▶ Preventing and addressing violence and harassment in the world of work through occupational safety and health measures

Guidance, training & awareness

Safe & healthy working environment

World of work free from violence and harassment

Equality & non-discrimination

Workplace cooperation

Laws & policies

Risk assessment & control

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▶ Foreword

The adoption of the Violence and Harassment Convention, 2019 (No. 190), reaffirms the ILO's values and priorities as it continually strives to improve conditions of labour as set out in its Constitution. This recognition of the right of everyone to a world of work free from violence and harassment (V&H) was followed by the inclusion of a safe and healthy working environment in the ILO's framework of fundamental principles and rights. In light of these developments, the Governing Body of the ILO requested that the International Labour Office conduct research on how to ensure that occupational safety and health (OSH) legislation and management systems address V&H.

This publication, *Preventing and Addressing Violence and Harassment in the World of Work through Occupational Safety and Health Measures*, is therefore an ILO research report specifically designed to respond to the need for a better understanding of the role of OSH frameworks in creating working conditions free from V&H. It is being issued as part of the research project entitled "Practical Guidance and Tools to Prevent and Address Violence and Harassment in the World of Work: An OSH Perspective", which is jointly funded by the European Commission and the ILO.

The report aims to shed light on some of the questions that the actors in the world of work face in designing workplace strategies to address V&H. How can OSH regulatory frameworks help to prevent V&H in the world of work? Is a general duty of care for workers' health provided for by OSH legislation sufficient to prevent V&H in the world of work? What type of regulation related to OSH can work: hard law or soft techniques?

This report draws on national efforts and experiences in designing and deploying OSH legal and practical toolkits to combat V&H. Using examples from all regions, it seeks to provide governments, employers and workers with a deeper understanding of the linkages between policy and practice, in particular by investigating the role played by guidance and tools in making OSH interventions operational at the level of enterprises.

The report was prepared by the Wage, Income, Equity Unit, led by Catherine Saget, of the ILO Research Department, with the support and guidance of its director, Richard Samans. The authors of the report are Tahmina Karimova and Simon Boehmer.

▶ Acknowledgements

▶ Abbreviations

BLA	Bangladesh Labour Act
C.155	Occupational Safety and Health Convention, 1981 (No. 155)
C.187	Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)
C.190	Violence and Harassment Convention, 2019 (No. 190)
CBA	collective bargaining agreement
CEACR	Committee of Experts on the Application of Conventions and Recommendations
EU	European Union
EU-OSHA	European Agency for Safety and Health at Work
FAQs	frequently asked questions
GBVH	gender-based violence and harassment
ICT	information and communication technology
IFC	International Finance Corporation
LEIV	Special Integral Law for a Life Free of Violence for Women (El Salvador)
LGPR	General Law for the Prevention of Risks in the Workplace (El Salvador)
MSMEs	micro, small and medium-sized enterprises
OiRA	Online Interactive Risk Assessment
OSH	occupational safety and health
Q&A	question-and-answer
R.206	Violence and Harassment Recommendation, 2019 (No. 206)
UN	United Nations
V&H	violence and harassment
WEA	Working Environment Authority (Denmark)
WHO	World Health Organization

▶ Glossary

Anti-discrimination: Efforts that promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.[1] Discrimination, in this context, includes any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, or any other distinction, exclusion or preference as may be determined by the Member State concerned after consultation with representative employers' and workers' organizations, where such exist, and with other appropriate bodies, that has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.[2] Laws promoting equality and non-discrimination are accordingly referred to as "anti-discrimination laws".

Compensation: A system of insurance or benefits for workers who suffer injuries or illnesses as a result of their employment. As regards violence and harassment, such benefits usually encompass salary replacement benefits, medical care and disability insurance.[3]

Criminalization of violence and harassment: The process of legally treating acts of violence and harassment as criminal offenses, subject to legal sanctions and penalties.

Duty of care: In the realm of occupational safety and health (OSH), the legal obligation of employers to take reasonable care of their workers' safety and health.[4] While Convention No. 155 outlines the general duties and responsibilities of employers with respect to OSH,[5] Convention No. 190 applies these duties to violence and harassment, providing that ratifying States "shall adopt laws and regulations requiring employers to take appropriate steps commensurate with their degree of control to prevent violence and harassment in the world of work, including gender-based violence and harassment" (Article 9).

Gender-based violence and harassment: Violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately. It includes sexual harassment.[6]

Guidance and tools: Under Article 11(b) of Convention No. 190, ratifying States are required to provide employers, workers and their representatives "with guidance, resources, training or other tools, in accessible formats as appropriate, on violence and harassment in the world of work, including on gender-based violence and harassment". Such guidance and tools may include codes of practice, guidelines, national standards, training programmes and materials, practical tools, and information and consultation services.

Hard law: Legally binding documents, which in international law typically take the form of treaties or international agreements, that carry legal obligations and can be enforced by legal mechanisms.

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1   As formulated by the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The ILO Governing Body identified the elimination of discrimination in respect of employment and occupation as one of the fundamental principles and rights at work (ILO Declaration on Fundamental Principles and Rights at Work (1998), para. 2(d)).

2   Convention No. 111, Art. 1.

3   R. Cox and K. Lippel, "Legal Frameworks for Preventing Work-Related Bullying and Harassment and Ensuring Access to Remedies for Targets", in *Bullying and Harassment in the Workplace: Theory, Research and Practice*, ed. S.V. Einarsen, H. Hoel, D. Zapf and C.L Cooper (New York: CRC Press, 2020), 649–675.

4   See also ILO, *General Survey concerning the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Safety and Health Recommendation, 1981 (No. 164), and the Protocol of 2002 to the Occupational Safety and Health Convention, 1981*, 2009, para. 173.

5   For example, the Occupational Safety and Health Convention, 1981 (No. 155), Art. 16, requires employers to ensure that, so far as is reasonably practicable, "the workplaces, machinery, equipment and processes under their control are safe and without risk to health"; that "the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken"; and that they "provide, where necessary, adequate protective clothing and protective equipment to prevent … risk of accidents or of adverse effects on health". Under Art. 18, they should also be "required to provide, where necessary, for measures to deal with emergencies and accidents, including adequate first-aid arrangements".

6   Violence and Harassment Convention, 2019 (No. 190), Art. 1.1(b).

Health: In relation to work, health indicates not merely the absence of disease or infirmity; it also includes the physical and mental elements affecting health, which are directly related to safety and hygiene at work.[7]

International labour standards: Legal instruments drawn up by the ILO's constituents (governments, employers and workers) that lay out the basic principles and rights at work. They are Conventions, Recommendations and Protocols. Conventions are legally binding international treaties that may be ratified by Member States. Recommendations are non-binding guidelines. Conventions lay down the basic principles to be implemented by ratifying countries; a related Recommendation supplements it by providing more detailed guidelines on how it can be applied. Recommendations can also be autonomous and not linked to any Convention. Protocols add new provisions to existing Conventions. All Member States must submit periodic reports on the implementation of the international labour standards, even those they have not ratified.

Labour inspection: The main functions of a labour inspection are to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work; to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions; and to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.[8] Although the functions of most labour inspectors relate to any branch of labour law, some target occupational safety and health (OSH) more specifically and are essential in securing compliance with the related duties. Their function may be regulated by means of administrative laws, the labour code/law, a specific labour inspection statute and the OSH law.[9]

Occupational accident or disease: Occupational accidents are occurrences arising out of, or in the course of, work that result in fatal or non-fatal injury. Meanwhile, occupational diseases are any disease contracted as a result of exposure to risk factors arising from work activity.[10]

Occupational hazards and risks: The two terms are interconnected, yet distinct. While "hazard", in the context of violence and harassment, can be anything that has the potential to cause or contribute to violence and harassment, "risk" describes the likelihood and severity of violence and harassment occurring as a result of exposure to the hazard.[11]

Occupational safety and health (OSH): The discipline dealing with the prevention of work-related injuries and diseases and with the protection and promotion of the health of workers. Its aim is to improve working conditions and the working environment.[12] The main focus of OSH is on three different objectives: (i) maintenance and promotion of workers' health and working capacity; (ii) improvement of the working environment and work in such a way as to become conducive to safety and health; and (iii) development of work organizations and working cultures in a direction that supports health and safety at work and in so doing also promotes a positive social climate and smooth operation and may enhance productivity of the undertakings.[13]

OSH management system: A set of interrelated or interacting elements to establish OSH policy and objectives, and to achieve those objectives (see section 3.5.2 for more information).[14]

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7   Convention No. 155, Art. 3(e).

8   Labour Inspection Convention, 1947 (No. 81), Art. 3.1.

9   ILO, *Support Kit for Developing Occupational Safety and Health Legislation* (2021), 338.

10 Protocol of 2002 to Convention No. 155.

11 See also ILO, *Guidelines on Occupational Safety and Health Management Systems: ILO-OSH 2001*, 2nd edition, 2001.

12 ILO, *Technical and Ethical Guidelines for Workers' Health Surveillance*, Occupational Safety and Health Series No. 72, 1998.

13 This follows the definition adopted by the Joint ILO/WHO Committee on Occupational Health (12th Session, 1995). The concept of working culture is intended in this context to mean a reflection of the essential value systems adopted by the undertaking concerned. Such a culture is reflected in practice in the managerial systems, personnel policy, principles for participation, training policies and quality management of the undertaking.

14 ILO, *Guidelines on Occupational Safety and Health Management Systems: ILO-OSH 2001*, 2nd edition, 2001.

Prevention of psychosocial risks and of violence and harassment: Such prevention usually requires a multi-pronged and multi-faceted approach, with different levels of interventions. *Primary prevention* refers to interventions that are proactive in nature and aim to prevent harmful effects or phenomena from emerging. *Secondary prevention* aims to reverse, reduce or slow the progression of the situation or of ill health. *Tertiary prevention* is restorative or rehabilitative in nature, designed to reduce the negative impacts (see section 1.4 for more information).

Psychosocial risks: Interactions between and among the work environment, job content, organizational conditions and workers' capacities, needs, culture and personal extra-job considerations that may, through perceptions and experience, influence health, work performance and job satisfaction (see Chapter 1 for further explanation).

Remedial action: Interventions that aim at compensatory or remedial justice; deterrence; restorative justice or reconciliation; and/or condemnation or retribution.[15]

Risk assessment: The process of evaluating the risks to safety and health arising from hazards at work. The results of risk assessments are then used as the basis for the workplace's prevention plan and associated preventive measures (see Chapter 3 for more information).[16]

Sexual harassment: Any physical, verbal or non-verbal conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men, which is unwelcome, unreasonable and offensive to the recipient; or when a person's rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person's job; or conduct that creates an intimidating, hostile or humiliating working environment for the recipient.[17] Under Convention No. 190, sexual harassment is not defined, but it is clearly included within the definition of gender-based violence and harassment (Article 1.1(b)).

Soft law: non-binding instruments, such as guidelines, principles or declarations that lack legal enforcement mechanisms.

Violence and harassment: In the world of work, 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 include gender-based violence and harassment.[18]

Workplace: Any place where workers need to be or to go by reason of their work and which is under the direct or indirect control of the employer.[19]

World of work: A broad concept that takes account of work occurrences beyond the physical workplace. Convention No. 190 specifies that it applies to violence and harassment in the world of work occurring in the course of, linked with or arising out of work: (a) in the workplace, including public and private spaces where they are a place of work; (b) in places where the worker is paid, takes a rest break or a meal, or uses sanitary, washing and changing facilities; (c) during work-related trips, travel, training, events or social activities; (d) through work-related communications, including those enabled by information and communication technologies; (e) in employer-provided accommodation; and (f) when commuting to and from work (Article 3). Moreover, the term covers not only workers but also other persons in the world of work, including (for instance) persons working irrespective of their contractual status, and in all sectors in both the formal and the informal economy (Article 2).

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15 See also D. Shelton, *Remedies in International Human Rights Law*, 2nd edition, Oxford University Press, 2005.

16 See also ILO, *Guidelines on Occupational Safety and Health Management Systems: ILO-OSH 2001*, 2nd edition, 2001.

17 ILO, "Brief No. 2: Sexual Harassment in the World of Work", 2020.

18 Convention No. 190, Art. 1.1(a).

19 Convention No. 155, Art. 3(c).

▶ Executive summary

Violence and harassment and the changing world of work

Violence and harassment (V&H) is an issue that affects a vast number of workplaces throughout all countries of the world. There is growing evidence that no individual, no enterprise, no sector and no society can claim to be entirely free from V&H. More than one in five persons in employment have experienced it during their working life, according to the ILO's most recent estimates.[1] This phenomenon is not confined to a specific workplace (office, workstation, factory, retail) but can occur when commuting to or from work, in the digital space through work-related communications, during work-related trips, events or social activities, and in home-based offices.

V&H comes at great cost to individual workers' health, well-being and livelihoods, to enterprises' prosperity through reduced productivity, replacement, retirement and reputational damage, and to society as a whole through the potential loss of productive workers and through increased pressure on social services and welfare. Looking into the future, the problem may be further exacerbated by a number of factors that are changing the nature of work, such as new forms of employment contracts, the ageing workforce, work intensification, digital surveillance and poor work–life balance.

The adoption of the ILO Violence and Harassment Convention, 2019 (No. 190), and of its accompanying Recommendation (No. 206) therefore marks a high-water mark of the international pledge to recognize the right of everyone to a world of work free from V&H. This commitment was strengthened in 2022, when the International Labour Conference decided to amend the ILO Declaration on Fundamental Principles and Rights at Work (1998) to include "a safe and healthy working environment" as a fundamental principle and right at work, which is one of the strategies to address V&H in the world of work. This move also reflects the decade-long evolution of occupational safety and health (OSH) at work from covering safety risks to overall concern for maintaining both physical and mental well-being at work.

The OSH framework as one of the key strategies to prevent violence and harassment in the world of work

ILO Convention No. 190 stresses the need to adopt an inclusive, integrated and gender-responsive approach to the prevention and elimination of V&H in the world of work (Article 4). The Convention further specifies preventive measures (Article 9), highlighting (among other things) the need to address psychosocial risks at work. V&H at work and psychosocial risks are mutually reinforcing: while V&H can be induced by several individual, social and organizational factors, evidence shows that there is a vicious circle as psychosocial risks become a contributory cause of V&H, and vice versa. V&H is situated at the intersection of individual (subjective) factors and collective (work organization) factors. Given this interrelation, until organization-level factors and other underlying causes of V&H in the workplace are addressed, V&H will continue to pose a challenge to the world of work.

Thus, in terms of long-term and workplace-related strategies to tackle V&H in the world of work, OSH represents one of the most direct entry points for addressing the problem. Focusing on the working environment and acting at the collective level, OSH is well equipped to address the root causes of V&H at work, provides structural and systematic responses to V&H, and has the capacity to mobilize actors in the world of work in the pursuit of a common goal addressing workplace V&H. This approach, based on a system of mutual rights and obligations between workers and employers, can facilitate implementation

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1 ILO, *Experiences of Violence and Harassment at Work: A Global First Survey*, 2022.

of strategies to prevent V&H through social dialogue and by building a collective commitment to creating working environments free from V&H.

Indeed, this report finds that two thirds of provisions on and in relation to workplace V&H in the 25 countries examined are found in labour and OSH legislation. Compared to other regulatory approaches, OSH legislation tends to be more detailed in setting forth preventive strategies and in defining both the general duty of care on the part of the employer to take necessary measures to protect the health and safety of workers, and the complementary responsibilities of workers to collaborate in achieving the objective of protecting health and safety in the world of work, by taking reasonable care of their own health and safety and that of others. In the Americas and in Europe and Central Asia, relevant provisions are found primarily in OSH and labour legislation, while in Asia and the Pacific and in the Arab States, the focus has been to address sexual harassment as a priority, and their efforts have been directed at devising a targeted legal framework to this end.

At the same time, half of the countries reviewed for this report have promoted the notion of dignity at work, which can be used as a basis to develop regulations and standards for psychosocial risk factors (and specifically V&H) in working environments.

Collective bargaining agreements as a complement to legal and policy responses

Collective bargaining agreements (CBAs) constitute another avenue for addressing V&H. In fact, CBAs at company or sector level can be crucial in implementing legislation on V&H in workplaces. Clauses on prohibiting and addressing workplace V&H have increasingly been incorporated into CBAs. Some 252 clauses dedicated to the issue of V&H have been included in 95 sector- and company-level CBAs representing 15 different countries.

Manufacturing, the public sector, agriculture, forestry and fishing, and transport, logistics and communications represent the four sectors that include the highest share of CBAs containing V&H clauses. These clauses mainly contain prohibition rules (on V&H in general, or specifically on sexual harassment), general principles of mutual respect, and rules at the level of response – that is, specifying the consequences that will follow if a V&H incident occurs in the workplace.

A review of these CBAs in 20 countries shows that employers and workers alike are raising concerns about workplace V&H and are negotiating specific clauses to address V&H in the world of work.

The role of guidance and tools in implementing OSH legislation on violence and harassment

Any legislation or policy is easier to operate in the realities of a workplace or enterprise if those – employers and workers alike – on whom it is incumbent to fulfil their workplace obligations to prevent and address V&H are equipped with practical means informing them how to use and implement laws and regulations.

In this regard, as Convention No. 190 specifies, guidance and tools can play an important role. The review of these tools in 20 selected countries confirms that they are often used to operationalize legislation on V&H in the workplace – to determine what steps are needed to prevent V&H and how to implement them.[2] They can also help to communicate and clarify legal provisions on work-related V&H, to tailor them to the needs of both employers and workers, and to navigate through the often complex web of laws and regulations.

The review of 20 countries also shows that guidance and tools on V&H at work take various forms, including codes of practice, guidelines, national standards, training programmes and materials, practical tools, and information and consultation services. These types of guidance and tools have different yet complementary

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2 Note that the 20 countries covered in this review are different from the 25 that were reviewed from the perspective of incorporating V&H in OSH and anti-discrimination legislation.

strengths and advantages. OSH management systems and their elements are generally central topics in the guidance and tools produced by all 20 countries reviewed in this report. These include workplace policies and risk assessment, and particularly (guidance on) training and information for workers, and risk control measures in relation to V&H. However, some guidance and tools fail to tap their full potential to support implementation measures, either because they do not further specify how measures are to be implemented or because they are not comprehensive enough, leaving out certain types of V&H (among other things).

Despite their important and multifaceted role, the number of guidance and tools available at national level differs considerably. Countries with a relatively high number of pieces of guidance and tools tend to more frequently address specific sectors, work situations, types of employment and/or types of V&H with dedicated guidance and tools, thereby providing guidance tailored to the needs of the target group. Meanwhile, the reviewed guidance and tools tend to cover the main forms of V&H comprehensively, although there are slight differences across regions and income groups: while sexual V&H tends to be addressed slightly more frequently in Asia and the Pacific, psychological V&H is slightly more often the topic of guidance and tools in high-income countries and in Europe and Central Asia.

Variety in country-level approaches to promoting OSH frameworks in relation to violence and harassment

Although OSH frameworks represent one of the most direct entry points for preventing V&H in the world of work, countries differ considerably in their approaches to preventing and addressing V&H through OSH. This is shown, in particular, by in-depth studies conducted in seven countries around the world – Bangladesh, Barbados, Denmark, El Salvador, Georgia, Spain and Tunisia.

In Denmark the OSH legislation includes a comprehensive set of provisions dedicated to preventing V&H at work. Also in El Salvador, OSH legislation explicitly recognizes V&H as a psychosocial risk, but the provisions on managing such psychosocial risks are relatively broad and outcome-based.

OSH legislation in Spain and Tunisia does not explicitly refer to V&H, but it is so broadly formulated that it can in principle also be applied to V&H. However, only Spain has confirmed this interpretation, by issuing comprehensive guidance and tools that recognize V&H as a psychosocial risk and elaborate on how to embed V&H in OSH management systems in the workplace.

Barbados and Bangladesh have specific legal provisions on sexual harassment at work, but these are limited to workplace policies, training and complaint procedures and do not include further provisions on OSH management systems. The OSH legislation of both countries focuses solely on hazards and risks in relation to physical health and safety, as is also the case in Georgia, despite considerable efforts in recent years by the Georgian Government to amend its OSH law.

It is clear, then, that the role and availability of guidance and tools differ considerably across the seven countries. Providing guidance and tools to prevent and address V&H through OSH involves multiple actors, especially in Denmark, Spain and Bangladesh – even or particularly in the absence of explicit legislation – ranging from public authorities and the social partners to civil society and other private actors. The social partners, in particular, play a decisive role in specifying and tailoring relevant information to the specific needs of sectors and work occurrences. Meanwhile, both public authorities and the social partners in Georgia and Barbados have provided little or less comprehensive guidance and tools.

OSH as a key instrument in an inclusive, integrated and gender-responsive approach to preventing and eliminating violence and harassment in the world of work

The ILO Violence and Harassment Convention, 2019 (No. 190), recognizes the crucial importance of a comprehensive strategy that involves an an inclusive, integrated and gender-responsive approach in designing a response to the issue of workplace violence.

To date, many of the legal and policy initiatives on V&H have been concentrated more on remedial action and legislation, and not so much on preventive frameworks. While punitive, restorative and compensatory legal provisions play an important role as part of an an inclusive, integrated and gender-responsive approach and cannot be overlooked, prevention as a strategy allows the actors in the world of work to pay adequate attention to the deeper structural problems at play. An OSH framework tackles V&H at work on a far broader basis by allowing preventive action to be taken before specific manifestations of V&H arise in the workplace. Furthermore, legislation on the working environment also generally helps to address collateral aspects that frequently contribute to workplace V&H, such as working time, dismissals, salaries and job security. An OSH framework also has the advantage of facilitating social dialogue and participatory mechanisms, which can mobilize all actors in the world of work towards a common objective.

There is no one-size-fits-all approach to the problem of V&H in the world of work, and a targeted response may require a context-specific assessment. Country-level experiences underline the importance and benefits of collecting comprehensive data on V&H, as such data help public authorities and the social partners to identify developments and to monitor, evaluate and improve appropriate legal or policy responses where needed.

Even in countries that have a strong legal framework on work-related V&H and comprehensive guidance and tools, organizations may encounter difficulties in effectively utilizing these instruments and devising suitable solutions to their specific challenges pertaining to V&H. Various factors can impede the process, ranging from lack of resources to resource-demanding parallel work processes. Consequently, the provision of more intricate and tailored information, alongside individualized support and consultation services for employers and workers, becomes increasingly vital. Moreover, given the ongoing changes in working conditions and the emergence of new psychosocial risks, effective legal and policy responses require continuous monitoring and evaluation, improvement and adaptation to accommodate these new developments.

▶ General introduction

This report discusses how violence and harassment (V&H) in the world of work can be addressed and prevented through occupational safety and health (OSH) frameworks. Its aim is to provide an overall perspective and to create greater awareness of the issue of addressing V&H through OSH frameworks, while at the same time equipping ILO Member States and the social partners with evidence on the importance of prevention as one of the key strategies to ensure a world of work that is free from V&H.

To date, preventing V&H through OSH frameworks has been relatively little examined as a topic from the point of view of the interconnection between policy and practice; in particular, the role played by guidance and tools in making OSH interventions operational at the level of workplace or enterprise has not received sufficient attention. The second objective of this report, therefore, is to provide all actors in the world of work, including the social partners, with an analysis of the role of guidance and tools in assisting them in achieving their commitment and policy objectives geared towards preventing V&H in the world of work. The third objective of the report is to focus in on seven countries, to investigate the interplay and complementarity of OSH legislation and soft techniques (such as guidance, tools and awareness-raising) in addressing and preventing V&H in the world of work.

The report is arranged in four chapters. Chapter 1 makes the case for prevention through OSH and sets out the general analytical approach adopted in the report. In this way, the general regulatory approach to addressing workplace V&H through OSH is outlined.

Chapter 2 analyses the legal framework in several countries, examining the scope and content of the OSH legislation as regards V&H in the world of work. It also reviews collective bargaining agreements in selected countries with a view to identifying the scope of the V&H clauses in such agreements.

Chapter 3 extends the discussion of the legal framework by analysing the role of soft techniques, such as non-binding instruments and implementing measures in integrating V&H in the world of work. To contextualize the discussion, the chapter reviews in detail a sample of government-issued guidance materials and tools, examining the typology of such soft instruments, their content, and the different approaches to providing them that have been adopted by different countries around the world.

Chapter 4 takes a closer look at the interplay of legislation and guidance and tools at the country level. Based on country studies of Bangladesh, Barbados, Denmark, El Salvador, Georgia, Spain and Tunisia, the chapter examines each of the seven country contexts in relation to prevention of V&H at work through OSH and asks whether the development of non-legally binding measures or soft techniques (guidance, tools, awareness-raising) has played a role in the composition of the OSH framework in relation of V&H.

Finally, the report concludes with a set of policy-oriented recommendations and proposals for future research.

Environment free from Violence and Harassment
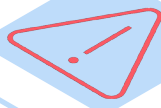
▶ **1**

Defining the parameters of violence and harassment within systemic approaches to occupational safety and health

OSH

legislation is a broader legislation for prevention of workplace risks that represents one of the entry points for addressing workplace violence and harassment.

▶ Key messages

- The ILO's first global survey on experiences of violence and harassment (V&H) at work confirms that it is a widespread phenomenon around the world, with more than one in five persons in employment having experienced it during their working life.

- ILO Violence and Harassment Convention, 2019 (No. 190), and its accompanying Recommendation No. 206 give an importance not only to the legal regulation of V&H in the world of work, but also to the preventive approach, outlining both the core principles and the explicit requirement of prevention through occupational safety and health (OSH).

- OSH legislation is a broader legislation for prevention of workplace risks that represents one of the entry points for addressing workplace V&H. It is well equipped to address the root causes of V&H at work, provides structural and systematic responses to V&H, and has a capacity to mobilize actors in the world of work in the pursuit of a common goal of making workplaces free from V&H.

- The relationship between V&H at work and psychosocial risks works both ways: while V&H can be induced by several individual, social and organizational factors,

extant evidence shows a vicious circle of psychosocial risks being a contributory cause of harassment, and vice versa. People working in a stressful environment are highly likely to experience workplace harassment and/or individuals who experience harassment are highly likely to report stress.

- V&H and discrimination often coexist. As overt forms of discrimination are, as a rule, prohibited in most workplaces around the world, more subtle, covert and unconscious manifestations of it appear instead, particularly through V&H, given that it is not (or not always) strictly regulated as discrimination. Such a reality points to the ever greater importance of a collective and broad-based approach to addressing V&H.

- V&H in the world of work is addressed in an array of laws, regulations and policies, and employers are often the ones who bear the main burden of preventing V&H at work. The implication of this is that there is a need for more practical information, tools, awareness-raising and training to implement policies addressing V&H and to bring about a real change at the level of enterprises.

Chapter 1. Defining the parameters of violence and harassment
within systemic approaches to occupational safety and health

5

▶ 1.1. Introduction

At its 110th Session in June 2022, the International Labour Conference decided to amend the 1998 ILO Declaration on Fundamental Principles and Rights at Work to include "a safe and healthy working environment" as a fundamental principle and right at work, and consequently to make amendments to the 2008 Declaration on Social Justice for a Fair Globalization and the 2009 Global Jobs Pact. Already before that, in 2019, the ILO Centenary Declaration for the Future of Work had recognized that safe and healthy working conditions were fundamental to decent work, and in the same year the ILO Violence and Harassment Convention (No. 190)

and its accompanying Recommendation (No. 206) were adopted. Convention No. 190 specifically recognizes the right of everyone to a world of work free from violence and harassment (V&H) and sets out an obligation to respect, promote and realize this right (see box 1.1 for relevant definitions). In so doing, the ILO Member States and the social partners committed themselves to address workplace V&H as a key priority for the world of work.

▶ Box 1.1. Defining violence and harassment in the world of work

The ILO's Violence and Harassment Convention, 2019 (No. 190), and its associated Recommendation (No. 206) constitute the first international labour standard to provide a common framework to prevent, remedy and eliminate V&H in the world of work, including gender-based V&H. It is also the first international instrument to refer to V&H as a single composite concept. According to Article 1.1(a) of the Convention, "the term 'violence and harassment' in the world of work refers to a range of unacceptable behaviours and practices, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, sexual or economic harm, and includes gender-based violence and harassment".

Such an approach to defining V&H ensures wide coverage of a range of terms employed by different legislations but also allows the flexibility needed to cover various manifestations of V&H, including new ones that emerge over time. The definition provided in Article 1.1(a) does not include intent as one of the constitutive elements, thus focusing on the unacceptability of the conduct, practices or threats, and on their effect on victims. The absence of any reference to perpetrators in the actual text of Article 1 reinforces the purpose of the instruments, which is to prohibit all forms of V&H in the world of work, regardless of their source, whether it be: (i) by or against individuals exercising the authorities, duties or responsibilities of an employer (vertical); (ii) directed towards one's peers (horizontal); or (iii) involving third parties, such as clients, patients, passengers or customers.

While Convention No. 190 proposes a single concept covering V&H, it considers the diversity of national legal systems and regulatory approaches, and allows States to opt for a single concept or separate concepts in their definitions in national laws and regulations (Article 1.2), while ensuring that all the elements of the definition provided by the Convention are respected. This provision relates directly to the obligation stemming from the Convention to "define and prohibit violence and harassment in the world of work" (Article 7).

Source: Adapted from ILO 2021b.

In 2022 the ILO produced a first global survey on experiences of V&H at work (ILO 2022a). The report confirmed that V&H at work was a widespread, persistent and recurrent phenomenon around the world, with more than one in five persons in employment having experienced it during their working life. Psychological V&H was the most reported form of V&H at work. Particularly affected groups included young people, women migrant workers, wage-earning and salaried women (more than self-employed women), and people who had experienced some form of discrimination, while women were particularly exposed to sexual harassment and violence at work. The study also found that only half of victims worldwide had disclosed their experiences to someone else; thinking it was "a waste of time" and "fear for their reputation" were the most frequently reported reasons for not disclosing incident(s).

� � Preventing and managing V&H and its associated psychosocial risks will be critical in the future of work.

Further cross-country research underlines the complexity of factors that influence V&H at work, as well as the high costs of work-related V&H, which are borne not only by the targets but also by employers and society as a whole (see section 1.8 for further information). While at the individual level V&H is associated with psychological distress reactions such as stress, anxiety, depression and burnout[1] and with poorer physical health,[2] it may

also have a bearing upon the organization by affecting levels of absenteeism, turnover and productivity, as well as team and group performance.[3] A study of Myanmar businesses estimated that being absent or feeling distracted, tired or unwell at work due to sexual harassment or bullying resulted in a 14 per cent annual loss of labour productivity (IFC and DaNa Facility 2019). Another study in Australia estimated that, in 2018, workplace sexual harassment cost US$2.6 billion in lost productivity and US$0.6 billion in other financial costs, such as deadweight losses and justice and health system costs (Deloitte 2019).

These findings should be understood within the context of today's evolving OSH framework. There is a view that states that "in future work scenarios, psychosocial hazards will be more pervasive than traditional occupational safety and health hazards, with profound effects on mental and physical health" (Schulte 2020).[4] Thus, according to a recent literature review, in addition to the well-established physical, ergonomic, chemical, radiological, biological, environmental and other hazards, "many of the determinants of worker well-being are and will be expected to be psychosocial in nature and related to the quality and availability of work", as well as to new forms of employment contracts, the ageing workforce, work intensification, digital surveillance, and poor work–life balance (Schulte et al. 2020). Preventing and managing V&H and its associated psychosocial risks will be critical in the future of work.

Such a state of affairs illustrates the importance of OSH laws, institutions and systems that can make a significant contribution to preventing occupational causes of physical and mental health disorders.

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1   See, for example, Verkuil, Atasayi and Molendijk (2015) and Mikkelsen et al. (2020).

2   See, for example, Nielsen et al. (2014) and Xu et al. (2019).

3   For an overview of studies, see Hoel, Cooper and Einarsen (2020).

4   On psychosocial hazards or risks, see box 1.2 below.

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▶ 1.2. The role of legal interventions: Integration or fragmentation?

There is a common understanding that workplace V&H harms both employers and workers equally and requires an integrated and multidisciplinary approach in policy and practice.[5] There is a growing body of knowledge and evidence, produced and led by scholars, experts and practitioners from fields such as organizational behaviour and psychology, that provides a better understanding of V&H and helps employers, workers and governments to contribute to the dialogue on the world of work free from V&H. Legal and policy responses play a crucial role in addressing and preventing workplace V&H. While legal responses are but one among many elements of an overall response to a complex phenomenon such as workplace V&H, they can play a meaningful role in creating working conditions that are respectful of human dignity at work. This is evidenced by the growing awareness across all regions that laws and policies must address workplace V&H. Countries around the world increasingly address psychological abuse, violence and harassment at work through laws, regulations, policies and soft law instruments.

ILO Convention No. 190 on Violence and Harassment in the World of Work expresses the international consensus on the role of OSH in addressing V&H in the world of work. It advances a comprehensive legal intervention targeting such situations where one of the policy objectives is prevention of V&H.

Article 7 of the Convention specifies the role of law as a response to this complex workplace phenomenon: "Without prejudice to and consistent with Article 1, each Member shall adopt laws and regulations to define and prohibit violence and harassment in the world of work, including gender-based violence and harassment." Article 12 also stipulates

that its provisions "shall be applied by means of laws and regulations, as well as through collective agreements or other measures consistent with national practice, including by extending or adapting existing occupational safety and health measures to cover violence and harassment and developing specific measures where necessary".

There is no doubt that laws play a symbolic and pedagogical role (among others) in affirming that V&H is a workplace risk of concern that requires public intervention and provides a legitimacy and basis for action in the world of work.[6] When dealing with a specific context, however, various questions may arise. What regulatory approach or design is optimal to prevent V&H and provide recourse and remedy to the victims? What type of regulation can work: hard or soft law? Does introduction of both physical and mental dimensions of health complete the legal framework aimed at addressing workplace V&H? Scholarly opinion probes further and more explicitly the question of whether recognition of a specific right to a world of work free from V&H is essential in addressing this phenomenon.[7] Can a general duty of care under OSH law provide a sufficient legal arrangement/structure to prevent V&H at work?

The assessment of what does and does not work is a context-specific exercise. Indeed, what regulatory choice (legal or policy instrument) is optimal requires a careful weighing of all relevant factors in each individual case, as well as an assessment of the content of a given V&H regulatory intervention and its consequences for the actors in the world of work. This is because what specifically regulators want to address and how they choose to do so greatly affects the effectiveness of regulatory interventions. The same is true of the choice of

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5   ILO Convention on Violence and Harassment in the World of Work, 2019 (No. 190), Art. 4.

6   This is in addition to other general and important roles, such as setting out the legal rights, responsibilities and protections of employers and employees (Cox and Lippel 2020).

7   See Einarsen et al. (2020); see also Lerouge (2017b). Indeed, a question may arise as regards the relationship between the right to a world of work free from V&H (as stipulated in the Preamble of C.190) and the OSH framework. It is suggested here that such a right is inextricably linked to a right to a safe and healthy working environment – a right that has been declared a fundamental right at work.

technique – that is, a hard or a soft law approach – an area that has received little empirical analysis. Indeed, some commentators have suggested that what counts as an adequate legislative or soft law technique depends on both the national and the organizational context (Iavicoli et al. 2014). There is therefore agreement that empirical research is essential to understand the role and effectiveness of legal and policy interventions.

The ILO Violence and Harassment Convention recognizes the crucial importance of a comprehensive strategy to tackle workplace violence by promoting an inclusive, integrated and gender-responsive approach in designing a response. This implies that, rather than simply identifying a single solution (or even a single vision), a full range of causes of V&H should be identified, analysed and addressed. However, whereas multiple legal initiatives are adopted to regulate various facets of V&H, one frequent concern is that these initiatives may end up making the regulatory landscape more difficult to navigate not only for targets of V&H but also for employers who are required to implement the measures in the workplace (Cox and Lippel 2020).

It has been suggested that the regulatory complexity of V&H (when many areas of law are brought into play) can be challenging from the perspective of employers, workers and individuals who are targets of V&H in the world of work. In one instance, it was noted that "[e]mployers, regardless of their size or industry, can struggle to navigate the complexities of developing systems, strategies and methods of work that reduce the risk of their workers being exposed to psychosocial risks" (Parliament of Australia 2012, para. 5.9), while workers reported "confusion about what rights and

▶ **Figure 1.1. Applicability of various legal and policy interventions to address the phenomenon of V&H at work**

Legal framework regulating V&H at work				
OSH law / Industrial relations and labour law	**Anti-discrimination and equality law**	**Workers' compensation law**	**Private law** (for example, law of obligations)	**Criminal law**
Covers all types of V&H (physical, psychological, sexual)	Covers all types of V&H, if based on discriminatory grounds	Only covers V&H if it results in occupational disease or injury	Depends on the scope of the law	Usually covers only physical violence
Involves a comprehensive, systematic approach to prevent V&H and capacity to address the complexity of root causes; usually includes provisions on remedial action in organizations	Less detailed on and equipped for preventive action; focus on remedial, first-stage reaction	Exclusively focused on remedies/ compensation	Rather broad provisions on preventive actions; focus on remedial action	Turns V&H into a criminal offence
				Exclusively focused on remedies/ sanctions
Requires the participation of all actors in the world of work	Usually targeted at employers and workers	Limited to victims of V&H	Targeted at employers and employees	Limited to victims and perpetrators of V&H

Legend: ■ Types of V&H   ■ Criminalization   ■ Stages of intervention   ■ Actors

Source: ILO compilation.

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remedies they have to pursue bullying complaints either internally with their employers or externally with the multitude of [legal] frameworks" (para. 5.10). Indeed, the consequence of having an array of laws and regulations, and in some cases policies, on the issue of psychosocial risks, and V&H in particular, is that employers are the ones who implement measures preventing V&H, as a general obligation of prevention is incumbent upon them (figure 1.1).

The implication of the labyrinth of regulations (civil and criminal, covering OSH, anti-discrimination and workers' compensation, among other things)

is that more practical information is needed to give a better understanding of the interplay between different legal regimes and institutions. At the same time, effort is needed to better integrate legal frameworks and achieve coherence in their implementation. The ILO Violence and Harassment Convention underlines the role of guidance, tools, awareness-raising and training in implementing its provisions, and such implementing measures are among the legal expressions of the integrated approach that will be discussed in detail in Chapters 3 and 4 below.

▶ 1.3. Prevention versus cure as the strategy: The role of OSH legislation

What are the benefits and potential pitfalls of incorporating V&H in the OSH framework? What is the role of OSH frameworks in preventing workplace V&H? What is the optimal design of V&H-related legal interventions within the OSH legal framework? Can V&H be addressed effectively through integration into OSH legislation, and how would such issues be framed from an OSH perspective? Or would such legal interventions for the prevention and management of V&H require specific tools and guidance to make them operational?

It is important to situate the discussion within the framework of the ILO Convention on Violence and Harassment, 2019 (No. 190), and its accompanying Recommendation (No. 206).[8] Article 4 of the Convention stipulates the measures that each Member State must take to respect, promote and realize the right to a world of work free from V&H. These measures should reflect an inclusive, integrated and gender-responsive approach. According to this Article, alongside prohibition of V&H in law, such an approach should:

▶ ensure that relevant policies address V&H;

▶ adopt a comprehensive strategy to prevent and combat V&H;

▶ establish or strengthen enforcement and monitoring;

▶ ensure access to remedies and support for victims;

▶ provide for sanctions;

▶ develop tools, guidance, education and training and raise awareness, in accessible formats as appropriate; and

▶ ensure effective means of inspection and investigation of cases of V&H through labour inspectorates and other competent bodies.

Article 9 of the Convention further specifies appropriate preventive measures. It provides that each ratifying State:

shall adopt laws and regulations requiring employers to take appropriate steps commensurate with their degree of control to prevent violence and harassment in the world of work, including gender-based violence and harassment, and in particular, so far as is reasonably practicable, to:

(a) adopt and implement, in consultation with workers and their representatives, a workplace policy on violence and harassment;

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8   As of May 2023, ILO Convention No. 190 had gained 27 ratifications, indicating a significant commitment and interest given that the Convention had been adopted as recently as 2019.

(b) take into account violence and harassment and associated psychosocial risks in the management of occupational safety and health;

(c) identify hazards and assess the risks of violence and harassment, with the participation of workers and their representatives, and take measures to prevent and control them; and

(d) provide to workers and other persons concerned information and training, in accessible formats as appropriate, on the identified hazards and risks of violence and harassment and the associated prevention and protection measures, including on the rights and responsibilities of workers and other persons concerned in relation to the policy referred to in subparagraph (a) of this Article.

The accompanying Recommendation No. 206 further specifies, in paragraphs 7 and 8, the specifics of the measures stipulated above:

7. Members should, as appropriate, specify in laws and regulations that workers and their representatives should take part in the design, implementation and monitoring of the workplace policy referred to in Article 9(a) of the Convention, and such policy should:

(a) state that violence and harassment will not be tolerated;

(b) establish violence and harassment prevention programmes with, if appropriate, measurable objectives;

(c) specify the rights and responsibilities of the workers and the employer;

(d) contain information on complaint and investigation procedures;

(e) provide that all internal and external communications related to incidents of violence and harassment will be duly considered, and acted upon as appropriate;

(f) specify the right to privacy of individuals and confidentiality, as referred to in Article 10(c) of the Convention, while balancing the right of workers to be made aware of all hazards; and

(g) include measures to protect complainants, victims, witnesses and whistle-blowers against victimization or retaliation.

8. The workplace risk assessment referred to in Article 9(c) of the Convention should take into account factors that increase the likelihood of violence and harassment, including psychosocial hazards and risks.

ILO Convention No. 190 and its accompanying Recommendation No. 206 give importance not only to the legal regulation of workplace V&H but also to the preventive approach. Articles 4 and 5 outline the core principles of the Convention as regards prevention, while Article 9 stipulates explicit requirements of prevention. They provide elements that need to be taken into account when devising legal interventions through OSH legislation, emphasizing the participation of workers' and employers' organizations in this process. This is a significant development in the regulation of the issue, both internationally and nationally.

At the international level, there has been limited regulation of V&H in the world of work, despite the fact that health is recognized as a human right.[9] Instead, some aspects of V&H, frequently termed "protection", have been covered by various treaties protecting rights and freedoms of individuals. For instance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families provides that migrant workers and their families shall be entitled "to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions" (Article 16(2)).

In contrast, many ILO instruments implicitly and/or explicitly address V&H, while some do so from the perspective of group protection. Of those that address the issue explicitly, the Indigenous and Tribal Peoples Convention, 1989 (No. 169), is the only ILO instrument that refers to sexual harassment, providing that workers belonging to indigenous peoples should enjoy protection from sexual harassment (Article 20(3)).[10] However, in terms of prevention, only ILO standards in OSH have promoted such an approach in a comprehensive way, addressing the prevention of physical and mental

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9   United Nations (UN) General Assembly, International Covenant on Economic, Social and Cultural Rights (1966), Art. 12.

10 For a comprehensive review of international and regional initiatives, see ILO (2018b).

stress due to conditions of work. At the national level, regulation of workplace V&H has tended to focus on prohibition of these types of workplace abuses, with less attention paid to the issue of prevention.[11] ILO Convention No. 190 therefore constitutes a departure from the traditional stance towards V&H, and – as noted throughout this report – advocates an inclusive, integrated and gender-responsive approach to addressing the phenomenon.

The academic and expert community has also voiced the view that, to date, little attention has been given to legal frameworks for *prevention* of V&H, compared to remedial action and legislation (Lerouge 2017b, 395). According to some scholars, legal approaches to prevention of V&H can be analysed on the basis of (i) the ability of legislation to address the root causes of V&H; (ii) integration of V&H prevention into broader legislation for prevention of workplace risks; and (iii) the capacity of the law to mobilize a "wide variety of actors to implement, monitor compliance with and enforce the legislation" (Cox and Lippel 2020). These factors provide a useful analytical framework to understand not only the role played by various areas of law and policy but also the prospects of OSH to tackle V&H at work far more broadly by providing a basis for preventive action before specific kinds of V&H have become apparent. Moreover, they provide a structure around which future research into an integrated approach to preventing V&H in the world of work can be developed.

Given that ILO Convention No. 190 stresses the need to adopt a preventive approach to V&H, it is important, first and foremost, to address the factors of psychosocial risks at work (box 1.2). The extant evidence and knowledge suggest a two-way relationship between V&H and psychosocial risks:

> *Although harassment can be induced by a number of individual, social and organizational factors, many studies show a vicious circle of psychosocial*

> *risks leading to harassment then leading back to psychosocial risks. People working in a stressful environment are highly likely to experience workplace harassment and/or individuals who experience harassment are highly likely to report stress. (ILO 2020, 13)*

▟▟ ILO Convention No. 190 constitutes a departure from the traditional stance towards V&H and advocates an inclusive, integrated and gender-responsive approach to addressing the phenomenon.

Research into the garment sector, conducted by the ILO/International Finance Corporation (IFC)-led Better Work programme, indicates that low organizational and managerial awareness of workplace dynamics, as well as misaligned pay incentives and structures, are linked to the likelihood of sexual harassment (Better Work 2019).[12] Given the way the various dimensions of the psychosocial work environment (such as organization of work, management strategies, work design and job security) and psychosocial risks and, in particular, workplace V&H are interrelated,[13] the available empirical evidence suggests that V&H will continue to pose a challenge to the world of work until such time as the underlying causes of V&H in the workplace are addressed.[14]

From this perspective, legal interventions involving prevention, as will be discussed throughout this report, are geared towards (among other things) addressing the structural, institutional factors – factors that have been identified as antecedents to workplace V&H. This points to the OSH framework

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11 For a review of country examples, see Cobb (2017).

12 The research also shows the vulnerability of migrant workers, as sexual harassment is more likely to occur when workers have constraints on their freedom of movement.

13 Key and interrelated psychosocial hazards that lead to work-related stress, or directly relate to situations of V&H, or are in and of themselves expressions of harassment include: job demands, job control, task design, role clarity, workplace relationships, leadership styles, organizational justice, organizational change management and physical working environment. A detailed review of each of these factors is given in ILO (2020, 13 ff.).

14 These underlying causes include organizational-level factors such as inadequate work organization, factors related to specific tasks (for instance, working alone or being in constant interaction with third parties), and working conditions that lead to high stress levels. Among the complex, individual, organizational and societal factors, the organizational factors are explained in OSHwiki (2012).

▶ **Box 1.2. The concept of psychosocial risks**

Psychosocial factors at work comprise "interactions between and among work environment, job content, organisational conditions and workers' capacities, needs, culture, personal extra-job considerations that may, through perceptions and experience, influence health, work performance and job satisfaction" (ILO 1984, 3). This definition is said to encapsulate the dynamic interrelationship between the work environment/conditions in general and subjective elements such as individual mental and health capacities. As noted, any aspect in the design or management of work that increases the risk of work-related stress can be understood as a psychosocial hazard. Psychosocial factors include:

▶ job content/task design (lack of variety in the work; under-use of skills or lack of appropriate skills for work);

▶ workload and work pace (long or unsocial work hours; shift work; inflexible hours);

▶ job control (lack of control over job design or workload; limited participation in deciding one's own work);

▶ environment and equipment (unsafe equipment and resources; poor physical working conditions, such as poor lighting, excessive or irritating noise, poor ergonomics);

▶ organizational culture (unclear organizational objectives; poor communication; culture that enables discrimination or abuse);

▶ interpersonal relationships at work (social or physical isolation; limited support from supervisors or colleagues; authoritarian supervision and poor line management; violence, harassment or bullying; discrimination and exclusion);

▶ role in organization (unclear job role within the organization or team);

▶ career development (under- or over-promotion; job insecurity; poor investment in development; punitive procedures for sickness absence and performance management); and

▶ home–work interface (conflicting home–work demands; being away from home for work).

Source: ILO 1984, 1995.

as the preventive framework par excellence – as a basis for broader legislation on prevention of workplace risks that represents the most direct and privileged entry point for addressing workplace V&H.[15] Tackling V&H by addressing psychosocial risks would mean "moving in future towards prevention on a more collective scale, focused on working patterns, and expanding the scope of health and safety at work to the whole 'working environment', including all related factors".[16]

In other words, adopting an OSH approach is about moving from an individual approach (as in dealing with a specific incidence of V&H, for example) towards a systemic, collective approach. In fact, there is an argument that a "regulatory regime that only addresses WBPH [workplace bullying and psychological harassment] and not psychosocial risk factors more broadly will be less effective as it creates no incentive for workplace parties and inspectorates to address the upstream determinants of WBPH" (Lippel and Cox 2021). International labour standards on V&H in the world of work also promote a systemic, structural approach to V&H. Paragraph 8 of Recommendation No. 206 stipulates that:

The workplace risk assessment referred to in Article 9(c) of Convention No. 190 should take into account factors that increase the likelihood of violence and harassment, including psychosocial hazards and

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15 See, in particular, Convention No. 190, Arts 11 and 12, and Recommendation No. 206, Para. 6.

16 Lerouge (2017a, 17); see also D'Cruz, Noronha and Mendonca (2021). For a global perspective, see ILO (2016).

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risks. Particular attention should be paid to the hazards and risks that:

(a) arise from working conditions and arrangements, work organization and human resource management, as appropriate;

(b) involve third parties such as clients, customers, service providers, users, patients and members of the public; and

(c) arise from discrimination, abuse of power relations, and gender, cultural and social norms that support violence and harassment.

Recommendation No. 206, in particular, envisages that, in devising prevention and protection, "[m]embers should adopt appropriate measures for sectors or occupations and work arrangements in which exposure to violence and harassment may be more likely, such as night work, work in isolation, health, hospitality, social services, emergency services, domestic work, transport, education or entertainment" (Paragraph 9).[17] Thus, the duty of the employer to ensure safety and health of workers in all aspects of their work would entail integrating V&H and associated psychosocial risks in the management of OSH. This is because one of the most direct ways to address the root causes of V&H at work is through a systematic approach to managing psychosocial risks under OSH legal frameworks.

