



Compendium of International and National Legal Frameworks on Sexual Harassment in the Workplace

Volume I of V — International and Regional Legal Frameworks

FIRST EDITION, DECEMBER 2019



Public Disclosure Authorized

Public Disclosure Authorized

Public Disclosure Authorized

Public Disclosure Authorized

Compendium of International and National Legal Frameworks on Sexual Harassment in the Workplace

Volume I of V

FIRST EDITION, DECEMBER 2019

The World Bank Group

© 2019 The World Bank Group
1818 H Street NW, Washington DC 20433
Telephone: 202-473-1000; Internet: www.worldbank.org/

Some Rights Reserved

This work is a product of the staff of The World Bank. The findings, interpretations, and conclusions expressed in this work do not necessarily reflect the views of the Executive Directors of The World Bank or the governments they represent. The World Bank does not guarantee the accuracy of the data included in this work. The boundaries, colors, denominations, and other information shown on any map in this work do not imply any judgment on the part of The World Bank concerning the legal status of any territory or the endorsement or acceptance of such boundaries.

Rights and Permissions

The material in this work is subject to copyright. Because The World Bank encourages dissemination of its knowledge, this work may be reproduced, in whole or in part, for noncommercial purposes as long as full attribution to this work is given.

Attribution

Please cite the work as follows: “World Bank. Compendium of International and National Legal Frameworks on Sexual Harassment in the Workplace, December 2019, World Bank.”

All queries on rights and licenses, including subsidiary rights, should be addressed to World Bank Publications, The World Bank Group, 1818 H Street NW, Washington, DC 20433, USA; fax: 202-522-2625; e-mail: pubrights@worldbank.org.

Cover Photo: © 2019 Mariana Kaipper Ceratti/ World Bank

The Compendium is a working document intended as a reference tool for anyone interested in the topic of Sexual Harassment in the Workplace (development practitioners, lawyers, community leaders, academics, researchers, students, etc.). It does not constitute an exhaustive treatment of the legal framework on Sexual Harassment in the Workplace and may be updated from time to time.

ACKNOWLEDGEMENTS.....	VI
FOREWORD	VIII
INTRODUCTION, DISCLAIMER AND LIMITATIONS.....	IX
1 INTERNATIONAL LEGAL FRAMEWORK	1
1.1 ILO INSTRUMENTS 1	
1.1.1 <i>Violence and Harassment Convention (No. 190), 2019</i>	1
1.1.2 <i>Violence And Harassment Recommendation (No. 206), 2019</i>	7
1.1.3 <i>Discrimination (Employment and Occupation) Convention (No. 111), 1958</i>	11
1.1.4 <i>Indigenous and Tribal Peoples Convention (No. 169), 1989</i>	12
1.1.5 <i>Domestic Workers Convention (No. 189), 2011</i>	12
1.1.6 <i>Domestic Workers Recommendation (No. 201), 2011</i>	14
1.1.7 <i>Occupational Safety and Health Convention (No. 155), 1981</i>	14
1.1.8 <i>Occupational Safety and Health Recommendation (No. 164), 1981</i>	15
1.1.9 <i>Occupational Health Services Convention (No. 161), 1985</i>	16
1.1.10 <i>Migration for Employment Convention (No. 97, Revised), 1949</i>	17
1.1.11 <i>Migrant Workers (Supplementary Provisions) Convention (No. 143), 1975</i>	17
1.1.12 <i>Maritime Labour Convention, 2006 (as amended)</i>	18
1.1.13 <i>Private Employment Agencies Convention (No. 181), 1997</i>	19
1.1.14 <i>Social Security (Minimum Standards) Convention (No. 102), 1952</i>	19
1.1.15 <i>Night Work Convention (No. 171), 1990</i>	20
1.1.16 <i>Night Work Recommendation (No. 178), 1990</i>	20
1.2 UN INSTRUMENTS 21	
1.2.1 <i>Universal Declaration on Human Rights</i>	21
1.2.2 <i>International Covenant on Civil and Political Rights</i>	21
1.2.3 <i>International Covenant on Economic, Social and Cultural Rights</i>	22
1.2.4 <i>Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)</i>	28
1.2.5 <i>International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families</i>	46
1.2.6 <i>Convention on the Right of Persons with Disabilities</i>	47
2 INTERNATIONAL CONSENSUS DOCUMENTS: RECOMMENDATIONS, RESOLUTIONS, OTHER NON-BINDING STANDARDS.....	47
2.1 ILO 48	
2.1.1 <i>ILO List of Occupational Diseases Recommendation (No. 194), 2002 (as amended)</i>	48
2.1.2 <i>ILO Transition from the Informal to the Formal Economy Recommendation (No. 204), 2015</i>	48
2.1.3 <i>ILO HIV and AIDS Recommendation (No. 200), 2010</i>	49
2.1.4 <i>ILO Employment and Decent Work for Peace and Resilience Recommendation (No. 205), 2017</i>	49
2.1.5 <i>ILO Safety and Health in Agriculture Code of Practice, 2011</i>	50
2.1.6 <i>ILO Multilateral Framework on Labour Migration, 2006</i>	52
2.1.7 <i>ILO General Principles and Operational Guidelines for Fair Recruitment, 2016</i>	53
2.1.8 <i>ILO Framework Guidelines for Addressing Workplace Violence in the Health Sector, 2002</i>	55
2.2 UNITED NATIONS 62	
2.2.1 <i>Vienna Declaration and Programme of Action (World Conference on Human Rights)</i>	62
2.2.2 <i>Beijing Declaration and Platform for Action of the Fourth World Conference on Women</i>	62
2.2.3 <i>UN Resolution on Intensification of efforts to prevent and eliminate all forms of violence against women and girls: sexual harassment</i>	64
2.2.4 <i>UN Gen. Ass. Declaration on the Elimination of Violence Against Women (DEVAW)</i>	70
2.2.5 <i>Human Rights Council Resolution 11/2: Accelerating efforts to eliminate all forms of violence against women</i> 72	

COMPENDIUM OF INTERNATIONAL AND NATIONAL LEGAL FRAMEWORKS ON
SEXUAL HARASSMENT IN THE WORKPLACE

2.2.6	<i>UN Commission on the Status of Women, Agreed conclusions on the elimination and prevention of all forms of violence against women and girls</i>	73
2.2.7	<i>Human Rights Council Resolution 32/19 - Accelerating efforts to eliminate violence against women: preventing and responding to violence against women and girls, including indigenous women and girls</i>	75
2.2.8	<i>UN Global Compact Women’s Empowerment Principles: Equality Means Business</i>	76
2.2.9	<i>U.N. Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice</i>	77
2.2.10	<i>Report of the UN Special Rapporteur on violence against women, its causes and consequences</i> ..	80
2.2.11	<i>Report of the UN Special Rapporteur on violence against women, its causes and consequences on Online Violence against Women and Girls from a Human Rights Perspective</i>	81
2.2.12	<i>Transforming our World: The 2030 Agenda for Sustainable Development</i>	82
2.2.13	<i>UNHCR Guidelines on International Protection No. 1: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees</i> 82	
2.2.14	<i>Other Non-Binding Standards: Initiatives of Employers’ and Workers’ Organizations</i>	83
3	REGIONAL LEGAL FRAMEWORK	83
3.1	EUROPEAN CONVENTION ON HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS	83
3.2	COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE (ISTANBUL CONVENTION)	84
3.3	EXPLANATORY REPORT TO THE COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE	91
3.4	EUROPEAN SOCIAL CHARTER 1996 (REVISED)	93
3.5	TREATY OF LISBON (AMENDING THE TREATY OF THE EUROPEAN UNION AND THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY)	94
3.6	EU CHARTER OF FUNDAMENTAL RIGHTS	94
3.7	COUNCIL DIRECTIVE 2000/78/EC ESTABLISHING A GENERAL FRAMEWORK FOR EQUAL TREATMENT IN EMPLOYMENT AND OCCUPATION	95
3.8	RECAST DIRECTIVE 2006/54/EC ON SEX DISCRIMINATION IN EMPLOYMENT	96
3.9	DIRECTIVE 2010/41/EU ON EQUAL TREATMENT IN SELF EMPLOYMENT	101
3.10	COUNCIL DIRECTIVE (89/391/EEC) ON THE INTRODUCTION OF MEASURES TO ENCOURAGE IMPROVEMENTS IN THE SAFETY AND HEALTH OF WORKERS AT WORK	103
3.11	DIRECTIVE 2012/29/EU ESTABLISHING STANDARDS ON THE RIGHTS, SUPPORT AND PROTECTION OF VICTIMS OF CRIME	104
3.12	OSCE DECISION NO. 7/14 PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN	105
3.13	AFRICAN CHARTER ON HUMAN AND PEOPLES’ RIGHTS	107
3.14	PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES’ RIGHTS ON THE RIGHT OF WOMEN IN AFRICA (MAPUTO PROTOCOL)	108
3.15	AMERICAN CONVENTION ON HUMAN RIGHTS	110
3.16	INTER-AMERICAN CONVENTION ON THE PREVENTION, PUNISHMENT AND ERADICATION OF VIOLENCE AGAINST WOMEN (BELEM DO PARA)	111
4	REGIONAL CONSENSUS DOCUMENTS: RECOMMENDATIONS, RESOLUTIONS AND OTHER NON-BINDING INSTRUMENTS	114
4.1	RECOMMENDATION (2002)5 OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON THE PROTECTION OF WOMEN AGAINST VIOLENCE	114
4.2	COUNCIL OF EUROPE RECOMMENDATION CM/Rec(2019)1 ON PREVENTING AND COMBATING SEXISM	117
4.3	EUROPEAN PARLIAMENT RESOLUTION (2017/2897(RSP)) ON COMBATING SEXUAL HARASSMENT AND ABUSE IN THE EU	120
4.4	SADC PROTOCOL ON GENDER AND DEVELOPMENT	125
4.5	AFRICAN COMMISSION ON HUMAN AND PEOPLES’ RIGHTS GUIDELINES ON COMBATING SEXUAL VIOLENCE AND ITS CONSEQUENCES IN AFRICA	126
4.6	DECLARATION ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN AND ELIMINATION OF VIOLENCE AGAINST CHILDREN IN ASEAN	127
4.7	DECLARATION OF PACHUCA ON STRENGTHENING EFFORTS TO PREVENT VIOLENCE AGAINST WOMEN	130
4.8	OTHER NON-BINDING STANDARDS: INITIATIVES OF WORKERS’ AND EMPLOYERS’ ORGANIZATIONS	132
4.8.1	<i>Framework agreement on harassment and violence at work (European Trade Union Confederation et al.)</i>	132

Volume I of V

This compendium on Sexual Harassment in the Workplace is divided in V volumes. Each volume should be observed as a part of the whole.

ACKNOWLEDGEMENTS

The idea of the Compendium of International and National Legal Frameworks on Sexual Harassment in the Workplace came out of discussions held during several international seminars during the Law, Justice and Development Weeks promoted by the Legal Vice Presidency of the World Bank and by the Global Forum on Law, Justice and Development.

We wish to thank the following individuals for their outstanding contribution, research, assistance and guidance on this project:

Authors:

Aarushi Sinha

Alexandra Leão

Annabelle Vinois

Duygu Cicek

Edith Ruguru Mwenda

Eklavya Vasudev

Fatima Sanokho

Gamila Kassem

Gloria Kuoh

Isabel Micaela Santagostino Recavarren

Isabela Franco Emerick Albergaria

Isabella Micali Drossos

Laura Basse

Luciana Ribeiro Lepri

Luiza Lacerda Bogado

Maya Goldstein-Bolocan

Natália Mazoni Silva Martins

New Doe Kaledzi

Pierre Mury

Paula Tavares

Renske Hoekstra

Saba Nabeel Gheshan

Samila Dutra

Sara Guerreiro

Sheela Reddi

Souad Adnane

Viktoria Khaitina

Wendy Johanna Melisi

Editors:

Maya Goldstein-Bolocan, Legal Consultant, World Bank

Alexandra Leão, Legal Consultant, World Bank Group

Book Cover Design:

Dolie Schein, Knowledge Management Officer, World Bank

Peer Reviewers:

Alberto Rivera-Fournier, Chief Ethics Officer at the Inter-American Development Bank

Helen Rubenstein, Senior Counsel at Global Rights for Women.

Ligia Maura Costa, Full Professor at Fundacao Getulio Vargas – Escola de Administracao de Empresas de São Paulo (FGV-EAESP), Director of the Fundacao Getulio Vargas Ethics Research Center, São Paulo, Brazil

Very special thanks for their guidance and support:

Sandie Okoro, Senior Vice President and General Counsel, World Bank

Irina Kichigina, Deputy General Counsel, World Bank

Alessandra Iorio, Associate General Counsel, World Bank

Amir Shaikh, Adviser to the Senior Vice President and General Counsel, World Bank

Francesca Daverio, Special Assistant to the General Counsel, World Bank

Anne-Marie Burns, Anti-Harassment Coordinator, World Bank

Alexandra Leão, Legal Consultant, World Bank

Diana Arango, Gender Specialist, Gender, World Bank

Dolie Schein, Knowledge Management Officer, Legal Vice Presidency, World Bank

Gabriela Moreira, Team Assistant, World Bank

Georgina Wiese, Senior Program Assistant, Legal Vice Presidency, World Bank

Luciano Wuerzius, Senior Procurement Specialist, World Bank

Mariana Kaipper Ceratti, Online Communications Associate, World Bank

Nicolas Drossos, Public Finance, World Bank Management Expert

Srdjan Popovic, International Consultant

FOREWORD

Millions of women around the world continue to experience violence solely because of their gender. Gender-based violence is a pandemic that is often intractable, and it knows no boundaries.

The United Nations Declaration on the Elimination of Violence Against Women states that “violence against women is a manifestation of historically unequal power relations between men and women” and that it is “one of the most crucial social mechanisms by which women are forced into a subordinate position compared with men”.

This violence comes in many forms and includes domestic violence, child marriage, sexual violence during conflict, and sexual harassment among others.

Sexual harassment in the workplace is one of the most critical challenges facing the global community. Women constitute half the world population, and the benefits of including women in the workforce are countless. They are, without a doubt, an important asset to supporting the growth of every household, every community, and every country.

Women’s active participation in the economy, therefore, helps reduce poverty and promote higher GDP levels. As women join the labor force, the importance of ensuring a safe work environment cannot be emphasized enough.

Unsafe workplaces affect women’s labor market outcomes, and as importantly, the cost of sexual harassment is perceived by the victims as well as by businesses.

Introducing strong legislation that tackles sexual harassment— particularly in the workplace —is critical to providing an early layer of safety and protection for women.

The following Compendium of International and National Legal Frameworks on Sexual Harassment in the Workplace provides a collection of international instruments that address the issue, and national legislations adopted to prevent and prosecute sexual harassment in the workplace. This is a practical online legal tool to inform and empower those seeking to put an end to sexual harassment in the workplace.

I hope this responds to the needs of all persons and professionals interested in this subject as well as those who work with and support women affected by sexual harassment at the work place or at risk.

Sandie Okoro
Senior Vice President and General Counsel
World Bank Group

INTRODUCTION, DISCLAIMER AND LIMITATIONS

Sexual Harassment in the Workplace (SHWP) is a universal and widespread phenomenon that affects millions of women of all social strata worldwide. It is an endemic issue that has gained increased visibility and attention since the beginning of the “#MeToo” movement.

In this Compendium on International and National Legal Frameworks on Sexual Harassment in the Workplace (the “Compendium”), SHWP is understood as a gender-specific form of violence, commonly directed against women and occurring in employment or the workplace. It includes requests for sexual favors, unwelcome sexual advances or other sexual conduct, whether physical or verbal, which involves a “quid pro quo” aspect (e.g. request for sexual favors used to make employment decisions) and/or creates an intimidating, hostile, toxic, humiliating or offensive working environment¹. As one of the pervasive expressions of gender-based violence, it reflects discriminatory social norms, stereotypes, impunity and gender inequality.

SHWP is viewed as a development challenge and has high economic and social costs. Despite its serious implications for women, employers and society at large, the behavior is widely accepted and minimized.

For survivors, who are overwhelmingly women, it can cause or justify physical and mental health problems, career interruptions, lost productivity, lost or reduced professional advancement and opportunities, lower earnings and work performance, limited employment options, abandonment of careers, forced job changes, unemployment, and persistent gender wage differences. SHWP also interacts with other types of discrimination related to ethnicity, sexual orientation, age and disability and can be viewed as a form of employment discrimination.

For employers, the impact of SHWP includes security issues, absenteeism, high turnover, negative effects on staff morale and productivity due to intimidating, toxic, hostile, humiliating or offensive work conditions or due to the lack of a diverse and inclusive workforce. SHWP may also result in substantial legal costs for employers.

The Compendium provides a survey of the key international and regional instruments as well as national legislation as they relate to SHWP². A number of countries have adopted legislation on SHWP protecting women specifically while others have not defined the gender of the victim or survivor.

The Compendium is a working document intended to be a reference tool for anyone interested in the topic of SHWP, such as survivors, advocates, development practitioners, lawyers, policy makers, academics, labor unions or staff representatives, among others. It does not constitute an exhaustive treatment of the legal framework on SHWP and may be updated from time to time.

The Compendium consists of topical chapters with jump links to source documents, such as United Nations instruments, regional treaties, and national legislations. It is based on information

¹ Behaviors amounting to sexual harassment may include, but are not limited to, touching, hugging, kissing, sexual assault, sexual or “dirty” jokes, comments on physical attributes, distributing sexually explicit material. Unwanted sexual statements can be made in person, in writing, or electronically. Sexual harassment may be committed by an employer/superior, a co-worker or a client.

² Relevant provisions may be found in criminal, civil, labor codes, anti-discrimination legislation and/or laws to protect from gender-based violence. In some cases, general provisions on sexual harassment have also been included.

available online, offline or both, and relies on research conducted, verified and updated as of November 2019³. The hyperlinked references are not under the control of the World Bank, nor is the World Bank responsible for the accuracy of the content provided through these references. The content of the Compendium does not necessarily reflect the views of the World Bank, its Board of Executive Directors, or the governments they represent. Furthermore, the World Bank does not guarantee the accuracy of the data included in this work.

The research on country-level SHWP legislation builds on the Women Business and the Law database⁴ and includes additional legislation found during the course and time-frame for compiling the research. The Compendium is limited to countries that have adopted specific laws or provisions addressing SHWP and includes legislation from almost 150 countries; as such, the absence of a country's name may be due to the fact that no SHWP legislation has yet been enacted or that no information was available online⁵.

Ending all forms of gender-based violence, including SHWP, is a critical development objective and comprehensive legislation addressing SHWP is a key first step towards ensuring prevention and protection. It is also a sine qua non condition for any effective strategy to address the problem. Nonetheless, many countries worldwide have yet to adopt laws against SHWP, while many others have adopted legislation that fails to comprehensively offer protection for the different types of survivors and against the different forms of abuse.

We hope the Compendium will contribute to this urgent and important debate.

Isabella Micali Drossos
Maya Goldstein-Bolocan
Paula Tavares
World Bank Group

³ Because it was developed primarily based on information publicly available online, the Compendium includes references to more than several hundred URLs and links to available treaties, laws and electronically published documents. All referenced URLs and links were verified and active at the time they were inserted. There is no guarantee as to their future accessibility nor as to the continued accuracy of the information contained therein after the last date on which they were last accessed and verified.

⁴ See more at <http://wbl.worldbank.org/en/data/exploretopics/protecting-women-from-violence>.

⁵ When legislative information was not available online but was found by the team of authors, these have been attached as annexes to the Compendium.

VOLUME I

1 INTERNATIONAL LEGAL FRAMEWORK

1.1 ILO INSTRUMENTS

1.1.1 Violence and Harassment Convention (No. 190), 2019⁶

[...]

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 108th (Centenary) Session on 10 June 2019, and

Recalling that the Declaration of Philadelphia affirms that all human beings, irrespective of race, creed or sex, have the right to pursue both their material wellbeing and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity, and

Reaffirming the relevance of the fundamental Conventions of the International Labour Organization, and

Recalling other relevant international instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the Convention on the Rights of Persons with Disabilities, and

Recognizing the right of everyone to a world of work free from violence and harassment, including gender-based violence and harassment, and

Recognizing that violence and harassment in the world of work can constitute a human rights violation or abuse, and that violence and harassment is a threat to equal opportunities, is unacceptable and incompatible with decent work, and

Recognizing the importance of a work culture based on mutual respect and dignity of the human being to prevent violence and harassment, and

Recalling that Members have an important responsibility to promote a general environment of zero tolerance to violence and harassment in order to facilitate the prevention of such behaviours and practices,

⁶ International Labour Organization (ILO), Violence and Harassment Convention, C 190, 21 June 2019, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190 (last visited 15 November 2019). The Convention, which was adopted by ILO delegates at the Centenary International Labor Conference held in Geneva in June 2019, will enter into force 12 months after two member States have ratified it.

and that all actors in the world of work must refrain from, prevent and address violence and harassment, and

Acknowledging that violence and harassment in the world of work affects a person's psychological, physical and sexual health, dignity, and family and social environment, and

Recognizing that violence and harassment also affects the quality of public and private services, and may prevent persons, particularly women, from accessing, and remaining and advancing in the labour market, and

Noting that violence and harassment is incompatible with the promotion of sustainable enterprises and impacts negatively on the organization of work, workplace relations, worker engagement, enterprise reputation, and productivity, and

Acknowledging that gender-based violence and harassment disproportionately affects women and girls, and recognizing that an inclusive, integrated and gender-responsive approach, which tackles underlying causes and risk factors, including gender stereotypes, multiple and intersecting forms of discrimination, and unequal gender-based power relations, is essential to ending violence and harassment in the world of work, and

Noting that domestic violence can affect employment, productivity and health and safety, and that governments, employers' and workers' organizations and labour market institutions can help, as part of other measures, to recognize, respond to and address the impacts of domestic violence, and

Having decided upon the adoption of certain proposals concerning violence and harassment in the world of work, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention, adopts this twenty first day of June of the year two thousand and nineteen the following Convention, which may be cited as the Violence and Harassment Convention, 2019:

I. DEFINITIONS

Article 1

1. For the purposes of this Convention:

(a) the term "violence and harassment" in the world of work refers to a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment;

(b) the term "gender-based violence and harassment" means violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment.

2. Without prejudice to subparagraphs (a) and (b) of paragraph 1 of this Article, definitions in national laws and regulations may provide for a single concept or separate concepts.

II. SCOPE

Article 2

1. This Convention protects workers and other persons in the world of work, including employees as defined by national law and practice, as well as persons working irrespective of their contractual status, persons in training, including interns and apprentices, workers whose employment has been terminated, volunteers, jobseekers and job applicants, and individuals exercising the authority, duties or responsibilities of an employer.
2. This Convention applies to all sectors, whether private or public, both in the formal and informal economy, and whether in urban or rural areas.

Article 3

This Convention applies to violence and harassment in the world of work occurring in the course of, linked with or arising out of work:

- (a) in the workplace, including public and private spaces where they are a place of work;
- (b) in places where the worker is paid, takes a rest break or a meal, or uses sanitary, washing and changing facilities;
- (c) during work-related trips, travel, training, events or social activities;
- (d) through work-related communications, including those enabled by information and communication technologies;
- (e) in employer-provided accommodation; and
- (f) when commuting to and from work.

