Governing Body

328th Session, Geneva, 27 October–10 November 2016

Institutional Section

INS

SEVENTEENTH ITEM ON THE AGENDA

Report of the Director-General

Fifth Supplementary Report: Outcome of the Meeting of Experts on Violence against Women and Men in the World of Work

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Purpose of the document

The document provides information on the Meeting of Experts on Violence against Women and Men in the World of Work that took place in Geneva from 3 to 6 October 2016. It contains the conclusions adopted by the Meeting in the Appendix I.

The Governing Body is invited to take action in accordance with the draft decision in paragraph 12 of this document.

Relevant strategic objective: All.

Policy implications: The Meeting provides guidance on which basis the Governing Body will consider the preparations for the first discussion of possible instruments by the Conference.

Legal implications: None.

Financial implications: None.

Follow-up action required: See the draft decision in paragraph 12.

Author unit: Conditions of Work and Equality Department (WORKQUALITY).

Related documents: GB.325/PV; GB.326/INS/17.

Background

1. At its 325th Session (November 2015), the Governing Body decided "to place a standard-setting item on 'Violence against women and men in the world of work' on the agenda of the 107th Session (June 2018) of the Conference" and "to convene a tripartite meeting of experts to provide guidance on which basis the Governing Body [would] consider, at its 328th Session (November 2016), the preparations for the first discussion of possible instruments by the Conference". [1] The Governing Body approved the following agenda for the meeting at its 326th Session (March 2016): [2]

   ■ review existing understandings of what is considered to be violence in the world of work, related trends, forms and incidence;

   ■ examine the gender dimensions of violence in the world of work;

   ■ review the impact of violence in the world of work on workers and enterprises, including on workers' well-being and productivity, and firms' performance;

   ■ identify groups of workers, enterprises, sectors and occupations more at risk of being subjected to violence;

   ■ review responses to prevent and address violence in the world of work in national and international laws and regulations, collective agreements and enterprise policies; and

   ■ provide, on the basis of the above, guidance for the standard-setting item on violence against women and men in the world of work that has been placed on the agenda of the International Labour Conference in June 2018. Guidance could include identifying forms of violence warranting priority consideration and responses thereto.

2. The tripartite Meeting of Experts was convened from 3 to 6 October 2016. The Meeting was chaired by an independent Chairperson, Ms Janine Pitt (Australia). The experts nominated by the Governments were from Argentina, Australia, Belgium, Canada, India, Rwanda, South Africa and Sweden. The Vice-Chairpersons were Mr Kris de Meester (Employer expert from Belgium) and Ms Catelene Passchier (Worker expert from the Netherlands). Also in attendance were a number of observers, including from governments, the International Organisation of Employers, the International Trade Union Confederation, intergovernmental organizations and international non-governmental organizations.

3. In light of the approved agenda, the Office prepared a background report, [3] which was based on research from the fields of non-discrimination and equality, and occupational safety and health (OSH), as well as comparative analysis of regulation at national, regional and international levels.

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[1] GB.325/PV, para. 33(a) and (b).

[2] GB.326/INS/17, paras 7–8. The Governing Body further determined that the Meeting of Experts would be attended by eight Government experts, eight Employer experts and eight Worker experts (paras 5–6).

[3] ILO: *Background paper for discussion at the Meeting of Experts on Violence against Women and Men in the World of Work*, Geneva, 2016 (MEVWM/2016).

Overview of the meeting

4. Government, Employer and Worker experts engaged in a deep and wide-ranging discussion on the nature of violence against women and men in the world of work, its causes, components, effects and action needed. The experts stressed that violence cannot coexist with decent work and that violence cannot be considered "part of the job". While there was a recognition of the need for better data, and, in particular, data comparability, the Meeting agreed that a significant body of evidence demonstrates that violence and harassment in the world of work persists against workers and others.

