Written submission from Care International UK (SHW0001)

“While piecemeal suggestions have emerged as to how to improve the protection of women (and men), little public attention has yet been paid on a major global initiative to address this very problem – the potential ILO Convention” Helen Pankhurst (Gender Advisor to CARE International UK)

Executive Summary

- CARE International UK is a leading humanitarian and development NGO working in over 80 countries. CARE considers it essential for the UK Government to signal without ambiguity that violence and harassment in the world of work demands serious and urgent attention by supporting a new ILO Convention (with associated Recommendation) on ‘Ending Violence and Harassment against women and men in the world of work’, with a strong focus on the gender dimension of violence. A proposed Convention will be discussed at the International Labour Conference from 28 May-6 June 2018.

- The current approach to dealing with violence and harassment in the world of work at both an international and domestic level is often fragmented and limited in scope. The development of international standard(s) would fill important gaps at international and domestic levels in relation to occupations, sectors and forms of violence and harassment, by taking a comprehensive and integrated approach.

- A new ILO Convention would require governments to pursue an integrated approach to address violence and harassment in the world of work, delineating clear responsibilities for public and private employers, workers and their respective organizations, and governments, and joint strategies and collaboration. An integrated approach is necessary not only for prevention, but also for protection, rehabilitation, compensation and other remedial action.

- In CARE’s view, the scope of the ILO Convention and Recommendation must reflect the needs of the women we support, for instance, that violence and harassment at work includes not just physical, but also psychological and sexual aspects; ensuring that practical protections against work-related violence and harassment reach all workers, including those working in private homes, in the informal economy, and in small and medium-sized enterprises; and that the world of work is considered to cover not only the traditional physical workplace, but also commuting to and from work, public spaces including for informal workers such as street vendors, and the home, in particular for homeworkers and domestic workers.1

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1 The term ‘world of work’ is used to recognise that ‘work’ extends beyond the physical workplace and includes, for example, work-related social events and domestic violence where it impacts on the world of work. CARE also recognises that the workplace can include homes, public places, and political workplaces. Please see CARE’s full response to the ILO Questionnaire at:
• The UK Government (via the Department of Work and Pensions) is already engaged in the ILO process. The Government responded to the recent ILO Questionnaire on “Ending violence and harassment against women and men in the world of work” in October 2017 and has publicly welcomed the Convention, committing to continued “close engagement with social partners in the UK and ILO members in seeking an outcome that reflects the key challenges and builds on UK good practice.”

• CARE recommends that the UK Government strongly supports a new ILO Convention (with associated Recommendation) on ‘Ending Violence and Harassment against women and men in the world of work’, with a strong focus on the gender dimension of violence throughout the life of the ILO process which will continue until 2020. We would like the Women and Equalities Committee to support this recommendation.

The Problem: poor women are the most vulnerable

1. #MeToo and #TimesUp have drawn attention to the sexual harassment and violence faced by women across many spheres of work, both in the UK and globally.

2. In the UK, more than half of women polled by TUC had experienced some form of sexual harassment in the workplace. Nearly one quarter of the women had experienced unwanted touching, such as a hand on the knee or lower back. More than 10% of women reported experiencing unwanted sexual touching or attempts to kiss them. The Fawcett Society’s Sex Discrimination Law Review found that women in the UK who work in retail, hospitality, healthcare, care, transport and many other sectors that deal with clients, patients, and customers on a daily basis currently have little protection from their employer when facing harassment.

3. Worldwide, between 40% and 50% of women experience unwanted sexual advances, physical contact or other forms of sexual harassment at work. CARE know from our work in communities around the world that poor women are even more vulnerable to abuse due to the fact they are working in some of the most exploitative and under-paid sectors of the economy with little protection from the law. For example domestic workers in Latin America, whose jobs are generally hidden from public view and where reports of rape by family members they work for are not uncommon. CARE research has


2 Response to Written Question 118662, 19 December 2017
<http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2017-12-11/118662/>

3 Trades Union Congress (2016)


also shown that 1 in 3 garment workers in Cambodia experienced sexual harassment in the workplace in the last year.\(^6\)

4. Women’s poverty in the UK and globally means they will do everything to keep their job, whatever the personal costs – this exposes them the most and makes them least able to speak out, or report incidents or to seek redress. The UK has an opportunity to lead the fightback against the sexual harassment and violence in the workplace.