III. CORE PRINCIPLES

Article 4

1. Each Member which ratifies this Convention shall respect, promote and realize the right of everyone to a world of work free from violence and harassment.
2. Each Member shall adopt, in accordance with national law and circumstances and in consultation with representative employers' and workers' organizations, an inclusive, integrated and gender-responsive approach for the prevention and elimination of violence and harassment in the world of work. Such an approach should take into account violence and harassment involving third parties, where applicable, and includes:
 - (a) prohibiting in law violence and harassment;
 - (b) ensuring that relevant policies address violence and harassment;
 - (c) adopting a comprehensive strategy in order to implement measures to prevent and combat violence and harassment;
 - (d) establishing or strengthening enforcement and monitoring mechanisms;
 - (e) ensuring access to remedies and support for victims;
 - (f) providing for sanctions;
 - (g) developing tools, guidance, education and training, and raising awareness, in accessible formats as appropriate; and
 - (h) ensuring effective means of inspection and investigation of cases of violence and harassment, including through labour inspectorates or other competent bodies.
3. In adopting and implementing the approach referred to in paragraph 2 of this Article, each Member shall recognize the different and complementary roles and functions of governments, and employers and workers and their respective organizations, taking into account the varying nature and extent of their respective responsibilities.

Article 5

With a view to preventing and eliminating violence and harassment in the world of work, each Member shall respect, promote and realize the fundamental principles and rights at work, namely freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour and the elimination of discrimination in respect of employment and occupation, as well as promote decent work.

Article 6

Each Member shall adopt laws, regulations and policies ensuring the right to equality and non-discrimination in employment and occupation, including for women workers, as well as for workers and other persons belonging to one or more vulnerable groups or groups in situations of vulnerability that are disproportionately affected by violence and harassment in the world of work.

IV. PROTECTION AND PREVENTION

Article 7

Without prejudice to and consistent with Article 1, each Member shall adopt laws and regulations to define and prohibit violence and harassment in the world of work, including gender-based violence and harassment.

Article 8

Each Member shall take appropriate measures to prevent violence and harassment in the world of work, including:

- (a) recognizing the important role of public authorities in the case of informal economy workers; (b) identifying, in consultation with the employers' and workers' organizations concerned and through other means, the sectors or occupations and work arrangements in which workers and other persons concerned are more exposed to violence and harassment; and
- (c) taking measures to effectively protect such persons.

Article 9

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

- (a) adopt and implement, in consultation with workers and their representatives, a workplace policy on violence and harassment;
- (b) take into account violence and harassment and associated psychosocial risks in the management of occupational safety and health;
- (c) identify hazards and assess the risks of violence and harassment, with the participation of workers and their representatives, and take measures to prevent and control them; and
- (d) provide to workers and other persons concerned information and training, in accessible formats as appropriate, on the identified hazards and risks of violence and harassment and the associated prevention and protection measures, including on the rights and responsibilities of workers and other persons concerned in relation to the policy referred to in subparagraph (a) of this Article.

V. ENFORCEMENT AND REMEDIES

Article 10

Each Member shall take appropriate measures to:

- (a) monitor and enforce national laws and regulations regarding violence and harassment in the world of work;
- (b) ensure easy access to appropriate and effective remedies and safe, fair and effective reporting and dispute resolution mechanisms and procedures in cases of violence and harassment in the world of work, such as:
 - (i) complaint and investigation procedures, as well as, where appropriate, dispute resolution mechanisms at the workplace level;
 - (ii) dispute resolution mechanisms external to the workplace;
 - (iii) courts or tribunals;
 - (iv) protection against victimization of or retaliation against complainants, victims, witnesses and whistleblowers; and
 - (v) legal, social, medical and administrative support measures for complainants and victims;
- (c) protect the privacy of those individuals involved and confidentiality, to the extent possible and as appropriate, and ensure that requirements for privacy and confidentiality are not misused; (d) provide for sanctions, where appropriate, in cases of violence and harassment in the world of work;
- (e) provide that victims of gender-based violence and harassment in the world of work have effective access to gender-responsive, safe and effective complaint and dispute resolution mechanisms, support, services and remedies;
- (f) recognize the effects of domestic violence and, so far as is reasonably practicable, mitigate its impact in the world of work;
- (g) ensure that workers have the right to remove themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to life, health or safety due to violence and harassment, without suffering retaliation or other undue consequences, and the duty to inform management; and
- (h) ensure that labour inspectorates and other relevant authorities, as appropriate, are empowered to deal with violence and harassment in the world of work, including by issuing orders requiring measures with immediate executory force, and orders to stop work in cases of an imminent danger to life, health or safety, subject to any right of appeal to a judicial or administrative authority which may be provided by law.

VI. GUIDANCE, TRAINING AND AWARENESS-RAISING

Article 11

Each Member, in consultation with representative employers' and workers' organizations, shall seek to ensure that:

- (a) violence and harassment in the world of work is addressed in relevant national policies, such as those concerning occupational safety and health, equality and nondiscrimination, and migration;
- (b) employers and workers and their organizations, and relevant authorities, are provided with guidance, resources, training or other tools, in accessible formats as appropriate, on violence and harassment in the world of work, including on gender-based violence and harassment; and
- (c) initiatives, including awareness-raising campaigns, are undertaken.

VII. METHODS OF APPLICATION

Article 12

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

VIII. FINAL PROVISIONS

Article 13

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 14

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification is registered.

Article 15

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention within the first year of each new period of ten years under the terms provided for in this Article.

Article 16

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and denunciations that have been communicated by the Members of the Organization.
2. When notifying the Members of the Organization of the registration of the second ratification that has been communicated, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

Article 17

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and denunciations that have been registered in accordance with the provisions of the preceding Articles.

Article 18

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 19

1. Should the Conference adopt a new Convention revising this Convention, then, unless the new Convention otherwise provides:

(a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 15 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 20

The English and French versions of the text of this Convention are equally authoritative.

1.1.2 Violence And Harassment Recommendation (No. 206), 2019 7

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 108th (Centenary) Session on 10 June 2019, and

Having adopted the Violence and Harassment Convention, 2019, and

Having decided upon the adoption of certain proposals concerning violence and harassment in the world of work, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Violence and Harassment Convention, 2019,

adopts this twenty-first day of June of the year two thousand and nineteen the following Recommendation, which may be cited as the Violence and Harassment Recommendation, 2019:

1. The provisions of this Recommendation supplement those of the Violence and Harassment Convention, 2019 (hereafter referred to as “the Convention”), and should be considered in conjunction with them.

I. CORE PRINCIPLES

2. In adopting and implementing the inclusive, integrated and gender-responsive approach referred to in Article 4, paragraph 2, of the Convention, Members should address violence and harassment in the world of work in labour and employment, occupational safety and health, equality and non-discrimination law, and in criminal law, where appropriate.

3. Members should ensure that all workers and employers, including those in sectors, occupations and work arrangements that are more exposed to violence and harassment, fully enjoy freedom of association and the effective recognition of the right to collective bargaining consistent with the Freedom of

7 International Labor Organization (ILO), Violence And Harassment Recommendation, R 206, 21 June 2019, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:4000085:NO (LAST VISITED 15 NOVEMBER 2019).

Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

4. Members should take appropriate measures to:

- (a) promote the effective recognition of the right to collective bargaining at all levels as a means of preventing and addressing violence and harassment and, to the extent possible, mitigating the impact of domestic violence in the world of work; and
- (b) support such collective bargaining through the collection and dissemination of information on related trends and good practices regarding the negotiation process and the content of collective agreements.

5. Members should ensure that provisions on violence and harassment in national laws, regulations and policies take into account the equality and non-discrimination instruments of the International Labour Organization, including the Equal Remuneration Convention (No. 100) and Recommendation (No. 90), 1951, and the Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111), 1958, and other relevant instruments.

II. PROTECTION AND PREVENTION

6. Occupational safety and health provisions on violence and harassment in national laws, regulations and policies should take into account relevant occupational safety and health instruments of the International Labour Organization, such as the Occupational Safety and Health Convention, 1981 (No. 155), and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).

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

- (a) state that violence and harassment will not be tolerated;
- (b) establish violence and harassment prevention programmes with, if appropriate, measurable objectives;
- (c) specify the rights and responsibilities of the workers and the employer;
- (d) contain information on complaint and investigation procedures;
- (e) provide that all internal and external communications related to incidents of violence and harassment will be duly considered, and acted upon as appropriate;
- (f) specify the right to privacy of individuals and confidentiality, as referred to in Article 10(c) of the Convention, while balancing the right of workers to be made aware of all hazards; and
- (g) include measures to protect complainants, victims, witnesses and whistle-blowers against victimization or retaliation.

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

- (a) arise from working conditions and arrangements, work organization and human resource management, as appropriate;
- (b) involve third parties such as clients, customers, service providers, users, patients and members of the public; and
- (c) arise from discrimination, abuse of power relations, and gender, cultural and social norms that support violence and harassment.

9. Members should adopt appropriate measures for sectors or occupations and work arrangements in which exposure to violence and harassment may be more likely, such as night work, work in isolation, health, hospitality, social services, emergency services, domestic work, transport, education or entertainment.

10. Members should take legislative or other measures to protect migrant workers, particularly women migrant workers, regardless of migrant status, in origin, transit and destination countries as appropriate, from violence and harassment in the world of work.

11. In facilitating the transition from the informal to the formal economy, Members should provide resources and assistance for informal economy workers and employers, and their associations, to prevent and address violence and harassment in the informal economy.

12. Members should ensure that measures to prevent violence and harassment do not result in the restriction of the participation in specific jobs, sectors or occupations, or their exclusion therefrom, of women and the groups referred to in Article 6 of the Convention.

13. The reference to vulnerable groups and groups in situations of vulnerability in Article 6 of the Convention should be interpreted in accordance with applicable international labour standards and international instruments on human rights.

III. ENFORCEMENT, REMEDIES AND ASSISTANCE

14. The remedies referred to in Article 10(b) of the Convention could include:

- (a) the right to resign with compensation;
- (b) reinstatement;
- (c) appropriate compensation for damages;
- (d) orders requiring measures with immediate executory force to be taken to ensure that certain conduct is stopped or that policies or practices are changed; and
- (e) legal fees and costs according to national law and practice.

15. Victims of violence and harassment in the world of work should have access to compensation in cases of psychosocial, physical or any other injury or illness which results in incapacity to work.

16. The complaint and dispute resolution mechanisms for gender-based violence and harassment referred to in Article 10(e) of the Convention should include measures such as:

- (a) courts with expertise in cases of gender-based violence and harassment;
- (b) timely and efficient processing;
- (c) legal advice and assistance for complainants and victims;
- (d) guides and other information resources available and accessible in the languages that are widely spoken in the country; and
- (e) shifting of the burden of proof, as appropriate, in proceedings other than criminal proceedings.

17. The support, services and remedies for victims of gender-based violence and harassment referred to in Article 10(e) of the Convention should include measures such as:

- (a) support to help victims re-enter the labour market;
- (b) counselling and information services, in an accessible manner as appropriate;
- (c) 24-hour hotlines;

- (d) emergency services;
- (e) medical care and treatment and psychological support;
- (f) crisis centres, including shelters; and
- (g) specialized police units or specially trained officers to support victims.

18. Appropriate measures to mitigate the impacts of domestic violence in the world of work referred to in Article 10(f) of the Convention could include:

- (a) leave for victims of domestic violence;
- (b) flexible work arrangements and protection for victims of domestic violence;
- (c) temporary protection against dismissal for victims of domestic violence, as appropriate, except on grounds unrelated to domestic violence and its consequences;
- (d) the inclusion of domestic violence in workplace risk assessments;
- (e) a referral system to public mitigation measures for domestic violence, where they exist; and (f) awareness-raising about the effects of domestic violence.

19. Perpetrators of violence and harassment in the world of work should be held accountable and provided counselling or other measures, where appropriate, with a view to preventing the reoccurrence of violence and harassment, and facilitating their reintegration into work, where appropriate.

20. Labour inspectors and officials of other competent authorities, as appropriate, should undergo gender-responsive training with a view to identifying and addressing violence and harassment in the world of work, including psychosocial hazards and risks, gender-based violence and harassment, and discrimination against particular groups of workers.

21. The mandate of national bodies responsible for labour inspection, occupational safety and health, and equality and non-discrimination, including gender equality, should cover violence and harassment in the world of work.

22. Members should make efforts to collect and publish statistics on violence and harassment in the world of work disaggregated by sex, form of violence and harassment, and sector of economic activity, including with respect to the groups referred to in Article 6 of the Convention.

IV. GUIDANCE, TRAINING AND AWARENESS-RAISING

23. Members should fund, develop, implement and disseminate, as appropriate:

- (a) programmes aimed at addressing factors that increase the likelihood of violence and harassment in the world of work, including discrimination, the abuse of power relations, and gender, cultural and social norms that support violence and harassment;
- (b) gender-responsive guidelines and training programmes to assist judges, labour inspectors, police officers, prosecutors and other public officials in fulfilling their mandate regarding violence and harassment in the world of work, as well as to assist public and private employers and workers and their organizations in preventing and addressing violence and harassment in the world of work;
- (c) model codes of practice and risk assessment tools on violence and harassment in the world of work, either general or sector-specific, taking into account the specific situations of workers and other persons belonging to the groups referred to in Article 6 of the Convention;
- (d) public awareness-raising campaigns in the various languages of the country, including those of the migrant workers residing in the country, that convey the unacceptability of violence and harassment, in

particular gender-based violence and harassment, address discriminatory attitudes and prevent stigmatization of victims, complainants, witnesses and whistle-blowers;

(e) gender-responsive curricula and instructional materials on violence and harassment, including gender-based violence and harassment, at all levels of education and vocational training, in line with national law and circumstances;

(f) materials for journalists and other media personnel on gender-based violence and harassment, including its underlying causes and risk factors, with due respect for their independence and freedom of expression; and

(g) public campaigns aimed at fostering safe, healthy and harmonious workplaces free from violence and harassment.

1.1.3 Discrimination (Employment and Occupation) Convention (No. 111), 1958 [8](#)

[...]

Article 1

1. For the purpose of this Convention the term *discrimination* includes--

(a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;

[...]

Article 2

Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.

Article 3

Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice--

(a) to seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of this policy;

(b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;

(c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;

(d) to pursue the policy in respect of employment under the direct control of a national authority;

(e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;

(f) to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.

[...]

8 International Labour Organization (ILO), *Discrimination (Employment and Occupation) Convention*, C111, 25 June 1958, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C111 (last visited 15 November 2019).

1.1.4 Indigenous and Tribal Peoples Convention (No. 169), 1989 [9](#)

Part I. General Policy

Article 2

1. Governments shall have the responsibility for developing, with the participation of the peoples concerned, coordinated and systematic action to protect the rights of these peoples and to guarantee respect for their integrity.

[...]

Part III. Recruitment and Conditions of Employment

Article 20

1. Governments shall, within the framework of national laws and regulations, and in co-operation with the peoples concerned, adopt special measures to ensure the effective protection with regard to recruitment and conditions of employment of workers belonging to these peoples, to the extent that they are not effectively protected by laws applicable to workers in general.

[...]

3. The measures taken shall include measures to ensure:

(a) that workers belonging to the peoples concerned, including seasonal, casual and migrant workers in agricultural and other employment, as well as those employed by labour contractors, enjoy the protection afforded by national law and practice to other such workers in the same sectors, and that they are fully informed of their rights under labour legislation and of the means of redress available to them;

[...]

(d) that workers belonging to these peoples enjoy equal opportunities and equal treatment in employment for men and women, and protection from sexual harassment.

[...]

1.1.5 Domestic Workers Convention (No. 189), 2011 [10](#)

9 International Labour Organization (ILO), Indigenous and Tribal Peoples Convention, C 169, 27 June 1989, available at <https://www.minorityforum.info/en/document/oze34keuzgj1t08aizoajor?page=1> (last visited 15 November 2019)

The Committee of Experts on the Application of Conventions and Recommendations (CEACR) has over the years considered sexual harassment to be a serious form of sex discrimination and a violation of human rights falling within the scope of the Convention. The CEACR has highlighted the importance of taking effective measures to prevent and prohibit sexual harassment at work, and has identified two forms of sexual harassment, both of which need to be addressed:

(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. ILO Giving Globalization a Human Face, Report III (Part 1B), 2012, p. 330 (footnote 1979), available at [https://www.ilo.org/public/libdoc/ilo/P/09661/09661\(2012-101-1B\).pdf](https://www.ilo.org/public/libdoc/ilo/P/09661/09661(2012-101-1B).pdf)

10 International Labour Organization (ILO), Convention Concerning Decent Work for Domestic Workers, PRNo.15A, 16 June 2011, available at http://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189 (last visited 15 November 2019).

[...]

Article 1

For the purpose of this Convention:

- (a) the term domestic work means work performed in or for a household or households;
- (b) the term domestic worker means any person engaged in domestic work within an employment relationship;
- (c) a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker.

Article 2

1. The Convention applies to all domestic workers.

[...]

Article 3

1. Each Member shall take measures to ensure the effective promotion and protection of the human rights of all domestic workers, as set out in this Convention.

2. Each Member shall, in relation to domestic workers, take the measures set out in this Convention to respect, promote and realize the fundamental principles and rights at work, namely:

[...]

- (d) the elimination of discrimination in respect of employment and occupation.

[...]

Article 5

Each Member shall take measures to ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence.

Article 6

Each Member shall take measures to ensure that domestic workers, like workers generally, enjoy fair terms of employment as well as decent working conditions and, if they reside in the household, decent living conditions that respect their privacy.

[...]

Article 17

1. Each Member shall establish effective and accessible complaint mechanisms and means of ensuring compliance with national laws and regulations for the protection of domestic workers.

[...]

Article 19

This Convention does not affect more favourable provisions applicable to domestic workers under other international labour Conventions.

[...]

1.1.6 Domestic Workers Recommendation (No. 201), 2011 ¹¹

[...]

1. The provisions of this Recommendation supplement those of the Domestic Workers Convention, 2011 ("the Convention"), and should be considered in conjunction with them.

[...]

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.

[...]

1.1.7 Occupational Safety and Health Convention (No. 155), 1981 [12](#)

[...]

PART I. SCOPE AND DEFINITIONS

Article 1

1. This Convention applies to all branches of economic activity

[...]

Article 2

1. This Convention applies to all workers in the branches of economic activity covered.

[...]

Article 3

For the purpose of this Convention--

(a) the term *branches of economic activity* covers all branches in which workers are employed, including the public service;

(b) the term *workers* covers all employed persons, including public employees;

(c) the term *workplace* covers all places where workers need to be or to go by reason of their work and which are under the direct or indirect control of the employer;

1.1 ¹¹ Recommendation concerning Decent Work for Domestic Workers, R 201, 16 June 2011, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:2551502:NO (last visited 15 November 2019).

¹² International Labour Organization (ILO), Occupational Safety and Health Convention, C 155, 22 June 1981, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C155

(d) the term *regulations* covers all provisions given force of law by the competent authority or authorities;
(e) the term *health*, in relation to work, indicates not merely the absence of disease or infirmity; it also includes the physical and mental elements affecting health which are directly related to safety and hygiene at work.

PART II. PRINCIPLES OF NATIONAL POLICY

Article 4

1. Each Member shall, in the light of national conditions and practice, and in consultation with the most representative organisations of employers and workers, formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment.
2. The aim of the policy shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.

Article 5

The policy referred to in Article 4 of this Convention shall take account of the following main spheres of action in so far as they affect occupational safety and health and the working environment:

[...]

- (c) training, including necessary further training, qualifications and motivations of persons involved, in one capacity or another, in the achievement of adequate levels of safety and health;
- (d) communication and co-operation at the levels of the working group and the undertaking and at all other appropriate levels up to and including the national level;
- (e) the protection of workers and their representatives from disciplinary measures as a result of actions properly taken by them in conformity with the policy referred to in Article 4 of this Convention.

Article 6

The formulation of the policy referred to in Article 4 of this Convention shall indicate the respective functions and responsibilities in respect of occupational safety and health and the working environment of public authorities, employers, workers and others, taking account both of the complementary character of such responsibilities and of national conditions and practice.

1.1.8 Occupational Safety and Health Recommendation (No. 164), 1981¹³

PART I. SCOPE AND DEFINITIONS

1.

(1) To the greatest extent possible, the provisions of the Occupational Safety and Health Convention, 1981, hereinafter referred to as the Convention, and of this Recommendation should be applied to all branches of economic activity and to all categories of workers.

(2) Provision should be made for such measures as may be necessary and practicable to give self-employed persons protection analogous to that provided for in the Convention and in this Recommendation.

2. For the purpose of this Recommendation -

(a) the term *branches of economic activity* covers all branches in which workers are employed, including the public service;

1.2 13 International Labour Organization (ILO), Recommendation concerning Occupational Safety and Health and the Working Environment, R 164, 22 June 1981, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312502 (last visited 15 November 2019).

- (b) the term *workers* covers all employed persons, including public employees;
- (c) the term *workplace* covers all places where workers need to be or to go by reason of their work and which are under the direct or indirect control of the employer;
- (d) the term *regulations* covers all provisions given force of law by the competent authority or authorities;
- (e) the term *health*, in relation to work, indicates not merely the absence of disease or infirmity; it also includes the physical and mental elements affecting health which are directly related to safety and hygiene at work.

II. TECHNICAL FIELDS OF ACTION

3. As appropriate for different branches of economic activity and different types of work and taking into account the principle of giving priority to eliminating hazards at their source, measures should be taken in pursuance of the policy referred to in Article 4 of the Convention, in particular in the following fields:

[...]

(e) prevention of harmful physical or mental stress due to conditions of work;

[...]

1.1.9 Occupational Health Services Convention (No. 161), 1985 [14](#)

Article 1

For the purpose of this Convention-

(a) the term *occupational health services* means services entrusted with essentially preventive functions and responsible for advising the employer, the workers and their representatives in the undertaking on-

(i) the requirements for establishing and maintaining a safe and healthy working environment which will facilitate optimal physical and mental health in relation to work;

(ii) the adaptation of work to the capabilities of workers in the light of their state of physical and mental health;

[...]

Article 2

In the light of national conditions and practice and in consultation with the most representative organisations of employers and workers, where they exist, each Member shall formulate, implement and periodically review a coherent national policy on occupational health services.

[...]

Article 5

Without prejudice to the responsibility of each employer for the health and safety of the workers in his employment, and with due regard to the necessity for the workers to participate in matters of occupational health and safety, occupational health services shall have such of the following functions as are adequate and appropriate to the occupational risks of the undertaking:

[...]

(b) surveillance of the factors in the working environment and working practices which may affect workers' health [...];

(d) participation in the development of programmes for the improvement of working practices[...];

14 International Labour Organization (ILO), *Occupational Health Services Convention, C 161, 25 June 1985, available at* https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C161 (last visited 15 November 2019).

- (e) advice on occupational health, safety and hygiene and on ergonomics and individual and collective protective equipment;
- (f) surveillance of workers' health in relation to work;
- (g) promoting the adaptation of work to the worker;
- (h) contribution to measures of vocational rehabilitation;
- (i) collaboration in providing information, training and education in the fields of occupational health and hygiene and ergonomics;
- (j) organising of first aid and emergency treatment;
- (k) participation in analysis of occupational accidents and occupational diseases.

1.1.10 Migration for Employment Convention (No. 97, Revised), 1949 [15](#)

[...]

Article 6

1. Each Member for which this Convention is in force undertakes to apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals in respect of the following matters:

(a) in so far as such matters are regulated by law or regulations, or are subject to the control of administrative authorities--

(i) remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age for employment, apprenticeship and training, women's work and the work of young persons;

(ii) membership of trade unions and enjoyment of the benefits of collective bargaining;

(iii) accommodation;

(b) social security (that is to say, legal provision in respect of employment injury, maternity, sickness, invalidity, old age, death, unemployment and family responsibilities, and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:

(i) there may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;

(ii) national laws or regulations of immigration countries may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension;

(c) employment taxes, dues or contributions payable in respect of the person employed; and

(d) legal proceedings relating to the matters referred to in this Convention.

