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Addressing Occupational Violence:

An overview of conceptual and policy considerations viewed through a gender lens

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Gender,
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Preface

Support for addressing violence in the world of work has been building at the international level, including within the ILO. This was highlighted at the 104th Session of the International Labour Conference in June 2015, both in the Resolution concerning the recurrent item on social protection (labour protection) as well as in the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). The issue is central to the ILO's centenary initiative on women at work, as violence is a major obstacle to decent work for women and men. The 2030 Sustainable Development Agenda is also relevant in this regard: Sustainable Development Goal 5.2 calls on governments to "Eliminate all forms of violence against women and girls in the public and private spheres", and Goal 8.5 calls for full and productive employment and decent work for all women and men.

This report on occupational violence and regulatory interventions was first commissioned in the context of the women at work centenary initiative, and will now also inform the preparations for a standard-setting item on Violence against Women and Men in the World of Work (at the International Labour Conference to be held in 2018). It builds on the seminal work of Duncan Chappell and Vittorio Di Martino, published by the ILO in 2006[1], a book that remains the most thorough overview of issues important to the understanding of occupational violence in the world.

Since that important publication, much research has been conducted and many policies have been developed and implemented in jurisdictions around the world on various aspects of occupational violence. Much of the research has examined physical violence and workplace bullying and harassment; however, few studies have used a gender lens in reporting on occupational violence in its various forms. Those studies that do focus on gender tend to focus on sexual harassment, and more recently domestic violence in the workplace, rather than looking more broadly at all forms of occupational violence through a gender lens. Paying attention to gender in understanding all types of violence occurring in the workplace in various countries, and the determinants of workplace violence, is essential for the development of gender-sensitive policies that will promote prevention of violence in its various forms and that will ensure adequate social protection and support for targets of violence.

This report, reviewing the international literature and a selection of regulatory instruments with respect to occupational violence, provides an overview of policy strategies addressing the prevention of occupational violence, examines the various, (sometimes competing) conceptual frameworks underpinning policy responses to violence, and describes different models of regulatory and policy interventions. The report identifies gender issues of importance in designing policy on occupational violence and knowledge and policy gaps

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[1] Chappell and Di Martino 2006.

that should be addressed to better design protections that are gender sensitive. The report also examines compensation for disability attributable to occupational violence, and other remedies and sanctions.

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Acknowledgements

Introduction

The content of this report is based on an analysis of literature in English, French and Spanish, drawn from the fields of industrial relations, management studies, trauma studies, occupational health and safety, occupational psychology, criminology, sociology of work and law. Both peer reviewed literature and grey literature[2], were consulted with a focus on publications from the last decade. There are several hundred articles on these issues, so it was not possible, given the constraints of this review, to provide an exhaustive, systematic review of all the literature consulted. A selection of references is included, drawn from an extremely vast assortment of publications, retaining those articles that best illustrate key issues we feel will be of interest to ILO constituents, including governments, workers and employers and their representatives. This paper does not provide an exhaustive analysis of regulatory frameworks currently in force around the world but aims to provide information on emblematic developments addressing the problem of occupational violence by the use of regulatory solutions as well as "normative provisions contained in non-binding texts" (Shelton, 2000), sometimes referred to as "soft law"[3] in various countries.

This report is not about violence against women, but rather about violence against workers, both men and women; however, we have tried wherever possible to retain a gendered analysis of the results so as to ensure that interventions that could be informed by this report are gender sensitive, designed to meet the sometimes similar, sometimes distinct, needs of male and female workers.

The report is in two parts, the first conceptualizing workplace violence through a gender lens, the second examining regulatory and other normative interventions to address workplace violence.

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[2]   Grey literature includes governmental reports and documents, reports by non-governmental organisations, trade publications, websites, and other non-peer reviewed sources.

[3]   Teresa Fajardo, Soft Law: http://www.oxfordbibliographies.com/view/document/obo-9780199796953/obo-978019979 6953-0040.xml, consulted on August 1st, 2016.

PART 1

Conceptualizing workplace violence through a gender lens

In order to address the challenges of occupational violence, it is essential to share definitions and understand some of the causes and consequences of the various forms of violence to which workers are exposed. A better understanding of the causes is essential for prevention. It is also of importance to have a clear picture of gendered exposures to violence, including both exposures that are different for men and women, and exposures that disproportionately affect men or women because of the gendered nature of the labour market.

In this Part, we will provide definitions of various forms of workplace violence, reflect on how a gender lens contributes to our understanding of violence, examine organizational factors associated with various forms of violence and then consider, in a summary fashion, the effects of violence and prevention strategies.

1.1. Definitions of workplace violence for the purpose of this report

As Chappell and Di Martino have clearly demonstrated, the definitions of occupational violence and aggression vary widely between academic disciplines, between States, between linguistic traditions and between cultures. As they stated in 2006:

> "The variety of behaviours which may be covered under the general rubric of violence at work is so large, the borderline with acceptable behaviours is often so vague, and the perception in different contexts and cultures of what constitutes violence is so diverse, that it becomes a significant challenge to both describe and define this phenomenon." [4]

Many articles purport to define violence, as distinguished from aggression[5], mobbing as distinguished from bullying[6], harassment as distinguished from bullying[7], and sexual violence as distinguished from other forms of violence. However, an overview of the literature makes it clear that there are no absolute, cross-cutting, universal definitions for all terms relating to occupational violence, in all languages. A critical commentary on the literature on definitions

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[4] Chappell and Di Martino 2006 p. 16.

[5] See for example a review of the North American literature: Piquero, et al. 2013.

[6] Most authors agree that mobbing and bullying encompass the same phenomenon, but some seek to distinguish sub-categories. Ferrari 2004; Lippel 2010.

[7] See the discussion from an Australian perspective: Caponecchia and Wyatt 2009.

of violence suggests that various manifestations of violence are all part of a continuum and that, for this reason, the concept should be construed broadly[8].

Given that this paper seeks to provide an overview of the literature for the purpose of discussion by specialists and non-specialists, the terms to be used in this report are defined in order to permit a shared understanding of the different concepts presented in light of the English, French and Spanish literature. Readers must bear in mind that a definition that is appropriate for the purpose of developing an epidemiological tool may be inappropriate for the purpose of regulation, and vice versa. For the purpose of this report, a distinction is made between the situations addressed in the literature on the one hand, and those targeted by or requiring regulatory action to promote healthier and safer workplaces, on the other. Information drawn from studies on the prevalence of various forms of violence is integrated, noting that there are huge variations between countries.

The forms of violence are defined, first according to the nature of the behaviour and then according to the source of the behaviour.

1.1.1. According to the nature of the behaviour

1.1.1.1. Physical violence

Here the term physical violence used is that as defined by the World Health Organization (WHO) and the International Labour Organization (ILO) in a joint questionnaire developed to study violence in the healthcare sector: "the use of physical force against another person or group that results in physical, sexual or psychological harm, which includes, among others, beating, kicking, slapping, stabbing, shooting, pushing, biting and pinching".[9]

There are many other definitions found in the literature. Piquero and colleagues designate physical violence as "a distinct form of workplace aggression that comprises behaviors that are intended to cause physical harm"[10]. Here the ILO definition is preferred because it includes non-intentional physical violence, thus including physical violence perpetrated by individuals who are incapable of forming intent to harm. Authors have noted that some studies on physical violence do not distinguish between actual physical violence and threats of physical violence[11]. Conceptually these are two distinct categories, the former potentially resulting in both physical and psychological consequences while the latter leading primarily to psychological consequences.

Because of the varying definitions, it is often difficult to compare results between countries or professions[12].

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[8]   Berlingieri 2015.

[9]   ILO, et al. 2003.

[10]   Piquero, et al. 2013 quoting Barling, et al. 2009. Barling et al distinguish workplace aggression from workplace physical violence and examine various myths including those based on links between physical workplace violence and mental illness

[11]   Rasmussen, et al. 2013.

[12]   Rasmussen, et al. 2013.

A systematic review of the literature on occupational violence in Latin America found that physical violence was less often the subject of research, as compared to other forms of violence[13].

A study from the United Kingdom on assault in the workplace found that 4.9 per cent of workers had experienced physical violence at work in the previous two years, some on a daily basis[14]. The authors found that women (6 per cent) and respondents from sexual minorities were more likely to be victimized, many more gay or bisexual respondents (16 per cent), as compared to heterosexuals (5 per cent) reporting physical violence; workers with a disability were also more likely to report violence at work. Public sector workers were more likely to be targeted, notably those in health and social work, public administration, defence and education.

A study from the Canadian province of Quebec reported an overall exposure to physical violence of 1.9 per cent, however, 5 per cent of workers in the public and para-public sector reported having been physically assaulted in the previous 12 months, with health care and education workers reporting the highest prevalence[15].

A study on physical violence at work in Morocco[16] found the vast majority of victims to be men, but this is not the case everywhere. Furthermore, under-reporting of gender-based violence has been found to be significant, and to vary between regions, so that care must be taken in interpreting results of studies from countries where disincentives to report are significant[17].

1.1.1.2. Psychological violence: psychological harassment/bullying/mobbing

A significant body of literature – and vocabulary – has developed in recent years on various forms of psychological violence, including: bullying, a term used in the United Kingdom and the United States and other Anglo-Saxon jurisdictions; mobbing, a term more common in Scandinavian and German-speaking countries; *acoso* or *hostigamiento moral*, in Spanish; *harcèlement moral* in France and Belgium; *harcèlement psychologique* in French-speaking Canada and psychological harassment, a term used in some Canadian legislation. For the purposes of this report these terms are used interchangeably[18].

Leading scholars from organizational psychology backgrounds, Ståle Einarsen and colleagues, define the concept in this way:

"Bullying at work is about repeated actions and practises that are directed against one or more workers; that are unwanted by the victim; that may be carried out deliberately or unconsciously, but clearly cause humiliation, offence, and distress; and that may interfere with work performance and/or cause an unpleasant working environment."[19]

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[13] Ansoleaga, et al. 2015.

[14] Jones, et al. 2011.

[15] Lippel, et al. 2011b.

[16] Boughima, et al. 2012.

[17] Palermo, et al. 2014.

[18] For details on the origin of the different terms in different linguistic contexts see Lippel 2010.

[19] Einarsen, et al. 2011 p. 9.

They have also developed a precise measurement tool in the form of the Negative Act questionnaire[20]. That definition has been widely applied in the management and organizational psychology research[21]. Regulators define the term differently, in light of the regulatory contexts in which they are introducing the concept, so it is possible to find laws that include one single serious event under the definition[22], for example in contexts in which other forms of violence, like intimidation, are not explicitly regulated.

1.1.1.3. Threats of violence

While some studies include threats of violence within the definition of physical violence others look specifically at threats. A Danish study compared exposure in four occupations and focussed specifically on different types of threats, which can be written or verbal, direct or indirect[23]. They found variations between different occupations: workers in special schools and psychiatric care had higher frequencies of threats compared to those in elder care and those working in prisons, although some types of indirect threats were more frequent in prisons and psychiatric units.

1.1.1.4. Verbal abuse

Verbal abuse is included in many of the studies examining occupational violence in the workplace[24], and in guidance material produced by the ILO for the purpose of risk assessments in the workplace[25]. A systematic review of the literature on verbal violence, applying a gender lens, found that most studies did not conclude there were gender differences, although a few found that men were more exposed than women[26].

1.1.1.5. Sexual harassment and gender-based harassment

Definitions and measures of sexual harassment vary between jurisdictions and cultures[27]. The ILO Committee of Experts on the Application of Conventions and Recommendations defines sexual harassment as including the following elements:

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[20] Zapf, et al. 2011.

[21] Samnani and Singh 2012.

[22] For example s. 81.18 of the Quebec *Labour Standards* Act, R.S.Q. c. N-1.1, defines psychological harassment to include some one off events: "For the purposes of this Act, 'psychological harassment' means any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects an employee's dignity or psychological or physical integrity and that results in a harmful work environment for the employee. A single serious incidence of such behaviour that has a lasting harmful effect on an employee may also constitute psychological harassment." The literature also discusses single events of bullying that can be experienced as a critical life event. See D'Cruz, et al. 2014.

[23] Rasmussen, et al. 2013.

[24] Fisekovic, et al. 2015 that applied the ILO/ICN/WHO/PSI: Workplace Violence in the Health Sector-Country Case Studies Research Instrument-Survey Questionnaire. ILO et al. 2003.

[25] International Labour Organization, Sectoral Activities Programme, Code of practice on workplace violence in services sectors and measures to combat this phenomenon, Meeting of Experts to Develop a Code of Practice on Violence and Stress at Work in Services: A Threat to Productivity and Decent Work (8-15 October 2003), Geneva. Available at http://www.ilo.org/safework/info/standards-and-instruments/codes/WCMS_107705/lang--en/index.htm, consulted on 28 February 2016.

[26] Guay, et al. 2014.

[27] Chappell and Di Martino 2006, Bond, et al. 2007, Casas Becerra 2016, Huen 2011, Ather 2013.

"(1) (quid pro quo): 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; or (2) (hostile work environment): conduct that creates an intimidating, hostile or humiliating working environment for the recipient" [28].

The definition in article 2 of the European Directive 2002/73/EC is as follows: "Where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment."

The concept includes both unwanted sexual attention in the workplace and the poisoned work environment. It is useful to note that some surveys on working conditions in Europe[29] and Quebec[30] have used questions on unwanted sexual attention as a proxy for sexual harassment, without asking about the poisoned work environment, which may in part explain low levels of reporting of sexual harassment in some surveys.

Literature from the United States specifies that the concept of sexual harassment can also include "*quid pro quo* behaviors where the unwelcome behavior becomes a term or condition of employment or advancement"[31].

Sexual harassment is under-reported[32], and may overlap with other forms of violence[33] or be subsumed into the broader concept of psychological harassment, particularly if targets are stigmatized when complaining of sexual or gender based harassment[34].

The vast majority of targets of sexual harassment are women and the vast majority of perpetrators are men. However there are cases of sexual harassment where the targets are men, and the perpetrators may be either men or women[35].

Gender-based harassment is discriminatory harassment motivated by the gender of the target, and does not intrinsically involve sexual innuendo.

Gender-based harassment, but not sexual-advance harassment, was found to be related to the under-representation of women in male dominated workplaces, although men in female-dominated workplaces were not more exposed to either form of harassment[36].

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[28]   ILO, 2012.

[29]   Eurofound 2013. The report, at p. 8, notes that unwanted sexual attention was used as a proxy for sexual harassment until the 2010 survey.

[30]   Lippel, et al. 2011b.

[31]   Schneider, et al. 2011 p. 245.

[32]   Van De Griend and Hilfinger Messias 2014.

[33]   Eurofound 2013.

[34]   Cox 2014.

[35]   McDonald and Charlesworth 2016.

[36]   Kabat-Farr and Cortina 2014.

1.1.1.6. Other forms of discriminatory harassment

Discriminatory harassment has received less attention in the literature than sexual harassment. It has been prohibited in North America, Australia, and Europe for a number of years, and the legislation governing its prohibition usually requires that the harassment be shown to be related to a prohibited ground of discrimination, with the categories protected by national legislation varying considerably. Harassment against racialized minorities is understood to be prohibited in most human rights instruments, but the prohibition against harassment on the basis of age or sexual orientation is less universal. Even though harassment on the basis of ethnicity or race is prohibited in many countries, effectiveness of those protections is rarely studied, and those studies that do exist show that racialized minorities are more often exposed to harassment and discriminatory treatment[37]. Bullying and harassment of workers with disabilities has not been studied extensively[38].

There is an emerging body of literature on harassment based on sexual orientation and gender identities[39], notably in Australia[40], where discrimination on the basis of sexual orientation is prohibited. In the United States, where sexual orientation is not included in Title VII protections[41], researchers have documented adverse effects of discrimination and harassment related to sexual orientation and its effects on health, and have suggested regulatory measures to improve protection[42].

1.1.1.7. Criminal violence

Physical violence, including homicide, various forms of assault and threats of violence can fall under the purview of criminal legislation, although implementation of criminal law in the workplace is, in many sectors, exceptional[43]. Physical violence committed by patients or students is often "normalized" in the workplace, perceived to be part of the job[44], and in cases of young children or legally incompetent adults it is highly unlikely that the criminal law would be applied. This said, in some countries, like the United States[45], for example, violent crime is the primary focus of the literature on occupational violence, and the problems are conceptualized in the criminological literature on crime prevention more often than in that relating to occupational health.