5. The experts further agreed that violence and harassment in the world of work have very significant impacts on individuals and communities, as well as on productivity and business reputation.

6. The experts developed a detailed set of risk factors for violence in the world of work. Violence can potentially affect everyone; workers, employers and others. The experts discussed how violence affects specific groups disproportionately and the conditions under which violence was more likely to occur.

7. The experts recognized that terminology might vary across countries, but that the rubric of "violence and harassment" was helpful in understanding a continuum of unacceptable behaviours and practices that are likely to result in physical, psychological or sexual harm or suffering. Within this continuum, there was particular focus on gender-based violence. The experts agreed on the importance of distinguishing between various forms of violence and harassment, and understanding the context in which they occur, as responses would vary accordingly. They suggested that moving forward, consideration be given to using the overarching concept of "violence and harassment" in lieu of only "violence" to ensure that the range of unacceptable behaviour being targeted is adequately understood and addressed. The Governing Body is therefore invited to decide whether to replace the term "violence" with "violence and harassment" in the title of the item placed on the agenda of the 107th Session (2018) of the Conference.

8. There was tripartite consensus on the urgency of preventing and addressing violence through an integrated approach. In terms of scope, responses to violence should cover all actors in the world of work, noting that the world of work not only included physical workplaces but also commuting, work-related social events, public spaces, teleworking and, in some contexts, the home. The experts observed many examples of effective regulatory responses to violence, including innovative anti-discrimination and OSH legislation, collective agreements and voluntary initiatives. These responses have been developed at workplace, sectoral, regional, national and global levels. These include: peer training of women workers to prevent sexual harassment; training of OSH representatives to have a role in violence prevention; collective agreements with protective and rehabilitative measures for workers who have experienced violence, including domestic violence; labour inspection directed at protection of all persons at the workplace from aggression; sectoral agreements including 24-hour call centres for workers to report violent acts; and global framework agreements dealing with sexual harassment.

9. The experts further noted that a number of existing international labour standards provide protection against some forms of workplace violence and harassment and/or for specific groups of workers. [4] Others, while not mentioning violence explicitly, provide essential elements of a regulatory framework. [5] However, these instruments do not define violence and harassment, do not provide guidance on how to address its various manifestations and do not cover all workers, and lack an integrated approach that is essential to addressing violence and harassment in the world of work effectively. The experts therefore concurred on the need for a new instrument or instruments focused and flexible enough to address different socio-economic realities, enterprises, forms of violence and contexts.

10. Following this comprehensive discussion, the Meeting unanimously adopted a set of conclusions, which can be found in Appendix I. A detailed report of the Meeting will be prepared prior to the 329th Session of the Governing Body (March 2017).

11. As a consequence of the Meeting, it is proposed that the Governing Body approve a programme of reduced intervals for the preparatory stages of the first discussion of this agenda item at the Conference in line with article 39(5) of the Standing Orders of the International Labour Conference. [6] While the item was included in the agenda more than 18 months before the opening of the session at which the first discussion will take place, the timing of the Meeting of Experts convened by the Governing Body to advise on the preparation of the first discussion has made it practically impossible for the Office to follow the normal schedule of preparatory reports provided for in article 39 of the Standing Orders.

Draft decision

12. *The Governing Body:*

  (a) requests the Office to prepare the first discussion of possible instruments on violence and harassment against women and men in the world of work by the Conference at its 107th Session (2018) taking into account the guidance provided in the Conclusions of the Meeting of Experts on Violence against Women and Men in the World of Work (Geneva, 3–6 October 2016) and further guidance given by the Governing Body;

  (b) decides to replace the term "violence" with "violence and harassment" in the title of the item placed on the agenda of the 107th Session (2018) of the Conference; and

  (c) approves a programme of reduced intervals for the preparatory stages of the first discussion of the agenda item as outlined in Appendix II.