1.1.11 Migrant Workers (Supplementary Provisions) Convention (No. 143), 1975 ¹⁶

[...]

¹⁵ International Labour Organization (ILO), *Migration for Employment Convention (Revised)*, C97, 1 July 1949, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312242 (last visited 15 November 2019).

¹⁶ International Labour Organization (ILO), *Migrant Workers (Supplementary Provisions) Convention*, C143, 24 June 1975, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C143 (last visited 15 November 2019).

PART I. MIGRATIONS IN ABUSIVE CONDITIONS

Article 1

Each Member for which this Convention is in force undertakes to respect the basic human rights of all migrant workers.

Article 2

1. Each Member for which this Convention is in force shall systematically seek to determine whether there are illegally employed migrant workers on its territory and whether there depart from, pass through or arrive in its territory any movements of migrants for employment in which the migrants are subjected during their journey, on arrival or during their period of residence and employment to conditions contravening relevant international multilateral or bilateral instruments or agreements, or national laws or regulations.

2. The representative organisations of employers and workers shall be fully consulted and enabled to furnish any information in their possession on this subject.

Article 3

Each Member shall adopt all necessary and appropriate measures, both within its jurisdiction and in collaboration with other Members--

(a) to suppress clandestine movements of migrants for employment and illegal employment of migrants, and

(b) against the organisers of illicit or clandestine movements of migrants for employment departing from, passing through or arriving in its territory, and against those who employ workers who have immigrated in illegal conditions,

in order to prevent and to eliminate the abuses referred to in Article 2 of this Convention.

[...]

Part II. EQUALITY OF OPPORTUNITY AND TREATMENT

Article 10

Each Member for which the Convention is in force undertakes to declare and pursue a national policy designed to promote and to guarantee, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, of social security, of trade union and cultural rights and of individual and collective freedoms for persons who as migrant workers or as members of their families are lawfully within its territory.

1.1.12 Maritime Labour Convention, 2006 (as amended) [17](#)

[...]

Regulation 4.3 – Health and safety protection and accident prevention

Purpose: To ensure that seafarers' work environment on board ships promotes occupational safety and health

1. Each Member shall ensure that seafarers on ships that fly its flag are provided with occupational health protection and live, work and train on board ship in a safe and hygienic environment.

17 International Labour Organization (ILO), Maritime Labour Convention 2006, as amended up to 1 February 2019 (ILO Consolidated text including amendments of 2014 and 2016 to the Code of the Convention), available at https://www.ilo.org/global/standards/maritime-labour-convention/text/WCMS_554767/lang--en/index.htm (last visited 15 November 2019).

[...]

Guideline B4.3 – Health and safety protection and accident prevention Guideline

B4.3.1 – Provisions on occupational accidents, injuries and diseases

1. [...] Account should also be taken of the latest version of the *Guidance on eliminating shipboard harassment and bullying* jointly published by the International Chamber of Shipping and the International Transport Workers' Federation.

[...]

4. In addition, the competent authority should ensure that the implications for health and safety are taken into account, particularly in the following areas:

[...]

(d) harassment and bullying.

[...]

Guideline B4.3.6 – Investigations

1. The competent authority should undertake investigations into the causes and circumstances of all occupational accidents and occupational injuries and diseases resulting in loss of life or serious personal injury, and such other cases as may be specified in national laws or regulations.

[...]

2. Consideration should be given to including the following as subjects of investigation:

[...]

(g) problems arising from harassment and bullying.

[...]

1.1.13 Private Employment Agencies Convention (No. 181), 1997¹⁸

[...]

Article 8

1. A Member shall, after consulting the most representative organizations of employers and workers, adopt all necessary and appropriate measures, both within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies. These shall include laws or regulations which provide for penalties, including prohibition of those private employment agencies which engage in fraudulent practices and abuses.

2. Where workers are recruited in one country for work in another, the Members concerned shall consider concluding bilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment.

[...]

1.1.14 Social Security (Minimum Standards) Convention (No. 102), 1952¹⁹

[...]

¹⁸ International Labour Organization (ILO), *Convention concerning Private Employment Agencies*, C 181, 19 June 1997, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312326 (last visited 15 November 2019).

¹⁹ International Labour Organization (ILO) *Convention concerning Minimum Standards of Social Security*, C102, 28 June 1952, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C102 (last visited 15 November 2019).

Article 32

The contingencies covered shall include the following where due to accident or a prescribed disease resulting from employment:

- (a) a morbid condition;
 - (b) incapacity for work resulting from such a condition and involving suspension of earnings, as defined by national laws or regulations;
 - (c) total loss of earning capacity or partial loss thereof in excess of a prescribed degree, likely to be permanent, or corresponding loss of faculty; and
- [...]

1.1.15 Night Work Convention (No. 171), 1990²⁰

Article 9

Appropriate social services shall be provided for night workers and, where necessary, for workers performing night work.

1.1.16 Night Work Recommendation (No. 178), 1990²¹

IV. SAFETY AND HEALTH

[...]

12. The employer should take the necessary measures to maintain during night work the same level of protection against occupational hazards as by day, in particular avoiding, as far as possible, the isolation of workers.

V. SOCIAL SERVICES

13. Measures should be taken to limit or reduce the time spent by night workers in travelling between their residence and workplace, to avoid or reduce additional travelling expenses for them and to improve their safety when travelling at night. Such measures may include:

- (a) co-ordination between the starting and finishing times of daily periods of work which include night work and the schedules of local public transport services;
- (b) provision by the employer of collective means of transport for night workers where public transport services are not available;

[...]

20 International Labour Organization (ILO) *Convention concerning Night Work*, C171, 26 Jun 1990, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312316 (last visited 15 November 2019).

21 Recommendation concerning Night Work, R178, 26 June 1990, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:R178

(e) the building of housing complexes within a reasonable distance of the workplace.

[...]

15. Suitably equipped resting facilities should be made available to night workers in appropriate places in the undertaking. [...]

1.2 UN INSTRUMENTS

1.2.1 Universal Declaration on Human Rights ²²

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article

8.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

1.2.2 International Covenant on Civil and Political Rights ²³

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with

²² UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, available at <http://www.un.org/en/universal-declaration-human-rights/index.html> (last visited 15 November 2019).

²³ UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, available at <http://www.refworld.org/docid/3ae6b3aa0.html> (last visited 15 November 2019).

the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c)

To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. [...]

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

1.2.3 International Covenant on Economic, Social and Cultural Rights 24

Article 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.[...]

24 UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx> (last visited 15 November 2019).

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

[...]

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

[...]

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. [...]

1.2.3.1 General Comment No. 23 on the Right to Just and Favorable Conditions of Work (article 7 of the ICESCR)²⁵

I. Introduction

1. The right of everyone to the enjoyment of just and favourable conditions of work is recognized in the International Covenant on Economic, Social and Cultural Rights and other international and regional human rights treaties as well as related international legal instruments including ILO conventions and recommendations. It is an important component of other labour rights enshrined in the Covenant and the corollary of the right to work as freely chosen and accepted.[...] The enjoyment of the right to just and favourable conditions of work is a pre-requisite for, and result of, the enjoyment of other Covenant rights, for example, the right to the highest attainable

²⁵ General Comment No. 23 on the Right to just and favorable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights), 27 April 2016, available at <https://www.refworld.org/docid/5550a0b14.html> (last visited 15 November 2019).

standard of physical and mental health, by avoiding occupational accidents and disease, and an adequate standard of living through decent remuneration.

[...]

3. [...] Following up on General Comment 18, on the right to work, and benefitting from its experience in the consideration of reports of States parties, this general comment is drafted by the Committee with the aim of contributing to the full implementation of Article 7 of the Covenant.

II. Normative Content

1. The right to just and favourable conditions of work is a right of everyone, without distinction of any kind. The reference to ‘everyone’ highlights the fact that the right applies to all workers in all settings, regardless of gender, as well as young and older workers, workers with disabilities, workers in the informal sector, migrant workers, workers from ethnic and other minorities, domestic workers, self-employed workers, agricultural workers, refugee workers and unpaid workers. The reference to everyone reinforces the general prohibition on discrimination in article 2(2) and the equality provision in article 3 of the Covenant and is supplemented by the various references to equality and freedom from distinctions of any kind in sub-articles 7(a) (i) and 7(c).
2. Article 7 identifies a non-exhaustive list of fundamental elements to guarantee just and favourable conditions of work. The reference to the term ‘in particular’ indicates that other elements, not explicitly referred to, are also relevant. In this context, the Committee has systematically underlined factors such as prohibition of forced labour, social and economic exploitation of children and young persons, freedom from violence and harassment, including sexual harassment, as well as paid maternity, paternity and parental leaves.

[...]

Article 7(b): Safe and healthy working conditions

25. Preventing occupational accidents and disease is a fundamental aspect of the right to just and favourable conditions of work and closely related to other Covenant rights, in particular the right to the highest attainable level of physical and mental health. [...]

Article 7(c): Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence

31. All workers have the right to equal opportunity for promotion through fair, based on merit, and transparent processes that respect human rights. [...] The reference to equal opportunity requires that hiring, promotions and terminations are not discriminatory and this is highly relevant for women and other workers, such as workers with disabilities, workers from certain ethnic, national and other minorities, LGBTI workers, older workers, and indigenous workers.

[...]

Special topics of broad application

47. The right to just and favourable conditions of work relates to specific workers:

(i) Women workers: [...] States parties must undertake measures to address traditional gender roles and other structural obstacles that perpetuate gender inequality.

[...]

(iv) Workers in the informal economy: [...] Women are often over-represented in the informal economy, for example as casual workers, home workers or own-account workers, which in turn exacerbates inequalities in areas such as remuneration, health and safety, rest, leisure and paid leave.

(v) Migrant workers: These workers, in particular if undocumented, are vulnerable to exploitation, long working hours, unfair wages and dangerous and unhealthy working environments. Such vulnerability is increased by abusive labour practices that give the employer control over the migrant worker's residence status or which tie migrant workers to a specific employer. [...] Laws and policies should ensure that migrant workers enjoy treatment no less favourable than national workers in relation to remuneration and conditions of work. [...]

(vi) Domestic workers: The vast majority of domestic workers are women. Many belong to ethnic or national minorities or are migrants. They are often isolated and can be exploited, harassed and in some cases subject to slave-like conditions, notably for live-in domestic workers, frequently without the right to join trade unions nor the freedom to communicate with others. Due to stereotyped perceptions, the skills required for domestic work are undervalued and, as a result, it is among the lowest paid occupations. Domestic workers have the right to just and favourable conditions of work, including protection against abuse, harassment and violence, decent working conditions, paid annual leave, normal working hours [...] Legislation should recognize these rights for domestic workers and ensure adequate means of monitoring domestic work, including through labour inspection, and for domestic workers to complain and seek remedies for violations.

[...]

(ix) Refugee workers: Because of their often precarious status, they remain vulnerable to exploitation, discrimination and abuse in the work place, may be less well paid than nationals, have longer working hours and more dangerous working conditions. States parties should enact legislation enabling refugees to work and in conditions no less favourable than for nationals.

(x) Unpaid workers: Women work in activities significant for their households and the national economy and they spend twice as much time as men in unpaid work. [...] They have a right to just and favourable conditions of work and should be protected by laws and policies on occupational safety and health [...].

Freedom from harassment, including sexual harassment

48. All workers should be free from physical and mental harassment, including sexual harassment. Legislation, such as anti-discrimination laws, the Penal Code and labour legislation, should define harassment broadly, with explicit reference to sexual and other forms of harassment, such as on the basis of sex, disability, race, sexual orientation, gender identity, and intersex status. A specific definition of sexual harassment at the work place is appropriate and legislation should criminalise and punish sexual harassment as appropriate. A national policy to be applied in the workplace, in

both the public and private sectors, should include at least the following elements: (a) explicit coverage of harassment by and against any worker; (b) prohibition of certain acts that constitute harassment, including sexual harassment; (c) identification of specific duties on employers, managers, supervisors and workers to prevent and, where relevant, resolve and remedy harassment cases; (d) access to justice for victims, including through free legal aid; (e) compulsory training for all staff, including for managers and supervisors; (f) protection of victims, including focal points to assist them, as well as avenues of complaint and redress; (g) explicit prohibition of reprisals; (h) procedures for notification and reporting to a central public authority of claims of sexual harassment and their resolution; (i) provision of a clearly visible workplace specific policy, developed in consultation with workers, employers and their representative organizations, and other relevant stakeholders such as civil society organizations.

[...]

III. Obligations

General obligations

50. States parties must comply with their core obligations and take deliberate, concrete and targeted steps towards the progressive realization of the right to just and favourable conditions of work, using maximum available resources. In addition to legislation as an indispensable step, States should also ensure the provision of judicial and other effective remedies that include, but are not limited to, administrative, financial, educational and social measures.

51. States parties must move as expeditiously and effectively as possible towards the full implementation of the right with a level of flexibility to choose the appropriate means. Though non-State actors, such as employer and worker organizations, also have a responsibility to secure just and favourable conditions at work, particularly through collective agreements, States parties must effectively regulate and enforce the right and sanction non-compliance by public and private employers.

[...]

53. States parties must guarantee that the right is exercised without discrimination of any kind. [...]

54. In order to ensure accountability, States parties should establish a functioning system of labour inspectorates, with the involvement of social partners, to monitor all aspects of the right for all workers, including workers in the informal economy, domestic workers and agricultural workers; to provide advice to workers and employers; and to raise any abuses with competent authorities. [...]

55. States parties should identify indicators and benchmarks to monitor the implementation of the right. [...] States parties should define indicators most relevant to national implementation of the right, such as [...] number of complaints of harassment received and resolved; [...]

[...]

57. Any person who has experienced a violation of the right to just and favourable conditions of work should have access to effective judicial or other appropriate remedies, including adequate reparation, restitution, compensation, satisfaction or guarantees of non-repetition. Access to remedy should not be denied on the grounds that the affected person was an irregular migrant. Courts, but also national human rights institutions, labour inspectorates and other relevant

mechanisms, should have authority to address such violations. States should review and, if necessary, reform their legislation and codes of procedure to ensure access to remedies as well as procedural fairness. Legal assistance for obtaining remedies should be available and it should be free for those unable to pay.

Specific legal obligations

58. The right to just and favourable conditions of work imposes three levels of obligations on States parties. First, State parties have an obligation to respect the right by refraining from interfering directly or indirectly with its enjoyment and this is particularly important where the State is the employer, including State-owned or controlled enterprises. [...]

59. The obligation to protect requires States parties to take measures to ensure that third parties, such as private sector employers and enterprises, do not interfere with the enjoyment of the right and comply with their obligations. This includes taking steps to prevent, investigate, punish and redress abuse through effective laws and policies and adjudication. [...] States parties should impose sanctions and appropriate penalties on third parties, including adequate reparation, criminal penalties, pecuniary measures such as damages, and administrative measures, in case of violation of any of the elements of the right. They should also refrain from procuring goods and services from individuals and enterprises that are abusing the right. State parties should ensure that the mandates of labour inspectorates and other investigation and protection mechanisms cover conditions of work in the private sector and provide guidance to employers and enterprises. Measures to protect should also cover the informal sector and certain workers, such as domestic workers, may require specific measures. [...]

63. In order to promote the right, State parties should take steps to ensure appropriate education, information and public awareness. With a view to creating equal opportunities for workers to advance in both the private and public sectors, States parties should put in place training programmes and information campaigns, also targeting employers, in relevant languages and accessible formats for persons with disabilities and illiterate workers. Attention should be paid to the need for gender-sensitive training on occupational health and safety of workers. [...]

Core obligations

65. States parties have a core obligation to ensure the satisfaction of, at the very least, minimum essential levels of the right. Specifically, this requires States parties to:

[...]

(e) Define and prohibit harassment, including sexual harassment at work through law, ensure appropriate complaints procedures and mechanisms and establish criminal sanctions for sexual harassment;

[...]

International assistance and cooperation

[...]

70. States parties should take measures, including legislative measures, to clarify that their nationals as well as enterprises domiciled in their territory and/or jurisdiction are required to respect the right throughout their operations extra-territorially. [...]

73. States parties should cooperate so as to protect the rights of their nationals working in other States parties including through bilateral agreements with host countries and sharing of recruitment practices. This is particularly important to avoid abuse of migrant workers, including domestic workers, and to combat trafficking. Similarly, States parties should seek international cooperation to protect the rights of migrant workers who are employed by enterprises registered in other States parties so as to enable them to enjoy just and favourable conditions of work.

Obligations of non-state actors

74. While only States are parties to the Covenant, business enterprises, trade unions and all members of society, have responsibilities to realize the right to just and favourable conditions of work. This is particularly important in the case of occupational safety and health [...], but it also applies to other elements of the right.

75. Business enterprises, irrespective of size, sector, ownership and structure, should comply with laws that are consistent with the Covenant and have a responsibility to respect the right to just and favourable conditions of work, avoiding any infringements and addressing any abuse of the right as a result of their actions. In situations where a business enterprise has caused or contributed to adverse impacts, the enterprise should remedy the damage or cooperate in its remediation through legitimate processes that meet recognized standards of due process.

[...]

IV. Violations and Remedies

77. [...] In assessing whether State parties have complied with their obligation to take steps, the Committee examines whether such steps are reasonable and proportionate and whether they comply with human rights standards and democratic principles.

78. Violations of the right can occur through acts of commission, which means direct actions of States parties. Adoption of labour migration policies that increase migrant workers' vulnerability to exploitation, [...] are examples of such violations.

79. Violations can also occur through acts of omission, which means the failure by a State party to take reasonable steps to fully realize the right for everyone, for example by failing to enforce relevant laws and implement adequate policies, or to regulate the activities of individuals and groups to prevent them from violating the right [...]

80. States parties must put into place an adequate monitoring and accountability framework by ensuring access to justice or to other effective remedies.

1.2.4 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 26

[...]

PART I

26 UN GENERAL ASSEMBLY, CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN, 18 DECEMBER 1979, AVAILABLE AT [HTTPS://WWW.OHCHR.ORG/EN/PROFESSIONALINTEREST/PAGES/CEDAW.ASPX](https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx) (LAST VISITED 15 NOVEMBER 2019).

Article 1

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

[...]

Article 5

States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

[...]

PART III

[...]

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings;
- (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
- (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
- (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
- (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
- (f) The right to protection of health and to safety in working conditions [...]

[...]

Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

[...]

1.2.4.1 CEDAW Recommendation No. 19: Violence against Women [27](#)

General comments

6. The Convention in article 1 defines discrimination against women. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence.

7. Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention. These rights and freedoms include:

- (a) The right to life;
- (b) The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment;
- (c) The right to equal protection according to humanitarian norms in time of international or internal armed conflict;

27 UN COMMITTEE ON THE ELIMINATION OF DISCRIMINATION GENERAL RECOMMENDATION NO. 19: VIOLENCE AGAINST WOMEN, 1992, AVAILABLE AT [HTTP://TBINTERNET.OHCHR.ORG/TREATIES/CEDAW/SHARED%20DOCUMENTS/1_GLOBAL/INT_CEDAW_GEC_3731_E.PDF](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_3731_E.pdf) ((LAST VISITED 15 NOVEMBER 2019)).

- (d) The right to liberty and security of person;
- (e) The right to equal protection under the law;
- (f) The right to equality in the family;
- (g) The right to the highest standard attainable of physical and mental health;
- (h) The right to just and favourable conditions of work.

8. The Convention applies to violence perpetrated by public authorities. Such acts of violence may breach that State's obligations under general international human rights law and under other conventions, in addition to breaching this Convention.

9. It is emphasized, however, that discrimination under the Convention is not restricted to action by or on behalf of Governments (see articles 2(e), 2(f) and 5). For example, under article 2(e) the Convention calls on States parties to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise. Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.

Comments on specific articles of the Convention

Articles 2 and 3

10. Articles 2 and 3 establish a comprehensive obligation to eliminate discrimination in all its forms in addition to the specific obligations under articles 5-16.

[...]

Article 11

17. Equality in employment can be seriously impaired when women are subjected to gender-specific violence, such as sexual harassment in the workplace.

18. Sexual harassment includes such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demands, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable ground to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment.

Specific recommendations

24. In light of these comments, the Committee on the Elimination of Discrimination against Women recommends that:

- (a) States parties should take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private act;
- (b) States parties should ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity. Appropriate protective and support services should be provided for victims. Gender-sensitive training of judicial and law enforcement officers and other public officials is essential for the effective implementation of the Convention;
- (c) States parties should encourage the compilation of statistics and research on the extent, causes and effects of violence, and on the effectiveness of measures to prevent and deal with violence;

- (d) Effective measures should be taken to ensure that the media respect and promote respect for women; [...]
- (i) Effective complaints procedures and remedies, including compensation, should be provided;
- (j) States parties should include in their reports information on sexual harassment, and on measures to protect women from sexual harassment and other forms of violence of coercion in the workplace;
- (k) States parties should establish or support services for victims of family violence, rape, sexual assault and other forms of gender-based violence, including refuges, specially trained health workers, rehabilitation and counselling; [...]
- (o) States parties should ensure that services for victims of violence are accessible to rural women and that where necessary special services are provided to isolated communities;
- (p) Measures to protect them from violence should include training and employment opportunities and the monitoring of the employment conditions of domestic workers;
- (q) States parties should report on the risks to rural women, the extent and nature of violence and abuse to which they are subject, their need for and access to support and other services and the effectiveness of measures to overcome violence; [...]
- (t) States parties should take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, including, inter alia:
 - (i) Effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including inter alia violence and abuse in the family, sexual assault and sexual harassment in the workplace;
 - (ii) Preventive measures, including public information and education programmes to change attitudes concerning the roles and status of men and women;
 - (iii) Protective measures, including refuges, counselling, rehabilitation and support services for women who are the victims of violence or who are at risk of violence;
- (u) States parties should report on all forms of gender-based violence, and such reports should include all available data on the incidence of each form of violence and on the effects of such violence on the women who are victims;
- (v) The reports of States parties should include information on the legal, preventive and protective measures that have been taken to overcome violence against women, and on the effectiveness of such measures.

1.2.4.2 CEDAW Recommendation No. 28: The Core Obligations of States Parties under Article 2 of CEDAW [28](#)

19. Discrimination against women on the basis of sex and gender comprises, as stated in general recommendation No. 19 on violence against women, gender-based violence, namely, violence that is directed against a woman because she is a woman or violence that affects women disproportionately. It is a form of discrimination that seriously inhibits women's ability to enjoy and exercise their human rights and fundamental freedoms on the basis of equality with men. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty, the violence that occurs within the family or domestic unit or within any other interpersonal relationship, or violence perpetrated or condoned by the State or its agents regardless of where it occurs. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly

28 UN Committee on the Elimination of Discrimination Against Women (CEDAW), General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, 16 December 2010, CEDAW/C/GC/28, available at <https://www.refworld.org/docid/4d467ea72.html> (last visited 15 November 2019).

mention violence. States parties have a due diligence obligation to prevent, investigate, prosecute and punish such acts of gender-based violence. [...]

22. Inherent to the principle of equality between men and women, or gender equality, is the concept that all human beings, regardless of sex, are free to develop their personal abilities, pursue their professional careers and make choices without the limitations set by stereotypes, rigid gender roles and prejudices. [...]