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[37] In Canada see Premji and Lewchuk 2013; in the United States, Chew 2007.

[38] In the United Kingdom see Fevre, et al. 2013.

[39] For an overview of work-related discrimination toward transgender individuals in the United States, see Sangganjana-vanich and Cavazos 2010.

[40] Ferfolja 2010.

[41] Title VII of the American Civil Rights Act of 1964, as amended, prohibits discrimination in employment based on "race, color, religion, sex [including pregnancy, childbirth and related medical conditions] and national origin". The Americans with Disabilities Act of 1990 prohibits discrimination on the basis of disability. For details see U.S. Equal Employment Opportunity Commission, https://www.eeoc.gov/laws/statutes/titlevii.cfm, consulted on July 10th, 2016.

[42] Rabelo and Cortina 2014.

[43] de Léséleuc 2007.

[44] This may affect reporting practices in surveys on occupational violence. See, for example, Heiskanen 2007.

[45] The United States Bureau of Labor Statistics reports that, in 2014, 749 occupational deaths were attributable to 'violence and other injuries by persons or animals'. The number of workplace homicides was about the same as the total in 2013. http://www.bls.gov/news.release/cfoi.nr0.htm, consulted on 21 February 2016.

A detailed study of criminal victimization in the workplace in Canada found that 37 per cent of violent workplace incidents had been reported to the police, and male victims were much more likely than women to report violent incidents to the police. The authors suggest that this might be explained by the fact that men were more likely to have suffered injuries than women, and that "women were more often victims of sexual assault, which has the lowest reporting rate to police"[46]. Among the cases of workplace violence where the accused was known to the victim, the perpetrator was a co-worker in 18 per cent of incidents.

1.1.1.8. Intimate partner violence in the workplace

Women are disproportionately targets of intimate partner violence. Violence against women is the subject of a huge body of literature[47] that will only be discussed here as it relates to workplaces and work. Two facets will be retained: intimate partner violence that occurs in the workplace and intimate partner violence that affects the worker's ability to work or to keep a job[48]. Other issues in the literature include studies of the spill-over effect of work that can increase the risk that a worker becomes a perpetrator of domestic violence[49] and studies that call for workplaces to manage their employees who are perpetrators of domestic violence outside the workplace[50].

In the United States, intimate partner violence is considered to be a public health issue, and between 2003 and 2008, one third of workplace homicides among U.S. women were perpetrated by a personal relation, the majority attributed to an intimate partner[51]. Yet in the United Kingdom, the Health and Safety Executive uses the Crime Survey for England and Wales to report on violence at work while excluding domestic violence from the purview of its report because "these cases are likely to be very different in nature from other experiences of violence at work."[52]

Domestic violence, regardless of where it occurs, can have a negative impact on the target's ability to get to work, to stay at work or to work well, and there are studies from New Zealand[53], Canada[54] and the United States[55] that document ways in which targets' performance at work can be negatively affected by intimate partner violence outside of work.

Both these facets of intimate partner violence and its relation to work are the subject of considerable debate as to regulatory protections in labour law that are needed to ensure targets' safety, on the one hand, and their ability to be accommodated in the workplace so

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[46]   de Léséleuc 2007. P.13.

[47]   Cruz and Klinger 2011, European Union Agency for Fundamental Rights, 2014.

[48]   A recent survey found that the consequences of domestic violence impacts victims' work lives. See Wathen, et al. 2015.

[49]   Melzer 2002.

[50]   Martinez 2015a.

[51]   Tiesman, et al. 2012.

[52]   Buckley 2015.

[53]   Rayner-Thomas 2013.

[54]   Wathen, et al. 2015.

[55]   Brown 2008, Goldscheid 2009.

as to ensure their ongoing employment. We will explore some of these regulatory examples in the second part of this report.

1.1.1.9. Economic violence

The term economic violence has been developed in the feminist literature on gender-based violence. It has been defined as follows: "Economic violence is when the abuser has complete control over the victim's money and other economic resources or activities"[56] and is usually associated with familial abuse, although the same author includes discriminatory wage scales as part of economic violence. It is recognised as one of four commonly regulated forms of family violence, the others being physical, psychological and sexual. Seventy-nine countries have intimate partner/family violence legislation specifically addressing situations that can be grouped under the term "economic violence".[57]

1.1.1.10. Technology-based violence at work

Recently researchers and regulators have been turning their attention to technology-based violence, including cyber-bullying (cyber-intimidation), and other forms of violence facilitated by social media and technology[58]. Much of this work has looked at violence against women and girls, or cyber-bullying in schools, but little has focussed on links between technology-based violence and work.

There are a few studies looking at workplace cyber-bullying: including a study relating to call centres in India[59], one examining cyber-bullying across sectors in Sweden[60], and one from Australia[61]. Some of this literature looks at violence using traditional technology, the telephone. Call centre personnel in Germany have been found to be at risk for sexual harassment[62]. French personnel working in customer support departments were also found to be targets of violence from customers[63] as were call-centre workers in China[64]. Racial abuse is also a hazard of work in call centres[65].

1.1.1.11. Other forms of violence

"Systemic violence" refers to "violence yielded by the working organization" and "means that the structure of the organization can have features which make workers liable to violence.

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[56] Fawole 2008, at 168.

[57] World Bank Group 2015, at p. 23.

[58] See for example a recent report by the looking at technology related violence against women, Women's Legal and Human Rights Bureau 2015.

[59] D'Cruz, et al. 2014.

[60] Forssell 2016.

[61] Privitera and Campbell 2009.

[62] Sczesny and Stahlberg 2000.

[63] Chevalier, et al. 2011.

[64] Li and Zhou 2013.

[65] Nath 2011.

For example, maximizing the economic outcome of the enterprise or simple indifference may lead to defective protection of the worker"[66].

The term "structural violence" has been used "to identify the heavy workloads, low levels of decision-making autonomy, low status, rigid work routines and insufficient relational care as forms of violence. Not only are these poor working conditions experienced as sources of suffering but they prevent careworkers from providing the kind of care they know they are capable of." [67] The same authors, in describing organizational factors associated with violence in care work, refer to "epistemological violence […] a concept coined […] to name the harm that results from the hegemony of reductionist assumptions." They use the concept to explain the drivers of patient violence towards careworkers in long term care facilities, linking the streamlined treatment of residents in the context of restructuring of the health care sector with an increase in violence against careworkers[68].

The violence literature also discusses other forms of workplace aggression, including incivility[69]. Some of these categories can be considered as psychosocial risk factors that are precursors to other forms of occupational violence.

1.1.2. According to the source of the behaviour

The literature has developed various categorisations of occupational violence, based on the source of the behaviour, and these distinctions have relevance for the prevention of violence and the design of regulatory protections and interventions. The internal vs external distinction is a classic distinction made in the literature and used by the ILO[70] and some regulatory instruments govern the same behaviour differently depending on the internal vs external dichotomy[71]. American scholars have developed a slightly more detailed classification system of violent workplace incidents (physical violence) depending on the perpetrators: Type I refers to perpetrators with criminal intent; Type II customers or clients; Type III worker on worker violence and Type IV personal relationships,[72] and this typology can still be found in the literature.

1.1.2.1. Internal Violence

Understanding the relationships between targets and perpetrators is essential for prevention and for the development of appropriate regulatory remedies. Internal violence would be included in Type III of the American classification, however international analyses of this category has been refined, particularly when including other forms of violence in the analysis.

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[66] Heiskanen 2007, at p. 24.

[67] Banerjee, et al. 2012, at page 391. It is of note that the article reports on physical violence in a long term care facility and that it uses the concept of structural violence as a determinant of physical violence to careworkers.

[68] Banerjee, et al. 2015.

[69] See for instance Estes and Jia 2008, Laschinger, et al. 2014.

[70] Chappell and Di Martino 2006, p. 10.

[71] WorkSafeBC, 1998. *Occupational Health and Safety Regulation: Core Requirements, Improper Behaviour; Violence*, s. 4.24 governs internal violence, labelled 'improper activity or behaviour' while s. 4.27 governs 'violence' to cover attempted or actual exercise of physical force by a person other than a worker so as to cause injury to a worker.

[72] Merchant and Lundell 2001.

For example, the bullying literature distinguishes between vertical and horizontal or lateral violence[73]. Vertical violence addresses a hierarchical relationship between target and perpetrator, which usually involves supervisors targeting people with less power, although there are also cases of supervisors being the object of bullying by people who are lower down in the corporate hierarchy. Research on harassment of women managers[74] shows that they may be targeted from above or below, or by colleagues. Violence perpetrated by colleagues is catalogued as horizontal or lateral violence. The distinction between vertical and horizontal violence is made primarily in the bullying literature.

Regional and occupational sector variations are as relevant as distinctions between different forms of violence. Perpetrators of bullying are more likely to be supervisors in some countries, while, in others, colleagues are more likely to be perpetrators[75]. Men have been found to be protected by their position in the hierarchy in some studies, supervisors and professionals being less likely to be targeted than those working at the bottom of the hierarchy, while women have been found to be less likely to be protected by their occupational status than their male counterparts[76].

Internal violence can include intimate partner violence when both partners work in the same workplace[77].

1.1.2.2. External violence

Both the North American and European literature includes several recent studies on external violence that define and document the phenomenon, and, in some cases, describe various interventions that workplaces have considered for the purpose of prevention. A French overview of the issue describes various institutional definitions of occupational violence, and typologies of external violence that cover the spectrum from incivilities to homicide; it discusses potential factors that influence external violence, both in terms of specific sectors and professions and in relation to work organization; it examines the health effects on targets and on bystanders and it summarizes various prevention measures that address both primary, secondary and tertiary prevention[78].

While clients, patients, passengers, and students are an essential element in workplaces, they are not controlled by the employer in the same way as employees are, be they supervisors or colleagues of the target. The literature categorizes violence committed by these actors as external rather than internal. External violence includes not only violence from clients, patients and students, but also violence perpetrated by their family members[79].

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[73]   Stanley, et al. 2007.

[74]   Salin 2005.

[75]   Hoel, et al. 2001a, Hoel and Einarsen 2010, Lippel, et al. 2011b, Zapf, et al. 2011.

[76]   Lippel, et al. 2011b, Lippel, et al. 2016, Salin 2005.

[77]   The death of two women assassinated by intimate partners who worked in the same workplace as they led to the inclusion of specific provisions in the Ontario *Occupational Health and Safety Act* to address domestic violence in the workplace. See Bill 168, *An Act to amend the Occupational Health and Safety Act with respect to violence and harassment in the workplace and other matters*, 2009 S.O. c. 23.

[78]   Moreau, et al. 2010.

[79]   El Ghaziri, et al. 2014. Patients' relatives were found to be the most frequent perpetrators in several studies from "Arabic cultures", see AbuAlRub and Al Khawaldeh 2013. This was not the case in American studies: Pompeii, et al. 2015.

A study of incidence rates of third party workplace violence in Europe found that there had been an increase in incidents over the three cross-sectional waves of the European Working Conditions Survey (1995, 2000, 2005), an increase that could not be explained by recent changes in the European labour market[80].

In examining the literature on occupational violence between 1978 and 2004, Estrada and colleagues found that within the category of external violence, the focus of the literature had shifted from the retail sector (robberies), which predominated until the mid-nineties, to the health care and education sectors, a result they explain both by increase in exposure in those sectors and by a reduced tolerance of violence[81]. Studying Swedish victim surveys they also found that while violence in care and education had increased, reporting to the police in those sectors had decreased over time[82]. In Finland, similar patterns and analyses were reported, with an increase of violence towards workers, most notably female workers, particularly in the care sectors[83]. In the Finnish study, violence included threats of violence and physical violence, and women, more than men were targets of physical violence.

The North American literature observes a similar increase in violence in the health and education sectors and a decrease in violence in the retail sector[84].

A study in Hong Kong, China found that customer or client-perpetrated violence was far more prevalent in public sector workplaces than in those in the private sector[85].

External violence also includes attacks by perpetrators having no link with the workplace, such as robberies, terrorist attacks, and intimate partner violence when the perpetrator is not a co-worker.

1.2. Gender considerations in understanding occupational violence

The ILO has produced a thoroughly researched working paper on gender-based violence in the workplace and the findings and literature discussed in that report will not be duplicated here[86].

Some scholars recommend a broader inclusion of the concept of workplace to cover non-paid work, volunteer work and domestic work, for example[87]. For the purpose of this report we are restricting ourselves to workplaces, formal or informal, where men and women work for pay.

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[80] Bossche, et al. 2013.

[81] Estrada, et al. 2010.

[82] Estrada, et al. 2007. See also Wassell 2009.

[83] Heiskanen 2007.

[84] Menendez, et al. 2012.

[85] Wing Lo, et al. 2012.

[86] Cruz and Klinger 2011.

[87] Van De Griend and Hilfinger Messias 2014.

1.2.1. Types of violence to which women are disproportionately exposed

As we shall see throughout this report, women are more likely than men to be exposed to certain types of occupational violence while other types of violence affect both men and women, although there may be gendered patterns that differ from one country to the next.

Sexual violence: As we shall see in the section on sexual harassment, there is a consensus in the literature that women are more often exposed than men to sexual violence at work, including sexual harassment, sexual assault, and poisoned work environments of a sexist nature. This is of course also true outside of the workplace[88].

Intimate partner violence: As we have seen, there is an emerging literature on intimate partner violence and its links with the workplace. There are three major issues discussed: impact of intimate partner violence on women's ability to hold paid employment[89], intimate partner violence involving two employees in the same workplace, and vulnerabilities of workers to intimate partner violence that could occur while they are at work. In the U.S., intimate partners are the perpetrators of a large percentage of workplace homicides among women[90].

Psychological violence: Literature is contradictory with respect to psychological violence, in some studies women are more often exposed than men, notably in the Eurofound studies[91], in EQCOTESST, a population based study in Quebec[92] and in the U.S. National Health Interview Survey[93]. Other studies suggest that women are no more exposed than men to workplace bullying and harassment[94], although this varies when we compare men and women in the same professional categories[95].

Physical violence: Literature is also contradictory regarding physical violence. In some studies men are found to be more often targets than women, although this varies between countries and occupational categories and sectors. Workers' compensation data from Quebec reports that compensated claims for physical violence against women is increasing, while violence against men has remained stable over recent years[96]. A Swedish study also found that victimisation of women workers had increased while victimisation of men was fairly stable[97], and in Denmark, sectors dominated by women reported higher incidences of physical aggression than in the sector where there was a majority of men[98].

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[88] Cortina and Kubiak 2006.

[89] Goldscheid 2009.

[90] Tiesman, et al. 2012. The United States Bureau of Labor Statistics reports that in 2014, among the workplace homicides in which women were the victims, the greatest share of assailants were relatives or domestic partners (32 percent of those homicides). In workplace homicides involving men, robbers were the most common type of assailant (33 percent). http://www.bls.gov/news.release/cfoi.nr0.htm, consulted on 21 February 2016.

[91] See for instance: European Foundation for the Improvement of Living and Working Conditions 2007. There are variations depending on the nature of the violence and the country. See also Eurofound 2015.

[92] Lippel, et al. 2011b.

[93] Alterman, et al. 2013.

[94] Zapf, et al. 2011.

[95] Salin 2005, Lippel, et al. 2016.

[96] Commission de la santé et de la sécurité au travail 2015.

[97] Estrada, et al. 2010.

[98] Rasmussen, et al. 2013.

1.2.2. Occupational sectors where violence is prevalent

Women and men work in different sectors, so that sector based violence may also have gendered implications. Here we examine sectors where occupational violence is known to be prevalent, and it is relevant to note the gender composition of those sectors, even though many of the studies do not draw attention to the gendered composition of the workplaces and sectors studied.

1.2.2.1. Healthcare

There is considerable literature in English, French and Spanish on violence in the health care sector, examining targets that include doctors, nurses, and other health care workers, including paramedics[99], receptionists[100], and midwives[101], working in a variety of settings including hospitals, private homes[102], psychiatric institutions and private clinics. This literature includes European[103], North American[104] and Australian[105] perspectives, but also studies from Latin America[106], China[107] including Taiwan[108], Lebanon[109], Sub-Saharan Africa[110], Jordan[111], Iraq[112], Pakistan[113], Palestine[114], Morocco[115], Turkey[116], Saudi Arabia[117] and Egypt[118]. It includes physical violence, threats of violence, and various forms of psychological violence, and considers violence perpetrated by colleagues[119], patients and their families[120]. Little of this literature addresses gender issues in relation to violence in healthcare, despite the fact that a study from 2002 emphasizes the importance of including sexual harassment and gender based harassment in the study of violence in the health care sector[121].