Several countries have adopted a preventive approach, examples of which (including systematic management of risks within the legal frameworks) will be examined in more detail later in this report. More specifically, some countries have included in their legislation provisions regulating issues such as the psychosocial working environment; these require employers to assess psychosocial risks of working alone, to limit working hours for night work involving mental strain, and to regulate co-operation among workers, organization, arrangement and management of work, working hours, pay systems, technology, etc., in such a way that

employees are not exposed to adverse physical or mental strain.[18]

There are other considerations that also warrant preventing workplace V&H through systematic approaches to OSH. First, addressing V&H in the world of work through OSH management systems also involves bringing in OSH management principles and methods, and mechanisms of supervision. OSH management systems are based on a system of defined rights, responsibilities and duties, combined with social dialogue and cooperation. According to OSH principles, the general duty of care on the part of the employer to take necessary measures to protect the health and safety of workers is complemented with the responsibilities of workers to take reasonable care for their own health and safety and that of others, and to collaborate with the organization in achieving the objectives of protecting health and safety in the workplace. In terms of supervision, this will also allow mechanisms of supervision – namely, labour inspectors to monitor and enforce laws and regulations in the workplace – to be deployed.

This being said, OSH laws in many countries still conceive of workplace safety and health primarily in its physical safety dimension. This situation may, however, change with the inclusion of a safe and healthy working environment in the ILO's framework of fundamental principles and rights at work and its declaration that the Occupational Safety and Health Convention, 1981 (No. 155), and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), shall be considered as fundamental Conventions (ILO 2022b), where health in relation to work includes the physical and mental elements affecting health.[19] Developments in national legislations also show an increasing concern in countries about occupational health in its physical, mental and social dimensions (see Chapter 2). There is, in addition, a growing body of knowledge and awareness of the relationship between safety conditions at work and psychosocial risks (Velazquez 2017, 38–39).

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17 See also the discussion in Chapter 2 of collective bargaining agreements on V&H in specific sectors.

18 Norway, Working Environment Act, 2005. A similar approach can be seen in the OSH legal frameworks of Denmark and Türkiye; see Chapters 2 and 4.

19 Some OSH instruments also provide for protection of reproductive rights; see Chapter 2.

▶ 1.4. Preventive framework envisaged by OSH legislation

The principle of prevention underpins modern labour laws and, more broadly, international labour standards (Héas 2017). The first international labour standards already aimed to limit working hours, regulate night work, set a minimum age, and protect certain categories of workers. The scope and coverage of OSH provisions have evolved from a focus on industrial safety to one on workplace safety and health – from protection to prevention and assessment of risks (ILO 2006). Indeed, in addition to labour law's objective to ensure that work does not contribute to deterioration of individuals' physical well-being, it "has increasingly taken into account the subjective and individual aspects of health, as evidenced by reflections on psychosocial risks", a change that has led to greater focus on prevention (Héas 2017, 68). This shift is most visible in the ILO's fundamental Convention on Occupational Safety and Health, 1981 (No. 155), which has extended the protection of workers from occupational hazards to a broader concern for physical and mental health in relation to work; thus, health at work is not "merely the absence of disease or infirmity; it also includes the physical and mental elements affecting health which are directly related to safety and hygiene at work" (Article 3).

This implies that the preventive function of labour legislation that is related to safety and health also extends to factors related to psychosocial well-being. What does this preventive function of labour laws in safety and health include?

Prevention is conventionally understood as comprising measures and actions to avert or limit risks, harm, and harmful acts by eliminating their causes and means. It includes the obligation to reduce "the impact of certain working conditions on individual health in order to mitigate or eliminate psychosocial risks" (Héas 2017, 67). Many modern legal frameworks have a preventive function. This is especially true of labour laws, and in particular OSH laws.

OSH is thus the discipline that deals with the *prevention* of work-related injuries and diseases, as well as protection and promotion of workers' health. Its aim is to improve working conditions and environment (ILO 1998). According to the ILO/WHO definition of occupational health, it should aim at:

> the promotion and maintenance of the highest degree of physical, mental, and social well-being of workers in all occupations; the prevention amongst workers of departures from health caused by their working conditions; the protection of workers in their employment from risks resulting from factors adverse to health; the placing and maintenance of workers in an occupational environment adapted to their physiological and psychological capabilities; and, to summarize, the adaptation of work to the workers and of each worker to his or her job. (ILO 1998, 21)

As will be discussed in more detail in Chapter 2, labour and OSH legislation imposes on employers a general obligation of prevention that extends to psychosocial risks broadly and V&H specifically. It is also apparent from the review of legislations across regions that countries design an operational "preventive" framework through a number of more concrete principles, which include:

i. assessing and avoiding the risks (psychosocial risks, V&H, etc.);

ii. minimizing the risks/addressing the risks at source;

iii. adopting a (preventive) policy or programme for V&H;

iv. organizing, arranging and managing work, working hours, night work, work of minor workers, etc.;

v. adapting work to the individual;

vi. minimizing monotonous or repetitive work;

vii. constantly improving working conditions and adapting protection measures to new conditions; and

viii. providing information and training for workers.

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In this context, it is important to note that there have been further attempts to distinguish various levels of interventions in the management of psychosocial risks; these have set out to delineate the borders between stages of prevention, distinguishing between primary-, secondary- and tertiary-level interventions (table 1.1). According to this categorization, primary prevention, sometimes referred to as "organization-level" prevention, is understood as interventions that are proactive in nature and aim to prevent harmful effects or phenomena from emerging (Burke 1993; Jain 2018, 242). Secondary interventions, by contrast, aim to reverse the harmful effects and so reduce ill health, while tertiary interventions are restorative or rehabilitative, designed to reduce the negative impacts. The central purpose of OSH is *primary* prevention of occupational and work-related diseases and injuries, and it differs in this respect from other disciplines such as labour law or anti-discrimination law in relation to workplace V&H. This raises a question about the interplay between anti-discrimination laws and OSH legislation, and also, more broadly, about the relationship between workplace V&H and discrimination – a question that will be addressed in detail in the next section.

▶ Table 1.1 Levels of intervention/prevention and interplay of different legal regimes

	Labour (Employment)		
	Occupational safety and health		
		Anti-discrimination	
Prevention level	**Primary**	**Secondary**	**Tertiary**
Legislative/policy	▶ Legislation addressing workplace violence and harassment, discrimination	▶ Worker compensation	▶ Social security disability programme
Employer/ workplace	▶ Policies addressing violence and harassment ▶ Codes of conduct ▶ Development of organization culture ▶ Management training ▶ Organizational survey	▶ Provisions on handling cases of violence and harassment ▶ Return to work programmes	▶ Corporate agreements and programmes of aftercare ▶ Company-provided long-term disability
Job/task	▶ Psychosocial work environment redesign ▶ Risk analysis	▶ Staff survey ▶ Case analysis ▶ Training (e.g. conflict management) ▶ Conflict resolution mediation	▶ Group recovery programmes
Individual–work process interface	▶ Training ▶ Information ▶ Health promotion programmes	▶ Social support ▶ Counselling	▶ Therapy ▶ Employee assistance programmes

Note: OSH also covers prevention at the tertiary level, namely with respect to rehabilitation and accommodation. These functions are given to occupational health services by the Occupational Health Services Convention, 1985 (No. 161), and the Occupational Health Services Recommendation, 1985 (No. 171). While in practice these functions have been applied mostly to physical health aspects, there is a trend to increasingly include mental health-related aspects.

Source: Adapted from Jain (2018, 242) and Murphy and Sauter (2004).

▶ 1.5. When is workplace violence and harassment a discrimination?

When is workplace V&H a discrimination? There is a risk that the line between discrimination and workplace V&H gets blurred, so it is important to comprehend the relationship between the two, even if some authors suggest that it is often challenging to answer the question "whether [violence and harassment] comes first and discrimination second, or vice-versa" (Lewis, Glambek and Hoel 2020, 364). Which legal regimes are applicable to workplace harassment? Or when do non-discrimination rules apply to a situation of workplace harassment?

First of all, from a policy perspective, it is important to note that prohibition of discrimination, including in the workplace, is established in virtually all countries of the world at least on one ground for discrimination – namely, discrimination based on sex or gender.[20] As regards the world of work, the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), is one of the most widely ratified Conventions (175 ratifications). It is fair to conclude that workers in many countries are protected by specific anti-discrimination/ equality laws that may be present in the legal system and broader in their coverage than OSH legislation tackling workplace V&H. It should also be acknowledged that the co-existence of laws on V&H alongside anti-discrimination laws raises interesting issues for those countries where "protected class status remains the dominant focal point for framing legal issues of worker harassment and mistreatment" (Yamada 2020, 642).

An opinion has been put forward arguing that anti-discrimination legislation (that is, protection based on status) suffices to address workplace V&H – an opinion that has been subject to criticism.[21]

Two arguments have been proposed. One concerns difficulties related to proving discriminatory intent in judicial proceedings. The other suggests that protection based on status alone will be contrary to the principle of every worker's right to dignity at work (Cox and Lippel 2020). There is, of course, a further question related to costs (time and litigation) related to recourse and remedy available to protect victims of V&H in the workplace based on status, or a "protected ground", such as sex, race or disability (see box 1.3).

At the empirical level, the ILO *Global First Survey* demonstrates the intimate links between V&H and discrimination.[22] Indeed, commentators suggest that V&H, just like discrimination, is based on individual, institutional and structural foundations (Lewis, Glambek and Hoel 2020, 367), and the two phenomena not only coexist but one can lead to the other, so workers may label their experience as V&H "purely because they refute the notion that they are being discriminated against, believing that instrumental rationality or the self-interest of the organization would prevent such discrimination occurring in the first place".[23] Another point raised on the interrelationship between the two, based on empirical research, relates to the fact that there is evidence that risk groups for V&H among workers are those classified as having protected status. In other words, V&H may disproportionately affect protected groups, and membership of more than one protected group increases the probability of being subjected to bullying (Berdahl and Moore 2006; Shaw, Chan and McMahon 2012).

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20 According to some estimates, 85 per cent of all UN Member States prohibit discrimination on the basis of sex or gender in their constitutions; see, for example, Equality Now (2022).

21 In some countries, V&H is included in the definition of discrimination, and therefore anti-discrimination legislation can also address V&H. Such is the case, for example, in Germany; see Friedman and Whitman (2003).

22 As the report documents, "[p]ersons who have experienced discrimination at some point in their life on the basis of gender, disability status, nationality/ethnicity, skin colour and/or religion were more likely to have experienced violence and harassment at work than those who did not face such discrimination" (ILO 2022a).

23 Lewis, Glambek and Hoel (2020, 368) citing Fevre, Grainger and Brewer (2010).

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▶ **Box 1.3. Addressing gender-based violence and harassment through OSH[1]**

Over much of the last century, gender-based violence and harassment (GBVH) has not been understood to be within the ambit of OSH legislation.[2] Traditionally, OSH regimes have focused on risks of physical injuries associated with men's work rather than disease or chronic strain injuries typically associated with women's work. Indeed, only in recent decades has mental as well as physical health been included in OSH.[3]

As regimes concerned with health and safety at work evolve from a technical and medical model to a biopsychosocial one, the risks characterized by their social dimension, such as GBVH, have come to the fore (Flynn et al. 2021). However, even though psychosocial risks, including the risks of GBVH, fall within the scope of protection of the general duty provisions at the heart of most countries' current OSH legislation, there is a common perception that GBVH is not an "OSH issue".

Several factors are at play in the ill-founded but pervasive and persistent perception that GBVH is not – despite overwhelming evidence to the contrary – a work-related risk. These factors include:

▶ deeply engrained beliefs about violence and harassment of women being located in the private sphere and thus not constituting a legitimate subject of public regulation;

▶ the fact that, in addressing GBVH in industrialized countries, the focus has been on anti-discrimination laws promoting individual complaints-based regimes as a response to sexual harassment at work;

▶ in the case of third-party violence and harassment in sectors where women are predominant, such as healthcare, social services and teaching, the erroneous belief that women's supposedly innate nurturing capacities negate any harm caused to them as workers by GBVH on the part of those who they are caring for or educating;

▶ in male-dominated jobs, the belief that GBVH directed towards women – and other people not conforming to masculinist and heteronormative norms – comes with the choice to work in a male-dominated sector; and

▶ the tenacious idea that victims of GBVH are weak and vulnerable, and therefore that men cannot be victims of GBVH.

These factors combine with the fact that most OSH inspectorates and regulators are under-resourced and still largely focused on physical hazards; and that workers and their associations already struggle to have work-related risks (most recently, COVID-19-related risks) adequately addressed.

The upshot of this portrait of the historical and ongoing exclusion of GBVH from OSH regimes is that gender-responsive prevention of V&H using such regimes must be constructed (not assumed) through a series of deliberate, considered, evidence-based and targeted actions.

(Continued overleaf)

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1   This box reflects a study commissioned by the ILO and prepared by R. Cox, *Addressing Gender-Based Violence and Harassment in a WHS (Work Health and Safety) Framework* (ILO, forthcoming). The original study uses the term "work health and safety"; here, the text has been adapted to the terminology used in the report, and the term "occupational safety and health (OSH)" is used instead.

2   In the mid to late 19th and early 20th century, in the industrialized world, part of the impetus for adoption of OSH legislation was the protection of women and children from long working hours. In fact, the "embodiment" of workers – the time when they first began to be considered as human beings rather than machines or commodities – is linked to legislation protecting women workers. Thus, it is not strictly accurate to affirm that, historically, OSH legislation has not taken gender considerations into account.

3   Yet mental health is specifically covered in Convention No. 155 (Article 3(e)); on this topic, see also Messing (1998).

Box 1.3. (cont'd)

There is, however, a dearth of empirical studies on effective prevention approaches to GBVH within an OSH framework. This finding must be understood in the context of the cycle of policy design. Typically, the stages of regulatory policy design include understanding the phenomena to be regulated and their dynamics; determining the legal framework (here, laws and regulations); developing policies to implement the legal framework; analysing whether the policies have been implemented as intended; and then, and only then, studying the effectiveness of implementation of the legal framework using the policies developed in specific contexts.[4]

Legal obligations are therefore an important precondition of effective organizational action on prevention of GBVH (McDonald and Charlesworth 2019). While guidance material and tools are essential to inform organizational actors about how to carry out gender-responsive risk management, a precondition for their uptake in local-level OSH structures is that the law requires the organization to take action in this respect.

Source: LO 1984, 1995.

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4   Straying from this order involves running the risk that empirical research results will reveal problems with the effectiveness of the legislation but fail to identify to what extent these problems result from inadequacies in the diagnosis of the problems to be addressed by regulation, weaknesses in the legal framework itself, deficiencies in the policies developed to implement the legal framework, or inadequate implementation at the local level, thus undermining the usefulness of the research for public policy or law reform purposes.

Various theories attempt to explain the socio-psychological basis for workplace mistreatment on the grounds of group membership.[24] However, in addition and related to this, authors justifiably raise another potential explanation of the nexus between V&H and discrimination. This concerns the context of the changing nature of work, or what some term the "contemporary workplace". More specifically, it is argued that, as overt forms of discrimination are, as a rule, prohibited in most workplaces around the world, its more subtle, covert and unconscious manifestations appear instead, particularly through V&H, given that it is not (or not always) strictly regulated as discrimination. Thus,

> disparate treatment exists in more subtle forms in workplaces with selective discriminatory and bullying behaviour directed at members of protected groups being manifested when a rationale unrelated to protected group status can be provided, e.g., behaviour serving the interest of the organisation, also among those who see themselves as egalitarian and non-discriminating. (Lewis, Glambek and Hoel 2020, 375)

This has led to calls for more research to further explore data on the operation of subtle and not so subtle forms of prejudice and stereotyping in workplaces.

Turning to the most appropriate response, one view holds that, while there are clear advantages in the broad scope of anti-discrimination legislation, particularly where it remains the single legal framework protecting targets of V&H in the world of work, nevertheless:

> once harassment or bullying has occurred, in terms of timely resolution and remedy for targets, recognition of a specific right to a work environment free from bullying and harassment has undeniable advantages. Women, people with disabilities and minority men are disproportionately targeted by bullies and harassers at work without any clear link to a prohibited ground of discrimination. Recognition of a right to a work environment free from bullying and harassment for all workers is important, and responds to a need broader than the one that is currently filled by anti-discrimination laws. (Cox and Lippel 2020, 668)

Indeed, when V&H is addressed through prevention, this may help to avoid burdensome and lengthy litigation and impacts on benefits programmes. In addition to this, "differing procedural rules and cultural attitudes towards litigation also matter greatly in assessing appropriate legal responses to bullying at work" (Yamada 2020, 629). Beyond the issue of complexity and duration, not

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24 For an excellent review, see Lewis, Glambek and Hoel (2020).

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to mention the cost of recourse, prevention, rather than cure, as a strategy of protection from V&H at work may help the actors in the world of work to also pay adequate attention to the deeper structural problems that exist in the world of work. It is, at a minimum, as crucial to identify and seek to remove antecedents to V&H that lie at the root of many instances of maltreatment as it is to deal with their symptoms in the form of manifestations of abuse. This being said, the role of punitive, restorative and compensatory legal provisions should not be overlooked.[25]

▶ 1.6. What is the role of guidance and tools in preventing and addressing violence and harassment through OSH?

The next question that arises in connection with the regulation of V&H through OSH legislation is whether V&H has to be recognized as a work-related risk for it to be integrated within OSH systems. One view that has been suggested is that there is no inherent need for an explicit recognition as such, provided that safety and health at work are understood in the legislation to encompass both physical and mental dimensions.[26] While there is no one-size-fits-all approach to this issue and a more nuanced understanding of it may require a context-specific assessment,[27] many countries have incorporated V&H in an array of soft law instruments and operational guidance, including training activities, practical tools, and extensive guidance material produced by the authorities in charge of work health and safety standards.

Even more so, at the practical level, it is often the lack of guidance and tools, as well as awareness-raising, that is considered by many enterprises as a main impediment to the implementation of anti-harassment measures in workplaces.[28] Extant research suggests a high demand for detailed instructions, guidance, training and/or specialist support to translate legal provisions on work-related V&H into practice, especially at the organizational level (Jain et al. 2021; Auclair et al. 2021; FrankAdvice 2021). ILO Convention No. 190 specifically requires that ratifying States provide employers, workers, their representatives and public authorities "with guidance, resources, training or other tools, in accessible formats as appropriate" (Article 11(b)). The accompanying Recommendation No. 206 further highlights the need for a broad, comprehensive approach towards guidance, training and

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25 Discussing the Swedish Ordinance on Victimization at Work (1993), Hoel and Einarsen (2010) have argued that:

the Ordinance appears to be entirely based on a preventative perspective, taking for granted a causal relationship between shortcomings of the work environment, on the one hand, and bullying and victimization on the other. While such an approach has its strengths and represents a challenge to any victim-based perspectives, it overlooks the fact that bullying as a complex social problem may be the product of a multitude of factors, including personal characteristics and competing interests. The non-punitive stance adopted by the Ordinance and associated Guidelines is a logical consequence of such an approach. Furthermore, the strong belief in dialogue and consensus as methods for conflict resolution appears to be misplaced when applied to cases of bullying and victimization, indirectly removing rights and wrongs from the equation. Ironically, through its belief in prevention as the predominant method for addressing the issue, the Ordinance loses sight of any restorative perspective, thus failing to provide targets, and indeed the alleged perpetrators, with appropriate sources of support as well as the opportunity for a fair hearing and possibility of redress and vindication.

26 According to another view, such recognition would entail development of complementary guidance (for instance, where there is no explicit regulation of V&H); see Velázquez and Jain (2021).

27 See Chapter 4 for a detailed analysis at the country level.

28 See, for example, EU-OSHA (2018b, 11):

Earlier research has identified several drivers of and barriers to psychosocial risk management at the organisational level. The secondary analysis of ESENER-1 [First European Survey of Enterprises on New and Emerging Risks] showed that high-quality general OSH management in the organisation is one of the main drivers of psychosocial risk management. Moreover, ESENER-1 revealed that 42% of managers consider it more difficult to tackle psychosocial risks than other safety and health issues, while lack of technical support or guidance was identified as the strongest barrier.

awareness-raising by pointing out various forms of activities to support relevant actors in their efforts to put requirements and provisions into practice, including gender-responsive guidelines and training programmes, curricula and instructional material, model codes of practice and risk assessment tools (Paragraph 23).

Also, there is still very little evaluation of the effectiveness of soft law instruments (Leka et al. 2015). More research is needed in order to better understand the effects of different types of guidance and tools on preventing and addressing V&H. This report can thus be seen as a first step towards building research and a knowledge base on the topic.

▶ 1.7. Using social dialogue and participatory mechanisms of OSH frameworks to address violence and harassment at work

As noted, OSH management systems depend on the involvement of a broad range of actors in the world of work to implement, monitor and ensure compliance with the legislation. Social dialogue is a powerful means to ensure that workplaces take into account psychosocial risks in their systematic approaches to OSH. Social dialogue between employers and workers can help to strengthen the protection of workers' physical and mental health and well-being, while preventing and eliminating V&H in the world of work. Workplace V&H has long been the subject of negotiations, and specific provisions to that effect have been included in collective bargaining agreements (also known as enterprise agreements, collective labour agreements or workplace agreements) (see Chapter 2).

◢◤ **OSH laws are uniquely placed to involve a wide variety of actors in the world of work in the task of preventing and addressing V&H.**

ILO Convention No. 190 defines consultation with representative employers' and workers' organizations as a principle in the adoption of an inclusive, integrated and gender-responsive approach to the prevention and elimination of V&H in the world of work. Enumerating the elements of such an approach, the Convention stipulates that "each Member shall recognize the different and

complementary roles and functions of governments, and employers and workers and their respective organizations, taking into account the varying nature and extent of their respective responsibilities" (Article 4(3)).

Other prevention articles of Convention No. 190 provide that Member States shall identify, "in consultation with the employers' and workers' organizations concerned and through other means, the sectors or occupations and work arrangements in which workers and other persons concerned are more exposed to violence and harassment" (Article 8(b)). Prevention laws and policies should require employers (among other things) to "adopt and implement, in consultation with workers and their representatives, a workplace policy on violence and harassment" (Article 9(a)). The principle of consultation with representatives of employers' and workers' organizations also applies to the efforts of Member States to address V&H in national policies, including OSH, as well as to develop "guidance, resources, training or other tools ... and initiatives, including awareness-raising campaigns" (Article 11).

As noted above, OSH laws are uniquely placed to involve a wide variety of actors in the world of work in the task of preventing and addressing V&H. The responsibilities of governments, employers and workers are complementary and mutually reinforcing in the common task of promoting a workplace free from V&H.

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▶ 1.8. Global prevalence of work-related violence and harassment and data issues

ILO Violence and Harassment Recommendation No. 206 provides that "Members should make efforts to collect and publish statistics on violence and harassment in the world of work disaggregated by sex, form of violence and harassment, and sector of economic activity" (Paragraph 22). Data availability and its accuracy are important for the development of effective legislation, policies, strategies and programmes to combat V&H.

As multifaceted as the phenomenon of work-related V&H is, there are challenges in measuring its global prevalence. Although there is a growing body of studies at the country level amassed over recent years that provides an insight into the magnitude of the issue, there are challenges in measuring its prevalence, particularly across countries. This applies to both administrative data and to surveys – that is, the two main sources through which statistics on V&H in the world of work are collected.

On the administrative side, data derived from national registries on occupational accidents and diseases lack comparability. This is not only because such data are often based on heterogenous sources such as records from labour inspectors, police or insurance companies,[29] but also because the criteria used to record work-related V&H differ across countries. In fact, official registries are often limited in scope when it comes to work-related V&H since they only contain data related to occupational diseases officially classified as such and workplace accidents leading to absences. For this reason, they tend to underreport violent occurrences that do not result in serious injuries or fatal outcomes (Chappell and Di Martino 2006; ILO 2020).

Surveys have the advantage that they can cover all forms of V&H and allow data to be collected directly from persons in the world of work. Yet there are still comparability issues due to different definitions and methods used. Studies have mostly employed two methods in surveys to measure the prevalence of work-related V&H. One of these is the "self-labelling" method, which asks respondents to indicate whether or not they feel exposed to (broader concepts of) violence and harassment, usually based on a definition provided. This method was used in the recent, first-ever global survey of V&H at work.[30] While this study represents an indispensable first attempt to provide a global overview of V&H at work, one matter to consider when interpreting its results is the potential subjectivity bias inherent in the self-labelling method: the approach is dependent on a respondent's interpretation of what actions or behaviours fall under broader concepts such as psychological violence, as well as on the respondent's willingness to acknowledge such incidents. This may carry particular weight when viewed from a cross-country perspective, since evidence indicates that concepts of V&H are perceived and experienced differently across different countries and cultures (Jain 2018).

As a consequence, the "behavioural experience" method has frequently been used as an alternative or complementary approach to control the subjectivity element (Nielsen, Notelaers and Einarsen 2020). Using a set of action- or behaviour-based items, it measures whether respondents have been subjected to various types of negative acts during a defined period of time.[31] This method has been

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29 For instance, a study from Eurofound (2015) showed that administrative data from EU Member States on V&H come from a variety of sources. Most sources refer to Ministries of Labour or Welfare, such as an equality ombudsperson or committees (reported by eight countries), labour inspectorates (six countries) and OSH authorities (three countries). Other sources of information are court case laws (five countries), and crime statistics and human rights committees (one country each).

30 ILO (2022a). Three questions were asked to measure the prevalence:
  • *Have you, personally, EVER experienced PHYSICAL violence and/or harassment AT WORK, such as hitting, restraining, or spitting?*
  • *Have you, personally, EVER experienced PSYCHOLOGICAL violence and/or harassment, such as insults, threats, bullying, or intimidation AT WORK?*
  • *Have you, personally, EVER experienced any type of SEXUAL violence and/or harassment AT WORK, such as unwanted sexual touching, comments, pictures, emails, or sexual requests while AT WORK?*

31 Yet the behavioural experience method also has its own limitations, such as the arbitrariness of the cut-off points, the variability of the number of items, and the fact that not all the behaviours described have the same severity (Nielsen, Notelaers and Einarsen 2020; López and González-Trijueque 2021). Nevertheless, this method leads to higher prevalence figures than the self-labelling method (Salin 2010).

used in several countries,[32] and there are efforts to do so also at international level: the EU has started implementing a regular survey on gender-based violence, which measures work-related V&H with ten action- and behaviour-based items (Eurostat 2021), while the ILO is currently developing a survey on work-related V&H using the behavioural experience method.

Further tendencies can be identified from country- or region-specific studies, which complement the findings of the global ILO study. One tendency is that certain sectors – particularly those that have frequent contact with third parties – show higher prevalence of V&H than others. Among those frequently identified are the health and social sector, public administration, education, transport and hospitality.[33] Furthermore, the recent COVID-19 health crisis made it clear that key workers – workers who had to continue to be active or to offer their services in spite of the pandemic – were more likely to experience V&H than non-key workers. European data from 2015 and 2021 showed that overall incidence of verbal abuse, harassment and unwanted sexual attention in the workplace increased for key workers during the pandemic, with certain occupations, such as security and healthcare, reporting higher levels of verbal abuse; for non-key workers, there was little change (ILO 2023).

Cross-country data from Europe also highlight the impact of psychosocial risks: workers exposed to V&H more often reported having high job demands and lack of job resources compared to those not exposed to V&H (Eurofound 2022). Harassing behaviour usually lasts for a protracted period of time.[34] It can result from a conflict between two individuals, but very often there is more than one perpetrator; the longer V&H lasts, the greater the number of individuals who seem to get involved.

V&H at work can come from colleagues or managers, but also from customers, patients or other individuals with whom the person engages in the course of their work. Of key workers, 12.4 per cent stated that they were subject to verbal abuse while performing their jobs, compared with 8.7 per cent of non-key workers. Disaggregating data by occupational group reveals starker differences: in security, 27.1 per cent of workers were subject to verbal abuse in 2015, whereas in health the proportion was 19.1 per cent. Of particular concern is that, during the pandemic, the overall incidence in Europe of verbal abuse, harassment and unwanted sexual attention in the workplace increased for key workers; for non-key workers, there was little change (ILO 2023).

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32 The most widely accepted inventory to assess the different forms of psychological V&H is the Negative Acts Questionnaire (NAQ), which was developed at the University of Bergen, Norway, in 1994 and revised in 2009. It includes 23 items on work- and person-related acts and has been used in Japan (Abe and Henly 2010), Lebanon (Makarem et al. 2018), Brazil (Silva, de Aquino and de Matos Pinto 2017), India (Rai and Agarwal 2017) and Belgium (Notelaers et al. 2018), among others. Meanwhile, Denmark developed a questionnaire for employers that covers in detail 21 different types of behaviour in the workplace that can be classified as sexual harassment (Denmark, DWEA 2020).

33 See, for instance, Zapf et al. (2020), León-Pérez, Escartín and Giorgi (2021), and Eurofound (2022).

34 According to a systematic review of studies in Europe, bullying lasts on average for longer than a year; bullying, in this context, means "harassing, offending, socially excluding someone or negatively affecting someone's work tasks. In order for the label bullying (or mobbing) to be applied to a particular activity, interaction or process it has to occur repeatedly and regularly (e.g. weekly) and over a period of time (e.g. about six months)" (Zapf et al. 2020, 106).

▶ 1.9. Further challenges and issues related to prevention of violence and harassment through OSH frameworks

Apart from the complexity of the phenomenon of workplace V&H and of its responses within OSH frameworks, specific challenges and issues need to be taken into account when appropriate policy instruments are devised. One challenge relates to micro, small and medium-sized enterprises (MSMEs), which typically have fewer financial, human and managerial resources and less capacity to manage OSH than large organizations, and consequently often struggle to effectively manage their OSH-related responsibilities (ILO 2021a).

Indeed, according to a global enterprise survey conducted by the ILO, a greater proportion of large enterprises have zero tolerance of discrimination, harassment or violence compared to small or medium-sized enterprises (ILO 2022c). Likewise, findings from an enterprise survey conducted by the EU indicate that mechanisms for addressing cases of V&H are more commonly established within larger companies (74 per cent for companies with 250 or more employees) than in smaller ones (49 per cent for companies with fewer than 50 employees) (EU-OSHA 2022). Hence, it is vital to recognize the limited resources of MSMEs and to provide adequate practical support tailored to their needs (ILO 2021a). According to a public consultation on bullying and harassment in New Zealand, individual consultation services and direct contact, in particular, are important for smaller businesses to address their support needs (FrankAdvice 2021).

Another particular challenge concerns the informal economy. As of 2022, 58 per cent of the world's employed population were in informal employment.[35] These workers are not usually covered by OSH regulations, because the businesses they work in may not be registered and regulated or accessible to labour inspection. As a result, such workers may be more vulnerable to V&H and may find it more challenging to get support, particularly in the absence of social protection. Nevertheless, there are several legal avenues that address the issue of the informal economy. First, Article 4(3)(h) of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), promoted to the status of fundamental Convention, foresees that "the national system for occupational safety and health shall include ... support mechanisms for a progressive improvement of occupational safety and health conditions in micro-enterprises, in small and medium-sized enterprises and in the informal economy".[36] Second, the Violence and Harassment Convention, 2019 (No. 190), specifies that "it applies to all sectors, whether private or public, both in the formal and informal economy, and whether in urban or rural areas" (Article 2(2)). Turning to specific measures, these may include general action such as extending social protection coverage (in particular, universal health protection coverage including long-term healthcare protection), organizing informal workers, strengthening OSH inspection and data collection, and providing awareness-raising activities[37] and guidance and

35 UN Department of Economic and Social Affairs, "Global and Regional Trends", INDICATOR 8.3.1 Series: Proportion of informal employment, by sector and sex (ILO harmonized estimates) – 13th ICLS (%) SL_ISV_IFEM.

36 See also ILO Declaration on Fundamental Principles and Rights at Work, Section 2.

37 For instance, the Women in Informal Employment Globalizing and Organizing (WIEGO) global network implemented a project with women waste pickers which helped to raise awareness in waste pickers' cooperatives about how to prevent and address violence faced by women (UN Women and ILO 2019).

tools[38] specifically dedicated to preventing V&H in the informal economy.

Furthermore, new and emerging hazards that increase the risk of V&H need to be taken into account when devising appropriate policy instruments. In particular, digitalization, information and communication technology (ICT), and emergent changes in work practices, such as working from home, mobile work and virtual teamwork, pose new hazards for workers' health and well-being at work (Chririco, Sacco and Ferrari 2021; ILO 2021a). In fact, such hazards may trigger an intensification of work, increase time pressures and recontextualize organizational dynamics in the cyber-physical domain, disrupting social exchanges at work (Palumbo and Cavallone 2022). Less social interaction and less face-to-face communication may result in less tolerance and teamwork, an increasingly hostile communication tone, and a growing sense of depersonalization that may resemble harassment (EU-OSHA 2018a).

In general, greater reliance and dependence on social media and the internet for work purposes may increase, in particular, the prevalence of psychological violence – or cyber-bullying – by competitors, peers, stakeholders or online trolls. Indeed, recent academic research has shown that cyber-bullying at work is becoming as common as non-electronic forms of bullying (EU-OSHA 2017). A significant increase in general cyber-bullying attitudes and perpetration was observed before and during the COVID-19 pandemic (Barlett et al. 2021).

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38 For instance, the Indian Self-Employed Women's Association (SEWA) supports members in negotiations with employers to improve working conditions, including ending violence against workers who face many risks working as street vendors, market sellers and home-based workers (ILO 2018a). Moreover, HomeNet South Asia – a regional network of home-based worker organizations – has developed training material aimed at domestic workers, especially in the informal economy, called *Working in Garment Supply Chains: A Homeworker's Toolkit* (HNSA 2020). It contains a whole section on how to address and prevent violence in the workplace. The toolkit can be used by trainers and organizers as a resource manual to create further training materials and is available in multiple languages.

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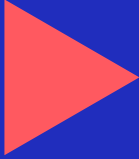
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► 2

Integrating violence and harassment into OSH frameworks: Legal and institutional responses

66%

of provisions that relate to workplace violence and harassment in the 25 countries examined are found in the labour and OSH legal framework.

▶ Key messages

▶ In 25 countries, a total of 221 provisions were identified that addressed workplace violence and harassment (V&H). This shows that, in a growing number of countries, the occupational safety and health (OSH) legal framework imposes obligations to provide for a safe and health working environment free from V&H.

▶ Two thirds of provisions that relate to workplace V&H in the 25 countries examined are found in the labour and OSH legal framework. This means that countries have increasingly situated the issue of workplace V&H within the systemic approaches to OSH.

▶ Compared to other regulatory approaches, OSH and labour legislation tends, as a rule, to be more detailed as regards preventive strategies and in defining the obligations of the employer to prevent and address workplace V&H.

▶ Legislation in half the countries reviewed (12 of 25) included the notion of, and in some cases the right to, dignity at work. Such provisions can be (and have been) used as an umbrella concept to develop standards and guidance to prevent and address V&H. There is also a steady increase in defining health at work in both physical and mental dimensions.

▶ Since 2012, collective bargaining agreements (CBAs) at sectoral and company level have become an important tool at the disposal of employers' and workers' organizations to agree on working conditions and terms of employment, including in the area of prevention of V&H in the world of work.

▶ Manufacturing, the public sector, agriculture, forestry and fishing are the sectors that include the largest share of CBAs containing V&H clauses. Together, they represent about half (49 per cent) of the total of 95 CBAs that stipulate provisions to address V&H.

▶ The three most frequent categories of provisions addressing V&H in CBAs include prohibition of V&H at work, enforcement provisions that envisage sanctions for V&H, and "mutual respect" clauses that contains the requirement that all parties – employers and workers alike – treat each other with respect and abide by rules of professional conduct.

▶ 2.1. Introduction

The web of rules and regulations addressing the issue of V&H in the world of work is complex and diverse. Applicable regulatory provisions include, but are not limited to, constitutional provisions protecting moral and physical integrity, criminal law, civil law, labour legislation, OSH laws, anti-discrimination laws (that is, laws promoting equality and non-discrimination), dedicated regulation of V&H, workers' compensation and insurance statutes, and women's rights legislation. An adequate legal analysis of a particular context will thus require a review of a range of provisions that apply to a workplace incident involving V&H.

This chapter examines the nature and scope of OSH legal initiatives in 25 selected countries covering all regions of the world. The selection was based on availability of legal provisions in OSH and/ or related legislation and on accessibility of legal initiatives. This selection sought to ensure the widest possible geographical coverage (with all regions of the world represented) and to encompass different legal traditions, subject to public accessibility of the relevant laws and legislations and to language constraints. It should be noted that legal frameworks/

systems offering protection against workplace V&H vary by country and should be analysed within a given country's legal landscape.

The focus here, in particular, is to identify trends in regulating workplace V&H through OSH legislation and to provide an overview of the policy objectives that have been sought by various legal interventions in different regions. Such an approach aims to extend our current knowledge, expanding on existing efforts to review country-level progress in bringing legislation to tackle workplace V&H. In addition, legislation and policies are often supplemented with collective agreements (regional, national or industry-specific), which are often reactive and better adapted to workplace V&H challenges, as well as covering other aspects related to work and working conditions, such as working time, that are important in the prevention of V&H. Drawing on a database of collective agreements from all regions of the world, the chapter analyses their content to identify the presence and nature of provisions related to preventing and addressing V&H, and considers how these interact with equality provisions.

▶ 2.2. A note on methodology

The first part of this chapter is focused on reviewing legislation across 25 countries covering all regions (Africa, the Americas, the Arab States, Asia and the Pacific, and Europe and Central Asia). The countries concerned are Barbados, Bangladesh, Brazil, Burkina Faso, Canada (Newfoundland and Labrador), China, Colombia, Denmark, El Salvador, Georgia, Germany, India, Italy, Mexico, Mozambique, Norway, Russian Federation, South Africa, Spain, Switzerland, Tunisia, Türkiye, Uganda, United Arab Emirates and Viet Nam.[1]

The review covers: (i) laws and regulations addressing OSH, with a focus on those that explicitly address V&H and similar issues; (ii) laws and regulations on equality, or on anti-discrimination to the extent that they contain provisions on V&H at work; and (iii) single comprehensive legislation that specifically addresses workplace V&H. The constitutions of most of the countries covered by the present review contain fundamental standards of non-discrimination and/or protecting against discrimination, and protecting the right to physical integrity; however, these are not the subject of

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1   For an overview of different legal developments, see Pinkos Cobb (2017). For an in-depth country-specific legal analysis including Belgium, France, Japan, Spain and the United Kingdom, see Lerouge (2017b).

this review. Likewise, general laws (such as criminal laws) concerning violence and assaults on physical and moral integrity that may be applicable to instances of V&H are not covered. As outlined in the introduction, the focus is on preventive legal interventions in the workplace.

A few comments are in order concerning the scope and meaning of OSH legislation, as well as the treatment of workplace V&H by such legislation. First of all, OSH legislation is a complex web of legal provisions that can be found in general labour legislation (for example, labour codes and industrial relations legislation) and in specific legislation dedicated to OSH; it is also found in public health laws, in workers' compensation acts and social security legislation, and in sector-specific acts such as legislation governing mining, construction, agriculture and fisheries.

While there is divergence in the approaches adopted by countries in the choice of legal framework to regulate OSH, the same is true of regulation of psychosocial risks and workplace V&H. Psychosocial risks broadly, and workplace V&H more specifically, could be considered within OSH legislation, within broader labour legislation, or within both fields of law. The distinction between both issues (psychosocial risks and V&H) being treated by general labour legislation or by OSH legislation, on the one hand, or their separate treatment by different sets of laws, on the other, is not without implications, however. For example, it has been shown that whether or not both issues are dealt with within OSH legislation or general labour legislation may influence the monitoring and enforcement of applicable rules, including at the level of labour inspectorates.[2]

In the context of the present analysis, OSH provisions found in OSH legislation as well as in labour legislation are organized as one theme/category to distinguish them from anti-discrimination legislation, laws and regulations aimed at protecting women workers, and other thematic regulations. It should also be noted that the legislation review discussed in this chapter does not include collateral

aspects relevant to the regulation of V&H specifically, and psychosocial risks generally, unless they are discussed specifically in relation to V&H. Working time, salaries and a range of issues that contribute to job insecurity (dismissal, job changes, temporary work, etc.) are all dealt with in labour legislation and not in OSH legislation, and all may act as stressors affecting workers' mental health (Velázquez 2017, 38–39). For this reason, in some regions of the world, working time has been included as an aspect of OSH.[3]

In the second part of the chapter, the review was based on 94 collective bargaining agreements (CBAs) from 20 countries.[4] The WageIndicator database on which the review is based, which claims to be the largest repository of CBAs, includes over 2,000 such agreements from 67 countries. Both the first and second parts of the review were limited mainly to resources available in the public domain and in English, French, German, Italian, Spanish, Portuguese, Russian and Turkish. This linguistic limitation may affect the number of legal and policy initiatives included in the chapter, and as such a few legal and policy instruments not available in English, French or Spanish may have been omitted.

To complete the review of laws and regulations at national level, as well as CBAs, the chapter concludes with a review of the practice of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) on V&H. The Committee examines government reports on ratified Conventions and often makes direct requests to governments, pointing out apparent problems in the application of a standard and giving the countries concerned time to respond and address the issues concerned. Crucially, the Committee's interventions facilitate social dialogue in that they require governments to review the application of a standard and to share this information with the social partners, who may also provide information. The ensuing social dialogue can lead to further problem-solving and prevention.

The present chapter looks at the practice of the CEACR in reviewing the workplace V&H issue in

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2   For a comprehensive analysis, see Velázquez (2017).

3   See, for instance, Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time.

4   These countries are Austria, Bangladesh, Belgium, Benin, Brazil, Cambodia, Colombia, Costa Rica, Croatia, Germany, Ghana, Greece, Guatemala, Honduras, Hungary, Indonesia, Niger, Madagascar, Mozambique and Rwanda. The repository of collective agreements that served as a platform to identify the agreements is the WageIndicator Collective Agreement Database per Country.

the context of several ILO instruments, such as the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Domestic Workers Convention, 2011 (No. 189), and the Nursing Personnel Convention, 1977 (No. 149). The Committee's observations and direct requests are informative sources of information on the relationship between various dimensions of workplace V&H (anti-discrimination and OSH), and more importantly on the links between policy and action, as well as on changes at the enterprise level and, more broadly, in the world of work.

▶ 2.3. OSH legislation and violence and harassment: Global overview

OSH legislation aims to improve working conditions and thereby also to address V&H in the world of work. ILO Convention No. 190 stipulates that OSH legislation is one of the priority areas where workplace measures are to be introduced.[5] Elsewhere, the Convention invites the States parties to the Convention to address V&H in the world of work in relevant national legal frameworks such as those concerning OSH, among others.[6]

There is a requirement, therefore, to implement the provisions of the Violence and Harassment Convention through a legal framework, including through OSH legislation, in order to provide clear and tailored guidance to the actors in the world of work to address and prevent V&H in the workplace. The 2019 ILO Centenary Declaration for the Future of Work renewed the focus on the fundamental nature of safe and healthy working conditions. So, too, did the COVID-19 pandemic, which heightened calls to address mental health at work, as well as V&H, as work arrangements and conditions changed as a result of the pandemic, bringing new psychosocial challenges for workers. Comparing European data from 2015 and 2021, the ILO *World Employment and Social Outlook 2023* found that, during the pandemic, the overall incidence in Europe and the United States of verbal abuse, harassment and unwanted sexual attention in the

workplace increased for key workers (ILO 2023). Among subsequent developments that represent a significant milestone in understanding the role of OSH in the world of work is the proclamation of OSH as a fundamental right and principle at work.[7]

◤◤ A significant milestone in understanding the role of OSH in the world of work is the proclamation of OSH as a fundamental right and principle at work.

Although many legislations across the world require employers to assess and manage all types of risks and hazards to workers' health and safety, there is frequently no express reference to workplace psychosocial risks generally, or to V&H in particular. However, some countries have started to adopt provisions on psychosocial risks, including provisions on V&H, in their legislation, thus giving clearer direction to employers on their responsibilities, as well as clarifying the content of the OSH legal framework that would provide practical guidance. Furthermore, the current assessment of the legal response to V&H in the world of work is that

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5   See the introduction to this report.

6   Art. 12 states: "The provisions of this Convention shall be applied by means of national laws and regulations, as well as through collective agreements or other measures consistent with national practice, including by extending or adapting existing occupational safety and health measures to cover violence and harassment and developing specific measures where necessary."

7   At its 110th Session in June 2022, the International Labour Conference decided to amend para. 2(e) of the ILO Declaration on Fundamental Principles and Rights at Work (1998) to include "a safe and healthy working environment" as a fundamental principle and right at work, and to make consequential amendments to the ILO Declaration on Social Justice for a Fair Globalization (2008) and the Global Jobs Pact (2009).

efforts at devising legal interventions have gravitated towards the OSH paradigm. In parallel, criminalization of V&H at work has also been pursued by many countries in the world, and there is a growing comparative perspective on the role of criminalization in the regulation of work (Bogg et al. 2020).

Indeed, one study indicates that, in several countries, there may be a relationship between the presence of a more specific regulation of psychosocial risks (including regulation of V&H) and the existence of enterprise-level plans/policies dealing with work-related stress (Jain et al. 2022). Furthermore, country studies carried out for this report appear also to support the advantages of legal certainty, arguing that effective integration of V&H into the OSH framework would require a specific and express regulation of V&H.[8] The presence of a specific regulation does not clarify, however, the question of whether the presence of a workplace/enterprise-level strategy on preventing and addressing V&H, or psychosocial risks more broadly, results in a lower number of incidents of V&H (for a discussion of this, see section 4.4 below on Denmark).

To gain a better understanding of how V&H concerns are integrated into the OSH legal framework and how the duty of the employer to prevent and address V&H in the world of work is regulated, the present chapter reviewed legislation from 25 countries. These countries comprise Barbados, Bangladesh, Brazil, Burkina Faso, Canada (Newfoundland and Labrador), China, Colombia, Denmark, El Salvador, Georgia, Germany, India, Italy, Mexico, Mozambique, Norway, the Russian Federation, South Africa, Spain, Switzerland, Tunisia, Türkiye, Uganda, United Arab Emirates and Viet Nam. A total of 221 provisions addressing V&H in the world of work were found in these countries. Together, these countries represent Africa, the Americas, the Arab States, Asia and the Pacific, and Europe and Central Asia, as well as different levels of economic development (figure 2.1) and of commitment to the promotion of ILO Convention No. 190, and diverse legal systems and traditions.

Some of the States listed above (for example, Denmark, El Salvador and Norway) have opted to legislate on V&H through a general approach that involves regulating the working environment and the factors leading to workplace V&H. Others (for example, Burkina Faso, Brazil, China and India) have legislated for a specific aspect of psychosocial risks or a specific manifestation of the risks. For example, Burkina Faso's legislation prohibits

▶ **Figure 2.1. Distribution of OSH provisions addressing violence and harassment in the world of work in 25 countries, by level of economic development** (percentage)
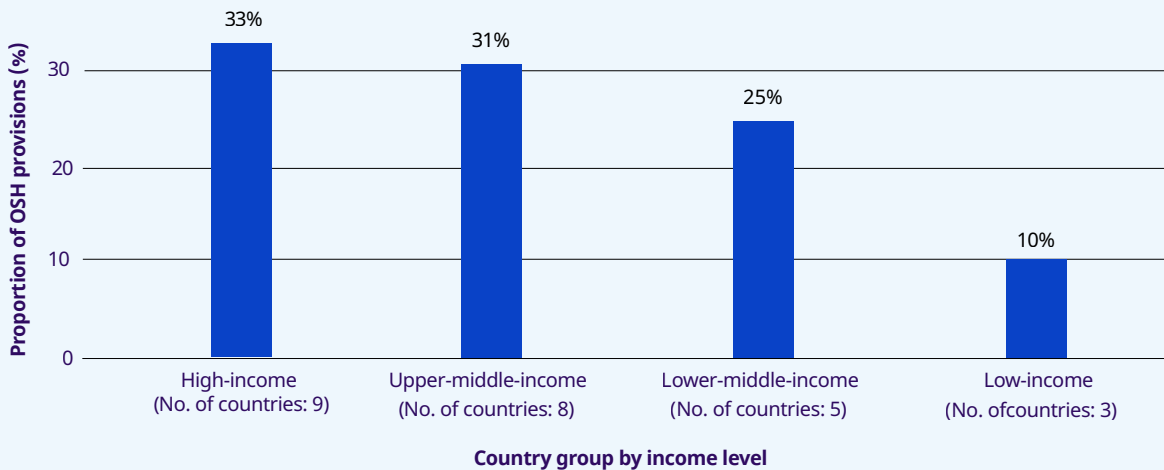
Source: ILO, based on all provisions related to V&H in the 25 countries reviewed.

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8   For a differing view, see Velázquez (2017, 44), who argues that specific regulation of psychosocial factors is not a determinant factor in the application of measures by States; he makes reference to the First European Survey of Enterprises on New and Emerging Risks (ESENER) survey, which found that country examples with higher levels of application did not have specific regulation of psychosocial risks.

physical or psychological violence or abuse, and more specifically sexual harassment.[9] In another example, Indian legislation provides protection against sexual harassment of women in the workplace.[10] Specific legislative action notwithstanding, all the countries examined operated OSH legislation with a general scope for the prevention of occupational risks. Therefore, the research also tried to identify whether the OSH legislation of the 25 countries included psychosocial risks.