**The Solution: Global Convention to end violence and harassment in the workplace**

5. A Global Convention to end violence and harassment in the workplace provides a real opportunity for the UK government to lead the call for governments around the world to strengthen national laws that uphold the rights of workers to be free from violence and sexual harassment in the workplace. The **Convention would build on the UK Government’s record on Modern Slavery and help reduce risks further down supply chains.** It would also enable the UK to share best practise with other countries and offer opportunities to tighten existing gaps in UK legislation such as the reintroduction and revision of Section 40 of the Equality Act 2010.\(^7\) A strong ILO Convention would hold governments, employers and trade unions to account and help put an end to impunity. To do this, the Convention needs to be as comprehensive as possible.

6. There is no internationally agreed definition of the term “violence and harassment in the world of work”. Whilst several ILO instruments refer to violence and/or harassment, none of these instruments address violence and harassment as their primary aim, none define what is meant by violence and harassment, nor do they indicate the steps that governments, employers and workers’ organisations should take to prevent, address and redress violence and harassment in the world of work. Further, these instruments tend to refer to only certain forms of violence or harassment and only cover specific groups or categories of workers.

7. For an integrated approach to violence and harassment in the world of work, the ILO Convention should provide that member States: include a prohibition in law of all forms of violence and harassment in the world of work; ensure that relevant policies address violence and harassment; adopt a comprehensive prevention strategy; establish enforcement and monitoring mechanisms; provide remedies and support for victims; provide sanctions for perpetrators; and develop tools and guidance.

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\(^7\) See recommendations made by Fawcett Society (2018) [<https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=e473a103-28c1-4a6c-aa43-5099d34c0116>]
8. CARE suggests that explicit reference is made to gender based violence. Whilst violence and harassment in the world of work affects everyone, women and those who do not conform to societal perceptions of gender roles and norms are at greater risk. CARE considers that the instrument should also recall the United Nations Guiding Principles on Business and Human Rights, recognising that violence and harassment in the world of work is a human rights violation and a threat to the dignity, health and security of individuals, and that the Guiding Principles refer to the ILO’s Declaration on Fundamental Principles and Rights at Work. Moreover, the instrument should also recall the ILO Convention 189 on Domestic Workers and its commitment to ensure the effective promotion and protection of the human rights of all domestic workers.

9. For CARE, physical, psychological and sexual violence can be considered gender-based if it stems from unequal power relationships or if it is perpetrated against people because they do not conform to socially accepted gender roles. Women and girls are the ‘primary targets’ of gender-based violence, whilst men are most often the perpetrators. Violence, harassment and sexual harassment in the world of work affect women disproportionately.

**Definitions and scope - violence and harassment**

10. Violence and harassment is highly contextual and is often driven by dynamics operating both in the world of work and in greater society, including, but not limited to, power relations, gender norms, cultural and social norms, and discrimination. Whilst violence and harassment affects every sector and occupation, negative power relations, discrimination based on the intersectionality of various factors (such as gender and race), circumstances and conditions of work and psychosocial hazards can increase the risk of exposure to violence and harassment in the world of work.

11. For CARE, violence and harassment in the world of work can take several forms such as physical abuse including assault, battery, attempted murder and murder; sexual violence including rape and sexual assault; verbal abuse; bullying; psychological abuse and intimidation; sexual harassment; threats of violence and stalking. Whilst there are extreme forms of violence that are easily recognised, other seemingly less extreme forms of intimidation and harassment, sometimes taking place over extensive periods, can have equally devastating effects but are not always recognised in measures to address violence in the world of work.