23. States parties also agree to “pursue by all appropriate means” a policy of eliminating discrimination against women. [...]

25. The policy must be comprehensive in that it should apply to all fields of life, including those which are not explicitly mentioned in the text of the Convention. It must apply to both public and private economic spheres, as well as to the domestic sphere, and ensure that all branches of Government (executive, legislative and judicial branches) and all levels of Government assume their respective responsibilities for implementation. It should incorporate the entire range of measures that are appropriate and necessary in the particular circumstances of the State party. [...]

29. The words “without delay” make it clear that the obligation of States parties to pursue their policy, by all appropriate means, is of an immediate nature.

1.2.4.3 CEDAW Recommendation No. 35 on Gender-based Violence Against Women, updating Gen. Rec. No. 19 29

I. Introduction

1. General recommendation No. 19 on violence against women, adopted by the Committee at its eleventh session in 1992, states that discrimination against women –as defined in article 1 of the Convention– includes gender-based violence, that is, ‘violence which is directed against a woman because she is a woman or that affects women disproportionately’, and, as such, is a violation of their human rights.

2. For over 25 years, the practice of States parties has endorsed the Committee’s interpretation. The opinio juris and State practice suggest that the prohibition of gender-based violence against women has evolved into a principle of customary international law. General recommendation No. 19 has been a key catalyst for this process. [...]

6. Despite these advances, gender-based violence against women, whether committed by States, intergovernmental organisations or non-state actors, including private persons and armed groups, remains pervasive in all countries of the world, with high levels of impunity. It manifests in a continuum of multiple, interrelated and recurring forms, in a range of settings, from private to public [...]

7. In many states, legislation addressing gender-based violence against women remains non-existent, inadequate and/or poorly implemented. [...]

II. Scope

29 UN Committee on the Elimination of Discrimination Against Women (CEDAW), General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, 14 July 2017, CEDAW/C/GC/35, available at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf (last visited 15 November 2019).

8. This document complements and updates the guidance to States parties set out in general recommendation No. 19, and should be read in conjunction with it.

9. The concept of 'violence against women' in general recommendation No. 19 and other international instruments and documents has emphasised that this violence is gender-based. Accordingly, this document uses the expression 'gender-based violence against women', as a more precise term that makes explicit the gendered causes and impacts of the violence. [...]

10. The Committee considers that gender-based violence against women is one of the fundamental social, political and economic means by which the subordinate position of women with respect to men and their stereotyped roles are perpetuated. [...] this violence is a critical obstacle to achieving substantive equality between women and men as well as to women's enjoyment of human rights and fundamental freedoms enshrined in the Convention. [...]

14. Gender-based violence affects women throughout their life cycle¹⁷ and accordingly references to women in this document include girls. This violence takes multiple forms, including acts or omissions intended or likely to cause or result in death¹⁸ or physical, sexual, psychological or economic harm or suffering to women, threats of such acts, harassment, coercion and arbitrary deprivation of liberty. Gender-based violence against women is affected and often exacerbated by cultural, economic, ideological, technological, political, religious, social and environmental factors, as evidenced, among others, in the contexts of displacement, migration, increased globalization of economic activities including global supply chains, extractive and offshoring industry [...]

15. Women's right to a life free from gender-based violence is indivisible from and interdependent with other human rights, including the right to life, health, liberty and security of the person, the right to equality and equal protection within the family, freedom from torture, cruel, inhumane or degrading treatment, freedom of expression, movement, participation, assembly and association.
[...]

20. Gender-based violence against women occurs in all spaces and spheres of human interaction, whether public or private. These include the family, the community, the public spaces, the workplace, leisure, politics, sport, health services, educational settings and their redefinition through technology-mediated environments, such as contemporary forms of violence occurring in the Internet and digital spaces. In all these settings, gender-based violence against women can result from acts or omissions of State or non-State actors, acting territorially or extraterritorially, including [...] extraterritorial actions by private corporations.

III. General obligations of States parties under the Convention relating to gender-based violence against women

21. Gender-based violence against women constitutes discrimination against women under article 1 and therefore engages all of the obligations in the Convention. Article 2 establishes that the overarching obligation of States parties is to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, including gender-based violence against women. This is an obligation of an immediate nature; delays cannot be justified on any grounds, including on economic, cultural or religious grounds. [...]

Responsibility for acts or omissions of non-State actors

24. Under general international law, as well as under international treaties, a private actor's acts or omissions may engage the international responsibility of the State in certain cases. These include: [...]

b.) Due diligence obligations for acts and omissions of non-State actors.

Article 2 (e) of the Convention explicitly provides that States parties are required to take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise. This obligation, frequently referred to as an obligation of due diligence, underpins the Convention as a whole and accordingly States parties will be responsible if they fail to take all appropriate measures to prevent as well as to investigate, prosecute, punish and provide reparation for acts or omissions by non-State actors which result in gender-based violence against women. This includes actions by corporations operating extraterritorially. In particular, States Parties are required to take necessary steps to prevent human rights violations abroad by corporations over which they may exercise influence, whether by regulatory means or by the use of incentives, including economic incentives. Under the obligation of due diligence, States parties have to adopt and implement diverse measures to tackle gender-based violence against women committed by non-State actors. They are required to have laws, institutions and a system in place to address such violence. Also, States parties are obliged to ensure that these function effectively in practice, and are supported and diligently enforced by all State agents and bodies. The failure of a State party to take all appropriate measures to prevent acts of gender-based violence against women when its authorities know or should know of the danger of violence, or a failure to investigate, prosecute and punish, and to provide reparation to victims/survivors of such acts, provides tacit permission or encouragement to acts of gender-based violence against women. These failures or omissions constitute human rights violations. [...]

26. The general obligations described in the paragraphs above encompass all areas of State action, including the legislative, executive and judicial branches, at the federal, national, sub-national, local and decentralised levels as well as privatised services. [...] In general terms, and without prejudice to the specific recommendations provided in the following section, these obligations include:

- a) At the legislative level, according to article 2 (b), (c), (e), (f) and (g) and article 5 (a), States are required to adopt legislation prohibiting all forms of gender-based violence against women and girls, harmonising domestic law with the Convention.[...]
- b) At the executive level, according to article 2 (c), (d) and (f) and article 5 (a), States are obliged to adopt and adequately budget diverse institutional measures, in coordination with the relevant State branches.
- c) At the judicial level, according to articles 2 (d), (f) and 5 (a), all judicial bodies are required to refrain from engaging in any act or practice of discrimination or gender-based violence against women; and to strictly apply all criminal law provisions punishing this violence, ensuring all legal procedures in cases involving allegations of gender-based violence against women are impartial and fair, and unaffected by gender stereotypes or discriminatory interpretation of legal provisions, including international law. The application of preconceived and stereotyped notions of what constitutes gender-based violence against women, what women's responses to such violence should be and the standard of proof required to substantiate its occurrence can affect women's right to the enjoyment of equality before the law, fair trial and the right to an effective remedy established in articles 2 and 15 of the Convention.

IV. Recommendations

General legislative measures

29. Ensure that all forms of gender-based violence against women in all spheres, which amount to a violation of their physical, sexual, or psychological integrity, are criminalized and introduce, without delay, or strengthen legal sanctions commensurate with the gravity of the offence as well as civil remedies.
30. Ensure that all legal systems, including plural legal systems, protect victims/survivors of gender-based violence against women and ensure they have access to justice and to an effective remedy in line with the guidance provided in the Committee's general recommendation No. 33 (2015).
31. Repeal all legal provisions that discriminate against women, and thereby enshrine, encourage, facilitate, justify or tolerate any form of gender-based violence against them; [...]
33. Ensure that sexual assault, including rape is characterised as a crime against women's right to personal security and their physical, sexual and psychological integrity. Ensure that the definition of sexual crimes, [...] is based on lack of freely given consent, and takes account of coercive circumstances. Any time limitations, where they exist, should prioritise the interests of the victims/survivors and give consideration to circumstances hindering their capacity to report the violence suffered to competent services/authorities.

Prevention

34. Adopt and implement effective legislative and other appropriate preventive measures to address the underlying causes of gender-based violence against women, including patriarchal attitudes and stereotypes, inequality in the family and the neglect or denial of women's civil, political, economic, social and cultural rights, as well as to promote women's empowerment, agency and voice. [...]
38. Provide mandatory, recurrent and effective capacity-building, education and training for the judiciary, lawyers and law enforcement officers, including forensic medical personnel, legislators, health-care professionals. [...] This education and training should include:
- a) The impact of gender stereotypes and bias, leading to gender-based violence against women and inadequate responses to it;
 - b) The understanding of trauma and its effects, [...] the varying situations of women experiencing diverse forms of gender-based violence; this shall include the intersectional discrimination affecting specific groups of women, as well as adequate ways to address women and eliminate factors that re-victimise them and weaken their confidence in State institutions and agents; and,
 - c) Domestic legal provisions and institutions on gender-based violence against women, legal rights of victims/survivors, international standards and associated mechanisms and their responsibilities in this context; this shall include due coordination and referrals among diverse bodies and the adequate documentation of this violence, with due respect for women's privacy and confidentiality and with the victims/survivors' free and informed consent.
39. Encourage, also through the use of incentives and corporate responsibility models, the engagement of the private sector, including businesses and transnational corporations, in efforts to eradicate all forms of gender-based violence against women, and to enhance its responsibility for such violence in the scope of its action. This should entail protocols and procedures addressing all forms of gender-based violence that may occur in the workplace or affect women workers, including effective and accessible internal complaints procedures that do not exclude recourse to law enforcement authorities. This should also address workplace entitlements for women victims/survivors of such violence.

Protection

40. Adopt and implement effective measures to protect and assist women complainants and witnesses of gender-based violence before, during and after legal proceedings, including through:

- a) Protecting their privacy and safety, in line with general recommendation No. 33, including through gender-sensitive court procedures and measures, bearing in mind the victim/survivor's, witnesses' and defendant's due process rights.
- b) Providing appropriate and accessible protection mechanisms to prevent further or potential violence, without the precondition for victims/survivors to initiate legal actions [...].
- c) Ensuring access to financial aid and free or low-cost high quality legal aid, medical, psychosocial and counselling services, education, affordable housing, land, child care, training and employment opportunities for women victims/survivors and their family members. [...]
- e) Establishing and implementing appropriate multi-sectoral referral mechanisms to ensure effective access of women survivors to comprehensive services, ensuring full participation of and cooperation with non-governmental women's organizations.

41. Ensuring all legal proceedings, protection and support measures and services to women's victims/survivors of gender-based violence respect and strengthen their autonomy. They should be accessible to all women, in particular to those affected by intersecting forms of discrimination, and take account of any specific needs of their children and other dependent persons. They should be available in the whole territory of the State party, and provided irrespective of women's residence status and their ability or willingness to cooperate in proceedings against the alleged perpetrator. States should also respect the principle of non-refoulement. [...]

43. Developing and disseminating accessible information aimed at women, in particular those affected by intersecting forms of discrimination such as those who live with a disability, are illiterate, or have no or limited knowledge of the official languages of the country, of the legal and social resources available to victims/survivors of gender-based violence against women, including reparation, through diverse and accessible media and community dialogue.

Prosecution and punishment

44. Ensure effective access of victims to courts and tribunals; ensure authorities adequately respond to all cases of gender-based violence against women, including by applying criminal law and as appropriate ex officio prosecution to bring the alleged perpetrators to trial in a fair, impartial, timely and expeditious manner and imposing adequate penalties. Fees or court charges should not be imposed on victims/survivors.

45. Ensure that gender-based violence against women is not mandatorily referred to alternative dispute resolution procedures, including mediation and conciliation. The use of these procedures should be strictly regulated and allowed only when a previous evaluation by a specialised team ensures the free and informed consent by the affected victim/survivor and that there are no indicators of further risks for the victim/survivor or their family members. These procedures should empower the women victims/survivors and be provided by professionals specially trained to understand and adequately intervene in cases of gender-based violence against women, ensuring an adequate protection of women's and children's rights as well as an intervention with no stereotyping or re-victimisation of women. These alternative procedures should not constitute an obstacle to women's access to formal justice.

46. Provide effective reparation to women victims/survivors of gender-based violence. Reparation should include different measures, such as monetary compensation and the provision of legal, social and health services including sexual, reproductive and mental health for a complete recovery, and satisfaction and guarantees of non-repetition in line with general recommendations No. 28, 30 and 33. Such reparations should be adequate, promptly attributed, holistic and proportionate to the gravity of the harm suffered.

[...]

1.2.4.4 CEDAW General Recommendation No. 26 on Women Migrant Workers [30](#)

Applying principles of human rights and gender equality

6. All women migrant workers are entitled to the protection of their human rights, which include the right to life, the right to personal liberty and security, the right not to be tortured, the right to be free of degrading and inhumane treatment, the right to be free from discrimination on the basis of sex, race, ethnicity, cultural particularities, nationality, language, religion or other status, the right to be free from poverty, the right to an adequate standard of living, the right to equality before the law and the right to benefit from the due processes of the law. [...]

7. Women migrant workers are also entitled to protection from discrimination on the basis of the Convention, which requires States parties to take all appropriate measures without delay to eliminate all forms of discrimination against women and to ensure that they will be able to exercise and enjoy de jure and de facto rights on an equal basis with men in all fields.

[...]

Sex- and gender-based human rights concerns related to migrant women

9. Because violations of the human rights of women migrant workers occur in countries of origin, countries of transit and countries of destination, this general recommendation will address all three situations in order to facilitate the use of the Convention, further the rights of women migrant workers and advance substantive equality of women and men in all spheres of their lives. [...]

In countries of origin before departure

10. Even before they leave home, women migrant workers face myriad human rights concerns [...]

Women are sometimes detained by recruiting agents for training in preparation for departure, during which time they may be subject to financial, physical, sexual or psychological abuse.

[...]

In countries of transit

12. Women migrant workers may face a variety of human rights concerns when transiting through foreign countries. [...] Women are also vulnerable to sexual and physical abuse by agents and escorts when travelling in countries of transit.

In countries of destination

13. Once they reach their destinations, women migrant workers may encounter multiple forms of de jure and de facto discrimination. [...] give them little access to relevant information about their rights and entitlements. [...] Moreover, women migrant workers often experience intersecting forms of

30 UN Committee on the Elimination of Discrimination Against Women (CEDAW), General Recommendation No. 26 on Women Migrant Workers, 5 December 2008, CEDAW/C/2009/WP.1/R, available at https://www2.ohchr.org/english/bodies/cedaw/docs/GR_26_on_women_migrant_workers_en.pdf ((last visited 15 November 2019))

discrimination, suffering not only sex- and gender-based discrimination, but also xenophobia and racism. [...] Or, if they are heavily burdened by debt from recruitment fees, women migrant workers may not be able to leave abusive situations since they have no other way to repay those debts. [...]

19. [...] If they lose their immigration status, they may be more vulnerable to violence by the employer or others who want to abuse the situation.[...]

20. Women migrant workers are more vulnerable to sexual abuse, sexual harassment and physical violence, especially in sectors where women predominate. Domestic workers are particularly vulnerable to physical and sexual assault, food and sleep deprivation and cruelty by their employers. Sexual harassment of women migrant workers in other work environments, such as on farms or in the industrial sector, is a problem worldwide (see E/CN.4/1998/74/Add.1). [...]

21. Access to justice may be limited for women migrant workers. In some countries, restrictions are imposed on the use of the legal system by women migrant workers to obtain remedies for discriminatory labour standards, employment discrimination or sex- and gender-based violence. Further, women migrant workers may not be eligible for free government legal aid, and there may be other impediments, such as unresponsive and hostile officials and, at times, collusion between officials and the perpetrator. In some cases, diplomats have perpetrated sexual abuse, violence and other forms of discrimination against women migrant domestic workers while enjoying diplomatic immunity. In some countries, there are gaps in the laws protecting migrant women workers. For example, they may lose their work permits once they make a report of abuse or discrimination and then they cannot afford to remain in the country for the duration of the trial, if any. In addition to these formal barriers, practical barriers may prevent access to remedies. Many do not know the language of the country and do not know their rights. Women migrant workers may lack mobility because they may be confined by employers to their work or living sites, prohibited from using telephones or banned from joining groups or cultural associations. They often lack knowledge of their embassies or of services available, due to their dependence on employers or spouses for such information. For example, it is very difficult for women migrant domestic workers who are scarcely ever out of sight of their employers to even register with their embassies or file complaints. As such, women may have no outside contacts and no means of making a complaint, and they may suffer violence and abuse for long periods of time before the situation is exposed. In addition, the withholding of passports by employers or the fear of reprisal if the women migrant worker is engaged in sectors that are linked to criminal networks prevent them from making a report.

22. Undocumented women migrant workers are particularly vulnerable to exploitation and abuse because of their irregular immigration status, which exacerbates their exclusion and the risk of exploitation. They may be exploited as forced labour, and their access to minimum labour rights may be limited by fear of denouncement. They may also face harassment by the police. If they are apprehended, they are usually prosecuted for violations of immigration laws and placed in detention centres, where they are vulnerable to sexual abuse, and then deported.

Recommendations to States parties

Common responsibilities of countries of origin and destination

23. Common responsibilities of countries of origin and destination include:

(a) Formulating a comprehensive gender-sensitive and rights-based policy: States parties should use the Convention and the general recommendations to formulate a gender-sensitive, rights-based policy on the basis of equality and non-discrimination to regulate and administer all aspects and stages of migration, to facilitate access of women migrant workers to work opportunities abroad, promoting safe migration and ensuring the protection of the rights of women migrant workers (articles 2 (a) and 3);

[...]

Responsibilities specific to countries of origin

24. Countries of origin must respect and protect the human rights of their female nationals who migrate for purposes of work. Measures that may be required include, but are not limited to, the following:

(b) Education, awareness-raising and training with standardized content: States parties should develop an appropriate education and awareness-raising programme in close consultation with concerned non-governmental organizations, gender and migration specialists, women workers with migration experience and reliable recruiting agencies. In that regard, States parties should (articles 3, 5, 10 and 14):

(i) Deliver or facilitate free or affordable gender- and rights-based pre-departure information and training programmes that raise prospective women migrant workers' awareness of potential exploitation, including: recommended contents of labour contracts, legal rights and entitlements in countries of employment, procedures for invoking formal and informal redress mechanisms, processes by which to obtain information about employers, cultural conditions in countries of destination, stress management, first aid and emergency measures, including emergency telephone numbers of home embassy, and services; [...]

(ii) Provide a list of authentic, reliable recruitment agencies and create a unified information system on available jobs abroad;

(iv) Require recruitment agencies to participate in awareness-raising and training programmes and sensitize them on the rights of women migrant workers, the forms of sex- and gender-based discrimination, the exploitation women could experience and responsibilities of agencies towards the women;

(v) Promote community awareness-raising concerning the costs and benefits of all forms of migration for women and conduct cross-cultural awarenessraising activities addressed to the general public, [...]

(c) Regulations and monitoring systems [...]

Responsibilities specific to countries of transit

25. States parties through which migrant women travel should take all appropriate steps to ensure that their territories are not used to facilitate the violation of the rights of women migrant workers. [...]

Responsibilities specific to countries of destination

26. States parties in countries where migrant women work should take all appropriate measures to ensure non-discrimination and the equal rights of women migrant workers, including in their own communities. Measures that may be required include, but are not limited to, the following: [...]

(b) Legal protection for the rights of women migrant workers: States parties should ensure that constitutional and civil law and labour codes provide to women migrant workers the same rights and protection that are extended to all workers in the country, including the right to organize and freely associate. They should ensure that contracts for women migrant workers are legally valid. In particular, they should ensure that occupations dominated by women migrant workers, such as domestic work and some forms of entertainment, are protected by labour laws[...]. The laws should include mechanisms for monitoring workplace conditions of migrant women, especially in the kinds of jobs where they dominate (articles 2 (a), (f) and 11);

(c) Access to remedies: States parties should ensure that women migrant workers have the ability to access remedies when their rights are violated. Specific measures include, but are not limited to, the following (articles 2 (c), (f) and 3): CEDAW/C/2009/WP.1/R 12 08-63558

(i) Promulgate and enforce laws and regulations that include adequate legal remedies and complaints mechanisms, and put in place easily accessible dispute resolution mechanisms, protecting both documented and undocumented women migrant workers from discrimination or sex-based exploitation and abuse;

(ii) Repeal or amend laws that prevent women migrant workers from using the courts and other systems of redress. These include laws on loss of work permit, which results in loss of earnings and possible deportation by immigration authorities when a worker files a complaint of exploitation or abuse and while pending investigation. States parties should introduce flexibility into the process of changing employers or sponsors without deportation in cases where workers complain of abuse;

(iii) Ensure that women migrant workers have access to legal assistance and to the courts and regulatory systems charged with enforcing labour and employment laws, including through free legal aid;

(iv) Provide temporary shelters for women migrant workers who wish to leave abusive employers, husbands or other relatives and provide facilities for safe accommodation during trial;

(d) Legal protection for the freedom of movement: States parties should ensure that employers and recruiters do not confiscate or destroy travel or identity documents belonging to women migrants. States parties should also take steps to end the forced seclusion or locking in the homes of women migrant workers, especially those working in domestic service. Police officers should be trained to protect the rights of women migrant workers from such abuses (article 2 (e)); (e)

[...]

(f) Non-discriminatory residency regulations: when residency permits of women migrant workers are premised on the sponsorship of an employer or spouse, States parties should enact provisions relating to independent residency status. Regulations should be made to allow for the legal stay of a woman who flees her abusive employer or spouse or is fired for complaining about abuse (article 2 (f));

(g) Training and awareness-raising: States parties should provide mandatory awareness-raising programmes concerning the rights of migrant women workers and gender sensitivity training for relevant public and private recruitment agencies and employers and relevant State employees, such as criminal justice officers, border police, immigration authorities, border police and social service and health-care providers (article 3);

(h) Monitoring systems: States parties should adopt regulations and design monitoring systems to ensure that recruiting agents and employers respect the rights of all women migrant workers. States parties should closely monitor recruiting agencies and prosecute them for acts of violence, coercion, deception or exploitation (article 2 (e));

(i) Access to services: States parties should ensure that linguistically and culturally appropriate gender-sensitive services for women migrant workers are available, including language and skills training programmes, emergency shelters, health-care services, police services, [...]

Victims of abuse must be provided with relevant emergency and social services, regardless of their immigration status (articles 3, 5 and 12);

[...]

(l) Protection of undocumented women migrant workers: the situation of undocumented women needs specific attention. Regardless of the lack of immigration status of undocumented women migrant workers, States parties have an obligation to protect their basic human rights. Undocumented women migrant workers must have access to legal remedies and justice in cases of risk to life and of cruel and degrading treatment, or if they are coerced into forced labour, face deprivation of fulfilment of basic needs, including in times of health emergencies or pregnancy and maternity, or if they are abused physically or sexually by employers or others. [...] If deportation cannot be avoided, States parties need to treat each case individually, with due consideration to the gender-related circumstances and risks of human rights violations in the country of origin (articles 2 (c), (e) and (f));

1.2.4.5 CEDAW Recommendation No. 32 on the Gender-related Dimensions of Refugee Status, Asylum, Nationality and Statelessness of Women 31

IV. Application of non-discrimination and gender equality to international refugee law

A. General comments

13. The Committee notes that asylum seekers seek international protection on the basis that they cannot return to their country of origin because they have a well founded fear of persecution or are at risk of being ill-treated or subjected to other serious harm. It also notes that under article 1A(2) of the 1951 Convention relating to the Status of Refugees the reasons for persecution must be linked to one of the five grounds listed therein: race, religion, nationality, membership of a particular social group or political opinion. Gender-related persecution is absent from the text. The present general recommendation is intended to ensure that States parties apply a gender perspective when interpreting all five grounds, use gender as a factor in recognizing membership of a particular social group for purposes of granting refugee status under the 1951 Convention and further introduce other grounds of persecution, namely sex and/or gender, into national legislation and policies relating to refugees and asylum seekers. [...]

