ILO Recommendation No. 200, Para. 1(d).

4 National Aids Trust. 2012. *HIV @ Work. Advice for employers*, p 3. Available at: https://www.nat.org.uk/sites/default/files/publications/Jul_2012_HIV%40Work_Advice_for_employers_0.pdf [11 February 2020].

5 ILO Recommendation No. 200, Para. 1(e).

▶ HIV-related “stigma and discrimination” and “violence and harassment” are interrelated

HIV-related stigma and discrimination are closely intertwined with violence and harassment, which the Convention describes as “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” (Art. 1(1)(a)).

In fact, many forms of HIV-related stigma and discrimination can fall within this range of unacceptable behaviours and practices, including ostracizing people living with HIV, and verbally abusing and physically assaulting them.⁶ Such behaviours and practices can affect people living with HIV in disproportionate and unique ways.

▶ Shaming

When their HIV status is revealed without their consent, people living with HIV report being shamed and humiliated by their colleagues and employers. This is sometimes manifested in verbal abuse, usually rooted in misperceptions about how HIV is transmitted, with derogatory terms, such as “dirty”, “wicked” and “deviant”. Such harassment is also often tinged with religious condemnation, with people living with HIV being criticized that they are being “punished by God” or “going to hell”.

Shaming can severely affect the physical and mental health of people living with HIV and creates a hostile working environment for everyone. Furthermore, shaming can discourage persons from seeking HIV prevention and treatment services, thus endangering their lives.

▶ Treating persons as “contagious”

Medical evidence is clear that HIV cannot be transmitted by common interactions at work, like shaking hands, sharing bathrooms or drinking from the same cup. However, there exists a great deal of ignorance and fear regarding HIV transmission, and this leads to a specific form of harassment in the world of work: treating people living with, or affected by, HIV as if they were “contagious”.

One example is forcing people living with HIV to drink from disposable cups, which other persons are not required to do. This is demeaning and leads to their social isolation.

“An employee with HIV uses a colleague’s mug. The colleague then makes a point of being seen washing the mug with bleach, which is not something she would do if anyone else used her mug. She also makes offensive comments about having her mug used by someone with HIV. This is likely to amount to harassment.”⁸

HIV transmission can occur in four ways:⁷

- Unprotected sexual intercourse with an HIV-positive partner;
- Blood and blood products through, for example, infected transfusions and organ or tissue transplants, or the use of contaminated injection or other skin-piercing equipment;
- Transmission from HIV-positive mother to child in the womb or at birth; and
- Breastfeeding.

HIV is not transmitted by casual physical contact, coughing, sneezing, kissing, mosquito or insect bites, sharing toilet and washing facilities, or by using eating utensils or consuming food and beverages handled by someone living with HIV.

▶ Isolating

Another form of violence and harassment faced by people living with HIV may be isolating them from colleagues and removing them from contact with clients. For example, they can be excluded from work-related social events and meals or sent to work alone in basements and warehouses.

Ostracism (being excluded from a group) is a “particularly toxic social behavior”, and may be even more damaging than overtly harassing activity.⁹ The negative impact is so great that one study indicates that workers may be less concerned about potential HIV-related discrimination by their employers than they are about stigma from their co-workers, usually “manifested through social isolation and ridicule.”¹⁰

6 See Greeff, M., et al. 2008. “Experiences of HIV/AIDS Stigma of Persons Living with HIV/AIDS and Nurses Involved in their Care from Five African Countries”, in *African Journal of Nursing and Midwifery*, Vol. 10(1), pp. 9-16; Coalition des organismes communautaires québécois de lutte contre le sida « Discrimination and harassment ». Available at: <https://www.cocqsida.com/ressources/vih-info-droits/discrimination-and-harassment.html#psychological> [16 April 2018].