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[4] See, e.g. Forced Labour Convention, 1930 (No. 29); Protocol of 2014 to the Forced Labour Convention, 1930; Abolition of Forced Labour Convention, 1957 (No. 105); Worst Forms of Child Labour Convention, 1999 (No. 182); Indigenous and Tribal Peoples Convention, 1989 (No. 169); Maritime Labour Convention, 2006 (MLC, 2006); HIV and AIDS Recommendation, 2010 (No. 200); Domestic Workers Convention, 2011 (No. 189); and Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204).

[5] See, e.g. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); and Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Occupational Safety and Health Convention, 1981 (No. 155); and Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).

[6] See Appendix II.

Appendix I

Conclusions adopted by the Meeting

Context

At its 325th Session (November 2015), the ILO Governing Body decided "to place a standard-setting item on 'Violence against women and men in the world of work' on the agenda of the 107th Session (June 2018) of the Conference" and "to convene a tripartite meeting of experts to provide guidance on which basis the Governing Body will consider, at its 328th Session (November 2016), the preparations for the first discussion of possible instruments by the Conference".

The Governing Body approved the following agenda for the Meeting of Experts: review existing understandings of what is considered to be violence in the world of work, related trends, forms and incidence; examine the gender dimensions of violence in the world of work; review the impact of violence in the world of work on workers and enterprises, including on workers' well-being and productivity, and firms' performance; identify groups of workers, enterprises, sectors and occupations more at risk of being subjected to violence; review responses to prevent and address violence in the world of work in national and international laws and regulations, collective agreements and enterprise policies; and provide, on the basis of the above, guidance for the standard-setting item on violence against women and men in the world of work that has been placed on the agenda of the International Labour Conference in June 2018. Guidance could include identifying forms of violence warranting priority consideration and responses thereto.

The Experts met in Geneva on 3–6 October 2016.

Introduction

1. Recalling 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 Experts agree that violence is incompatible with decent work, is unacceptable and must be addressed. It is a human rights issue and affects workplace relations, worker engagement, health, productivity, quality of public and private services, and enterprise reputation. It affects labour market participation and, in particular, may prevent women from entering the labour market, especially in male-dominated sectors and jobs, and remain therein. Violence may undermine democratic decision-making and the rule of law.

2. Recognizing the importance of the issue, more can and should be done to prevent and address violence in the world of work. Despite the measures taken to date by ILO constituents, a significant body of evidence indicates that violence and harassment in the world of work persists against workers and others, such as jobseekers and interns. The Experts agreed on the need to tackle the issue as a matter of urgency. The scope of such action should cover all actors in the world of work. The gender dimensions of violence need to be addressed specifically.

Understanding what is violence
in the world of work

3. There is a need to intensify efforts to deal with the range of manifestations of violence in the world of work. While terminology might vary across countries, the rubric of "violence and harassment" includes a continuum of unacceptable behaviours and practices that are likely to result in physical, psychological or sexual harm or suffering. A particular focus needs to be placed on gender-based violence. Inappropriate use of technology is also acknowledged as a source of concern.

4. Violence and harassment can be horizontal and vertical, from internal and external sources (including clients and other third parties and public authorities) – in the public or private sector, or in the formal or informal economy.

5. The world of work is considered to cover not only the traditional physical workplace, but also commuting to and from work, work-related social events, public spaces including for informal workers such as street vendors, and the home, in particular for homeworkers, domestic workers and teleworkers.

6. Domestic violence and other forms of violence and harassment are relevant to the world of work when they impact the workplace.

7. Violence and harassment can be a one-off occurrence or repeated, and the nature and the effect of such conduct are key criteria to establishing whether it qualifies as violence and harassment.

8. The Experts agree that it is important to distinguish between the various forms of violence and harassment and the context in which they occur, as different responses may be needed.

Risk factors for violence in the world of work

9. Violence and harassment in the world of work often reflects wider societal violence and, in order to prevent and address it, there needs to be an understanding of the situations in which workers find themselves, and how this might increase the risk of such conduct. Some of the circumstances that could in themselves or in combination expose workers to violence and harassment include the following:

(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.