15. Gender-related forms of persecution are forms of persecution that are directed against a woman because she is a woman or that affect women disproportionately. The Committee observes that understanding the way in which women's rights are violated is critical to the identification of those forms of persecution. The Committee notes that violence against women that is a prohibited form of discrimination against women is one of the major forms of persecution experienced by women in the context of refugee status and asylum. Such violence, just as other gender-related forms of persecution, may breach specific provisions of the Convention. Such forms are recognized as legitimate grounds for international protection in law and in practice. They may include [...] rape and other forms of sexual assault [...]

B. Principle of non-refoulement

23. The Committee is therefore of the view that States parties have an obligation to ensure that no woman will be expelled or returned to another State where her life, physical integrity, liberty and security of person would be threatened, or where she would risk suffering serious forms of discrimination, including serious forms of gender-based persecution or gender-based violence. What amounts to serious forms of discrimination against women, including gender-based violence, will depend on the circumstances of each case. [...]

27. Harm perpetrated against women and girls is often at the hands of non-State actors, including family members, neighbours or society more generally. [...] Harm perpetrated by non-State actors is persecution where the State is unable or unwilling to prevent such harm or protect the claimant because of discriminatory governmental policies or practices. [...]

31 UN Committee on the Elimination of Discrimination Against Women (CEDAW), General Recommendation No. 32 on the Gender-related Dimensions of Refugee Status, Asylum, Nationality and Statelessness of women, 14 November 2014, CEDAW/C/GC/32, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/627/90/PDF/N1462790.pdf?OpenElement> (last visited 15 November 2019).

37. States parties should adopt legislation and other measures to respect the principle of non-refoulement, in accordance with existing obligations under international law, and take all measures necessary to ensure that victims of serious forms of discrimination, including gender-related forms of persecution, who are in need of protection, regardless of their status or residence, are not returned under any circumstance to any country in which their life would be at risk or where they might be subjected to serious forms of discrimination, including gender-based violence, or to torture or inhuman or degrading treatment or punishment.

1.2.4.6 CEDAW Recommendation No. 33 on Women's Access to Justice 32

II. General issues and recommendations on women's access to justice

A. Justiciability, availability, accessibility, good-quality, provision of remedies and accountability of justice systems.

[...]

15. On justiciability, the Committee recommends that States parties:

[...]

(c) Ensure that the professionals of justice systems handle cases in a gender sensitive manner; [...]

(f) Confront and remove barriers to women's participation as professionals within all bodies and levels of judicial and quasi-judicial systems and providers in justice related services. [...]

(g) Revise the rules on the burden of proof in order to ensure equality between the parties, in all fields where power relationships deprive women of the chance for a fair judicial treatment of their case; [...]

16. On availability of justice systems, the Committee recommends that State parties:

[...]

(b) In cases of violence against women, ensure access to financial aid, crisis centres, shelters, hotlines, and medical, psychosocial and counselling services; [...]

17. On accessibility of justice systems, the Committee recommends that State parties:

[...]

(f) Establish justice access centres, such as "one-stop centers", which include a range of legal and social services, in order to reduce the number of steps that a woman has to take to access justice. Such centres could provide legal advice and aid, start the legal proceedings and coordinate support services for women across such areas as violence against women [...]. They must be accessible to all women including those living in poverty and/or in rural and remote areas; and [...]

18. On good quality of justice systems, the Committee recommends that State parties:

[...]

(d) Provide, in a timely fashion, appropriate and effective remedies that are enforced and that lead to sustainable gender-sensitive dispute resolution for all women;

(e) Implement mechanisms to ensure that evidentiary rules, investigations and other legal and quasi-judicial procedures are impartial and not influenced by gender stereotypes or prejudice;

32 UN Committee on the Elimination of Discrimination Against Women (CEDAW), General Recommendation No. 33 on Women's Access to Justice, 23 July 2015, CEDAW/C/GC/33, available at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_33_7767_E.pdf (last visited 15 November 2019).

(f) When necessary to protect women's privacy, safety, and other human rights, ensure that, in a manner consistent with due process and fair proceedings, legal proceedings can be held privately in whole or in part, or testimony be given remotely or via communication equipment, in a way that only the concerned parties are able to access their content.[...]; and

(g) Protect women complainants, witnesses, defendants and prisoners against threats, harassment and other harm before, during and after legal proceedings [...]

19. On provision of remedies, the Committee recommends that State parties:

(a) Provide and enforce appropriate, timely remedies for discrimination against women and ensure that women have access to all available judicial and non-judicial remedies;

(b) Ensure that remedies are adequate, effective, promptly attributed, holistic and proportional to the gravity of the harm suffered. Remedies should include, as appropriate, restitution (reinstatement); compensation (whether provided in the form of money, goods or services); and rehabilitation (medical and psychological care and other social services). Remedies for civil damages and criminal sanctions should not be mutually exclusive; [...]

20. On accountability of justice systems, the Committee recommends that State parties:

[...]

(b) Ensure that cases of identified discriminatory practices and acts by justice professionals are effectively addressed through disciplinary and other measures;

C. Stereotyping and gender bias in the justice system and the importance of capacity building [...]

29. The Committee recommends that State Parties:

(a) Take measures, including awareness-raising and capacity-building for all actors of justice systems and for law students to eliminate gender stereotyping and incorporate a gender perspective in all aspects of the justice system;

(b) Include other professionals, in particular health professionals and social workers, who can play an important role in cases of violence against women and in family matters, in these awareness raising and capacity building programmes; [...]

(e) Raise awareness on the negative impact of stereotyping and gender bias and encourage advocacy related to stereotyping and gender bias in justice systems, especially in gender-based violence cases; and

(f) Provide capacity building to judges, prosecutors, lawyers and law enforcement officials on the application of international legal instruments related to human rights, including the CEDAW Convention and the jurisprudence of the CEDAW Committee, and on the application of legislation prohibiting discrimination against women. [...]

III. Recommendations for specific areas of law

D. Criminal Law

51. The Committee recommends that States parties:

(a) Exercise due diligence to prevent, investigate, punish and provide reparation for all crimes committed against women, whether such crimes were perpetrated by State or non-State actors; [...]

(c) Take effective measures to protect women against secondary victimization in their interactions with law enforcement and judicial authorities [...]

IV. Recommendations for specific mechanisms

B. Alternative dispute resolution processes

58. The Committee recommends that States parties: [...]

(c) Ensure that cases of violence against women [...] are under no circumstances referred to any alternative dispute resolution procedures.

1.2.4.7 CEDAW Recommendation No. 34 on the Rights of Rural Women 33

[...]

Article 14, paragraph 1 read alongside articles 3, 4, 5, 6, 9, 15 and 16 18.

Article 3 provides that States parties shall take all appropriate measures, in all fields, including legislation, to ensure the full development and advancement of women.

19. States Parties should adopt effective laws, policies, regulations, programmes, administrative procedures and institutional structures to ensure the full development and advancement of rural women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

[...]

25. States parties should prevent and eliminate all forms of violence against rural women and girls, and, in line with GR 19 on violence against women and GR 33 on access to justice:

(a) Sensitize rural women and men, girls and boys, as well as local, religious and community leaders, on the rights of rural women and girls, with the aim of eliminating discriminatory social attitudes and practices, particularly those which condone gender-based violence;

(b) Take effective measures aimed at preventing, investigating, prosecuting and punishing acts of violence against rural women and girls, including migrant rural women and girls, whether perpetrated by the State, non-State actors, or private persons;

(c) Ensure that victims living in rural areas have effective access to justice, including legal aid, as well as compensation and other forms of redress/reparation, and that authorities at all levels in rural areas, including the judiciary, judicial administrators and civil servants, have the resources needed and political will to respond to violence against rural women and girls, and protect them against retaliation when reporting abuses;

(d) Ensure that integrated services for victims, including emergency shelters and comprehensive health services, are accessible to women a women and girls in rural areas. [...]

E. Employment [article 14, paragraph 2(e), read alongside article 11]

52. States parties should further ensure rural women's rights to employment by:

[...]

(c) Improving rural working conditions, including by providing paid maternity leave; setting living wages, with urgent attention to the informal sector; and taking steps to prevent sexual harassment, exploitation, and other forms of abuse in the workplace;

[...]

(e) Protecting the occupational health and safety of rural women [...]

(f) Providing social security to rural women, including in cases of sickness or invalidity; [...]

33UN Committee on the Elimination of Discrimination Against Women (CEDAW), General recommendation No. 34 on the rights of rural women, 4 March 2016, CEDAW/C/GC/34, available at [HTTP://TBINTERNET.OHCHR.ORG/TREATIES/CEDAW/SHARED%20DOCUMENTS/1_GLOBAL/INT_CEDAW_GEC_7933_E.PDF](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_GLOBAL/INT_CEDAW_GEC_7933_E.PDF) (LAST VISITED 15 NOVEMBER 2019).

1.2.4.8 CEDAW Recommendation No. 24 – Art. 12: Women and Health 34

12. States parties should report on their understanding of how policies and measures on health care address the health rights of women from the perspective of women's needs and interests and how it addresses distinctive features and factors that differ for women in comparison to men, such as: [...]

(b) Socio-economic factors that vary for women in general and some groups of women in particular. For example, unequal power relationships between women and men in the home and workplace may negatively affect women's nutrition and health. They may also be exposed to different forms of violence which can affect their health. [...]

15. The obligation to *protect rights* relating to women's health requires States parties, their agents and officials to take action to prevent and impose sanctions for violations of rights by private persons and organizations. Since gender-based violence is a critical health issue for women, States parties should ensure:

(a) The enactment and effective enforcement of laws and the formulation of policies, including health care protocols and hospital procedures to address violence against women and abuse of girl children and the provision of appropriate health services;

(b) Gender-sensitive training to enable health care workers to detect and manage the health consequences of gender-based violence; [...]

1.2.5 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families³⁵

[...]

PART I: Scope and Definitions

Article 1

1. The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

2. The present Convention shall apply during the entire migration process of migrant workers and members of their families, which comprises preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin or the State of habitual residence.

Article 2

34 UN Committee on the Elimination of Discrimination Against Women (CEDAW), General Recommendation No. 24: Article 12 of the Convention (Women and Health), 1999, A/54/38/Rev.1, chap. I, available at <http://www.refworld.org/docid/453882a73.html> ((last visited 15 November 2019)

35 UN General Assembly, International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 18 December 1990, available at <https://www.ohchr.org/en/professionalinterest/pages/cmw.aspx> (last visited 15 November 2019).

For the purposes of the present Convention:

1. The term "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.

[...]

Article 16

1. Migrant workers and members of their families shall have the right to liberty and security of person.

2. Migrant workers and members of their families shall be entitled to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions.

[...]

Article 25

1. Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and:

(a) Other conditions of work, that is to say, overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship and any other conditions of work which, according to national law and practice, are covered by these terms;

[...]

1.2.6 Convention on the Right of Persons with Disabilities ³⁶

[...]

Article

27

Work and employment

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; [...] States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

[...]

(b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;

[...]

2 INTERNATIONAL CONSENSUS DOCUMENTS: RECOMMENDATIONS, RESOLUTIONS, OTHER NON-BINDING STANDARDS

³⁶ UN General Assembly, Convention on the Right of Persons with Disabilities, 13 December 2006, available at <https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf> (last visited 15 November 2019).

2.1 ILO

2.1.1 ILO List of Occupational Diseases Recommendation (No. 194), 2002 (as amended)³⁷

[...]

2. A national list of occupational diseases for the purposes of prevention, recording, notification and, if applicable, compensation should be established by the competent authority, in consultation with the most representative organizations of employers and workers, by methods appropriate to national conditions and practice, and by stages as necessary. This list should:

(a) for the purposes of prevention, recording, notification and compensation comprise, at the least, the diseases enumerated in Schedule I of the Employment Injury Benefits Convention, 1964, as amended in 1980;

[...]

ANNEX

List of occupational diseases (revised 2010)

[...]

2.4.1. Post-traumatic stress disorder

2.4.2. Other mental or behavioural disorders not mentioned in the preceding item where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to risk factors arising from work activities and the mental and behavioural disorder(s) contracted by the worker

[...]

2.1.2 ILO Transition from the Informal to the Formal Economy Recommendation (No. 204), 2015³⁸

[...]

10. Members should ensure that an integrated policy framework to facilitate the transition to the formal economy is included in national development strategies or plans as well as in poverty reduction strategies and budgets, taking into account, where appropriate, the role of different levels of government.

11. This integrated policy framework should address:

[...]

(d) respect for and promotion and realization of the fundamental principles and rights at work;

[...]

(f) the promotion of equality and the elimination of all forms of discrimination and violence, including gender-based violence, at the workplace;

[...]

(s) effective access to justice; [...]

[...]

17. Members should:

³⁷ International Labour Organization (ILO), *Recommendation concerning the List of Occupational Diseases and the Recording and Notification of Occupational Accidents and Diseases, R 194, 20 June 2002 (Annex revised in 2010)*, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312532 (last visited 15 November 2019).

³⁸ International Labour Organization (ILO), *Recommendation Concerning the Transition from the Informal to the Formal Economy, R204, 12 June 2015*, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R204 (last visited 15 November 2019).

- (a) take immediate measures to address the unsafe and unhealthy working conditions that often characterize work in the informal economy; and
- (b) promote and extend occupational safety and health protection to employers and workers in the informal economy.

2.1.3 ILO HIV and AIDS Recommendation (No. 200), 2010 ³⁹

14. Measures should be taken in or through the workplace to reduce the transmission of HIV and alleviate its impact by:

- (a) ensuring respect for human rights and fundamental freedoms;
- (b) ensuring gender equality and the empowerment of women;
- (c) ensuring actions to prevent and prohibit violence and harassment in the workplace;
- [...]
- (f) promoting the protection of sexual and reproductive health and sexual and reproductive rights of women and men; [...]

2.1.4 ILO Employment and Decent Work for Peace and Resilience Recommendation (No. 205), 2017 ⁴⁰

[...]

I. Objectives and scope

1. This Recommendation provides guidance to Members on the measures to be taken to generate employment and decent work for the purposes of prevention, recovery, peace and resilience with respect to crisis situations arising from conflicts and disasters.

[...]

4. This Recommendation applies to all workers and jobseekers, and to all employers, in all sectors of the economy affected by crisis situations arising from conflicts and disasters.

5. The references in this Recommendation to fundamental principles and rights at work, to safety and health and to working conditions apply also to workers engaged in crisis response, including in the immediate response. The references in this Recommendation to human rights and to safety and health apply equally to persons in volunteer work participating in crisis response.

[...]

II. Guiding principles

7. In taking measures on employment and decent work in response to crisis situations arising from conflicts and disasters, and with a view to prevention, Members should take into account the following:

[...]

(b) the need to respect, promote and realize the fundamental principles and rights at work, other human rights and other relevant international labour standards, and to take into account other international instruments and documents, as appropriate and applicable;

[...]

1.3 ³⁹ International Labour Organization (ILO), Recommendation concerning HIV and AIDS and the World of Work, R 200, 17 June 2010, available at

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:R200:NO (last visited 15 November 2019).

⁴⁰ Recommendation concerning employment and decent work for peace and resilience, R 205, 16 Jun 2017, available at https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:16659651283705:12100:NO::P12100_INSTRUMENT_ID:3330503 (last visited 15 November 2019).

(f) the need to combat discrimination, prejudice and hatred on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, disability, age or sexual orientation or any other grounds;
(g) the need to respect, promote and realize equality of opportunity and treatment for women and men without discrimination of any kind;

[...]

V. Rights, equality and non-discrimination

15. In responding to discrimination arising from or exacerbated by conflicts or disasters and when taking measures for promoting peace, preventing crises, enabling recovery and building resilience, Members should:

(a) respect, promote and realize equality of opportunity and treatment for women and men without discrimination of any kind, taking into account the Equal Remuneration Convention (No. 100) and Recommendation (No. 90), 1951, and the Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111), 1958;

[...]

(e) prevent and punish all forms of gender-based violence, including rape, sexual exploitation and harassment, and protect and support victims;

[...]

2.1.5 ILO Safety and Health in Agriculture Code of Practice, 2011 [41](#)

[...]

19.5. Workplace violence, harassment and bullying

19.5.1. Every person has the right to be treated with dignity and respect and to be free from all forms of violence, harassment, and bullying in the workplace.

19.5.2. A safe and healthy working environment, in accordance with the provisions of the Occupational Safety and Health Convention, 1981 (No. 155), facilitates optimal physical and mental health in relation to work, and can help to prevent workplace violence and harassment. Promoting gender equality could help to reduce gender-based workplace violence and harassment. Sexual harassment at work is a human rights and sex discrimination issue, and has accordingly been examined in the light of the requirements of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). It is especially encountered by inexperienced younger women and men whose age and work position make them vulnerable. Sexual harassment is a hazard that lowers the quality of working life, jeopardizes the wellbeing of women and men, undermines gender equality and can have serious cost implications for firms and organizations.

19.5.3. Policy or action against workplace violence and harassment must be directed at promoting decent work and mutual respect, and combating discrimination at the workplace, in accordance with Convention No. 111.

41 International Labour Organization (ILO) Safety and Health in Agriculture Code of Practice, 2011, available at https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/normativeinstrument/wcms_161135.pdf (last visited 15 November 2019).

The code of practice is devoted to improving occupational health and safety (OSH) in agriculture and complements the Safety and Health in Agriculture Convention 2001 (No. 184), and its Recommendation (No. 192). Upon its adoption, ILO stated "OSH standards affecting women workers have been traditionally underestimated because these standards and exposure limits to hazardous substances are based on male populations and laboratory tests. Since the majority of agricultural workers are women, this code takes into consideration the gender dimensions of OSH in agriculture. See *ib.*, p. 2.

19.5.4. The competent authority, employers, workers and their representatives should, in so far as reasonably practicable, cooperate in developing legislation and developing and implementing appropriate policies, procedures and workplace practices that help to eliminate all forms of workplace violence and harassment.

19.5.5. Employers should consult with workers and their representatives to develop and implement appropriate policies and procedures to eliminate or minimize the risk of workplace violence and harassment. These policies and procedures should include risk assessment and control strategies, the inclusion of provisions on the prevention of workplace violence and harassment in national, sectoral, and enterprise agreements, personnel policies to promote mutual respect and dignity at work, and grievance and disciplinary procedures.

19.5.6. Workers and their representatives should take all reasonable care to prevent, reduce and eliminate the risks associated with workplace violence and harassment. They should:

- cooperate with employers in OSH committees in accordance with the Occupational Safety and Health Recommendation, 1981 (No. 164);
- cooperate with employers to develop appropriate risk assessment strategies and prevention policies, paying particular attention to vulnerable workers;
- ensure that factors that increase the risk of workplace violence and harassment at particular worksites or when carrying out specific activities are addressed by workers and their health and safety representatives in consultation with employers; and – report acts of workplace violence and harassment.

19.5.7. In conducting a risk assessment of workplace violence and harassment, account should be taken of the following signs of possible workplace tensions:

- incidents of physical assault leading to actual harm;
- intense or ongoing verbal abuse, including sexual innuendo, aggressive body language, threatening behaviour or the expression of the intent to cause harm; and
- high levels of absenteeism and personnel turnover, which are indicative of problems in the workplace.

19.5.8. Preventive measures concerning work practices should include consideration of:

- staffing levels and the composition of work teams;
- workload;
- scheduling;
- worksite location; and
- proximity to communications for isolated workers.

19.5.9. Appropriate medical treatment should be available, where required, to workers affected by workplace violence.

19.5.10. The competent authority, employers, workers and their representatives should act in collaboration to develop grievance and disciplinary procedures to deal with complaints of workplace violence and harassment. These procedures should include a fair and equitable process for the investigation and resolution of complaints.

19.5.11. The confidentiality of any information on workers exposed to or suffering from workplace violence or harassment should be ensured, in accordance with national laws and regulations.

[...]

Appendix VII

Sample sexual harassment policy

1. Company X prohibits sexual harassment of its employees and applicants for employment by any employee, non-employee or applicant. Such conduct may result in disciplinary action up to and including dismissal.

2. This policy covers all employees. The company will not tolerate, condone or allow sexual harassment, whether engaged in by fellow employees, supervisors, or other non-employees who conduct business with the company.

3. Sexual harassment is any behaviour that includes unwelcome sexual advances and other verbal or physical conduct of a sexual nature when:

- submission to, or rejection of, such conduct is used as the basis for promotions or other employment decisions;
- the conduct unreasonably interferes with an individual’s job performance or creates an intimidating, hostile or offensive work environment.

Company X employees are entitled to work in an environment free from sexual harassment and a hostile or offensive working environment.

We recognize sexual harassment as unlawful discrimination, as is conduct that belittles or demeans any individual on the basis of race, religion, national origin, sexual preference, age, disability, or other similar characteristics or circumstances.

No manager or supervisor shall threaten or imply that an employee’s refusal to submit to sexual advances will adversely affect that person’s employment, compensation, advancement, assigned duties, or any other term or condition of employment or career development.

Sexual joking, lewd pictures and any conduct that tends to make employees of one gender “sex objects” are prohibited.

4. Employees who have complaints of sexual harassment should (and are encouraged to) report such complaints to their supervisor. If this person is the cause of the offending conduct, the employee may report this matter directly to [specify various officials (e.g. Director of Human Resources, designated contact manager, etc.)]. Your complaint will be promptly and thoroughly investigated. Confidentiality of reports and investigations of sexual harassment will be maintained to the greatest extent possible.

5. Any manager, supervisor or employee who, after appropriate investigation, is found to have engaged in sexual harassment of another employee will be subject to disciplinary action, up to and including dismissal.

6. If any party directly involved in a sexual harassment investigation is dissatisfied with the outcome or resolution, that individual has the right to appeal the decision. The dissatisfied party should submit his or her written comments to [specify official (e.g. Gender Committee, contact manager)].

7. The Company will not in any way retaliate against any individual who makes a report of sexual harassment nor permit any employee to do so. Retaliation is a serious violation of this sexual harassment policy and should be reported immediately. Any person found to have retaliated against another individual for reporting sexual harassment will be subject to appropriate disciplinary action, up to and including dismissal. [...]

2.1.6 ILO Multilateral Framework on Labour Migration, 2006 [42](#)

[...]

VI. PREVENTION OF AND PROTECTION AGAINST ABUSIVE MIGRATION PRACTICES

42 International Labour Organization (ILO) Multilateral Framework on Labour Migration - Non-binding principles and guidelines for a rights-based approach to labour migration, 2006, p. 21 et seq., available at https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_178672.pdf (last visited 15 November 2019).

11. Governments should formulate and implement, in consultation with the social partners, measures to prevent abusive practices, migrant smuggling and trafficking in persons; they should also work towards preventing irregular labour migration.⁴³

Guidelines

The following guidelines may prove valuable in giving practical effect to the above principle:

[...]