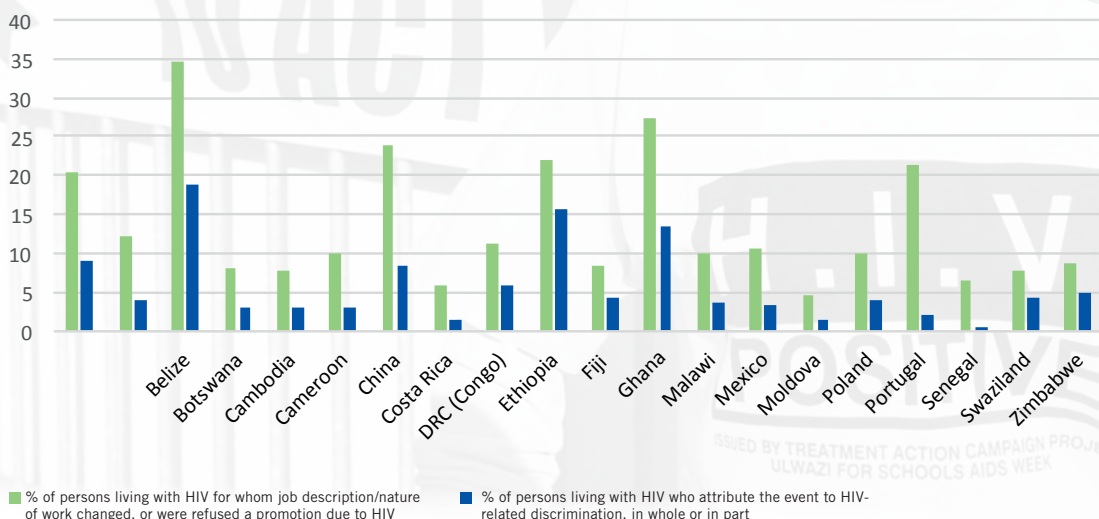
7 Based on ILO. 2001. *Code of Practice on HIV/AIDS and the World of Work* (Geneva), Appendix I, p. 19.

8 Kidner, R. 2006. *Statutes on Employment Law 2006-2007* (Oxford, Oxford University Press), p. 496.

9 O'Reilly, J., et al., 2014. “Is Negative Attention Better Than No Attention? The Comparative Effects of Ostracism and Harassment at Work”, in *Organization Science*, Vol. 26(3), p. 15.

10 Esu-Williams, Eka., et al. 2005. “Strengthening workplace HIV/AIDS programs: The Eskom experience in South Africa,” in *Horizons Research Update*, p. 2.

Figure 1 - People living with HIV who reported changes in previously agreed work arrangements or were denied a promotion, and those who attribute the event to HIV-related discrimination



Source: Country reports on the application of The People Living with HIV Stigma Index representing a total sample of 21,349 persons living with HIV.¹¹ Available at: <http://www.stigmaindex.org/>

► Changing work arrangements

Making deliberate changes to previously-agreed work arrangements is a frequently reported form of HIV-related discrimination; this can impact on the salary, professional advancement and status of people living with HIV. There are also reports of frequently transferring people living with HIV to other departments or branches, aimed at making their work uncomfortable, so they eventually quit. Research suggests that workers living with HIV delay getting tested, because they fear the results will be disclosed and then used as an excuse to transfer them to another department or to demote them.¹²

► Mandatory HIV testing can trigger violence and harassment

HIV testing must be voluntary, and results must be kept confidential.¹³ The ILO Recommendation concerning HIV and AIDS and the world of work (No. 200) states that HIV testing should never be used to screen out job applicants living with HIV and should “not endanger access to jobs, tenure, job

security or opportunities for advancement.” However, mandatory HIV testing is still a reality for many workers. It may increase the person’s vulnerability to violence and harassment, particularly when results are disclosed to employers without the consent of the person.¹⁴ The lack of confidentiality contributes to the risk of stigmatization and increases the likelihood of violence and harassment. In addition, it can lead to discrimination in employment and occupation, for instance by excluding applicants living with HIV from the job market and firing people living with HIV due to their status. This can create a vicious cycle leading to social exclusion and marginalization of people living with HIV, and hence to even increased exposure to violence and harassment.

► Link to homophobia, biphobia & transphobia¹⁵

Sexual orientation, gender identity or gender expression are not the cause of HIV transmission. HIV transmission does not depend on whether a person’s sexual partner is of the same sex or different sex, but rather on whether or not there is correct and consistent condom use during sex.

11 Samples were composed as follows: 238 respondents in Bangladesh, 370 in Belarus, 430 in Belize 1232 in Botswana, 349 in Cambodia, 1284 in Cameroon, 2096 in China, 396 in Costa Rica, 1475 in Democratic Republic of Congo, 3360 in Ethiopia, 45 in Fiji, 1073 in Kenya, 2272 in Malawi, 1000 in Mexico, 403 in Moldova, 502 in Poland, 1060 in Portugal, 626 in Senegal, 1233 in Swaziland and 1905 in Zimbabwe.

12 Scott, K. et al., 2013. “What can companies do to support HIV-positive workers? Recommendations for medium and large sized African workplaces”, in *International Journal of Workplace Health Management*, Vol. 6 (3), pp. 174-188.