2.3.1. OSH as one of the main entry points to workplace regulation of violence and harassment

In assessing the legal framework of the 25 countries reviewed, while OSH legal frameworks served as a primary entry point, the duty of care for the health and safety of workers was also found in other relevant legal sources, such as sexual harassment prevention laws, laws on elimination of violence against women or on protection of women, and legislation on equal treatment and on

sexual freedom. Given that these laws and regulations are used as a basis for some aspects of workplace safety and health, they were also included in the assessment of research questions addressed by this chapter:

▶ How is the obligation of employers to provide for safe and healthy work, place and process regulated?

▶ What are the obligations of employers to prevent V&H and to assess and minimize risks generated by psychosocial risks and by V&H?

In 25 countries, a total of 221 provisions that addressed workplace V&H were identified. The assessment of the 25 countries' legal frameworks shows that, in a growing number of countries, the OSH legal framework imposes an obligation to provide for a safe and healthy workplace free from V&H. Together with labour legislation, OSH legal frameworks make up almost two thirds of 221 provisions found on, and relating to, "workplace violence and harassment" in these 25 jurisdictions (figure 2.2). Figure 2.2 also shows, as noted above, the wide range of types of legislation that cover the legal responsibilities and rights of those involved in incidents of workplace V&H.

▶ **Figure 2.2. Distribution of provisions on workplace violence and harassment in 25 countries, by type of legislation** (percentage)
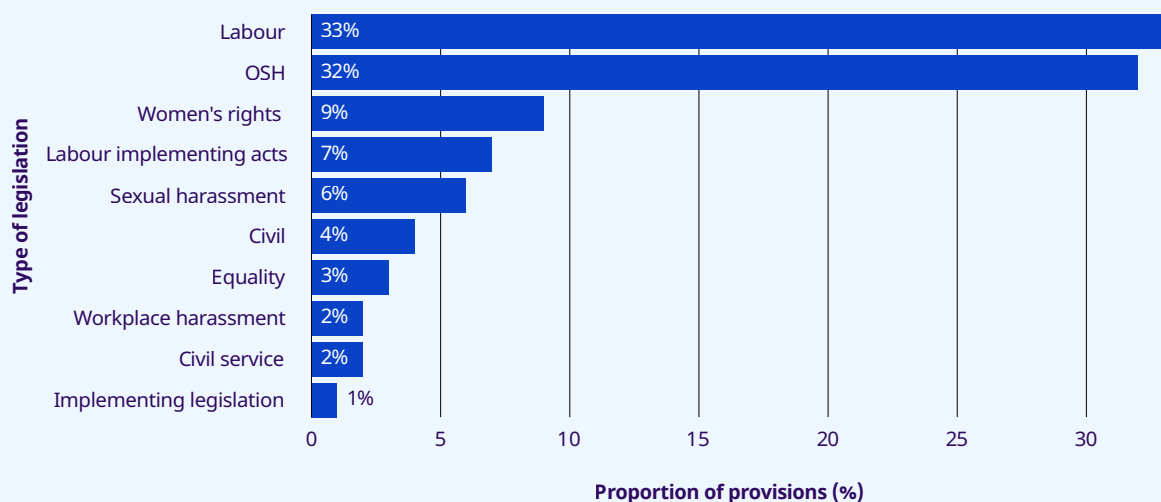
Source: ILO.

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9   Burkina Faso, Loi n° 028-2008-AN du 13 mai 2008 portant Code du Travail, Art. 36.

10 India, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

▟▟   There is a growing acceptance that a healthy working environment encompasses both physical and psychosocial dimensions.

The increasing legal regulation of V&H through workplace rules may, in part, be the result of better knowledge and data on the incidence and intensity of workplace V&H (Chappell and Di Martino 2006).[11] It may also reflect a growing awareness of the phenomenon, leading to better reporting and better reflection of these concerns in legislation and action. For example, the attention and action surrounding the issue of domestic violence have led some legislations around the world to mandate workplaces to take action as a response to and mitigation of the phenomenon of domestic violence, with the aim of supporting victims of domestic violence. The adoption of international labour standards on V&H may further increase and influence the way V&H concerns are incorporated into OSH frameworks, and even encourage a broader integration of psychosocial risks into such frameworks.

2.3.2. OSH regulations and protection of physical, mental and social well-being

There is a growing acceptance that a healthy working environment encompasses both physical and psychosocial dimensions.[12] This idea is either implicit or explicit in the legislations reviewed in this chapter. The legislation in Colombia, China, El Salvador, Denmark, Italy, Mozambique, Norway,

Uganda and Switzerland either includes specific provisions in their legislation clarifying that OSH encompasses both physical and mental dimensions, or stipulates that employers' duty of care covers the protection of both the physical and the moral integrity of employees. In El Salvador, for example, the legal framework also includes social well-being in the definition of OSH. In Mozambique, a general duty to provide workers with good physical, environmental and moral working conditions is incumbent upon employers.[13]

Whether occupational health is understood broadly (encompassing mental health) or narrowly (focusing on safety – that is, the physical dimension) is of significance, as it would indicate whether or not V&H and associated psychosocial risks in the management of occupational risks are taken into account. Some legislations reviewed in this chapter provide for specific regulation of the psychosocial working environment. In other words, there are dedicated provisions detailing requirements covering the psychosocial working environment. Other countries have provisions designed to address psychosocial risks (for example, El Salvador). However, while in all settings (public and private) workplace events involving physical violence have traditionally been regulated, it would appear that regulation of non-physical V&H in the world of work, and broadly that of psychological violence, is increasingly being taken up around the world.[14]

A detailed example of explicit regulation of psychosocial working environment is found in the Danish legislation, which stresses that the objective of the framework legislation on working environment is to create "a safe and healthy physical and psychosocial working environment which is at all times in accordance with the technical and

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11   In a study comparing sexual harassment policy in workplaces in 192 countries, it was found that "[t]he number of countries that have laws requiring employers to take specific prevention measures such as creating policies and/or providing training on sexual harassment – as opposed to stating a general, undefined responsibility – increased from 40 in 2016 to 53 in 2021" (Heymann et al. 2023).

12   The preamble of ILO Convention No. 190 acknowledges that "violence and harassment in the world of work affects a person's psychological, physical and sexual health". In a similar vein, other ILO Conventions and Recommendations refer to reproductive health. Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197), Para. 4, stipulates that "Members should take measures to protect the safety and health of workers of both genders, including the protection of their reproductive health". Safety and Health in Agriculture Convention, 2001 (No. 184), Art. 18, provides that "[m]easures shall be taken to ensure that the special needs of women agricultural workers are taken into account in relation to pregnancy, breastfeeding and reproductive health". Safety and Health in Agriculture Recommendation, 2001 (No. 192), Para. 11, further specifies that "[i]n order to give effect to Article 18 of the Convention, measures should be taken to ensure assessment of any workplace risks related to the safety and health of pregnant or nursing women, and women's reproductive health".

13   Mozambique, Ley núm. 23/2007 del Trabajo.

14   See, in addition, ILO, *Working Together to Promote a Safe and Healthy Working Environment*, ILC.106/III/1B, 2017.

social development of society".[15] The implementing legislation further states that "[a]t all stages, the work must be planned, organised and carried out in a responsible way to ensure that its impact on the psychosocial working environment is safe and healthy, individually and collectively, in both short and long term".[16]

This is not a unique example. In Norway, Chapter 4 of the Working Environment Act of 2005 is devoted to setting out a number of requirements regarding the working environment.[17] In particular, Section 4-3 provides that "[t]he work shall be arranged so as to preserve the employees' integrity and dignity". This section also states that employees shall not be subjected to harassment or other improper conduct and be protected as far as possible against "violence, threats and undesirable strain as a result of contact with other persons". Further, it stipulates that some determinants of a psychosocial environment, such as organization of work, shall be arranged so as to enable contact and communication with other employees.

The Norwegian Working Environment Act also includes regulation of working hours, which "shall be arranged in such a way that employees are not exposed to adverse physical or mental strain, and that they shall be able to observe safety considerations" (Section 10-2). As is the case with the EU legal framework, Norwegian legislation incorporates working time and its organization into the content of the OSH framework. The Norwegian legislation also factors in physical and mental strain in considering the organization of night work. It requires, in particular, that an eight-hour limit is not exceeded if the work performed at night involves considerable physical or mental strain (Section 10-11(7)). In a similar vein, the Norwegian legislation foresees that working hours for night workers should be adapted if required by the employee for health, social or other important welfare-related reasons (Section 10-2(2)). It is important to note that these examples demonstrate a global approach to the working environment; in other words, they take in "the whole array of factors related and linked to work" and move beyond the area of "occupational hazards" considered as a more circumscribed category (Lerouge 2017a).

Lastly, the Norwegian example of working environment regulation introduces factors that relate to psychosocial risks but are not usually mentioned in preventive strategies. Section 4-1(2) of the Working Environment Act of 2005 stipulates that:

> [w]hen planning and arranging the work, emphasis shall be placed on preventing injuries and diseases. [Accordingly] [t]he organisation, arrangement and management of work, working hours, pay systems, including use of performance-related pay, technology, etc., shall be arranged in such a way that the employees are not exposed to adverse physical or mental strain and that due regard is paid to safety considerations.

Although it is formulated as a principle, the legislation in Mozambique emphasizes that employers are responsible for creating and developing adequate means for protecting the physical and mental integrity of employees and constantly improving working conditions, and that they "shall afford their employees good physical, environmental and moral working conditions".[18] In a similar vein, in India, rules implementing the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (PoSH Act 2013) state the need to remove underlying factors contributing to a hostile work environment for women.[19] From the perspective of the world of work, underlying factors – or in the terms of the Mozambique legislation, moral working conditions – would also include the collateral aspects discussed above, such as working time and job security.

◤◤ Respect for physical and mental well-being at work has been expressed through the notion of the right to dignity at work.

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15 Denmark, Working Environment Act of 2021, Art. 1.

16 Denmark, Danish Working Environment Authority's Executive Order no. 1406 of 26 September 2020, Section 5.

17 Norway, Working Environment Act of 2005.

18 Mozambique, Ley núm. 23/2007 del Trabajo, Art. 216.

19 India, PoSH Rules, 2013, Art. X.

It is suggested here that the requirement of respect for physical and mental well-being at work has also been expressed through the notion of the right to dignity at work, or simply dignity at work. The legislative review in this chapter has shown that, in almost half the countries reviewed (12 of 25), the national legislation includes the notion of, and in some cases the right to, dignity at work. Both notions are found in the legal frameworks of Burkina Faso, Colombia, El Salvador, India, Italy, Mexico, Mozambique, Norway, South Africa, Spain, Tunisia and Türkiye.

This all-encompassing concept of dignity at work has been used as a legal basis to develop regulations and standards on psychosocial risk factors in working environments, but also as an umbrella concept to prevent and address discrimination and sexual and workplace harassment (see Chapter 4 for a detailed discussion). In Burkina Faso, the Labour Code defines the obligation of the employer to treat the worker with dignity.[20] In Viet Nam, although there is no explicit provision of the labour legislation containing the mental dimension of occupational health and safety, the Labour Code includes a number of provisions that stipulate measures to protect the "employee's health, life, honor or dignity".[21] South Africa's Code of Good Practice on the Prevention and Elimination of Harassment in the Workplace states that harassment "impairs dignity".[22] In light of the above, it is reasonable to conclude that, in the national legislations examined, mental and psychosocial dimensions of OSH are located within systematic approaches to OSH through notions such as the right to dignity at work.

The Declaration concerning the aims and purposes of the ILO (Declaration of Philadelphia, 1944) affirms 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 notion of dignity at work underpins ILO Convention No. 190, the Preamble of which underlines "the importance of a work culture based on mutual respect and dignity of the human being to prevent violence and harassment" and acknowledges that "violence and harassment in the world of work affects a person's psychological, physical and sexual health, dignity, and family and social environment". It is noteworthy that the notion of dignity at work, on its own and without specificity, will not render the provision operational.[23]

The concept of the right to dignity at work appears also in the practice of the CEACR. For instance, in one of its observations, the CEACR recalled that sexual harassment constitutes the violation of the right to dignity.[24] Among regional instruments, the notion is enshrined in Article 26 of the European Social Charter (Revised), entitled "The right to dignity at work"; it stipulates that:

> *With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers' and workers' organisations:*
>
> *1 to promote awareness, information and prevention of sexual harassment in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct;*
>
> *2 to promote awareness, information and prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct.*

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20 Burkina Faso, Loi n° 028-2008-AN du 13 mai 2008 portant Code du Travail, Art. 36.

21 See, for example, Viet Nam, Labour Code of 20 November 2019, Art. 127.

22 South Africa, Code of Good Practice on the Prevention and Elimination of Harassment in the Workplace, 2022, Section 4.1.

23 Noteworthy, too, in this context is the notion of reproductive health, which is found in several OSH instruments.

24 Observation (CEACR), adopted 2016, published 106th ILC session (2017), Discrimination (Employment and Occupation) Convention, 1958 (No. 111) – Colombia.

2.3.3. Review of OSH principles and standards found in labour, OSH and equality legislations

As noted above, while OSH laws were the primary focus of the present research, for some of the countries reviewed, norms on workplace V&H were found in (i) dedicated legislation on sexual harassment, mainly against women,[25] but also with a broader scope;[26] (ii) dedicated legislation on violence against women;[27] (iii) broader legal frameworks specifically addressing the protection of women and women's rights;[28] and (iv) legislation on equal treatment and equal opportunities.[29] Only one of the 25 countries reviewed had a legal framework exclusively governing the situation of workplace harassment.[30] Indeed, most of these legal frameworks were adopted to address the equality and gender dimension of workplace V&H; they are in response to a very specific societal need to strengthen the protection of those members of society, primarily women, who have been disproportionately discriminated against or are vulnerable, and/or whose protection presents a priority, particularly given that the legal framework governing labour relations, as well as OSH, lacked provisions to address sexual harassment.

This issue can be put into sharper relief by looking at the regional distribution of V&H provisions according to type of legislation (figure 2.3). While in some regions, such as Europe and Central Asia and the Americas, a number of legal fields (with a stronger focus on OSH) are deployed to address V&H in workplaces, in other regions, such as Asia and the Pacific, recourse to OSH as a framework to address workplace V&H is very limited; instead, the sexual harassment legal framework has been the focus of policies targeting workplace V&H, reflecting the concern of national legislators to address this form of V&H as a priority. This trend is also reflected in the existing analysis of the policy context in the Asian region, which confirms that – with a few exceptions – most of the countries in Asia have adopted laws and policies that deal mainly with sexual harassment (Jain and Torres 2021, 324).

▶ **Figure 2.3. Regulation of workplace violence and harassment, by type of legislation and region**
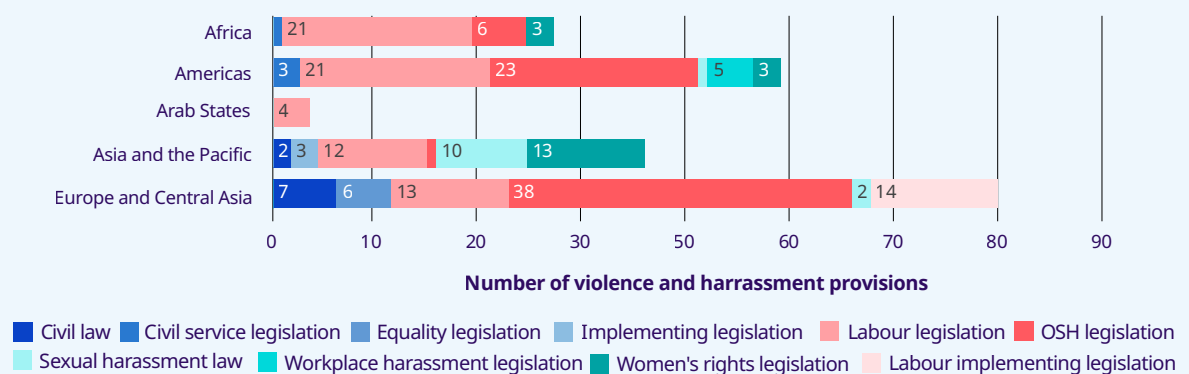
Note: A distinction is drawn between "Implementing legislation" – for example, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules (PoSH Rules, 2013); and "Labour implementing legislation", which supplements primary labour legislation (for example, Switzerland, Ordinance 3 of 18 August 1993 relating to the Labour Act).

Source: ILO.

25 Barbados, Employment Sexual Harassment (Prevention) Act; India, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

26 Spain, Organic Law 10/2022 on the comprehensive guarantee of sexual freedom.

27 El Salvador, Special Integral Law for a Life Free of Violence for Women; Tunisia, Organic Law No. 2017-58 on the elimination of violence against women.

28 China, Law of the People's Republic of China on the Protection of Women's Rights and Interests.

29 Germany, General Act on Equal Treatment; Italy, Code of Equal Opportunities between Men and Women.

30 Colombia, Law 1010 of 23 January 2006 on Workplace Harassment.

In the 1990s the female labour force participation rate – the proportion of women employed or actively seeking employment – was slightly over 50 per cent, while the current global rate for women is just under 47 per cent (compared to 72 per cent for men). This constitutes a difference of 25 percentage points, with some regions facing a gap of more than 50 percentage points (ILO 2017b). Very few studies have probed the question of the correlation between female labour force participation and sexual harassment in the workplace. One point that seems to be relevant is that, from the perspective of the gender gap in employment, a regulation designed to solely address sexual harassment against women in the workplace may also indicate a policy to address the issue of sexual violence as a serious labour and human rights issue.

The next section will provide a more detailed overview of the differences between the approaches adopted, on the one hand, by labour and OSH legislation and, on the other, by anti-discrimination laws to address and prevent V&H in the world of work.

2.3.3.1. Defining violence and harassment in OSH legislation

The issue of definition is one of the most discussed aspects of the debate on the optimal legal framework to govern V&H in the world of work. Since the 1970s, scholars have struggled to define workplace V&H. The issue also generated much debate in International Labour Conference (ILC) discussions (ILO 2016), leading to the adoption of ILO Convention No. 190 in 2019. In the national context, lack of definitions and clarity has also been identified as a barrier preventing the targets of V&H from seeking redress and remedies.

In 25 jurisdictions examined in this chapter, some countries have attempted to define workplace V&H. Denmark, Georgia, Mexico, South Africa and Viet Nam have defined sexual harassment, while legislation in Canada (Newfoundland and Labrador), Colombia, Denmark, El Salvador and Türkiye has included provisions defining V&H broadly, or psychological harassment specifically.

It should be pointed out, however, that only legislation pertaining to OSH (including, where applicable, equality laws and legislation addressing sexual harassment) has been the subject of the present review. The continuing debate and discussion of the issue of definition notwithstanding, there is no settled view on the best approach to definition from the perspective of prevention.

Hoel (2016), discussing the definitional challenges, noted that vagueness in definition may have led to any violations being interpreted as bullying; he then observed that:

> [w]hilst this emphasises the need for regulatory clarity, particularly with respect to an issue where the subjective element is so strongly present, defining an issue too narrowly could also have drawbacks, removing from the equation uncommon or rare situations or situations previously not considered or anticipated. Moreover, too specific regulation with little flexibility might also result in the regulation being unable to accommodate changes in public perceptions and what might be considered acceptable at a given time.

Furthermore, regulation of workplace V&H through dedicated legal frameworks or criminal legislation, important as they are, tend to define workplace V&H, which results either in a circumscribed definition or in the establishment of a threshold for an incident to qualify as violence or harassment, as may occur in the case of criminalization.[31] It has been suggested, therefore, that placing V&H within systemic approaches to OSH "in which it is embedded in a broad range of psychosocial risks has the benefit of avoiding premature dismissal of complaints that do not necessarily meet all the criteria of the legal definition of violence, harassment or bullying, but nonetheless pose a hazard to workers' health" (Cox and Lippel 2020).

Most of the legislation reviewed in this chapter has taken the latter approach; and as the scholarship suggests, lacking a fixed and detailed definition of V&H may have its own benefits in that it can allow a degree of accommodation to changes in the working environment and to novel manifestations of workplace V&H (for example, involving

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31 Hoel (2016). Discussing various approaches to regulating workplace harassment in this paper, Hoel noted that criminalizing harassment, as was the case in the French legislation, "may have its own problems", as "by criminalising the problem the threshold applied by the court is likely to be lifted to such a level that only the most extreme examples of bullying would qualify, leaving many victims out in the cold".

the use of technology).[32] Where there are fixed definitions in OSH frameworks, the legal requirement to adapt health protection measures to new conditions should ensure that the OSH framework responds to changes in working conditions and the emergence of new psychosocial risks.[33]

2.3.3.2. The nature and scope of provisions in OSH and anti-discrimination legislation

A few general observations can be made about the regulation of workplace V&H (i) by labour and OSH legislation, and (ii) by legislation that is intended to address workplace V&H from a specific angle of gender or a specific form of V&H, namely sexual harassment. Both sets of legal frameworks are closely related, particularly given that the Convention on Violence and Harassment in the World of Work, No. 190, calls for an integrated approach and identifies OSH and equality and non-discrimination legal frameworks as among the primary legal interventions in this field. Nevertheless, from the present research it can be concluded that equality- and non-discrimination-based legal frameworks in effect tackle one specific form of workplace V&H, namely gender-based and sexual harassment.

The research demonstrates that sexual harassment, equality and women's rights protection laws incorporate most of the basic tenets of the OSH approach to V&H at work. In sum, these comprise the employer's duty both to ensure security and a safe working environment for women and to prevent and stop sexual harassment of women employees. In one instance, the right to refuse to work in order to stop harassment was provided by an anti-discrimination law. Furthermore, these laws provided for education, awareness-raising and training activities, all of which can be said to reflect a preventive approach.

The equality- and non-discrimination-based instruments that were examined (Barbados, China, El Salvador, Germany, India, Italy, Spain and Tunisia) also incorporate the concept of prohibition of sexual harassment, as well as a broader prohibition

of workplace V&H and the need to create a safe working environment, particularly for women. To a similar degree, legislation on sexual harassment and laws promoting non-discrimination and protection of women contain provisions (among others) that require the employer to institute a complaints mechanism, an investigation procedure, awareness-raising, and education and training of employees on sexual harassment; to formulate policy prohibiting sexual harassment; to devise support structures for victims of V&H and provide support for women in their efforts to protect their rights; and to institute punishment of sexual harassment (for example, by establishing a disciplinary offence). Most frequently, such equality- and non-discrimination-based legislations outlaw outright workplace V&H, expressing such a requirement as a prohibition of conduct that qualifies as sexual harassment and/or V&H.

While labour and OSH legislation broadly includes the elements that are provided for in equality- and non-discrimination-based laws, there are still some differences between the two kinds of legislation as reviewed in this report. First and foremost, OSH and labour legislation is commonly not limited in its scope, typically applying to all individuals and adopting a more global approach to V&H. This is evident in provisions requiring a working environment free from V&H in all its manifestations and covering all workers.

Second, the provisions on prevention of V&H contained in labour and OSH legislation tend, as a rule, to be more detailed in specifying the obligations of the employer. These obligations aim at both protection and prevention at the workplace level, with a primary focus on prevention. In 22 of 25 countries examined in the present review, the legal frameworks, taken as a whole, either specify a general duty of care by the employer vis-à-vis safety and health encompassing both mental and physical dimensions, or contain an explicit provision on the employer's obligation to prevent V&H (table 2.1). In addition, some countries' labour and OSH legislation includes provisions requiring that workplaces must be organized and designed so as to prevent and protect against V&H at work.

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32 De Stefano et al. (2020). For a recent discussion of bullying in digital space, see D'Cruz and Noronha (2018).

33 This should also be the case if an OSH management system approach is adopted in the OSH legal framework.

▶ **Table 2.1 Comparison of workplace violence and harassment clauses in equality- and non-discrimination-based laws and in labour and OSH legislation, in the 25 countries reviewed**

Labour and OSH legislation	Equality- and non-discrimination-based law
Adaptation measures for employees with reduced capacity for work (accident, disease, fatigue, etc.)	–
Appropriate work organization (e.g. working time arrangement for night work or for working alone, to avoid mental strain)	–
Consultation on all OSH measures	–
Complaint and investigation procedures	Complaint and investigation procedures (including employers' duty to institute a complaints mechanism)
Development of preventive programmes on V&H in the workplace	–
Definition of sexual harassment, V&H	Definition of sexual harassment, V&H
Disciplinary offence, sanctioning	Disciplinary offence, sanctioning (for sexual harassment)
Dignity at work (including for domestic workers)	Dignity at work
–	Duty of the employer to prevent sexual harassment of female employees
Education, awareness-raising and training activities (psychosocial risks, V&H and its prevention); training on OSH measures and workplace risks	Education, awareness-raising and training activities on sexual harassment
–	Employers' duty to designate a focal point or institution on sexual harassment
–	Employers' duty to ensure security and safe working environment for women
Employers' obligation to adapt health protection measures to new conditions	–
Employers' obligation to inform (on OSH measures, workplace risks – physical, psychological, V&H)	–
Employers' obligation to constantly improve working conditions	–
Employers' obligation to supervise compliance with OSH rules, including V&H provisions	–
Employees' duty to cooperate in reporting cases of workplace harassment	–
General duty of care (health and moral integrity) as well as obligation to provide for OSH in its moral, physical and social dimensions	General duty to provide for safety and health of women
Guidance on content of workplace V&H policy	–
Guidance (detailed) on prevention of psychosocial risks, V&H	–

Labour and OSH legislation	Equality- and non-discrimination-based law
Integrating V&H prevention into collective bargaining agreements	–
Integrated approach to V&H	–
Inter-agency institution to monitor, evaluate and develop V&H policies	–
Mental health programmes	–
Obligation to prevent and address psychosocial risks, sexual harassment, V&H	Obligation to prevent sexual violence, including in domestic work
Obligation to protect privacy of parties to sexual harassment case	Obligation to protect privacy of parties to sexual harassment case
OSH as encompassing physical, mental and social well-being	–
The right of workers to benefit from appropriate measures at work to ensure their physical, moral and mental integrity	Prohibition of employment of women in working conditions that are harsh, degrading or prejudicial to their health, safety and dignity
Prevention of adverse effects of monotonous work	–
Prevention as a preferred strategy to address V&H	–
Prohibition of V&H, discrimination, sexual harassment, and V&H against domestic workers	Prohibition of and protection from sexual harassment (especially women)
Prohibition of retaliation against workers who report threats, harassment, arbitrary discrimination, social exclusion or other	–
–	Protection of civil servants from violence
–	Protection from third parties for women workers
–	Psychological counselling to women victims
Protection of morality of young people, special provision for minor workers	–
Reporting V&H	–
Regulation of psychosocial working environment	–
–	Right to refuse to work to stop harassment or sexual harassment
Risk assessment of psychosocial risks, V&H, working alone	Inclusion of sexual violence in the risk assessment
Sector-specific OSH rules regarding psychosocial factors and work organization (e.g. health sector)	–
Creation of dedicated support structures for employees	Support for victimized women to seek protection and file complaints

▶Table 2.1 (cont'd)

Labour and OSH legislation	Equality- and non-discrimination-based law
Teleworking: psychosocial risks	–
Termination of contract by employees for acts against their honour (dignity), for V&H-related practices	–
The right to be treated with respect and the right to honour, good name, public image, private life	Women's right to a safe environment free from sexual harassment
The right to a working environment free of violence and sexual harassment	–
Violence as a workplace risk	–
Workplace morality and/or ethical order	–
Workplace policy on V&H	Employers' duty to formulate (workplace) policy prohibiting sexual harassment

Source: ILO compilation based on review of laws and regulations in Bangladesh, Barbados, Brazil, Burkina Faso, Canada (Newfoundland and Labrador), China, Colombia, Denmark, El Salvador, Georgia, Germany, India, Italy, Mexico, Mozambique, Norway, Russian Federation, South Africa, Spain, Switzerland, Tunisia, Türkiye, Uganda, United Arab Emirates and Viet Nam.

Third, in line with general OSH principles, some countries explicitly stipulate, in the context of V&H, that provisions on workplace harassment must be continuously improved and updated/adapted to new circumstances and changes in the world of work. Thus, for example, in Mozambique and Norway, the labour and OSH legislation requires that working conditions be improved constantly. Türkiye's OSH legislation requires health protection measures to be adapted to new conditions.

Fourth, the OSH provisions on V&H examined in this report permit, in line with OSH systems, all actors of the world of work to participate in the task of preventing and addressing V&H. For example, a few countries' legislation refers to the notion of consultation with workers on V&H policies (as well as their participation in the formulation of such policies, which will be discussed in section 2.4). Another example includes provisions encouraging V&H concerns to be included in collective bargaining agreements. Yet another reflects the duty of employees to cooperate and report cases of workplace harassment.

Fifth, the V&H provisions in labour and OSH legislation also tend to include regulation of the psychosocial working environment, as well as regulation of work situations that could contribute to or enhance vulnerability to workplace V&H. These are (but are not limited to) V&H rules related to working alone, night work, regulation of the work of minors (especially concern for their psychological, social and developmental needs), psychosocial risks of teleworking, mental health programmes, inclusion of psychosocial risks in risk assessments, and violence as a workplace risk (table 2.1).

Sixth, several national legal frameworks on OSH refer to a requirement to adopt a workplace policy on V&H. Equality and non-discrimination legislation also includes provisions in this respect, albeit prescribing a policy that would target a specific concern, such as sexual harassment.

▶▶ Some countries explicitly stipulate, in the context of V&H, that provisions on workplace harassment must be continuously improved and updated/adapted to new circumstances and changes in the world of work.

2.3.3.3. The right to stop work, prohibition of retaliation against workers, and other less common provisions

The OSH approach is also based on key principles, which include, among others: (i) the right to participate in decisions that affect one's health and safety; (ii) the right to know about health and safety matters; and (iii) the right to refuse to work if doing so could affect one's own health and safety and that of others (Alli 2008). These rights mean that workers need to participate in the development and implementation of workplaces policies.

While there was one example (El Salvador) of OSH legislation that provided for the right to participate in the formulation of workplace policies or work organization changes related to V&H, as well as the right to be informed of V&H risks, none of the OSH and labour legislation of the 25 countries reviewed contained the right to stop work in the case of imminent danger to safety or health specific to workplace V&H. A specific right to stop work to allow a victim of V&H to take care of their own safety and health has been found in anti-discrimination legislation. For example, in Germany, the General Act on Equal Treatment includes a provision providing for a right to refuse to work in order to stop harassment or sexual harassment. This finding, however, should be balanced against the fact that a right to refuse to work may exist with respect to OSH in general. In the same example of German legislation, if the employer does not adhere to occupational safety rules, employees are entitled to refuse to work at the workplace without losing their claim to remuneration.

However, several countries include in their V&H-specific provisions regulations that allow workers to be informed of V&H and adequate training on V&H – aspects of workers' rights that are necessary to give force to the right to stop work. Thus, the employer's obligations to inform employees of V&H risks and of applicable OSH measures, and to adapt OSH measures to new conditions and constantly improve working conditions, are emphasized in various country contexts (Mozambique, Norway, Switzerland, Türkiye and Uganda). Furthermore, two provisions contained in equality- and non-discrimination-related legislation deal with confidentiality and the individual right to privacy during the investigation of a sexual harassment case. No confidentiality rules specific to V&H were found in the OSH and labour legislation reviewed in the present chapter. This situation contrasts with the frequent presence of rules of confidentiality in collective bargaining agreements (see discussion in section 2.4 below).

Much the same can be said of the prohibition of retaliation against workers who report workplace V&H. Only one jurisdiction (Norway) contains detailed rules offering explicit protection against retaliation for reporting an incident. The legal framework in question provides for a general prohibition of retaliation, which is explicitly defined as "any unfavourable act, practice or omission that is a consequence of or a reaction to the fact that the employee has reported issues of concern, for example ... threats, harassment, arbitrary discrimination, social exclusion or other improper conduct";[34] there then follow rules on redress and compensation for breach of the prohibition on retaliation. One caveat to this observation is that, although it is not within the scope of the present research, many countries around the world have adopted whistle-blower protection legislation that deals with the issue of unfair dismissal, and this may also apply in some cases to employees reporting V&H.

Among legal provisions on V&H in the workplace reviewed, there were some found in both OSH/labour legislation and non-discrimination legislation that were less common across all 25 countries under review. These provisions include psychological counselling for targets of V&H, prohibition of sexual harassment against domestic workers, inclusion of sexual harassment in risk assessments, and the obligation of the employer to produce an annual report giving details of the number of cases alleging V&H filed, their disposal, the number of cases pending, and the number of workshops carried out (table 2.2).

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34 Norway, Working Environment Act, 2005, Section 2A-4(2)(a).

▶ **Table 2.2. Provisions on violence and harassment in the world of work less commonly contained in legal instruments in the 25 countries reviewed**

Labour and OSH legislation	Equality- and non-discrimination laws
Organization, arrangement and management of work, working hours, pay systems (including use of performance-related pay), technology, etc., to avoid mental strain	Annual report giving details of the numbers of cases filed, their disposal, numbers of pending cases, numbers of workshops
Internal or external expertise to implement OSH measures regarding psychosocial working environment	Duty to protect privacy of parties to sexual harassment case
Special requirements for labour inspectors regarding investigations of mobbing (bullying)	Addressing underlying factors contributing to hostile work environment for women
Principle of development of the personality of the worker	
Protection of a sensitive group of workers from psychosocial risks	
Instruction of employees on dealing with work-related violence outside working hours	
Design of the workplace to factor in V&H	
Participation of workers in work organization changes	

Source: ILO.

Other uncommon provisions include rules such as the requirement that labour inspectors should thoroughly and expeditiously examine bullying complaints;[35] the requirement that the organization, arrangement and management of work, working hours, pay systems (including use of performance-related pay), technology, etc., should be done in such a way as to avoid mental strain on employees;[36] a legal requirement that internal or external expertise should be used to implement OSH measures affecting the psychosocial working environment;[37] and a rule that employees should be instructed on how to deal with work-related violence outside working hours (table 2.2).

2.3.3.4. Consultation and the role of workers in preventing and addressing violence and harassment

To make progress in developing OSH in enterprises and, more broadly, a national preventive safety and health culture, consultation and involvement of workers are imperative (box 2.1). A participatory approach characterized by a continuous involvement of workers and their representatives in psychosocial risk management has been identified as integral to a comprehensive preventive practice (EU-OSHA 2018).

It should be noted that, in OSH systems, arrangements to promote cooperation between management, workers and their representatives, at the level of the enterprise or workplace, is an essential element of workplace-related prevention

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35 Türkiye, Prime Minister's Circular, Prevention of Psychological Harassment (Mobbing) in Workplaces, No. 2011/2.

36 Norway, Working Environment Act 2005, Section 8.

37 Denmark, Danish Working Environment Authority, Executive Order no. 1406 of 26 September 2020 on psychosocial working environment.

▶ **Box 2.1. The role of consultation in preventing and addressing gender-based violence and harassment[1]**

In practice, sexual harassment policies (for example) based on the "three Ps" (prohibition, policy and procedure) have not been effective, often serving to protect organizations from liability rather than to facilitate prevention and reporting of sexual harassment (Cox and Brodeur 2020; Roscigno 2011; Parker 1999; Charlesworth 2002). Thus, for policies on sexual harassment and other forms of gender-based violence and harassment (GBVH) to be more effective, they should be developed through consultation with all workers, rather than implemented top-down (Thomas 2004; see also Dougherty and Hode 2016). Mechanisms for representative worker participation offer the possibility of a bottom-up or co-constructed prevention policy for GBVH,[2] including establishing a crucial common understanding of what behaviour constitutes GBVH in each work environment (Thomas 2004). OSH mechanisms for worker representation thus allow for collectivization of GBVH-related issues and a workers' voice, where workers in situations of vulnerability to GBVH can appeal to other workers to bring their concerns forward.

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1   This box reflects a study commissioned by the ILO and prepared by R. Cox, *Addressing Gender-Based Violence and Harassment in a WHS (Work Health and Safety) Framework* (ILO, forthcoming). The original study uses the term "work health and safety"; here, the text has been adapted to the terminology used in the report, and the term "occupational safety and health (OSH)" is used instead.

2   In contrast, direct participation by means of individual non-unionized employees engaging with managers appears to have little effect on OSH.

measures (Alli 2008). Thus, legislation in many countries requires structures to be set up to allow management, workers and their representatives to cooperate at the level of undertaking. In the context of provisions specific to V&H, of the countries under review, El Salvador's OSH legal framework mentions the involvement of workers in the adoption of changes in the organization of work in relation to OSH. In another example, Norway, the OSH legislation contains a provision on the duty of the worker/employee to cooperate in reporting cases of workplace harassment or discrimination.

In Barbados, the Safety and Health at Work Act (2005) provides that:

[e]very employer in a workplace shall consult with his employees or their representatives for the purpose of developing measures to promote safety and health at such workplace; and make arrangements for the participation of the employees in the improvement and development of such measures.[38]

In Norway, the employer is obliged, among other things, to inform and consult employees "concerning decisions that may result in considerable changes in the organisation of work or conditions of employment".[39] In addition, "[t]he safety representative shall be consulted during the planning and implementation of measures of significance for the working environment within the representative's safety area, including establishment, exercise and maintenance of the undertaking's systematic health, environment and safety work".[40]

In Switzerland, the legal framework provides that workers or their representatives "must be consulted in good time and comprehensively about

▰▰ For policies on sexual harassment and other forms of gender-based violence and harassment to be more effective, they should be developed through consultation with all workers, rather than implemented top-down.

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38 Barbados, Safety and Health at Work Act 2005, Section 103(1).

39 Norway, Working Environment Act 2005, Section 8-2(1).

40 Norway, Working Environment Act 2005, Section 6-2(4).

all matters relating to occupational health".[41] Furthermore, workers have a right to make proposals before the employer makes a decision and the employer must justify his decision when objections and proposals of the workers or their representatives in the enterprise are not taken into account.[42] Thus, the participation of workers in the management of the OSH system is broadly couched in terms of consultation that extend generally to all OSH measures.

2.3.4. Workplace violence and harassment and the relationship with discrimination regulation

While violence and harassment are conceptualized at the international level, through ILO Convention No. 190, as a single concept or as a continuum, the various examples of legislation examined in this chapter demonstrate that the notions of violence and harassment are frequently treated separately – in some cases, with clear distinctions drawn between the two, in others, with both terms used interchangeably. Indeed, as the preparatory work to Convention No. 190 and the discussions held at the 2016 Meeting of Experts on Violence against Women and Men in the World of Work in 2016 reveal (ILO 2016), distinctions between the two concepts may be blurred, as "in practice, an unacceptable behaviour or practice could contain elements of both harassment and violence".[43]

Indeed, the South African Code of Good Practice on the Prevention and Elimination of Harassment in the Workplace states that harassment "includes violence, physical abuse, psychological abuse,

emotional abuse, sexual abuse, gender-based abuse and racial abuse" (Section 4.2). Furthermore, there is overlap of both phenomena at the conceptual level with the notion of discrimination. Thus, in some legislations, harassment is viewed as a form of discrimination (Germany, Italy, Spain),[44] while in others, discrimination may be subsumed under the notion of workplace harassment (Colombia),[45] or sexual harassment may be considered as a manifestation of violence (Mexico).[46] Some countries make a clear distinction between psychological harassment (mobbing) and other forms of harassment and violence (Türkiye), or between work-related violence and violence and harassment more generally conceived (Denmark).

ILO Convention No. 190 combines the two regulatory approaches: the one that sees harassment as a working environment challenge is intertwined with the other, which identifies harassment as a discrimination. Indeed, as discussed in section 1.5, "[d]iscrimination can ... be co-located in many scenarios of bullying where mistreatment occurs related to the targets' gender, age, sexuality, disability" and other protected grounds (Lewis, Glambek and Hoel 2020, 364). Employment discrimination laws broadly (for example, South Africa's Employment Equity Act) give victims of V&H legal protection when mistreatment is motivated by one of the prohibited grounds for discrimination at work, including sex, race and membership of a protected group (such as migrants or persons with disabilities).

Thus, the present research finds that some legal contexts make it clear that harassment on prohibited grounds (such as sex, race, origin or age) is governed, first and foremost, by the laws on equality and prevention of discriminatory practices. In South Africa, these laws treat harassment

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41 Switzerland, Ordinance of 18 August 1993 relating to the Labour Act, Art. 6(1).

42 Art. 6(2).

43 The broader context of the quotation from ILO (2016) is informative:

Conceptualizing this as a continuum was helpful, as experts recognized the difficulty in distinguishing between these concepts: in practice, an unacceptable behaviour or practice could contain elements of both harassment and violence. One example they discussed was sexual harassment, which could include psychological, sexual and physical violence. The experts considered, furthermore, that the idea of a continuum was supported by national legislation around the world, as well as the European framework agreement on harassment and violence at work.

44 The German General Act on Equal Treatment (2006) deals with harassment as a form of discrimination (Section 3). Similarly, the Italian Code of Equal Opportunities between Men and Women (2006) identifies both workplace harassment and sexual harassment as discrimination (see, in particular, Arts 25 and 26). For the Spanish definition of harassment, see Law 62/2003 of 30 December on Fiscal Measures, Administrative and Social Order, Art. 28.1.d.

45 See, for example, Law 1010 of 23 January 2006, Art. 2, dealing with the definition of workplace harassment.

46 Mexico, Federal Labor Law, Art. 47.

as discrimination generally, while specific circumstances of harassment occurring in the workplace can also be governed by these general equality laws where such conduct is attributed to third parties (third-party workplace harassment); where harassment occurs within the parameters of "the world of work" but outside the employer's control (for example, during commuting in public transport); where harassment allegations are received from a client or customer (when the target of harassment is a third party); or where the worker falls outside the definition of "employee" as specified in the labour relations legislation.[47] Indeed, Norwegian legislation makes it clear that workplace harassment qualifies as discrimination when it is carried out for reasons, or on one of the discriminatory grounds, specified in the labour legislation.[48]

The combined treatment of both subjects by OSH, labour and anti-discrimination laws emphasizes the need for an integrated approach.[49]

2.3.5. Dedicated or thematic regulatory frameworks addressing violence and harassment at work and the principle of integration

Of the countries whose legislation has been examined in this chapter, one (Colombia) has dedicated legislation on workplace V&H. The legislation in question (Law 1010 of 2006) was adopted to prevent, correct and sanction workplace harassment within the framework of labour relations.[50] As a stand-alone thematic regulation, it sets prevention of V&H at work as one of its policy objectives. The law is structured around issues such as dignity at work and protection of mental health, and has detailed articles on definitions (harassment), including a list of types of conduct classified as workplace harassment, and on the personal scope of the law.

Law 1010 does not further specify ways to operationalize prevention of workplace V&H. However, Ministry of Labour Decree 1072 of 2015, which regulates the OSH management systems, makes an operational link with the thematic law addressing V&H.[51] In particular, it requires the Ministry of Labour to establish guidelines for awareness and education from a gender perspective (Art. 1). The decree gives further details on actions to be taken to address workplace sexual harassment, while its OSH provisions (among others) incorporate mental health and psychosocial risks both into definitions of the working environment and health at work and into prescriptions for employers in their assessment of psychosocial hazards.

In contrast, El Salvador is an example of a country that has promoted the principle of integration. V&H is not defined in El Salvador's Labour Code but in the Comprehensive Special Law for a Life Free of Violence for Women (LEIV).[52] Article 1-A of the Labour Code states that "the interpretation and application of this Code must be carried out integrally and in harmony with the Comprehensive Special Law for a Life Free of Violence for Women, the Law of Equality, Equity, and Eradication of Discrimination against Women, and other applicable legislation that protects the human rights of women".[53] Subsequently, Article 29 of the Code obliges employers to refrain from mistreatment in word or deed, sexual harassment, harassment at work and other types of violence contemplated in LEIV,[54] and sexual discrimination.

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47 These clarifications on the applicability of general equality and non-discrimination laws are stipulated in the South African Code of Good Practice on the Prevention and Elimination of Harassment in the Workplace (Section 7.3).

48 Norway, Working Environment Act, 2005, Section 12-1.

49 It also echoes the general understanding expressed during the preparatory work leading to the adoption of ILO Convention No. 190 that there is generally a link between general violence in the world of work and workplace violence.

50 Colombia, Law 1010 of 23 January 2006 on Workplace Harassment (Ley 1010, 23/01/2006, por medio de la cual se adoptan medidas para prevenir, corregir y sancionar el acoso laboral y otros hostigamientos en el marco de las relaciones de trabajo).

51 Colombia, Ministry of Labour, Decree 1072 of 26 May 2015.

52 El Salvador, Decree No. 520 of 4 January 2011.

53 El Salvador, Labour Code (Código de Trabajo).

54 LEIV lists six types of violence against women: economic, physical, psychological and emotional, patrimonial, sexual and symbolic (Art. 9).

As noted in the previous chapter, many areas of law are brought into play in relation to workplace V&H, raising questions over their interoperability and perhaps creating regulatory complexity for those who are called upon to implement them. The two examples given here show the legal techniques used to make operational links between thematic regulations and general OSH and labour legislation, but they are also an expression of the efforts to implement the principle of integration in practice.

▶ 2.4. Preventing and addressing violence and harassment through collective bargaining agreements

Collective bargaining agreements (CBAs) constitute potentially important avenues for addressing V&H at work.[55] Collective bargaining is an important tool at the disposal of employers' and workers' organizations to agree on working conditions and terms of employment, including in the area of OSH and non-discrimination. CBAs also address the rights and responsibilities of the parties to an agreement and are concerned with monitoring at enterprise, sectoral or national level. CBAs at company or sectoral level are crucial in implementing legislation on V&H in workplaces, and they also represent a valuable source of information on the role of OSH to prevent and address V&H at work.

The present review included 95 sectoral and company-level CBAs representing 20 countries, with a view to identifying the presence of collective bargaining provisions that cover workplace V&H.[56] In total, 252 provisions/clauses on the theme of V&H were found in these 95 sectoral and company-level CBAs. The review of these CBAs shows that employers and workers alike are raising concerns about workplace V&H and are negotiating specific clauses to address V&H in the world of work. While only one CBA dates from 1998, from 2008 onwards there has been a growing number of V&H clauses included in negotiated agreements. There was a rise in the number of CBAs between 1998 and 2021, with a marked peak in the period of 2012–2014, both for sectoral and for company-level CBAs (figures 2.4 and 2.5). This does not, however, reflect the quantity of V&H clauses per year, as a single CBA can have more than one clause.

▟▟   Collective bargaining is an important tool at the disposal of employers' and workers' organizations to agree on working conditions and terms of employment, including in the area of OSH and non-discrimination.

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55 CBAs are one form of social dialogue. Cooperation in the workplace can take various forms, such as information sharing, direct or indirect consultation, and financial participation. In the Spanish context, another example of work cooperation is so-called "harassment protocols". For a discussion of the subject, see Lourdes (2017); see also ILO (2022).

56 The 20 countries concerned are Austria, Bangladesh, Belgium, Benin, Brazil, Cambodia, Colombia, Costa Rica, Croatia, Germany, Ghana, Greece, Guatemala, Honduras, Hungary, Indonesia, Madagascar, Mozambique, Niger and Rwanda. The repository of CBAs that served as a platform to identify agreements is the Collective Agreement Database at WageIndicator, a global not-for-profit organization.

▶ **Figure 2.4. Number of collective bargaining agreements (CBAs), by year of adoption and country, 1998–2021**
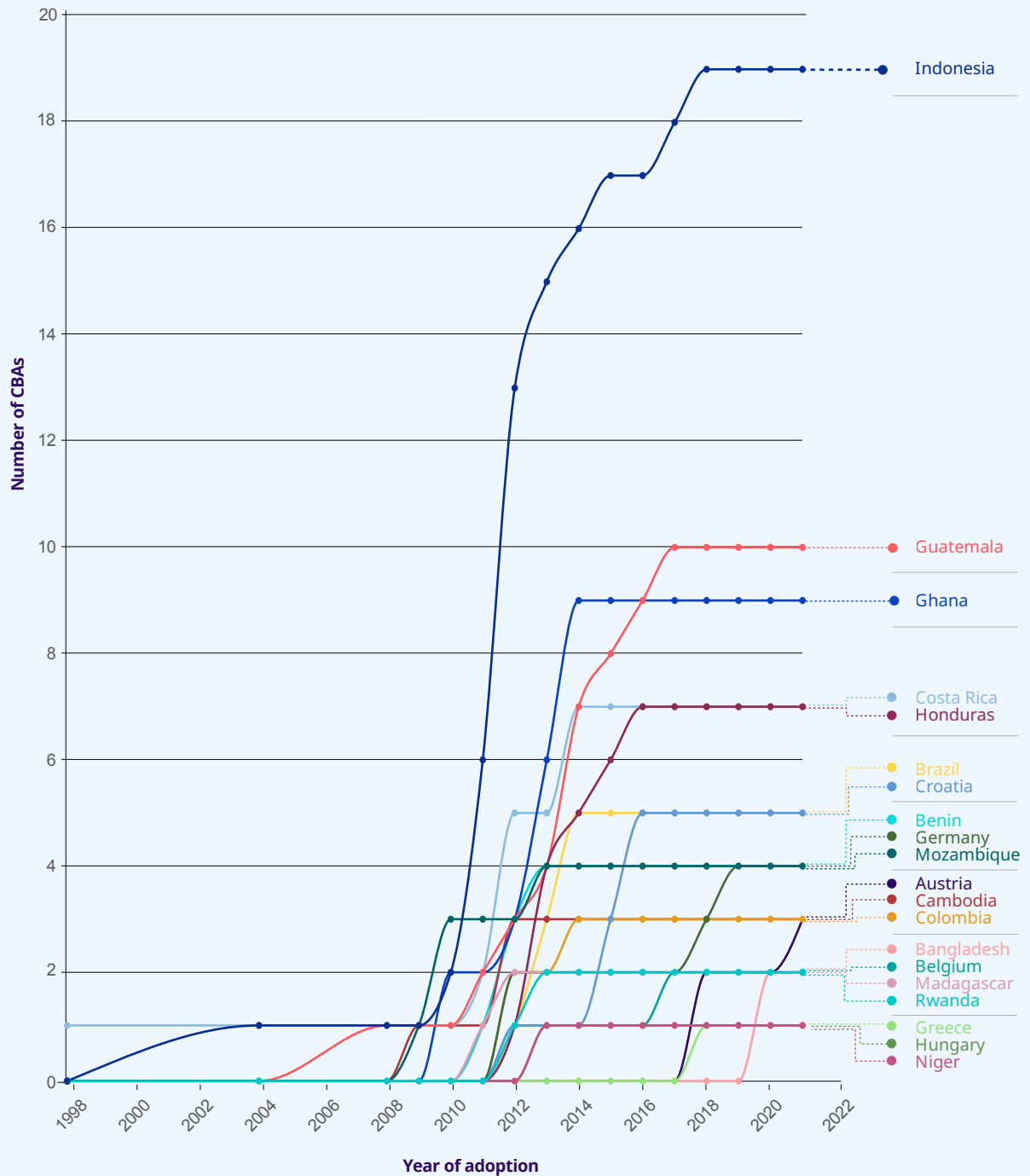
Note: The graph is based on 94 CBAs, not 95, because one CBA (from Mozambique) did not specify its year of adoption.