11.2. intensifying measures aimed at detecting and identifying abusive practices against migrant workers, including physical or sexual harassment or violence, restriction of movement, debt bondage, forced labour, withholding, underpayment or delayed payment of wages and benefits, retention of passports or identity or travel documents and threat of denunciation to authorities, particularly in those sectors that are outside the usual avenues of regulation and protection, such as domestic work;

11.3. implementing effective and accessible remedies for workers whose rights have been violated, regardless of their migration status, including remedies for breach of employment contracts, such as financial compensation;

11.4. imposing sanctions and penalties against individuals and entities responsible for abusive practices against migrant workers;

11.5. adopting measures to encourage migrant workers and trafficking victims to denounce abuse, exploitation and violation of their rights, taking account of the special circumstances of women and children and to this effect establishing mechanisms for migrant workers to lodge complaints and seek remedies without intimidation or retaliation;

11.6. prohibiting the retention of the identity documents of migrant workers;

11.7. creating and strengthening channels or structures for information exchange and international cooperation to address abusive migration conditions;

[...]

11.9. assisting and protecting victims of trafficking and other abusive migration conditions, with particular attention to the specific needs of women and children;

[...]

2.1.7 ILO General Principles and Operational Guidelines for Fair Recruitment, 2016 [44](#)

⁴³ Conventions No. 29, 105, 138 and 182; Convention No. 97 (Art. 3, Annex I; Art. 8 and Annex II, Art. 13); Convention No. 143, Part I; 1990 International Convention (Art. 21).

⁴⁴ ILO General principles and operational guidelines for fair recruitment, 2016

http://ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_536755.pdf (last visited 15 November 2019).

[...]

III. General principles

1. Recruitment should take place in a way that respects, protects and fulfils internationally recognized human rights, including those expressed in international labour standards, and in particular the right to freedom of association and collective bargaining, and prevention and elimination of forced labour, child labour and discrimination in respect of employment and occupation.

[...]

3. Appropriate legislation and policies on employment and recruitment should apply to all workers, labour recruiters and employers.

[...]

13. Workers, irrespective of their presence or legal status in a State, should have access to free or affordable grievance and other dispute resolution mechanisms in cases of alleged abuse of their rights in the recruitment process, and effective and appropriate remedies should be provided where abuse has occurred.

[...]

IV. Operational guidelines

These guidelines are organized to identify the responsibilities of governments, enterprises and public employment services.

A. Responsibilities of governments

[...]

2. Governments should protect workers against human rights abuses in the recruitment process by employers, labour recruiters and other enterprises.

2.1. [...] This requires taking appropriate steps to prevent, investigate, punish and redress such abuses through effective policies, legislation, regulations and adjudication, and exercising and mandating due diligence to ensure that human rights are respected.

[...]

11. Governments should raise awareness of the need for fair recruitment in both the public and private sectors and ensure workers have access to free, comprehensive and accurate information regarding their rights and the conditions of their recruitment and employment.

[...]

12. Governments should respect human rights and promote fair recruitment in conflict and crisis situations.

12.1. Governments should take steps to ensure that enterprises, agencies and international assistance programmes operating in conflict and crisis situations are not involved with human rights and recruitment abuses.

B. Responsibilities of enterprises and public employment services

[...]

15. Enterprises and public employment services should respect human rights when recruiting workers, including through human rights due diligence assessments of recruitment procedures, and should address adverse human rights impacts with which they are involved.

15.1. All enterprises and public employment services should respect human rights in their recruitment processes wherever they operate, independently of the abilities and/or willingness of States to fulfil their human rights obligations.

15.2. They should undertake due diligence regarding their recruitment activities.

[...]

15.4. Enterprises and public employment services should respect internationally recognized human rights, including those expressed in international labour standards, in particular [...] prevention and elimination of [...] discrimination in respect of employment and occupation, in the recruitment process.

15.5. Enterprises and public employment services should not retaliate against or blacklist workers, in particular those who report recruitment abuses or fraudulent recruitment practices anywhere along their supply chain, and should provide special protections for whistle-blowers pending the investigation or resolution of a grievance or dispute.

[...]

[...]

1. Labor recruiters

A distinction is made in these guidelines between labour recruiters serving as intermediaries to place workers in employment, including those involved in multiple layers of the recruitment process, and employment agencies employing workers and placing them at the disposal of user enterprises.

21. Labour recruiters should respect the applicable laws and fundamental principles and rights at work.

21.1. Labour recruiters should have in place policies and processes, including due diligence, to ensure that their recruitment activities are conducted in a manner that treats workers with dignity and respect, free from harassment or any form of coercion or degrading or inhuman treatment. Labour recruiters should not restrict the movement of, nor abuse or allow abuse of, workers who are under their protection.

2. Employers

[...]

27. Employers should provide or facilitate effective access to grievance and other dispute resolution mechanisms in cases of alleged abuses in the recruitment process, and to appropriate remedies.

28. Employers should provide all workers, whatever their employment status, with the protection provided for in labour law and international labour standards as concerns recruitment.

[...]

2.1.8 ILO Framework Guidelines for Addressing Workplace Violence in the Health Sector, 2002 [45](#)

[...]

1.2 SCOPE

Objective

45 International Labour Organization (ILO) et al., Framework Guidelines for Addressing Workplace Violence in the Health Sector, 2002, available at https://www.who.int/violence_injury_prevention/violence/interpersonal/en/WVguidelinesEN.pdf?ua=1&ua=1 (last visited 15 November 2019).

The objective of these Framework Guidelines (from now on referred to as Guidelines) is to provide general guidance in addressing workplace violence in the health sector. Far from being in any way prescriptive, the Guidelines should be considered a basic reference tool for stimulating the autonomous development of similar instruments specifically targeted at and adapted to different cultures, situations and needs.

[...]

Field of application

These Guidelines apply:

- to all employers and workers
- in the public, private and voluntary sectors
- to all aspects of work, formal and informal.

1.3 DEFINITION

Within a general common understanding of the significance of workplace violence, specific understanding and terminology may vary from country to country and from situation to situation. It is therefore important that definitions and terms as given below are assessed in relation to such situations and adapted accordingly so that their significance is clear to and shared by those who will be using the guidelines.

General definition of workplace violence

Incidents where staff are abused, threatened or assaulted in circumstances related to their work, including commuting to and from work, involving an explicit or implicit challenge to their safety, well-being or health. (Adapted from European Commission)

Physical violence and psychological violence

While the existence of personal physical violence at the workplace has always been recognized, the existence of psychological violence has been long under-estimated and only now receives due attention. Psychological violence is currently emerging as a priority concern at the workplace. It is also increasingly recognized that personal psychological violence is often perpetrated through repeated behaviour, of a type which by itself may be relatively minor but which cumulatively can become a very serious form of violence. Although a single incident can suffice, psychological violence often consists of repeated, unwelcome, unreciprocated and imposed upon action which may have a devastating effect on the victim.

Physical violence

The use of physical force against another person or group, that results in physical, sexual or psychological harm. It includes among others, beating, kicking, slapping, stabbing, shooting, pushing, biting and pinching. (Adapted from WHO definition of violence)

Psychological violence

Intentional use of power, including threat of physical force, against another person or group, that can result in harm to physical, mental, spiritual, moral or social development. It includes verbal abuse, bullying/mobbing, harassment and threats. (Adapted from WHO definition of violence)

Terms frequently used

Physical and psychological violence often overlap in practice making any attempt to categorize different forms of violence very difficult. Some of the most frequently used terms relating to violence are presented in the following list.

Assault/attack

Intentional behaviour that harms another person physically, including sexual assault.

Abuse

Behaviour that humiliates, degrades or otherwise indicates a lack of respect for the dignity and worth of an individual. (Alberta Association of Registered Nurses)

[...]

Harassment

Any conduct based on age, disability, HIV status, domestic circumstances, sex, sexual orientation, gender reassignment, race, colour, language, religion, political, trade union or other opinion or belief, national or social origin, association with a minority, property, birth or other status that is unreciprocated or unwanted and which affects the dignity of men and women at work. (Human Rights Act, UK)

Sexual harassment

Any unwanted, unreciprocated and unwelcome behaviour of a sexual nature that is offensive to the person involved, and causes that person to feel threatened, humiliated or embarrassed. (Irish Nurses Organisation)

[...]

Workplace

Any health care facility, whatever the size, location (urban or rural) and the type of service(s) provided, including major referral hospitals of large cities, regional and district hospitals, health care centres, clinics, community health posts, rehabilitation centres, long-term care facilities, general practitioners' offices, other independent health care professionals. In the case of services performed outside the health care facility, such as ambulance services or home care, any place where such services are performed will be considered a workplace.

2. GENERAL RIGHTS AND RESPONSIBILITIES

2.1 GOVERNMENTS

Governments and their competent authorities should provide the necessary framework for the reduction and elimination of such violence. This includes:

- making the reduction/elimination of workplace violence in the health sector an essential part of national/regional/local policies and plans on occupational health and safety, human rights protection, economic sustainability, enterprise development and gender equality

- promoting the participation of all parties concerned with such policies and plans

[...]

2.2 EMPLOYERS

Employers and their organisations should provide and promote a violence-free workplace. This would include:

- recognizing overall responsibility for ensuring the health, safety and wellbeing of workers including the elimination of the predictable risk of workplace violence, according to national legislation and practice

- creating a climate of rejection of violence in their organisations

- the routine assessment of the incidence of workplace violence and the factors that support or generate workplace violence

- developing policies and plans at the workplace to combat workplace violence and establishing the required monitoring mechanisms and range of sanctions

- consulting with representatives of the workers on the development of such policies and plans and how to implement them
- the introduction of all necessary preventive and protective measures and procedures to reduce and eliminate the risks of workplace violence
- giving managers at all levels responsibility for implementing policies and procedures relating to workplace violence
- the provision of adequate information, instruction and training concerning workplace violence
- the provision of short, medium and long-term assistance to all those affected by workplace violence, including legal aid, as required
- giving special consideration to the specific risks faced by particular categories of health care workers as well as to risks in certain working environments in the health sector
- endeavouring to have included provisions to reduce and eliminate workplace violence in national, sectorial, and workplace/enterprise agreements
- actively promoting awareness of the risks and destructive impact of workplace violence
- the provision of adequate reporting systems
- setting up of mechanisms for collecting data and information in the area of workplace violence

2.3 WORKERS

Workers should take all reasonable care to reduce and eliminate the risks associated with workplace violence. This would include:

- following workplace policies and procedures
- cooperating with the employer to reduce and eliminate the risks of workplace violence
- attending relevant educational and training programmes
- reporting incidents, including minor ones
- actively contributing to promoting awareness of the risks, impact of and sanctions associated with workplace violence
- seeking guidance and counselling if involved in situations that may lead to workplace violence

2.4 PROFESSIONAL BODIES

Trade unions, professional councils and associations should launch, participate in and contribute to initiatives and mechanisms to reduce and eliminate the risks associated with workplace violence.

[...]

2.5 ENLARGED COMMUNITY

The media, research and educational institutions, specialists in workplace violence, consumer/patient advocacy groups, the police and other criminal justice professionals, NGOs active in the area of workplace violence, health and safety, human rights and gender promotion, should actively support and participate in the initiatives to combat workplace violence.

[...]

3. APPROACH

[...]

3.3 CULTURE/GENDER SENSITIVE AND NON-DISCRIMINATORY

[...]

Gender

The gender dimension should be recognised. Women and men are both affected although in different ways, by workplace violence with women particularly exposed to certain types of violence, such as sexual offences. (D. Chappell and V. Di Martino 2000). In the health sector, where violence is so pervasive that it is often seen as part of the job, a large number of women are employed. The continued concentration of women in low-paid and low status jobs in this sector, further exacerbates the problem making women a

real or perceived vulnerable target. More equal gender relations and the empowerment of women are vital to successfully prevent violence in the health sector. Action in this area should take into due account the specificity of the concrete situations to be addressed.

Discrimination

Workplace violence is closely linked to and generates discrimination. Discrimination includes any distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation such as those made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin. Any policy or action against workplace violence should be also directed at combating any form of discrimination linked to or originated by such violence.

3.4 SYSTEMATIC

In order to develop the above approaches effectively, it is essential that anti-violence action be carried out in a systematic way.

Short, medium and long term objectives and strategies should be identified at the earliest stages so as to organize action towards realistically achievable targets within agreed time frames.

Action should also be articulated in a series of fundamental steps that include:

- violence recognition
- risk assessment
- intervention
- monitoring and evaluation.

4. WORKPLACE VIOLENCE RECOGNITION

[...]

4.2 POTENTIAL PERPETRATORS

[...]

The potential perpetrator can be a member of the public, of the organisation or other organisation in the health sector or a patient or client of the service. Consideration should be also given to the fact that, in a number of cases, perpetrators are themselves victims of violence.

[...]

4.3 POTENTIAL VICTIM

[...]

- nursing and ambulance staff: at extremely high risk
- doctors, support and technical staff: at high risk
- all other allied professionals: at risk

Real or perceived vulnerability

Can apply to:

- members of minorities
- people in training or on placement
- workers in precarious job situations
- young people
- women

[...]

5. WORKPLACE RISK ASSESSMENT

One of the first steps to be taken when considering the prevention of work-related violence, is an assessment or diagnosis of the relevant hazards and situations at risk as an integral part of the occupational

safety and health management system and of the overall organisational management of health institutions. This should include:

[...]

5.2 IDENTIFYING SITUATIONS AT SPECIAL RISK

There are a number of work situations that have been identified as being at special risk of workplace violence. Health care workers are exposed to the entire range of such situations of risk and this makes this category of workers unique in terms of the importance and spread of workplace violence.

Situations at special risk

Working alone

[...]

Working in contact with the public

[...]

Working in an environment increasingly “open” to violence

[...]

6. WORKPLACE INTERVENTIONS

Once the potential existence of violence has been recognised and the situations at risk identified, action to deal with violence should be taken.

6.1 PRE-CONDITIONS

Developing a human-centred workplace culture

Priority should be given to the development of a human-centred workplace culture based on safety and dignity, non-discrimination, tolerance, equal opportunity and cooperation. [...]

Issuing a clear policy statement

A clear policy statement of intent should be issued from the top management in consultation with all stakeholders recognizing the importance of the fight against workplace violence. [...]

[...]

6.2 ORGANISATIONAL INTERVENTIONS

High priority should be given to organizational intervention. Sorting out the organizational problem at the source usually proves much more effective and less costly than increasing the coping capacity through intervention at the individual level or intervening on the effects of violence on the individual worker. Organisational interventions should be developed and adapted in the light of specific situations, and priorities for intervention should be identified in consultation with the local stakeholders.

[...]

6.3 ENVIRONMENTAL INTERVENTIONS

Action should be undertaken to identify and address problems within the working environment with a view to preventing workplace violence. Environmental interventions should be developed and adapted having regard to the specific situations, and priorities among the various types of intervention available should be established in consultation with the local stakeholders.

Environmental interventions may include:

[...]

6.4 INDIVIDUAL-FOCUSSED INTERVENTIONS

Interventions should be developed to reinforce the capacity of individuals to contribute to the prevention of workplace violence. Individual-focused interventions should be developed and adapted having regard to the specific situations, and priorities among the various types of interventions available should be established in consultation with the local stakeholders.

This would include:

Training

[...]

Assistance and counselling

[...]

Well-being promotion

[...]

6.5 AFTER-THE-EVENT INTERVENTIONS

After the- event- interventions should be directed to minimise the impact of workplace violence and to ensure that such violence will not be repeated in future. They should be targeted not only at the victim but also at the perpetrator, the witnesses and all other staff directly or indirectly concerned by a violent incident/behaviour.

Response plans

[...]

Reporting and recording

[...]

Medical treatment

[...]

De-briefing

[...]

Counselling

[...]

Management support

[...]

Representation and legal aid

[...]

Grievance procedures

[...]

Rehabilitation

[...]

7. EVALUATION

Evaluation of the effectiveness of anti-violence plans and measures should include:

- monitoring, on a continuous basis, and regular dissemination of the results of measures introduced
 - involving the workers in developing the criteria for evaluation and receiving regular feedback [...]
 - organising periodical joint meetings of management and workers to discuss the measures put in place
 - reviewing the management plan on a regular basis including the assessment of policy implementation.
 - re-assessing the workplace culture, work organisation and the quality of the environment to effectively respond to workplace violence
 - activating a risk management cycle to make the combat of workplace violence an ongoing process within organisations
- [...]

2.2 UNITED NATIONS

2.2.1 Vienna Declaration and Programme of Action (World Conference on Human Rights)⁴⁶

3. The equal status and human rights of women

36. The World Conference on Human Rights urges the full and equal enjoyment by women of all human rights and that this be a priority for Governments and for the United Nations. [...]

38. In particular, the World Conference on Human Rights stresses the importance of working towards the elimination of violence against women in public and private life, the elimination of all forms of sexual harassment, exploitation and trafficking in women, the elimination of gender bias in the administration of justice and the eradication of any conflicts which may arise between the rights of women and the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism. The World Conference on Human Rights calls upon the General Assembly to adopt the draft declaration on violence against women and urges States to combat violence against women in accordance with its provisions. [...]

39. The World Conference on Human Rights urges the eradication of all forms of discrimination against women, both hidden and overt. [...]

41. The World Conference on Human Rights recognizes the importance of the enjoyment by women of the highest standard of physical and mental health throughout their life span. [...]

2.2.2 Beijing Declaration and Platform for Action of the Fourth World Conference on Women⁴⁷

Chapter

IV

STRATEGIC OBJECTIVES AND ACTIONS

D. Violence against women

113. Violence against women is an obstacle to the achievement of the objectives of equality, development and peace. Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms. The long-standing failure to protect and promote those rights and freedoms in the case of violence against women is a matter of concern to all States and should be addressed.[...] In all societies, to a greater or lesser degree, women and girls are subjected to physical, sexual and psychological abuse that cuts across lines of income, class and culture. [...]

114. The term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. Accordingly, violence against women encompasses but is not limited to the following:

[...]

(b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

⁴⁶ UN General Assembly, Vienna Declaration and Programme of Action, 12 July 1993, A/CONF.157/23, available at <http://www.refworld.org/docid/3ae6b39ec.html> (last visited 15 November 2019).

⁴⁷ United Nations, Beijing Declaration and Platform of Action, adopted at the Fourth World Conference on Women, 27 October 1995, available at <http://www.refworld.org/docid/3dde04324.html> ((last visited 15 November 2019)

(c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.[...]
118. Acts or threats of violence, whether occurring within the home or in the community, or perpetrated or condoned by the State, instil fear and insecurity in women's lives and are obstacles to the achievement of equality and for development and peace. The fear of violence, including harassment, is a permanent constraint on the mobility of women and limits their access to resources and basic activities. High social, health and economic costs to the individual and society are associated with violence against women. [...]

Strategic objective D.1. Take integrated measures to prevent and eliminate violence against women.
Actions to be taken

125. By Governments:

(a) Condemn violence against women and refrain from invoking any custom, tradition or religious consideration to avoid their obligations with respect to its elimination as set out in the Declaration on the Elimination of Violence against Women;

(b) Refrain from engaging in violence against women and exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons;

(c) Enact and/or reinforce penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs done to women and girls who are subjected to any form of violence, whether in the home, the workplace, the community or society;

(d) Adopt and/or implement and periodically review and analyse legislation to ensure its effectiveness in eliminating violence against women, emphasizing the prevention of violence and the prosecution of offenders; take measures to ensure the protection of women subjected to violence, access to just and effective remedies, including compensation and indemnification and healing of victims, and rehabilitation of perpetrators; [...]

(h) Provide women who are subjected to violence with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm they have suffered and inform women of their rights in seeking redress through such mechanisms; [...]

(l) Create or strengthen institutional mechanisms so that women and girls can report acts of violence against them in a safe and confidential environment, free from the fear of penalties or retaliation, and file charges; [...]

127. By Governments, employers, trade unions, community and youth organizations and non-governmental organizations, as appropriate:

(a) Develop programmes and procedures to eliminate sexual harassment and other forms of violence against women in all educational institutions, workplaces and elsewhere;

(b) Develop programmes and procedures to educate and raise awareness of acts of violence against women that constitute a crime and a violation of the human rights of women;

[...]

(d) Take special measures to eliminate violence against women, particularly those in vulnerable situations, such as young women, refugee, displaced and internally displaced women, women with disabilities and women migrant workers, including enforcing any existing legislation and developing, as appropriate, new legislation for women migrant workers in both sending and receiving countries.

F. Women and the economy

163. For those women in paid work, many experience obstacles that prevent them from achieving their potential. While some are increasingly found in lower levels of management, attitudinal discrimination

often prevents them from being promoted further. The experience of sexual harassment is an affront to a worker's dignity and prevents women from making a contribution commensurate with their abilities. [...]

Strategic objective F.4. Strengthen women's economic capacity and commercial networks

Actions to be taken

[...]

180. By Governments, employers, employees, trade unions and women's organizations:

[...]

(b) Enact and enforce laws and introduce implementing measures, including means of redress and access to justice in cases of non-compliance, to prohibit direct and indirect discrimination on grounds of sex, [...] including legal protection against sexual and racial harassment;

[...]

I. Human rights of women

Actions to be taken

232. By Governments:

[...]

(l) Review and amend criminal laws and procedures, as necessary, to eliminate any discrimination against women in order to ensure that criminal law and procedures guarantee women effective protection against, and prosecution of, crimes directed at or disproportionately affecting women, regardless of the relationship between the perpetrator and the victim, and ensure that women defendants, victims and/or witnesses are not revictimized or discriminated against in the investigation and prosecution of crimes; [...]

2.2.3 UN Resolution on Intensification of efforts to prevent and eliminate all forms of violence against women and girls: sexual harassment⁴⁸

[...]

Recalling the commitment to eliminate all forms of violence against all women and girls in the public and private spheres, [...]

Recognizing that violence against women and girls, including sexual harassment, is rooted in historical and structural inequality in power relations between men and women, seriously violates and impairs or nullifies the enjoyment of all human rights and fundamental freedoms by women and girls and constitutes a major impediment to their full, equal and effective participation in society, as well as economic and political life,

Bearing in mind that sexual harassment in private and public spaces, including in educational institutions and the workplace, as well as in digital contexts, leads to a hostile environment, which has a further negative impact on women and girls in the enjoyment of their rights and equal opportunities, has negative physical and mental health consequences for the victims and may negatively affect their families,

⁴⁸ UN Resolution on Intensification of efforts to prevent and eliminate all forms of violence against women and girls: sexual harassment, 14 November 2018, A/C.3/73/L.21/Rev.1, available at <http://www.world-psi.org/en/first-un-resolution-sexual-harassment> (last visited 15 November 2019).

Recognizing the particular risk of sexual harassment faced by women and girls who suffer multiple and intersecting forms of discrimination, [...]

Recognizing that women and girls are frequently subjected to violence, including sexual harassment, at work and that women and girls face increased risks of violence, including sexual harassment, in particular contexts, such as when working alone, when working in male-dominated workplaces, when working outside the normal working hours or when working in the same place where they live, bearing in mind the large number of women and girls worldwide who have reported being victims of sexual harassment in their workplace, and concerned that, owing to underreporting, the actual number may be much greater,

Stressing the need to change social norms that condone violence against women and girls in the workplace, including through, but not limited to, training and awareness-raising campaigns conducted in the workplace, associated with a change in attitudes and increased knowledge about sexual harassment, particularly among men and boys, [...]