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[99]   Boyle, et al. 2007.

[100] Bayman and Hussain 2007.

[101] El Ghaziri, et al. 2014.

[102] Hanson, et al. 2015.

[103] Millar 2006, Bayman and Hussain 2007, Rasmussen, et al. 2013, Fisekovic, et al. 2015, Magnavita and Heponiemi 2011.

[104] Pompeii, et al. 2013, Pompeii, et al. 2015.

[105] Boyle, et al. 2007, Magin, et al. 2008, Hills, et al. 2013, Pich, et al. 2011.

[106] Ansoleaga, et al. 2015 A third of the studies reviewed focused on the health care sector. See also a recent Brazilian study: da Silva, et al. 2015.

[107] Shi, et al. 2015AB.

[108] Chen, et al. 2009.

[109] Alameddine, et al. 2015B.

[110] Blando, et al. 2015; El Ghaziri, et al. 2014; Kennedy and Hester 2013.

[111] AbuAlRub and Al-Asmar 2011, AbuAlRub and Al Khawaldeh 2013, Albashtawy 2013.

[112] AbuAlRub, et al. 2007.

[113] Shahzad and Malk 2014.

[114] Kitaneh and Hamdan 2012.

[115] Belayachi, et al. 2010.

[116] Pinar, et al. 2015, Erkol, et al.

[117] El-Gilany, et al. 2010.

[118] Abou-ElWafa, et al. 2015.

[119] Stanley, et al. 2007, Johnson 2009.

[120] El Ghaziri, et al. 2014, Pompeii, et al. 2013, Pompeii, et al. 2015.

[121] Hatch-Maillette and Scalora 2002.

All studies mentioned that violence was a hazard associated with healthcare professions and workplaces. The ILO, in collaboration with the International Council of Nurses, the World Health Organization (WHO) and the Public Services International developed a questionnaire designed to measure workplace violence in the health sector in different countries, and this tool was adapted to the local context in several studies[122].

1.2.2.2. Education

Teachers are the targets of various forms of violence and recent studies from the United States[123], Canada[124], Latin America[125], Turkey[126], Denmark[127], the European Union[128] and Korea[129] have documented prevalence of physical and psychological violence of various forms perpetrated by students, and sometimes their parents, targeting teachers. Teachers unions, notably in the U.K.[130] and Canada[131] have been denouncing escalating violence against teachers and calling for it to be addressed.

1.2.2.3. Domestic workers

Domestic workers, particularly live-in caregivers, are known to be vulnerable to abuse, including sexual assault and other forms of violence. These issues were the subject of discussion in the literature[132] leading up to the ILO Convention 189 on Domestic Workers, adopted in 2011, that explicitly addresses violence and abuse of domestic workers[133]. Discussion of exposure of domestic workers to occupational violence can be found in articles focussing on Latin America[134], North America[135], Africa[136], or the Middle East[137], and health

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[122] See for example Fisekovic, et al. 2015, AbuAlRub, et al. 2007, AbuAlRub and Al-Asmar 2011.

[123] Espelage, et al. 2013, Reddy, et al. 2013, Tiesman, et al. 2013, McMahon, et al. 2014. Gerberich, et al. 2014. The Tiesman and the Gerberich studies found that special education professionals were particularly vulnerable to violence perpetrated by students. This was also found in a Danish study: Rasmussen, et al. 2013.

[124] Wilson, et al. 2010. This article also examines the consequences of violence for teachers' health and teaching related functionality.

[125] 34 per cent of the studies surveyed in a systematic review of occupational violence in Latin America looked at the education sector, see Ansoleaga, et al. 2015.

[126] Ozdemir 2012.

[127] Rasmussen, et al. 2013.

[128] Ariza-Montes, et al. 2016.

[129] Moon, et al. 2015.

[130] http://www.ei-ie.org/en/news/news_details/3673, consulted on 10 March 2016. Wills and Sedghi 2014.

[131] http://www.cbc.ca/news/canada/north/yukon-teachers-association-says-classroom-violence-is-top-concern-1.3044955, consulted on 10 March 2016; Centrale des Enseignants du Québec (CEQ) 2000.

[132] Blackett 2011, Chen 2011.

[133] International Labour Conference, Text of the Convention Concerning Decent Work for Domestic Workers, One hundredth session, Geneva, 2011, article 5 provides that "Each Member shall take measures to ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence."

[134] Vega Ruiz 2011, DeSouza and Cerqueira 2009.

[135] Hanley, et al. 2010, Smith 2011.

[136] Nyabuti Ondimu 2007.

[137] Varia 2011.

hazards for domestic workers, including those related to violence, have been the subject of a recent systematic review of the literature from around the world[138]. Challenges for labour inspectorates are exacerbated because domestic work is done in private homes[139].

1.2.2.4. Working with the public

Bus drivers in El Salvador went on strike in 2015 to denounce gang violence of which they were targets[140]. In Canada and the United States, unions representing transport workers denounced an increase in violence towards their members and the *Canadian Criminal Code* was amended as a result of their mobilisation[141]. The literature on violence against bus drivers is sparse, although violence has been identified as a risk factor for public transit workers[142]. In the United States, taxi drivers are also disproportionately targeted, with a homicide rate four times higher than that of workers in law enforcement[143].

A recent literature review of violence, including physical violence, bullying and sexual harassment in the hospitality industry found that a high prevalence was reported[144], a confirmation of a previous study by the International Labour Office published in 2003[145]. Sexual harassment and homophobic harassment were the subject of detailed analysis in a study of the hospitality work environment involving students in the United Kingdom who were deployed in placements both inside and outside the United Kingdom[146]. Sexual harassment has been found to be prevalent in the hospitality industry in studies from New Zealand[147], the United Kingdom [148] Canada[149] and Zimbabwe[150], several studies identifying a tolerance and trivialization of sexual harassment in the industry[151], some relating it to the tipping system associated with low hourly wages for servers[152]. Bullying in restaurants was found to be a particular problem for apprentices, a problem compounded by the belief that bullying was natural in the restaurant work environment[153]. Workers

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[138] Malhotra, et al. 2013.

[139] Vega Ruiz 2011.

[140] Reuters, El Salvador bus drivers go on strike as gang violence surges, Reuters World, 27 July 2015. http://www.reuters.com/article/us-el-salvador-gangs-idUSKCN0Q201720150728, consulted on 29 February 2016.

[141] Bill S-221 amended the Canadian *Criminal Code* to create a new aggravating factor for the purpose of sentencing offenders convicted of assault related offences against a public transit operator who was on duty at the time of the assault. See http://news.gc.ca/web/article-en.do?nid=953849, consulted on 29 February 2016.

[142] Tse, et al. 2006.

[143] Schwer, et al. 2010.

[144] Ram 2015.

[145] Hoel and Einarsen 2003.

[146] Ineson, et al. 2013.

[147] Poulston 2008.

[148] Ineson, et al. 2013.

[149] Lippel, et al. 2011b, Matulewicz 2015.

[150] Mkono 2010.

[151] Poulston 2008.

[152] Matulewicz 2015.

[153] Mathisen, et al. 2008.

in the sex trade, including escorts, exotic dancers and workers who exchange sexual services for remuneration are particularly vulnerable to physical and sexual violence[154].

1.2.2.5. Security (police, prisons, military)

A Danish study[155] comparing physical violence and threats of violence in four occupational sectors (special education, psychiatry, prison and probation services and eldercare) found that those working with prisoners were less likely to be exposed to physical violence than workers in the other categories studied. They were also more likely to be threatened than to be victims of physical violence. Of the four sectors studied, this was the only sector where the majority of workers were men.

A Quebec study found that inmate assaults on prison guards were relatively rare and when they did occur were relatively minor physical assaults, and psychological attacks[156]. However another Quebec study found that intimidation and harassment between staff members was particularly high[157] and a follow up study examined typologies of interpersonal violence in the same population[158].

An Australian study using workers' compensation data compared exposures to violence of security officers and police officers and found the compensation claims rates for injury attributable to occupational violence was comparable, but the severity of the injuries of the workers in security was greater[159].

A study from the United Kingdom looking at gender differences in the exposure to internal and external violence of police officers found no gender differences in either form of violence[160].

Sexual harassment and sexual assault in the Canadian[161] and United States [162] military have been increasingly the focus of attention in recent years.

1.3. Organizational factors associated with exposure to various forms of violence

Much has been written about organizational causes of workplace bullying and harassment, although the studies are primarily from Europe, Australia and North America[163]. A systematic review of the literature on occupational violence in Latin America noted that very few Latin

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[154]   Deering, et al. 2014.

[155]   Rasmussen, et al. 2013.

[156]   Gomez 2012.

[157]   Bourbonnais, et al. 2007.

[158]   Jauvin, et al. 2011.

[159]   Ferguson, et al. 2011.

[160]   Santos, et al. 2009.

[161]   Berthiaume 2015, Deschamps, 2015.

[162]   Clark, 2015.

[163]   Salin and Hoel 2011.

American studies focused on organizational factors, and the authors identified this as a priority for research[164]. A Mexican study set in the *Maquiladoras* examined organizational factors related to occupational violence, including both physical violence and sexual harassment[165].

A study of workplace bullying in the Information Technology (IT) sector in India noted the relevance of considering national contexts in order to understand the workplace bullying-organizational change link[166].

Here we will present three categories of organizational factors: psychosocial hazards, non-standard employment contracts and normalization of violence associated with organizational cultures.

1.3.1. Psychosocial hazards as fertile ground for occupational violence

The challenge of psychosocial risk factors is high on the agenda in many countries[167], and the links with workplace violence have been the focus of considerable attention in the literature. Bullying and harassment are in themselves considered as psychosocial hazards, but studies on other forms of psychosocial hazards that have been found to be precursors of violence in the workplace are considered.

A study that compared working conditions of workers in several Canadian long-term care facilities with those of their Scandinavian counterparts found very large disparities in exposure levels of the Canadian workers to physical violence: 43 per cent of Canadians reported being exposed daily as compared to 5-8 per cent of their Scandinavian counterparts. This was also true with regard to exposures to unwanted sexual attention: 14 per cent of Canadian careworkers studied as compared to less than 1.5 per cent of the Scandinavians. The authors link these different outcomes to structural factors that exposed the workers to various psychosocial risk factors in residential care facilities in Canada. These included heavy workload, insufficient staff, rigid work routines, lack of decision-making autonomy and inadequate relational care[168]. This study is one of many that provide evidence of the mechanisms by which occupational physical violence is linked to workplace psychosocial hazards.

Job strain and lack of social support were found to have a bidirectional relationship with workplace violence (non-physical aggression) in an Italian study of healthcare workers. Those exposed to job strain and lack of social support in the previous year were more likely to report non-physical aggression the year after, and those exposed to workplace violence were more likely to report low support and high strain the subsequent year[169].

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[164] Ansoleaga, et al. 2015.

[165] Scarone Adarga 2014.

[166] D'Cruz, et al. 2014.

[167] Eurofound and OEU-OSHA 2014, Eurofound 2015.

[168] Banerjee, et al. 2012. See also Banerjee, et al. 2015.

[169] Magnavita 2014.

A study of police officers in Australia provides evidence of the links between the psychosocial risk factors measured (a combination of high job demands, low job control and low support resources) and higher levels of reported bullying. The authors provide suggestions as to the explanatory pathways:

> "Stressful working conditions (such as the combination of high demands, low job control, and low support) may provide fertile soil for negative interactions in three ways, by (a) raising employee arousal and lowering the threshold for anger, aggression, and conflict within a work group; (b) increasing the likelihood that employees will voice concerns, which may be met with punitive (i.e. bullying) responses by superiors; and (c) triggering the projection of anger, frustration, and tension down the line from managers to subordinates and across work groups from one employee to another. These mechanisms may operate between a supervisor and a subordinate or between colleagues and, if the pattern of negative behavior continues, may eventually develop into a bullying relationship."[170]

Several studies have demonstrated associations between bullying/harassment/mobbing and other psychosocial hazards including job strain[171], iso-strain[172], effort reward imbalance[173], role conflict[174], job insecurity[175] and others. Restructuring as a fertile ground for the development of workplace bullying has also been examined[176]. Some studies have found that women, as compared to men, had a higher prevalence of exposure to psychosocial hazards[177], although the Eurofound studies found that gender associations varied depending on the hazards and countries studied[178]. The exposure to psychosocial work factors also has been found to vary between countries[179], and, over time, improvement or deterioration of conditions varies between countries and occupational categories[180].

1.3.2. Non-standard employment contracts and exposure to violence

Exposure to various forms of occupational violence has been found to be associated with different categories of non-standard employment, particularly temporary or fixed-term employment, although results seem to vary depending on the nature of the violence. Several studies have found that temporary employees are at increased risk for exposure to sexual harassment[181]. However exposure to workplace bullying was found to be less prevalent for temporary workers as compared to workers with indeterminate contracts in both Quebec[182]

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[170]   Tuckey, et al. 2009, p. 228.

[171]   Baillien, et al. 2011, Lippel, et al. 2011b.

[172]   Tuckey, et al. 2009, Lippel, et al. 2011b.

[173]   Lippel, et al. 2011b.

[174]   Baillien and De Witte 2009.

[175]   Baillien and De Witte 2009, De Cuyper, et al. 2009, Lippel, et al. 2011b.

[176]   D'Cruz, et al. 2014, Baillien and De Witte 2009.

[177]   Vézina, et al. 2011, Campos-Serna, et al. 2013.

[178]   Eurofound and OEU-OSHA 2014.

[179]   Niedhammer, et al. 2012.

[180]   Malard, et al. 2013.

[181]   In Australia: LaMontagne, et al. 2009; in Quebec: Lippel, et al. 2011b.

[182]   Lippel, et al. 2011b.

and Australia[183]. This was not the case in Japan, where temporary workers were found to have had higher exposure levels to bullying as compared to those with indeterminate contracts[184]. Findings that temporary employees were more likely to be targeted were reported in the Eurofound studies of "Adverse Social Behaviours" (ASBs), although this measure grouped together verbal abuse, unwanted sexual attention, threats or humiliating behaviour[185].

1.3.3. Normalization and naturalization of violence in particular sectors

Several studies address the "naturalization" or "normalization" of occupational violence as workers and employers may believe that physical violence, bullying, or sexual harassment is part of the job. This has been identified as a contributor to trivialization of physical violence in education[186] and healthcare[187], for instance, and it has the effect of making violence invisible, as workers and supervisors fail to report incidents of violence[188], which makes prevention more difficult. It is also a problem from a research perspective, as workers surveyed may fail to report physical violence if they see it as being part of the job[189]. This is also true of gender-based violence, which will go unreported everywhere, although there are important variations by region[190]. This may also be true with regard to reporting about any category of violence by women occupying non-traditional jobs where acceptance by colleagues may preclude complaining about physical violence, bullying or sexual harassment. Men may be more likely to report a violent incident that takes place at work, reporting in those circumstances being validated as "an act of duty" to shed light on working conditions[191].

Normalization of bullying and other forms of abuse has also been studied in the healthcare sector[192], in restaurants[193] and in call centres[194]. Both supervisors and colleagues can contribute to the process of normalization whereby violent behaviour by clients or patients is attributed to the worker's (in)ability to manage the potentially violent[195]. Sexual harassment is seen as part of the job in some hospitality workplaces[196], a phenomenon that some authors relate to practices of tipping[197].

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[183] Keuskamp, et al. 2012.

[184] Tsuno, et al. 2015.

[185] Eurofound 2015.

[186] Rasmussen, et al. 2013.

[187] Baby, et al. 2014, Jones and Lyneham 2001, Rasmussen, et al. 2013, Gates, et al. 2011, Pich, et al. 2011.

[188] Baines 2006, Rasmussen, et al. 2013, Blando, et al. 2015.

[189] Heiskanen 2007.

[190] Palermo, et al. 2014.

[191] Burcar, 2013, citing a Swedish language study by Akerstrom published in 1997.