Source: ILO calculations based on 94 sectoral and company-level CBAs.

▶ **Figure 2.5. Number of collective bargaining agreements (CBAs), by year and type of CBA, 1998–2021**
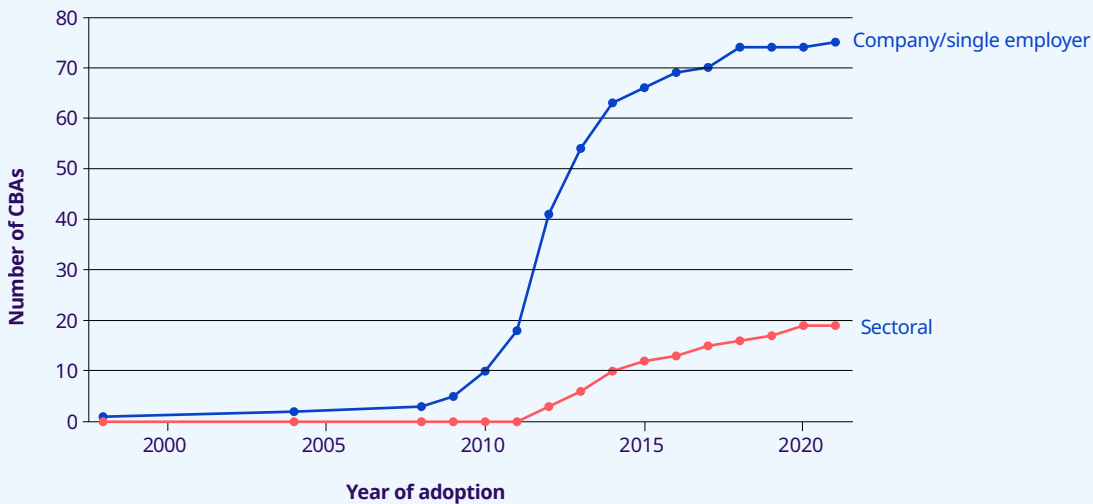
Source: ILO calculations based on 94 sectoral and company-level CBAs.

Perhaps unsurprisingly, the issue of workplace V&H has made significant strides since 2012, with a marked surge in activity in the period 2012–2014. Similar trends can be observed in other thematic issues, such as environmental sustainability, where the inclusion of specific clauses in international framework agreements also started to gain traction over a similar period. This increasing integration of human rights and due diligence concerns into CBAs may be attributable to the fact that the UN Guiding Principles on Business and Human Rights were endorsed by the UN Human Rights Council in June 2011. This is a set of guidelines for States and companies to prevent, address and remedy human rights abuses committed in business operations.

The review shows that many industries have engaged in a process of integration of V&H provisions. The 95 agreements reviewed represent a diverse range of sectors including: A. Agriculture; forestry and fishing; B. Mining and quarrying; C. Manufacturing; E. Water supply; sewerage, waste management and remediation activities; F. Construction; G. Wholesale and retail trade; repair of motor vehicles and motorcycles; H. Transportation and storage; I. Accommodation and food service activities; J. Information and communication; K. Financial and insurance activities; O. Public administration and defence; compulsory social security; and Q. Human health and social work activities (figure 2.6).[57] It is noteworthy that some of these sectors are recognized by Violence and Harassment Recommendation, 2019 (No. 206) as sectors in which exposure to V&H may be more likely. Thus, this Recommendation requires that "[m]embers should adopt appropriate measures for sectors or occupations and work arrangements in which exposure to violence and harassment may be more likely, such as night work, work in isolation, health, hospitality, social services, emergency services, domestic work, transport, education or entertainment" (Paragraph 9).

57 The letter code preceding each group is derived from the ILO's "International Standard Industrial Classification of All Economic Activities (ISIC)".

▶ **Figure 2.6. Number of collective bargaining agreements (CBAs) containing violence and harassment provisions, by sector and type of CBA**

Sector	Company/single employer	Sectoral
C. Manufacturing	20	4
A. Agriculture; forestry and fishing	8	3
O. Public administration and defence; compulsory social security	8	3
G. Wholesale and retail trade; repair of motor vehicles and motorcycles	8	2
H. Transportation and storage	7	3
I. Accommodation and food service activities	6	1
K. Financial and insurance activities	6	
J. Information and communication	3	2
E. Water supply; sewerage, waste management and remediation activities	4	
B. Mining and quarrying	2	1
Q. Human health and social work activities	3	
F. Construction	1	

Number of CBAs

■ Company/single employer   ■ Sectoral

Source: ILO calculation on the basis of 95 CBAs.

Manufacturing, the public sector, and agriculture, forestry and fishing represent the three sectors that include the highest share of CBAs containing V&H clauses. Together, they represent nearly half (48 per cent) of the total of 95 CBAs with provisions that address V&H. A review of the content of the clauses on V&H in these CBAs gives an important insight into the kind of approach taken in these agreements to address and prevent workplace V&H. Figure 2.7 shows the top ten types or categories of provisions most frequently included in CBAs.

▶▶ Manufacturing, the public sector, and agriculture, forestry and fishing represent the three sectors that include the highest share of collective bargaining agreements containing V&H clauses.

▶ **Figure 2.7. Proportion of collective bargaining agreements (CBAs) containing various types of violence and harassment provisions** (percentage)
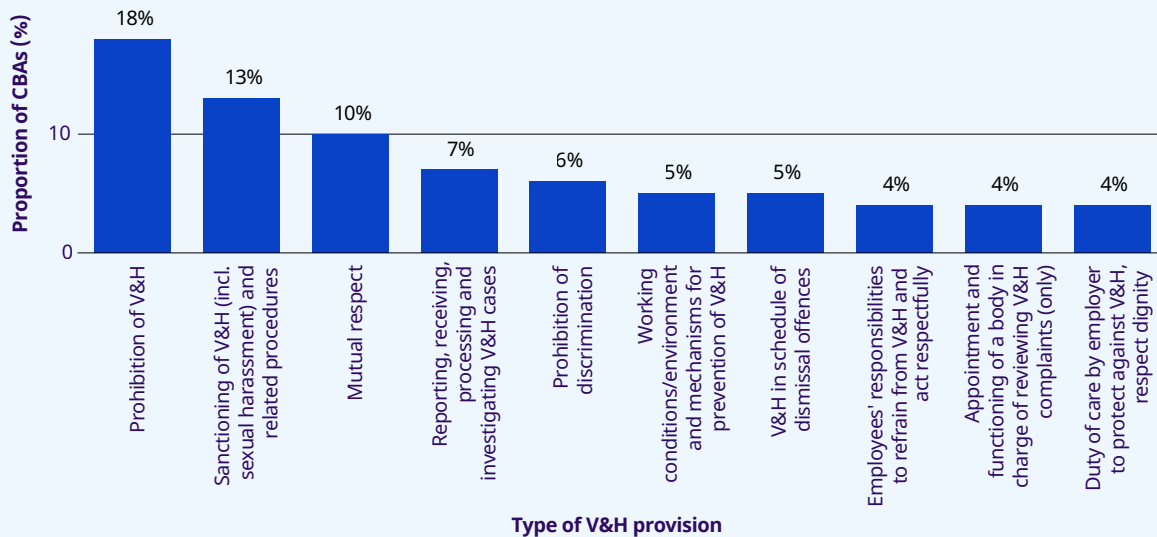
Source: ILO.

These categories contain rules that prohibit either V&H generally or its specific forms, such as sexual and/or psychological harassment. The second category contains enforcement provisions that envisage sanctions for V&H. The third most frequent category, often termed a "mutual respect" clause, includes the requirement that all parties, employers and workers alike, treat each other with respect and abide by rules of professionalism and respectful communication. Such clauses often contain prohibition of mistreatment by the employer "in word or in deed". Overall, the first ten categories that most frequently appear in CBAs are a combination of prohibition rules (V&H, sexual harassment, discrimination), general principles of mutual respect, and rules at the level of response – that is, enforcement rules.

The aim of these enforcement rules is to prescribe means to incentivize compliance with the rules prohibiting V&H. They include provisions dealing with disciplinary action against incidents of V&H. Furthermore, in contrast to the legislation reviewed in the first part of this chapter, many provisions in the CBAs reviewed deal with rules and procedures that are followed as a response to V&H incidents. Thus, some CBAs deal extensively with procedures for submitting, processing and investigating cases of V&H and sexual harassment, rules on confidentiality, deadlines for reviewing cases of harassment, and sanctioning of workplace V&H, among others. The provisions in this category tend to be comprehensive, which distinguishes CBAs from other types of regulatory intervention (labour legislation, OSH and anti-discrimination laws). These provisions detailing procedural aspects of tackling V&H in the workplace mirror, to an extent, the content of agreements at the regional level, such as the European Framework Agreement on Harassment and Violence at Work (2007).

� ▹▹ Some CBAs deal extensively with procedures for submitting, processing and investigating cases of V&H and sexual harassment, rules on confidentiality, deadlines for reviewing cases of harassment, and sanctioning of workplace V&H, among others.

Clauses on safety and health, in particular those on prevention of V&H, also appear in the top ten most frequent provisions. Compared to enforcement procedures, these clauses tend to be phrased in broad terms, such as the general duty of the employer to ensure working conditions in which employees are protected from V&H. For example, a Croatian collective agreement stipulates that:

> *The employer is obliged to protect the dignity of workers during the performance of their work, so as to ensure working conditions in which they will not be exposed to any form of direct or indirect discrimination, harassment or sexual harassment by the employer, superiors, associates, workers and third parties who come into contact with them during the performance of their work tasks.*[58]

Other provisions contained in CBAs, albeit much less frequently, include: clauses dedicated to V&H definitions; rules on confidentiality and sanctions for their violation; third-party violence (protection from and prohibition with respect to third parties); prohibition of retaliation for filing a complaint; information, education and training on V&H (including on third-party violence); support and protection, including for victims/targets in seeking redress; reporting to a labour inspectorate; deadlines for reviewing cases of harassment; guarantees of due process in the course of investigation of a V&H incident; workers' compensation; workplace policy on V&H; risk assessment and duty to minimize risk; appropriate verbal behaviour on the part of supervisors; internal conciliation mechanisms to deal with V&H; the obligation to immediately inform of cases of V&H; the right to seek protection and provisional measures; promotion of diversity; and the right to refuse work.

The review of the 95 CBAs showed that detailed preventive strategies are not present in all agreements. Nevertheless, CBA clauses include many references to the principle of addressing V&H based on the defined rights, responsibilities and duties of all parties. Indeed, mutual respect and employees'

responsibility to act respectfully and abide by the enterprise/workplace's internal regulations together make up 10 per cent of all provisions.

Although there is no consistent practice across all countries, some CBAs contain clauses that are innovative and do not fit the business-as-usual scenario. For instance, a number of collective agreements contain clauses that provide provisional measures to the targets of workplace V&H. For example, a Costa Rican CBA sets out detailed rules for an internal procedure to investigate a V&H complaint. It then outlines the following possible precautionary measures to protect the target of V&H:

> *The Investigative Commission, upon request by a party and by means of a well-founded resolution, may request the Labor Relations Board to order as a precautionary measure:*
>
> *a. That the alleged harasser refrain from disturbing the complainant.*
>
> *b. That the alleged harasser refrain from interfering with the use and enjoyment of the work instruments of the harassed person.*
>
> *c. Job relocation.*
>
> *d. The swap of office.*
>
> *e. Exceptionally, temporary separation from office with salary.*
>
> *In the application of precautionary measures, the labor rights of those obliged to the preventive disposition must be respected and can be applied to both parties of the procedural relationship, and efforts must be made to maintain the safety of the victim, fundamentally.*[59]

In addition, some of the less common provisions listed above are also innovative, such as sanctioning of a breach of confidentiality on the part of the parties to a V&H case, guarantees of due process during the investigation of a complaint of V&H, and the obligation of employees to immediately inform of cases of V&H.

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58 Croatia, Croatian Union of Telecommunications Collective Agreement, 2016–2017, Art. 48 (unofficial translation from Croatian).

59 Costa Rica, Fourth Collective Agreement Compañía Bananera Atlantica – Department of Port Operations of Limón Period July 2012–JULY 2015, Art. 12.

▶ 2.5. The practice of the CEACR on workplace violence and harassment

It is not currently possible to scrutinize the practice of the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) with respect to the Violence and Harassment Convention, 2019 (No. 190), for reasons related to the recent entry into force of the V&H instrument. However, the Committee has reviewed the issue of V&H in the framework of other Conventions dealing with (i) sexual harassment as a form of discrimination when reviewing the State reports under non-discrimination provisions of Conventions such as the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Domestic Workers Convention, 2011 (No. 189); and (ii) psychosocial risks of workers in the context of ILO standards related to or containing provisions on OSH.

Sexual harassment is in fact an important subcategory of discrimination based on sex. Over the years, and certainly since its general observation of 2002 on the topic, the CEACR has expressed the view that sexual harassment is a form of sex discrimination and should be addressed within the requirements of Convention No. 111.[60] In this spirit, it has made its direct requests and observations, which have been informative on the practical steps that States can take to improve the impact and effectiveness of their policies to combat workplace V&H. There is also an observable trend in the practice of the CEACR towards addressing gender-based violence and sexual harassment under OSH instruments. Thus, for example, the CEACR has addressed issues such as the employer's obligation to ensure that workplaces are without risks to health and safety, promotion of a safe and healthy working environment, and OSH measures for women workers in agricultural undertakings, in relation to various Conventions (see tables 2.3 and 2.4).[61]

▶ **Table 2.3. Examples of CEACR practice related to discrimination based on sex and sexual harassment**

PART A
Direct requests: Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
▶ Information on any measures taken to increase awareness of discrimination based on sex and sexual harassment and its underlying causes, such as gender stereotypes and prejudices.[1]
▶ Information on measures to address the causes of under-reporting, such as difficulty in accessing complaint mechanisms and fear of reprisals.[1]
▶ Information on the procedures available to remedy discrimination based on sex and sexual harassment.[1]
▶ Information on the implementation and application in practice of legislation concerning the prevention and suppression of gender-based violence and victim protection.[2]
▶ Information on the number and type of cases of gender-based violence dealt with by the labour inspectorate and the courts, as well as the penalties imposed.[2]
▶ Information on the steps taken to inform and raise the awareness of employers, workers and their respective organizations, labour inspectors, judges, and the general public, with regard to action against gender-based violence, including the steps taken to publicize domestic legislation on gender-based violence.[2]

1   Albania, Direct Request (CEACR) – adopted 2020, published 109th ILC session (2021).
2   Burundi, Observation (CEACR) – adopted 2020, published 109th ILC session (2021).

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60 General Observation (CEACR) – adopted 2002, published 91st ILC session (2003), Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

61 The CEACR addressed these issues in the context of Article 16(1) of the Occupational Safety and Health Convention, 1981 (No. 155), Article 3(2) of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), and Article 18 of the Safety and Health in Agriculture Convention, 2001 (No. 184).

PART A (cont'd)
Direct requests: Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

▶ Examining the possibility of expanding the definition of sexual harassment by adding the notion of a hostile, offensive or humiliating work environment.[2]

▶ Information on the practical steps taken to prevent and eliminate sexual harassment in the public and private sectors, including measures designed to raise the awareness of employers, workers and their respective organizations with regard to the prevention and treatment of sexual harassment.[2]

▶ Drawing the Government's attention to the need to cover all forms of sexual harassment (quid pro quo and hostile work environment) committed not only by a person with authority but also by a colleague and a person with whom workers have contact through their work (clients, suppliers, etc.), and hence requesting information on the manner in which the law is applied in practice and interpreted by the courts, in particular if it covers in practice hostile work environment sexual harassment and sexual harassment committed without taking advantage of one's hierarchical position.[3]

▶ Information/examples of measures taken by employers in relation to their obligation to prevent and prohibit sexual harassment against female workers in the workplace.[3]

▶ Request to include a clear and comprehensive definition of sexual harassment to ensure that it covers both quid pro quo and hostile work environment harassment and to consider extending protection against sexual harassment in the workplace to male workers. Information on any cases of sexual harassment dealt with by the competent authorities, including on their outcome (sanctions imposed and remedies granted).[3]

▶ Consider reviewing the burden of proof which is currently imposed on a worker filing a sexual harassment complaint.[4]

▶ Information on measures taken to raise awareness among workers and employers about sexual harassment and on cases of sexual harassment dealt with by labour inspectors and courts.[4]

PART B
Direct requests: Domestic Workers Convention, 2011 (No. 189)

▶ Detailed and updated information on measures adopted or envisaged with a view to ensuring in practice the effective protection of domestic workers against any form of abuse, harassment or violence.[5]

▶ Information on statistical data, disaggregated by sex, on the number of complaints received of harassment, abuse and violence in the context of domestic work, which have been made to the various competent bodies, their outcome, the penalties imposed on those responsible and the compensation granted.[5]

PART C
Direct requests: OSH Conventions – Occupational Safety and Health Convention, 1981 (No. 155); Safety and Health in Agriculture Convention, 2001 (No. 184); Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)

▶ Request to take further effective measures to advance the right of agricultural workers to a safe and healthy working environment and to ensure that the special needs of women agricultural workers are taken into account, specifically in relation to reproductive health, and to provide detailed information on the measures taken and the impact of these measures.[6]

▶ Information on measures taken or envisaged to prevent accidents and injury to health occurring in the context work, especially in fields of public sector employment such as healthcare, social services and education. In this context, the Government was requested to provide information on the measures taken to ensure the adequate protection of workers from undue consequences relating to their removal from situations presenting an imminent and serious danger.[7]

▶ Information on occurrences where workers have exercised their right to remove themselves from work situations which they had reasonable justification to believe presented an imminent and serious danger to their life or health.[8]

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2 Burundi, Observation (CEACR) – adopted 2020, published 109th ILC session (2021).

3 China, Direct Request (CEACR) – adopted 2021, published 110th ILC session (2022).

4 Fiji, Direct Request (CEACR) – adopted 2020, published 109th ILC session (2021).

5 Ecuador, Direct Request (CEACR) – adopted 2020, published 109th ILC session (2021).

6 Malawi, Direct Request (CEACR) – adopted 2022, published 111st ILC session (2023).

7 Finland, Direct Request (CEACR) – adopted 2015, published 105th ILC session (2016).

8 Finland, Direct Request (CEACR) – adopted 2022, published 111st ILC session (2023).

▶ **Table 2.4. Examples of CEACR practice related to discrimination based on sex and sexual harassment: observations grouped by themes**

Observations: Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and Occupational Safety and Health Convention, 1981 (No. 155)	
Observation(s) on the scope/coverage of the legal and policy framework related to sexual harassment in employment and occupation	"[T]o prevent and address effectively all forms of sexual harassment in employment and occupation and protect workers against such practices, explicit and comprehensive legislation, applicable to both women and men workers and taking into account the specificities of the workplace, including the fear of losing their job and therefore their earnings, is necessary and would enable workers to avail themselves more efficiently of their right to a workplace free from sexual harassment."[1] "The Committee … recall[s] that the scope of the protection against sexual harassment should cover all employees, male and female, with respect not only to employment and occupation, but also vocational education and training, access to employment and conditions of employment (2012 General Survey on the fundamental Conventions, paragraph 793). As for the scope of protection, it should cover employers, supervisors and co-workers and, where possible, clients or other persons met in connection with performance of work duties, such as, for example, providers, contractors, or patients (see the Committee's general observation of 2002 on sexual harassment)."[2]
Observation(s) on the definitions related to sexual harassment	"The Committee recalls that the prohibition of sexual harassment under the Convention should cover both quid pro quo harassment and hostile work environment. The former comprises any physical, verbal or non-verbal conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men, which is unwelcome, unreasonable, and offensive to the recipient; and a person's rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person's job. The hostile work environment consists of a conduct that creates an intimidating, hostile or humiliating working environment for the recipient."[3]
Observation(s) on the criminal law only approach	"[T]he Committee recalls that addressing sexual harassment only through criminal proceedings is normally not sufficient, due to the sensitivity of the issue, the higher burden of proof, which is harder to meet, especially if there are no witnesses (which is often the case), and the fact that criminal law generally focuses on sexual assault or 'immoral acts', and not the full range of behaviour that constitutes sexual harassment in employment and occupation (General Survey on the fundamental Conventions, 2012, paragraph 792)."[4]

1 Iran, Discrimination (Employment and Occupation) Convention, 1958 (No. 111): Observation (CEACR) – adopted 2021, published 110th ILC session (2022)..

2 Namibia, Discrimination (Employment and Occupation) Convention, 1958 (No. 111): Direct Request (CEACR) – adopted 2021, published 110th ILC session (2022); similar observation: Suriname, Direct Request (CEACR) – adopted 2021, published 110th ILC session (2022).

3 Suriname, Discrimination (Employment and Occupation) Convention, 1958 (No. 111): Direct Request (CEACR) – adopted 2021, published 110th ILC session (2022).

4 Tunisia, Discrimination (Employment and Occupation) Convention, 1958 (No. 111): Direct Request (CEACR) – adopted 2021, published 110th ILC session (2022).

Observations: Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and Occupational Safety and Health Convention, 1981 (No. 155) (cont'd)	
Observation(s) on practical steps to implement	The Committee, in reviewing the State report under Convention No. 111, has urged the State party to: ▶ undertake, in cooperation with the organizations of workers and employers, an evaluation of the existing legal framework on sexual harassment; ▶ amend the definition of sexual harassment to explicitly include hostile work environment harassment; ▶ identify the initiatives taken to prevent and address sexual harassment in the public and private sectors, and the procedures and remedies available to victims, with a view to identifying existing gaps and risk factors and designing effective interventions to strengthen the protection of women workers against sexual harassment; ▶ increase the capacity of the competent authorities, including labour inspectors, to prevent, identify and address cases of sexual harassment in employment and occupation; ▶ continue undertaking awareness-raising campaigns in collaboration with the social partners;[5] including awareness-raising concerning the practical application of the new provisions regarding non-discrimination, workers with family responsibilities, violence, harassment and sexual harassment for workers, employers and their respective organizations, as well as labour inspectors and officials and judges;[6] and ▶ provide information on the adoption of the Sexual Harassment Workplace Policy provided under the national legislation.[7]
Observation on work-related violence	▶ The CEACR has addressed third-party violence in the framework of the Occupational Safety and Health Convention, 1981 (No. 155), requesting the Government to address the issue in the reporting under the Convention. The CEACR, furthermore, discussed the ambiguity of the legal framework in the application of the right to refuse to work in situations involving work-related violence.[8]

5 Malawi, Discrimination (Employment and Occupation) Convention, 1958 (No. 111): Observation (CEACR) – adopted 2021, published 110th ILC session (2022); Iran, Discrimination (Employment and Occupation) Convention, 1958 (No. 111): Observation (CEACR) – adopted 2021, published 110th ILC session (2022).

6 Mongolia, Discrimination (Employment and Occupation) Convention, 1958 (No. 111): Observation (CEACR) – adopted 2021, published 110th ILC session (2022).

7 Malawi, Discrimination (Employment and Occupation) Convention, 1958 (No. 111): Observation (CEACR) – adopted 2021, published 110th ILC session (2022).

8 Finland, Occupational Safety and Health Convention, 1981 (No. 155): Observation (CEACR) – adopted 2010, published 100th ILC session (2011).

In practice, when reviewing the annual reports of Member States, the CEACR often focuses in its direct requests on the question of what practical measures the Member States can adopt and envisage to ensure the effective protection of workers against any form of abuse, harassment or violence. For example, when dealing with the issue of sexual harassment, the Committee has requested, or sought information on (among other things): (i) implementation of domestic legislation prohibiting sex-based discrimination; (ii) the number of cases brought before labour inspection; (iii) measures taken to increase awareness about sexual harassment; (iv) measures taken to address under-reporting due to issues such as difficulty in accessing complaint mechanisms and fear of reprisals; (v) procedures available to remedy sexual harassment;[62] (vi) clarifications if, in practice, definitions of sexual harassment include or cover issues that are not expressly dealt with in legislation, or if such definitions are not clear or comprehensive;[63] and (vii) consideration to be given to the notion of extending protection to male workers.

62 Albania, Direct Request (CEACR) – adopted 2020, published 109th ILC session (2021), Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

63 China, Direct Request (CEACR) – adopted 2021, published 110th ILC session (2022), Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

�!▲▲ When reviewing the annual reports of Member States, the CEACR often focuses in its direct requests on the question of what practical measures the Member States can adopt and envisage to ensure the effective protection of workers against any form of abuse, harassment or violence.

The CEACR has also engaged in a dialogue on domestic workers in the framework of reporting on the Domestic Workers Convention, 2011 (No. 189), and has requested, in particular, detailed information on the measures adopted or envisaged with a view to ensuring in practice the effective protection of domestic workers against any form of abuse, harassment or violence; it has also asked for statistical data, disaggregated by sex, on the number

▲▲ In the application of Conventions and Recommendations, the CEACR has consistently considered the issue of the definition of sexual harassment and the need to include both vertical and horizontal workplace harassment, extending protection to and from third parties.

of complaints of harassment, abuse and violence in the context of domestic work that have been made to the various competent bodies, the outcome of the complaints, the penalties imposed on those responsible, and the compensation granted.[64] All these enquiries into technical aspects of the implementation of either Convention requirements or relevant domestic legislation are instructional in that they attempt to bridge the gap between policy and real changes in the workplace, helping States to translate broad principles into concrete actionable measures. The Committee has also addressed sexual harassment in specific sectors, such as tea plantations.[65]

Turning to its observations, the CEACR has made a few in relation to sexual harassment. In one instance, while welcoming the inclusion of provisions addressing sexual harassment in civil law legislation, the Committee drew the attention of the reporting State to the need to cover all forms of sexual harassment such as quid pro quo and hostile working environment, not only by a person in a position of authority but also by a colleague or person, such as a client or supplier, with whom workers have contact through their work. In other words, where legislation focuses only on vertical workplace V&H, the CEACR has highlighted the horizontal harassment that takes place among employees and with the third parties.[66] On one occasion, the CEACR also invited a State party to consider expanding protection against sexual harassment in the workplace to male workers.[67]

The practice of the CEACR is thus informative in that, in the application of Conventions and Recommendations, it has consistently considered the issue of the definition of sexual harassment and the need to include both vertical and horizontal workplace harassment, extending protection to and from third parties. Importantly, it has also focused on implementation and promotional activities, which have been included in direct requests made by the Committee. The CEACR has also dealt with the issue of V&H within the framework of the

64 Ecuador, Direct Request (CEACR) – adopted 2020, published 109th ILC session (2021), Domestic Workers Convention, 2011 (No. 189).

65 Malawi Observation (CEACR) – adopted 2021, published 110th ILC session (2022), Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

66 China, Direct Request (CEACR) – adopted 2021, published 110th ILC session (2022), Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

67 China, Direct Request (CEACR) – adopted 2021, published 110th ILC session (2022), Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in particular in relation to harassment and intimidation of trade unionists; in this context, the Committee recalled that "a truly free and independent trade union movement can only develop in a climate free from violence, pressure and threats of any kind against the leaders and members of such organizations".[68]

In its observations on fundamental aspects of the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the CEACR has underscored that the scope of protection against sexual harassment should also cover vocational training, access to employment, and performing work in an occupation; and it should extend to co-workers and, when appropriate, to clients or other persons encountered in connection with performance of work duties, as well as to employers and supervisors. The Committee has asked one Government (Suriname) to ensure that their new draft legislation on violence and sexual harassment in the workplace includes a prohibition of sexual harassment that reflects all the aspects mentioned above, and it expects that the legislation will be adopted in the very near future.[69]

Another series of observations made by the CEACR that is of relevance to this report concerns the Committee's analysis of the psychosocial dimension of OSH.[70] Interestingly, the CEACR has discussed psychosocial risks when examining a variety of international labour standards. When examining the Nursing Personnel Convention, 1977 (No. 149),

particularly OSH for nursing personnel in the context of the COVID-19 pandemic, the Committee requested that the Government under review "provide information on the measures implemented to prevent and reduce psychosocial risks, and promote mental health and well-being, in addition to preventing the risk of long-term effects on nurses' well-being, particularly in the context of the pandemic".[71] In this context, the CEACR further requested information on whether nurses and/or their representatives had been consulted or participated in the formulation and implementation of such measures.[72]

In one instance, the CEACR requested that the Government under review continue and step up its efforts to publicize information on sexual and psychological harassment and promote a "zero tolerance" culture regarding harassment, in both the public and private sectors, among workers, employers, their respective organizations, administrative services responsible for labour issues, the labour inspectorate and magistrates.[73] The Committee also requested that the Government concerned provide information, in the context of sexual and psychological harassment, on reports of the labour inspectorate, complaints received by the Labour and Employment Directorate, legal proceedings initiated, and their outcomes. It is of note that the discussion of psychosocial risks in the dialogue between the ratifying State and the Committee took place, in particular, in the context of the Labour Inspection Convention, 1947 (No. 81).[74]

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68 Fiji, Observation (CEACR) – adopted 2020, published 109th ILC session (2021), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

69 Suriname, Direct Request (CEACR) – adopted 2021, published 110th ILC session (2022).

70 Discrimination (Employment and Occupation) Convention, 1958 (No. 111), in particular Articles 1(1)(a), 2 and 3. For further information, see (in connection with this Convention): Belgium, Direct Request (CEACR) – adopted 2017, published 107th ILC session (2018), and Belgium, Observation (CEACR) – adopted 2017, published 107th ILC session (2018).

71 Greece, Observation (CEACR) – adopted 2020, published 109th ILC session (2021), Nursing Personnel Convention, 1977 (No. 149); Malta, Direct Request (CEACR) – adopted 2020, published 109th ILC session (2021), Nursing Personnel Convention, 1977 (No. 149).

72 Malta, Direct Request (CEACR) – adopted 2020, published 109th ILC session (2021).

73 New Caledonia (France), Direct Request (CEACR) – adopted 2018, published 108th ILC session (2019).

74 See, for example, Greece, Labour Inspection Convention, 1947 (No. 81): Direct Request (CEACR) – adopted 2012, published 102nd ILC session (2013).

▶ 2.6. Conclusion

Over the past few decades, many countries across the world have taken legal interventions to protect against workplace harassment and violence. This trend has been on the rise since 2010. As noted earlier, from the legal perspective, effort has been concentrated on law reforms in the field of OSH, and considerable progress has been made. Prevention as a strategy permits a deeper perspective on organizational factors, such as work organization, work design, risk assessment and management, thereby allowing a situational outlook on the antecedents of workplace V&H (rather than considering individual factors only).

▟▟   Prevention as a strategy permits a deeper perspective on organizational factors, such as work organization, work design, risk assessment and management, thereby allowing a situational outlook on the antecedents of workplace V&H.

In addition, even when the legal system, seen as a whole, requires the employer to prevent and address V&H in the workplace, the actors of the world of work may not necessarily have the competence or mandate to systematize and interpret the law in light of the broader legal environment. While many countries' constitutions have a provision safeguarding physical and moral integrity, workplace regulations require operational provisions that help employers and workers to implement practicable and reasonable measures.

Regulatory approaches are therefore not the only drivers of change in the working environment. Supplementary strategies to protect and promote workers' health and safety at work are also needed, and these should rely on a non-regulatory policy approach that includes guidelines, codes of practice, training and awareness-raising material developed by the social partners. Often such an approach should not only supplement general and at times vague provisions in the legislation, but also help to operationalize an often complex web of laws and regulations that have their roots in civil law, tort laws, criminal laws and anti-discrimination laws, as well as in labour and OSH legal frameworks.

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Policy

Action for improvement

Organizing
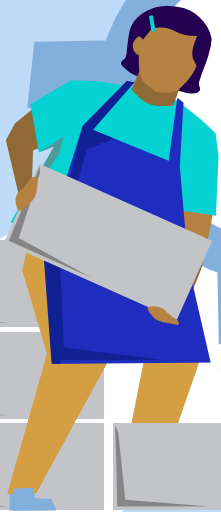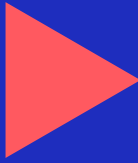
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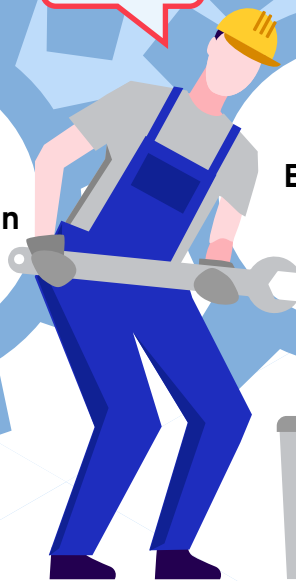
3

Policy interventions beyond the legal framework: Global overview of national guidance and tools

OSH

instruments play a pivotal role in guidance and tools on violence and harassment

▶ Key messages

▶ Looking beyond the legal and policy responses explained in Chapter 2, governments around the world have produced a variety of guidance and tools at the national level to help employers, in particular, to prevent and address violence and harassment (V&H) in the workplace. These instruments can be categorized into six types: (i) codes of practice; (ii) guidelines; (iii) national standards; (iv) training programmes and materials; (v) practical tools; and (vi) information and consultation services.

▶ Countries tend to differ considerably in the number and range of guidance and tools provided at national level. While no clear patterns could be identified in relation to regions, legal systems or legal commitment to the Violence and Harassment Convention, 2019 (No. 190), there seems to be a trend in relation to income-level groups, with a higher income level tending to align with a broader range of guidance and tools on V&H. Almost all the countries reviewed use a combination of the six types of guidance and tools set out above.

▶ Guidance and tools complement legal provisions on V&H in various, multifaceted ways. Besides communicating and consolidating legal provisions and facilitating the process of implementing them, guidelines – and codes of practices, in particular – have been used to specify and, in some cases, to apply otherwise broadly formulated occupational safety and health (OSH) legislation to the specifics of V&H.

▶ Having a diverse range of guidance and tools on V&H is advantageous because they create a comprehensive and customized support system for both employers and workers. At the same time, such a diverse range requires more coordination and consultation between the public authorities authoring the guidance and tools, so that they can avoid duplicating their efforts and outputs and ensure that the guidance and tools they produce complement each other in their focus and content.

▶ OSH instruments play a pivotal role in guidance and tools on V&H: 11 of the 20 countries reviewed in depth explicitly promote OSH management systems in relation to V&H, while various elements of such management systems generally form central topics in guidance and tools produced around the world. These include workplace policies, risk assessments and risk control measures, and particularly (guidance on) training and information for workers on V&H. However, some guidance and tools fail to tap their full potential to complement legislation – by not further specifying how measures are to be implemented, by their limited scope, or by not being combined with other tools and guidance that would help to cut through complexity and save time and resources.

▶ The main target group of guidance and tools is employers. The majority of countries also provide sector-specific instruments and – to a much lesser extent – instruments specific to micro, small and medium-sized enterprises (MSMEs). V&H perpetrated through information and communication technology (ICT) and domestic violence is little addressed in guidance and tools.

▶ 3.1. Introduction

Preventing and addressing violence and harassment (V&H) is a complex, multidisciplinary field in which various stakeholders – especially employers and workers, their respective organizations and labour inspectors – need to be well equipped with information and the means necessary to fulfil their responsibilities and meet their obligations, legal and other. There is a high need and demand, especially at the organizational level, for detailed instructions, guidance, training and/or specialist support to translate legal provisions on V&H into practice (Hodgins, MacCurtain and Mannix-McNamara 2020; Jain et al. 2021; Auclair et al. 2021; FrankAdvice 2021). It was found in the EU, for instance, that lack of guidance and limited awareness among companies was a major barrier to having in place procedures to deal with V&H (EU-OSHA 2022).

Accordingly, as shown in Chapter 1, supportive infrastructures for employers, workers and their representatives play a crucial role in realizing ILO standards on OSH. The Occupational Safety and Health Convention, 1981 (No. 155), provides that measures "shall be taken to provide guidance to employers and workers so as to help them to comply with legal obligations" (Article 10). The Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), further states that "the national system for occupational safety and health shall include, where appropriate: … information and advisory services on occupational safety and health [and] the provision of occupational safety and health training" (Article 3).

Similar provisions are provided by the Violence and Harassment Convention, 2019 (No. 190). To assist employers, workers, their representatives and relevant authorities to comply with their legal responsibilities and to support them with the means necessary to prevent and address V&H, Article 11(b) requires that ratifying States provide these actors "with guidance, resources, training or other tools, in accessible formats as appropriate". The accompanying Violence and Harassment Recommendation, 2019 (No. 206), further highlights the need for a broad, comprehensive approach towards guidance, training and awareness-raising, by pointing out various forms of activity to support relevant actors in their efforts to put requirements and provisions into practice, including gender-responsive guidelines and training programmes, curricula and instructional material, model codes of practice and risk assessment tools (Paragraph 23).

▼▼ Guidance and tools give crucial support in preventing V&H in undertakings.

This chapter explores the various efforts of public authorities to guide and support employers, workers, their representatives, and relevant authorities on these matters, and considers the role of such guidance and tools around the world in shaping an effective response to preventing and addressing V&H. It focuses on guidance and tools produced by public authorities, in order to better understand the role of the State as stipulated by Convention No. 190 – specifically, to improve knowledge about State efforts beyond the legal framework, about instruments published by national authorities to implement and make national legislation (more) effective, and about their role in relation to legislation as intended by the State. The role of other actors in providing guidance and tools – including the social partners, civil society organizations, international organizations and private actors – will be elaborated further in section 3.7 and in Chapter 4.

The chapter discusses, first, the role of guidance and tools in relation to legislation and the various ways in which they interplay with and complement each other (section 3.3). Second, it provides a short overview of different types of guidance and tools (section 3.4), and third, explores the content covered (section 3.5). Fourth, it discusses the different approaches taken by countries around the world towards providing guidance and tools and explores what types of guidance and tools are put into use at national level (section 3.6). Finally, further factors contributing to effectively preventing and addressing V&H through OSH are briefly discussed (section 3.7).

▶ 3.2. Objectives, scope and methodology

In order to ensure the implementation and enforcement of OSH-related action at the level of undertaking, workplace and workers, public authorities may use legislation, which provides binding, regulatory provisions (hard law instruments), and/or guidance and tools, which are non-binding (soft law instruments). Guidance and tools may complement legislation in multiple ways (see section 3.3) and can take various forms. Drawing on ILO desk research, the requirements of Recommendation No. 206 (Paragraph 23), and research findings on soft law instruments in relation to psychosocial risks at work (Leka and Jain 2022; Leka et al. 2015; Potter et al. 2019), these forms may include codes of practice, guidelines, national standards, training programmes and materials, practical tools, and information and consultation services. Both legislation and guidance and tools may further be supported by awareness-raising instruments and initiatives promoting available hard and soft law instruments, conveying the unacceptability of V&H and/or tackling the underlying causes (figure 3.1).

While Chapter 2 provided a review of hard law instruments, this chapter explores the role of soft law instruments in shaping an effective response to preventing and addressing V&H. Here and in what follows, the term "soft law instruments" is used interchangeably with "guidance and tools" and refers to all instruments outside the legal framework that are provided by public authorities and which give direction and assistance to action or behaviour in relation to preventing and addressing V&H in the world of work; their purpose is to assist relevant actors in fulfilling their legal obligations and/or in supporting them to implement interventions in relation to preventing and addressing V&H.[1]

▶ **Figure 3.1. Policy instruments of public authorities to prevent and address violence and harassment in the world of work**
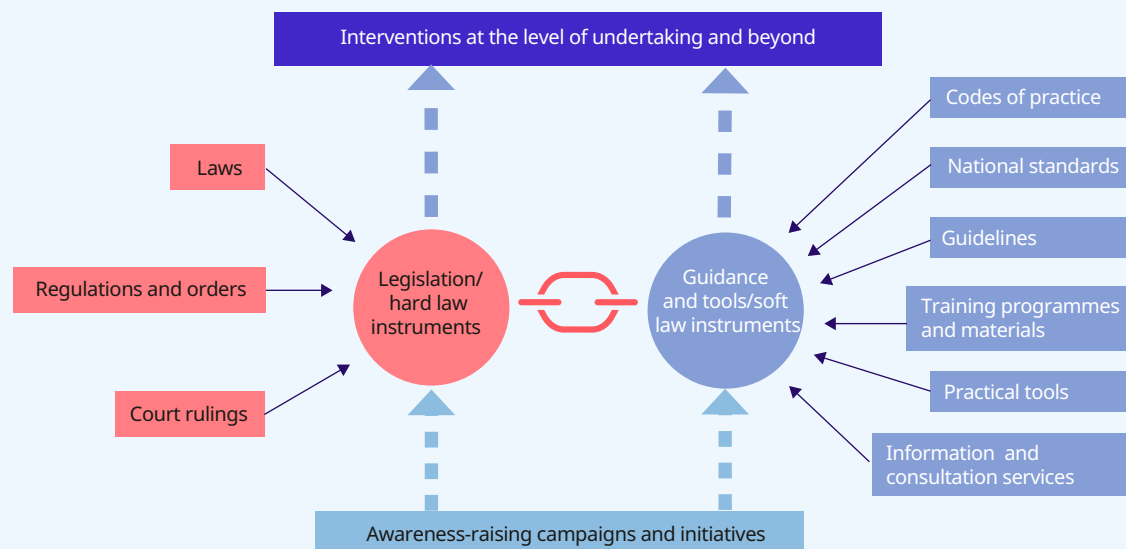
Source: ILO desk research, informed by Leka and Jain (2022), Leka et al. (2015), Potter et al. (2019) and Recommendation No. 206.

1 Relevant actors, as explained below, include employers, workers and their representatives, as well as authorities and other actors (such as labour inspectors, training providers and consultants) who, by profession, contribute to preventing and addressing V&H in the world of work.

To date, existing research has examined the use of guidance and tools mainly in relation to psychosocial risks (for example, Leka et al. 2015; Potter et al. 2019a and 2019b) and/or has focused on specific regions or on certain aspects of violence (for example, Jain 2018; Jain and Torres 2021). In contrast, this chapter takes a global perspective. It seeks to identify the typology of national guidance and tools in relation to V&H, how these types are used by public authorities at national level, and how they interplay with national OSH legislation and (as far as is relevant) other legal frameworks.[2] Indeed, it is the first cross-country effort to collect, typologize and analyse all guidance and tools on V&H and to explore their role in relation to legislation. By doing so, the chapter aims to contribute to a better understanding, particularly among policymakers, of the possible options on how to support employers, workers and other actors in reducing the risks of V&H.

The analysis is based on 394 items of guidance and tools from public authorities[3] in 47 countries around the world (table 3.1). In what follows, guidance and tools from 20 countries reviewed in depth are the primary source of reference, while legal instruments from other countries are used in a complementary manner to showcase further examples from around the world. The 20 countries reviewed in depth were selected on the basis of various criteria, including ILO regions, income group, law system, and (non-)ratification of Convention Nos 155, 187 and/or 190.[4] The rationale behind this selection process was to ensure heterogeneity in the sample and thus to assess guidance and tools in different contexts.

Guidance and tools were collected in a two-stage process. As a first step, a global keyword-based search for guidance and tools was conducted using a combination of terms capturing V&H and terms describing possible types of guidance and tools.[5] Secondly, to thoroughly analyse the usage of guidance and tools at national level and to allow for cross-country comparisons, an in-depth review of 20 countries was conducted, with the aim of obtaining a full overview of guidance and tools from public authorities available in these countries. This in-depth analysis included a review of official websites of OSH authorities and bodies[6] and of ministries of labour, justice, education and health, in combination with an extended country-specific, keyword-based search.[7] This desk research also included "psychosocial risks" as a keyword, but identified guidance and tools were only included if they referred to V&H explicitly. The desk research only included guidance and tools that are publicly available and accessible online through the official websites of relevant authorities.

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2   It is important to note that it is not the intention of this chapter to draw any conclusions on the uptake and impact of these instruments in practice.

3   This figure includes guidance and tools that are financed by public authorities but provided by other actors.

4   The list of countries is displayed in table 3.1. The seven countries that were selected for case studies (discussed in Chapter 4) are included in this sample. While the sample represents a good mix of lower-middle-income (6), upper-middle-income (5) and high-income countries (8), it only includes one low-income country. This is because the desk research was not able to identify soft law instruments for most low-income countries (such as Mali, Burkina Faso and Sudan) that were reviewed.

5   The combination of terms used in the keyword-based search included: (violence ¦ harassment ¦ bullying ¦ aggression) x (code of practice ¦ code of conduct ¦ standard ¦ manual ¦ guide ¦ train ¦ course ¦ support ¦ information ¦ consult ¦ tool ¦ checklist ¦ template ¦ sample).

6   OSH authorities and bodies have been classified as such based on the ILO OSH country profiles.

7   The desk research also included a review of context-relevant documents, in search for cross-references to guidance and tools.

▶ **Table 3.1. Number of items of guidance/tools ranked from highest to lowest, by guidance/tool type and country reviewed**

Panel (including countries)			Types of guidance and tools (produced by public authorities)[1]						
			Codes of practice	Standards	Guidelines and information materials	Training programmes and materials[2]	Practical tools[3]	Consultation and information services	Total
Panel A (20 countries reviewed in depth)	Canada	National level	0	1	11	19	14	1	**46**
		British Columbia	1	0	7	7	10	2	**27**
	Denmark		2	0	14 (70)[4]	7	18 (78)[4]	2	**43**
	Spain	National level	8	0	8	2	3	1	**22**
		Basque Country	0	0	2	1	0	1	**4**
	New Zealand		0	0	14	0	6	1	**21**
	Ireland		2	0	5	1	2	2	**12**
	Argentina		2	0	6	1	1	2	**12**
	Singapore		1	0	4	1	2	2	**10**
	Malaysia		1	0	7	0	1	1	**10**
	El Salvador		1	0	4	0	1	1	**7**
	Trinidad and Tobago		0	0	3	1	2	1	**7**
	Philippines		0	0	3	1	0	1	**5**
	Rwanda		0	0	1	1	0	1	**3**
	South Africa		1	0	2	0	0	0	**3**
	Tanzania		1	0	0	1	0	1	**3**
	Bangladesh		0	0	0	1	1	1	**3**
	Tunisia		0	0	0	1	0	2	**3**
	Jordan		0	0	1	0	1	1	**3**
	Georgia		0	0	0	0	0	1	**1**
	Kenya		0	0	1	0	0	0	**1**
	Barbados		0	0	0	1	0	0	**1**
	TOTAL (20 countries reviewed in depth)		20	1	93	46	62	25	**247**
Panel B	Further national instruments across the world (27 countries)		7	5	63	22	38	12	**147**
TOTAL			**27**	**6**	**156**	**68**	**100**	**37**	**394**

1 Unless otherwise indicated, all guidance and tools in this table refer to instruments available at national level; regional and/or local authorities may have additional guidance and tools. However, no claim of completeness is made, as certain guidance and tools may not have been captured by the keyword-based search and/or are not displayed at official websites of authorities.

2 Re training programmes, the desk research focused on courses and training modules that are provided regularly and advertised online; their actual number might therefore be higher than displayed here, since in-house training for labour inspectors or other officials, which are not announced publicly, are not covered by the desk research.

3 Practical tools refer to all instruments developed as a means to facilitate the implementation of measures to prevent and address V&H; these may be samples, templates, interactive online tools, apps and software programs, questionnaires, communication material, interactive flowcharts and checklists (see also section 3.4).

4 In Denmark, one guide and one tool have been adapted to the specifics of each sector in the country; the sum of these adapted versions is displayed in brackets.

Source: ILO compilation.

▶ 3.3. The interplay between legislation and guidance and tools

The relationship between legislation and guidance and tools can be multifaceted. As the in-depth review of both legislation and guidance and tools in the 20 selected countries shows, there are various ways in which guidance and tools interplay with and complement legislation in relation to V&H.