1. *Strongly condemns* all forms of violence against all women and girls, including sexual harassment, recognizing that it is an impediment to the achievement of gender equality and the empowerment of all women and girls and to the full realization of their human rights;

2. *Acknowledges* that sexual harassment is a form of violence and a violation and abuse of human rights that is likely to result in physical, psychological, sexual, economic or social harm or suffering;

3. *Stresses* that sexual harassment encompasses a continuum of unacceptable and unwelcome behaviours and practices of a sexual nature that may include, but are not limited to, sexual suggestions or demands, requests for sexual favours and sexual, verbal or physical conduct or gestures, that are or might reasonably be perceived as offensive or humiliating;

4. *Urges* States to condemn violence against women and girls, including sexual harassment, and reaffirms that they should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination and should pursue, by all appropriate means and without delay, a policy of eliminating violence against women as set out in the Declaration on the Elimination of Violence against Women;⁹

5. *Calls upon* States to address discrimination based on multiple and intersecting factors, which places women and girls at greater risk of exploitation, violence and abuse, and to take appropriate action to empower and protect them as well as achieve their full enjoyment of human rights without discrimination;

6. *Notes* that efforts by civil society organizations in eliminating violence against women and girls are complementary to those of Governments, and in this regard urges States to support, where possible, non-State-led initiatives aimed at promoting gender equality and the empowerment of women and girls and at preventing, responding to and protecting women and girls from sexual harassment;

7. *Encourages* national legislative authorities and political parties, as appropriate, to adopt codes of conduct and reporting mechanisms, or revise existing ones, stating zero tolerance by these legislative authorities and political parties for sexual harassment, intimidation and any other form of violence against women in politics;

8. *Urges* States to take effective action to prevent and eliminate sexual harassment against women and girls and to address structural and underlying causes and risk factors, including by:

(a) Designing and implementing appropriate domestic policies that are aimed at transforming discriminatory social attitudes and social and cultural patterns of conduct that condone violence against women and girls, including sexual harassment, with a view to preventing and eliminating, in all public and private spheres, discrimination, gender stereotypes, negative social norms, attitudes and behaviours, and unequal power relations by which women and girls are regarded as subordinate to men and boys and that underlie and perpetuate male domination;

(b) Implementing, in partnership with all relevant stakeholders, effective violence prevention and response activities in schools and communities, educating children from a young age regarding the importance of treating all people with dignity and respect, and designing educational programmes and teaching materials that support gender equality, respectful relationships and non-violent behaviour;

(c) Engaging men and boys in challenging gender stereotypes and negative social norms, attitudes and behaviours that underlie and perpetuate such violence and in developing and implementing measures that reinforce non-violent actions, attitudes and values, and encouraging men and boys, as agents and beneficiaries of change in the achievement of gender equality and the empowerment of all women and girls, to take an active part and become their strategic partners and allies in efforts to prevent and eliminate all forms of violence and discrimination against women and girls;

(d) Developing policies and programmes with the support, where appropriate, of international organizations, civil society and non-governmental organizations, giving priority to formal, informal and non-formal education programmes, including scientifically accurate and age-appropriate comprehensive education that is relevant to cultural contexts, that provides adolescent girls and boys and young women and men in and out of school, consistent with their evolving capacities, and with appropriate direction and guidance from parents and legal guardians, with the best interests of the child as their basic concern, information on sexual and reproductive health and HIV prevention, gender equality and women's empowerment, human rights, physical, psychological and pubertal development and power in relationships between women and men, to enable them to build self-esteem and foster informed decision-making, communication and risk-reduction skills and to develop respectful relationships, in full partnership with young persons, parents, legal guardians, caregivers, educators and health-care providers, in order to, inter alia, enable them to protect themselves from HIV infection and other risks;

(e) Developing, adopting, strengthening and implementing legislation and policies that address the issue of sexual harassment in a comprehensive manner by, inter alia, prohibiting and considering, where appropriate, criminalizing sexual harassment, exercising due diligence by taking protective and preventive measures, ensuring appropriate complaints mechanisms and reporting procedures, as well as accountability and access to effective, timely and appropriate remedies, including through adequate enforcement by the police and the judiciary of civil remedies, orders of protection and, where applicable, criminal sanctions in order to eliminate impunity and avoid revictimization;

(f) Accelerating efforts to develop, review and strengthen inclusive and gender-responsive policies, including by allocating adequate resources, to address the structural and underlying causes of sexual harassment against women and girls, to overcome gender stereotypes and negative social norms, to encourage the media to examine the impact of gender-role stereotypes, including those perpetuated by commercial advertisements, that foster gender-based violence, sexual exploitation and inequalities, to

promote zero tolerance for such violence and to remove the stigma of being a victim and survivor of violence, thus creating an enabling and accessible environment where women and girls can easily report incidents of violence and make use of the services available, including protection and assistance programmes;

(g) Taking measures to ensure that all officials, including those in leadership positions, responsible for implementing policies and programmes aimed at preventing violence against women and girls, including sexual harassment, protecting and assisting the victims and investigating and punishing acts of violence receive ongoing, adequate and gender- and culturally sensitive training to be aware of gender- specific needs, as well as of the underlying causes and short- and long-term impact of sexual harassment;

(h) Removing barriers, including political, legal, cultural, social, economic, institutional and religious ones, preventing women's full, equal and effective participation in leadership and political and other decision-making positions, taking into account that promoting women to leadership positions may significantly reduce the risk of sexual harassment;

(i) Taking measures to ensure that all workplaces are free from discrimination and exploitation, violence, and sexual harassment and bullying and that they address discrimination and violence against women and girls, as appropriate, through such measures as regulatory and oversight frameworks and reforms, collective agreements, codes of conduct, including appropriate disciplinary measures, protocols and procedures, and referral of cases of violence to health services for treatment and to police for investigation, as well as through awareness-raising and capacity-building, in collaboration with employers, unions and workers, including through workplace services and flexibility for victims and survivors;

(j) Taking measures to improve the safety of girls at and on the way to and from school, including by creating a safe and violence-free environment by improving infrastructure, such as transportation, providing hygienic, separate and adequate sanitation facilities, improved lighting, playgrounds and safe environments and adopting policies to prevent, address and prohibit sexual harassment through all appropriate measures;

9. *Also urges* States to take effective action to protect victims of all forms of violence, including sexual harassment, including by:

(a) Providing relevant, comprehensive and victim-centred legal protection to support and assist victims of violence, including sexual harassment, in a gender- sensitive manner, including victim and witness protection from reprisals for bringing complaints or giving evidence, within the framework of their national legal systems, including, as appropriate, legislative or other measures throughout the criminal and civil justice system as appropriate, paying particular attention to women and girls facing multiple and intersecting forms of discrimination;

(b) Establishing comprehensive, coordinated, interdisciplinary, accessible and sustained multisectoral services, programmes and responses for all victims and survivors of all forms of violence, including sexual harassment, that are adequately resourced, that are, when possible, in a language that they understand and in which they can communicate and that include effective and coordinated action by, as appropriate, relevant stakeholders, such as the police and the justice sector, as well as providers of legal aid services, health services, shelters, medical and psychological assistance, counselling services and protection, and, in

cases of girl victims, ensuring that such services, programmes and responses take into account the best interests of the child;

(c) Establishing and/or strengthening law enforcement, health and social workers' and counsellors' response protocols and procedures to ensure that all appropriate actions are taken to protect and respond to the needs of victims of violence, including sexual harassment, to identify acts of violence and to prevent their recurrence or further acts of violence and physical and psychological harm, ensuring that services are responsive to the survivors' needs, including by providing access to female health-care providers, police officers and counsellors if requested, and ensuring and maintaining the privacy of victims and the confidentiality of their reporting;

10. *Encourages* States, in efforts to prevent and eliminate sexual harassment, to work in partnership with the private sector and civil society, including women's and community-based organizations, faith-based organizations, feminist groups, women human rights defenders, girls' and youth-led organizations and trade, labour and other professional unions, as well as other relevant stakeholders;

11. *Urges* States to ensure the promotion and protection of the human rights of all women and their sexual and reproductive health, and reproductive rights in accordance with the Programme of Action of the International Conference on Population and Development,¹² the Beijing Platform for Action¹¹ and the outcome documents of their review conferences, including through the development and enforcement of policies and legal frameworks and the strengthening of health systems that make universally accessible and available quality, comprehensive sexual and reproductive health-care services, commodities, information and education, including safe and effective methods of modern contraception, emergency contraception, prevention programmes for adolescent pregnancy, maternal health care such as skilled birth attendance and emergency obstetric care, which will reduce obstetric fistula and other complications of pregnancy and delivery, safe abortion where such services are permitted by national law, and prevention and treatment of reproductive tract infections, sexually transmitted infections, HIV and reproductive cancers, recognizing that human rights include the right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free from coercion, discrimination and violence;

12. *Calls upon* States to take necessary measures to ensure that employers in all sectors are held accountable when they fail to abide by laws and regulations addressing sexual harassment, where they exist;

13. *Also calls upon* States to prevent, address and prohibit violence, including sexual harassment, against women and girls in public and political life, including women in leadership positions, journalists and other media workers and human rights defenders, including through practical steps to prevent threats, harassment and violence, and to combat impunity by ensuring that those responsible for violations and abuses, including sexual and gender-based violence and threats, including in digital contexts, are promptly brought to justice and held accountable through impartial investigations;

14. *Further calls upon* States to encourage digital technology companies, including Internet service providers and digital platforms, to strengthen or adopt positive measures with a view to eliminating violence and sexual harassment, including sexual harassment in digital contexts;

15. *Encourages* States to systematically collect, analyse and disseminate data disaggregated by sex, age and other relevant parameters, including, where appropriate, administrative data from the police, the health sector, the judiciary and other relevant sectors, to consider developing methodologies to collect data on all forms of violence against women and girls, including sexual harassment, in, inter alia, digital contexts, in order to monitor all forms of such violence, such as data on the relationship between the perpetrator and the victim and geographical location, with the involvement of national statistical offices and, where appropriate, in partnership with other actors, including law enforcement agencies, in order to effectively review and implement laws, policies, strategies and preventive and protective measures, while ensuring and maintaining the privacy and the confidentiality of the victims;

16. *Urges* the international community to fulfil its commitment to supporting developing countries, particularly African countries, the least developed countries, small island developing States and landlocked developing countries, in strengthening the capacity of national statistical offices and data systems to ensure access to high- quality, timely, reliable and disaggregated data, while ensuring national ownership in supporting and tracking progress on, inter alia, efforts to address violence against women and girls, including sexual harassment;

17. *Also urges* the international community, including the United Nations system and, as appropriate, regional and sub-regional organizations, to support national efforts to promote the empowerment of women and girls and gender equality in order to enhance international efforts to eliminate violence against women and girls, through, inter alia, official development assistance and other appropriate assistance, such as facilitating the sharing of guidelines, methodologies and best practices, taking into account national priorities;

18. *Calls upon* States to promote the full and effective participation of women and, as appropriate, girls in the development, implementation and monitoring of policies, programmes and other initiatives aimed at preventing and responding to violence against women and girls, including sexual harassment;

19. *Stresses* the need to take necessary measures to ensure that no individual working within the United Nations system, including its agencies, funds, programmes and entities, should be involved in sexual harassment, too often perpetrated against those affected by humanitarian crises, and recognizes the efforts of the United Nations system in this regard;

20. *Encourages* humanitarian assistance agencies and non-governmental organizations to adopt and implement policies to prevent, address and prohibit sexual harassment within their organizations;

21. *Stresses* that, within the United Nations system, adequate resources should be assigned to the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and other bodies, specialized agencies, funds and programmes responsible for the promotion of gender equality, the empowerment of women and the human rights of women and girls and to efforts throughout the United Nations system to prevent and eliminate violence against women and girls, including sexual harassment, and calls upon the United Nations system to make the necessary support and resources available;

22. *Also stresses* the importance of the Secretary-General's Global Database on Violence against Women, expresses its appreciation to all those States that have provided the Database with information regarding, inter alia, their national policies and legal frameworks aimed at eliminating violence against women and girls and supporting victims of such violence, strongly encourages all States to regularly provide updated

information for the Database, and calls upon all relevant entities of the United Nations system to continue to support States, at their request, in the compilation and regular updating of pertinent information and to raise awareness of the Database among all relevant stakeholders, including civil society;

23. *Calls upon* all United Nations bodies, entities, funds and programmes and the specialized agencies and invites the Bretton Woods institutions to intensify their efforts at all levels to eliminate all forms of violence against women and girls and to better coordinate their work with a view to increasing effective support for national efforts to prevent and eliminate sexual harassment;

24. *Requests* the Special Rapporteur of the Human Rights Council on violence against women, its causes and consequences to present an annual report to the General Assembly at its seventy-fourth and seventy-fifth sessions;

25. *Requests* the Secretary-General to submit to the General Assembly at its seventy-fifth session a report containing:

(a) Information provided by the United Nations bodies, funds and programmes and the specialized agencies on their follow-up activities to implement resolution [71/170](#) and the present resolution, including on their assistance to States in their efforts to eliminate all forms of violence against women and girls;

(b) Information provided by States on their follow-up activities to implement the present resolution;

26. *Also requests* the Secretary-General to present an oral report to the Commission on the Status of Women at its sixty-third and sixty-fourth sessions, including information provided by the United Nations bodies, funds and programmes and the specialized agencies on recent follow-up activities to implement resolutions [69/147](#) and [71/170](#) and the present resolution, and urges United Nations bodies, entities, funds and programmes and the specialized agencies to contribute promptly to that report;

27. *Decides* to continue its consideration of the elimination of all forms of violence against women and girls at its seventy-fifth session under the item entitled “Advancement of women”.

2.2.4 UN Gen. Ass. Declaration on the Elimination of Violence Against Women (DEVAW) 49

The General Assembly, [...]

Affirming that violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms, and concerned about the long-standing failure to protect and promote those rights and freedoms in the case of violence against women,

Recognizing that violence against women is a manifestation of historically unequal power relations between men and women, [...]

49 UN General Assembly, Declaration on the Elimination of Violence against Women, 20 December 1993, A/RES/48/104, available at <http://www.refworld.org/docid/3b00f25d2c.html> (last visited 15 November 2019).

Solemnly proclaims the following Declaration on the Elimination of Violence against Women and urges that every effort be made so that it becomes generally known and respected:

Article 1

For the purposes of this Declaration, the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

Article 2

Violence against women shall be understood to encompass, but not be limited to, the following:

[...]

(b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

(c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

Article 3

Women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights include, inter alia:

(a) The right to life;

(b) The right to equality;

(c) The right to liberty and security of person;

(d) The right to equal protection under the law;

(e) The right to be free from all forms of discrimination;

(f) The right to the highest standard attainable of physical and mental health;

(g) The right to just and favourable conditions of work;

(h) The right not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment.

Article 4

States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should: [...]

(c) Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons;

(d) Develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence; women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered; States should also inform women of their rights in seeking redress through such mechanisms; [...]

(i) Take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to sensitize them to the needs of women;

(j) Adopt all appropriate measures, especially in the field of education, to modify the social and cultural patterns of conduct of men and women and to eliminate prejudices, customary practices and all other

practices based on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for men and women; [...]

2.2.5 Human Rights Council Resolution 11/2: Accelerating efforts to eliminate all forms of violence against women 50

The Human Rights Council,

1. Stresses that “violence against women” means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life;

2. Strongly condemns all acts of violence against women and girls, whether they be perpetrated by the State, private persons or non-State actors, and calls for the elimination of all forms of gender-based violence in the family, within the general community and where perpetrated or condoned by the State, in accordance with the Declaration on the Elimination of Violence against Women, and stresses the need to treat all forms of violence against women and girls as a criminal offence, punishable by law, and the duty to provide access to just and effective remedies and specialized assistance to victims, including medical and psychological assistance, as well as effective counselling;

3. Stresses that States have the obligation to promote and protect all human rights and fundamental freedoms of women and girls and must exercise due diligence to prevent, investigate, prosecute and punish the perpetrators of violence against women and girls and provide protection to the victims, and that failure to do so violates and impairs or nullifies the enjoyment of their human rights and fundamental freedoms;

4. Calls upon States to enact and, where necessary, reinforce or amend domestic legislation, including measures to enhance the protection of victims, to investigate, prosecute, punish and redress the wrongs done to women and girls subjected to any form of violence, whether in the home, the workplace, the community or society, in custody or in situations of armed conflict, to ensure that such legislation conforms with relevant international human rights instruments and international humanitarian law, to abolish existing laws, regulations, customs and practices which constitute discrimination against women, to remove gender bias in the administration of justice, and to take action to investigate and punish persons who perpetrate acts of violence against women and girls;

5. Also calls upon States to support initiatives undertaken by women’s and non-governmental organizations on the elimination of violence against women and girls and to establish and/or strengthen, at the national level, collaborative relationships with relevant non-governmental and community-based organizations, and public and private sector institutions, aimed at the development and effective implementation of provisions and policies relating to violence against women and girls, including in the area of support services, assistance redress and empowerment of victims;

50 HUMAN RIGHTS COUNCIL, ACCELERATING EFFORTS TO ELIMINATE ALL FORMS OF VIOLENCE AGAINST WOMEN, 17 JUNE 2009, RESOLUTION 11/2, AVAILABLE AT [HTTP://WWW.UN.ORG/WOMENWATCH/DAW/VAW/HUMANRIGHTS/A_HRC_RES_11_2.PDF](http://www.un.org/womenwatch/daw/vaw/humanrights/A_HRC_RES_11_2.pdf) ((LAST VISITED 15 NOVEMBER 2019)

See also Human Rights Council, Accelerating efforts to eliminate all forms of violence against women: ensuring due diligence in prevention, 30 June 2010, A/HRC/RES/14/12, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/147/99/PDF/G1014799.pdf?OpenElement> ((last visited 15 November 2019)

6. Urges States and the United Nations system to give attention to, and encourages greater international cooperation in, systematic research and the collection, analysis and dissemination of data, including data disaggregated by sex, age and other relevant information, on the extent, nature and consequences of violence against women and girls and on the impact and effectiveness of policies and programmes for combating this violence [...]

2.2.6 UN Commission on the Status of Women, Agreed conclusions on the elimination and prevention of all forms of violence against women and girls⁵¹

[...]

12. The Commission strongly condemns all forms of violence against women and girls. It recognizes their different forms and manifestations, in different contexts, settings, circumstances and relationships [...] It also notes that women and girls who face multiple forms of discrimination are exposed to increased risk of violence. [...]

16. The Commission stresses that all States have the obligation, at all levels, to use all appropriate means of a legislative, political, economic, social and administrative nature in order to promote and protect all human rights and fundamental freedoms of women and girls, and must exercise due diligence to prevent, investigate, prosecute and punish the perpetrators of violence against women and girls and end impunity, and to provide protection as well as access to appropriate remedies for victims and survivors.

[...]

23. The Commission expresses deep concern about violence against women and girls in public spaces, including sexual harassment, especially when it is being used to intimidate women and girls who are exercising any of their human rights and fundamental freedoms.

[...]

34. The Commission urges governments, at all levels, [...] to take the following actions:

A. Strengthening implementation of legal and policy frameworks and accountability

[...]

(c) Adopt, as appropriate, review, and ensure the accelerated and effective implementation of laws and comprehensive measures that criminalize violence against women and girls and that provide for multidisciplinary and gender-sensitive preventive and protective measures, such as emergency barring orders and protection orders, the investigation, submission for prosecution and appropriate punishment of perpetrators to end impunity, support services that empower victims and survivors, as well as access to appropriate civil remedies and redress;

(f) Ensure women's and girls' unimpeded access to justice and to effective legal assistance [...], and also ensure that they have access to just and effective remedies for the harm that they have suffered, including through the adoption of national legislation where necessary;

⁵¹ UN Commission on the Status of Women: Agreed conclusions on the elimination and prevention of all forms of violence against women and girls, E/2013/27, available at <http://www.unwomen.org/-/media/headquarters/attachments/sections/csw/57/csw57-agreedconclusions-a4-en.pdf?la=en&vs=700> ((last visited 15 November 2019) on

- (g) Take the necessary legislative and/or other measures to prohibit compulsory and forced alternative dispute resolution processes, including forced mediation and conciliation, in relation to all forms of violence against women and girls;
- (h) Review and where appropriate, revise, amend or abolish all laws, regulations, policies, practices and customs that discriminate against women or have a discriminatory impact on women [...]
- (i) Mainstream a gender perspective into all legislation, policies and programmes, and allocate adequate financial and human resources [...]
- (v) Encourage private sector investment in programmes, campaigns and strategies to respond to, prevent and eliminate all forms of discrimination and violence against women and girls, including sexual harassment at the workplace, and to empower victims and survivors of violence;
[...]
- (x) Prevent, investigate and punish acts of violence against women and girls that are perpetrated by people in positions of authority [...]

B. Addressing structural and underlying causes and risk factors so as to prevent violence against women and girls

[...]

(dd) Promote women's full participation in the formal economy, in particular in economic decisionmaking, and their equal access to full employment and decent work; empower women in the informal sector; and ensure that women and men enjoy equal treatment in the workplace, as well as equal pay for equal work or work of equal value, and equal access to power and decision-making, and promote sharing of paid and unpaid work;

[...]

(yy) Take measures to ensure that all workplaces are free from discrimination and exploitation, violence, and sexual harassment and bullying, and that they address discrimination and violence against women and girls, as appropriate, through measures such as regulatory and oversight frameworks and reforms, collective agreements, codes of conduct, including appropriate disciplinary measures, protocols and procedures, referral of cases of violence to health services for treatment and police for investigation; as well as through awareness-raising and capacity-building, in collaboration with employers, unions and workers, including workplace services and flexibility for victims and survivors;

[...]

(bbb) Further adopt and implement measures to ensure the social and legal inclusion and protection of women migrants, including women migrant workers in origin, transit and destination countries, and promote and protect the full realization of their human rights, and their protection against violence and exploitation; implement gender-sensitive policies and programmes for women migrant workers and provide safe and legal channels that recognize their skills and education, provide fair labour conditions, and as appropriate facilitate their productive employment and decent work as well as integration into the labour force;

(ccc) Also take measures to ensure the protection of self-employed workers in cross-border work and women seasonal workers from violence and discrimination;

B. Strengthening multisectoral services, programmes and responses to violence against women and girls
[...]

C. Improving the evidence-base

[...]

35. The Commission emphasizes that ending violence against women and girls is imperative, including for the achievement of the internationally agreed development goals, including the Millennium Development Goals, and must be a priority for the eradication of poverty, the achievement of inclusive sustainable development, peace and security, human rights, health, gender equality and the empowerment of women, sustainable and inclusive economic growth and social cohesion, and vice versa. The Commission strongly recommends that the realization of gender equality and the empowerment of women be considered as a priority in the elaboration of the post-2015 development agenda.
[...]

2.2.7 Human Rights Council Resolution 32/19 - Accelerating efforts to eliminate violence against women: preventing and responding to violence against women and girls, including indigenous women and girls
52

The Human Rights Council, [...]

Outraged by the persistence and pervasiveness of all forms of violence against women and girls worldwide
[...]

Recognizing that violence against indigenous women and girls cannot be separated from the wider context of discrimination and exclusion to which indigenous persons are often exposed in social, economic, cultural and political life, and deeply concerned about indications that indigenous women and girls are disproportionately affected by violence, including sexual violence, given the multiple and intersecting forms of discrimination to which they may be exposed, [...]

Stresses that “violence against women” means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women and girls of any age, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life, and notes the economic and social harm caused by such violence;

Strongly condemns all acts of violence against women and girls, including against indigenous women and girls, whether these acts are perpetrated by the State, private persons or non-State actors, and calls for the elimination of all forms of sexual and gender based violence [...]

Calls upon States to take effective action to prevent violence against women and girls, including indigenous women and girls, by:

Developing, reviewing and strengthening inclusive policies [...]

Abolishing practices and legislation that discriminate against women and girls, including indigenous women and girls; [...]

Taking measures to empower women [...]