12. The scope of violence and harassment in the world of work should also cover situations occurring in the domestic sphere, where these impact on the world of work. Domestic abuse/intimate partner violence can, for example, cause disrupted work histories, high rates of absenteeism, lower personal incomes, and frequent changes in jobs and loss of employment. The scope of the ILO Convention should also extend to measures to prevent and address violence from third parties, such as clients and members of the public. Family members and friends/relatives of employers should be included in the list of third parties, where private homes are workplaces.
**Sectors and places of work**

13. CARE considers that the instrument(s) should explicitly include a wide concept of the world of work, a notion that would extend beyond the physical workplace and would include commuting to and from work, work-related social events and domestic violence where it impacts on the world of work.

14. The instrument should include homes and public places. It is important to frame public places as a workplace in order to protect informal workers who are especially vulnerable to violence. Political workplaces including parliaments and political parties should be included as workplaces within the ILO Convention, given the global prevalence of violence against women standing for national and local office. This notion should also include events related to the exercise of freedom of association, including especially the right to organize and collective bargaining.

15. CARE recommends that homes are included in the wider understanding of the world of work in order to consider unpaid care work, work in family enterprises, home-based workers and teleworkers. CARE suggests to also include the employer’s residence as a workplace in the case of live-in domestic workers. Unpaid care workers should be explicitly mentioned considering that such workers have not usually been under the coverage of ILO instruments.

16. Whilst no workplace, group, sector or occupation is intrinsically vulnerable to violence and harassment, some could be at a higher risk. For example, workers in frontline services such as public emergency services, social care, health and education, as well as in the transport and hospitality sectors - have reported relatively higher incidence. Working alone, in isolated or intimate spaces or at night can also increase risk of exposure to violence and harassment, as can working in highly segregated occupations (for instance women working in male dominated sectors such as construction and transport). Workers in informal, precarious and non-standard forms of employment and workers who cannot effectively exercise their rights to freedom of association and collective bargaining are also likely to be more at risk of violence and harassment. Domestic and sex workers also have a higher exposure to violence.

**Dispute resolution mechanisms**

17. The ILO Convention should provide that each member State should ensure that all workers have easy access to safe, fair and effective dispute resolution mechanisms including: complaint and investigation mechanisms which, both within and external to the economic unit, should recognise the role of trade unions in dispute resolution; access to courts or tribunals; and dispute resolution mechanisms external to the economic unit.

18. In many instances the only ‘remedy’ available to workers experiencing violence and harassment is to leave the job. In cases of sexual or physical assault the only remedy available may be through the criminal system, which can be slow and expensive, and requires a high burden of proof. Although violence and harassment can lead to physical and mental illness, only a small number of countries consider the health consequences of work related violence and harassment as compensable occupational illnesses under
workers’ compensation insurance. In cases in which keeping the job entails significant risks of further violence or harassment in retaliation, programs should be put in place for victims easily find alternative possibilities of employment.

**Prevention measures**

19. Regarding protection measures, in addition to developing and implementing workplace policies on violence and harassment and establishing prevention programmes with measurable objectives, CARE suggests employers publish key (anonymised) data, disaggregated by sex as well as reporting on risks identified and the plans established to mitigate those risks, and to provide remedy in cases of actual harassment and violence. Such publication should cover not only direct employees but also workers further up and down the value chain. Employers should also be required to publish their analysis of the risks of workplace violence and harassment throughout their value chain and the steps they are taking to mitigate these risks and to provide remedies to victims of workplace violence and harassment. Such workplace policies should extend to the entire value chain, bearing in mind companies’ responsibilities under the UN Guiding Principles on Business and Human Rights.

20. CARE believes it to be of utmost importance that workers and their representatives take part in the design, implementation and monitoring of workplace policies.

**Women’s participation in the ILO process and beyond**

21. Women should be encouraged and supported in becoming worker representatives in order to play a key role in consultations both in the ILO Convention ratification process, and in the long-term implementation of the ILO Convention in national law and regulations, and in engagement with implementation, enforcement and remediation authorities and employers.