3.3.1. Complementing and broadening the scope of legislation in relation to violence and harassment

Guidance and tools can play a fundamental role in complementing and broadening the scope legislation in relation to V&H. This is especially the case in countries in which legislation does not expressly refer to V&H, yet may be interpreted by public authorities to implicitly cover it. In fact, some of the countries reviewed in depth use codes of practice, while others use guidelines to broaden the scope of existing legislation on V&H.[8] In New Zealand, for instance, the Health and Safety at Work Act requires employers to protect "workers and other persons against harm to their health, safety, and welfare by eliminating or minimizing risks arising from work or from prescribed high-risk plant",[9] yet does not explicitly refer to V&H or to associated psychosocial risks.[10] Nevertheless, in order to ensure that V&H is addressed in the workplace, the public authorities in New Zealand have published numerous guidelines that extend the coverage of the Health and Safety at Work Act to V&H. For instance, referring to health and safety duties and obligations, the guide *Preventing and Responding to Bullying at Work:*

Good Practice Guidelines states that, under the Health and Safety at Work Act, "everyone at a workplace has health and safety duties ... All of these duty holders have duties in relation to bullying at work" (WorkSafe New Zealand 2017b, 10). Similarly, Trinidad and Tobago has not specifically legislated for work-related sexual harassment (Trinidad and Tobago, Ministry of Labour 2019), nor does OSH legislation explicitly refer to V&H,[11] which is why the Government published a guide on sexual harassment in 2018 to "provide critical guidance ... [for] employers, workers and enterprises who are attempting to prevent and effectively respond to sexual harassment in the workplace" (Trinidad and Tobago, EOC 2018, 6). Suggested measures include, among others, workplace policies on sexual harassment, complaint procedures at organizational level, and specific actions to offer protection from retaliation and victimization.

> ▰▰ Guidelines and codes of practice are often used to specify and, in some cases, to apply otherwise broadly formulated OSH legislation to the specifics of V&H.

In certain circumstances, codes of practice or guidelines may intentionally be chosen as more feasible instruments, in preference to amending otherwise silent or implicit legislation on V&H. This may be the case particularly in countries in which

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8   Countries that produced guidelines and codes of practice broadening the scope of legislation are: Argentina, Canada (British Columbia), Ireland, Jordan, Malaysia, New Zealand, Singapore, South Africa, Spain, and Trinidad and Tobago.

9   New Zealand, Health and Safety at Work Act 2015, Section 3(1)(a).

10 Other pieces of New Zealand legislation, such as the Harassment Act 1997, the Crimes Act 1961 and the Human Rights Act 1993, criminalize V&H, yet do not require employers to prevent or minimize the risks of V&H.

11 Trinidad and Tobago's Occupational Health and Safety Act 2004 contains specific provisions for duty of care, including annual risk assessment. However, it does not explicitly cover V&H: it generally requires employers to provide and maintain a working environment for their employees "that is, so far as is reasonably practicable, safe, without risks to health, and adequate, as regards amenities and arrangements for their welfare at work" (Section 6(2)(f)).

the socio-political environment is not yet ready to accept more stringent regulation on V&H and associated psychosocial risks.[12]

3.3.2. Concretizing and specifying legislation on violence and harassment

Guidance and tools can play an important role in specifying the duties, responsibilities and processes provided for by legislation, which are usually phrased in broad terms to apply to all circumstances and workplaces (Potter et al. 2019b). This function becomes especially important when legislation consists of outcome-based provisions – that is, standards that require the achievement of a result without indicating what OSH measures should be taken to attain the required result. Guidance may be used to specify the particular steps that need to be followed to achieve the outcome. For instance, the Employment Equity Act 1998 of the Republic of South Africa requires employers to take all necessary proactive and remedial steps to eliminate V&H,[13] yet does not specify what these steps are. This is where the *Code of Good Practice on the Prevention and Elimination of Harassment in the Workplace* comes in: intended to assist employers in implementing the Act,[14] the Code specifies necessary measures such as risk assessment, a workplace policy, and awareness-training initiatives to educate employees, among others (South Africa, Department of Employment and Labour 2022).

Other countries include process or management provisions in their OSH-relevant legislation, which prescribe steps to manage OSH risks, yet at the same time do not consist of detailed and prescriptive rules indicating exactly how these steps should be taken. Guidance may be used to concretize the process and/or to tailor it to the specifics

of the organizations concerned. In Singapore, for instance, OSH legislation requires employers to assess safety and health risks and contains specific provisions for recording and reviewing the risk assessment and for disseminating the results,[15] while guidance and tools specify how the risk assessment can or should be conducted, especially in relation to V&H. For instance, since its revision in 2021, the *Code of Practice on Workplace Safety and Health (WSH) Risk Management* has recognized workplace harassment (including sexual harassment) as a hazard to mental well-being and sets minimum requirements for implementing general risk management, with risk assessment as an integral part of it (Singapore, WSHC 2021). It defines responsibilities, elaborates on the process of hazard identification, recommends (for the purpose of risk evaluation) a risk matrix with numeric ratings of likelihood and severity of identified hazards, and explains how to control risks.

3.3.3. Bringing together and integrating various legal provisions

As also highlighted in Chapters 2 and 4, legislation on V&H in the world of work might appear complex in several countries, not only because the relevant provisions may be specified in different regulations, orders and decrees within a legal framework, but also because they may be found across different legal frameworks, such as OSH, labour and employment law, human rights law, non-discrimination and equality law, social security law, criminal law and constitutional law. Moreover, different legal frameworks might be administered by different public authorities, and they may produce additional guidance and tools which, in turn, requires additional coordination to be efficient and effective.

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12 For instance, Canada introduced the National Standard for Psychological Health and Safety in the Workplace in 2013 (Canada, MHCC, BNQ and CSA Group 2013), when there was no specific national legislation on psychosocial risks in the workplace (Malachowski, Kirsh and McEachen 2017). According to Malachowski, Kirsh and McEachen (2017), the Standard was seen to be more feasible than a new or amended regulation, which may have faced resistance from employers concerned about the cost of implementation, lack of infrastructure and uncertainty of impact. In turn, the Standard as a voluntary measure provided opportunity to develop (monitoring and enforcement) infrastructure to support more formal regulation, to evaluate the effectiveness of the policy, and to gain support from employers.

13 South Africa, Employment Equity Act 1998, Section 60(2) in combination with Section 6(3).

14 South Africa, Employment Equity Act 1998, Section 60(2) in combination with Section 54.

15 Singapore, Workplace Safety and Health (Risk Management) Regulations (2006), Sections 3–7.

Guidelines, codes of practice and online information hubs usually play an important role in summarizing and integrating relevant provisions of various legal frameworks and in providing an overview of further guidance and tools on V&H (for more information, see section 3.4.3).[16]

3.3.4. Clarifying, communicating and raising awareness of legislation on violence and harassment

Guidance and tools can also play an important communication role regarding legal provisions on V&H. By means of examples of good practice, case studies, plain and clear language, personalized services and adequate formats, they help to make legal provisions more accessible to employers and workers, to clarify their meaning and content, and to raise awareness of good practice and possible interventions in specific situations (Parrillo 2017; Potter et al. 2019b). To take advantage of this communication role, the countries reviewed have used a wide range of formats of guidance and tools. Examples include frequently asked questions (FAQ) sections, visualizations, fact sheets and handbooks, training programmes, e-learning courses, and individual information and consultation services.[17]

3.3.5. Facilitating the process of implementing legal provisions

Finally, guidance and tools may serve as practical support for employers and workers in their efforts to fulfil their legal obligations and responsibilities to prevent and address V&H. Twelve of the 20 countries reviewed have developed practical tools designed to assist and facilitate the implementation process of legislation at workplace level (see table 3.1). As is explained further in sections 3.4 and 3.5, such tools include samples or editable templates for required workplace policies, documentation forms for reporting and investigation procedures, questionnaires, checklists and/or interactive online tools for risk assessments. In addition, other countries have produced training curricula and instruction materials to help employers to fulfil their training obligations.

In addition to these positive ways in which guidance and tools interplay with and complement legislation in relation to V&H, it is worth mentioning that guidance and tools may also, in some circumstances, pose challenges to legislation. This is particularly the case for standardization efforts, as is discussed in the next section.

▟▟ A variety of tools exist in different countries to communicate and facilitate the implementation of V&H legislation.

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16 For instance, the South African *Code of Good Practice on the Prevention and Elimination of Harassment in the Workplace* is intended to help employers to implement the Employment Equity Act 1998, yet it nevertheless summarizes and presents provisions of all laws that place obligations on employers to prevent V&H in the workplace (South Africa, Department of Employment and Labour 2022).

17 For more specific examples, see section 3.4. As an aside, guidance and tools may also be used to help clarify how to use other soft law instruments. For instance, in order to help implement the aforementioned Canadian Standard for Psychological Health and Safety in the Workplace, a comprehensive guideline (Canada, MHCC 2015) and a freely accessible e-course (Canada, CCOHS 2023) were developed. Similarly, in Ireland a guideline was developed to assist organizations to use the risk assessment tool Work PositiveCI (Ireland, HSA, SCA and CISM, n.d.), while in Spain training is offered to inform organizations about how to use the risk assessment tool FPSICO (Spain, INSST 2022b).

▶ 3.4. Types of guidance and tools

What different kinds of national guidance and tools exist in relation to V&H in the world of work, and what forms do they take? This chapter gives a short overview of the various types of guidance and tools that are available around the world, before turning to their content in section 3.5.

3.4.1. Codes of practice

Codes of practice in relation to V&H published by public authorities are documents that complement legislation by providing practical guidance on how to comply with legal obligations and responsibilities.[18] Although they are not legally binding, they are often considered "quasilegal forms of guidance" (Leka and Jain 2022), and inspectorates may refer to codes of practice when issuing an improvement or prohibition notice.[19] Moreover, codes of practice may be admissible in court proceedings. For instance, Safe Work Australia states in its *Managing Psychosocial Hazards at Work: Code of Practice* that courts may regard this code of practice "as evidence of what is known about a hazard, risk, risk assessment or risk control and may rely on the code in determining what is reasonably practicable in the circumstances to which the code of practice relates" (Safe Work Australia 2022, 4).[20] Consequently, codes of practice in relation to V&H usually not only provide practical guidance for actors to whom legal obligations relate, but also serve as a point of reference for inspectors, courts and tribunals in their decision-making on topics of concern.

Several of the codes of practice reviewed are issued under the provisions of a single legal framework, which is why a government may issue several codes of practices on V&H if it is covered by different legal frameworks.[21]

Codes of practice tend to be used by countries whose legislation does not explicitly refer to V&H. In fact, in the majority of countries reviewed in depth that had issued codes of practice,[22] the codes refer to legislation that implicitly regulates V&H. This may be because such codes give not only clarity but also more weight and certainty than guidelines about how to interpret implicit legislation – the quasi-legal status of codes of practice helps to establish them as authoritative, persuasive sources, especially when legislation is not explicit about V&H (Gunningham and Bluff 2009).

▛▜   Codes of practice on V&H are typically employed by countries whose legal frameworks lack explicit references to V&H.

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18 Different terminology may apply in different countries. For instance, codes of practice are also referred to as codes of conduct in Viet Nam (Viet Nam, MOLISA, VCCI and VGCL 2015), technical criteria in Spain (Spain, ITSS 2009), and prevention manuals in Canada (WorkSafeBC 2023).

19 For example, the public authority WorkSafeBC in British Columbia, Canada, issued several "policies and practices" in relation to workplace violence, bullying and harassment (WorkSafeBC 2023). These policies and practices stipulate the reasonable steps employers, workers, supervisors and physicians must take to prevent or minimize V&H. Inspectorates of WorkSafeBC and the Workers' Compensation Appeal Tribunal apply these policies when making decisions.

20 This being said, there are some codes of practice that are less mandatory in their formulation and may be brought into play, not before court, but as giving weight to a demand on an employer to comply. For instance, the Malaysian *Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace* simply states that employers "should accept and implement the Code of Practice in the spirit of discharging their corporate and social responsibility to prevent and eradicate sexual harassment in the workplace" (Malaysia, Ministry of Human Resource 2002, 4).

21 In Ireland, for instance, the Government issued a code of practice under the OSH framework, which focuses on bullying that is not linked to discrimination (Ireland, HSA and WRC 2021), and a code of practice under the human rights and equality legislation, which focuses on (sexual) harassment based on prohibited grounds (Ireland, IHREC 2022). Yet both codes contain detailed definitions of bullying/harassment, as well as preventive and remedial measures that employers should implement.

22 The countries concerned are Ireland, Malaysia, South Africa, Spain and the United Republic of Tanzania; and also, partially, Argentina (whose legislation refers to psychosocial risks) and El Salvador and Canada (British Columbia) (whose legislations explicitly refer to only specific type(s) of violence and harassment).

3.4.2. Standardization

Another component of soft law that has developed increasingly over time is standards. National standardization organizations exist in almost every country and may be either government organizations or private organizations formally recognized by governments.[23] Standards provide a clear and uniform set of requirements for organizations. They are entirely voluntary and must convince potential users of their usefulness, yet they may be mandatory if referenced in laws or regulations or used as a contractual requirement.[24] Besides this, their only enforcement mechanism is certification: external accredited bodies can perform certification upon request, thereby providing written assurance that the organization in question meets the specific requirements of the relevant standard (de Vries 1999). Thus, standards put an even stronger emphasis on self-regulation by employers and rely on employers' commitment (Malachowski, Kirsh and McEachen 2017). This fact, in turn, might make standards a suitable instrument to fill the gap when States are weak and unable to enforce legislation (Brunsson and Jacobsson 2000). At the same time, standardization poses challenges to legislation as it presents a shift towards privatization of regulation and a managerial approach to OSH, potentially marked by reduced access of workers and their representatives to the certification processes at the workplace level. Moreover, the proliferation of regulating sources through standardization could diminish the authority of OSH legislation and public authorities in the field of OSH.

Based on the desk research conducted for this report, only a few national standards so far address V&H in the world of work. Psychosocial risks are also a "relatively new area" for standards (PSJ 2021). This may be due to the fact that standards are suitable for dealing with technical, monocausal and objectively measurable issues, but arguably less appropriate for a multicausal, complex, less tangible and sometimes subjective issue like V&H and its associated psychosocial risks, which in turn

makes it difficult for standards to ensure the inclusion of all relevant issues (Hohnen et al. 2014). In light of this difficulty, standards may be perceived as too prescriptive for OSH matters in relation to V&H, as they allow only a limited amount of flexibility regarding the specific situation and the employer's subsequent interventions (Potter et al. 2019a). At the same time, the existing standards emphasize that a certain degree of flexibility is guaranteed. For instance, the American Standard on Workplace Violence Prevention and Intervention contains recommendations that "are broad in order to provide organizations the flexibility needed to implement prevention and intervention strategies appropriate for their workplace" (United States, ANSI 2011).

Following the basic principle of the "plan–do–check–act" cycle, the six identified national standards dealing with V&H promote specific management systems. For instance, the Standard NTS 03.116.01:21 (El Salvador, OSN 2011) and the Standard NORDOM 775 (Dominican Republic, INDOCAL 2016) approach V&H from a gender equality perspective: by promoting management systems for gender equality, these standards include – as one element – preventive measures (for example, developing a code of ethics and training for employees) and remedial measures (for example, assistance to victims of harassment) to address V&H.

In contrast, the National Standard for Psychological Health and Safety in the Workplace (Canada, MHCC, BNQ and CSA Group 2013) and the Standard NOM-035 (Mexico, STPS 2018) approach V&H form a psychosocial risks perspective.[25] The approach of the Thai Labour Standard TLS 8001-2020 is from a corporate social responsibility perspective (Thailand, Ministry of Labour 2020), while the American Standard ASIS/SHRM WVP.1-2011 focuses solely on preventing and addressing V&H (United States, ANSI 2011).

At the international level, an important development in the area of standardization occurred in

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23 Alongside formal national standardization organizations, there are other standards-developing organizations which include private, sectoral or specialized standardization organizations and consortia of corporations and/or of other actors (de Vries 1999).

24 For instance, the violence prevention and reduction standard (developed for the English National Health Service (NHS)) was incorporated into the 2021/22 NHS Standard Contract. Hence all NHS commissioners and all providers of NHS-funded services should have regard to the violence prevention and reduction standard, and are required to review their status against it and provide board assurance that they have met it twice a year (NHS England 2020).

25 The Mexican Government made this standard binding for all companies with 15 or more employees. For non-compliance with NOM-035, the Federal Labor Law stipulates fines from 250 to 5,000 units of minimum wage.

2021. Following years of consultation, ISO 45003 on psychological health and safety at work was developed and launched in 2021 and has been translated into different languages by national standardization organizations around the world. It contains standards for managing psychosocial risks within an OSH management system and explicitly includes V&H (ISO 2021).

3.4.3. Guidelines and information materials

Guidelines are by far the most commonly used type of guidance and tools in relation to V&H (see table 3.1). They contain entirely voluntary provisions which target groups may or may not consult in their efforts to prevent or address V&H.

▼▼ Guidelines are the most widely used form of guidance in the context of V&H, encompassing various formats such as handbooks, manuals, FAQs and websites.

There is great diversity in their form and scope, as the review of guidelines published by public authorities shows. There are comprehensive handbooks, manuals, fact sheets and brochures, and online platforms and websites dedicated to informing relevant actors on measures to prevent and address V&H in the world of work. These platforms not only display relevant information but also provide links to additional guidance and tools and/or to relevant legal instruments. For instance, Argentina has a dedicated website on all relevant laws, decrees, resolutions and other regulations, as well as on available statistics, guidance and tools on the subject, including activities by the Government supporting measures to prevent and address V&H (Argentina, MTEySS, n.d.). Similarly, the Respect@Work portal in Australia is an information hub for employers

and workers on work-related sexual harassment; it brings together a comprehensive set of resources for employers and workers, including information and an FAQs section on specific topics related to sexual harassment at work, over 70 guidelines from different organizations in the country, and links to training programmes, workplace-assessment tools and videos (Australia, Respect@Work 2022). Meanwhile, the Philippine Commission on Women (2021) published a comprehensive FAQs section on its website covering employers' obligations to prevent and address sexual harassment in the workplace; it is accompanied by practical examples, short videos and graphics to illustrate the content of the relevant legislation. In total, seven of the 20 reviewed countries offer information platforms on V&H in the world of work.[26]

The focus and level of detail of guidelines – in relation both to their target groups and to the topics covered – tend to differ from codes of practice, which are usually formulated in a manner that is accessible and relevant across all workplaces and across all provinces and territories of a country. As discussed in greater detail in section 3.5 below, public authorities have developed guidelines for small and medium-sized enterprises (France, INRS 2020) and/or for specific sectors, such as the healthcare sector (Ireland, HSA 2014), the education sector (South Africa, Department of Basic Education 2008), the media (Malaysia, DOSH, n.d.), and the retail sector (United Kingdom, HSE, n.d.). Similarly, guidelines have been developed to address specific topics on preventing and addressing V&H. Several of the guidelines reviewed focus on specific types of V&H, such as cyberbullying in the world of work (Safe Work Australia 2021a), violence from clients (Germany, DGUV 2015), and domestic violence and associated workplace responses.[27] Other reviewed guidelines address specific work situations. For instance, the Canadian Centre for Occupational Health and Safety has developed question-and-answer (Q&A) fact sheets on V&H hazards in relation to parking lot safety (Canada, CCOHS 2021a), working late (Canada, CCOHS 2020) and working alone (Canada, CCOHS 2021b). A few of the other guidelines reviewed focus on specific procedures, such as developing a workplace policy

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26 Argentina, Canada, Denmark, Ireland, New Zealand, the Philippines and Singapore.

27 Workplaces Respond, a national resource centre on domestic and sexual violence in the United States, provides guidelines and fact sheets on a variety of topics on domestic violence and respective workplace responses, ranging from guides on recognizing potential signs to formal evaluations of workplace responses to domestic violence.

(Hong Kong (China), EOC 2021) or investigation procedures for cases of harassment in the workplace (Chile, ACHS 2019).

Thus, guidelines on V&H tend to be both precise and user-friendly. Their terminology is typically specific and tailored to the target group, they are usually written in plain language to be more accessible to the average person, and they tend to cover key elements extensively and help to illustrate specific examples of good practice (Leka et al. 2015; Leka and Jain 2022; Potter et al. 2019b).

3.4.4. Training programmes and materials

Training is yet another instrument to provide instructions, guidance and skills and to help relevant actors to prevent and address V&H within their particular areas of influence. Through trainer–trainee interaction, use of audio-visuals, and online and/or other participatory formats, trainings provide engaging and interactive access to relevant information and knowledge and are thus an important cornerstone in providing effective workplace interventions on V&H (Reese and Lindenberg 2003; Leka et al. 2008; Somani et al. 2021).

There are various kinds of training on V&H available from public authorities. Some public authorities themselves organize online or in-person training programmes and courses.[28] For instance, the Japanese Ministry of Health, Labour and Welfare has commissioned several in-person and online training sessions for employers on customer harassment (Japan, MHLW 2022), while the Basque Government in Spain has offered several trainings on psychosocial risks, including training on V&H from a gender perspective (Osalan and Emakunde 2022). Meanwhile, the Ministry of Labour of Trinidad and Tobago offers customized training to employers, trade unions and educational facilities on (among others things) sexual harassment in the workplace, which can be done face to face or online (Trinidad and Tobago, Ministry of Labour 2021).

Other public authorities have developed online e-learning courses, which are self-guided and which participants can complete at their own pace.

For example, the Canadian Centre for Occupational Health and Safety has developed several online courses to help employers, managers and employees in federally regulated workplaces to understand their specific roles and responsibilities (Canada, CCOHS, n.d.). Similarly, the Australian Human Rights Commission offers several free online courses to employers and employees on sexual harassment at work, the responsibilities of employers and employees, and possible preventive and remedial interventions (Australia, Respect@Work, n.d.). Denmark provides, among other things, filmed case studies and learning games on specific incidences of third-party violence (Vold som Udtryksform, n.d.).

Public authorities have also developed training curricula and instruction material for employers and/or other actors as intermediate target groups to help them conduct their own training. Such material produced by public authorities helps to assure quality and consistency of employers' training efforts (FrankAdvice 2021). For instance, the Swiss Conference of Gender Equality Offices has developed a training kit on workplace sexual harassment that allows employers to regularly inform and sensitize their staff about sexual and gender-based harassment at work (Switzerland, SKG 2020). It can be used as part of internal company training or awareness-raising courses, for example on occupational health or resources policy. The kit contains a guide on how to conduct the training, three fact sheets, two films and an e-learning course for self-study. Similarly, in India the National Labour Institute has developed a training instruction manual to assist facilitators inside or outside organizations to introduce and explore gender issues and sexual harassment in the workplace (India, VVGNLI 2017). It consists of seven training modules on various topics and contains group exercises and related handouts on gender issues and work-related sexual harassment.

Meanwhile, in New York City, Local Law 96 requires employers with 15 or more employees to provide an annual sexual harassment prevention training course to their employees.[29] Following this, the New York City Commission on Human Rights developed an online training programme on gender

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28 The desk research for this report focused on training programmes that are provided regularly and advertised online. In-house training for labour inspectors or other officials, which are not announced publicly, are not covered by the desk research.

29 United States, Local Law 96, 2018, sect.1.

and sexual harassment, which is compliant with the legal requirements and which employers are free to use to fulfil the New York State law (NYCCHR 2021). In an interactive way, it explains the phenomenon of sexual harassment, workers' rights and employers' duties, and what action should be taken in cases of sexual harassment.

3.4.5. Practical tools

Practical tools refer to all instruments that are developed as a means to facilitate the implementation of measures to prevent and address V&H. Depending on the intervention in question, these tools may be samples, templates, interactive online tools, apps and software programs, questionnaires, communication materials, interactive flowcharts and checklists.

▶▶ **To effectively prevent V&H, some countries offer individualized support directly in the workplace.**

One main focus in this area is preventive interventions by employers. In fact, most of the tools from the 20 countries reviewed (50 of 62 tools) are designed to help employers implement workplace measures, while two thirds specifically address preventive measures. Some of the tools are samples or editable templates for workplace policies, allowing employers to simply adapt them to the specific context at hand.[30] Other, prevention-oriented tools specifically support risk assessment and control in organizations. For this, several countries have developed questionnaires for employers to measure the prevalence of V&H and to identify hazards contributing to V&H, while there are also interactive online tools to guide employers through the process of risk assessment (for more details, see section 3.5).

Tools have also been developed to facilitate complaint, investigation and dispute resolution processes in the workplace. Most of these tools are templates to help document and/or report a complaint and the ensuing investigation. Similar tools were identified for employees.

3.4.6. Individual consultation and information services

Several public authorities offer (additional) guidance and advice by providing personal consultation or information services to employers or workers who seek support or information in their efforts to prevent and address V&H. Advice is given via email, chat, phone, videocall and/or in person. The majority of consultation and support services reviewed are provided by labour inspectorates' offices or labour ministries.

For employers, such consultation services may encompass topics at any stage of intervention. For instance, the Danish Working Environment Authority operates a hotline offering individual guidance on how to prevent and manage abusive acts and to handle specific situations in the workplace (WEA, n.d.(b)). Similarly, in Singapore the Employer Advisory Service of the Tripartite Alliance offers an in-person or phone appointment to give advice to employers on relevant laws and guidelines on these matters.[31]

More technical support is offered, for instance, in Switzerland. KMU konkret+ is a training and support programme which focuses on the prevention of sexual harassment in the workplace and is specifically tailored to the needs of small and medium-sized enterprises. Alongside training modules, employers receive individual support and counselling in drafting or reviewing their workplace sexual policy.[32]

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30 For instance, the Vietnamese Code of Conduct on Sexual Harassment in the Workplace includes a "Sample Company Policy on Sexual Harassment" (Viet Nam, MOLISA, VCCI and VGCL 2015); WorkSafe New Zealand has developed an editable template for an anti-bullying workplace policy; and the Canadian Human Rights Commission (2006) has developed an anti-harassment policy in the workplace for medium-sized and large organizations, and another for small organizations.

31 Singapore, Tripartite Alliance for Fair and Progressive Employment Practices, "Contact Us: Get Assistance and Advice on Workplace Matters".

32 Stadt Zürich, KMU konkret+.

Under certain circumstances, use of external consultation services may be required by law. For instance, under Danish[33] and Belgian[34] legislation, employers who do not have the necessary expertise to carry out OSH-related interventions in their company must obtain external expert assistance in order to ensure that psychosocial risks are managed adequately. The majority of the consultation and information services reviewed are specifically or additionally aimed at workers;[35] two thirds of these services consult and inform about available remedial measures and thus ensure easy access to appropriate remedies, such as complaint procedures and/or further legal, medical, social and administrative support measures. For instance, the Irish Health and Safety Authority consults employees who seek information about bullying and/or are unsure whether or not their experience in fact constitutes bullying.[36] Similarly, there are eight Workplace Harassment Counselling Centres in the Republic of Korea; victims and complainants can consult these services in person or via a hotline to receive guidance and information services on workplace harassment, such as whether the behaviour they have experienced constitutes workplace harassment and how they should respond to it.[37]

Considered as a whole, the various types of guidance and tools on V&H in the world of work discussed above have different yet complementary strengths and advantages. While codes of practice may, thanks to their quasi-legal status, serve as authoritative, persuasive sources of guidance, especially when legislation is not explicit about V&H, guidelines are used to cover specific elements extensively and in an accessible manner and to illustrate specific examples of good practice. Training modules allow engaging and interactive access to relevant information and knowledge on these matters, while practical tools and training materials are developed to facilitate the implementation of workplace interventions and trainings. Finally, consultation and information services offer individual support for employers and workers in their efforts to prevent and address V&H in the workplace.

▶ 3.5. The focus and content of guidance and tools

3.5.1. Target groups

Guidance and tools have mainly been issued to support employers in their workplace interventions to prevent and address V&H. Four in every five (80 per cent) of pieces of guidance and tools identified in the in-depth review of countries are targeted at employers and/or OSH and human resources (HR) staff, supervisors and managers acting on behalf of the employer (see figure 3.2), which underlines their prominent position in preventing and addressing V&H in the world of work. An important role is played by guidelines and codes of practice, and also by practical tools, in directly facilitating the implementation of workplace interventions.

In addition to general guidance to employers, several countries have developed guidelines and tools tailored to specific actors. As indicated in figure 3.2, 12 of the 20 countries reviewed in depth provide at least one soft law instrument dedicated to a specific sector; human health and social work activities

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33 Denmark, Executive Order on Psychological Working Environment, Section 9.

34 Belgium, Code du bien-être au travail, Livre II. Structures organisationnelles et concertation sociale, Titre 1er. Le service interne pour la prévention et la protection au travail, Art. II.1–13.

35 Information and consultation services for employees refer to all services that primarily consult and inform workers as a first contact point about their rights and duties and/or those of their employers, offering general information about complaint and dispute resolution mechanisms as well as further support. They precede and may refer to complaint and dispute resolution mechanisms or more in-depth legal, medical, social and administrative support services specifically aimed at victims or witnesses of V&H.

36 Ireland, Health and Safety Authority, HSA Contact Centre.

37 Republic of Korea, Ministry of Employment and Labor, "Press Release".

▶ Figure 3.2. Target groups of guidance and tools from 20 countries reviewed in depth

Target group

Employers (including employees acting on behalf of the employer): 16 | 82 | 35 | 50 | 16

Workers: 5 | 38 | 26 | 15 | 17

Others[1]: 12 | 8 | 5

Number of pieces of guidance and tools[2]

Number of countries with at least one piece of guidance or tool for relevant target group:
Employers: 20
Workers: 17
Others: 12

■ Codes of practice   ■ Standards   ■ Guidelines
■ Training programmes and curricula   ■ Practical tools   ■ Consultation and information services

Notes: [1] "Others" includes actors other than employers and workers, such as inspectors, the social partners and local authorities. [2] Multiple target groups per instrument are possible.

Source: ILO compilation (*n* = 247).

constitute the sector covered the most (24 pieces of guidance and tools), followed by public administration and defence (9), the education sector (6), arts, entertainment and recreation (6), accommodation and food service activities (4), wholesale and retail trade (2) and transportation (2).[38] These sectors coincide with the sectors that show higher prevalence of V&H than others (Zapf and Vartia 2020; Eurofound 2022), as well as with those sectors explicitly mentioned in Recommendation No. 206 as being particularly exposed to V&H.[39]

The reasons for high prevalence in these sectors usually stem from an intersection of different V&H hazards, such as higher exposure to third parties, sector-specific (confined and isolated) work arrangements, abuse of power relationships, and/or workforce characteristics such as gender (ILO 2018, 2020b).[40] Consequently, the main focus of the aforementioned sector-specific guidance and tools is to help calibrate OSH management at workplace level accordingly, by raising awareness of such hazards and suggesting possible measures to control the associated risks of V&H (see table 3.2).

▶▶ **Employers – particularly those in the health and social care services – are the main target group of guidance and tools.**

38 ILO Recommendation No. 206 particularly advocates "materials for journalists and other media personnel on gender-based violence and harassment, including its underlying causes and risk factors, with due respect for their independence and freedom of expression" (Para. 23(f)). However, of the countries reviewed, only Malaysia has developed relevant guidance in this area (Malaysia, DOSH, n.d.).

39 Recommendation No. 206 mentions "health, hospitality, social services, emergency services, domestic work, transport, education or entertainment" (Para. 9).

40 For example, the retail industry usually reports relatively high numbers of incidences of violence because there is relatively high exposure to third parties and partly because the sector is dominated by women, who, in general, tend to experience these behaviours more often (ILO 2018). In the male-dominated entertainment industry, significant gender inequalities and stereotypes persist, which create obstacles for women in the labour market and make measures designed to promote systemic change necessary (ILO 2020b).

▶ Table 3.2. Examples of sector-specific guidance

Sector	Guidance specific to sector
Retail	The Health and Safety Executive in the United Kingdom provides comprehensive guidance for licensed and retail premises, which provides information on how to conduct a sector-specific risk assessment and on a wide range of possible control measures touching areas of the work environment (from closed-circuit TV to physical security devices), working organization (including staffing levels and workforce characteristics), training and partnerships with other local businesses and authorities (United Kingdom, HSE, n.d.).
Journalism	The Department of Occupational Safety and Health in Malaysia delivered a guideline with the aim of providing media professionals with information on possible measures to prevent V&H from third parties. It proposes several preventive measures, such as no lone work in possibly violent situations, preparing a fall-back plan with the team, and proper training of staff (Malaysia, DOSH, n.d.).
Health and social care services	In the United States, the Occupational Safety and Health Administration guide for healthcare and social service providers gives a comprehensive overview of preventive measures, categorized as (i) substitution; (ii) engineering controls; and (iii) administrative and work practice controls (United States, OSHA 2016). In addition, the National Institute for Occupational Safety and Health offers a free online training course on V&H for nurses and healthcare workers, which includes sector-specific hazards and strategies for organization-, team- and person-centred interventions to prevent tense situations from escalating (United States, NIOSH, n.d.).
	Meanwhile, in its description of OSH hazards in the health sector, the Kenyan Ministry of Health recommends that violence or aggression from patients, visitors, residents, staff and clients should be considered as a possible form of physical, emotional and/or mental abuse; and that such violence or aggression, and associated psychosocial hazards such as shift work, working alone, economic factors and domestic issues, should be taken into account in OSH management (Kenya, Ministry of Health 2014).
Education	The Danish Working Environment Authority has developed a handbook aimed at preventing violence and threats faced by teachers in primary schools. It recommends collaborative risk assessment, including through narrative practice, joint review of administrative sources and involvement of pupils in the assessment process, and suggests possible prevention measures, such as training in non-confrontational communication, design of classrooms, and clear guidelines on how to respond during a violent incident (Denmark, WEA, n.d.(a)).

Source: ILO compilation.

Another specific target group is constituted by micro, small and medium-sized enterprises (MSMEs). As explained in Chapter 1, such enterprises typically have fewer financial, human and managerial resources and less capacity to manage OSH than large organizations, and consequently often struggle to effectively manage their OSH-related responsibilities. Moreover, MSMEs tend to have a simpler and less hierarchical organizational structure than large companies, which in turn creates other, less formal requirements for OSH management and complaint procedures. Accordingly, adequate practical support for MSMEs that is tailored to their needs and recognizes their limited resources is pivotal (ILO 2021a). Yet while consultation services for all employers are offered by 13 of 20 countries, only three (Canada, New Zealand and Spain) offer guidance and tools on V&H specifically designed for, and tailored to the needs

of, small and medium-sized enterprises. Table 3.3 gives some examples, which range from individual advice measures and interactive tools on risk assessment to MSME-specific guidelines. Meanwhile, more research on the adequacy and effectiveness of general interventions for MSMEs is needed to better align both legal provisions, and guidance and tools, to the needs of MSMEs.

Almost all the countries reviewed in depth also address workers in their guidance and tools. Thirteen of 20 reviewed countries have developed written guidance for workers directly. Worker-specific information usually centres around the definition, scope and effects of V&H, possible preventive measures at individual level, and ways to raise a complaint and to remedy incidents of V&H. Practical tools for workers mostly address internal and external complaint procedures, and include

templates for complaint letters or interactive step-by-step tools to help raise a complaint. Moreover, as mentioned in section 3.4.4, there are training programmes that are aimed directly at workers to equip them with necessary knowledge and skills to prevent or control specific V&H risks. However, in the case of the 20 countries reviewed in depth, such programmes are confined to the high-income countries Denmark and Canada. In relative terms, consultation services address workers more frequently than employers or other actors, so they mainly advise workers in relation to specific incidents of V&H.

Twelve of the 20 countries reviewed also provide little in the way of guidance and tools for other actors, who mainly refer to labour inspectors (in relation to their inspection practices) and to employers' and workers' representatives.[41] It should be noted, however, that the limited number of instruments discovered may also be due to the fact that the report's desk research did not capture possible guidance and tools that are distributed internally within public authorities and hence not made public on official websites.

▶ **Table 3.3. Selected guidance and tools for micro, small and medium-sized enterprises (MSMEs) from around the world**

Country	Selected guidance and tools for MSMEs
Australia	Safe Work NSW (New South Wales) offers small businesses with up to 50 full-time equivalent staff free advisory visits. A local Safe Work inspector will come to their workplace and provide practical workplace health and safety advice specific to their operation, including V&H (Australia, Safe Work NSW, n.d.).
New Zealand	WorkSafe New Zealand has produced guidelines for small businesses on preventing and responding to bullying at work (WorkSafe New Zealand 2017a). In comparison to good practice guidelines from the same regulator (WorkSafe New Zealand 2017b), which are aimed at all employers, they focus on concrete control measures and are less concerned with formal requirements for OSH management, such as monitoring processes regarding the performance of control measures.
France	The National Research and Safety Institute has developed an interactive tool for companies with less than 50 employees to manage psychosocial risks including V&H. Intended to save the limited resources of MSMEs, the tool includes 41 questions to be filled in collectively (management and employees) and then generates a table showing the results of the questionnaire, a detailed report, and a dashboard to develop an action plan (France, INRS 2020).
Spain	The Spanish National Institute for Safety and Health at Work's *Method for the Assessment and Management of Psychosocial Factors in Small Enterprises* is designed primarily for enterprises with up to 25 employees (Spain, INSST 2020). Intended to be simple in its application, it structures the management of psychosocial risks in ten phases, provides explanations and support to guide the evaluator throughout the process, focuses on the ten most generic risks (including internal V&H and third-party violence), and finally suggests concrete measures to modify working conditions.
Canada	The Canadian Human Rights Commission (2006) offers specific guidance and templates for small companies on how to develop anti-harassment policies for the workplace. Among other things, its guidance recommends that small companies in the same industry combine resources to develop a joint policy, with people from each company serving as anti-harassment educators, counsellors, mediators and investigators.

Source: ILO compilation.

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41 For example, Argentina has developed a handbook on violence at work for trade unions, which contains, among other things, guidance on the role of unions in disseminating information and education on work-related violence (Argentina, MTEySS 2016). The South African *Code of Good Practice on the Prevention and Elimination of Harassment in the Workplace*, meanwhile, advises trade unions to include work-related harassment in their education and training programmes in an accessible format (South Africa, Department of Employment and Labour 2022).

3.5.2. Content of guidance and tools

Figure 3.3 displays the content of guidance and tools from the countries reviewed in terms of the main measures, derived from Convention No. 190,

to prevent and address V&H. Of particular relevance from an OSH perspective are the provisions of Article 9 of C.190, as they advocate the adoption of instruments that are typically used in the management of OSH in the workplace (as described below in more detail).

▶ **Figure 3.3. Number of pieces of guidance and tools from 20 countries reviewed in depth, by intervention (as stipulated by Convention No. 190)**

Number of pieces of guidance and tools

Number of countries with at least one piece of guidance or tool covering topic

■ Codes of practice   ■ Standards   ■ Guidelines   ■ Training programmes and curricula   ■ Practical tools
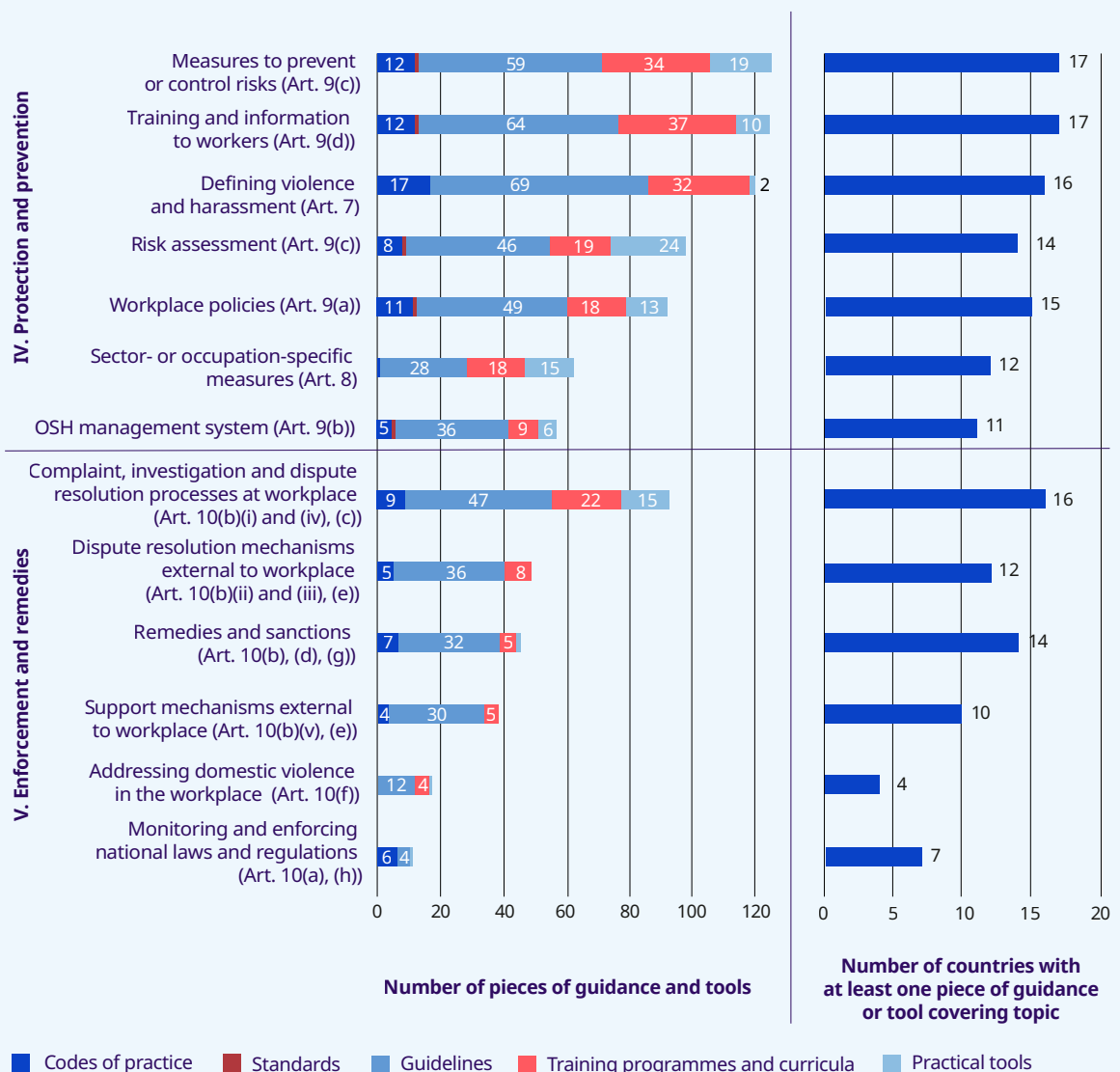
Note: Multiple topics per instrument are possible. Information and consultation services are not included as the content and focus of such services depend on the request of the service receiver. In order to allow for cross-country comparisons, only the 20 countries reviewed in depth, for which collected data on soft law instruments are complete, are depicted here. Examples from other countries are used in the text to further exemplify guidance and tools.

Source: ILO compilation (*n* = 247).

▼▼ **Though it is crucial for effective prevention of V&H, only half of the countries reviewed provide guidance on risk assessment.**

Article 9(b) of Convention No. 190 states that employers shall take into account "violence and harassment and associated psychosocial risks in the management of occupational safety and health".[42] The wording "management of occupational safety and health" was intentionally chosen to be inclusive of OSH management systems and other approaches to OSH organization (ILO 2018), yet ideally refers to hazard and risk management through OSH management systems as recommended by the Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197). This system is a set of interrelated elements to effectively manage risks, which links planning, implementation, evaluation and action for improvement. These elements follow the basic principle of the "plan–do–check–act" cycle. Of the 20 reviewed countries, 11 have promoted such a management approach in their guidance and tools on V&H (figure 3.3). Some of these countries have applied the system specifically to V&H,[43] while others have embedded V&H in the psychosocial risk management system[44] or in the wider OSH management system.[45] This group of countries is diverse, and no pattern in terms of income group or region can be identified.[46] Yet even if countries do not promote an OSH management system in its holistic form (covering planning, implementation, review and action for improvement), they usually recommend elements of such a management system.

Article 9(a) of Convention No. 190 contains the employer's obligation to "adopt and implement, in consultation with workers and their representatives, a workplace policy on violence and harassment". Such policies are a core part of the aforementioned OSH management system, since they set out the workplace's OSH-related objectives and the various responsibilities, internal arrangements and preventive measures needed to fulfil those objectives.[47] Over 90 pieces of guidance and tools from 15 of the 20 countries reviewed in depth have been developed to help employers to formulate such policies (figure 3.3). Policy elements that are usually suggested by guidance and tools are summarized in box 3.1.

As regards the planning and implementing part of the OSH management system, assessing and controlling risks associated with V&H in the world of work are integral. Article 9(c) of Convention No. 190 accordingly states the need "to identify hazards and assess the risks of violence and harassment, with the participation of workers and their representatives, and take measures to prevent and control them". The overall objective of risk assessment is to identify hazards and risks associated with V&H, so they can be eliminated or mitigated.[48]

Interestingly, while risk assessment is an essential step in formulating effective preventive measures, most countries, and most guidance and tools on V&H, focus directly on preventive measures; only 14 countries mention risk assessment as a preceding step, and only ten provide guidance on how to conduct risk assessment regarding V&H (see figure 3.3).[49] At the same time, the importance of guidance and tools is particularly high in the area

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42 In general, 57 per cent of reviewed guidance and tools that deal with risk assessment and control of V&H take into account associated psychosocial risks, which demonstrates the importance attached to psychosocial risks in the understanding of V&H.

43 For instance, WorkSafe New Zealand (2016) applied the plan–do–check–act approach to violence at work, thereby explaining each element in detail.

44 For instance, Malaysia's guideline on mental stress elaborates on assessing psychosocial risks and implementing control measures, yet also emphasizes the need to evaluate such measures after they have been introduced, and thereby to regularly monitor, evaluate and review the measures put in place (Malaysia, DOSH 2001).

45 For instance, the Singapore guide to event management explains in detail the processes of the risk management process (preparation, risk assessment, implementation, record-keeping, review) for event management, and thereby establishes V&H as one of the main hazards to be taken into account (Singapore, WSHC 2017).

46 This also holds true of ratification of ILO standards: among these countries are Trinidad and Tobago and the United Republic of Tanzania, neither of which has ratified C.187 or C.155.

47 See Occupational Safety and Health Recommendation, 1981 (No. 164), Para. 14.

48 While "hazard", in this context, can be anything that has the potential to cause or contribute to V&H, "risk" describes the likelihood and severity of V&H occurring as a result of exposure to the hazard.

49 Argentina, Canada, Denmark, Ireland, Malaysia, New Zealand, Singapore, Spain, Tunisia and the United Republic of Tanzania.

▶ **Box 3.1. Elements of a workplace policy on violence and harassment**

Recommendation No. 206 (Para. 7 (a)–(g)) specifies the content of workplace policies on V&H, which are provided for in Article 9(a) of Convention No. 190. Among other things, such policies should (a) state that violence and harassment will not be tolerated; (b) establish violence and harassment prevention programmes; (c) specify the rights and responsibilities of workers and the employer; (d) contain information on complaint and investigation procedures; (f) ensure the right to privacy and confidentiality; and (g) include protection mechanisms against victimization or retaliation. These elements are reflected to different extents in reviewed national guidance and tools that address workplace policies.

1. All reviewed codes of practice, guidelines and templates that address workplace policies put a strong emphasis on including a clear statement that V&H will not be tolerated, with some documents further calling for an explicit commitment by management to address any incidents of V&H. This usually comes with the recommendation to clearly define V&H, including concrete examples of what constitutes V&H. Evidence suggests that such a formal commitment from the organization to a zero tolerance attitude contributes to a positive organizational culture that is free from V&H (Pate and Beaumont 2010). At the same time, zero tolerance statements remain a controversial topic among academics, because they may set standards that are too high to achieve and their enforcement may create tensions between managers and employees (Ferris, Deakin and Mathieson 2021).

2. Information on complaint and investigation procedures, to make workers aware of what to do and whom to contact within the undertaking if V&H occurs, is another central element of proposed workplace policies on V&H. Yet few guidance documents explicitly recommend mentioning in the workplace policy that confidentiality and compliance with privacy is granted and/or that complainants are protected against reprisal or victimization during and after complaint and investigation procedures.[1] Mentioning such features is important since fear of reputational loss and disclosure is a major barrier preventing workers from reporting and complaining about incidents of V&H (ILO 2022).

3. It is usually recommended that statements are given on how V&H in the workplace is prevented and on the specific role of employers and workers in both preventing and addressing V&H. This occurs to differing extents, however. While some guidance and tools advise that preventive measures in the workplace and the role of both managers and workers in implementing these measures should be explained,[2] others further recommend elaborating on internal processes that establish, monitor and evaluate the organization's efforts to effectively prevent and control V&H.[3]

4. Further elements recommended in guidance and tools that go beyond those mentioned in Recommendation No. 206 are statements on possible sanctions,[4] and information on internal and external support measures for victims of V&H.[5]

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1   Jordan, Ministry of Labour (2019b); Denmark, Arbejdstilsynet (n.d.); Trinidad and Tobago, EOC (2018); Botswana, Department of Labour and Social Security (2002); South Africa, Department of Employment and Labour (2022); Viet Nam, MOLISA, VCCI and VGCL (2015); WorkSafe New Zealand (2017b); Malta, NCPE (2005); Ireland, HSA and WRC (2021).

2   For instance, Malta, NCPE (2005); India, MWCD (2015); Viet Nam, MOLISA, VCCI and VGCL (2015).

3   For instance, Government of Canada (2021); Ireland, HSA and WRC (2021); WorkSafe New Zealand (2017b); Trinidad and Tobago, EOC (2018).

4   For instance, Denmark, Arbejdstilsynet (n.d.); Philippine Commission on Women (2021).

5   For instance, Government of Canada (2021); WorkSafe New Zealand (2017b); Malta, NCPE (2005).

of risk assessment, as a German survey showed: only one in five companies accounted for psychosocial hazards when carrying out a workplace risk assessment; apart from limited resources, one of the reasons for this was that the unclear causal relationship made psychosocial risks more difficult to assess than "traditional" OSH problems (Beck and Lenhardt 2019).