10. Poor human resources management, poor organization of work, including lack of clear rules and responsibilities, inadequate assignment of tasks, unrealistic production targets, poor communication, poor labour relations and discriminatory practices are also factors that could increase the risk of violence and harassment.

11. The principle of zero tolerance should be the objective. Violence and harassment should not be seen "as part of the job", as is too often the case for teachers, health and transport workers, among others, taking into account that for some occupations, such as police, armed forces and emergency services, dealing with violence is an inherent part of the work. In addition, workers, in particular women workers, are at risk when they are expected to provide sexual services or endure harassment in exchange for getting a job or promotion, in order to keep a job or in order to access their wages.

12. Violence and harassment can potentially affect everyone, but it affects specific groups disproportionately, where certain conditions exist. Imbalanced power relationships, including due to gender, race and ethnicity, social origin, education and poverty could lead to violence and harassment. Discrimination based on these and other grounds, including disability, HIV status, sexual orientation and gender identity, migrant status and age, are also important factors. Workplaces where the workforce is dominated by one gender or ethnicity might be more hostile to people not conforming to established gender norms or individuals coming from under-represented groups. Where grounds of discrimination intersect, such as gender and race or disability, the risk of violence and harassment is exacerbated. A key additional risk factor is a culture of impunity.

13. Workers who cannot exercise their rights to freedom of association and collective bargaining, due to the inappropriate use of contractual arrangements leading to decent work deficits, including the misuse of self-employment, are also likely to be more at risk of violence and harassment.

14. Women are disproportionately represented in low-wage jobs, especially in the lower tiers of the supply chains, and are too often subject to discrimination, sexual harassment and other forms of workplace violence and harassment. In public spaces, informal workers might be exposed to harassment by local authorities. Where the home is the workplace, the risk of sexual harassment and other forms of violence and harassment might be increased because of workers' isolation and restrictions on labour inspectors entering non-traditional workplaces.

15. Weak enforcement mechanisms, including understaffed and poorly equipped and insufficiently trained labour inspectorates, also contribute to individuals' higher exposure to violence and harassment. Labour inspectorates and occupational safety and health (OSH) systems at different levels are often not mandated to address discriminatory practices or violence and harassment. The absence of effective and accessible dispute resolution mechanisms is an additional risk factor.

Addressing violence in the world of work

16. Governments have an important responsibility to promote a general environment of zero tolerance to violence and harassment. All actors in the world of work have to abstain from, prevent and address violence and harassment.

17. An integrated approach to addressing violence and harassment in the world of work is needed, delineating clear responsibilities for public and private employers, workers and their respective organizations, and governments in dealing with violence and harassment, and joint strategies and collaboration are also important.

18. There needs to be (an) instrument(s) that is sufficiently focused and flexible enough to be able to address the different socio-economic realities, different types of enterprises, and different forms of violence and harassment, as well as different contexts. Such (an) instrument(s) should also be able to respond to the new challenges and risks which might lead to violence and harassment in the world of work, such as those arising from changing forms of work and technology.

19. As violence and harassment in the world of work mirrors violence in society, governments should adopt or reinforce a policy or policies, in consultation with social partners and with other relevant and representative organizations of persons concerned, depending on national circumstances, which address work-related violence and harassment. This policy or policies should include the promotion of equality in and the elimination of all forms of discrimination, and violence and harassment, including gender-based violence, from the world of work. Due attention should be paid to workers in the informal economy, in line with the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204).

20. Diversity in the workplace and strong equality and non-discrimination policies to prevent violence and harassment need to be ensured.