**Global value chains**

22. The importance of global value chains and their impact on the conditions faced by workers, not only in formal situations such as Tier 1 factories, but also throughout the value chain, including home-based and informal workers must be addressed in the instruments. For instance, many garment value chains include sub-contracting to Tier-2 factories and to homeworkers, often via agents. This complexity adds to the risk of poor conditions for workers including violence and harassment. The companies at the top of these value chains drive, via demanding purchasing practices, pressure down the value chain which gives rise to significantly increased risks of violence and harassment at work.

23. CARE calls on the ILO to have the ILO Convention recognise the United Nations Guiding Principles on Business and Human Rights, and preferably build on their Respect and Remedy requirements of businesses with obligations to pay particular attention to the risks of violence and harassment at work within their Human Rights Due Diligence processes; to publish their risk analyses and mitigation plans; and to provide specialised remedies which recognise the particularly sensitive nature of the impact of violence and harassment at work. Responsibility for violence and harassment in the workplace should
not only extend to supply chains but should also extend to distribution and retail channels where a brand or manufacturer plays a major role in the value chain.

Support and guidance at the national level

24. Member States should develop and implement gender sensitive guidelines and training to assist judges, labour inspectors, police officers and other public officials in fulfilling their mandate regarding violence and harassment as well as to assist employers in preventing and addressing violence and harassment and also in terms of enforcement and access to justice. Labour inspectors, judges and others involved in the enforcement and administration of justice are seldom provided with training on identifying risks of violence and harassment. This is especially relevant for gender based violence, where there is often a gap in the knowledge, expertise and sensitivity of those entrusted with the enforcement of protections against such conduct.

25. The Recommendation should also outline the rights and responsibilities of workers and employers and ensure workers and their representatives are consulted, informed and trained. Training should be extended to labour inspectors and to those involved in taking measures to prevent and control hazards and risks of violence and harassment, such as occupational health and safety officers, human resources personnel, managers and supervisors. Moreover, companies should be required to ensure appropriate and adequate training of employees / employer councils or boards who investigate from within the company. All individuals engaged in inspecting for, and addressing violence and harassment in the workplace, including labour inspectors and internal corporate staff, need to be specifically trained to identify ways in which intersecting identities (such as gender, race, class, caste and sexual orientation) can play a role in exacerbating the risk and/or effects of violence and harassment for some employees disproportionately when compared to others. Training programmes and materials for journalists and other media personnel on gender-based violence should include identifying corporate responsibilities on transparency, risk analysis and mitigation, and effective remedies throughout the value chain.

26. The Recommendation should include that member States provide resources and assistance for informal economy workers and their associations to prevent and address violence and harassment, including gender-based violence, in the informal economy. This would be consistent with the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), which calls for the adoption of an integrated policy framework to facilitate the transition to the formal economy that addresses, among others, the promotion of equality and the elimination of all forms of discrimination and violence, including gender-based violence, at the workplace. Such integrated strategies should combine a broad range of policy areas to achieve the transition to formality, including improving national legal frameworks, strengthening occupational safety and health (OSH) and labour inspection, organising informal workers and extending the coverage of social protection.
Recommendations

27. A positive and progressive new ILO Convention and Recommendation are needed. In CARE’s view, the scope of the ILO Convention and Recommendation must reflect the needs of the women we support, for instance, that violence and harassment at work includes not just physical, but also psychological and sexual aspects; ensuring that practical protections against work-related violence and harassment reach all workers, including those working in private homes, in the informal economy, and in small and medium-sized enterprises; and that the world of work is considered to cover not only the traditional physical workplace, but also commuting to and from work, public spaces including for informal workers such as street vendors, and the home, in particular for homeworkers and domestic workers.

28. A new ILO Convention would require governments to pursue an integrated approach to address violence and harassment in the world of work, delineating clear responsibilities for public and private employers, workers and their respective organizations, and governments, and joint strategies and collaboration. An integrated approach is necessary not only for prevention, but also for protection, rehabilitation, compensation and other remedial action.

29. CARE recommends that the UK Government strongly supports a new ILO Convention (with associated Recommendation) on ‘Ending Violence and Harassment against women and men in the world of work’, with a strong focus on the gender dimension of violence throughout the life of the ILO process which will continue until 2020.

February 2018