[192] Hutchinson, et al. 2010.

[193] Mathisen, et al. 2008.

[194] Bishop, et al. 2005.

[195] Bishop, et al. 2005.

[196] Poulston 2008.

[197] Matulewicz 2015, Albin 2011.

1.4. Effects of exposure to workplace violence

Although a thorough analysis of this issue goes beyond the scope of this report it must be noted that there is a significant body of literature on health effects of exposure to physical[198] and psychological violence in the workplace[199], including many studies on the health effects of bullying and harassment[200]. An overview of the literature from a global perspective concluded that "the health related consequences of psychological violence can be as severe as those for physical violence" and that workplace violence 'is a major occupational health hazard in all nations, regardless of their state of development'[201]. As these overviews of the literature have shown, bullying can lead to a broad range of mental health problems, including depression[202], psychological distress[203], post-traumatic stress disorder[204], and suicidal ideation[205]. Studies have shown long term health effects as well[206]. Psychological violence can have physical consequences, including musculoskeletal disorders that have been found to be associated with exposure to a hostile work environment[207], sexual harassment[208] and bullying[209].

Workplace violence, among other psychosocial hazards studied, was found to be a determinant of long sickness absence in Europe, with almost no difference observed according to gender or country[210].

Some studies focus on health effects of violence in specific sectors, notably the health care sector[211]. Both physical and psychological consequences of physical[212] and psychological violence, including sexual harassment[213] have been well documented[214].

A meta-analysis examined variations in outcomes depending on the source of the violence and the relationship between the perpetrator and the victim. It found that the majority of

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[198] Lanctôt and Guay 2014.

[199] Ansoleaga, et al. 2015.

[200] For an extensive review of the literature on antecedents and consequences of bullying in the workplace see Samnani and Singh 2012. See also Hogh, et al. 2011, Hogh, et al. 2012, Gullander, et al. 2014. For a review of the literature on sickness absence and bullying see Nielsen, et al. 2016b. The authors note that the relationship between sickness absence and bullying may be bidirectional, that is to say that bullying may precede or follow a worker's sickness absence. Cross-sectional studies have found associations with presenteeism, psychological distress, symptoms of depression, musculoskeletal disorders and work accidents: Lippel, et al. 2011b, Conway, et al. 2016, Rugulies, et al. 2012.

[201] Mayhew and Chappell 2007.

[202] Gullander, et al. 2014, Lippel, et al. 2011b, Rugulies, et al. 2012.

[203] Lippel, et al. 2011b, Lippel, et al. 2016.

[204] Birkeland Nielsen, et al. 2015b.

[205] Birkeland Nielsen, et al. 2015a. A longitudinal study of suicidal ideation associated with workplace bullying behaviours found that exposure to physically intimidating behaviours is a risk factor for suicidal ideation: Nielsen et al. 2016a.

[206] Bonde, et al. 2016.

[207] Defined to include threats, bullying or harassment in the previous 12 months: Yang, et al. 2016.

[208] Stock and Tissot 2012.

[209] Vignoli, et al. 2015.

[210] Slany, et al. 2014.

[211] Lanctôt and Guay 2014. See also many of the studies from the healthcare sector cited in section 1.2.2.1 of this report.

[212] Commission de la santé et de la sécurité au travail 2015.

[213] Stock and Tissot 2012.

[214] Birkeland Nielsen, et al. 2015a.

health outcomes were not significantly different, when comparing violence by a supervisor, a co-worker or an outside aggressor. However other outcomes measured, including attitudinal outcomes (job satisfaction, affective commitment and turnover intent) and behavioural outcomes (interpersonal deviance, organizational deviance and work performance) varied depending on the perpetrator. Supervisor aggression had the strongest adverse effects on attitudinal and behavioural outcomes[215]. There are many other studies examining the consequences of violence for organizations[216]. Chappell and DiMartino discuss the costs of occupational violence for organizations and society[217] and some studies include the effects on the victims and their families, the organization and the community[218]. A recent Australian study has quantified the economic cost of depression-related productivity loss attributable to job strain and bullying[219]. The ILO has published reports on the cost of violence and stress at work[220].

1.5. Primary, secondary and tertiary prevention strategies

Primary, secondary and tertiary prevention strategies are grounded in a public health approach to violence, which reminds us that any eventual regulatory attention envisaged should include within its scope provisions designed to protect workers' health[221]. Applied in the context of workplace violence, 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 the exposure to violence; tertiary prevention aims to soften the impact of those injuries or illnesses sustained because of workplace violence, that have lasting consequences for the worker. Some of the literature on workplace violence includes a focus on these three layers of prevention[222].

The analysis is restricted to prevention of violent incidents in the workplace, although there is a great deal of literature addressing the importance of mitigating the health consequences of violence.

1.5.1. Preventing physical violence

Prevention strategies with regard to physical violence vary by country and by sector. A systematic review of the literature on effectiveness of interventions in preventing workplace violence (criminal/physical) in the United States relies on both the typologies of violence

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[215] Hershcovis and Barling 2010. For a study on affective commitment among bullied schoolteachers in China see McCormack, et al. 2006.

[216] See for example Wing Lo, et al. 2012, Gates, et al. 2011, Hoel, et al. 2011.

[217] Chappell and Di Martino 2006, pp. 137-141.

[218] See for example Bowman, et al. 2009.

[219] McTernan, et al. 2013

[220] Hoel, et al. 2001b, http://www.ilo.org/safework/info/publications/WCMS_108532/lang--en/index.htm.

[221] http://www.iwh.on.ca/wrmb/primary-secondary-and-tertiary-prevention

[222] See for example Moreau, et al. 2010. An unpublished report of the ILO provides detailed descriptions of ways labour inspectors can intervene to ensure primary, secondary and tertiary prevention in relation to exposure to psychosocial risk factors at work. Various forms of physical violence and harassment are included in the psychosocial risk factors addressed by the report: ILO, unpublished.

developed by the National Institute for Occupational Safety and Health (NIOSH), and categories of interventions developed by Merchant and Lundell[223], including environmental (for example lighting), organizational and administrative (i.e. programmes, policies, staffing) and behavioural (i.e. training)[224].

A large survey of Australian medical practitioners examined aggression prevention and minimization actions and found that four interventions were present in at least 60 per cent of workplaces. These included policies, protocols and procedures advocating a zero-tolerance approach to workplace aggression; incident reporting and follow-up systems; patient and public access restrictions and building security systems[225].

Internal violence is often addressed by sanctioning the aggressor, for example in zero-tolerance workplace policies that employers rely on to take disciplinary action against workers who have performed violent acts targeting colleagues or clients (pupils or patients, for example). Popular in the United States, these policies may also inadvertently provide opportunities for discrimination, particularly if they are not applied consistently[226].

External violence in the health care and social service sectors, for example, is sometimes attributable to organizational factors: clients dissatisfied with long, unexplained waiting times, understaffing that leads to poor quality service, or cost-saving measures that lead to dissatisfaction[227]. In such cases, studies suggest that prevention starts with the improvement in the quality of services, which may require investment in additional staff, development of effective complaints mechanisms that channel the voice of the dissatisfied clients, but also provision of mechanisms to ensure that workers have a voice in the development of strategies to improve relations with the clientele[228]. In some countries, time and motion studies have not considered the value of the relationship or rapport between the worker and the patient or the student, so that the resulting staffing levels prevent workers from spending any time preserving the humanity of their rapport with the client. This not only has health effects for the clients, but also can lead to violent behaviour from the dissatisfied and frustrated clientele[229]. Improving the quality of service is a suggested prevention strategy in these studies. In their review of the literature on prevention, Moreau and colleagues also note organizational protocols that permit risk assessments specific to the organization, and responses associated with the risks identified. One example applies to the protection of the occupational physician from violence, and includes an overarching protocol, training materials addressing procedures that

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[223] Merchant and Lundell 2001.

[224] Wassell 2009.

[225] Hills, et al. 2013.

[226] See, for example, HR Specialist: Ohio Employment Law, "Establish zero-tolerance policy on violence and threats- but don't count on backup from courts." http://web.b.ebscohost.com.proxy.bib.uottawa.ca/ehost/pdfviewer/pdfviewer?sid=52 d0fbd2-547c-4f49-8aac-7950e1beb453%40sessionmgr106&vid=1&hid=125, consulted on July 15th, 2016. See also Casas Becerra 2016, who shows that labour tribunals in Chile are often sympathetic to the perpetrator who sanctioned because of a sexual harassment complaint.

[227] For example, in a Canadian study on workplace violence the use of cost-saving strategies based on rationing of diapers in a residential care facility was found to be a trigger of violent incidents by residents against staff, who were instructed to not change a diaper of an incontinent patient unless a blue line appeared on the diaper, showing it to be sufficiently saturated to justify the cost of changing the diaper. See Armstrong, et al. 2009.

[228] Moreau, et al. 2010, Banerjee, et al. 2012.

[229] Banerjee, et al. 2008, Armstrong, et al. 2009, Moreau, et al. 2010, Banerjee, et al. 2012, Banerjee, et al. 2015.

need to be in place, recommended behavioural responses to aggression, and other tools, including a debriefing method to be applied after violent incidents[230]. Specific programs designed to provide training to home health and hospice providers have been implemented in California. A recent evaluation study found that implementation of guidelines by workplaces was variable and the quality of the training provided was not perceived to be excellent. The authors concluded that access to violence prevention training and improved quality of training was necessary for the prevention strategies described in the Occupational Health and Safety Administration Guidelines to be effective[231].

Physical violence in education in the United States has been the subject of a task force and several recent studies designed to identify risk factors and prevention strategies[232]. Authors suggest that addressing environmental factors would have the most impact on prevention. Illumination of interior environments, ensuring accessible exits and conducting routine locker searches were three strategies proposed by the authors[233].

In the United States, work-related violence was responsible for 16 per cent of occupational fatalities in 2014[234], and research to reduce the risk of homicide outside of specific sectors has identified bright lighting and staffing as factors associated with reduction in risk[235]. NIOSH has an ongoing research programme looking at strategies for the prevention of workplace violence, focusing in particular on physical assault and criminal violence[236].

Visibility of physical violence in the workplace depends on reporting practices, which vary between countries and professions. In Denmark, where reporting systems are integrated in violence prevention policies and in cases of sickness absence related to violence at work, it is possible for regulators to track the prevalence of violent incidents, although even in Denmark some incidents go unreported[237]. In most other countries, reported incidents of violence in the workplace are likely to be the tip of the iceberg.

A recent study from New Zealand[238] used a systems approach to understand workplace assault on persons and property. The study was informed by the Chappell and DiMartino systems model[239], which they found to be "particularly useful in assisting in risk assessment as it depicts the interactive role of individual, workplace, contextual and societal risk factors in the aetiology of workplace violence events."[240]. The authors used New Zealand data from a survey of organizations on workplace violence that included questions on perceptions of risk factors in their organizations, in order to shed light on occupational violence and prevention strategies. Organizational factors of importance included workload, time pressure and organizational

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[230] Moreau, et al. 2010 p. 39.

[231] Vladutiu, et al. 2016.

[232] Espelage, et al. 2013, Reddy, et al. 2013, Gerberich, et al. 2014, McMahon, et al. 2014

[233] Gerberich et al. 2014.

[234] http://www.bls.gov/news.release/cfoi.t01.htm consulted on 21 February 2016.

[235] Loomis, et al. 2002.

[236] http://www.cdc.gov/niosh/topics/violence/traumaviol_research.html, consulted on 21 February 2016.

[237] Rasmussen, et al. 2013.

[238] Bentley, et al. 2014.

[239] Chappell and Di Martino 2006.

[240] Bentley, et al. 2014, p. 840.

communication, particularly in the health, construction and manufacturing sectors. Working in isolation and inadequate training were also identified in relation to the health care sector. The study is of interest notably because it is one of the few to take an ergonomics approach to occupational violence. The authors conclude that focus on organizational measures and safety culture "is the area in which ergonomics can perhaps have greatest impact, through analysis of weaknesses in work systems with regard to violence, and particularly those features of task, environment and organisational design that create violence risk [...]."[241]

1.5.2. Preventing psychological violence and sexual harassment

There is a large body of literature on violence prevention policies and practices designed to reduce or eliminate psychological violence and sexual harassment. Given the association between exposure to psychosocial risk factors and workplace bullying and harassment, the literature on reduction of exposure to psychosocial risk factors is relevant to the prevention of bullying and harassment. The role of occupational health and safety inspectorates in the prevention of psychological violence, and more broadly psychosocial risk factors has been documented in several studies from the Nordic countries[242] and in Spain[243] and elsewhere in Europe and the Americas[244]. Given that psychosocial risk factors have been shown to be associated with psychological violence, prevention strategies proposed in the literature often focus on addressing the psychosocial risk factors such as job demands and insufficient resources[245]

Policies and practices designed for preventing workplace bullying and harassment have been discussed extensively in the literature[246], and tools and strategies for inspectorates have been proposed in a study commissioned by the ILO[247].

Research on intervention strategies for prevention is prolific. A systematic review[248] of articles evaluating workplace interventions designed to reduce workplace bullying or incivility critically appraised 12 interventions, after having filtered several thousands articles addressing the issue. Their review of the literature found that it indicated "poor organisational response" to bullying, and noted interventions at the organizational level were preferable to interventions targeting individuals[249].

Hodgins and colleagues found that of the 12 studies on interventions they retained "half the studies focused on changing individual behaviours or knowledge about bullying or incivility". Duration of interventions ranged from a few hours to two years, and few studies examined the situation before and after the intervention. The authors focus in particular on the CREW

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[241] Bentley, et al. 2014, p. 847.

[242] Bruhn and Frick 2011, Rasmussen, et al. 2011.

[243] Velázquez 2010.

[244] Velázquez 2013.

[245] Ariza-Montes, et al. 2016.

[246] Vartia and Leka 2011.

[247] ILO unpublished. We discuss some of these in Part II of this report.

[248] Hodgins, et al. 2014.

[249] Hodgins, et al. 2014, citing Vartia and Leka 2011.

(Civility, Respect and Engagement in the Workplace) intervention, "which is designed to address incivility"[250] from an organisational perspective.

A recent study on an intervention targeting supervisors and designed to improve workplace climate in support of victims of domestic violence found the training provided to supervisors to have improved supervisor knowledge and workplace climate with regard to intimate partner violence[251].

There are numerous evaluative studies[252] and the literature suggests that evaluation should be sector specific[253]. Some studies distinguish between strategies appropriate to the public and private sectors[254]. Obstacles to effective prevention have been documented in the health care sector[255] and an American evaluation of workplace violence over time has found that considerable progress has been made in the retail sector, while challenges remain in segments of the health care sector[256].

Publications in French written to inform regulators and specialists in prevention have developed specific models of intervention adapted to guide those responsible for assuring prevention of violence in the workplace. Several studies focus on the importance of analysing the organisational context in which violent incidents take place[257]. This model, developed by researchers from the French Institut National de Recherche Scientifique (INRS), sheds light on the importance of including a broad range of factors of various categories in designing diagnostic tools for managing and intervening in situations of workplace violence.

A Quebec study described a participatory intervention in three detention facilities where workplace internal violence was high[258]. The interventions were designed with the support of the local bi-partite health and safety committees and were based on three categories of changes: "the adoption of more participatory (democratic) practices that recognize the importance of each employee; the adjustment of work methods so as to provide practice guidelines and the development of ways and means to foster healthy interpersonal relations and personal well-being." The team implemented the intervention and then evaluated its outcomes. Interestingly, not only did they see improvements in the facilities where changes had been implemented, they also found that "the intervention research process itself contributed to a number of appreciable changes extending beyond the specific facilities targeted by the research."[259]

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[250] This intervention is described in the following articles cited by Hodgins, et al. 2014: Osatuke, et al. 2009, Leiter et al 2011, Leiter et al, 2012.

[251] Glass, et al. 2016.

[252] For systematic reviews of the literature see Wassell 2009 and Hodgins, et al. 2014.

[253] Gadegaard, et al. 2015.

[254] Fredericksen and McCorkle 2013, Tummers, et al. 2016.

[255] Blando, et al. 2015.

[256] Menendez, et al. 2012.

[257] Favaro, 2016.