To identify hazards and assess the associated risks of V&H, guidance and tools on risk assessment usually recommend taking into account lagging and leading types of information. Lagging information concerns past incidences of V&H and thus helps to measure its prevalence. The assessment of such data – in combination with contextual variables – can, in turn, help to identify patterns of incidents and hazards contributing to the prevalence of V&H.[50]

On the other hand, leading information directly focuses on hazards that increase the risk of a worker being exposed to V&H in the future. Such factors have proved to be complex, multifaceted and interrelated, and to include individual, workplace and contextual aspects (Zapf and Vartia 2020; Salin and Hoel 2020; CLC, UWO and UT 2022). Recommendation No. 206 accordingly suggests that hazards arising from the working environment, third parties, discrimination and organizational culture, including psychosocial hazards, should be taken into account (Paragraph 8). This complexity of factors is also reflected in national guidance and tools dealing with V&H risk assessment. One main focus is psychosocial hazards, which are treated either explicitly as antecedent to V&H,[51] or implicitly, with V&H addressed as a psychosocial hazard in itself.[52] Suggested hazards concern, among other things, the workplace environment, organizational culture and setting, interaction with third parties, and the task situation (for examples, see table 3.4).

Three main methods of **collecting lagging and leading information** are proposed in the guidance and tools that were reviewed. The first method is to consult workers, through surveys, interviews or workshops. Workers' perceptions and experiences are not only indispensable in identifying psychosocial hazards but also in directly measuring the prevalence of V&H (Velázquez and Jain 2021). For this purpose, several countries, including Chile, Japan, Ireland and Mexico,[53] have developed questionnaires which can be used by employers to conduct surveys within their organizations.[54] Denmark, meanwhile, has provided several workshop instructions for health and social care facilities, which are intended to identify V&H hazards collaboratively with both staff members and patients (Vold som Udtryksform, n.d.).

Complementary to this is the second method, which involves reviewing administrative records. These may include formal complaints and reports of V&H, as well as indirect metrics such as absenteeism and sick leave, staff turnover and worker appraisals. This method is suggested in guidelines produced by countries including New Zealand, the United Kingdom and Argentina.[55]

The third suggested method is to use the knowledge and observations of the person(s) in charge of conducting the risk assessment. This is particularly important for risk assessments at the individual level. For instance, the Irish Health and Safety Authority has developed checklists aimed at lone workers to self-assess risks of V&H (Ireland, HSA 2011). Meanwhile, Denmark and New Zealand offer indicator tools to identify individual hazards and assess risks of violence from the in-patient population (Vold som Udtryksform, n.d.; WorkSafe New Zealand 2020).

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50 For instance, the Spanish Technical Note of Prevention (NTP) 489 suggests establishing a baseline for comparison and/or grouping collected data into categories such as situation (location of the incident, environment in which the incident occurred, possible reasons or causes, time, etc.), victim (work performed, sex, age, experience, training in conflict management, etc.), perpetrator (sex, age, behaviour displayed, appearance, etc.), and result (severity of incident) (Spain, INSST 1998).

51 For instance, Spain, INSST (n.d.); Government of Canada (2021); Japan, MHLW (2019); Argentina, MTEySS (2018).

52 For instance, Saudi Arabia, Public Health Authority (2022); Safe Work Australia (2022); Kenya, Ministry of Health (2014); Belgium, Federal Public Service (n.d).

53 Chile, SUSESO (2022); Japan, MHLW (n.d.); Ireland, HSA, SCA and CISM (n.d.); Mexico, STPS (2018).

54 These questionnaires measure V&H in different ways. For instance, Denmark offers a questionnaire to employers that covers in detail 21 different types of behaviour in the workplace that can be classified as sexual harassment (Denmark, DWEA 2020). Japan has developed a similarly detailed questionnaire on power harassment (Japan, MHLW, n.d.), while Chile used the self-labelling method to integrate a few questions on V&H into a questionnaire on psychosocial risks (Chile, SUSESO 2022).

55 WorkSafe New Zealand (2018); United Kingdom, NHS (2022); Argentina, MTEySS (2018).

▶ **Table 3.4. Examples of suggested hazards to be considered in relation to violence and harassment in the world of work**

Country	Suggested hazards
Argentina	Argentinian guidance material draws attention to several hazards emerging from organizational settings, power imbalances and managerial styles. These include, among other things, lack of information and training on rights and obligations of workers and managers; negative leadership; non-transparent forms of promotion; unequal distribution of technical, economic and human resources; formation of radicalized subgroups; and absence of mechanisms to correct the inequality between the bargaining power of the employer sector and workers (Argentina, MTEySS 2018).
Australia	Safe Work Australia (2021c) highlights the presence of work stressors, negative leadership styles, poor work organization and relationships, workforce characteristics (such as low worker diversity, number of young, new and/or migrant workers, presence of minority groups and of non-standard forms of employment), and power imbalances along gendered lines as factors that increase the risk of bullying and particularly gendered violence. Furthermore, it recommends that attention is paid to task-related factors such as enforcement activities (of police or prison officers, for instance), working alone or offsite, and working in areas of high crime or unpredictable environments.
Japan	Looking at factors contributing to "power harassment" within organizations,[1] the Japanese official manual draws attention to, among other things, high work load and pressure, poor communication between bosses and subordinates, competitive and aggressive workplace culture and ethics, and little effort on the part of the organization to prevent power harassment (Japan, MHLW 2019).
Portugal	To facilitate risk assessments of physical violence, the Portuguese Authority for Working Conditions has developed a checklist for employers with 27 questions on risk factors that may lead to harassment. Among other things, they cover physical work environment and preventive measures, including physical safety measures; information about responsibilities of third parties; training of workers on identifying individual risk factors for third parties and on conflict resolution and prevention; and encouragement of positive attitudes, tolerance and mutual respect (Portugal, ACT 2022).

1 Power harassment in Japan describes bullying behaviour on the part of an actor (or actors) who has power over the target of the behaviour in a workplace.

Source: ILO compilation.

Based on the collected information and the identified hazards, the risk – that is, the likelihood and severity of V&H occurring as a result of exposure to the particular hazard – is evaluated, and measures to control the risk developed. To facilitate this process, several countries, including Malaysia, Saudi Arabia, Singapore and Spain,[56] have developed risk assessment forms which summarize (among other things) the identified hazards in relation to V&H, the associated risks, proposed control measures and assumed responsibilities.

Other public authorities, mostly of high-income countries, have developed interactive software programs, which walk employers through the entire process of risk assessment. Examples include Australia, Denmark, France, Netherlands and Spain.[57] The Irish online tool Work PositiveCI walks employers through several stages of a typical OSH management system (Ireland, HSA, SCA and CISM, n.d.). It helps organize the assessment, giving guidance on the time plan, creating a steering group and securing commitment from key stakeholders in the organization; it then assists in identifying

56 Malaysia, DOSH (2001); Saudi Arabia, Public Health Authority (2022); Singapore, WSHC (2021); Spain, INSST (2020).

57 Australia, People at Work (n.d.); Denmark, WEA (n.d.(c)); France, INRS (2020); Netherlands, Steunpunt RI&E (n.d.); Spain, INSST (2022b).

risks through use of employee survey tools and other workforce outcome indicators,[58] exploring and prioritizing interventions, and reviewing progress.[59]

Effective and appropriate **measures to prevent or control risks** may vary depending on the nature of the workplace and workforce, and hence also on the specifics of the sector where employers operate (see table 3.2 above on sector-specific responses). Nevertheless, almost 130 pieces of guidance and tools from 17 of the countries reviewed in depth suggest or address measures to prevent or control risks associated with V&H. Most of these suggested measures are of a generic nature,[60] as already stipulated by Articles 9 and 10 of Convention No. 190 and depicted in figure 3.3, in the sense that they are applicable to any type of company, yet may be adapted to specific local circumstances. These measures include workplace policies, training, complaint procedures and support measures in the workplace. In addition to these, some examples of specific measures that are intended to eliminate or reduce specific risks of incidents occurring are suggested. Depending on the type of violence and the

particular sector and occupation involved, these may range from measures addressing the physical working environment,[61] the organizational culture,[62] and workplace organization and behaviour,[63] as also stated in section 3.5.1.[64]

In accordance with the employer's duty to provide **occupational safety and health information and training** to workers as stipulated in Convention No. 155,[65] the Violence and Harassment Convention (No. 190) also foresees the employer's obligation to:

> *provide to workers and other persons concerned information and training, in accessible formats as appropriate, on the identified hazards and risks of violence and harassment and the associated prevention and protection measures, including on the rights and responsibilities of workers and other persons concerned in relation to the policy referred to in subparagraph (a) of this Article. (Article 9(d))*

This obligation is reflected in codes of practice, guidelines and trainings from 17 of the countries reviewed in depth. The most recommended topics in such trainings include the phenomenon of V&H

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58 The survey uses verified and validated indicators to measure employee well-being across six key work areas: Demands, Control, Support, Relationships, Role and Change. It also measures employee well-being using a composite well-being index created through a combination of two validated tools, the Patient Health Questionnaire (PHQ-4) and the World Health Organization Five Well-Being Index (WHO-5).

59 The Dutch Labour Inspectorate has gone one step further: it has developed an e-tool for organizations to evaluate their preventive measures in relation to V&H and to check whether they comply with relevant legal obligations; after completion, the tool identifies and suggests points for improvement (Netherlands, Nederlands Arbeitsinspectie, n.d.).

60 In relation to psychosocial risks – and hence to V&H – three prevention strategies are usually envisaged: primary prevention aims to prevent the violent incident before it occurs; secondary prevention aims to avoid or reduce the impact of the negative health consequences potentially associated with exposure to V&H; and tertiary prevention aims to soften the impact of injuries or illnesses that have been sustained because of workplace V&H and have lasting consequences for the worker (Lippel 2016). As in the case of the reviewed guidance and tools, mostly primary and secondary prevention measures are suggested, and to a lesser extent tertiary prevention measures.

61 For instance, Singapore suggests a series of measures to prevent harassment by external customers/clients. These include putting up clear and prominent signs at suitable locations to promote observance of respectful behaviour, displaying notification that harassment is unacceptable behaviour on corporate websites and plasma/LCD displays in premises, increasing lighting in and around the workplace, and controlling access to the building, or certain parts of it, for instance by means of access cards or keys (Singapore, TAFEP 2022).

62 For example, in relation to bullying, Malaysia suggests in its guide to employers to incorporate open channels of communication and information in the organizational culture to defuse tension and frustration among workers and, in particular, to remove the taboo of silence. For instance, information sessions, personnel and office meetings, and group discussions are encouraged (Malaysia, DOSH 2001).

63 To prevent third-party violence, Spain recommends, among other things, ensuring that staffing levels are appropriate for each task and for each time of day, providing workers with adequate information on work procedures and systems, and ensuring that customer service programmes are properly designed and managed (Spain, INSST 1998).

64 The participation of employees in the selection and configuration of appropriate risk control measures is not only recommended by most guidelines, but also explained in detail by some guidelines. For instance, in Spain workers can contribute their knowledge and experience, which ensures that the measures and procedures adopted are practical and effective. Moreover, in this way the staff consulted have a greater involvement in contributing to, and eventually committing to, the implementation of the measures (Spain, INSST 1998).

65 Occupational Safety and Health Convention, 1981 (No. 155), Art. 19(c) and (d).

as well as its effects, internal arrangements including workplace policies, complaint procedures, the roles of the actors involved,[66] and possible risk control measures in place.[67]

Complementary to the information and training efforts at the employer's level, 13 countries developed written guidance for workers directly, to inform them about the hazards and risks of V&H, possible protection and prevention measures, and/or their associated responsibilities and rights. Moreover, as mentioned in section 3.4.4, while there are training instructions and materials for employers to facilitate their training efforts, there are also training programmes that are aimed directly at workers to equip them with the necessary knowledge and skills to prevent or control specific V&H risks. In the case of the 20 countries reviewed in depth, however, these are confined to high-income countries, Denmark and Canada.

Overall, while nine of the 20 countries reviewed in depth do not promote OSH management systems in relation to V&H, the main elements of such management systems are central topics in the guidance and tools reviewed. As figure 3.3 shows, various types of guidance and tools are used, particularly in the case of risk assessment and control that give support on implementation of necessary steps, while risk control measures and training and information for workers have received particular attention.

Besides the aforementioned OSH instruments, a central topic of concern is the **complaint procedure** in organizations in relation to incidents of V&H.[68] Here, also, a mixture of different types of guidance and tools is used to support employers in

▰▰▰ Much of the focus is on organizational complaint procedures concerning incidents of V&H.

developing and implementing relevant procedures. For instance, Mexico has prepared interview guides to assist in communication with the alleged victim, the alleged aggressor and witnesses (Mexico, STPS 2020). Meanwhile, Canada has developed an interactive online Q&A tool to support employers and managers who have been notified by their employees of an occurrence of harassment or violence (Canada, CSPS, n.d.). Similarly, for employees, the Peruvian Ministry of Labor and Employment has developed an online Q&A tool which helps to establish if a person is the victim of harassment (Peru, MTPE, n.d.). The tool also provides information on how to address harassment.

Meanwhile, **concrete remedies and sanctions** on V&H incidents are addressed by 16 of the 20 countries reviewed in depth. **External complaint and dispute resolution mechanisms** and external support measures are less often addressed, although this finding should be caveated, as information and consultation services, which are not displayed in figure 3.3,[69] play an important role in this context, as discussed in section 3.4.6. Guidance and tools are least commonly developed for labour inspectors, to advise on monitoring implementation of instruments and enforcing, where applicable, laws and regulations. However, as previously noted, the limited number of relevant instruments in this area may be due to the fact that the report's desk research only captured guidance and tools that are publicly available and did not pick up in-house or internal material created by public authorities.

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66 For instance, Argentina emphasizes the need to train all staff in charge of designing, drafting and implementing the workplace policy on V&H, including knowledge of the theoretical and legal framework in force, specific existing terminologies, effects on life and health, available resources, and strategies for victims in this situation (Argentina, Instituto Nacional de las Mujeres 2018). Similarly, in Ireland training managers, supervisors and all staff – particularly new staff – "should aim to identify the factors which contribute to a working environment free of harassment and to familiarise participants with their responsibilities and problems they are likely to encounter. This is especially important for those members of staff primarily responsible for implementing the workplace policy and processing complaints" (Ireland, IHREC 2022, 21). Meanwhile, El Salvador distinguishes between three different groups of workers who require different training and information on how to prevent and address sexual harassment – workers in general, positions of leadership, and actors involved in complaint procedures (El Salvador, SAEPR 2013).

67 For instance, the Saudi Arabian guide on mental health recommends multiple trainings on third-party violence in particular, including training all employees on ways to deal with angry individuals and to contact security and request assistance (Saudi Arabia, Public Health Authority 2022).

68 One nuance to note here is that guidance and tools in common-law countries tend to address complaint procedures more frequently than guidance and tools in civil-law countries. This may be because (among other things) the precedent-based nature of common-law systems means that there is a higher need to establish explicit procedures to ensure consistency in handling cases than in civil-law systems.

69 Information and consultation services are not included, since the content and focus of such services depend on the request of the service receiver.

▰▰ Small cross-country variations exist on types of V&H covered, with high-income countries and countries in Europe and Asia focusing slightly more on psychological V&H in their guidance and tools.

Another central function of the guidance and tools reviewed is to raise awareness of the **legal definitions of violence and harassment** in the world of work, or – in the absence of such legal definitions, as in Spain, Trinidad and Tobago, and New Zealand (see section 3.3.1) – to define the concepts and their scope. Such elaborations are usually supplemented by specific examples illustrating what kind of behaviour is or is not considered V&H, thus clarifying and further specifying the (legal) concepts.

Overall, guidance and tools from the 20 countries reviewed tend to cover the main forms of V&H comprehensively. Physical, psychological and sexual V&H are addressed relatively evenly, with psychological harassment receiving slightly more attention.[70] Slight differences exist across regions and income groups. While sexual V&H tends to be addressed slightly more frequently in Asia and the Pacific, psychological V&H is slightly more often the topic of guidance and tools in high-income countries and in Europe and Central Asia.[71]

▰▰ V&H perpetrated through information and communication technology (ICT) and domestic violence is little addressed in guidance and tools.

Moreover, as mentioned in section 3.4.3, several pieces of guidance and tools have been developed to deal with specific work situations and the specific risks of V&H that arise from them,[72] thereby informing employers and workers about which hazards to consider in risk assessments and suggesting specific measures to control the associated risks. However, such contextualization and specification of guidance and tools is not common practice across countries. This is particularly the case for V&H in connection with information and communication technology (ICT): only four of the 20 countries reviewed (Canada, Denmark, New Zealand and Spain) have developed guidance and tools specifically designed to tackle ICT-related matters in the world of work. This is in spite of the fact that it has become an ever more pressing issue: research shows that cyberbullying at work is becoming as common as non-electronic forms of harassment (EU-OSHA 2017), so innovative and effective measures are needed to control the risk of ICT-related harassment, including data privacy protection (see box 3.2).

Another topic which has rarely been addressed by guidance and tools is domestic violence (as stipulated by Convention No. 190, Article 10(f)), despite its known detrimental effects on victims' performance and ability to work and on productivity, recruitment and retention costs (UN Women 2020; ILO 2020a). Only four of the 20 countries reviewed in depth have developed guidance and tools in this area. Examples from around the world are summarized in table 3.5. Employers traditionally claimed that domestic violence was mainly a domestic matter and not relevant to the workplace. However, the COVID-19 pandemic and the widespread adoption of remote working in various countries have compelled employers to reconsider this assumption. As a result, many employers now recognize the importance of addressing domestic violence and have taken measures to ensure the safety of remote workplaces (ILO 2021a).

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70 Physical V&H is addressed by 70 per cent of identified instruments, psychological V&H by 80 per cent, and sexual V&H by 74 per cent. The fact that psychological harassment receives slightly more attention may reflect a greater need of guidance in this regard, as it is a complex phenomenon that is difficult to grasp and involves individuals' subjective perception (Lerouge, quoted in Testard-Vaillant (2018)).

71 For Asia and the Pacific, the distribution is 55 per cent physical, 71 per cent psychological and 92 per cent sexual; for Europe and Central Asia, the distribution is 68 per cent physical, 82 per cent psychological and 59 per cent sexual; for the high-income group, the distribution is 69 per cent physical, 80 per cent psychological and 71 per cent sexual.

72 These include cyberbullying (Safe Work Australia 2021a), violence by clients (Germany, DGUV 2015), and V&H while working late or working alone (Canada, CCOHS 2020, 2021b).

▶ **Box 3.2. Examples of guidance and tools to tackle harassment through ICT in the world of work**

Spain has developed a guide for call centres on psychosocial risk management, which advocates, among other things, emotional and conversational skills training to handle insults by callers (Spain, INSST 2022a).

Denmark provides general recommendations for employers and workers to prevent online harassment, including data privacy protection and acceptable posting behaviour (Vold som Udtryksform 2021).

New Zealand gives guidance on how to react to being bullied online at work, which includes taking screenshots and blocking the person (New Zealand, netsafe 2018).

Other guidance and tools to deal with these matters have been developed by the social partners and private actors. For instance, in the United Kingdom the public service union UNISON (2013) provides a guide for schools to protect children and staff from cyberbullying, while the global news services provider Thomson Reuters (2022) has created an application for journalists and media practitioners to document and manage online harassment and abuse, enabling them to block, mute or save comments at scale.

▶ **Table 3.5. Selected guidance and tools on preventing and addressing the impact of domestic violence on the world of work**

Country	Selected guidance and tools on domestic violence
Argentina	In Argentina, a step-by-step guide has been developed on what to do when domestic violence against an employee is apparent; it includes advice on how to treat victims of domestic violence, including through emergency action (Argentina, Instituto Nacional de las Mujeres 2018).
New Zealand	The New Zealand Government's "Workplace Policy Builder" has created an interactive online tool that guides employers through steps to create workplace policies on family violence (Employment New Zealand 2022).
United States	The National Standard on Workplace Violence Prevention and Intervention proposes the inclusion of domestic violence in workplace policy and training of OSH staff and supervisors to recognize warning signs and respond appropriately. Moreover, it contains a comprehensive list of warning signs and a set of questions to assess the risks to an employee. It also suggests several safety measures, such as restricted workplace access to the abuser and flexible working hours for the victim (United States, ANSI 2011).
Australia, Canada	There are different approaches to complaint procedures. Australia recommends consultation with victims to ensure that "they maintain control over their circumstances and are not unintentionally put at further risk which can occur with some forms of violence and aggression, such as family and domestic violence" (Government of Western Australia 2022). By contrast, in Canada the Cultural Human Resources Council states that organizations that become aware that a worker is or has been subject to domestic violence must act and report, even if the victim refuses to assist (Canada, Cultural Human Resources Council 2019).
Honduras	There has also been guidance provided by the social partners: the Honduran employers' organization has created an online platform that contains comprehensive information for its members on how to address domestic violence at work and also includes communication materials and videos on the subject. The organization also offers a seminar on domestic violence (Honduras, Asociacion Hondureña de Maquiladoras, n.d.).

Source: ILO compilation.

▶ 3.6. Provision of guidance and tools at national level

Given the wide variety of types of guidance and tools, this section takes a closer look at the usage of these different forms of instrument at national level. The analysis draws on the in-depth review of the 20 selected countries.

Table 3.1 gives an overview of the number of pieces of guidance and tools that were identified in each of the 20 countries reviewed. It shows that countries tend to differ considerably in the number of pieces of guidance and tools available at national level, ranging from one instrument in Georgia, Kenya and Barbados to 46 instruments in Canada (a figure that does not even take into account the guidance and tools also available in Canadian provinces, such as the 27 additional pieces of guidance and tools offered by the public authorities in British Columbia alone). Such differences also exist within ILO regions and legal systems, where no clear patterns could be detected irrespective of whether or not particular countries had ratified OSH-relevant ILO Conventions (C.155 and/or C.187, or even C.190). However, there seems to be a tendency in relation to income groups, with high-income countries such as Canada, Denmark, Ireland, New Zealand and Spain tending to offer more guidance and tools on V&H than other income groups.[73] Meanwhile, guidance and tools specifically addressing gender-based V&H are only gradually emerging, as explained in box 3.3.

Besides these differences, there are several commonalities to be observed as well. The great majority of the reviewed countries use a combination of the six types of guidance and tools. Guidelines providing practical advice on and solutions to V&H are most often used. Consultation and information services are also available in most countries, while standards are rarely used in relation to V&H in the world of work (as indicated in section 3.4.2).

Another commonality is the prominent role of OSH-relevant authorities and bodies as providers of guidance and tools in each of the countries reviewed.[74] Overall, 66 per cent of guidance and tools in the reviewed countries have been published or offered by OSH authorities and bodies. Other providers of guidance and tools on V&H are public authorities in the fields of non-discrimination and equality (Canada, Ireland, New Zealand, Philippines, Trinidad and Tobago), health (Canada, Ireland, Trinidad and Tobago) or justice (Argentina).

Having a diverse range of guidance and tools is advantageous in so far as it creates a comprehensive and customized support system for both employers and workers. Countries with a relatively high number of pieces of guidance and tools tend to use dedicated guidance and tools more frequently to address specific sectors, work situations and types of employment, and/or types of V&H, thereby providing guidance that is tailored to the needs of particular target groups. Overall, the reviewed guidance and tools provided by public authorities tend to be complementary in the countries concerned, either by tailoring guidance to specifics as described above, or by offering complementary types of guidance and tools for the same topic (such as guidelines on risk assessments, accompanied by video training and risk assessment forms); in this way, they assist and facilitate the process of implementing interventions in a more comprehensive manner.

At the same time, while merely looking at the numbers of pieces of guidance and tools displayed in table 3.1 gives a good indication of the usage of such guidance, it also has its drawbacks. One point is that a relatively high number of pieces of guidance and tools does not necessarily translate into a comprehensive support system for employers and workers. First, there is a risk that guidance and tools may lack complementarity in their content and scope. In El Salvador, for instance, guidance and tools have mostly focused on the public sector and on sexual harassment and violence against women, leaving out other types of V&H and the private sector. And second, different public authorities may

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73 One explanation of this tendency may be that authorities responsible for OSH in high-income countries typically have more resources available to develop such guidance and tools.

74 OSH authorities and bodies are classified as such on the basis of the ILO Country Profiles on Occupational Safety and Health; they may include specialized OSH agencies and labour inspectorates, national OSH institutes and/or responsible ministries.

▶ **Box 3.3. Guidance and tools specifically addressing gender-based violence and harassment**

The following are examples of guidance and tools addressing gender-based violence and harassment (GBVH).

▶ In January 2021 Australia's federal OSH agency Safe Work published national guidelines on "Preventing Workplace Sexual Harassment" (Safe Work Australia 2021b). In November 2022 WorkSafe Victoria, historically a pioneer in OSH and gender equality initiatives, published "Work-Related Gendered Violence Including Sexual Harassment: A Guide for Employers" (Australia, WorkSafe Victoria 2022).

▶ In November 2020 the European Transport Workers' Federation (ETF) produced helpful guidance on *Addressing Violence and Harassment against Women in the World of Work* for the transport sector (ETF 2020).

▶ Perhaps the most useful guidance on how to transform an OSH regulatory regime to address GBVH risks is the strategy released in October 2023 by the Australian OSH agency Safe Work NSW (New South Wales). The aim of this four-year plan is "the prevention of gender-based harmful behaviours across NSW workplaces, with an initial focus on sexual harassment" (Australia, Safe Work NSW 2023). The plan is:

  ▶ prevention-led (aimed at supporting persons conducting businesses and undertakings to "take prevention-led approaches to address the underlying drivers of workplace sexual harassment");

  ▶ collaborative ("Strategy activities will be designed through active consultation, engagement and collaboration with stakeholders including workers and their representatives and take a person-centred and trauma-informed approach");

  ▶ based on safety culture (building "a stronger OSH culture that embeds systematic approaches to managing OSH risks, recognising that workplace sexual harassment often intersects and combines with other psychosocial hazards"); and

  ▶ targeted ("Safe Work NSW will take ... enforcement action based on the risk of harm, and make decisions based on robust data, research and evidence").

Elsewhere, prevention of sexual harassment and other forms of GBVH is often subsumed in gender-neutral risk management frameworks for psychosocial risks (in Europe and in Quebec, Canada) or for violence and aggressive behaviour in general (in Canada, in federal law and common-law provincial jurisdictions, and in the USA).

Guidance on complaints policies for sexual harassment produced by human rights institutions has often, unfortunately, monopolized the regulatory space for addressing sexual harassment. The result is long-standing neglect of primary prevention of sexual harassment and other forms of GBVH, hence the importance of C.190 in moving risk assessment to the fore.

Note: This box reflects a study commissioned by the ILO and prepared by R. Cox, *Addressing Gender-Based Violence and Harassment in a WHS (Work Health and Safety) Framework* (ILO, forthcoming). The original study uses the term "work health and safety"; here, the text has been adapted to the terminology used in the report, and the term "occupational safety and health (OSH)" is used instead.

produce additional guidance and tools, which may cause confusion among employers and workers about which guidance they should follow. For instance, several respondents in a public consultation on V&H at work in New Zealand mentioned that the split of responsibilities in this area between the Ministry of Business, Innovation and Employment, the OSH agency WorkSafe and the Human Rights Commission caused "a lack of accountability and confusing guidance for businesses and workers" (FrankAdvice 2021, 5). More coordination between the relevant authorities on authoring such guidance

and tools, as well as information hubs providing an overview of and easy access to available guidance and tools, is important in this regard.

Another point on the numbers of pieces of guidance and tools as displayed in table 3.1 is that they do not necessarily fully reflect the efforts of public authorities, particularly on training. For instance, Bangladesh has provided a training programme that covers topics including (but not limited to) violence, harassment, unfair labour practices and anti-union discrimination in the workplace. From July 2020 to June 2022 alone, the Department of Labour trained 19,939 workers, management staff and government officials (Bangladesh, DOL 2023).

As shown in section 3.5, guidance and tools can play an important, multifaceted role in applying legislation to V&H and/or in enabling effective and efficient implementation of OSH instruments in the workplace. Yet this role needs to be actively applied by public authorities to tap its full potential. This is especially true when considering whether guidance and tools provide a sufficient level of detail. Particularly in the area of risk assessment (as shown in section 3.5.2), they may fail to tap their full potential to complement legislation, either by

not further specifying how steps are to be taken,[75] or by not being combined with practical tools such as questionnaires, risk assessment forms or e-tools that would help to cut through complexity and save time and resources, particularly for small and medium-sized enterprises (EU-OSHA 2022).

Finally, as discussed further in Chapter 4, a wide range of guidance and tools at national level may not necessarily translate into high take-up and effective implementation, and this is not only due to the non-binding nature of such instruments. Employers need to invest time and effort to really make use of these materials and find good solutions for their specific challenges with regard to V&H. However, lack of resources, staff instability and fluctuation, and resource-demanding parallel work processes often make it difficult for organizations to find and apply the appropriate materials to their specific situation regarding V&H (Jaspers et al. 2022). This, in turn, makes it even more important that organizations receive not only more individual and tailored support but also more awareness-raising about the long-term benefits of relevant V&H interventions.

▶ 3.7. Further factors contributing to the prevention of violence and harassment through OSH

3.7.1. Guidance and tools from actors other than public authorities

While their importance and authority as official documents should be acknowledged, guidance and tools from public authorities are not the only source of guidance to prevent and address V&H in

the world of work. In fact, they may be embedded in a richer support system at national level that encompasses the social partners,[76] civil society and not-for-profit organizations,[77] and other private actors[78] that bring additional legitimacy, expertise and other resources for creating and enforcing new norms to prevent and address V&H in the world of work (Leka and Jain 2022; see also Chapter 4 for more information).

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75 For example, the South African *Code of Good Practice on the Prevention and Elimination of Harassment in the Workplace* specifies that the employer's legal obligation to prevent all forms of harassment in the workplace includes risk assessment needs, yet does not further specify how such risk assessment should take place (South Africa, Ministry of Employment and Labour 2022).

76 For instance, Türkiye: Tüsiad (2016); India: EEPC (n.d.); France: FNSAC-CGT (2022); Canada: UFCW (n.d.).

77 For instance, Safe Ireland (n.d.); Women Watch China (2010); Spain: MC Mutual (2014); Denmark: Vold som Udtryksform (2021).

78 For instance, Singapore Legal Advice (2022); Canada Life Assurance Company (n.d.); South Africa: Legal Leaders (n.d.).

Particularly the social partners – in their function as representatives of employers and workers, and hence as providers of support, education and training for their members – can play an important role in supporting the implementation of laws and policies, specified and tailored to the specific needs of their members and/or sectors. As discussed in Chapter 4, the social partners in some countries have taken a particularly active role in this regard. Meanwhile, in an ILO survey of 90 trade unions in the entertainment industry, 47 per cent responded that they had organized awareness campaigns on V&H, 45 per cent had developed codes of conduct,[79] and 38 per cent had provided hotlines and contact points for advice on these matters (ILO 2020b).

In addition to this, various guidance and tools also exist beyond the national level. Although not tailored to specific national contexts, these may serve as an important reference point and source of inspiration, particularly in the absence of legislation and guidance and tools at national level.[80] Guidance and tools at international level are provided both by the social partners and by various intergovernmental organizations, mainly in the form of guidelines and manuals, but also by means of templates, samples and training (see Annex). With the adoption of Convention No. 190 and Recommendation No. 206 in 2019, and with a "safe and healthy working environment" being a fundamental right at work since 2022,[81] the ILO, in particular, is in a strategic position to provide guidance and tools, and it does so in various contexts. Alongside several guidelines and templates at global level,[82] the ILO provides country-specific guidance on V&H, primarily through development

⧨⧨ The social partners can play a central role in further tailoring V&H-related support to the specific needs of their members and/or sectors.

cooperation encompassing various forms of assistance to strengthen technical, organizational and institutional capacities of governments, employers and workers.[83] Also, the supervisory system of the ILO can be considered a form of guidance, at least for governments, as it regularly examines the application of standards and points out areas where they could be better applied (see also section 2.5).[84]

Further instruments are developed at regional level. One example in Europe is the European Agency for Safety and Health at Work (EU-OSHA). Alongside several guidelines and infographics on the topic (for example, EU-OSHA 2002, 2003, 2014, n.d.), it has developed a series of Online Interactive Risk Assessment (OiRA) tools, which take account of psychosocial risks, and hence V&H, and are used by thousands of enterprises across the European Union (EU-OSHA 2021).

3.7.2. The role of national OSH policies

Alongside guidance and tools, a further factor that may influence how effectively V&H is prevented and addressed is the extent to which V&H is "addressed in relevant national policies, such as those concerning occupational safety and health, equality

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79 Although these codes of conduct do not have the same authority as codes issued by governments, their violation may still come with consequences, such as membership loss; they can also become a shared reference or framework and may, for example, be usefully addended to contracts or otherwise widely communicated in the sector. For instance, as a condition of membership, all members of the Australian Live Performance Industry must abide by the *Code of Practice to Prevent Workplace Discrimination, Harassment, Sexual Harassment and Bullying* (Australian Live Performance Industry 2018).

80 For instance, expert informants and regulators in Australia, who were interviewed by Potter et al. (2019a), revealed that they referred to international polices in their roles to guide organizations in managing psychosocial hazards.

81 See also ILO Declaration on Fundamental Principles and Rights at Work, Section 2.

82 See the Annex for an overview of selected ILO guidance and tools, some of which have been created in collaboration with other international organizations such as the World Health Organization. Ongoing work is also centred around (among other things) new practical tools, for instance on risk assessment.

83 These various forms of assistance range from conducting trainings and institutional capacity-building to developing guidelines. For instance, the ILO supports constituents in Bangladesh and Jordan in conducting free training on gender-based violence, and (in the case of Jordan) in creating a complaints mechanism and follow-up procedures. The ILO Country Office in Argentina, meanwhile, has developed a guide for domestic workers that includes recommendations in relation to V&H.

84 Dialogues on preventing and addressing V&H in the world of work might not be confined only to the recently adopted C.190, but also to standards such as the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Domestic Workers Convention, 2011 (No. 189), both of which contain provisions on V&H.

and non-discrimination, and migration" (C.190, Article 11(a)). In terms of OSH, national policies are key governance instruments that aim to promote basic principles guiding action on OSH at both national and enterprise levels (C.187, Article3(3)) and ultimately to prevent work-related accidents and injury to health "by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment" (C.155, Article 4(2)).

Yet, as a glance at the countries reviewed in depth shows, these policies function (if at all) less as a source of guidance on preventing and addressing V&H than as a means to raise general awareness of the importance of the topic in OSH. While the majority of countries reviewed in depth have developed national OSH policies,[85] only Denmark, El Salvador, Ireland and Spain underline the importance of psychosocial risks in their national OSH policies, and only Denmark and Spain make explicit (albeit brief) reference to V&H.[86] Thus, in the case of Spain, the national OSH policy states that the basic principle is to "contribute to the integration of all groups by fighting against all forms of discrimination, harassment and violence in the workplace" (Spain, INSST 2023, 52).

3.7.3. Awareness-raising initiatives

National efforts to raise awareness both about the availability of guidance and tools and also about the phenomenon itself are yet another pivotal factor influencing the effectiveness with which V&H is prevented and addressed in the world of work.

In the EU, for instance, it was found that lack of awareness in companies was a major barrier to establishing procedures to deal with V&H (EU-OSHA 2022). Accordingly, Convention No. 190 requires States to ensure that "initiatives, including awareness-raising campaigns, are undertaken" (Article 11(c)). Such initiatives have proved to encompass various efforts around the world, including:

► the establishment of observatories to inform the public about the prevalence of V&H and to develop guidance and tools;[87]

► coordination initiatives on capacity-building efforts;[88]

► public reward initiatives;[89]

► funding initiatives;[90] and

► awareness-raising, communication and outreach campaigns.[91]

Differentiating such initiatives from the aforementioned guidance and tools is not always easy. Guidance and tools are often products of such concerted and collective initiatives. Also, raising awareness about the scope and effects of V&H and about measures to tackle it is an integral objective of guidance and tools (see sections 3.3 and 3.5.2). Nevertheless, initiatives including awareness-raising campaigns complement guidance and tools in so far as they contribute to increased public awareness about V&H in general, and about the availability of guidance and tools in particular, and hence lead to a greater uptake of the latter.

In the final analysis, efforts to tackle V&H in the world of work are influenced by the context in which they take place. Such macro-environmental

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85 Argentina, Bangladesh, Denmark, El Salvador, Georgia, Ireland, Kenya, Malaysia, New Zealand, Rwanda, Singapore, South Africa, Spain, United Republic of Tanzania.

86 Denmark, Strategy 2020 states that the development of an executive order on V&H is a priority.

87 For instance, Spain: Observatorio Vasco sobre Acoso y Discriminacion; Argentina: Observatorio de Violencia Laboral.

88 For instance, in Nepal a Convention No. 190 Action Group has been established, which coordinates capacity-building activities for employers' and workers' organizations (ILO 2021b).

89 For instance, in Taiwan (Sexual Harassment Prevention Act of 2009, Art. 5), Ecuador (Secure Company Seal) and Malta (Malta, NCPE 2017), certifications and awards are given to organizations that promote V&H-free workplaces.

90 For instance, the Workplace Harassment and Violence Prevention Fund of the Government of Canada is investing $3.5 million annually in projects that will create safer workplaces for federally regulated employees; partner organizations receive funding to co-develop sector-specific tools and resources that address these workplace issues (Government of Canada 2020).

91 For instance, the Tunisian Occupational Safety and Health Institute conducted outreach campaigns on psychosocial risks (Tunisia, ISST 2012). The Australian Stop the Violence Campaign aimed to raise awareness about incidents of violence and aggression against healthcare workers in hospitals and other public health facilities and to encourage patients and visitors to consider the impact of their actions on others. Posters and videos were widely disseminated, and radio announcements conducted. Meanwhile, in Denmark the campaign "Where's the Limit?" aimed to bring into focus the prevention of sexual harassment in the workplace. As part of the campaign, a website was set up to provide materials, campaign videos, etc. dealing with the subject (BFA Industri, n.d.).

factors encompass the political climate as much as the business ethics in a given country.[92] In fact, employers in countries around the world are increasingly expected to promote workers' health and to act responsibly. This notion of corporate social responsibility might spur and encourage effective management of psychosocial risks including V&H, although research is still scarce on this matter (Jain 2018). Societal and cultural norms further influence the perception of what constitutes V&H and the degree of acceptance of such behaviours (IFC 2019; ILO 2022). At the same time, social movements such as #MeToo may help to sensitize public perception and to encourage workplace interventions on V&H (Houseman 2019).

▶ 3.8. Conclusion

Countries around the world have produced a variety of guidance and tools at national level to help relevant actors – and particularly employers – to prevent and address V&H within their various areas of influence. Instruments include codes of practice, guidelines, national standards, training programmes and materials, practical tools, and information and consultation services.

These types of guidance and tools can complement legal instruments on V&H in various, multifaceted ways. They help to communicate and clarify legal provisions on V&H, bring together otherwise fragmented hard and soft law instruments, and serve as a single access point for all legal provisions on V&H in the world of work. Meanwhile, guidelines and codes of practice, in particular, have further specified the duties, responsibilities and processes provided for by legislation, and concretized the particular steps that are needed and/or how to implement them; in this way, they have also taken into consideration the specifics of the organizations involved, their sectors, the work occurrences and/or the different forms of V&H. Most of the countries reviewed have also developed practical tools to assist and facilitate the implementation process of legal provisions. Lastly, guidelines, standards and particularly codes of practice have been used in several countries to complement and broaden the scope and sphere of otherwise silent or implicit legal instruments in relation to V&H. They help to apply legislation to the case of V&H and hence serve as a substitute for, or precursor of, yet-to-be-formulated legislation on V&H.

To take advantage of this multifaceted role, countries thus need to use multiple instruments and various types of guidance and tools. For instance, effective communication and translation of legislation into practice require multiple communication channels such as accessible guidance formats and practical tools, as well as in-person communication channels and individual support services, in order to reach all employers, including smaller businesses without internal human resources departments (FrankAdvice 2021). Moreover, in several instances, guidance and tools fail to tap their full potential to complement legislation by not further specifying precisely how certain instruments can be implemented in detail.

As regards the content, OSH instruments play a pivotal role in guidance and tools on V&H. Eleven of the 20 countries reviewed in depth explicitly promote OSH management systems in relation to V&H, while elements of such management systems are generally central topics in guidance and tools around the world. These include workplace policies and risk assessments, and particularly (guidance on) training and information for workers, and risk control measures in relation to V&H.

Furthermore, several pieces of guidance and tools have been developed to deal with specific work situations and with specific risks of V&H arising from these work situations. Such specification is not common practice across countries, however, and it is particularly rare in the case of V&H in connection with ICT and domestic violence.

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92 In India, for instance, there is a common perception at the policy level that interventions for psychosocial risk management are expensive, which is one reason for the low prioritization of these issues at policy level (Jain 2018).

Countries tend to differ considerably in the number of pieces of guidance and tools available at national level. While no obvious pattern can be detected in relation to ILO regions, legal systems or whether or not a country has ratified OSH-relevant ILO Conventions (C.155 and/or C.187, or even C.190), there seems to be a tendency in relation to income level, with high-income countries such as Canada, Denmark, Ireland, New Zealand and Spain tending to offer more guidance and tools on V&H than other income groups.

Having a diverse range of guidance and tools is advantageous because it creates a comprehensive and customized support system for both employers and workers and allows appropriate good practice in different organizational contexts to be highlighted (Iavicoli et al. 2014). At the same time, such a diverse range requires more coordination and consultation between the public authorities responsible for authoring guidance and tools, so that they avoid duplicating their efforts and outputs and ensure that the guidance and tools they create complement each other in focus and content.

Certainly, guidance and tools have their limitations. They may lack the legitimacy and robust enforcement mechanisms offered by legislation and hence may lead to selective uptake, which – in the case of otherwise implicit or silent legislation – could contribute to OSH inequalities across regions, industries and/or work sectors (Leka and Jain 2022; Malachowski, Kirsh and McEachen 2017). Also, there is still very little evaluation of the effectiveness of guidance and tools (Leka et al. 2015) – more research is needed in order to better understand the effects of different types of guidance and tools on preventing and addressing V&H.

Yet even if guidance and tools do not necessarily translate into use, implementation and effective preventive action, they are still an essential precursor. This may be especially true in countries that lack an adequate enforcement framework to effectively translate law into practice and/or have limitations in the scope of their existing law (Jain 2018). Furthermore, guidance and tools are an important enabler and driver of an inclusive, integrated and gender-responsive approach to preventing and addressing V&H. They are used to specify (otherwise general) legal provisions and tailor them to the needs and vulnerabilities of different individuals and groups, sectors or work occurrences. At the same time, they help to concentrate and integrate the provisions of different legal frameworks and thereby contribute to a more coordinated approach to preventing and addressing V&H in the world of work.

In all of this, however, there is no one-size-fits-all approach. The suitability of guidance and tools depends not only on the organizational context but also on the national context, including the level of awareness of the nature and impact of psychosocial risks and V&H, administrative capacities, industrial relations and legal context. Indeed, the complex and multifaceted nature of managing psychosocial risks and V&H mandates a contextually sensitive approach in which guidance and tools are in harmony with regulatory instruments and the prevailing conditions (Iavicoli et al. 2014).

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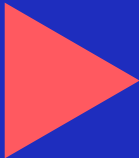———. 2014. "Managing the Risk of Work-Related Violence and Aggression in Healthcare: Information Sheet".

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4

**Tackling violence
and harassment at work:
Country-level responses**

Data

play a pivotal role in improving legal and policy responses through OSH.

▶ Key messages

- ▶ The seven country studies are important in understanding the functioning of laws, policies and implementing measures in a more integrated way; they also lead to improved knowledge of the different ways to promote occupational safety and health (OSH) frameworks in relation to violence and harassment (V&H), and of the challenges involved in doing so.

- ▶ The countries reviewed differ considerably in their approaches to preventing and addressing V&H through OSH. El Salvador and Denmark explicitly include V&H in their OSH legislation, with the latter providing a strong legal framework specifically designed to address V&H; Spain's OSH legislation implicitly addresses V&H; and the OSH legislation of Georgia, Barbados, Bangladesh and Tunisia remains mostly silent on these matters.

- ▶ These approaches show that embedding V&H and/or psychosocial risks in OSH legal frameworks, as in the case of Denmark and El Salvador, encourages a more systematic analysis and management of wider organizational, social and environmental hazards in relation to V&H, as compared to other legislations. In fact, V&H-related provisions in the reviewed countries, which are embedded in legislations other than OSH, such as non-discrimination/equality and labour/employment legislation, tend to be detailed on recourse and redress, but less specific on prevention at the level of undertaking.

- ▶ These different approaches also underline that guidance and tools are necessary to make implicit legislation work effectively. Nevertheless, given the non-binding nature of guidance and tools, a legal basis to integrate V&H concerns into an OSH framework remains essential in order to ensure clarification, nationwide implementation and uniform application.

- ▶ Even or especially in the absence of explicit legislation, providing guidance and tools to prevent and address V&H through OSH involves multiple actors, particularly in Bangladesh, Denmark and Spain; these range from public authorities and the social partners to civil society and private actors.

- ▶ National data on V&H collected through national surveys and from administrative sources help to monitor and improve legal and policy responses through OSH. However, national data collection systems usually have shortcomings, either because they are not comprehensive or because data on V&H in the world of work are not sufficiently disaggregated and/or regularly collected.

- ▶ The complexity of V&H and its causes, as well as its dynamic nature, requires continuous monitoring and evaluation, improvement, and adaptation to new developments and the specific needs of the undertaking.

▶ 4.1. Introduction

As was apparent from Chapters 2 and 3, there is great diversity among countries in the way violence and harassment (V&H) has been addressed through occupational safety and health (OSH). Not only do OSH legislations across countries differ in their scope of coverage and level of detail when it comes to work-related V&H, but also guidance and tools take various forms. This chapter takes a closer look at OSH legislation, national policies, and guidance and tools in seven selected countries: Bangladesh, Barbados, Denmark, El Salvador, Georgia, Spain and Tunisia. These countries were selected to ensure a well-rounded representation, both geographically and in terms of their diverse characteristics. Diversity, in this context, relates to different regions, levels of economic development, legal traditions and levels of commitment to the promotion of ILO Convention No. 190 (as expressed by a country's ratification, or not, of C.190).

The detailed review of such a heterogenous sample aims not only at understanding the functioning of laws, policies and implementing measures in a more integrated way, but also at gaining improved knowledge of the different ways and contexts in which OSH frameworks have been promoted in relation to V&H, and of the challenges encountered in doing so. In this way, the more comprehensive and integrated perspective adopted in this chapter complements the findings of the global desk research described in Chapters 2 and 3.

In the following, for each country, a nuanced picture of the country-specific practices and (where applicable) challenges in applying the OSH framework to prevent and address V&H is presented. This picture is complemented with a discussion (where applicable) of the institutions involved, such as labour inspections (see box 4.1). Other legal instruments that lie outside the OSH legislation, where they contain further complementary provisions on work-related V&H, are also analysed.

The country studies will also discuss the availability and relevance of data collection systems,[1] as well as of the wider support system at national level, encompassing guidance and tools from various actors. The role of the social partners, in particular, will be analysed in this context, as will their role in providing relevant collective agreements on these matters, where applicable.

> ▶ **Box 4.1. Types and scope of labour inspections**
>
> In general, labour inspectorates are indispensable in ensuring effective implementation of and compliance with OSH laws through enforcement, advice, inspection, accident investigation and reporting of issues detected. These functions may be regulated by means of labour law (as in Bangladesh, Georgia and Tunisia), a specific labour inspection law (as in Spain) and/or OSH law (as in Barbados, Denmark and El Salvador). Although the functions of most labour inspectors relate to any branch of labour law, some target OSH more specifically, or even exclusively. For example, the aim of the Danish Working Environment Authority (WEA) is to help create safe and healthy working conditions in Danish workplaces, and to this end it carries out its own inspections in companies (for more information on the WEA, see section 4.4). In relation to V&H, various measures have been taken to equip labour inspectorates with the necessary means to address the issue. For example, Georgia has established a separate Unit for Supervision of Workplace Discrimination, Sexual Harassment and Gender Equality to coordinate relevant action, while El Salvador, and particularly Spain, have issued guidelines and tools to assist labour inspectorates in addressing V&H in their work.

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1   Given the incomparability of data across countries (for reasons explained in Chapter 1), the sections on data collection systems below will not discuss the prevalence of V&H in the world of work.

The country studies upon which this chapter is based were carried out by national experts.[2] For each country, the national experts conducted desk research of national legislation and of guidance and tools in relation to work-related V&H. In the case of Bangladesh, Barbados, El Salvador and Georgia, the desk research was supplemented by interviews with key informants (either government officials or from the social partners) in the countries concerned, in order to retrieve otherwise inaccessible data and information and thus to complement and validate the findings of the desk research. Based on the specific context, the national experts also developed country-specific recommendations, which were recognized and reflected in the formulation of the general, policy-oriented recommendations in Chapter 5.

▶ 4.2. Bangladesh[3]

Bangladesh is a common-law country in which juridical decisions have the authority of law, are an important source of law, and thus play an important regulatory role.[4] This also holds true of OSH and V&H, as the High Court Division of the Supreme Court of Bangladesh issued Directives on Sexual Harassment for all workplaces in both public and private sectors in 2009. Some of its provisions were included in legislation in 2022. Meanwhile, following the disastrous collapse of Rana Plaza, a commercial building in the Dhaka District, in 2013, dedicated national and international efforts have been made to improve OSH, particularly in the garment sector, which accounts for 20 per cent of Bangladesh's gross domestic product (GDP). Yet despite these recent efforts and considerable progress on OSH, Bangladeshi legislation on V&H has several limitations in tackling V&H (as described below), as well as facing the challenge of addressing the informal economy, which employs 95 per cent of the labour force (ILO 2023).