21. Prevention and support are key components to addressing violence and harassment. Understanding violence and harassment as a continuum, prevention should address negative societal and workplace culture, and psychosocial risks, as well as the design of the workplace. OSH systems, as referred to in several ILO instruments, would be useful to address violence and harassment risks, raise awareness regarding prevention and complaints, and promote a culture of zero tolerance to violence and harassment.

22. In order for employers to fulfil their responsibility to provide a safe and healthy workplace, they need to have appropriate tools and policy frameworks that enable them to take effective action against violence and harassment.

23. The protection of all from violence and harassment in the world of work is of key importance.

24. Governments, employers and workers have a role in ensuring compliance with law and policy as well as in adopting proactive initiatives. With reference to the conclusions of the recurrent discussion on social protection (labour protection) 2015, there is a need to extend coverage of OSH and other legal protection relevant to violence and harassment in the world of work to excluded workers, groups and sectors by identifying and closing gaps. Accessible and expedited procedures, which take account of the particular obstacles faced by those not adequately protected by labour law and other relevant laws, should be established. Privacy and confidentiality for both complainants, witnesses and trade union representatives, in particular for those more vulnerable to retaliation, such as workers living in poverty or in countries with high unemployment, should be ensured.

25. Social dialogue at all relevant levels is important for developing appropriate OSH systems, as well as for developing, implementing and monitoring other relevant legal and policy responses.

26. Collective bargaining at the enterprise, sectoral and national level could make a key contribution to addressing violence and harassment as could implementation and monitoring of collective agreements.

27. Collective agreements could address the effects of domestic violence. The workplace provides an entry point to mitigate the effects, and employers could be allies to address such violence, though they are not responsible for it. Clauses could, for example, include provision of support for and leave to victims, and connect victims to community services. In the same vein, other forms of violence and harassment could be addressed. International framework agreements may also be a means to address violence and harassment in the world of work, including in global supply chains.

28. There is a need for judicial, administrative, and disciplinary measures and other types of remedial action where violence and harassment has occurred. Similarly, support to victims of violence and harassment is key, including through safe reporting and protection against victimization.

29. There is a need for more and better data on the nature and extent of violence and harassment in the world of work, and the Office is invited to assist in developing a methodology to improve comparability of data.

Gaps to be addressed by (a) new ILO instrument(s)

30. There have been efforts at the national, regional and international levels to address violence and harassment in the world of work.

31. Governance gaps exist with regard to violence and harassment in the world of work.

32. The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) are key to enabling workers and employers to build violence and harassment-free workplaces.

33. A number of existing standards provide protection from workplace violence and harassment for specific groups of workers, namely domestic workers, indigenous persons, workers living with HIV and AIDS and workers in the informal economy. In addition, under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), sexual harassment is considered a form of sex-based discrimination. Other instruments, such as the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) and the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), while not mentioning violence or harassment explicitly, provide some useful elements to cover related OSH aspects and diseases caused by violence and harassment at work. However, these instruments do not define violence and harassment, do not provide guidance on how to address its various manifestations and do not cover all workers. They also lack an integrated approach that is essential to addressing violence and harassment in the world of work effectively. While acknowledging the need to improve the application of existing international labour standards and that a range of other measures are also required, the Experts concur on the relevance of (a) new instrument(s). This could provide a common understanding of what violence and harassment encompasses and what is needed to address it. The Experts suggest that, in future work, it would be useful to distinguish between

different forms of violence and harassment and the context in which they occur as different responses may be needed. They also suggest considering the desirability of using the term "violence and harassment" in lieu of "violence" only, to ensure the range of unacceptable behaviour is adequately understood and addressed.

Appendix II

Programme of reduced intervals for the preparatory stages of the first discussion
(article 39(5) of the Standing Orders
of the International Labour Conference)

30 April 2017	Dispatch of the preliminary report containing a synopsis of law and practice accompanied by a questionnaire
September 2017	Deadline for the receipt of replies to the questionnaire
March 2018	Dispatch of the first report to governments
June 2018	First discussion at the 107th Session of the Conference