[258] Dussault, et al. 2012. The website of the research institute that published this report also provides guidance materials for workplace parties: http://www.irsst.qc.ca/prevention-violence/en/process.html

[259] Dussault, et al. 2012. p. iv

While an exhaustive discussion of the literature evaluating the effectiveness of interventions for the prevention of violence goes beyond the scope of this report, it is clear from the examples above that there are a large number of tools to assist inspectorates and workplace parties in developing strategies for the prevention of both physical and psychological violence in the workplace.

PART 2

Designing gender sensitive legislation and policies addressing workplace violence

Here a sample of regulatory and other normative solutions currently in existence is examined, and when relevant mention is made of gender considerations in the design and evaluation of regulatory protections addressing violence in the workplace.

2.1. International regulatory instruments

An exhaustive inventory of regulatory instruments governing occupational violence goes beyond the scope of this report. In 2006, the ILO publication on violence at work provided a solid overview of international instruments governing workplace violence, as well as providing illustrations of regulatory interventions in many countries[260]. Here we will touch upon a few developments since the publication of that report. Before discussing specific instruments, it is worthy of note that there have been several studies on the role of regulatory frameworks in providing incentives for organizational policy development for the reduction of psychosocial risks, including occupational violence. Each country may favour one type of intervention over the other, conceptualizing the problem as one relating to equality in the workplace, occupational health and safety, or criminal law. However the importance of regulatory incentives in promoting change in the workplace is now the subject of discussion in many studies from Europe[261] and elsewhere. Here we will provide a summary overview of the types of regulatory instruments that can apply, and when applicable focus on specific types of violence addressed by policy and regulation.

We will first present international instruments, including those from the ILO and the European Union. We will then look at national instruments, followed by an overview of hazard-specific legislation, including both trans-national and national examples.

2.1.1. ILO Instruments and other initiatives

Various ILO instruments already address issues related to occupational violence in specific sectors, such as the Domestic Workers Convention, 2011 (No. 189) and the Domestic

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[260] Chappell and Di Martino 2006. See in particular chapter 8.

[261] Iavicoli, et al. 2011, Leka, et al. 2011c.

Workers Recommendation, 2011 (No. 201), in which Articles 7 and 21 address violence and abuse of domestic workers:

> Article 7. Members should consider establishing mechanisms to protect domestic workers from abuse, harassment and violence, such as:
>
> (a) establishing accessible complaint mechanisms for domestic workers to report cases of abuse, harassment and violence;
>
> (b) ensuring that all complaints of abuse, harassment and violence are investigated, and prosecuted, as appropriate; and
>
> (c) establishing programmes for the relocation from the household and rehabilitation of domestic workers subjected to abuse, harassment and violence, including the provision of temporary accommodation and health care.
>
> Article 21. (f) providing for a public outreach service to inform domestic workers, in languages understood by them, of their rights, relevant laws and regulations, available complaint mechanisms and legal remedies, concerning both employment and immigration law, and legal protection against crimes such as violence, trafficking in persons and deprivation of liberty, and to provide any other pertinent information they may require.

As mentioned by Chappell and DiMartino, although Convention No. 111 on discrimination in employment and occupation, which prohibits discrimination on the basis of sex, does not explicitly address sexual harassment, the Committee of Experts on the Application of Conventions and Recommendations (CEACR), in its 1996 report "has expressed its view that sexual harassment is a form of sex discrimination [that] should be addressed within the requirements of the Convention." It has since "urged governments to take appropriate measures to prohibit sexual harassment in employment and occupation"[262].

In 2010 the ILO adopted the Recommendation concerning HIV and AIDS and the World of Work[263] that provides in Paragraph 3(c) that "there should be no discrimination against or stigmatization of workers, in particular jobseekers and job applicants, on the grounds of real or perceived HIV status or the fact that they belong to regions of the world or segments of the population perceived to be at greater risk of or more vulnerable to HIV infection". It further provides, in Paragraph 14(c), that "Measures should be taken in or through the workplace to reduce the transmission of HIV and alleviate its impact by ensuring actions to prevent and prohibit violence and harassment in the workplace".

In 2016, the ILO adopted amendments to the Code of the Maritime Labour Convention 2006 that explicitly require that account be taken "of the latest version of the Guidance on eliminating shipboard harassment and bullying jointly published by the International Chamber

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[262]   Chappell and Di Martino 2006, pp. 266-267. They rely on the following source: General Survey on 'Equality in Employment and Discrimination' in 1996 that includes a definition of sexual harassment (par. 39). More recently discriminatory harassment and violence was addressed in a variety of ILO reports including the 2011 Global Report On Equality And Discrimination at Work: http://www.ilo.org/ilc/ILCSessions/100thSession/reports/reports-submitted/WCMS_154779/lang--en/index.htm and in the CEACR's country specific observations: http://www.ilo.org/dyn/normlex/en/f?p=1000:20010:0::NO:::.

[263]   Available at http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO:12100:P12100_INSTRUMENT_ID:2551501 Adoption: Geneva, 99th ILC session (17 Jun 2010).

of Shipping and the International Transport Workers' Federation."[264] Violence is also included as an issue within the purview of the 2015 Recommendation 204 concerning the Transition from the Informal to the Formal Economy, 2015 (No. 204), Paragraph 11(f) which provides for "the promotion of equality and the elimination of all forms of discrimination and violence, including gender-based violence, at the workplace"[265].

Several ILO publications address violence in specific sectors, including the service sector[266], the education sector[267] and the garment sector[268]. The ILO, in partnership with the International Council of Nurses, the World Health Organization and Public Services International, has published tools for training in the implementation of Framework Guidelines for Addressing Workplace Violence in the Health Sector[269].

There are also reports and guidance materials that discuss prevention of violence, including discriminatory harassment[270]. Chappell and DiMartino provide a detailed analysis of ILO instruments that address workplace violence[271], which we will not repeat here. As we can see from this overview, there is no overarching convention of the ILO that addresses workplace violence from a holistic perspective, although bits and pieces of different instruments address specific sub-categories of violence in some sectors.

2.1.2. European instruments

2.1.2.1. The European Social Charter

The European Social Charter has been used in recent years as a tool to ensure Member States provide adequate occupational health and safety protections[272]. The Social Charter includes provisions prohibiting sexual harassment[273] and psychological or moral harassment[274], and requires annual reports to the Commission from EU countries, reporting on their progress made in eradicating these forms of violence[275].

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[264] ILO, Amendments to the Code relating to Regulation 4.3 of the MLC, 2006, Provisional Record 3-1A, 105th Session of the International Labour Conference, June 7th, 2016: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_488452.pdf, consulted on July 20th 2016.

[265] Adopted by the International Labour Conference at its one hundred and fourth session, Geneva, 12 June 2015.

[266] ILO, 2003.

[267] ILO and UNESCO 2012.

[268] ILO 2014.

[269] ILO et al. 2005.

[270] See for example Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers: An Information Guide, http://www.ilo.org/wcmsp5/groups/public/---ed_emp/documents/instructionalmaterial/wcms_116366.pdf, consulted on 9 March 2016; Gender identity and sexual orientation: Promoting rights, diversity and equality in the world of work (PRIDE0 Project, http://www.ilo.org/declaration/follow-up/tcprojects/WCMS_351654/lang--en/index.htm, consulted July 11th 2016; Discriminatory Harassment At Work Based On Age (2008): http://www.ilo.org/public/libdoc/ilo/2008/108B09_217_engl.pdf; The Promotion of LGBT Human Rights in the Workplace, http://www.ilo.org/public/libdoc/ilo/2015/489434.pdf. http://www.ilo.org/public/libdoc/ilo/2014/114B09_229_engl.pdf

[271] Chappell and Di Martino 2006, pp. 266-272.

[272] Łasak 2009.

[273] See Article 26 (1) ECSR 2014, conclusions: http://www.coe.int/t/dghl/monitoring/socialcharter/Conclusions/ConclusionsIndex_en.asp;

[274] See Article 26 (2).

[275] See http://hudoc.esc.coe.int/eng, consulted on 11 March 2016.

2.1.2.2. Directives and framework agreements

The European Directive 89/391 on occupational health and safety in the workplace has provided a key incentive for the assessment and management of exposure to psychosocial risk factors in the workplace, and more specifically for the prevention of workplace bullying and harassment[276].

The *Council Directive 2000/78/EC of November 27th, 2000 establishing a general framework for equal treatment in employment and occupation*[277] deems harassment to be a form of discrimination, prohibited under article 2, if the harassment is related to a prohibited ground of discrimination named in article 1, which includes religion or belief, disability, age or sexual orientation.

Article 2 (3) defines harassment:

> "Harassment shall be deemed to be a form of discrimination within the meaning of paragraph 1, when unwanted conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. In this context, the concept of harassment may be defined in accordance with the national laws and practice of the Member States".

While discrimination on the basis of sex and family status had been prohibited since 1976[278], sexual harassment was included as a prohibited ground of discriminatory harassment in 2002[279], which provides the following definitions, at article 2(2):

> "harassment: where an unwanted conduct related to the sex of a person occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment;
> sexual harassment: where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment."

The *Framework agreement on harassment and violence at work* was adopted by the European Social Partners in 2007[280] for the purpose of raising the understanding of the workplace parties as to the importance of preventing and managing workplace violence, including harassment. It aims to "prevent and where necessary, manage problems of bullying, sexual

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[276] Velázquez 2010, Iavicoli, et al. 2011, Lerouge, 2010, Lerouge, 2011, Velázquez Fernandez 2015.

[277] *Council Directive 2000/78/EC of November 27th, 2000 establishing a general framework for equal treatment in employment and occupation*, Official Journal of the European Communities, L 303/16, 2.12.2000.

[278] Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion and working conditions, article 2. http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31976L0207:en:HTML, consulted on July 14th, 2016.

[279] Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:269:0015:0020:EN:PDF, consulted July 14th, 2016.

[280] Communication from the Commission to the Council and the European Parliament transmitting the European Framework Agreement on Harassment and Violence at Work, Brussels, 8.1.2007 COM (2007) 686 final.

harassment and physical violence at the workplace" and "confirms the duty of the employer to protect workers against them".

The European framework for psychosocial risk management (PRIMA-EF), developed through a collaboration between experts, researchers, social partners and international organizations was designed to provide a framework for harmonizing practice and methods in the area of psychosocial risk management, including various forms of workplace violence[281].

In 2010, the European social partners agreed to guidelines designed to address third-party violence and harassment at work[282]. These guidelines were designed "to ensure that each workplace has a results-oriented policy which addresses the issue of third-party violence". The guidelines were signed by social partners from the local and regional government, healthcare, commerce, private security and education sectors, sectors where violence propagated by clients and other third parties is said to be of increasing concern for the social partners. The guidelines are designed to cover physical, psychological, verbal and/or sexual violence, including both one off events and systematic patterns of behaviour. They address work-related violence but specifically note that the incidents may be work related even though they occur outside the workplace, in a "private environment". The guidelines also explicitly mention "cyber-bulling/cyber-harassment through a wide range of information and communication technologies". The guidelines propose a distinctive approach from that proposed for prevention of internal violence.

The social partners retained several elements that were key to good practices across all sectors covered by the guidelines. These include "a partnership approach; clear definitions; prevention through risk assessment, awareness raising, training; clear reporting and follow-up; and appropriate evaluation." Implementation of these guidelines is described as "not [...] homogenous"[283], with governments promoting them in some countries, such as France, but not in others.

The effectiveness of these initiatives is deserving of scrutiny[284]. Iavicoli and colleagues surveyed European stakeholders with regard to their knowledge of legislation on occupational health and safety, focusing in particular on psychosocial risk factors, including violence, bullying and mobbing. They found important variations between countries and between categories of stakeholders, with regard to perceptions as to the importance of addressing these issues. If we look at results for violence, bullying, and mobbing, 65% considered them to be an important occupational health concern in their country (74% EU 15 and 53% EU 27) and overall trade unions (74%) and Government (69%) were more likely to agree they were important as opposed to employers' associations (43%)[285].

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[281] Leka, et al. 2011a.

[282] European Commission, European Social Dialogue: Multi-Sectoral Guidelines to Tackle Third Party Violence and Harassment Related to Work, http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=896&furtherNews=yes, consulted on July 14th, 2016.

[283] ILO unpublished, p. 24.

[284] Langenhan, et al. 2013.

[285] Iavicoli, et al. 2011. Table 3.

2.1.3. Other regional Instruments

2.1.3.1. Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women

The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women[286] specifically addresses sexual harassment in the workplace, under Article 2, defining violence against women as including "physical, sexual and psychological violence… including… sexual harassment in the workplace". Under Article 8, State Parties are required to enact domestic laws and other measures to prevent, punish and eradicate violence against women.

2.1.3.2. Maputo Protocol

The Protocol to the African Charter on Human Rights and People's Rights on the Rights of Women in Africa, commonly known as the Maputo Protocol, was adopted by the African Union (currently with 36 ratifying Member States) in July 2003. The role of the Protocol is still limited however due to social-economic and cultural structures that undermine the role of women in society and limit their rights.[287] The Protocol requires state parties to take measures to combat and punish sexual harassment in the workplace.[288] An earlier initiative from 1997 adopted by the Heads of State or Government of the Southern African Development Community (SADC) is the *Declaration on Gender and Development* from which came the 2008 *Protocol on Gender and Development*. Parties to the Protocol, under Article 20, agreed to enact and enforce legislation prohibiting all forms of gender based violence by 2015. Article 22 of the Protocol requires State Parties to enact laws and policies, strategies and programs prohibiting sexual harassment in all spheres, to provide deterrent sanctions for perpetrators, and to ensure the equal representation of women and men in bodies competent to hear sexual harassment cases.

2.1.3.3. The CARICOM model legislation

In 1996, the Caribbean Community (CARICOM) drafted the CARICOM Model Legislation on Sexual Harassment in order to assist its member states in crafting domestic laws on this topic. The model legislation includes provisions calling for the establishment of a tribunal and of an ad hoc investigation system. Currently only two Caribbean countries (Belize and St. Lucia) have adopted legislation in response.

Acknowledging that the 1996 model does not cover all recognized forms of sexual harassment, CARICOM member states are currently considering the adoption of a new bill on sexual harassment, produced by IMPACT Justice, a project funded by the Government of Canada addressing deficiencies in the justice sector in CARICOM countries. Among other things, the

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[286] Convention of Belém do Para on Violence Against Women, (OAS) http://www.oas.org/es/mesecvi/convencion.asp, consulted July 11th, 2016.

[287] Viljoen 2009, at p. 46.

[288] Art. 13(c) of the Maputo Protocol.

new Bill, will clarify the definition of sexual harassment and require the employer to formulate a policy on sexual harassment in the workplace.[289]

2.1.3.4. Asian initiatives

The *Declaration on the Elimination of Violence Against Women and Elimination of Violence Against Children in ASEAN* was adopted by the Association of Southeast Asian Nations (ASEAN) in 2013. The Declaration recognizes that violence occurs in all stages of the life cycle, including in the workplace, and in public and private spaces (including cyber space).[290] The ILO has developed guidance material on sexual harassment in the Asia-Pacific region[291] and has also produced guidance material in various languages and targeting specific countries, for example Cambodia[292].

2.1.3.5. Initiatives in the Arab Region

Within the Arab States, the *Cairo Declaration on the Post-2015 Development Agenda* was adopted in 2014 by the representatives of the Arab States' governments participating in the High Level Meeting on "Millennium Development Goals for Women and Girls, Gender Equality and the Empowerment of Women in the Arab Region" organized by the League of Arab States, UN Women and the Economic and Social Commission for Western Asia (ESCWA). In the section on women's economic empowerment, the Declaration recognizes the need to provide a work environment where the personal safety and health of employees is considered and to ensure the protection of women against physical abuse in the workplace.

2.2. National Instruments

This overview of national instruments aims to illustrate the type of regulatory underpinnings that enable interventions in different national settings. We start with constitutional measures and human rights protections, and then examine occupational health and safety legislation, and finally generally applicable legislation including rules governing criminal and civil liability.

2.2.1. Constitutional protections

Constitutional protections in some countries, such as Brazil, guarantee workers' health and safety and the protection of workers' dignity, and it is the Constitution, rather than the occupational health and safety legislation that provides the underpinnings for judicial action against workplace bullying and harassment[293].

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[289] The New Today, Sexual Harassment Bill for CARICOM countries (25 February 2016)

[290] *The Declaration on the Elimination of Violence against Women and Elimination of Violence against Children in ASEAN*, signed on 9 October 2013, during the 23rd ASEAN Summit.