4.2.1. The role of OSH legislation in tackling work-related violence and harassment

OSH in Bangladesh is primarily regulated through labour law, called the Bangladesh Labour Act (BLA), which is supervised by the Department of Inspection for Factories and Establishments.[5] It is further specified by hazard- and sector-specific regulations such as the Fire Prevention and Extinction Act (2003) and the Ship Breaking and Ship Recycling Rules (2011). Moreover, the Government of Bangladesh adopted the Bangladesh Labour Rules 2015, to provide more details on the provisions of the BLA, including on specific OSH provisions. In any conflict of interpretation, the BLA has greater legal authority than the Rules. The BLA covers all workers in formal employment, including apprentices.[6]

Sections 51–88 of the BLA establish the main provisions for OSH management, and the respective responsibilities of employers, workers and labour

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2 The national experts are renowned academics working in their respective countries in the fields of OSH and/or work-related V&H; they were selected in consultation with ILO specialists in the field or through tender processes.

3 This section is based on a country study of Bangladesh commissioned by the ILO and prepared by Taslima Yasmin, Associate Professor at University of Dhaka; the study reviews Bangladesh's laws, policies, guidance and tools addressing V&H, with a focus on the OSH framework.

4 In civil-law systems, by contrast, codes and statutes are designed to cover all eventualities, and judges have a more limited role of applying the law to the case in hand.

5 Bangladesh Labour Act 2006 [ACT NO. XLII OF 2006].

6 Workers in export-processing zones in Bangladesh are exclusively covered by the Export Processing Zones Labour Act 2019, which has similar OSH provisions to the BLA.

inspectorates.[7] However, the provisions primarily centre around hazards related to physical health and safety, such as those arising from cleanliness, machinery or inflammable substances, and there is no reference to psychosocial risks or to V&H in the world of work. The only provisions of the BLA that implicitly deal with V&H against women are section 109, which prevents a woman being made to work at night without her consent; and section 332, which provides that "where any woman is employed in any work of any establishment, whatever her rank or status may be, no person of that establishment shall behave with her [in a way] which may seem to be indecent or unmannerly or which is repugnant to the modesty or honour of that woman". Obligations to prevent V&H in the workplace cannot be inferred from the BLA, and the Department of Inspection for Factories and Establishments does not have any executive authority to take direct action against a breach of section 332.[8]

Meanwhile, in 2009, the High Court Division of the Supreme Court of Bangladesh issued Directives on Sexual Harassment for all workplaces and educational institutions in both public and private sectors. The Directives request that all organizations form complaint committees to receive sexual harassment-related complaints, conduct investigations and make recommendations. They also provide for preventive measures, such as regular training and information dissemination on gender equality and on the prohibition of sexual harassment, and place a general obligation on employers to ensure a workplace that is not hostile to women employees. However, they do not give a clear definition of sexual harassment,[9] nor do they require a workplace policy on sexual policy or impose an obligation to assess and control risks of sexual

▟▛   **The Supreme Court of Bangladesh has played an active role in calling for prevention of sexual harassment, influencing changes in labour law.**

harassment, as required by Convention No. 190. Moreover, while directives issued by the High Court Division are (as per the Constitution) to be considered as law, there is no enforcement mechanism to implement court directives other than a contempt order from the court, which is rarely used. Thus, the implementation of the 2019 Directives remains mostly weak, as a recent study confirmed (Nari 2019). And even if implemented, the effectiveness of complaint procedures seems to be limited, because of the social stigma attached to making complaints and the legitimate fear of losing one's job (ILO 2017).

In September 2022 the provisions of the High Court Division Directives were partly included in the amended Bangladesh Labour Rules 2015, with the addition of a new supplementary rule 361A under section 332 of the BLA. While certain provisions of the Directives were not included,[10] a new provision to include a workplace policy on sexual harassment was added. According to the expert community, the Directives are still the law since the Rules, as an executive order, carry much less force.

While the above legal instruments contain certain provisions on preventing and addressing sexual harassment, other legislations complement them in relation to remedies and sanctions. While the

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7   Neither occupational safety not health is further defined in the BLA.

8   The labour inspectors, moreover, are also not given any authority to issue an interim order against non-compliance, while the only remedy against such breach is to lodge a complaint in the Labour Court.

9   The Directives only provide a list of examples of acts that can amount to sexual harassment without defining the term as such:

Sexual harassment includes a. Unwelcome sexually determined behaviour (whether directly or by implication) as physical contact and advances; b. Attempts or efforts to establish physical relation having sexual implication by abuse of administrative, authoritative or professional powers; c. Sexually coloured verbal representation; d. Demand or request for sexual favours; e. Showing pornography; f. Sexually coloured remark or gesture; g. Indecent gesture, teasing through abusive language, stalking, joking having sexual implication. h. Insult through letters, telephone calls, cell phone calls, SMS, pottering, notice, cartoon, writing on bench, chair, table, notice boards, walls of office, factory, classroom, washroom having sexual implication. i. Taking still or video photographs for the purpose of blackmailing and character assassination; j. Preventing participation in sports, cultural, organizational and academic activities on the ground of sex and/or for the purpose of sexual harassment; k. Making love proposal and exerting pressure or posing threats in case of refusal to love proposal; l. Attempt to establish sexual relation by intimidation, deception or false assurance. (Section 10, 2011 BLD (HCD) 31)

10 For instance, constituting the complaint committee with external members and ensuring monitoring and accountability of the employers in case of any non-compliance.

> ▶ **Box 4.2. The challenges of covering the informal economy**
>
> In Bangladesh 95 per cent of the labour force is employed in the informal economy, according to the 2017 Labour Force Survey (ILO 2023). However, the BLA and its OSH provisions are limited to workers in the formal sector. And while the High Court Division Directives more broadly cover all workplaces and educational institutions in both public and private sectors, it is still not suitable for informal employment, as most of the key provisions presuppose institutionalized structures for workplaces (such as instalment of committees and regular communication with administrative authorities), according to the interviewed expert community. Yet efforts have been made to address informal workers in national policies. The National Occupational Safety and Health Policy 2013 aims to improve OSH measures for all persons employed in the formal and informal sectors (Clause 2 states that all formal and informal sectors, including industries, factories, business, agriculture, agricultural farms and all other workplaces, are covered by the policy). Meanwhile, the Domestic Workers Protection and Welfare Policy 2015 highlights the need for protection of domestic workers from all forms of V&H. However, these objectives have been translated into practice only to a limited extent, and efforts to implement the Domestic Workers Policy, in particular, have been scarce.

Penal Code 1860 penalizes primarily physical forms of violence, violence against women is filed under the Prevention of Women and Children Repression Act 2000, and physical, psychological and sexual domestic violence under the Domestic Violence (Prevention and Protection) Act 2010. While generally covering all forms of violence, they are also applicable to victims of work-related V&H. However, extending protection against V&H to the large majority of the labour force working in the informal economy has presented particular challenges, which to date have been met with limited success (see box 4.2).

4.2.2. Relevant instruments outside the legal framework

Complementary to the aforementioned legal instruments, a few pieces of practical guidance and tools on preventing and addressing V&H exist in Bangladesh, albeit with limitations in their scope. Government efforts have mainly centred on awareness-raising training,[11] and less on written guidance materials or tools.[12] Thus, materials that further specify High Court Division Directives on sexual harassment or elaborate on other types of V&H are lacking. Meanwhile, in the wake of major fire incidents in Bangladesh in recent decades, trade unions and employers' organizations, in particular, have focused their support on physical health and safety issues and have remained relatively inactive on workplace V&H, according to the interviewed expert community.

An important role, in this regard, has been played by national and international civil society organizations, such as the Shojag Coalition, the Awaj Foundation and the Fair Wear Foundation,[13] as well as by projects set up by international organizations such as Better Work and the ILO (see box

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11 In its National Plan of Action on Occupational Safety and Health 2021–2030, the Government has committed itself to conduct awareness-raising training for employers and workers to prevent, among other things, V&H. The content of such training is not further explained. Moreover, with assistance from the United Nations Population Fund, the Ministry of Labour and Employment has been carrying out the Gender Equality and Women's Empowerment at Workplace initiative since 2017. The initiative focuses on the ready-made garment industry, the footwear industry and the tea estates. Its objectives include developing strategies to explicitly address gender-based violence at work and instructing labour inspectors and police officers on how to deal with it and disseminate information on sexual and reproductive health.

12 A labour inspection checklist was developed in support of the ILO, which contains three questions relevant to V&H. However, these questions focus solely on complaint mechanisms (whether there is any effective complaint mechanism available against physical, psychological or sexual harassment in the establishment; whether women workers are aware of the complaint and investigation procedure; and whether they face any restraints when filing complaints). Moreover, there is no inspection manual that defines physical, psychological or sexual harassment, as given in the checklist.

13 For details, see Shojag Coalition (2022) and Awaj Foundation (2018); on the work of the Fair Wear Foundation, see Nari (2021).

> ▶ **Box 4.3. Instruments to improve working conditions of Bangladeshi migrant workers**
>
> Bangladesh has developed several policy instruments to protect Bangladeshi migrant workers from abuse in other countries. For instance, the Overseas Employment and Migrants Act 2013 prohibits any form of discrimination against Bangladeshi citizens working in a foreign country (Section 6) and grants migrant workers the right to be informed about the migration process, employment contract, or the terms and conditions of work overseas (Section 26). Similarly, memoranda of understandings have been signed with the Republic of Korea and Malaysia to enhance employment conditions for Bangladeshi workers, while ILO-led projects such as the pilot programme for fair recruitment from Bangladesh to Qatar in the construction sector aim to improve employment processes. In fact, Bangladeshi workers under the pilot programme reported less tolerance of abuse from their employers or their employers' clients with whom they were placed for work (ILO 2021). Although such policy instruments do not directly refer to V&H, they contribute to addressing the psychosocial risks that lead to V&H.

4.3 for an example), as they have been particularly active in these matters, especially in the garment sector. They have provided awareness-raising activities, trainings and individual support to employers and workers on preventing and addressing work-related V&H, for instance by supporting the set-up of anti-harassment committees and complaint procedures. However, these efforts are mostly project-based and thus lack continuity, so coordination between the different projects has often been missing.

Beyond what has already been mentioned, there are also a number of national policies in Bangladesh that address V&H, the provisions of which are mostly directed at public authorities. For instance, the National Women Development Policy 2011 mandates the State to eliminate all forms of violence in the household, in society and in the workplace, among other things by "raising awareness in prevention of abuse of women" (Section 19.8), while the Domestic Workers Protection and Welfare Policy 2015 states that "under no circumstances can a domestic worker be subjected to abusive treatment, physical harm or psychological abuse by the employer" (Clause 7.10). And while neither the National Occupational Safety and Health Policy 2013 nor the National Labour Policy 2012 specifically addresses work-related V&H or

psychosocial risks, some of their provisions may allow a broader interpretation of OSH that includes such matters.[14] In this way, such policies may provide important direction for action, particularly at policy level. However, their influence on OSH governance and OSH management at workplace level remains limited, as they lack enforceability and their implementation, assessment and monitoring remain very weak, according to the interviewed expert community.

4.2.3. Availability and impact of data

Available data on V&H have increased in Bangladesh in recent years, and efforts have been made to improve data on the prevalence of V&H, although such data have their limitations. On the administrative side, the Department of Inspection for Factories and Establishments has published data on the number of labour law violations in relation to violence in the workplace that have been detected through inspections (DIFE 2021).[15] However, these data are not further disaggregated and thus lack sufficient detail on the incidents, their context and the sectors concerned.

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14 For instance, the National Labour Policy 2012 aims to create a decent, safe and healthy work environment for all workers, which is free from discrimination and suppression. The National Occupational Safety and Health Policy 2013 mentions the need to ensure safe working conditions for women, which, according to a national expert, could include, in a broader sense, issues of workplace violence. Meanwhile, the National Plan of Action on Occupational Safety and Health 2021–2030 and the National Action Plan on the Labour Sector of Bangladesh 2021–2026 explicitly refer to V&H – both plans oblige (primarily) public authorities to carry out certain activities in the area, such as campaigning, V&H reporting and training. Neither of them defines V&H, however.

15 "Violence at the workplace" is not further defined or disaggregated in the DIFE report.

Alongside administrative data, several ad-hoc research studies have been conducted on V&H in Bangladesh. However, they provide an incomplete, one-shot picture of the issue, with most focusing solely on the garment sector (for instance, Nari 2019, 2021; Shojag Coalition 2018; ILO 2020) and/or on violence against female workers (BILS 2019). Some of the studies were based on small sample sizes, while researchers collecting data on workplace violence based on larger sample sizes are often faced with non-cooperation from employer organizations and/or reluctance to share information on the part of workers who are fearful of retaliation. Meanwhile, there is no periodically conducted, representative survey in Bangladesh that would address V&H comprehensively, give a more nuanced and up-to-date picture of V&H, and hence effectively inform authorities in their decision-making processes.

▶ 4.3. Barbados[16]

Like other Caribbean countries, Barbados has OSH legislation that is primarily focused on physical hazards. The country has not ratified either Convention No. 155 or Convention No. 187, and as is shown below, Barbados's legal frameworks in general have several limitations in addressing V&H. At the same time, considerable efforts have recently been made to update legislation on the topic. One move was the adoption of a stand-alone law on work-related sexual harassment, called the Employment Sexual Harassment (Prevention) Act 2017. Another pivotal move was the ratification of Convention No. 190 in September 2022, which came into force in September 2023; this requires the enactment of legislation and is expected to improve data, guidance and tools on V&H.

▰▰   Barbados adopted a stand-alone law on work-related sexual harassment in 2017, which contains very detailed provisions for workplace policies.

4.3.1. The role of OSH legislation in tackling work-related violence and harassment

The OSH regulatory framework in Barbados consists of several acts and regulations. Of central importance is the Safety and Health at Work Act 2005 (hereafter the "SHaW Act"), which is complemented by several hazard-specific regulations, including on noise, workstations and washing facilities. OSH-relevant provisions can also be found in the Employment (Miscellaneous Provisions) Act 1977 and in stand-alone hazard-specific acts such as the Sexual Harassment (Prevention) Act.

With the exception of the Sexual Harassment (Prevention) Act, none of the aforementioned legal instruments expressly or implicitly addresses V&H or takes account of psychosocial risks. The SHaW Act and subsequent regulations focus solely on hazards and risks in relation to physical health and safety and the employer's associated duty of care.[17] Also, the very few court decisions that have addressed V&H in Barbados do not contain further interpretations of whether Barbados's OSH legislation covers V&H, but instead deal with the common-law remedy of constructive dismissal as a response to cases of sexual harassment by

16 This section is based on a country study of Barbados commissioned by the ILO and prepared by Dion Greenidge, Senior Lecturer, Executive Director and Chief Executive Officer of the Sagicor Cave Hill School of Business and Management at the University of the West Indies; the study reviews Barbados's laws, policies, guidance and tools in relation to V&H, with a focus on the OSH framework.

17 Safety hazards, dealt with in Part III of the SHaW Act, range from machinery to fencing, while Part IV deals with health hazards ranging from cleanliness to noise and vibration.

> ▶ **Box 4.4. Legal specifics on workplace policies in relation to sexual harassment**
>
> The Sexual Harassment (Prevention) Act contains specific and comprehensive provisions about the content of the Policy Statement against Sexual Harassment (Section 4(4)). Not only shall it contain (a) a definition of sexual harassment, and (b) the employees' right to employment free of sexual harassment, but also (c) the employer's commitment to make "every reasonable effort to ensure that no employee is subjected to sexual harassment".
>
> Further provisions deal with internal complaint processes. The policy statement shall (d) commit the employer to take disciplinary measures; (e) explain to employees how complaints may be brought to the attention of the employer; (f) guarantee non-disclosure of the names of the persons involved; and finally (g) inform employees about the provisions of the Act and about external complaint mechanisms.

managers.[18] Neither does legislation outside the OSH framework explicitly address work-related V&H.[19]

One exception is the Sexual Harassment (Prevention) Act, which contains certain OSH-relevant provisions on preventing and addressing sexual harassment at the level of undertaking.[20] Under this Act, employers in both private and public sectors are required to develop a comprehensive policy statement against workplace sexual harassment (see box 4.4) and to implement an internal, confidential complaints procedure. The scope of the Act is broadly defined, as provisions apply to all persons in the service of another person under a written or oral contract of service. At the same time, the workplace is limited to locations or places where persons are required to conduct the business of the employer or to which the person is sent for the purpose of training or attending a conference (Section 2).

The ratification of C.190 in 2022 will require the enactment of legislation. Yet while further groundwork at national level in connection with training, education and sensitization on a national level is expected to increase in the near future, consensus has yet to be reached within the Government on how to incorporate C.190 provisions into domestic laws. One possible option would be a stand-alone legislative instrument. Once enacted, other related legislation will be amended to ensure consistency in the wider regulatory environment, as is customary practice in Barbados.

4.3.2. Relevant instruments outside the legal framework

Alongside the aforementioned legal provisions, the number of instruments on work-related V&H is limited in Barbados, and this is especially true

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18 See *Wharton v. Bank of Nova Scotia BB 2013 HC 33* and *Bico Limited v. Jones BB 1996 CA 27*.

19 Non-discrimination legislation in Barbados may implicitly contribute to respectful, V&H-free organizational culture, by requiring employers to develop and disseminate a policy against discrimination (see Employment (Prevention of Discrimination) Act 2020, Section 35).

20 Section 3 of the Sexual Harassment (Prevention) Act provides a list of examples of acts that can amount to sexual harassment without legally defining the term as such:

  (1) For the purposes of this Act, sexual harassment includes
      (a) the use of sexually suggestive words, comments, jokes, gestures or actions that annoy, alarm or abuse a person;
      (b) the initiation of uninvited physical contact with a person;
      (c) the initiation of unwelcome sexual advances or the requests of sexual favours from a person;
      (d) asking a person intrusive questions that are of a sexual nature that pertain to that person's private life;
      (e) transmitting sexually offensive writing or material of any kind;
      (f) making sexually offensive telephone calls to a person; or
      (g) any other sexually suggestive conduct of an offensive nature.
  (2) Nothing in subsection (1) shall be interpreted as precluding a finding of sexual harassment where there is a single incident.

The Act covers such behaviour in "any location or place where persons work and include (a) any other location or place where an employee is required to conduct the business of the employer; or (b) any location or place to which that person is sent by the employer for the purpose of receiving training or attending a conference on the employer's behalf" (Section 2).

of guidance and tools. The Ministry of Labour, Social Security and Third Sector periodically conducts training seminars on the implementation of legislation and regulations (including the Sexual Harassment (Prevention) Act) and on best practices in implementing them. At the same time, there is room for the social partners to do more in this field. For instance, following the ratification of C.190, the Barbados Employers' Confederation (BEC), which is a central service provider for human resource management and OSH in Barbados, says that it may extend its service portfolio to the topic of V&H in the near future. Meanwhile, the social partners of the Caribbean (including BEC) have published minimum standards for workplace policies on gender-based violence in the Caribbean (CCL and CEC 2022).

Regarding the limited guidance and tools currently available, national policies may play a substantial role here, but fail to do so in the context of Barbados. Only the National Workplace Wellness Policy for Barbados has (albeit implicitly) addressed workplace V&H. Published in 2019, it is an overall strategic guidance to key stakeholders (including employers, public authorities and the social partners) that explores ways to strengthen mental and social well-being in the workplace, yet it does not outline any specific or articulated interventions to address V&H and associated psychosocial risks. The National Committee for Wellness, meanwhile, which coordinates implementation of the policy, aims to better operationalize the different wellness dimensions of the policy in the near future.

4.3.3. Availability and impact of data

Another challenge for the Barbados Government in designing and implementing effective legal and policy responses is the fact that available data on V&H in Barbados are currently not sufficient to adequately inform authorities in their decision-making processes. In fact, data are limited to two ad-hoc research projects (Abed, Morris and Sobers-Grannum 2016; Devonish 2017), which used relatively small sample sizes or focused on the healthcare sector only. No data collection system on V&H has been implemented to date, either using surveys or based on administrative sources. The Government planned to commence intersectoral stakeholder consultations on measurement, data collection and reporting, but these plans had to be postponed because of the COVID-19 pandemic.

▶ 4.4. Denmark[21]

As early as 1975, the Danish Government introduced the concept of the working environment into legislation, which means that all factors causing occupational accidents, sickness and attrition must be taken into consideration in the prevention work.[22] Since then, various pieces of guidance and tools have been developed to support employers, workers and authorities in improving both the physical and the psychological working environment, including controlling the psychosocial risks and V&H therein. Since 2019 the Danish Government and the social partners have reached a number of agreements to further improve the psychosocial working environment, and thereby to reduce V&H. These initiatives involved (i) a new working environment law; (ii) a tripartite agreement on national targets for the improvement of the working environment; and (iii) an executive order on the psychosocial working environment, which are discussed below. At the same time, guidance and tools have been developed to clarify and further specify legislation and to tailor relevant information to the specific needs of sectors and work occurrences.

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21 This section is based on a country study of Denmark commissioned by the ILO and prepared by the National Research Centre for the Working Environment; the study reviews Denmark's laws, policies, guidance and tools addressing V&H, with a focus on the OSH framework.

22 Denmark, Working Environment Act (No. 681 of 23 December 1975).

4.4.1. The role of OSH legislation in tackling work-related violence and harassment

OSH in Denmark is regulated through a stand-alone OSH law called the Danish Working Environment Act.[23] The Act is further elaborated and implemented by Executive Orders, which may be sector-specific or cross-sectoral. Both the Act and Executive Orders are supervised by the Working Environment Authority (WEA).

Until 2019 the Danish Working Environment Act implicitly addressed V&H through its objective, which was to create "a safe and healthy working environment". Explicit references to V&H existed merely in relation to workplace accidents and the associated reporting duties of employers. With its revision in 2019, the Working Environment Act explicitly included psychosocial risks; creating a "safe and healthy physical and psychosocial working environment" became its primary objective (section 1.1). Obligations associated with such psychosocial risks were clarified and specified through the Executive Order on psychosocial working environment, which came into force in 2020.[24] Among other things, this Order explicitly recognizes V&H as a psychosocial risk and provides that, with regard to offensive actions and work-related violence, "work must be planned, organised and executed responsibly with due regard to health and safety in both short and long term" (sections 22 and 26).

Offensive actions (*krænkende handlinger*) are defined in the Order as "situations where one or more persons grossly or several times expose one or more other persons in the company to bullying, sexual harassment or other degrading behaviour in the workplace. The behaviour must be perceived as degrading by the person being subject to this behaviour" (section 23). Meanwhile, work-related violence (*arbejdsrelateret vold*) refers to violent acts by third parties which include "physical violence in the form of attacks against the body and psychological violence in the form of threats and other offensive behaviour, including harassment"

(section 25). These definitions are comprehensive enough to cover occurrences of V&H as defined by Convention No. 190.[25]

Both the Act and the Executive Order apply to any work performed for an employer, regardless of the nature and duration of the employment relationship, as well as to work which is not performed for an employer. Moreover, the Order addresses work-related violence outside working hours (sections 31–34), such as violence by clients outside working hours; other work occurrences, such as those defined in Article 3(a)–(f) of C.190, are not explicitly specified in the legislation, although guidance given by the WEA clarifies that "work-related" is to be interpreted in broad terms: offensive behaviour can occur in several situations, such as digitally, outside the workplace, and in temporary and changing workplaces (Denmark, WEA 2020b).

In order to prevent V&H, OSH legislation imposes several obligations on both employer and employee. One central element is risk assessment and control. The Working Environment Act requires employers to prepare a written risk assessment of the health and safety conditions in the workplace and to involve employees throughout the whole process (section 15a). The Executive Order on psychosocial working environment further specifies this obligation in relation to V&H. For instance, the risk assessment should take into account not only the likelihood and nature of work-related violence and preventive measures, but also other work environment aspects that might increase the risk of work-related violence (section 27).

The Executive Order also includes risk control measures for specific hazards of V&H. For instance, if working alone may lead to a special risk of violence for the person concerned, the work "must be arranged in such a way that the special risk of violence is countered. If the special risk of violence cannot be countered, the employee must not work alone" (section 29).

The Danish OSH legislation puts great emphasis on informing and training managers and employees. It is required that employees be informed about risk control measures planned and taken

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23 Denmark, Working Environment Act, last amended 2021 (No. 2062 of 16 November 2021).

24 Denmark, Executive Order No. 1406 of 26 September 2020 on psychosocial working environment.

25 Although gender-based V&H (C.190, Art. 1.1(a)) is not explicitly mentioned in the Executive Order, it is implicitly addressed through the "degrading" characteristic of offensive actions.

and receive "adequate and appropriate training and instruction to carry out the work with due regard to health and safety" (section 10). Indeed, it is explicitly required that work situations with a particular risk of violence should only be accessed by employees who have received appropriate training (section 30). If offensive actions or violent incidences occur, the Executive Order obliges employers to offer assistance to employees who have experienced work-related violence outside working hours in making a possible police report of the incident (section 34).

The aforementioned OSH legislation has been complemented by agreements with the social partners. In 2019 the Government and the social partners agreed on a new tripartite agreement on the working environment. One of its core aims is to substantially reduce the number of employees exposed to offensive actions and to violence at work. All the social partners are required to contribute to this aim, while special attention is focused on sectors with the highest incidence of offensive behaviour and violence.[26]

� **Denmark offers a comprehensive support system for both employers and workers; social dialogue plays a central role in this.**

Overall, OSH legislation in Denmark offers a comprehensive approach to tackling work-related V&H. Recently, however, there have been calls for, and attempts to create, stronger synergies with other disciplines and thus to take a more holistic approach. For instance, the Danish Health Authority (2020) recommended that efforts to prevent violent incidents in elderly care should be linked with efforts to improve the quality of care and health of elderly citizens – and hence to enhance health and safety for both elderly citizens and employees. Another example is the tripartite agreement made in 2022 on initiatives to counter sexual harassment in the workplace. It includes 17 initiatives that set out effective tools to prevent and address sexual harassment, including actions to establish an

alliance with relevant organizations in the labour market, the education sector and civil society with a view to preventing sexual harassment.

4.4.2. Relevant instruments outside the legal framework

To complement the aforementioned OSH legislation on V&H, various actors in Denmark have developed a wide and comprehensive range of guidance materials and tools for employers and employees. Both public authorities and the social partners play a central role in this, albeit with a slightly different focus. While public authorities tend to offer more cross-sectoral, technical guidance and tools, which help to clarify and further specify OSH legislation on V&H, the social partners often tailor the information they produce to the specific needs of sectors and work occurrences. Sector working environment committees (SWECs), which are evenly composed of employers' and employees' representatives, support workplaces with various materials such as guides, interactive games and short videos addressing V&H in specific work environments (such as kiosks, banks and prisons). Moreover, as part of the aforementioned tripartite agreement, SWECs are required to actively guide workplaces and to support them in becoming more active in implementing workplace measures. For example, the SWEC Welfare and Public Administration provides in-person support through a team of consultants that companies can contact if they are interested in getting help with a more strategic approach to work environment activities, including activities specifically focused on V&H.

Nevertheless, despite this wide range of guidance and tools, organizations may still struggle to actually make use of these materials and to find good solutions for their specific challenges with regard to V&H. Research shows that a number of factors may prevent them doing so, ranging from a lack of resources (staff instability, insufficient time) to parallel change processes that draw heavily on resources (Jaspers et al. 2022). This makes it even more important that detailed and tailored information, alongside individual support and consultation services, is available to organizations.

26 1. Residential care institutions and home care; 2. Education; 3. Hospitals; 4. Day-care institutions; 5. Police, emergency services and prisons; 6. Passenger transport; 7. Hotel and camping (Denmark, Ministry of Employment 2020).

> ▶ **Box 4.5. The importance of data for improving legal and policy responses through OSH**
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> Collected data make it possible for Danish public authorities to identify developments and to increase preventive measures and activities when needed. Indeed, data are used by inspectorates not only to prioritize sectors for proactive inspection visits, but also to initiate appropriate new responses to work-related V&H. In 2016, for instance, the national survey showed a rising incidence of violence against Danish teachers. Accordingly, the Ministry of Education commissioned an in-depth research project on the reasons underlying this trend. Based on the results, materials were developed to support schools in their efforts to better handle and prevent conflicts with students. At the same time, the national survey is also used to monitor the implementation of the 2019 tripartite agreement for the working environment, which aims to substantially lower the number of employees exposed to offensive behaviour, violence or threats of violence at work.

4.4.3. Availability and impact of data

Data on V&H are extensively collected in Denmark. On the administrative side, the WEA publishes yearly statistics on registered work-related accidents,[27] which include both physical and psychological violence or threats thereof (Denmark, WEA 2020a). These data are disaggregated by gender, sector and perpetrator. Also, every two years the WEA conducts a representative survey on working conditions. This contains questions on the experiences of respondents in relation to (i) bullying, (ii) sexual harassment, and (iii) physical violence and threats within the last 12 months,[28] and there are follow-up questions on perpetrators (Denmark, WEA 2021). The large database allows disaggregation to the level of sector and job group.

Both the administrative sources and the national survey are supplemented by additional ad-hoc surveys from research institutes, the social partners and others in order to better understand the types of V&H and the situations in which exposure to it is most often experienced. Newly emerging risks and topics, which such supplementary research may identify, are eventually incorporated in the national survey.

While the collected data are vital in enabling public authorities to refine their legal and policy responses to work-related V&H (see box 4.5), such data do not offer a straightforward answer to the question of how effective their responses have been effective in preventing V&H. On the one hand, surveys indicate that the share of the workforce in Denmark exposed to V&H has not changed significantly in recent years. On the other, research shows that the success of workplace interventions is difficult to predict and assess, because their effectiveness is heavily influenced by contextual factors such as organizational culture and scope of implementation (Durlak and DuPre 2008; Karanika-Murray and Biron 2015).

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27 Employers are required to report all work-related accidents that result in sickness absence days. Reporting must be done as soon as possible and no later than nine days after the first day of absence.

28 In accord with the self-labelling method (explained in section 1.8), respondents are asked whether, within the past 12 months, they have been exposed to bullying, sexual harassment, physical violence or threat thereof. A definition of bullying is given. The answer categories are: 1. Daily; 2. Weekly; 3. Monthly; 4. Less often; 5. Never.

▶ 4.5. El Salvador[29]

The OSH legislation of El Salvador has been praised for being particularly progressive in the region. Indeed, the main OSH law, called the General Law for the Prevention of Risks in the Workplace (LGPR) 2010,[30] was hailed by scholars as "the greatest innovation in Salvadoran labour law in the last half century in terms of its purpose, scope of application, subject matter, infringements and the amount of fines" (Coca Muñoz 2014). While the LGPR contains rather broad provisions on psychosocial risks (including V&H), it is complemented in part by more detailed provisions in employment legislation. In June 2022 El Salvador ratified Convention No. 190, which came into force in June 2023.[31]

4.5.1. The role of OSH legislation in tackling work-related violence and harassment

OSH in El Salvador is regulated by the stand-alone OSH law LGPR and by two regulations – the General Regulations on Risk Prevention in the Workplace[32] and the Workplace Risks Management Regulations.[33] These instruments apply to all workplaces without any distinction according to type of employer (public or private), and no worker category is excluded.

The LGPR promotes a broad concept of OSH, covering not only physical and mental health, as stated in C.155, but also "social well-being of workers in all occupations and professions" (Article 7); "all risks

shall be prevented and controlled" (Article 3), with psychosocial risks being explicitly included.

Explicit references to V&H are fragmented, however. The LGPR "guarantees respect for the inherent dignity of persons and the right to a working environment free of violence in all its manifestations" (Article 3(6)). Yet, although V&H can be considered a psychosocial risk under the LGPR, the law is only partially explicit in this regard, as it only mentions sexual harassment and violence against women as explicit examples of psychosocial risks. In fact, the LGPR defines psychosocial risks as:

> *aspects of the conception, organization and management of work, as well as its social and environmental context that have the potential to cause social or psychological harm to workers, such as the management of employment relations, sexual harassment, violence against women,[34] the difficulty of reconciling work and family responsibilities, and all forms of discrimination in a negative sense. (Article 7)*

Generally, the OSH legislation contains comprehensive provisions on OSH risk management in the workplace, yet it remains rather broad on the specific management of psychosocial risks. According to the LGPR, each employer should adopt an Occupational Risk Prevention Management Programme, which includes the identification, evaluation, control and permanent monitoring of occupational risks. Companies must include in the Management Programme the "formulation of preventive and awareness programmes on violence against women, sexual harassment and other psychosocial risks" (Article 8(10)). The two regulations

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29 This section is based on a country study of El Salvador commissioned by the ILO and prepared by Elena Sychenko, Adjunct Professor at the University of Bologna, Italy; the study reviews El Salvador's laws, policies, guidance and tools addressing V&H, with a focus on the OSH framework.

30 El Salvador, Decreto Legislativo núm. 254 que dicta la Ley General de Prevención de Riesgos en los lugares de trabajo, 21.01.2010, Diario Oficial (Separata), 2010-05-05, núm. 82.

31 C.190 will play an important role in addressing V&H in the world of work in El Salvador. As a monist country, it is stipulated in article 144 of the Constitution that in the event of a conflict between a ratified international treaty and the law, the treaty shall prevail.

32 El Salvador, Decreto núm. 89 de 27 de abril de 2012 que aprueba el Reglamento General de Prevención de Riesgos en los Lugares de Trabajo.

33 El Salvador, Decreto núm. 86 de 27 de abril de 2012 que aprueba el Reglamento de Gestión de la Prevención de Riesgos en los Lugares de Trabajo.

34 The original Spanish formulation is: "*el acoso sexual, la violencia contra las mujeres*".

▰▰ In El Salvador, detailed provisions on V&H at work are found in non-discrimination and equality legislation as well as in labour and employment legislation.

mentioned above specify, in broad, outcome-based provisions, the content of such programmes and the instruments to control psychosocial risks. Among other things, they should include "measures for beneficial and respectful labour relations, … raising awareness of the causes and effects of violence against women and sexual harassment",[35] as well as measures to improve work organization, processes and working conditions.[36] The OSH legislation does not contain provisions on a specific workplace policy on V&H, on complaint and dispute resolution mechanisms, or on effective remedies in relation to V&H.

In this and other matters, the OSH legislation is complemented by provisions from other legislations, albeit often focused on gender-based violence. Under employment legislation, internal work regulations require all public institutions and agencies of the central Government to include "conflict management, gender-based violence, sexual harassment, harassment at work" in their annual training plans, to devise measures to prevent workplace harassment, intimidation and degradation, and to develop prevention plans that, among other things, incorporate mechanisms aimed at preventing sexist, discriminatory or sexually harassing behaviour.[37] Also, employers in the private sector are obliged to formally state to their employees that the use of verbal or non-verbal expressions that are violent or intended to intimidate women workers is prohibited.[38]

Meanwhile, the Labour Code obliges employers to "refrain from mistreatment in word or deed; sexual harassment, harassment at work and other types of violence contemplated in the Special Integral Law for a Life Free of Violence for Women (LEIV) 2011,[39] and situations of sexist discrimination, contemplated in the Law for Equality, Equity and Eradication of Discrimination Against Women (LIE)".[40] Furthermore, under the Labour Code, workers are entitled to take leave in specific situations related to V&H (see box 4.6).

The LEIV itself recognizes and guarantees the right of women to a life free of violence and provides protection of victims against retaliation at work (Article 24). It also outlines the responsibilities of various government bodies in promoting and protecting this right.[41] Complementary to this, the LIE requires the State to implement policies aimed at preventing and eradicating sexual harassment, harassment in the workplace, and harassment generated in labour relations.[42]

Collective bargaining tends to play a minor role in preventing and addressing work-related V&H in El Salvador. In fact, only a few collective agreements

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35 El Salvador, Decreto núm. 86 de 27 de abril de 2012 que aprueba el Reglamento de Gestión de la Prevención de Riesgos en los Lugares de Trabajo, Art. 55.

36 El Salvador, Decreto núm. 89 de 27 de abril de 2012 que aprueba el Reglamento General de Prevención de Riesgos en los Lugares de Trabajo, Art. 279.

37 El Salvador, Instructions on Labour Relations in the Executive Branch, Paras 7.8 and 8.6.

38 El Salvador, Dirección General De Trabajo: Instructivo para Elaboración de Reglamento Interno de Trabajo (2017), Chapter VIII.

39 Art. 9 of the Special Integral Law for a Life Free of Violence for Women 2011 (LEIV) lists six types of violence against women: economic, physical, psychological and emotional, patrimonial, sexual and symbolic. It also contains definitions of V&H against women, including harassment at work ("action of physical or psychological hostility, which is systematically and recurrently exercised against a woman because she is a woman in the workplace, with the aim of isolating, intimidating or destroying the communication networks of the person facing these acts, damaging her reputation, discrediting the work carried out or disturbing or obstructing the performance of her work" (Art. 8)); and violence at work ("actions or omissions against women, exercised repeatedly and sustained over time in public or private workplaces, that constitute physical or psychological aggressions against their integrity, personal and professional dignity, that hinder their access to employment, promotion or job stability, or that violate the right to equal pay for equal work" (Art. 10)).

40 El Salvador, Labour Code (Código de Trabajo), Art. 29(5).

41 For instance, State institutions directly responsible for detection, prevention, care, protection and punishment of violence against women must comprehensively train their staff in relation to these matters (Art. 27). Municipalities are obliged to periodically develop a Plan for the Prevention and Attention of Violence against Women, although work-related violence is not explicitly mentioned therein.

42 El Salvador, Law for Equality, Equity and Eradication of Discrimination against Women (LIE), Art. 25.

> ▶ **Box 4.6. Paid leave in cases of violence and harassment**
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> In certain circumstances, the Labour Code grants workers leave in relation to V&H. In cases in which any type of harassment and violence regulated in the LEIV or other laws in force that protects workers' rights in respect of acts of violence has been proven by a competent authority, the employer has to grant leave of absence in light of the "physical or psychological impossibility" of the worker caused by the aforementioned V&H (Article 29(6)(e)). Also, the employer has to grant paid leave to women to "comply with judicial or administrative proceedings, especially in family matters and in cases of violence against women" (Article 29(6)(f)).

address the topic,[43] and they mostly focus on general obligations of mutual respect or on prohibiting V&H against women. Also, the official guide to collective bargaining in the public sector does not mention V&H as a point for discussion between the social partners (SSGME 2013b).

4.5.2. Relevant instruments outside the legal framework

Guidance and tools on preventing and addressing V&H have mainly been developed by public authorities in El Salvador, so there is room for the social partners to do more in this regard. The available guidance and tools have limitations, too. They mostly focus on the public sector and on sexual harassment and violence against women.[44] Similarly, guidance developed for labour inspectors tends to be comprehensive about complaint processes in cases of sexual and gender-based harassment, yet unclear about other types of V&H (El Salvador, MTPS 2017, 2019). Comprehensive guidelines for the private sector, giving clear and detailed guidance on V&H in an area where there is only partially explicit legislation, are lacking.

This is also true of national policies in El Salvador. A few national policies address work-related V&H,

yet they do not contain articulated guidance on workplace interventions. While the National Policy for OSH from 2006 broadly reiterates the employer's obligation to assess and control psychosocial risks,[45] others anticipate the development of guidelines and protocols for action and coordination in cases of harassment against women at work,[46] or of special programmes of care for migrant victims of (sexual) violence.[47]

4.5.3. Availability and impact of data

Data on V&H are primarily collected through administrative sources in El Salvador, with the Ministry of Justice and Public Security publishing yearly data on (among other things) work-related harassment and sexual harassment against women and – from 2022 onwards – against men. The data are based on complaints of workers received by public authorities and are disaggregated by region, month and result of inspection (among other things) (El Salvador, MJSP, n.d.). Further data are also collected through ad-hoc research (ORMUSA 2021) and through legal advice and support services of non-governmental organizations (Mujeres Transformando 2017).

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43 For instance, Collective Bargaining Agreement between the Municipal Government of Juayua, Department of Sonsonate, and the Workers' Union (SITAMJ), 2017; Contrato Colectivo de trabajo entre el Sindicato de Trabajadores del Ministerio del Medio Ambiente y Recursos Naturales SITMARN, y el Ministerio del Medio Ambiente y Recursos Naturales.

44 For instance, the Government published a comprehensive guide in 2013 on how to prevent and respond to sexual harassment in the public sector (SSGME 2013a). Moreover, several public institutions (such as the Technical and Planning Secretariat of the Presidency) have published their own protocols for (internal) complaint, investigation and dispute resolution mechanisms; however, these protocols are only intended for their own staff (El Salvador, Secretario Técnico y de Planificación, n.d.).

45 El Salvador, Acuerdo núm. 93 por el que se promulga la Política Nacional de Seguridad y Salud Ocupacional (2006).

46 See the National Policy for Women's Access to a Life Free of Violence.

47 See the National Policy for the Protection and Development of Salvadoran Migrants and their Families.

These periodically available data give an important yet incomplete picture of the prevalence of work-related V&H in El Salvador. Incidents are rarely reported by workers to public authorities, particularly because provisions on protection from V&H are fragmented and law enforcement bodies have no specific protocol or procedure to follow in the case of V&H. Moreover, legislation does not require employers to report incidents of V&H. Finally, there are no periodic surveys that allow data to be collected directly from workers. For this reason, according to a national expert interviewed for this report, collected data have not yet had a significant impact on the formulation of legal and policy responses to V&H.

Regarding the assessment of the effectiveness of legal and policy instruments, the LEIV places certain requirements on the administrative data collection system: it should include a system of indicators and provide "an evaluation of the impact of the policies developed for the eradication of any type of violence against women, and of the actions implemented to guarantee comprehensive care for women who have been subjected to such violence" (Article 30). However, to date there has been no explicit information on the impact of policies on the elimination of violence against women.

▶ 4.6. Georgia[48]

The OSH legislation in Georgia has been comprehensively reformed in recent years. While, in 2006, labour relations were still marked by radical deregulation and the abolition of labour inspectorates that led to a sharp rise in workplace accidents, from 2013 onwards major reforms were enacted. Several amendments to the Labour Code were introduced in 2013, and an extensive reform of the Code took place in 2020. Some limited labour inspection functions related only to OSH were reintroduced in 2015, and this was followed by the establishment of a labour inspectorate with full responsibility for OSH and labour relations in 2021. Specifically in the area of OSH, the adoption of a new stand-alone OSH law in 2019 called the Organic Law of Georgia on Occupational Safety was the most significant development. Yet despite these considerable efforts, OSH has, to date, kept its primary focus on physical hazards and risks, as described below. Meanwhile, provisions on V&H are found in non-discrimination legislation, although their focus is on reactive mechanisms.

4.6.1. The role of OSH legislation in tackling work-related violence and harassment

The 2019 Organic Law of Georgia on Occupational Safety is the primary source of OSH regulation in Georgia. It applies to both private and public sectors and provides for systematic assessment and management of occupational risks in the workplace. Also, the Labour Code refers to OSH in generic terms: it guarantees the right to a safe and healthy working environment and requires employers to "provide employees with a work environment that is as safe and healthy as possible in respect of the life and health of the employees".[49]

However, neither the 2019 OSH law nor other OSH-related administrative legal acts explicitly refer to V&H,[50] nor do they stipulate assessment and management of psychosocial risks under OSH. This

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48 This section is based on a country study of Georgia commissioned by the ILO and prepared by Giorgi Mirtskhulava, labour market expert in Georgia; the study reviews Georgia's laws, policies, guidance and tools in relation to V&H, with a focus on the OSH framework.

49 Georgia, Labour Code (2010), Art. 45.

50 For instance, Georgia, Order No. 01-15/6 of 30 January 2022 on Approval of the Rule of Risk Assessment in the Workplace.

> ### ▶ Box 4.7. Interpretations of the implicit coverage of violence and harassment under OSH in Georgia
>
> While the Organic Law on Occupational Safety focuses on risks arising from physical, biological or chemical hazards, psychosocial risks are not acknowledged, and according to key informants interviewed for the country study, this is the case even if provisions are broadly interpreted. Greater scope for interpretation to include V&H and psychosocial risks is offered by the generic references to OSH in the Labour Code (which, as already mentioned, obliges employers to "provide employees with a work environment that is as safe and healthy as possible in respect of the life and health of the employees"). However, there is no precedent for such a broad interpretation, and in the view of the expert community, it is unlikely that there will be. Public authorities in Georgia are reluctant to interpret legislation broadly, as this is usually considered a legislative function, which falls within the competence of the Georgian Parliament, while interpretation of the laws lies with the judicial system.

leaves room for interpretation on whether or not legislation addresses V&H, as explained in box 4.7.

While OSH legislation in Georgia is silent on V&H, other legislations address it, although their focus is more on prohibition, recourse and redress, and less on assessment and management of its risks. Both the Labour Code and the Law of Georgia on the Elimination of All Forms of Discrimination recognize "harassment in the workplace" as a form of discrimination and as a violation of the right to dignity.[51] Both legal instruments prohibit harassment at work and oblige employers to include anti-discrimination provisions in their internal regulations. Moreover, the Law on the Elimination of All Forms of Discrimination requires employers to respond promptly and efficiently to any alleged act of discrimination, while both laws oblige employers to sanction perpetrators within their control in accordance with the respective legislation.[52] Indeed, according to the Labour Code, liability may be imposed on employers if they have become aware of the fact of (sexual) harassment and have not informed the Labour Inspection Office of the fact and/or have not taken appropriate measures to prevent it (Article 78).

Hence, while preventive measures are limited to the inclusion of anti-discrimination provisions in workplace regulations, both laws offer relatively

comprehensive provisions on reactive mechanisms. Alongside complaint procedures and sanctions, compliance with the two laws is monitored and enforced by the Labour Inspection Office (in the case of the Labour Code) and the Public Defender of Georgia (in the case of the Law on the Elimination of All Forms of Discrimination). Both authorities have a mandate to investigate and sanction incidents of harassment at work. For inspection purposes, the Labour Inspection Office has even established a separate Unit for Supervision of Workplace Discrimination, Sexual Harassment and Gender Equality. The fact that the scope of the two laws overlaps is beneficial, according to the expert community, because complainants have easier access to more complaint procedures and remedies. Indeed, both authorities cooperate and refer cases to each other for consideration. In addition, as the scope of the Law of Georgia on the Elimination of All Forms of Discrimination goes beyond pre-contractual and labour relations, it may cover incidents of V&H (such as third-party harassment) that are not clearly covered by the Labour Code. Having said that, the Labour Code is relatively comprehensive, in comparison to Article 2 of C.190, with respect to the persons to whom it applies: limitations exist only in relation to workers without contractual labour relations

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51 According to the Labour Code, "harassment in the workplace (including sexual harassment) is a form of discrimination, in particular, unwanted behaviour towards a person ... with the purpose or effect of violating the dignity of the person concerned, and creating an intimidating, hostile, degrading, humiliating or offensive environment for him/her (Art. 4.5). Sexual harassment is defined as a "conduct of a sexual nature towards a person, with the purpose and/or effect of violating the dignity of the person concerned and creating an intimidating, hostile, degrading, humiliating or offensive environment for him/her" (Art. 4.6).

52 Georgia, Labour Code, Art. 23; Law of Georgia on the Elimination of All Forms of Discrimination, Art. 4.

with their employer, volunteers, and individuals exercising the authority duties or responsibilities of an employer.

Finally, and complementary to what has already been said, the Labour Code addresses domestic violence in the workplace, albeit for a limited group of people. Article 46.2(h) provides for "placing a victim of violence against women and/or domestic violence in a shelter and/or a crisis centre for a maximum of 30 calendar days annually, if he/she is unable to discharge his/her official duties any longer".

4.6.2. Relevant instruments outside the legal framework

According to representatives of the Government and the social partners interviewed for this report, there is room for improvement in providing guidelines and tools on work-related V&H in Georgia. In fact, as of January 2023, no relevant guidelines, codes, trainings or tools could be identified in Georgia on these matters, although there have been recent efforts to produce a guideline for employers.

In principle, the Labour Inspection Office is authorized to provide, upon request, consultations and information on compliance with labour norms such as harassment at work, and this can be an effective mechanism for employers who apply for such consultations. However, the effectiveness of this mechanism depends on whether stakeholders are aware of the issues, while a more proactive approach, including the development of manuals

and tools, seems to be needed, according to the national experts.

Also at policy level, V&H has rarely been addressed. One strategy that makes explicit reference to this matter is the 2020–2022 Action Plan of the Tripartite Social Partnership Commission (TSPC), the TSPC being a consultative body under the Prime Minister. Among other things, the Action Plan contained a task to consider the ratification of C.155 and C.190 and to provide recommendations accordingly.

4.6.3. Availability and impact of data

According to the expert community, there is a need for considerably more data to examine the prevalence of V&H in detail, as well as to issue appropriate guidance and tools. In fact, data on V&H in Georgia are mainly limited to administrative sources and to a recent ad-hoc research study by UN Women (2021) on sexual harassment in the civil service (see box 4.8). On the administrative side, both the Public Defender's Office and the Labour Inspection Office collect and publish data yearly on the number and results of their inspections in relation to discrimination. While data from the Labour Inspection Office are not disaggregated further, the Public Defender's Office's data are disaggregated by type of harassment at work, including sexual harassment. Neither authority has used its data to issue sector-specific or other recommendations. Moreover, no further information on, or evaluation of, the effectiveness of current legal and policy instruments on V&H is available.

> ▶ **Box 4.8. Selected findings of the UN study on sexual harassment in the civil service in Georgia**
>
> The study (UN WOMEN 2021) shows that civil servants in Georgia may be aware of the phenomenon of sexual harassment in theory, but are less likely to identify it in practice. Stemming largely from established societal norms, many civil servants perceive sexual harassment as a part of typical working culture. Gender differences in perceptions are considerable, as the great majority of women (93 per cent) believe that sexual harassment is a serious social problem, while less than half (44 per cent) of men think the same.