13 ILO supports voluntary confidential testing and counselling at work, through its VCT@Work Initiative.

14 Medical personnel have sometimes been known to disclose the results of HIV tests to employers. For instance, see Doe vs. Department of Veterans Affairs of the United States of America: United States Court of Appeals for the Eighth Circuit, Case No. 07-1576, Brief of Amici Curiae in Support of Appellant’s Petition for Rehearing en banc (4/21/2008).

15 “Homophobia” and “biphobia” refer to the “fear, unreasonable anger, intolerance or/and hatred directed towards homosexuality, bisexuality or bisexual people”; “Transphobia” refers to the “negative cultural and personal beliefs, opinions, attitudes and behaviours based on prejudice, disgust, fear and/or hatred of trans people or against variations of gender identity and gender expression”. See: ILGA-Europe. “Glossary”. Available at www.ilga-europe.org/resources/glossary [16 April 2018].



Nevertheless, HIV-related violence and harassment is often bound up with homophobia, biphobia and transphobia, including unfounded myths, such as HIV is a “gay disease”.¹⁶ These destructive myths can lead to perpetrators attacking lesbian, gay, bisexual, trans¹⁷ and intersex (LGBTI) persons for their presumed HIV-positive status and to perpetrators attacking people living with HIV because of their presumed sexual orientation or gender identity. Such hatred – whether based on HIV status, sexual orientation or gender identity – makes for toxic and hostile work environments.

► Violence and harassment leads to greater HIV vulnerability

While real or perceived HIV status can lead to violence and harassment in the world of work, the reverse is also true. Violence and harassment and, in particular, gender-based violence and harassment, can lead to greater HIV vulnerability.

Persons who face sexual harassment or sexual assault by employers, colleagues or clients can experience greater vulnerability to HIV.¹⁸ This can also be the case of workers, particularly young workers, who sell sex as a survival strategy or to supplement insufficient income, who have less ability to negotiate condom use.¹⁹

► Preventing and addressing violence and harassment against people living with HIV

Measures to prevent and address HIV-related violence and harassment should tackle root causes of stigma and discrimination and should be integrated in different areas of action. For example, awareness-raising campaigns covering HIV transmission and treatment are essential to dismantling myths and stereotypes that still surround the issue. Moreover, employers, workers and their organizations remain key actors to create respectful work environments, including through ensuring there is a good understanding of HIV-related issues. In this regard, training on the rights of workers living with HIV and awareness raising are essential.

In addition, mandatory HIV testing needs to be replaced by voluntary HIV counselling and testing,

ensuring confidentiality of results. This helps prevent HIV-related stigma and discrimination, as well as violence and harassment, and promotes the health and wellbeing of all workers.

► HIV and Convention No. 190 and Recommendation No. 206

While not specifically mentioning HIV-related violence and harassment, the instruments provide an important entry point to address this issue. People living with HIV may be disproportionately affected by violence and harassment. As such, according to ILO Convention No. 190, their right to equality and non-discrimination in employment and occupation must be ensured (Art. 6). Their specific situation should also be taken into account when model codes of practice are developed, as well as in the development and implementation of workplace policies and in the management of occupational safety and health. This includes identifying hazards and assessing risks that can lead to violence and harassment against people living with HIV.

In addition, the Convention calls for a specific focus on persons in sectors, occupations and work arrangements where workers and other persons concerned are more exposed to violence and harassment (Art.8). This can be particularly helpful to prevent and address HIV-related violence and harassment, for example, in the health care sector, where patients or workers providing care to people living with HIV are subjected to violence and harassment because of their real or perceived HIV status.

The Convention also requires respect for privacy and confidentiality (Art. 10(c)). As such, victims should be able to bring a claim for HIV-related violence and harassment without having to disclose their HIV-status publicly.

¹⁶ Cadwell, S. 2010. “Twice removed: The stigma suffered by gay men with AIDS”, in *Smith College Studies in Social Work*, Vol. 61(3), pp. 236-246.

¹⁷ “Trans” is an umbrella term that refers to “people whose gender identity and/or gender expression differ from the sex/gender they were assigned at birth”. See: ILGA-Europe. “Glossary”. Available at www.ilga-europe.org/resources/glossary [16 April 2018].

¹⁸ United Nations Development Programme. 2008. *HIV Vulnerabilities Faced by Women Migrants: from Asia to the Arab States, Executive Summary*. Regional HIV & Development Programme for Asia & the Pacific (Colombo) p. 10.

¹⁹ Unon Aid Abroad. 2011. Cambodia - addressing HIV vulnerabilities of indirect sex workers during the financial crisis: Situation analysis, strategies and entry points for HIV/AIDS workplace education (Geneva, ILO), p. 19