[291] ILO Bangkok Area Office (Nelien Haspels, Zaitun Mohamed Kasim, Constance Thomas and Deirdre McCann), 2001, Action Against Sexual Harassment at Work in Asia and the Pacific, http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_bk_pb_159_en.pdf, consulted on July 11th, 2016.

[292] http://www.ilo.org/asia/whatwedo/publications/WCMS_241659/lang--en/index.htm, consulted on July 11th, 2016.

[293] Gitahy da Paixão 2012.

However, in the United States, constitutional protection of the right to bear arms has been used to support the rights of workers to bring guns to work, and "guns-at-work" laws have been adopted in several American states to force employers to tolerate the presence of firearms in employees' cars, an issue that has met with resistance by many employers who have turned to the courts, asking that these laws be struck down as incompatible with employers' obligations to ensure the health and safety of its workers[294]. In 2015, the State of Texas adopted legislation guaranteeing students the right to bear arms on campus, which has led to universities developing policies to encourage academics to avoid conflict[295]. Studies have shown that workplaces where guns are permitted under employers' policies, are 5 times as likely to experience a homicide as those where guns are prohibited[296].

In many countries the right to equal treatment is enshrined in the Constitution, and that right provides protection to workers who are the target of discriminatory violence in all its forms.

2.2.2. Human rights legislation

Human rights legislation prohibits discrimination on the basis of specified characteristics that vary from one jurisdiction to the next. For example, North American, Australian and European legislation[297] prohibits discrimination on the basis of sex, race, ethnic origin, but protection against discrimination on the basis of sexual orientation, age or other characteristics has taken longer, and some countries still fail to protect targets of discrimination based on sexual orientation, for example[298]. Discriminatory harassment was prohibited in most countries long before regulatory provisions on bullying[299].

Sexual and homophobic harassment were the subject of a study in the hospitality industry that reported on regulatory models to address the issues identified, drawn from human rights legislation in various countries[300]. The analysis shows cultural variations in definitions, and non-inclusion of homophobic harassment in some jurisdictions.

The existence of regulatory protection does not imply that discrimination is eradicated, as is made clear in a British study, which found that the existence of regulations led to unjustified assumptions that discrimination was no longer a problem[301].

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[294] Glazer-Esh 2009. This is not a marginal issue, as can be seen from this Wall Street Journal article that asserts that 22 U.S. states have enacted such laws: http://www.wsj.com/news/articles/SB100014240527023039839045790955320 26750354?mod=e2tw, consulted on 16 February 2016.

[295] http://www.theguardian.com/us-news/2016/feb/24/university-of-houston-faculty-campus-carry-law-texas-guns, consulted on 25 February 2016. Other states, including Utah, have similar laws: http://www.nytimes.com/2015/06/03/us/texas-lawmakers-approve-bill-allowing-guns-on-campus.html?_r=0

[296] Loomis, et al. 2005.

[297] Hyman, et al. 2012.

[298] Lerouge and Hébert 2013.

[299] Friedman and Whitman 2003, Caponecchia and Wyatt 2009.

[300] Ineson, et al. 2013, Table 1.

[301] Fevre, et al. 2011n.

In some jurisdictions, human rights instruments enshrine the right to dignity and the right to security of the person, as well as the right to decent working conditions. These rights can be mobilized in the context of workplace violence.

2.2.3. Health and safety legislation

Most countries have legislation governing the prevention of work injury and disease and providing for compensation for disability resulting from injury or disease sustained at work. Both these legal frameworks provide regulatory tools for the prevention of violence, prevention being the primary objective of occupational health and safety statutes, and an indirect objective of workers' compensation statutes that provide cost incentives for the prevention of violence. Workers' compensation regimes also ensure economic support for victims of violence and, in some cases, constitute the exclusive remedy of the victim. Here statutes on occupational health and safety will first be examined, before we turn our attention to workers' compensation statutes.

2.2.3.1. Legislation governing prevention of occupational injury and disease

Occupational health and safety legislation has been used in a variety of jurisdictions to mandate research and production of guidance materials and to assist workplaces in the prevention and management of workplace violence[302]. In jurisdictions with joint health and safety committees, studies examine bipartite committee strategies in developing prevention initiatives and in managing internal complaints, either through general health and safety committees or through special bipartite committees designed to address occupational violence[303], including harassment and bullying[304] and psychosocial hazards[305].

Labour inspectorates rely on both general duty clauses[306] in occupational health and safety legislation, and, in some cases, on specific regulations governing violence[307], to assist organizations in developing prevention programs. Some regulators track progress in the prevention of occupational violence by monitoring workers' compensation claims for physical and psychological violence on an annual basis[308].

Occupational health and safety legislation can be mobilized to address not only physical violence, but also psychological violence including bullying and harassment, sexual harassment, as well as other psychosocial hazards. Coverage is not always explicit, although

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[302] See for example Wing Lo, et al. 2012. In the United Kingdom see the Health and Safety Executive website: http://www.hse.gov.uk/violence. In New Zealand see Mills and Hall 2014. In British Columbia, Canada, see http://www2.worksafebc.com/Topics/BullyingAndHarassment/Home.asp;

[303] Dompierre, et al. 2008.

[304] Cox 2015.

[305] Walters 2011.

[306] Lippel, et al. 2011a.

[307] Lippel 2011. See for example, in British Columbia, Canada: https://www2.worksafebc.com/Publications/OHSRegulation/Part4.asp?ReportID=17999

[308] For example, the Quebec (Canada) workers' compensation board publishes annual reports looking at violence in the workplace. See Commission de la santé et de la sécurité au travail 2015.

there are sometimes explicit provisions on working alone[309], and in some cases provisions explicitly address different forms of occupational violence[310].

Sometimes the explicit regulatory interventions distinguish between internal and external violence in a way that may appear to trivialize internal violence as compared to that involving perpetrators from outside the workplace. For example, a very early regulation adopted in British Columbia, Canada prohibits violence from all sources, but labels all forms of violence by internal perpetrators, including physical or sexual violence, as "improper behaviour", while reserving the term "violence" for "attempted or actual exercise of physical force by a person other than a worker so as to cause injury to a worker"[311]. This regulatory approach may send the message that internal violence is somehow less important than external violence, particularly given that obligations on employers are less stringent with regard to "improper behaviour".

Inspectorates from Australian states[312], Denmark[313], Sweden[314], Spain[315], some Canadian provinces[316] and the United States[317], for example, have used the general duty clause to intervene in relation to various forms of psychological violence. The ILO's LEGOSH tool provides information on countries that have provisions of occupational health and safety legislation that address occupational violence and psychosocial hazards[318].

2.2.3.2. Workers' compensation legislation

Physical injury and some mental disorders are compensable injuries under workers' compensation legislation if the event or events triggering an injury or illness arise out of and (or) in the course of employment. This is true in most jurisdictions in North America[319]

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[309] Regulations on risk assessments and safety measures to be taken when a worker is working alone exist in the occupational health and safety legislation of many jurisdictions, obliging employers to evaluate the safety requirements associated with working in isolation. For example, the Health and Safety Executive in the U.K. suggests examples in which working alone may not be appropriate, including: "working in the health and social care sector dealing with unpredictable client behaviour and situations". See HSE, Working alone: Health and Safety Guidance on the Risks of Lone Working, http://www.hse.gov.uk/pubns/indg73.pdf, consulted on July 10th, 2016.

[310] In Canada, Saskatchewan, Ontario and Manitoba use health and safety inspectors to intervene in some situations involving psychological violence although the scope of their interventions varies considerably from one jurisdiction to the next: Lippel 2011. In Ontario see the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, part III.0.1. The legislature recently adopted legislation that strengthens the previous provisions governing physical violence and psychological harassment and includes an explicit focus on sexual violence and harassment: A*n Act to amend various statutes with respect to sexual violence, sexual harassment, domestic violence and related matters*, Statutes of Ontario, 2016 chapter 2.

[311] WorkSafeBC, 1998. *Occupational Health and Safety Regulation: Core Requirements, Improper Behaviour; Violence*, s. 4.24 – s. 4.27.

[312] Johnstone, et al. 2011, Chan-Mok, et al. 2013.

[313] Rasmussen, et al. 2011, Starheim and Rasmussen 2014.

[314] Bruhn and Frick 2011.

[315] Velázquez 2010.

[316] Lippel 2011.

[317] See Galt 2012, which provides guidance material destined to human resource professionals: http://hr.blr.com/HR-news/Discrimination/Sexual-Harassment/zns-Sexual-Harassment-and-OSHA-Is-Sexual-Harassmen/#, consulted on 6 March 2016.

[318] http://www.ilo.org/dyn/legosh/en/f?p=14100:2000:0::NO:::, consulted on 9 March 2016.

[319] Lippel 1989, Lippel and Sikka 2010.

and Australia[320] and to some extent in European countries as well[321], although the processes of applying compensation legislation and the scope of protections provided are quite different, both because of broader sickness insurance coverage in many countries and because some countries, like the United Kingdom, do not have formal workers' compensation systems.

In North America and Australia there are distinctions between states and provinces depending on the nature of the injury, and there are distinctions relating to the determination as to whether the violent act is linked to employment. Most North American jurisdictions cover physical injury attributable to work if the victim was an employee (as opposed to being self-employed) in an industry covered by the legislation. However there are important disparities between provinces and between states when the victim of violence develops a mental disorder as a result. Post-traumatic stress disorder triggered by an acutely traumatic incident will be a compensable injury everywhere in Canada[322], however mental disorders attributable to chronic stressors (psychological harassment and sexual harassment over several months, for example), will be covered in some provinces but not in others[323]. In all provinces, the violent incident or incidents must arise out of and/or in the course of employment. As a result, an assault in the workplace attributable to a conflict unrelated to work will usually lead to the denial of workers' compensation benefits[324]. Unlike the situation in many European countries[325] and certain Asian countries, in North American jurisdictions, injury sustained while travelling to or from work (commuting accidents) is usually not considered to be compensable. As a result, violent incidents occurring while the worker is travelling to or from work will ordinarily not be compensable. Given that employers in almost all countries assume the full costs of compensable injuries under workers' compensation legislation, workers' compensation legislation is used to drive prevention of exposure to occupational hazards. Inclusion of "commuting accidents" within the purview of all workers' compensation legislation would provide economic incentives for employers to prevent unnecessary exposure to hazards, including violence, associated with travel in sub-optimal conditions. For example, from a violence prevention perspective it is preferable that shifts be timed to ensure that safe public transport is available when workers begin or leave work.

Debates can be found in the workers' compensation context when workers are victims of violence and employers try to externalize the costs associated with compensation for those injuries. Workers' compensation experience rating is a system used in many jurisdictions ostensibly to

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[320] Guthrie, et al. 2010.

[321] Eurogip 2013.

[322] Several provinces include a legislative presumption that Post-traumatic stress disorder is an occupational disease when it affects first respondents. In Ontario, see An Act to amend the Workplace Safety and Insurance Act, 1997 and the Ministry of Labour Act with respect to posttraumatic stress disorder, S.O. chapter 4, 2016.

[323] Lippel and Sikka 2010; a few Canadian provinces have broadened the scope of coverage for mental health problems related to harassment since 2010. In the Canadian province of Ontario the workers' compensation appeal tribunal has determined that the exclusion of coverage for mental disorders attributable to chronic workplace stressors is unconstitutional. See for a recent example WSIAT Decision 665/10, April 15th, 2016. This series of decisions has induced lawyers working for employers to encourage their clients to prevent violence and harassment at work, because of potential workers' compensation costs. See Blaney McMurtry, Preventing Violence and Harassment at Work-Workers' Compensation Enters The Equation, Mondaq, March 7th, 2016, http://www.mondaq.com/article.asp?articleid=471934&email_acce, consulted July 11th, 2016.

[324] Lippel 2001, Lippel and Lanctôt 2014.

[325] https://oshwiki.eu/wiki/Commuting_accidents, consulted on 10 March 2016.

provide employers with incentives to prevent the occurrence of injuries and to manage return to work so as to reduce the risk of chronic disability[326]. In the context of the Quebec system, for example, an incident will not be charged to the employer's account if it is attributable to a third party and if the tribunal believes it to be unjust to ascribe economic liability to the employer. Employers have tried, often successfully, to evade attribution of the costs of injuries related to violence in the workplace. These include applications for cost relief brought by banks and security companies to avoid the economic consequences of compensation benefits paid to their employees injured during armed robberies, as well as applications filed by youth detention centres, special schools and health care facilities, all seeking to avoid the costs of injuries attributable to assault on their staff[327]. When costs are externalized there is no economic incentive placed on the employer for primary, secondary or tertiary prevention.

Other policy issues of note relate to the fact that workers' compensation is, in many North American jurisdictions, the exclusive remedy for injuries caused at work, so that workers who are victims of sexual harassment, for example, have been denied the right to sue harassers and employers for damages if the injury can be construed to be a work injury under workers' compensation law[328].

2.2.4. Generally applicable legislation

Civil and criminal legislation can be mobilized in response to violence in the workplace. In some countries, suing the perpetrator for damages or laying criminal charges against the perpetrator are the primary responses to violence in the workplace[329].

Literature from the United States, where employers can be sued by members of the public and others for the consequences of violent behaviour of employees, documents the effect on hiring practices. Employers fear law suits alleging "negligent hiring", and this acts as an incentive to filter out potentially violent employees. This has been shown to incite employers to refrain from hiring candidates who have experienced ill mental health or who have criminal records, a process that may have discriminatory results by systemically excluding racialized minorities and people with disabilities from the workforce[330].

It should be noted that the legislative frameworks discussed thus far, for the most part, do not explicitly refer to "occupational violence", and studies looking to identify legislation that explicitly addresses "occupational violence" may overlook frameworks such as human rights legislation or workers' compensation law for example. With this caveat, it may, nonetheless, be of interest to consult a global regulation analytic database that provides country-specific portraits of regulatory interventions on occupational violence[331]. Spain and the United States

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[326] Tompa, et al. 2007.

[327] Lippel and Lanctôt 2014

[328] In Canada see Lippel and Demers 1998; Jacobs 2000; in the United States see Korn 1992-1993.

[329] Chappell and Di Martino 2006. In Canada see Makela 2006, Lippel 2011. In Germany see Fischinger 2010. In the United States see Yamada 2010. In Australia see Squelch and Guthrie 2010.

[330] See for example Hickox 2010-2011.

[331] See the results for occupational violence: https://www.global-regulation.com/analytics.php?q=occupational+violence#, consulted on July 11th 2016. References to the specific legislation inventoried by the search engine are provided by the site.

stand out in particular, in terms of the number of laws that mention occupational violence. When examined in relation to the total legislative collection in a given country, Estonia, Mexico, and Poland have over 1% of their legislation that addresses occupational violence. Austria, Belgium and Canada have more often than others mentioned occupational violence in their legislation in more recent years.

2.2.5. Sector-specific legislation

In light of the particularly high level of workplace violence in the healthcare sector, several American States have adopted legislation specifically promoting violence prevention programmes targeting healthcare workers, including the imposition of harsher sentences for assault when the victim is a nurse[332]. Recommendations for violence prevention that have been included in these laws address requirements for training and reporting. Studies examining effectiveness of some of those programmes and policies encourage workplace parties to examine not only the workplace violence hazards in their workplaces but also the barriers to removal of hazards. One such study found that management support in the process and giving voice to workers were key requirements for success[333]. There have been recent calls to consider workplace violence in the health care sector as a public health issue[334].

Studies on physical violence in the health care sectors of Jordan and Iraq noted that under-reporting of incidents attributable to the usual factors of normalization of violence was exacerbated by the targets' feelings that it was useless to complain, and the authors note the dissatisfaction of the targets with the management of violence in their workplaces, and the frequent absence of workplace policies[335].

The *Canadian Criminal Code* was amended as a result of the mobilization of unions of transit workers who had, for years, denounced violence against bus drivers. Sanctions have been increased for assault against bus drivers[336].

2.3. Hazard-specific legislation

2.3.1. Addressing bullying, mobbing and psychological harassment in the workplace

There is now a considerable body of literature on regulatory approaches to preventing bullying, mobbing, victimization and psychological harassment at work and on providing remedies for targets. Here we will only examine regulatory regimes explicitly addressing this form of

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[332] "Proposed New Laws on Violence" 2010, "California Bills Seek Greater Accountability from Healthcare Industry" 2013, "Ohio Measure Addresses Workplace Violence" 2013, Farrell, et al. 2014.