▶ 4.7. Spain[53]

As an EU Member State, the national legislation of Spain has been heavily influenced by the transposition of EU OSH and equal treatment directives, which contain provisions on the prevention and prohibition of various forms of V&H.[54] In this context, Spanish OSH legislation has, to date, taken an implicit approach to address V&H in legislation. Various pieces of guidance and tools play an important role in this approach. Moreover, Spain has been acclaimed for its progressive legislation on gender equality, which also touches upon V&H at work, as described below.

In May 2022 Spain ratified Convention No. 190, which is expected to lead to new or amended legislation on V&H and associated psychosocial risks, as indicated in recent guidance material from the Labour and Social Security Inspectorate (ITSS).[55]

4.7.1. The role of OSH legislation in tackling work-related violence and harassment

The leading OSH legal text in Spain is Law 31/1995 on the Prevention of Occupational Hazards.[56] This law is further complemented by sector-specific and hazard-specific laws, decrees and ministerial orders. Furthermore, any regulations that contain prescriptions relating to the adoption of preventive measures in the workplace or which may lead to the adoption of such measures in the workplace are considered OSH-relevant legislation, according to Article 1 of Law 31/1995.

At the moment, Spanish OSH legislation does not explicitly refer to V&H.[57] Law 31/1995 provides for the employer's obligation "to ensure the safety and health of the workers in his or her service in all aspects related to their work" (Article 14.2). Yet it does not contain specific references to V&H or to psychosocial risks,[58] although public authorities interpret it to implicitly cover such risks (for more information, see section 4.7.2 below). Neither does the law make it explicit what the scope of "all aspects related to their work" is, although it may be interpreted as being as far-reaching as Article 3 of C.190, according to the author of the country study. Meanwhile, the lack of reference to V&H has affected jurisprudence, as explained in box 4.9.

While OSH legislation itself does not explicitly provide for OSH-relevant instruments to prevent and address V&H, non-discrimination and equality legislation does do so, at least in relation to sexual harassment and harassment on grounds of sex (*Acoso sexual y acoso por razón de sexo*) at work,[59] which are recognized as violations of a worker's

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53 This section is based on a country study of Spain commissioned by the ILO and prepared by Manuel Velázquez, OSH specialist and Head of the Special Unit on European Union Labour Mobility at the Labour and Social Security Inspectorate State Agency (OEITSS); the study reviews Spain's laws, policies, guidance and tools addressing V&H, with a focus on the OSH framework.

54 For instance, OSH Directive 89/391/EEC imposes on employers the duty to ensure the safety and health of workers in every aspect of work (Art. 5(1)); Directives 2000/43/EC and 2000/78/EC consider harassment based on protected characteristics to be a prohibited form of discrimination in employment and occupation.

55 According to ITSS Technical Criterion 104/2021, "future national legislation is expected to develop the provisions of this Convention" (p. 2).

56 Spain, Law 31/1995 on the Prevention of Occupational Hazards.

57 One exception is Royal Decree-Law 16/2022 of 6 September on the improvement of working conditions and social security for domestic workers. It includes an 18th additional provision on Law 31/1995 on Prevention of Occupational Hazards, which defines the right of domestic workers to effective OSH protection, particularly in the area of prevention of violence against women.

58 A few regulations, such as Royal Decree 39/1997 approving the Regulation of the Prevention Services, refer to psychosocial risks, but do not define them further.

59 Sexual harassment refers to "any conduct, verbal or physical, of a sexual nature that has the purpose or effect of violating the dignity of a person, in particular when an intimidating, degrading or offensive environment is created", while harassment on grounds of sex "is any conduct carried out on the basis of a person's sex, with the purpose or effect of violating his or her dignity and creating an intimidating, degrading or offensive environment". Both sexual harassment and harassment on grounds of sex shall in any case be considered discriminatory (Organic Law 3/2007, Art. 7).

▶ **Box 4.9. Lack of legal definitions of violence and harassment and its consequences**

Physical violence and moral or psychological harassment are neither addressed by OSH legislation nor defined in other legislations.[1] This lack of legal definition has prompted conflicting jurisprudence. Typically, jurisprudence required both an objective element – the conduct should violate the right to dignity at work – and a subjective element: the harasser's intention of causing harm to the victim. The need for this subjective element has been contradicted by the Constitutional Court's ruling 56/2019 of 6 May 2019, which states that "with regard to intentionality, the presence of an adequate causal link between the unlawful conduct and the harmful result prohibited by the law may suffice".[2] Be that as it may, according to the Basque Observatory on Harassment and Discrimination (2022), more than 70 per cent of the court rulings between 2020 to 2021 required that the harasser's intention to cause harm be shown. By contrast, a legal definition of work-related V&H would, according to the author of the country study, ensure uniform application by courts and alignment with the victim-centred definition as provided by Article 1 of C.190.

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1   While discriminatory harassment, including sexual and gender-based harassment, is legally defined, moral or psychological harassment is not. Although often used interchangeably in guidance material, "moral" harassment is generally linked to the fundamental right to moral integrity in the Spanish Constitution (art. 15), the criminal offence against "moral integrity" in the penal code (Art. 173), and the right to dignity at work in the Workers' Statute Act (art. 4.2(e)). "Psychological" harassment is generally linked to the fundamental right to "physical integrity", which also covers mental or psychological health, and to OSH legislation as well.

2   The ruling further stated that it should be borne in mind that, in general, the constitutional protection of fundamental rights cannot be subordinated to "the investigation of psychological and subjective factors that are difficult to control".

right to dignity. According to Article 12 of Organic Law 10/2022, employers are required to promote "working conditions that prevent the commission of crimes and other behaviours against sexual freedom and moral integrity at work, with special emphasis on sexual harassment and harassment based on the grounds of sex ... including those committed in the digital field".[60] These promotional activities may include measures to be negotiated with workers' representatives, such as the preparation and dissemination of codes of conduct, information campaigns, action protocols and training.

Furthermore, employers are obliged to establish complaint procedures,[61] as well as internal arrangements to ensure effective prevention of such behaviours. Employers are required to include sexual violence as an occupational risk in their risk assessment of the different jobs filled by female workers and must train and inform their female workers about it. The law also grants female victims of sexual violence several labour rights, such as the right to remove themselves from work.[62]

In relation to its scope, Organic Law 10/2022 advocates that workplace interventions may cover the entire workforce of the company, regardless of the form of employment contract, including people on permanent, fixed-term and internship contracts, trainees, volunteers, and those who provide their services through secondment contracts.[63]

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60 Spain, Organic Law 10/2022 of 6 September.

61 Royal Decree 901/2020 (Annex, para. 7) further specifies the principles that shall govern complaint procedures in relation to sexual and gender-based harassment within an organization. They include accessibility, confidentiality, presumption of innocence of the alleged harasser, prohibition of reprisals against the alleged victim or persons who support the complaint or report allegations, diligence, speed of the procedure, and a guarantee of labour and social protection rights of the victims.

62 According to Organic Law 10/2022, Art. 38, female workers have the right to reduction or reorganization of their working time, to geographical mobility, to change of workplace, to adaptation of their job and to support needed because of disability in returning to work, to suspension of the employment relationship with reservation of a job, and to termination of the employment contract. Moreover, absences from work or lack of punctuality due to the physical or psychological situation occasioned by sexual violence shall be considered justified and shall be remunerated when so determined by the social care services or health services, as appropriate.

63 Complementary to this, a few other regulations within both non-discrimination and labour legislation specify particular groups of people in the world of work in the context of sexual and gender-based V&H, including persons with disabilities (Royal Legislative Decree 1/2013), remote workers (Law 10/2021), jobseekers (Royal Legislative Decree 3/2015) and volunteers (Law 45/2015).

> ▶ **Box 4.10. Broadening the scope and sphere of OSH legislation through guidance**
>
> The National Institute for Occupational Safety and Health (INSST), in particular, has played a pivotal role in applying OSH legislation to V&H in Spain. It has provided Technical Notes of Prevention (NTPs) and guides which have established V&H as a psychosocial risk, defined its concept, and elaborated on how to embed it in OSH management systems in the workplace, including risk assessment, risk control, and evaluation and review (see, for example, INSST 2009, 2022). Although NTPs are not legally binding, they may be invoked before a court. Indeed, NTP 476 on the concept of psychological harassment at work was used as a reference by the first court rulings on this matter (INSST 1998).

This non-discrimination legislation accurately reflects the workplace interventions that are envisaged by C.190 (Articles 9 and 10). However, it does not expressly advocate a systematic analysis of wider organizational, social and environmental hazards, which would usually be part of psychosocial risk management under OSH.

Complementary to the aforementioned legislation, some collective agreements in Spain include definitions of harassment and usually contain a protocol for complaint procedures to deal with harassment, yet they do not specify how to prevent V&H in the first place. Moreover, only a few sectors are covered by these agreements, and most of them are company-level agreements.

4.7.2. Relevant instruments outside the legal framework

In the absence of explicit OSH legislation on V&H, guidance and tools in Spain have played an important complementary role in giving direction and assistance, particularly to employers and to labour inspectors. Their authorship has been diverse, ranging from public authorities at both national and regional level to the social partners, social security insurance companies and private training providers. (For the role of the National Institute for Occupational Safety and Health (INSST), see box 4.10.)

Furthermore, the Labour and Social Security Inspectorate (ITSS) has published codes of practice for inspection actions and the use of administrative infringements in relation to V&H,[64] while regional OSH authorities offer, among other things, counselling and training on psychosocial risks aimed at businesses and workers. The social partners have also put great effort into tailoring recommendations for specific areas or groups where there is typically high exposure to V&H: work arrangements, such as on digital platforms; sectors, such as travel agencies, the health sector, commerce, banks and police; and groups of workers based (for instance) on gender and disability (UGT, n.d.; ISTAS, n.d.).

Available guidance and tools appear to be comprehensive in scope and depth and to equip employers well in the absence of explicit legislation. Nevertheless, considering the non-binding nature of such guidance, changes in legislation could be enacted in order to ensure uniform application.

Meanwhile, national policies and strategies on V&H are limited to those established under the Organic Law 10/2022 on the comprehensive guarantee of sexual freedom, which requires, among other things, a coordinated intervention of public bodies on this matter.[65] Currently, there are no such policies or strategies on other types of V&H.

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64 In fact, the ITSS can propose imposing sanctions on employers for the commission of administrative infringements concerning V&H, in particular with regard to violation of the right to dignity at work (which involves moral or psychological harassment and which constitutes a very serious administrative infringement according to Art. 8, para. 11 of the Legislative Decree 5/2000 of 4 August 2000 on the Law on Infringements and Sanctions in the Social Order); and sexual and discriminatory harassment (which are also treated by that law as very serious infringements in Art. 8, paras 13 and 13 *bis*).

65 Arts 58–61 of the Organic Law 10/2022 require a coordinated intervention of public bodies on this matter, the adoption of a State strategy to prevent and respond to gender-based violence, and the establishment of a commission to coordinate actions on sexual violence.

4.7.3. Availability and impact of data

Spain has collected data on V&H in various ways. On the administrative side, the ITSS publishes yearly data on complaints and outcomes of inspection actions in relation to harassment.[66] The Basque Observatory on Harassment and Discrimination (2022) reports periodically on Spanish court rulings on harassment at work, analysing variables such as the gender of the alleged harasser and victim, their relationship, type of harassment, type of company, and the result of the ruling. With regard to surveys, data on V&H are periodically collected through the European Working Conditions Survey[67] and through the European Survey of Enterprises on New and Emerging Risks.[68]

The collected data have certain shortcomings, however. The two surveys are only conducted every five years, while the administrative sources lack data on physical violence. Moreover, data delivered by the ITSS do not include relevant variables such as gender, age and type of perpetrator and victim, which would be useful in designing appropriate policies and strategies on V&H.

▶ 4.8. Tunisia[69]

Since its independence in 1956, Tunisia has had the reputation of being a progressive Arab State in promoting women's rights (Mail 2019). This is reflected in Law 58-2017 on the Elimination of Violence against Women.[70] Adopted in 2017, this law, which contains provisions on violence against women at work, was the result of years of advocacy work, spearheaded by a dedicated civil society, in support of "the march of women against violence and social and regional discrimination" which got under way in 2011. At the same time, the treatment of the phenomenon of V&H has remained implicit in Tunisian OSH legislation, as discussed below.

4.8.1. The role of OSH legislation in tackling work-related violence and harassment

OSH legislation in Tunisia is primarily governed by the Labour Code,[71] which outlines the obligations and responsibilities of employers[72] and workers[73] in relation to OSH (Articles 152 ff.). Besides this, there are several other legislative documents governing specific elements of the OSH framework, including hazard-specific legislations and special

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66 Spain, ITSS (2020). The ITSS differentiates here between moral harassment, sexual harassment, discriminatory gender-based harassment, and other types of discriminatory harassment.

67 People aged 15 years and over and in employment are asked about whether or not they have experienced bullying, sexual harassment or physical violence in the last 12 months and whether or not they have been subject to verbal abuse, unwanted sexual attention, threats or humiliating behaviours over the last month.

68 Companies are asked about whether or not psychosocial risks are present in the establishment, including "difficult customers, patients [and] pupils", and whether or not procedures to deal with possible cases of bullying or harassment and with possible cases of threats, abuse or assaults by clients, patients, pupils or other external persons are in place.

69 This section is based on a country study of Tunisia commissioned by the ILO and prepared by Imen Zahwani, former Minister for Women, Family and the Elderly in Tunisia; the study reviews Tunisia's laws, policies, guidance and tools addressing V&H, with a focus on the OSH framework.

70 Tunisia, Loi organique n° 2017-58 du 11 août 2017, relative à l'élimination de la violence à l'égard des femmes.

71 Tunisia, Code du travail (1996).

72 The Code applies to all establishments of industry, commerce, agriculture and to their dependencies, of whatever nature, public or private, religious or secular, even if they have a professional or charitable character. It also applies to craft establishments, cooperatives, civil societies, trade unions, associations and groups of any kind (Art. 1).

73 Workers or employees refer to any person who undertakes, on the basis of a contract of employment, to make his personal services available to the employer, under the direction and control of the employer, in return for remuneration (Art. 6).

> ▶ **Box 4.11. Specific risk control measures under the Labour Code**
>
> Although the Labour Code does not explicitly treat V&H as an occupational risk, it contains several provisions that may contribute to preventing V&H at work and serve as risk control measures.
>
> ▶ **Women working at night:** According to Article 66, women must not be employed at night. However, the labour inspectorate may grant authorization for women to work at night if the employer provides sufficient guarantees in the company for women workers with regard to OSH, social services, and equal opportunities and treatment (Article 68-2).
>
> ▶ **Accommodation for apprentices:** While the provision of accommodation for workers is common practice in Tunisia, particularly in the tourism and hospitality sector and in domestic work, an apprenticeship supervisor who is single, widowed, divorced or legally separated must not provide accommodation to underaged apprentices (Article 347).
>
> ▶ **Safeguarding women and minors:** Employers who employ children under the age of 18 or women must ensure "maintenance of good morals and observation of public decency" (Article 76).
>
> ▶ **Prohibition of alcohol:** To protect "good morals", workers are "forbidden to come to work in an obvious state of inebriation or to consume alcoholic beverages during the work period" (Article 14 *quater*).

legislations on government institutions and on accidents and medical services at work.[74]

Within this legal framework, V&H is neither defined nor explicitly referred to and recognized as occupational risk, nor are psychosocial risks expressly addressed by the aforementioned OSH legislation. The only direct reference to V&H in the Labour Code is included in the provisions on workers' obligations: workers are prohibited from engaging, while working or in the workplace, in "acts of violence or threats duly noted against any person belonging or not belonging to the company" (Article 14 *quater*).[75]

Nevertheless, OSH legislation remains broad in the formulation of its provisions. While neither health nor safety is explicitly defined, the Labour Code requires employers "to take the necessary and appropriate measures for the protection of workers and the prevention of occupational risks" (Article 152-2). This includes, among other things, the protection of workers' health in the workplace, adequate working conditions and environment, and appropriate education and training for workers. It also contains provisions regarding occupational health services,

occupational safety officers and enterprise advisory committees. As these obligations are formulated in broad terms, they can in principle also be applied to V&H and to psychosocial risks, according to the author of the country study. Relevant interpretations by public authorities were not available to the research team, but they may be inferred from the training efforts made by public authorities on psychosocial risk management (see section 4.8.2 on guidance and tools). Moreover, some provisions of the Labour Code may serve as measures to prevent V&H at work, as explained in box 4.11.

Besides the OSH legislation, there are a few legal instruments in Tunisia that explicitly address work-related V&H, although these mostly refer to specific groups or categories of workers and do not generally give definitions or detailed provisions on how to address V&H. Under legislation covering the public sector, public servants are entitled to "protection against threats, insults or defamation to which [they] may be subjected", while the public authority is obliged to protect public officials against such threats and attacks of any kind and to compensate, if necessary, the resulting damage.[76]

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74 For an overview, see Institute of Occupational Health and Safety, "Législation et normalisation en SST".

75 The original wording is: "*des actes de violence ou de menace dûment constatés*".

76 Law No. 83-112 of 12 December 1983, on the general status of State staff, local public authorities and public administrative establishments, Art. 9.

Meanwhile, non-discrimination legislation provides that persons with disabilities "must be protected against economic and sexual exploitation, vagrancy, neglect and abandonment".[77] Moreover, Law 58-2017 on the Elimination of Violence against Women requires that the State take all appropriate measures to "prohibit women's economic exploitation and subjecting them to arduous, degrading working conditions harmful to health, safety and dignity" (Article 6).

Complementary to this, a few collective agreements also address work-related V&H, though mainly in relation to workers' rights to protection or to remedial action. For instance, the 1973 Framework Collective Agreement states that "workers are entitled … to protection against threats, insults or defamation and violence to which they may be subjected in the performance of their duties within the company or outside its premises", while in the case of a V&H incident, the "undertaking shall be obliged to protect them and to provide the moral and material assistance necessary to initiate legal proceedings to make good the damage; material assistance being provided as an advance, including the salary granted in the event of cessation of activity" (Article 12).

4.8.2. Relevant instruments outside the legal framework

Guidance and tools on preventing V&H, which focus solely on training and consultation services, are provided by both public authorities and the social partners in Tunisia. Since 2012 the Tunisian Institute of Occupational Health and Safety (ISST) has offered a training module on psychosocial risks for companies and provides, upon request, technical assistance for the assessment of psychosocial risks including V&H; this is conducted with the help of an interactive assessment tool, "Faire le point RPS", which was developed by the French National Research and Safety Institute (France, INRS 2020).

The ISST also carries out awareness days within companies on the definition and effects of psychosocial risks. Meanwhile, the Tunisian General Labour Union (UGTT) has carried out a series of training sessions for its members on Convention No. 190.

4.8.3. Availability and impact of data

Available data on work-related V&H are limited in Tunisia. On the administrative side, data on occupational accidents and diseases are published yearly by the Caisse Nationale d'Assurance Maladie (National Health Insurance Fund).[78] However, these data have several drawbacks, as they focus only on the private sector and are not delineated by the causes of workplace accidents and disorders and hence are not disaggregated by accident or disease caused by V&H. Moreover, the data suffer from under-reporting, as only physical injuries are considered. Further published administrative data are derived from the 1899 hotline of the National Observatory for Combating Violence against Women. However, this only provides data on women and is based on complaints received by the hotline.

Besides administrative data, there have been several surveys conducted by recent ad-hoc research projects on V&H or psychosocial risks, such as a national survey on gender violence (CREDIF 2016) and several studies by the ISST on psychosocial risks. However, there is no regularly conducted national survey.

Efforts have recently been made to establish a comprehensive national data collection system for gender-based V&H through administrative sources. The Gender and Equal Opportunities Observatory is in the process of creating a plan for the periodic collection of data to measure and monitor trends in all forms of violence against women. Specific data sheets for 38 indicators have been developed, though not yet for workplace V&H.

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77 Framework Act No. 2005-83 of 15 August 2005 on the promotion and protection of persons with disabilities, Art. 3.

78 According to Art. 88 of Law No. 94-28 on the Compensation for Damages Resulting from Occupational Accidents and Diseases in the Private Sector, the Caisse Nationale d'Assurance Maladie is solely in charge of collecting all the data needed to draw up statistics on occupational accidents and diseases.

▶ 4.9. Conclusion

This chapter has outlined various national approaches to prevent and address V&H through OSH. Of the seven countries reviewed, El Salvador, partially,[79] and Denmark, explicitly, refer to and recognize V&H as a psychosocial risk in their OSH legislation. In the case of Denmark, the OSH legislation provides for a comprehensive OSH management system that is specifically designed to prevent V&H. Barbados and Bangladesh have specific legal instruments on sexual harassment at work, which, however, are limited to workplace policies, training and complaint procedures and do not include further provisions on OSH management systems. Barbados's OSH legislation focuses solely on hazards and risks in relation to physical health and safety, as is also the case in Georgia and Bangladesh. The OSH legislation in Spain and Tunisia, meanwhile, is broadly formulated and can be interpreted to apply, in principle, to V&H and to psychosocial risks. Spain has confirmed this interpretation by issuing comprehensive guidance and tools that recognize V&H as a psychosocial risk and elaborate on how to embed V&H in OSH management systems in the workplace.

These different approaches underline that guidance and tools are necessary to make implicit legislation work effectively. At the same time, given the non-binding nature of guidance and tools, a legal basis to integrate V&H into OSH frameworks is essential in order for OSH legislation to be applied to these matters across the board.

The country studies also show that V&H in the world of work is often addressed in legislation other than OSH, such as non-discrimination and equality legislation (El Salvador, Georgia, Spain, Tunisia) and labour and employment legislation (El Salvador). Provisions in these legislations differ from those in OSH legislation in so far as they often tend to be detailed on remediation, but less specific on prevention and protection and on the means necessary to achieve these (El Salvador, Georgia, Tunisia). Spanish non-discrimination legislation does provide for specific preventive measures, but it does not expressly advocate a systematic analysis of wider organizational, social and environmental hazards, which would usually be part of psychosocial risk management under OSH.

Overall, preventing and addressing V&H through OSH usually involves multiple actors as intermediaries between legislation and implementation. Actors providing guidance and tools on these matters range from public authorities and the social partners to civil society and private actors. The social partners, in particular, may play a decisive role in specifying and tailoring relevant information to the specific needs of sectors and work occurrences. Especially in Denmark and Spain, the social partners have taken up this role. Meanwhile, the role of national policies has been mainly limited to giving direction of action at policy level, and they typically provide little guidance at workplace level.

OSH legislation on V&H usually covers both private and public sectors, while El Salvador has additional, more detailed regulations and guidelines for the public sector. Particularly in Spain and Denmark, guidance and tools provided by public authorities tend to offer more cross-sectoral, technical information, while the social partners have tailored relevant information to the needs of specific sectors and work occurrences.

Finally, the case of Denmark has underlined the importance and benefits of periodically collecting comprehensive and disaggregated data on V&H, as such data help public authorities and the social partners to identify developments and to monitor, evaluate and improve relevant legal or policy responses where needed. Data collection systems in other countries have a number of limitations: in El Salvador and Georgia, data sources are mostly limited to administrative data, which tend to suffer from under-reporting; in Tunisia and Bangladesh, the available data are not sufficiently disaggregated; in Spain, the data are not regularly collected; and in Barbados, data collection is limited to ad-hoc studies. For these various reasons, the data available in these countries are not fully capable of effectively informing authorities in their decision-making processes or of allowing the effectiveness of legal and policy instruments to be assessed.

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79 As mentioned in section 4.5, the General Law for the Prevention of Risks in the Workplace is only partially explicit on V&H, as it only mentions sexual harassment and violence against women as examples of psychosocial risks.
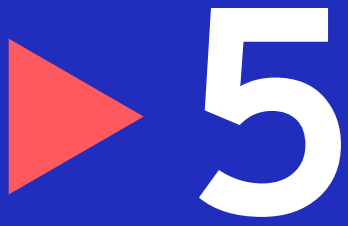
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▶ 5

Future work

Based on the findings of the chapters above and drawing upon the country studies carried out in the framework of this research, this last chapter presents policy-oriented recommendations in order to help key actors to better understand their intervention possibilities, not only in laws and policies but also in other areas.

▶ 5.1. Focus on prevention through OSH legislation

While most legal provisions on violence and harassment (V&H) to date have focused on responsive strategies to correct and remedy acts of V&H, preventive strategies enable actors in the workplace to pay appropriate attention to the underlying structural issues in the workplace and to address the determinants of V&H. Prevention helps to move the focus onto the targets of V&H, who bear the costs of long litigation with uncertain outcomes if and when they seek redress. Prevention also helps to reduce lost productivity costs and to ease the load on welfare and social institutions.

As argued throughout this report, occupational safety and health (OSH) is uniquely placed in forging such preventive strategies. In particular, addressing gender-based violence and harassment (GBVH) under an OSH framework allows for proactive, systematic, collective, inclusive and publicly enforceable approaches to prevention. OSH is well equipped to address the root causes of V&H, provides structural and systematic responses to V&H, and has the capacity to mobilize actors in the world of work in the pursuit of a common goal addressing V&H. This multi-stakeholder approach, based on a system of mutual rights and obligations between workers and employers, can facilitate implementation of comprehensive strategies to prevent V&H through social dialogue, sharing best practice, and creating a collective commitment to creating working environments free from V&H.

▶ 5.2. Towards recognition of psychosocial risks and violence and harassment

However, in order for OSH to operate as a prevention strategy, it is important that OSH legislation explicitly refers to psychosocial risks and provides for the management of such risks. As explained in Chapter 1, psychosocial risks expand the scope of OSH to the whole working environment and thus comprehensively address both the individual and the structural factors that contribute to the risk of V&H. Moreover, as V&H is itself a psychosocial risk leading to stress, a psychosocial risk management approach implicitly embeds V&H as a risk in the OSH management system, thereby providing for the assessment and management of that risk and related factors.

In fact, as shown in Chapters 2 and 3, OSH legislations in several countries around the world address psychosocial risks without explicitly referring to V&H as being one such risk. Some countries use guidance and tools to explicitly recognize V&H as a psychosocial risk and to provide for adequate measures to assess and manage it. At the same time, several of the country studies also suggest that, given the non-binding nature of guidance and tools, action at the level of enterprise would benefit from an explicit recognition of V&H as a psychosocial risk in OSH legislation. This would contribute to a uniform and nationwide application of OSH legislation to V&H.

▶ 5.3. Developing comprehensive guidance and tools responsive to the needs of enterprises and workplaces

When guidance and tools are used by countries, they play an implementing role and help translate policies into action at the level of enterprise. Chapter 3 showed that various types of guidance and tools on V&H exist in practice and that they have different yet complementary strengths and advantages. At the same time, it is clear from the report that guidance and tools sometimes lack the information necessary to implement measures at the level of undertaking – they explain what steps need to be taken, but not how these steps are to be implemented. Moreover, guidance and tools produced by public authorities sometimes tend to be limited in their overall scope, as they only cover specific types of V&H and/or only the public sector.

Thus, to effectively guide actors in this regard at the level of undertaking, guidance and tools could provide specifications on the process of implementing interventions to prevent and tackle V&H.

This is particularly important in the complex task of carrying out workplace risk assessments, as the risks of V&H and associated psychosocial risks are more difficult to assess than "traditional" OSH risks.

Moreover, guidance and tools created by public authorities should ideally be comprehensive in scope, covering all types of V&H and all sectors. As they tend to be rather limited in this respect, it is all the more important that public authorities initiate collaborations with the social partners to develop appropriate guidance and tools. This is particularly true when it comes to providing adequate practical support that is tailored to the needs of MSMEs, which typically have fewer financial, human and managerial resources to manage OSH than large organizations, and consequently often struggle to effectively manage their OSH-related responsibilities.

▶ 5.4. Towards ensuring integration and complementarity of different legal regimes

OSH represents one of the most direct entry points for preventing V&H in the world of work. However, as frequently demonstrated in this report, while OSH may largely cover the preventive side, recourse and redress tend to be the focus of criminal and/or compensation laws. Legal definitions of V&H may be found in criminal legislation or in V&H-dedicated legislation, or they may be scattered over different legislations. Prevention strategies, meanwhile, may be found both in OSH legislation and, more broadly, in labour and anti-discrimination laws, albeit with different foci and different levels of detail.

One way to help achieve an integrated approach to tackling V&H at work is to address these interplays and interconnections directly through the legislation and to include cross-references in legal frameworks as required. This is particularly true when it comes to preventing discrimination and inequality, which are often coextensive with V&H. Both phenomena are usually addressed under labour law and/or in distinct anti-discrimination legislation. Integrating discrimination and inequality into the risk assessment process, with monitoring undertaken by labour inspectors, can help move towards an integrated approach to V&H.[1] Given

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1   See also ILO, *Introduction to the New ILO Curriculum on Building Modern and Effective Labour Inspection Systems*, 2022; and Senior Labour Inspectors' Committee, *Guide for Assessing the Quality of Risk Assessments and Risk Management Measures with Regard to Prevention of Psychosocial Risks*, 2018.

that gender inequality is the root cause of GBVH at work, equality and non-discrimination legislation and OSH both contribute to the common goal of preventing GBVH. It is important to ensure that interactions between these two regimes reinforce, rather than undermine, the protection that each regime is designed to offer to women and other people at risk of experiencing GBVH at work.

Another option is to develop awareness-raising and training activities in cooperation with government and the social partners. Online repositories or information platforms of legal documents and of available guidance and tools from multiple actors can be centralized. Such repositories can help bring together all relevant legal provisions, policies and tools, to facilitate search for, and navigation through, suitable support measures and guidance/tools.

▶ 5.5. Strengthening social dialogue in relation to violence and harassment

As shown in section 2.4, collective bargaining agreements (CBAs) often play an important role in addressing and preventing V&H in the world of work. The sectoral relevance of CBAs and their role as tools at the disposal of employers' and workers' organizations to agree on working conditions and terms of employment mean that they provide an important avenue to tailoring legal provisions to suit sectoral contexts – particularly in relation

to risk assessment and management – and to agreeing on establishing support mechanisms and procedures for both employers and workers to prevent and address V&H. CBAs are only one form of work cooperation, however, and social dialogue can help develop cooperation in areas such as information sharing, direct or indirect consultation, and financial participation.

▶ 5.6. Constant improvement and adaptation of legal and policy instruments

Even in countries with a strong legal framework on V&H and comprehensive guidance and tools, enterprises may encounter difficulties in effectively utilizing these instruments and devising suitable solutions for their specific challenges related to V&H. Various factors can impede the process, ranging from lack of resources to resource-demanding parallel work activities. Consequently, the provision of more intricate and tailored information for employers and workers, as well as individualized support and consultation services, becomes increasingly vital.

Moreover, given ongoing changes in working conditions and the emergence of new psychosocial risks, effective legal and policy responses require continuous monitoring and evaluation, improvement and adaptation to accommodate these new developments. Guidance and tools, in particular, should be responsive, adaptable and readily contextualized in relation to ongoing changes in working conditions and the emergence of new psychosocial risks, such as V&H in the context of information and communication technology (ICT).

Another way to ensure constant improvement is effective monitoring and enforcement of legal provisions on V&H through labour inspectorates, as they are able to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions, and also to secure the enforcement of legal provisions in a satisfactory manner. As shown particularly in Chapter 4, in some countries, such as Bangladesh, Barbados and El Salvador, there is a lack of capacity for inspectorates to effectively monitor and enforce provisions on V&H. Thus, on the one hand, legislation may be reviewed to expand the power of labour inspectors to issue interim orders to employers where they find cases of actual risk of V&H and, if necessary, to stop work in the case of V&H (as stipulated by Article 10(h) of C.190). On the other hand, a protocol and training for monitoring and enforcing provisions on V&H should be developed for inspectorates, particularly when it comes to risk assessments conducted by inspectorates.

▶ 5.7. Possible areas for future research

Despite the growing amount of evidence and academic research on the topic in recent years, there are further areas where knowledge surrounding the issue of V&H can be enhanced.

▶ Greater understanding of how regulatory interventions meet the needs of targets in all sectors and in all occupations will be gained by gathering more empirical evidence on the choice of regulatory approach and its effects on addressing V&H, including the implementation and enforcement of the various available fields of legislation, such as discrimination laws, criminal legislation, and separate dedicated laws aimed at tackling V&H. The design of such an exercise should not only take into account social, economic and legal conditions and traditions but also delve deep into the specifics of the regulatory approach and its actual implementation.

▶ As OSH has great capacity as a framework to mobilize all actors in the world of work in addressing V&H, there is a need for further research on best practices in work cooperation and on how mechanisms for tripartite collaboration, especially at the workplace level, promote safer and healthier workplaces.

▶ While empirical evidence on factors leading to V&H is improving, more research is needed in order to reveal patterns of interaction between these factors and V&H. To date, only a few longitudinal studies showing the causal effects of work environment variables on V&H are available. Also, intervention studies assessing how a change of factors in the working environment actually reduces the prevalence of V&H are scarce.

▶ Given the relatively limited discussion of the effects of domestic violence in the workplace and of ICT-related V&H, including in the context of MSMEs and the informal economy, further assessments of adequate interventions at both national and enterprise level are needed.

▶ Another way to ensure constant improvement in legal and policy measures is more evidence, which requires improvements in data collection. More specifically, this may entail:

  ▶ **Diversification of sources:** To form a comprehensive picture of the prevalence of V&H, both administrative sources (such as records from labour inspectors, the police or insurance providers)[2] and national surveys[3] are needed.

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2   In comparison to national surveys, administrative sources help, among other things, to monitor the effectiveness of complaint procedures outside the workplace.

3   National surveys can cover all forms of V&H and allow data to be collected directly from persons in the world of work and thus help to circumvent under-reporting, a significant problem in the use of administrative sources.

▶ **Disaggregation:** To achieve greater specificity of findings, data should be collected in such a way that they can be disaggregated, for instance by gender, sector or perpetrator.

▶ **Regularity:** Both surveys and administrative data should be collected periodically in order to assess developments over time.

▶ **Consistency and standardization:** Data sources should be standardized with respect to definitions, terms and items, which should be used consistently over time, so that comparisons can be made across data sources and over time.

▶ **Adaptability:** In order to capture emerging issues or new forms of V&H, data should be collected in a way that allows them to be quickly adapted, for instance as a module in a regular survey or as part of an ad-hoc survey. Both administrative sources and national surveys may be supplemented by additional ad-hoc surveys from research institutes, the social partners and others in order to gain a better understanding of the different types of V&H and of the situations in which exposure to them is most often experienced.

▶ Annex

Selected guidance and tools from actors at international level

Author	Year	Title	Short description	Link
Guidance and tools from the ILO				
ILO	2022	*Violence and Harassment at Work: A Practical Guide for Employers*	This document gives guidance on what is considered V&H in the world of work; examples of common V&H at work; legal frameworks and employers' responsibilities; why employers need to take action; how to address, prevent and respond to V&H, including by developing and implementing enterprise-level policy; and risk management, with sharing of good practices and examples. The guide also includes a template which can be used to formulate a workplace policy.	https://www.ilo.org/actemp/publications/WCMS_857915/lang--en/index.htm
	2022	"ILO Curriculum on Building Modern and Effective Labour Inspection Systems"	This curriculum contains capacity-building materials responding to the training needs of labour inspectorates across the regions. In particular, Module 14, "Ensuring compliance with legislation on psychosocial risks", explains how V&H is embedded in psychosocial risk management.	https://www.ilo.org/global/topics/labour-administration-inspection/resources-library/training/WCMS_856578/lang--en/index.htm
	2021	"How to Promote Disability Inclusion in Programmes to Prevent, Address and Eliminate Violence and Harassment in the World of Work"	This information note promotes the inclusion of persons with disabilities in programmes to prevent, address and eliminate V&H in the world of work. It is aimed at everyone in the world of work and, in particular, at government officials, members of trade unions and representatives of workers' organizations, and enterprises and their representative organizations.	https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---ifp_skills/documents/publication/wcms_830386.pdf
	2021	*Violence and Harassment in the World of Work: A Guide on Convention No. 190 and Recommendation No. 206*	This guide seeks to clarify the definitions, core principles and measures enshrined in Convention No. 190 and Recommendation No. 206. It helps readers understand the scope of the instruments and sheds light on how Member States have recently advanced in the prevention and elimination of work-related V&H by providing a rich selection of examples of national laws, regulations, policies and other measures.	https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_814507.pdf
	2020	*Safe and Healthy Working Environments Free from Violence and Harassment*	This report focuses on how V&H can be managed through OSH measures.	https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/publication/wcms_751832.pdf
	2020	"Policy Brief on Sexual Harassment in the Entertainment Industry"	This policy brief contains a list of policy considerations on how to prevent and address sexual harassment in the entertainment industry.	https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---actrav/documents/publication/wcms_761947.pdf
	2020	"Series of Technical Briefs: Violence and Harassment in the World of Work"	The ILO has prepared a series of five briefs that provide an overview of Convention No. 190 and Recommendation No. 206. The briefs cover specific topics that are of particular importance when addressing V&H in the world of work: No. 1 – the two ILO instruments; No. 2 – sexual harassment; No. 3 – domestic violence; No. 4 – V&H against persons with disabilities; and No. 5 – HIV-related V&H.	https://www.ilo.org/global/topics/violence-harassment/resources/WCMS_738113/lang--en/index.htm

Author	Year	Title	Short description	Link
ILO (cont'd)	2020	*Managing Work-Related Psychosocial Risks during the COVID-19 Pandemic*	The purpose of this guide is to provide employers and managers with key elements to consider when assessing psychosocial risks and implementing preventive measures to protect the health and well-being of workers in the context of the COVID-19 pandemic.	https://www.ilo.org/global/topics/safety-and-health-at-work/resources-library/publications/WCMS_748638/lang--en/index.htm
	2016	*Workplace Stress: A Collective Challenge*	This publication summarizes the most relevant initiatives, strategies and actions to prevent and address work-related stress, including V&H.	https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/publication/wcms_466547.pdf
	2015	"Sample Sexual Harassment Policy"	This sample sexual harassment policy is intended for use by private and public employers in the Pacific to help them develop their own sexual harassment policies. It is based on international good practices and includes all the components that make a sexual harassment policy comprehensive.	https://www.ilo.org/suva/publications/WCMS_407364/lang--en/index.htm
	2012	*Stress Prevention at Work Checkpoints: Practical Improvements for Stress Prevention in the Workplace*	This publication contains practical considerations for national authorities, company and organizational managers, trade unions, OSH practitioners, and other parties with an interest in workplace stress prevention, including V&H.	https://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_168053/lang--en/index.htm
	2012	"The SOLVE Training Package: Integrating Health Promotion into OSH Workplace Policies"	The SOLVE training package, developed by the ILO, provides practical guidance for managers, supervisors and others on how to integrate mental health into their organizations' workplace policies and practices on OSH. One of the main topics is psychosocial health, including stress, psychological and physical violence, and economic stressors.	https://www.ilo.org/global/topics/safety-and-health-at-work/resources-library/training/WCMS_178438/lang--en/index.htm
	2010	*Safety and Health in Agriculture: ILO Code of Practice*	This code of practice is devoted to improving OSH in agriculture; it complements the Safety and Health in Agriculture Convention 2001 (No. 184), and its accompanying Recommendation (No. 192), and provides further guidance for their application in practice. It also contains a section on how to prevent V&H. Although it is voluntary, this code of practice should – particularly in the absence of national legislation and guidance – serve as helpful guidance in improving OSH in agriculture.	https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/normativeinstrument/wcms_161135.pdf
	2002	*Framework Guidelines for Addressing Workplace Violence in the Health Sector*	The objective of the *Framework Guidelines* is to provide general guidance in addressing workplace violence in the health sector. These guidelines should be considered a basic reference tool to facilitate development of similar instruments adapted to local conditions.	https://www.ilo.org/sector/Resources/codes-of-practice-and-guidelines/WCMS_160908/lang--en/index.htm
	2005	*Framework Guidelines for Addressing Workplace Violence in the Health Sector: The Training Manual*	This manual is a practical, user-friendly tool that builds on the policy approach of the *Framework Guidelines*. Representatives of governments, employers and workers would be well served to use the manual in training situations, so as to encourage social dialogue among health sector stakeholders and to develop, in consultation, approaches to address violence in the workplace.	https://www.ilo.org/global/topics/safety-and-health-at-work/resources-library/training/WCMS_108542/lang--en/index.htm

Author	Year	Title	Short description	Link
ILO (cont'd)	2003	"Workplace Violence in Services Sectors and Measures to Combat This Phenomenon"	This code focuses on the prevention of workplace violence and its direct adverse consequences. Its objective is to provide general guidance in addressing the problem of workplace violence in services sectors. The code is intended to serve as a basic reference tool for stimulating the development of similar instruments at the regional, national, sectoral, enterprise, organization and workplace levels, specifically targeted at and adapted to different cultures, situations and needs.	https://www.ilo.org/safework/info/standards-and-instruments/codes/WCMS_107705/lang--en/index.htm
	n.d.	"What Can Be Done about Violence at Work?"	This short guide briefly summarizes possible strategies to prevent and address violence at work.	https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/genericdocument/wcms_108524.pdf
Selected guidance and tools from other international organizations				
World Bank	2022	*Addressing Gender-Based Violence and Harassment (GBVH) in the Manufacturing Sector*	This guide explains to employers and investors in the manufacturing sector why it is important and beneficial to tackle gender-based V&H and what they can do to prevent and address it.	https://documents.worldbank.org/pt/publication/documents-reports/documentdetail/099009112022227303/idu0965cf2a30a-80c049a10a8160b8309f51714e
World Bank	2022	*Addressing Gender-Based Violence and Harassment (GBVH) in the Construction Sector*	This guide explains to employers and investors in the construction sector why it is important and beneficial to tackle gender-based V&H and what they can do to prevent and address it.	https://documents.worldbank.org/en/publication/documents-reports/documentdetail/099941312022227991/idu0b41f17750d13e04edc0b-0630fe02c6a736b1
ILO and World Health Organization	2022	"Mental Health at Work: Policy Brief"	This brief gives practical strategies for governments, employers, workers, and their organizations in the public and private sectors. It focuses on the prevention of psychosocial risks including V&H, protection and promotion of mental health, and support for workers with mental health conditions, so they can participate and thrive in the world of work.	https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/publication/wcms_856976.pdf
World Health Organization	2022	*WHO Guidelines on Mental Health at Work*	Intended to improve the implementation of evidence-based interventions for mental health at work, these WHO guidelines and recommendations cover organizational interventions (V&H is explicitly included here as a psychosocial risk), manager and worker training, individual interventions, return to work, and gaining employment.	https://iris.who.int/handle/10665/363177
International Finance Corporation, CDC Group, European Bank for Reconstruction and Development	2020	*Addressing Gender-Based Violence and Harassment: Emerging Good Practice for the Private Sector*	This guidance highlights areas in the private sector where particular caution should be taken and where gender-based V&H expertise is needed to implement efforts in a safe and ethical way. The guide contains, among others, a template for a company gender-based V&H policy.	https://www.ifc.org/en/insights-reports/2020/publications-gpn-addressinggbvh
UN Women	2018	*Towards an End to Sexual Harassment: The Urgency and Nature of Change in the Era of #MeToo*	This publication is intended to support policymakers, employers and activists by sharing UN Women's work on this topic and offering new guidance on policy and practice on sexual harassment.	https://www.unwomen.org/en/digital-library/publications/2018/11/towards-an-end-to-sexual-harassment

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Senior Labour Inspectors' Committee	2018	*Guide for Assessing the Quality of Risk Assessments and Risk Management Measures with Regard to Prevention of Psychosocial Risks*	This guide aims to help national labour inspectorates to develop inspection procedures and to increase the confidence of labour inspectors when addressing the quality of risk assessments and risk management measures with regard to psychosocial risks. Psychosocial risks specifically include workplace problems such as harassment and bullying, violence at work and work-related stress. The guide provides concrete examples, as well as concrete guidance on how to carry out an inspection using a preventive approach to psychosocial risks, including V&H.	https://www.ispettorato.gov.it/it-it/Attivita/Documents/Attivita-internazionale/Guide-for-assessing-the-quality-of-RA-and-risk-management-measures-with-regard-to-prevention-of-psychosocial-risks.pdf
International Commission on Occupational Health	2014	*Creating a Safe and Healthy Workplace: A Guide to Occupational Health and Safety for Entrepreneurs, Owners and Managers*	This guide advocates the adoption by employers of an anti-violence workplace policy that prohibits physical violence, threats, harassment, hazing, bullying, verbal abuse and retaliatory harassment.	https://www.icohweb.org/site/oh-guide.asp#download
European Agency for Safety and Health at Work (EU-OSHA)	2014	"E-Guide to Managing Stress and Psychosocial Risks"	This guide gives simple explanations of work-related stress and psychosocial risks, the effects on businesses and workers, and practical examples of how to prevent and deal with psychosocial risks.	https://osha.europa.eu/en/tools-and-resources/e-guides/e-guide-managing-stress-and-psychosocial-risks
EU-OSHA	2002	"Fact sheet No. 23: Bullying at Work"	This fact sheet gives information and suggestions for those wanting to take practical action to tackle bullying at work.	https://osha.europa.eu/en/publications/factsheet-23-bullying-work
EU-OSHA	n.d.	Online interactive Risk Assessment (OiRA)	OiRA is an interactive online tool to create sectoral risk assessment tools. It consists of an OiRA tool generator, which is provided free of charge to sectoral partners at EU and national levels, and to EU and national authorities. They can use the generator to create risk assessment tools for different sectors. These tools – OiRA sectoral tools – are then made available for organizations to use to carry out risk assessments.	https://oiraproject.eu/en/what-oira
PRIMA Consortium	2008	"Best Practice in Workplace Violence and Bullying Interventions"	This guidance sheet summarizes the key principles of best practice concerning interventions for the prevention and management of third-party violence (customer violence) and bullying (mobbing) at work.	http://www.prima-ef.org/uploads/1/1/0/2/11022736/10_english.pdf
		**Selected guidance and tools from the social partners at international level**		
International Federation of Actors	2023	*Combatting Sexual Harassment: Resources, Inspiration and Good Practice*	The International Federation of Actors compiled this store of information on codes of conduct, campaigns, support, tools and guidelines from around the world in relation to sexual harassment in the entertainment industry.	https://fia-actors.com/policy-work/sexual-harassment-and-gender-equality/combatting-sexual-harassment-resources-inspiration-and-good-practice/
International Domestic Workers Federation	2022	"Domestic Workers Organize against Violence and Harassment: Training Pack"	This training pack comprises over 400 pages of information, guidance and practical examples. Its topics range from definitions of V&H in domestic work to individual, collective and legal measures to address V&H in the world of work.	https://idwfed.org/en/resources/training-pack-yes-to-equality-no-to-violence-domestic-workers-organize-against-violence-and-harassment-dwovh/@@display-file/attachment_1

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HomeNet South Asia	2020	*Working in Garment Supply Chains: A Homeworker's Toolkit*	Developed by HomeNet South Asia, this publication includes training material for domestic workers, especially in the informal economy. It contains a whole section on violence in the workplace. The toolkit can be used by trainers and organizers as a resource manual to create further training materials.	https://hnsa.org.in/sites/default/files/Working%20In%20Garment%20Supply%20Chains%20A%20Homeworker%27s%20Toolkit.pdf
UNI Commerce	2020	"There Is No Store for Violence and Harassment in Commerce: Campaign Toolkit"	This toolkit contains ten recommended actions and activities for trade unions to combat V&H in commerce.	https://uniglobalunion.org/news_media/uploads/2020/03/final_toolkit.pdf
Asia Floor Wage Alliance (AFWA)	2019	*Asia Floor Wage Alliance's Step-by-Step Approach to Prevent Gender Based Violence at Production Lines in Garment Supplier Factories in Asia*	The Asia Floor Wage Alliance (AFWA) – an Asian labour-led international alliance of garment industry trade unions, labour rights organizations, consumer groups and research institutes – published this guide to explain gender-based violence and its dynamics in the Asian garment industry and to promote the AFWA Safe Circle Approach to preventing and managing violence.	https://asia.floorwage.org/wp-content/uploads/2022/01/AFWA-Step-by-Step-approach-to-Prevent-GBV.pdf
International Transport Workers' Federation	2018	"Bullying and Harassment Training"	This package of materials includes training instructions and teaching materials which focus on bullying and harassment in transport-related workplaces. Delivering all the components in the set should take two days, but they have been developed to enable employers to select individual components to meet their needs within the time they have available for training. Components include presentations, individual tasks, and large and small group work; they cover both theory and practice, and each one takes 60–100 minutes to complete.	https://www.itfglobal.org/en/training-education/bullying-and-harassment-training
International Organisation of Employers	2018	"IOE Factsheet on Understanding and Addressing Violence at Work"	This short fact sheet provides brief information on risk factors for violence in the world of work and guidance on how to address it.	https://www.ioe-emp.org/index.php?eID=dumpFile&t=f&f=129778&token=2d28438bca3b-ba7c6583e636a42be10cf4e4347e
International Chamber of Shipping, International Transport Workers' Federation	2016	*Guidance on Eliminating Shipboard Harassment and Bullying*	This guidance has been prepared by shipowners' and seafarers' organizations working together to eliminate harassment and bullying and to improve the working environment on board the world's ships.	https://www.itfglobal.org/en/reports-publications/ics-itf-guidance-eliminating-shipboard-harassment-and-bullying
International Bar Association	n.d.	"Towards a Better Legal Profession for Everyone: Addressing Workplace Bullying and Sexual Harassment"	This free e-learning tool aims to guide individuals and workplaces within the legal profession towards making positive changes and to reduce the prevalence of inappropriate behaviour.	https://www.ibanet.org/Bullying-Sexual-Harassment-Training