[333] Blando, et al. 2015.

[334] Pompeii, et al. 2015.

[335] AbuAlRub and Al Khawaldeh 2013.

[336] Bill S-221 amended the *Canadian Criminal Code* to create a new aggravating factor for the purpose of sentencing offenders convicted of assault related offences against a public transit operator who was on duty at the time of the assault. See http://news.gc.ca/web/article-en.do?nid=953849, consulted on 29 February 2016.

violence, although even in countries without explicit legislation, regulators and workers have been able to mobilize general legislation such as tort law, for example.[337]

Article 26 (2) of the *European Social Charter*[338] contains a provision that promotes workers' right to dignity which can be used to monitor States' progress with regard to workplace bullying, although it does not require that legislation be enacted by the Parties[339].

> 26. 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' organizations:
> 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.

The first regulatory provisions specifically addressing bullying were adopted in Sweden in 1993, with the enactment of the Victimization at Work Ordinance.[340] Since then other Scandinavian countries have developed regulations and guidance materials, applying various approaches[341]. The Danish Labour Inspectorate has developed tools for inspecting workplaces for psychosocial hazards that include elements to prevent bullying[342], and there is some evaluative research on inspectorates' interventions in Scandinavia[343].

France[344], Belgium[345] and Quebec[346] all enacted legislation on moral or psychological harassment in 2002, legislation inspired in part by the work of French psychiatrist Marie-France Hirigoyen[347]. Although the Quebec legislation was in part inspired by the developments in Europe, the nature of the legislation varies considerably. In France, penal provisions were integrated into the *Labour Code*. In Belgium, the approach is very much oriented towards prevention, with complex structures created to support the target and to try to resolve the situation with the help of a person of confidence. Quebec legislation, the first to be enacted in North America, is again very different, providing individual remedies for targets, who can apply for damages either through a state-funded organization, for the non-unionized[348], or

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[337] For the situation in Spain see Velázquez 2010; in Germany see Fischinger 2010, in Brazil see Gitahy da Paixão 2012.

[338] For the full text of the European Social Charter see http://www.coe.int/en/web/turin-european-social-charter/charter-texts, consulted on 11 March 2016.

[339] Most, but not all, Member States have accepted this provision. See http://fra.europa.eu/en/publications-and-resources/data-and-maps/int-obligations/esc, consulted on 11 March 2016.

[340] Hoel and Einarsen 2010.

[341] Hansen 2011.

[342] Rasmussen, et al. 2011.

[343] See for instance Hoel and Einarsen 2010, Bruhn and Frick 2011, Rasmussen, et al. 2011, Starheim and Rasmussen 2014.

[344] Lerouge 2010. Penal charges against high level executives of France Télécom who allegedly failed to prevent workplace bullying in their work reorganisation strategies illustrate that regulatory interventions can provide real incentives to factor in the impact of an organisational restructuring strategy on the psychological and physical health of the workers: Cazi 2016.

[345] Lerouge 2010.

[346] Lippel 2005.

[347] Hirigoyen 1998.

[348] The Commission des normes, de l'équité, de la santé et de la sécurité du travail is the regulator responsible for the implementation of the legislation. See http://www.cnt.gouv.qc.ca/en/in-case-of/psychological-harassment-at-work/index.html, consulted on 11 March 2016.

through the grievance procedure of their union, for those who are unionized[349]. The law stipulates that "Every employee has a right to a work environment free from psychological harassment. Employers must take reasonable action to prevent psychological harassment and, whenever they become aware of such behaviour, to put a stop to it." Belgium has recently chosen to include psychosocial hazards within the purview of its legislation on occupational health and safety and worker wellbeing[350].

In recent years, legislation specifically addressing bullying and harassment has been adopted in a broad range of countries including Chile[351], Columbia[352], Australia[353], and several European countries[354]. Definitions of bullying for regulatory purposes may sometimes include single incidents, as is the case in Quebec[355] and Norway[356], and it is clear that definitions for legal purposes may differ from those used for research purposes[357]. Although China does not have explicit regulation on bullying, there are publications in Chinese on regulatory approaches used in other countries, targeting Chinese labour law scholars[358].

2.3.2. Addressing sexual harassment in the workplace

North America Regulatory frameworks have addressed sexual harassment for decades[359], and this is the same case as Australia.[360] In the European Union, the European Social

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[349] Cox 2010, 2015.

[350] Arrêté royal du 10 avril 2014 relatif à la prevention des risques psychosociaux au travail (M.B. 28-4-2014.)

[351] Caamaño Rojo 2012.

[352] Porras Santanilla 2012.

[353] Ballard and Easteal 2014, Stojanova 2014Nadia</author></authors></contributors><titles><title>The regulation of workplace bullying in Victoria: is legislation required?</title><secondary-title>Labour and Industry</secondary-title></titles><periodical><full-title>Labour and Industry</full-title></periodical><pages>146-160</pages><volume>24</volume><number>2</number><dates><year>2014</year></dates><urls></urls></record></Cite></EndNote>. In Australia, several commentators have questioned the adequacy of the regulatory frameworks, before and after the adoption of the *Fair Work Amendment Act 2013*.

[354] For an overview consult country specific reports regarding s. 26 (2) of the European Social Charter: http://hudoc.esc.coe.int/eng#{%22ESCArticle%22:[%2226-02-163%22]}, consulted on 11 March 2016.

[355] Cox 2010.

[356] Hansen 2011, p. 13.

[357] Lippel 2010. For example, s. 81.18 of the Quebec *Labour Standards Act*, L.R.Q. c. N-1.1 includes a single serious incident in the definition of psychological harassment, in order to ensure that workers targeted by an incident so serious as to force them to immediately withdraw from the workplace are still protected by the legislation prohibiting psychological harassment in the workplace. Regulators are familiar with the regulatory contexts in which they introduce new provisions. Without explicit legislation on "intimidation", the Quebec regulator felt it essential to specify this formulation, even though the scientific definition of bullying/psychological harassment specifies that the behaviour must be repeated over a certain period of time. This is necessary in order to ensure that scientific studies of the phenomenon use comparable measures (Einarsen, et al. 2011), an objective that is irrelevant in a regulatory context where lawmakers seek to provide the most appropriate regulatory tools for their specific context. See also Chan-Mok, et al. 2013

[358] Li and Lippel, 2014. This is the translation of a special issue of the Comparative Labor Law and Policy Journal that included studies describing regulatory approaches to workplace bullying in nine jurisdictions. Those that explicitly addressed bullying in their labour legislation included France, Belgium, Quebec, Sweden; those that did not included Spain, Germany, the United States, and Chile. Australia was also included, as some Australian states had enacted specific legislation while others had not. See K. Lippel, (editor of the special issue), *The Law of Workplace Bullying* (2010) 32 (1) *Comparative Labor And Policy Journal* 1-302.

[359] See for example Friedman and Whitman 2003, Aggarwal and Gupta 2006, Cox 2014.

[360] Mackay 2009.

Charter includes provisions on sexual harassment with which Member States are supposed to comply, although some countries, including France[361], have only complied recently. Article 26, the Right to dignity in the workplace, includes a provision on sexual harassment which provides:

> 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.

The Council of Europe has reporting requirements that track regulatory compliance with provisions of the Charter so that developments in all member states are documented[362].

Regulatory provisions governing sexual harassment were adopted in Japan in the late 1990s. The English term used as the concept was perceived as alien to Japanese culture. Although provisions have existed since 1997 that require employers to prevent sexual harassment, critics suggest they are "toothless". One study suggests that "because the only enforcement mechanism is administrative guidance, the effectiveness of the law largely depends on the integrity of the private firms."[363]

An overview of the regulatory situation in India describes both internal regulatory instruments, assented to by the President in 2013, and international law that could be mobilized in support of targets of sexual harassment in the workplace[364]. In Australia there have been initiatives to require employers to eliminate sexual harassment from the workplace[365].

Although sexual harassment legislation is widespread, evaluations of the effectiveness of that legislation are relatively scarce. A Mexican study has evaluated the scope and limitations of using criminal legislation to address sexual harassment in that country[366]. Studies in Chile[367], Peru[368] and Uruguay[369] have examined the challenges faced by targets of sexual harassment who try to mobilize regulatory protections. For example, Lidia Casas Becerra[370], in her doctoral thesis on uptake of sexual harassment legislative protections in Chile, provides excellent examples of the types of obstacles to effective implementation of sexual harassment legislation in the workplace that exist in the Chilean context. First, she showed that women workers themselves were hesitant to label unwanted sexual attention as sexual harassment, and therefore were unlikely to complain or to require the attention of labour inspectors. Workplaces in Chile are required to address sexual harassment in internal regulations,

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[361] Lerouge and Hébert 2013.

[362] Progress on specific provisions can be viewed at http://hudoc.esc.coe.int/eng#. See s. 26 (1) for sexual harassment.

[363] Huen 2011 p. 826.

[364] Ather 2013.

[365] Mackay 2009.

[366] Palomino 2012.

[367] Casas Becerra 2012, Casas Becerra 2016.

[368] Fernández Revoredo 2012.

[369] Mangarelli 2012.

[370] Casas Becerra, 2016.

but many participants in her study were unaware of the existence of such rules. Finally, when workers did try to exercise their rights, decision makers were often hesitant to punish perpetrators of sexual harassment as the labour courts had a long tradition of protecting job security, job security that was questioned when sexual harassment complaints were filed. In the majority of cases studied, the sanctioned perpetrator was the complainant, and the success rates of perpetrators contesting the sanction imposed by the employer was actually higher than the success rate of targets of sexual harassment who had filed complaints. These are only a few examples of the obstacles she identified.

A recent report from Bangalore examines the need for more effective implementation of sexual harassment legislation and provides a detailed inventory of challenges in its implementation as well as making nine concrete recommendations to improve the effectiveness of the law. Recommendations target both state officials and workplace parties, and include an active role for non-governmental organizations in supporting women workers who are targets of occupational violence[371].

An unpublished report of the ILO highlights strategies that labour inspectors may use when investigating sexual harassment in the workplace, particularly within the EU. The report notes that[372]:

> Procedures on sexual harassment complaints have also been developed by a number of instruments including the Recommendation of the European Commission 92/131/EEC of 27 November 1991 on the protection of the dignity of women and men at work, which foresees the use of internal procedures regarding allegations of sexual harassment. The Recommendation outlines that: sexual harassment is unacceptable, and as it is often a function of women's status in the employment hierarchy, policies to deal with sexual harassment are likely to be most effective where they are linked to a broader policy to promote equal opportunities and to improve the position of women. The Recommendation also suggests, as a first step in showing senior management's concern and their commitment to dealing with the problem of sexual harassment, "employers should issue a policy statement which expressly states that all employees have a right to be treated with dignity, that sexual harassment at work will not be permitted or condoned and that employees have a right to complain about it should it occur."
>
> The Recommendation outlines the need for training for managers and supervisors with an aim to identifying the factors which contribute to a working environment free of sexual harassment and to "familiarize participants with their responsibilities under the employer's policy and any problems they are likely to encounter." If sexual harassment has occurred, the Recommendation suggest that both informal and formal methods of resolving problems should be available and that employees should be advised that, if possible, they should attempt to resolve the problem informally in the first instance. If the conduct continues or if it is not appropriate to resolve the problem informally, the Recommendation states that the complaints should then be raised through the formal complaints procedure.
>
> A formal procedure "should specify to whom the employee should bring a complaint, and it should also provide an alternative if in the particular circumstances the normal grievance procedure may not be suitable, for example because the alleged harasser is the employee's line manager. It is also advisable to make provision for employees to bring a complaint in the first instance to someone of their own sex, should they so choose."

[371] Sisters for Change and Munnade, 2016.

[372] ILO unpublished, section 1.1.

2.3.3. Addressing domestic violence in the workplace

From a regulatory perspective, some countries are addressing domestic and family violence as a workplace issue, both in relation to managing consequences of domestic violence for workers who are targets outside of the workplace and for prevention of incidents of domestic violence at the workplace[373]. Some authors have called for workplace policies to sanction perpetrators of domestic violence outside the workplace[374]. Yet in other countries the acknowledgement of domestic violence as a social problem needing to be addressed has only recently come to light[375], and in countries like the U.K. that exclude workplace homicides related to domestic violence from their statistical overviews, portraits are incomplete[376].

Workplace regulatory measures exist in Canada[377], and are discussed in the United States literature[378], notably in relation to Title VII protection of victims of domestic violence, authors suggesting that protections from the consequences of domestic violence for employability could be included within the purview of protections against discrimination on the basis of sex and gender[379]. In the United States there have been regulatory measures taken to require employers to accommodate victims of domestic violence and to take measures to protect targets at work[380] and courts have also required employment protection for victims of domestic violence[381]. There are also discussions with regard to possible constraints that could be placed on employers that would require consultation of potential victims prior to employer action against a potential perpetrator[382], and a call for a federal response to the workplace impact of interpersonal violence[383]. In 2005, Spain required employers to accommodate victims of domestic violence. The legislation provides, for example, that employees who are absent from work as a result of physical or psychological injury caused by domestic violence have the right to suspend their contract of employment, change their hours of work or ask to be relocated[384].

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[373] For an example of interventions by health and safety regulators see Work Safe BC, Domestic Violence in the Workplace: An employer's legal obligations: http://www2.worksafebc.com/pdfs/Violence/factsheet_employers_legal.pdf, consulted on 5 March 2016.

[374] Martinez 2015b.

[375] For example, in December 2015 China adopted the first bill against domestic violence. See http://www.womenofchina.cn/html/womenofchina/report/15122038-1.htm, consulted on 6 February 2016.

[376] Buckley 2015.

[377] For example, Ontario was the first Canadian province to address employers' obligations in cases of domestic violence in its *Occupational Health and Safety Act*, R.S.O. c. O-1, s. 32.0.4. The Conference Board of Canada's recent survey of businesses found that 71per cent of Canadian employers have found it necessary to protect a victim of domestic abuse and 63 per cent of employers have a domestic violence policy: Canadian Occupational Safety, http://www.cos-mag.com/psychological-safety/psychological-safety-stories/4815-workplaces-supporting-employees-who-are-victims-of-domestic-violence-report.html, consulted on 7 February 2016.

[378] For an overview of American regulatory workplace issues related to domestic violence see Goldscheid and Runge 2009, Swanberg, et al. 2012.

[379] Finlay 2012, Goldscheid 2009.

[380] See for an overview: Berger 2015.

[381] Hobday 2010.

[382] Rutledge 2014.

[383] Jacobs and Raghu 2010.

[384] Court protects domestic violence victim, 2009, Employers Law, http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=36674943&site=ehost-live, consulted on 5 March 2016.

An Australian Non-Governmental Organization that included several business leaders recently produced a report urging employers to provide flexible work hours and counselling in cases of domestic violence[385]. Some regulators have adopted provisions to ensure job protection and leave for targets of domestic violence[386]. Studies of other countries, including South Africa, examine the impact of domestic violence on women's ability to participate in the labour market[387].

2.4. Non-binding normative examples

Proposals for voluntary standards for the protection of workers' mental health are common in the twenty-first century in some jurisdictions, and they sometimes include issues relating to harassment and violence in the workplace. The Canadian National Standard on Psychological Health and Safety in the Workplace[388] is an example. A recent study evaluating the implementation of this standard concluded that while the organizations studied appreciated its usefulness, the authors suggest that "organizations most in need of implementing the Standard may be the least receptive"[389].

As we have already discussed, there is an important European literature examining the perceptions of workplace parties as to various issues relating to policy on psychosocial risk factors and the implementation of the various Framework agreements that have repercussions for the prevention of occupational violence[390].

Guidance material addressing workplace violence has been adopted by various jurisdictions that have violence provisions in their occupational health and safety legislation. While the guidance material is not legally binding, it provides useful illustrations of ways in which workplaces may meet the regulatory requirements that often include risk assessments specific to the workplace. For example, the regulator in British Columbia, Canada has designed a specific tool to address violence to which homecare workers may be exposed in private homes[391]. The guidance material that is tailored to specific types of employment allows for far greater detail than a classic regulatory framework would provide, so that, in this case, materials address specific client characteristics (delirium and how to deal with it) and also provide workplaces with information designed to facilitate the development of a workplace

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[385] Male Champions of Change, Playing our part: Workplace Responses to Domestic and Family Violence, November 2015. http://malechampionsofchange.com/wp-content/uploads/2015/11/Playing-Our-Part-Male-Champions-of-Change-Letter. pdf, consulted on 6 February 2016. See also Australia's Challenge: CEO workplace partners against domestic violence: http://ceochallengeaustralia.org/consulted on 10 March 2016.

[386] See for example legislation from the Canadian province of Manitoba: The Employment Standards Code Amendment Act (Leave For Victims Of Domestic Violence, Leave For Serious Injury Or Illness And Extension Of Compassionate Care Leave), which received Royal Assent on March 16th, 2016: https://web2.gov.mb.ca/bills/40-5/pdf/b008.pdf, consulted July 15th, 2016.

[387] Goldscheid 2011.

[388] Canadian Standards Association 2013.

[389] Kunyk, et al. 2016.

[390] Leka, et al. 2011c, Leka, et al. 2011b, Langenhan, et al. 2013, Iavicoli, et al. 2011.

[391] Worksafe BC http://www2.worksafebc.com/Portals/HealthCare/Violence.asp?_ga=1.186765611.285934448.1451162 460, consulted June 3rd, 2016.

violence prevention program tailored to that workplace[392]. Similarly, when the Canadian federal government introduced violence regulations to the *Canada Labour Code*, it developed guidance material to help the workplace parties meet their obligations under the Code[393].

2.5. Instruments designed by or for the workplace parties

Collective agreements and workplace policy are sometimes the primary tools underpinning interventions for preventing violence and its consequences. Some jurisdictions have regulated violence to ensure that workplaces have policies governing issues such as physical violence, psychological harassment/bullying and sexual harassment, and the legislation is designed to promote the development of instruments, based on risk assessments at the workplace level[394]. In some countries, like Chile, for example, workplace regulations supposedly include provisions on the prevention of sexual harassment, although a recent study shows that workers appear to be unaware of these protections[395]. This said, it is nonetheless important to ensure that regulatory frameworks enable and require workplace parties to develop policies, agreements and regulations to address all forms of occupational violence. Even without a regulatory obligation, workplaces may choose to develop internal procedures to address complaints relating to bullying and harassment, and guidance material to promote more effective internal regulations has been recently published[396]. Velázquez, who has a rich experience in the Basque labour inspectorate and observatory on workplace bullying, underlines the importance of worker participation in the implementation of the workplace procedures. An effective procedure requires that a neutral and well-trained person be responsible for the implementation of the procedures, a person who has sufficient power to implement the procedure effectively. He also underlines the importance of discretion, the protection of the dignity and privacy of all parties involved in the complaint, and the importance of resolving issues in a timely fashion.

Unions in Belgium[397] and Quebec[398] have developed detailed materials designed to promote union action in the prevention of bullying and harassment. For example, the Belgian CNE publication addresses both support of individual targets and prevention strategies that can be undertaken in the workplace. These include addressing workplace design and communications facilities, support mechanisms available to targets, ways in which the person of confidence

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[392] Take care: how to develop and implement a workplace violence prevention program.http://www.worksafebc.com/publications/health_and_safety/by_topic/assets/pdf/take_care.pdf, consulted June 3rd, 2016.

[393] Human Resources and Skills Development Canada, Guide to Violence Prevention in the Workplace, 2010, http://www.esdc.gc.ca/en/reports/health_safety/violence_prevention.page, consulted on July 11th, 2016.

[394] See for example the *Ontario Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, part III.0.1. The Ontario legislature recently adopted legislation to strengthen the provisions governing physical violence and psychological harassment in the Occupational Health and Safety Act that includes an explicit focus on sexual violence and harassment: *An Act to amend various statutes with respect to sexual violence, sexual harassment, domestic violence and related matters*, Statutes of Ontario, 2016 chapter 2.

[395] Casas Becerra 2016.

[396] Velázquez, 2016.

[397] CNE (Centrale nationale des employés), Le harcèlement moral au travail: Nouveau terrain d'action syndicale, http://docplayer.fr/212045-Le-harcelement-moral-au-travail-nouveau-terrain-d-action-syndicale.html, consulted on July 11th, 2016.

[398] Cox, 2014, Cox, 2015.

(a person whose role is described in the Belgian legislation)[399] can be the most effective, suggestions for effective investigations of complaints, support in return to work for victims and various training recommendations.

Bipartite associations mandated to develop solutions for occupational health and safety problems in Quebec have produced materials to protect municipal workers from external violence[400], and the Canadian Centre for Occupational Health and Safety, another bipartite association, has also produced materials addressing workplace violence[401]. In France, cross-sectoral agreements addressing internal and external violence, including harassment, were developed as tools for occupational health and safety committees and occupational physicians[402].

Recent developments in relation to measures addressing domestic violence and the role of the workplace have led to the production of tools proposed by groups like Male Champions of Change[403] in Australia, a call to action in relation to domestic violence in the workplace. The Conference Board of Canada has also emphasized the importance of putting domestic violence on the workplace agenda and has produced guidance material for employers[404].

There is a great deal of literature on prevention strategies of organizations. Strategies vary considerably between countries, particularly because the nature of violence that is a priority differs from one country to the next. Scandinavian countries have made huge contributions to the literature on workplace bullying and prevention[405], while in the United States there are many publications guiding organizations as to how to deal with violent crime in the workplace[406]. As we have seen, Sweden and other Scandinavian countries were pioneers in regulating workplace bullying, so it is perhaps understandable that research centres such as the Bergen Bullying Research Group[407] have been at the forefront in studying prevention of workplace bullying and harassment and in documenting the health and economic consequences of bullying. Gun violence in the United States is a key challenge in addressing workplace violence, and although there has been some attempt to prevent research into gun violence, there are many major studies on physical violence in the workplace. An overview of the literature suggests that the local prevalence and the visibility of the specific types of violence drive research into prevention strategies specific to that phenomenon. Regulating makes specific types of violence more visible to workers, employers and regulators[408], which in turn can inform prevention priorities.

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[399]   Lerouge, 2010.

[400]   http://www.apsam.com/theme/sante-psychologique/violence, consulted on 10 March 2016.

[401]   http://www.ccohs.ca/oshanswers/psychosocial/violence_warning_signs.html, consulted on 10 March 2016.

[402]   http://www.officiel-prevention.com/protections-collectives-organisation-ergonomie/psychologie-du-travail/detail_dossier_CHSCT.php?rub=38&ssrub=163&dossid=377, consulted on 10 March 2016.

[403]   See for example Male Champions of Change, *Playing our part: Workplace Responses to Domestic and Family Violence*, http://malechampionsofchange.com/wp-content/uploads/2015/11/Playing-Our-Part-Male-Champions-of-Change-Letter.pdf, consulted on 5 March 2016.

[404]   http://www.conferenceboard.ca/press/newsrelease/15-11-25/from_home_to_office_canadian_workplaces_are_stepping_up_to_protect_employees_who_are_victims_of_domestic_violence.aspx, consulted on 5 March 2016.

[405]   Einarsen, et al. 2011.

[406]   See, for example, Bishop, et al. 2006.

[407]   http://www.uib.no/en/rg/bbrg

[408]   Lippel, et al. 2016.

A variety of workplace interventions addressing many different categories of violence can be found in the literature, and we have already mentioned several throughout this report. An unpublished report of the ILO provides illustrations of intervention packages for psychosocial risks that include discussions on the prevention of violence and its consequences[409]. One such tool is the SOLVE training package[410]. Looking at bullying prevention in particular, the report, based on guidance from several European OSH bodies,[411] provides a useful set of interventions that can be considered by workplace parties[412] including:

■ Having in place a Bullying Prevention Policy which adequately addresses the assessed risks, and is clear in how it measures implementation;

■ Clearly defined roles and accountability for employers and employees, created in a collaborative manner, and assessed regularly with changing job content;

■ A clear responsibility for managers, and supervisors to manage in such a way as to protect the safety, health and welfare of employees. This means accepting responsibility for preventing bullying at work and for resolving alleged cases of bullying at work. They should promptly dealing with reports of bullying and other improper conduct.

■ Providing appropriate training and development at all levels but particularly for line manager roles;

■ Selecting managers with social skills and the ability to deal with conflict with respect should be evaluated;

■ Ensuring access to competent and supportive complaints structures both internal and external. For example, an immediate superior (who is not involved) or a "confidence person" should be given the opportunity to find an informal solution through dialogue with those involved. The focus is on finding a solution and not on placing the blame on anyone.

■ A systematic follow-up and support for victims of bullying.

With regard to third party violence, the report[413] suggests:

■ Having a clear policy framework in the workplace;

■ Taking simple precautions with the physical layout and equipment in the workplace. The design of the workplace should take into consideration the existence of special risk groups such as psychiatric patients, customers who have been taking drugs or excessive amounts of alcohol, or criminals;

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[409] ILO unpublished, p. 29.

[410] http://www.ilo.int/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/event/wcms_202154.pdf, consulted on July 14th, 2016.

[411] Guidance Tool of the Danish Working Environment Authority; The bully-free workplace (Norway); Code of practice for employers and employees on the prevention and resolution of bullying at work (Ireland); LASI – Gegen Mobbing – Handlungsanleitung für die Arbeitsschutzverwaltungen der Länder Germany; La prévention de la charge psychosociale au travail: stress, violences, harcèlement moral et sexuel. Direction générale Humanisation du travail (2009) – Belgium; Le harcèlement moral – Guide Méthodologique DDTEFP (2008) – France; Criterio Técnico 69/2009 de la Dirección General de la Inspección de Trabajo y Seguridad Social sobre Acoso y Violencia en el trabajo – Spain.

[412] ILO unpublished, Intervention measures to be considered to prevent bullying and harassment: pp. 64-65.

[413] ILO unpublished, pp. 68 ss. Sources cited: Multi-sectoral guidelines to tackle third-party violence and harassment related to work (2010); ILO Stress Prevention at work Checkpoint No 40, Organize working areas to protect workers against violence from clients and outsiders; Guidance Tool of the Danish Working Environment Authority.

■ Having police assistance within easy reach in the event of an emergency;

■ Avoiding lone work, particularly at night, and when handling money;

■ Each worker should have, as appropriate, an escape route, easy access to an alarm system, video surveillance, separation from customers, or other measures;

■ All employees should be well informed about the risks of violence and should be trained in taking safety precautions and other safety measures against violence.

CONCLUSION:

Looking at the need for regulatory protections through a gender lens

Three key messages require attention when reflecting on the results of this review on workplace violence and regulatory interventions.

First, it is important to contextualize the reasons for developing international instruments on workplace violence. While there are many, two are fundamental: the need for effective incentives for the protection of the health and safety of workers and the promotion of equality in the workplace.

Throughout this report, we have seen examples in which the existence of regulatory provisions addressing specific forms of violence has provided the impetus for development of prevention activities in workplaces. It is of note that when legal rules require workplaces to prevent violence or protect workers from violence, it is easier to make a business case for the importance of enacting and implementing workplace level policies, as failure to comply with legislation comes at a price[414], not only for the organizations but also for individuals responsible for the protection of workers' health[415]. This said, for these instruments to be truly effective, it is necessary to ensure their implementation[416].

Second, this overview, particularly in relation to the different international regulatory instruments examined, shows that, thus far, the ILO instruments have addressed workplace violence in a piecemeal way. As we have seen, there is no overarching convention of the ILO that addresses workplace violence from a holistic perspective, although bits and pieces of different instruments address specific sub-categories of violence in some sectors. Specific instruments target specific types of violence in particular sectors, or promote protections of particular types of workers. No instrument yet exists that promotes an overarching approach providing guiding principles and shaping policy requirements to address the need for protection of all workers from all forms of occupational violence.

Thirdly, instruments to be developed must be done in a way that is gender sensitive and that responds to the needs, which are sometimes similar and sometimes distinct, of workers of both genders.

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[414] Walker and Duvvury, 2016.

[415] Cazi, 2016.

[416] Schindeler and Ransley, 2016.

As we have seen, some types of violence disproportionately affect women, while others affect women and men in similar ways. Regional differences as to exposures, but also as to reporting, must not be forgotten, and there is good reason to believe that in some regions it is more difficult for women to report incidents of violence than it is for men[417]. The contrary may also be true if reporting violence is perceived to go against values related to masculinity[418], or if workplace culture dictates that support for targets is not available[419]. Different types of violence are associated with different gendered dimensions of exposure, which suggests that for purposes of both research and regulation it is important to be specific in reporting exposure results and discussing regulatory protections. It is also important to be wary of stereotypical beliefs, such as those that presume that working in policing exposes workers to more violence than in health care. Finally, it is important to be wary of "normalization", the broadly accepted belief in a given sub-culture that violence in that sector, that type of work, or that region, is normal and part of the job or part of everyday life.

In her recent doctoral thesis on sexual harassment legislation in Chile, Professor Lidia Casas[420] cited the UN Special Rapporteur on violence against women, Professor Casas Becerra states:

> "The Special Rapporteur on violence against women has criticized States' responses when dealing with human rights violations that more commonly target women, including violence against women. The gender neutrality in norms is said to provide an opportunity for reinforcing the invisibility of gender,
>
> 61. Violence against women is a systemic, widespread and pervasive human rights violation, experienced largely by women because they are women. The concept of gender neutrality is framed in a way that understands violence as a universal threat to which all are potentially vulnerable, and from which all deserve protection. This suggests that male victims of violence require, and deserve, comparable resources to those afforded to female victims, thereby ignoring the reality that violence against men does not occur as a result of pervasive inequality and discrimination, and also that it is neither systemic nor pandemic in the way that violence against women undisputedly is. The shift to neutrality favours a more pragmatic and politically palatable understanding of gender, that is, as simply a euphemism for "men and women", rather than as a system of domination of men over women. Violence against women cannot be analysed on a case-by-case basis in isolation of the individual, institutional and structural factors that govern and shape the lives of women. Such factors demand gender-specific approaches to ensure an equality of outcomes for women. Attempts to combine or synthesize all forms of violence into a "gender neutral" framework, tend to result in a depoliticized or diluted discourse, which abandons the transformative agenda. A different set of normative and practical measures is required to respond to and prevent violence against women and, equally importantly, to achieve the international law obligation of substantive equality, as opposed to formal equality.[421]'"

Gender neutrality is an impediment to the development of adequate regulatory protections that are sensitive to the different needs for protection of men and women. This is evident

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[417] Palermo, et al. 2014.

[418] Burcar 2013.

[419] O'Donnell and MacIntosh, 2016.

[420] Casas Becerra 2016.

[421] Council 2012.

with regard to sexual violence, including sexual harassment, but it is also relevant for other types of workplace violence.

Studies have shown that men and women perceive workplace bullying differently, and the gender of the target can affect the perceptions of men, who were significantly less likely to label negative behaviour as bullying when the target was female[422]. A Quebec study found that position in the hierarchy of an organization is inversely related to exposure to bullying for men, but not for women, female managers or professionals being no less exposed than female secretarial staff[423]. In Finland, female business professionals reported a higher exposure rate than their male counterparts[424], and a study of managers in the European Union found that women with children under 15 were more likely to report being bullied[425].

When we look at the results relating to violence in different occupational sectors, violence in many countries is disproportionately present in sectors where women are in the majority, such as health care and education. Women may also be disproportionately vulnerable to violence that occurs during the journey to or from work, and some regulators have included guidance material relating to violence prevention during the commute to and from work, material that is, on its face, gender neutral, but which has clearly been developed in a way that takes into consideration the needs of both male and female workers[426].

This is not to say that women need more protection than men, or that men are less likely to be targets of bullying or physical violence. What should be retained is that violence against men and violence against women are not identical phenomena. Drivers of violence may differ, types of targets chosen by perpetrators may differ, and solutions for preventing violence may differ. Thinking about the similar and distinct needs of workers, both men and women, while remembering the importance of intersectionality[427], will ensure more effective interventions both in the workplace and in policy.

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[422] Salin 2011.

[423] Lippel, 2011b; Lippel, et al. 2016.

[424] Salin 2005.

[425] Ariza-Montes, et al. 2014.

[426] See for example http://www.worksafebc.com/publications/health_and_safety/by_topic/assets/pdf/take_care.pdf.

[427] Van De Griend and Hilfinger Messias 2014.

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