52 Human Rights Council, Accelerating efforts to eliminate violence against women: preventing and responding to violence against women and girls, including indigenous women and girls, 19 July 2016, A/HRC/RES/32/19, available at <https://wunrn.com/2016/09/violence-against-women-un-human-rights-council-july-16-resolution-eliminate-prevent-respond-to-vaw-including-indigenous-women-girls/> (last visited 15 November 2019).

Removing gender bias and other forms of discrimination from the administration of justice, and enhancing the capacity of law enforcement officials to deal appropriately with all forms of violence against women and girls, including against indigenous women and girls, by providing systematic gender sensitivity training, as appropriate, for police and security forces, prosecutors, judges and lawyers, integrating gender considerations into security sector reform initiatives, developing protocols and guidelines, and enhancing or putting in place appropriate accountability measures for adjudicators; [...]

Calls upon States to take effective action to respond to violence against women and girls, including indigenous women and girls, and to protect all victims and survivors by:[...]

Establishing, as appropriate, comprehensive, coordinated, interdisciplinary, accessible and sustained multisectoral services, programmes and responses at all levels,[...]

Ensuring women's and girls', including indigenous women's and girls', unimpeded access to justice, effective legal assistance and information regarding their human rights without discrimination so that they have access to just and effective remedies for the harm that they have experienced, including through the adoption of national legislation;

Ensuring that remedies for women and girls subjected to violence, whether judicial, administrative, policy or other measures, are available, accessible, acceptable, age- and gender-sensitive and adequately address victims' needs, including by protecting confidentiality, preventing the stigmatization, revictimization or further harm to victims, allowing reasonable time for women subjected to violence to come forward to seek redress, and ensuring reasonable evidentiary standards; [...]

2.2.8 UN Global Compact Women's Empowerment Principles: Equality Means Business⁵³

Principle 1: Leadership Promotes Gender Equality

- a. Affirm high-level support and direct top-level policies for gender equality and human rights.
- b. Establish company-wide goals and targets for gender equality and include progress as a factor in managers' performance reviews.
- c. Engage internal and external stakeholders in the development of company policies, programmes and implementation plans that advance equality.
- d. Ensure that all policies are gender-sensitive – identifying factors that impact women and men differently – and that corporate culture advances equality and inclusion.

Principle 3: Health, Safety and Freedom from Violence

[...]

- b. Establish a zero-tolerance policy towards all forms of violence at work, including verbal and/or physical abuse, and prevent sexual harassment.
- c. Strive to offer health insurance or other needed services – including for survivors of domestic violence – and ensure equal access for all employees.

[...]

⁵³ UN Global Compact & UNIFEM, Women's Empowerment Principles: Equality Means Business, March 2010, available at https://www.un.org/en/ecosoc/newfunct/pdf/womens_empowerment_principles_ppt_for_29_mar_briefing-without_notes.pdf (last visited 15 November 2019).

- e. In consultation with employees, identify and address security issues, including the safety of women traveling to and from work and on company-related business.
- f. Train security staff and managers to recognize signs of violence against women and understand laws and company policies on human trafficking, labour and sexual exploitation.

2.2.9 U.N. Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice⁵⁴

Preamble

1. The multifaceted nature of violence against women necessitates different strategies to respond to the diverse manifestations of violence and the various settings in which it occurs, both in private and in public life, whether committed in the home, the workplace, educational and training institutions, the community or society, in custody or in situations of armed conflict or natural disaster. In the updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, the importance of adopting a systematic, comprehensive, coordinated, multisectoral and sustained approach to fighting violence against women is recognized. [...]

7. The updated Model Strategies and Practical Measures recognize that crime prevention and criminal justice responses to violence against women must be focused on the needs of victims and empower individual women who are victims of violence.[...]

12. The updated Model Strategies and Practical Measures recognize that States have the obligation to promote and protect the human rights and fundamental freedoms of all people, including women, and that they must exercise due diligence and take relevant measures to prevent, investigate and punish the perpetrators of violence against women, to eliminate impunity and to provide protection to the victims, and that failure to do so violates and impairs or nullifies the enjoyment of women's human rights and fundamental freedoms. [...]

II. Criminal law

14. Member States are urged:

(a) To review, evaluate and update their national laws, policies, codes, procedures, programmes and practices, especially their criminal laws, on an ongoing basis to ensure and guarantee their value, comprehensiveness and effectiveness in eliminating all forms of violence against women and to remove provisions that allow for or condone violence against women or that increase the vulnerability or revictimization of women who have been subject to violence;

(b) To review, evaluate and update their criminal and civil laws in order to ensure that all forms of violence against women are criminalized and prohibited and, if not, to adopt measures to do so, including measures aimed at preventing violence against women, protecting, empowering and supporting survivors, adequately punishing perpetrators and ensuring available remedies for victims; [...]

⁵⁴ U.N. General Assembly, Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, 31 March 2011, A/RES/65/228, Annex., available at https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/Model_Strategies_and_Practical_Measures_on_the_Elimination_of_Violence_against_Women_in_the_Field_of_Crime_Prevention_and_Criminal_Justice.pdf (last visited 15 November 2019).

III. Criminal procedure

15. Member States are urged to review, evaluate and update their criminal procedures, as appropriate and taking into account all relevant international legal instruments, in order to ensure that:

- (a) The police and other law enforcement agencies have, with judicial authorization where required by national law, adequate powers to enter premises and conduct arrests in cases of violence against women and to take immediate measures to ensure the safety of victims;
 - (b) The primary responsibility for initiating investigations and prosecutions lies with the police and prosecution authorities and does not rest with women subjected to violence, regardless of the level or form of violence;
 - (c) Women subjected to violence are enabled to testify in criminal proceedings through adequate measures that facilitate such testimony by protecting the privacy, identity and dignity of the women; ensure safety during legal proceedings; and avoid “secondary victimization”. In jurisdictions where the safety of the victim cannot be guaranteed, refusing to testify should not constitute a criminal or other offence;
 - (d) Evidentiary rules are non-discriminatory; all relevant evidence can be brought before the court; rules and principles of defence do not discriminate against women; and “honour” or “provocation” cannot be invoked by perpetrators of violence against women to escape criminal responsibility; [...]
 - (f) People who perpetrate acts of violence against women while voluntarily under the influence of alcohol, drugs or other substances are not exempted from criminal responsibility;
 - (g) Evidence of prior acts of violence, abuse, stalking and exploitation by the perpetrator is considered during court proceedings, in accordance with the principles of national criminal law;
 - (h) Police and courts have the authority to issue and enforce protection and restraining or barring orders in cases of violence against women [...] and to impose penalties for breaches of those orders. [...] Such protective measures should not be dependent on the initiation of a criminal case;
 - (i) Comprehensive services are provided and protection measures are taken when necessary to ensure the safety, privacy and dignity of victims and their families at all stages of the criminal justice process, without prejudice to the victim’s ability or willingness to participate in an investigation or prosecution, and to protect them from intimidation and retaliation, including by establishing comprehensive witness and victim protection programmes;
 - (j) Safety risks, including the vulnerability of victims, are taken into account in decisions concerning non-custodial or quasi-custodial sentences, the granting of bail, conditional release, parole or probation, especially when dealing with repeat and dangerous offenders; [...]
- (l) All procedures and complaint mechanisms are accessible to women who are victims of violence without fear of reprisal or discrimination.

IV. Police, prosecutors and other criminal justice officials

16. Member States are urged, within the framework of their national legal systems, as appropriate and taking into account all relevant international legal instruments: [...]

- (c) To promote the use of specialized expertise in the police, among prosecution authorities and in other criminal justice agencies, including through the establishment, where possible, of specialized units or personnel and specialized courts or dedicated court time, and to ensure that all police officers, prosecutors and other criminal justice officials receive regular and institutionalized training to sensitize them to gender and child-related issues and to build their capacity with regard to violence against women; [...]
- (f) To ensure that criminal justice officials and victims’ advocates conduct risk assessments that indicate the level or extent of harm that victims may be subjected to [...];
- (g) To ensure that laws, policies, procedures and practices pertaining to decisions on the arrest, detention and terms of any form of release of the perpetrator take into account the need for the safety of the victim

and others related through family, socially or otherwise and that such procedures also prevent further acts of violence;

(h) To establish a registration system for judicial protection, restraining or barring orders, where such orders are permitted by national law, so that police or criminal justice officials can quickly determine whether such an order is in force;

(i) To empower and equip police, prosecutors and other criminal justice officials to respond promptly to incidents of violence against women, including by drawing on a rapid court order, where appropriate, and by taking measures to ensure the fast and efficient management of cases; [...]

(l) To provide victims of violence, where possible, with the right to speak to a female officer, whether it be the police or any other criminal justice official; [...]

V. Sentencing and corrections

17. Recognizing the serious nature of violence against women and the need for crime prevention and criminal justice responses that are commensurate with that severity, Member States are urged, as appropriate:

(a) To review, evaluate and update sentencing policies and procedures in order to ensure that they:

(i) Hold offenders accountable for their acts related to violence against women; [...]

(v) Take into account the impact on victims and their family members of sentences imposed on perpetrators; [...]

(vii) Provide reparations for harm caused as a result of the violence; [...]

(b) To ensure that their national laws take into account specific circumstances as aggravating factors for sentencing purposes, including, for example, repeated violent acts, abuse of a position of trust or authority [...];

(c) To ensure the right of a victim of violence to be notified of the offender's release from detention or imprisonment;

(d) To take into account, in the sentencing process, the severity of the physical and psychological harm and the impact of victimization, including through victim impact statements; [...]

(f) To develop and evaluate treatment and reintegration/rehabilitation programmes for perpetrators of different types of violence against women that prioritize the safety of the victims; [...]

(i) To provide adequate protection to victims and witnesses of acts of violence before, during and after criminal proceedings.

VI. Victim support and assistance

18. Member States are urged, as appropriate and taking into account all relevant international legal instruments, in particular the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power:

(a) To make available to women who have been subjected to violence relevant information on rights, remedies and victim support services and on how to obtain them, in addition to information about their role and opportunities for participating in criminal proceedings and the scheduling, progress and ultimate disposition of the proceedings, as well as any orders against the offender;

(b) To encourage and assist women subjected to violence in lodging and following through on formal complaints by providing protection to the victims and advising them that the responsibility for pursuing charges and prosecuting offenders rests with the police and the prosecution; [...]

(d) To ensure that women subjected to violence have access to prompt and fair redress for the harm that they have suffered as a result of violence, including the right to seek restitution from the offender or compensation from the State;

(e) To provide court mechanisms and procedures that are accessible and sensitive to the needs of women subjected to violence and that ensure the fair and timely processing of cases;

(f) To provide efficient and easily accessible procedures for issuing restraining or barring orders to protect women and other victims of violence and for ensuring that victims are not held accountable for breaches of such orders; [...]

(h) To ensure that women subjected to violence have full access to the civil and criminal justice systems, including access to free legal aid, where appropriate, court support and interpretation services;

(i) To ensure that women subjected to violence have access to qualified personnel who can provide victim advocacy and support services throughout the entire criminal justice process, as well as access to any other independent support persons;

(j) To ensure that all services and legal remedies available to victims of violence against women are also available to immigrant women, trafficked women, refugee women, stateless women and all other women in need of such assistance, and that specialized services for such women are established, where appropriate; [...]

VIII. Training

20. Member States, in cooperation with relevant non-governmental organizations and professional associations, are urged, as appropriate:

(a) To provide for or to encourage mandatory cross-cultural gender and child-sensitivity training modules for police, criminal justice officials and professionals involved in the criminal justice system on the unacceptability of all forms of violence against women and on their harmful impact and consequences on all those who experience such violence; [...]

2.2.10 Report of the UN Special Rapporteur on violence against women, its causes and consequences⁵⁵

D. Shelters and protection orders: gaps, challenges and good practices

[...]

78. Some women may also be excluded from shelters by law. For instance, in some countries there is a law that public funds may not be used for women without legal status, preventing them from accessing public services (see CEDAW/C/GBR/CO/7, para. 56). In these countries, undocumented migrant women and migrant workers, who are particularly vulnerable to violence perpetrated by abusive employers, husbands or other relatives, are excluded from access to shelters.

IV. Conclusions and recommendations

A. Specific recommendations to States

Human rights-based approach and integrated and coordinated laws and policies

101. When formulating and implementing national laws on violence against women and domestic violence, States should apply the human rights-based approach provided by the Convention on the Elimination of All Forms of Discrimination against Women and regional instruments to prevent violence against women, protect women's right to live free from violence and prosecute perpetrators. States need to establish a coherent legal framework of aligned laws addressing protection services such as shelters and protection measures, including protection orders, as well as effective mechanisms for cooperation and coordination between and across different mandates of the State system dealing with violence against women. These include the police, public prosecutors, the judiciary and social services, health-care professionals, NGOs

⁵⁵ Report of the UN Special Rapporteur on Violence Against Women, its Causes and Consequences: Conclusions and Recommendations, p. 18-21, 13 June 2017, A/HRC/35/30, available at [HTTP://AP.OHCHR.ORG/DOCUMENTS/DPAGE_E.ASPX?SI=A/HRC/35/30](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/35/30) (LAST VISITED 15 NOVEMBER 2019).

and other relevant organizations providing frontline services and offering multiagency cooperation for appropriate handling of cases. [...]

Training of professionals

106. States should ensure that training on gender-based violence is mainstreamed into the basic professional training for all relevant professionals, including police officers, lawyers, judges, social workers and medical professionals. [...]

Efficient protection orders

112. States shall make the necessary amendments to domestic legislation to ensure that protection orders are duly enforced by public officials and easily obtainable. In this regard:

(a) States shall ensure that the competent authorities are granted the power to issue protection orders for all forms of violence against women.

[...]

(g) States should provide appropriate criminal sanctions for perpetrators' non-compliance with protection orders;

(h) States should ensure regular monitoring of the implementation of protection orders and their automatic enforceability across jurisdictions.

113. States should also guarantee that all cases of gender-based violence are heard in a timely and impartial manner, that ex officio prosecution is duly exercised and that proceedings may continue even when a victim withdraws her complaint.

114. States should also avoid mandatory reconciliation in cases of violence against women. [...]

2.2.11 Report of the UN Special Rapporteur on violence against women, its causes and consequences on Online Violence against Women and Girls from a Human Rights Perspective 56

[...]

31. ICT may be used directly as a tool for making digital threats and inciting gender based violence, including threats of physical and/or sexual violence, rape, killing, unwanted and harassing online communications [...]

ICT-facilitated violence against women may also be committed in the work place [...]

[...]

40. Online sexual harassment refers to any form of online unwanted verbal or nonverbal conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular by creating an intimidating, hostile, degrading, humiliating or offensive environment.

[...]

B. Recommendations for States

93. States should recognize online and ICT-facilitated violence against women as a human rights violation and a form of discrimination and gender-based violence against women, and duly apply core international human rights instruments.

94. States should implement the principle that the human rights and women's rights protected offline should be protected online by the ratification and implementation of all core human rights treaties.

56 Report of the UN Special Rapporteur on Violence Against Women, its Causes and Consequences on Online Violence against Women and Girls from a Human Rights Perspective, para 31 et seq, 14 June 2018, A/HRC/35/30, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/184/58/PDF/G1818458.pdf?OpenElement> (last visited 15 November 2019).

95. States should, in accordance with the principle of due diligence, enact new laws and measures to prohibit new emerging forms of online gender-based violence. [...]

[...]

C. Recommendations for Internet intermediaries

115. Internet intermediaries should uphold the principle that human rights are protected online, and voluntarily accept and apply all core international human rights and women's rights instruments with a view to contributing to universal human rights protection and achieving the empowerment of women, and the elimination of discrimination and violence against them in digital space. [...]

116. Intermediaries should adopt transparent complaint mechanisms for cases of online and ICT-facilitated violence against women and girls.

[...]

2.2.12 Transforming our World: The 2030 Agenda for Sustainable Development⁵⁷

Goal 5. Achieve gender equality and empower all women and girls

5.1 End all forms of discrimination against all women and girls everywhere

5.2 Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation. [...]

5.c Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.

Goal 8. Promote [...] full and productive employment and decent work for all

[...]

8.8 Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment

2.2.13 UNHCR Guidelines on International Protection No. 1: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees⁵⁸

B. WELL FOUNDED FEAR OF PERSECUTION

9. What amounts to a well-founded fear of persecution will depend on the particular circumstances of each individual case. While female and male applicants may be subjected to the same forms of harm, they may also face forms of persecution specific to their sex. [...]

In this sense, international law can assist decision-makers to determine the persecutory nature of a particular act. There is no doubt that rape and other forms of gender-related violence, such as dowry-related violence, female genital mutilation, domestic violence, and trafficking, are acts which inflict severe pain and suffering – both mental and physical – and which have been used as forms of persecution, whether perpetrated by State or private actors.

Discrimination amounting to persecution

⁵⁷ UN General Assembly, Transforming our World: the 2030 Agenda for Sustainable Development, 21 October

2015, A/RES/70/1, available at <http://www.refworld.org/docid/57b6e3e44.html> (last visited 15 November 2019).

⁵⁸ UN High Commissioner for Refugees (UNHCR), Guidelines on International Protection No. 1: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees, 7 May 2002, HCR/GIP/02/01, available at <http://www.refworld.org/docid/3d36f1c64.html> (last visited 15 November 2019).

14. While it is generally agreed that ‘mere’ discrimination may not, in the normal course, amount to persecution in and of itself, a pattern of discrimination or less favourable treatment could, on cumulative grounds, amount to persecution and warrant international protection. It would, for instance, amount to persecution if measures of discrimination lead to consequences of a substantially prejudicial nature for the person concerned, e.g. serious restrictions on the right to earn one’s livelihood, the right to practice one’s religion, or access to available educational facilities.

15. Significant to gender-related claims is also an analysis of forms of discrimination by the State in failing to extend protection to individuals against certain types of harm. If the State, as a matter of policy or practice, does not accord certain rights or protection from serious abuse, then the discrimination in extending protection, which results in serious harm inflicted with impunity, could amount to persecution. [...]

Agents of Persecution

19. There is scope within the refugee definition to recognise both State and non-State actors of persecution. While persecution is most often perpetrated by the authorities of a country, serious discriminatory or other offensive acts committed by the local populace, or by individuals, can also be considered persecution if such acts are knowingly tolerated by the authorities, or if the authorities refuse, or are unable, to offer effective protection.

C. THE CAUSAL LINK (“for reasons of”)

20. The well-founded fear of being persecuted must be related to one or more of the Convention grounds. That is, it must be “for reasons of” race, religion, nationality, membership of a particular social group, or political opinion. [...]

21. In cases where there is a risk of being persecuted at the hands of a non-State actor (e.g. husband, partner or other non-State actor) for reasons which are related to one of the Convention grounds, the causal link is established, whether or not the absence of State protection is Convention related. Alternatively, where the risk of being persecuted at the hands of a non-State actor is unrelated to a Convention ground, but the inability or unwillingness of the State to offer protection is for reasons of a Convention ground, the causal link is also established. [...]

2.2.14 Other Non-Binding Standards: Initiatives of Employers’ and Workers’ Organizations

Achieving Gender Equality: A Trade Union Manual (International Trade Union Confederation)

Guide to Occupational Health and Safety for Entrepreneurs, Owners and Managers (International Commission on Occupational Health)

3 REGIONAL LEGAL FRAMEWORK

3.1 [European Convention on Human Rights and Fundamental Freedoms](#)⁵⁹

⁵⁹ Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5, available at https://www.echr.coe.int/Documents/Convention_ENG.pdf (last visited 15 November 2019).

SECTION I - RIGHTS AND FREEDOMS

Article 5: Right to liberty and security

1. Everyone has the right to liberty and security of person. [...]

Article 8: Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence. [...]

Article 13: Right to an effective remedy

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

Article 14: Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

3.2 [Council of Europe Convention on Preventing and Combating Violence against women and Domestic Violence \(Istanbul Convention\)](#) ⁶⁰

Chapter I – Purposes, definitions, equality and non-discrimination, general obligations

Article 1 – Purposes of the Convention

1. The purposes of this Convention are to:

- a) protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence;
- b) contribute to the elimination of all forms of discrimination against women and promote substantive equality between women and men, including by empowering women;
- c) design a comprehensive framework, policies and measures for the protection of and assistance to all victims of violence against women and domestic violence;
- d) promote international co-operation with a view to eliminating violence against women and domestic violence;
- e) provide support and assistance to organisations and law enforcement agencies to effectively cooperate in order to adopt an integrated approach to eliminating violence against women and domestic violence. [...]

Article 2 – Scope of the Convention

The European Court of Human Rights (ECtHR) has addressed domestic violence in the context of various provisions of the European Convention on Human Rights. The ECtHR has found violations in cases involving articles 2 (right to life), 3 (prohibition of inhuman and degrading treatment), 6 (right to a fair trial), 8 (right to respect for private and family life), 14 (prohibition of discrimination). For an overview of the case-law of the ECtHR in the area of domestic violence, see European Court of Human Rights, Factsheet-Domestic Violence, January 2018, available at https://www.echr.coe.int/Documents/FS_Domestic_violence_ENG.pdf (last visited 15 November 2019).

⁶⁰ Council of Europe, Council Of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, 11 May 2011, available at <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e> (last visited 15 November 2019).

1. This Convention shall apply to all forms of violence against women, including domestic violence, which affects women disproportionately.
2. Parties are encouraged to apply this Convention to all victims of domestic violence. Parties shall pay particular attention to women victims of gender-based violence in implementing the provisions of this Convention.
3. This Convention shall apply in times of peace and in situations of armed conflict.

Article 3 – Definitions

For the purpose of this Convention:

- a) “violence against women” is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;
[...]
- d) “gender-based violence against women” shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately;
- e) “victim” shall mean any natural person who is subject to the conduct specified in points a and b;
- f) “women” includes girls under the age of 18.

Article 4 – Fundamental rights, equality and non-discrimination

1. Parties shall take the necessary legislative and other measures to promote and protect the right for everyone, particularly women, to live free from violence in both the public and the private sphere.
2. Parties condemn all forms of discrimination against women and take, without delay, the necessary legislative and other measures to prevent it, in particular by:
 - embodying in their national constitutions or other appropriate legislation the principle of equality between women and men and ensuring the practical realisation of this principle;
 - prohibiting discrimination against women, including through the use of sanctions, where appropriate;
 - abolishing laws and practices which discriminate against women.
3. The implementation of the provisions of this Convention by the Parties, in particular measures to protect the rights of victims, shall be secured without discrimination on any ground such as sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status.
4. Special measures that are necessary to prevent and protect women from gender-based violence shall not be considered discrimination under the terms of this Convention.

Article 5 – State obligations and due diligence

1. Parties shall refrain from engaging in any act of violence against women and ensure that State authorities, officials, agents, institutions and other actors acting on behalf of the State act in conformity with this obligation.
2. Parties shall take the necessary legislative and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence covered by the scope of this Convention that are perpetrated by non-State actors.

Article 6 – Gender-sensitive policies

Parties shall undertake to include a gender perspective in the implementation and evaluation of the impact of the provisions of this Convention and to promote and effectively implement policies of equality between women and men and the empowerment of women.

[...]

Chapter III – Prevention

Article 12 – General obligations

1. Parties shall take the necessary measures to promote changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men.

2. Parties shall take the necessary legislative and other measures to prevent all forms of violence covered by the scope of this Convention by any natural or legal person.

3. Any measures taken pursuant to this chapter shall take into account and address the specific needs of persons made vulnerable by particular circumstances and shall place the human rights of all victims at their centre.

4. Parties shall take the necessary measures to encourage all members of society, especially men and boys, to contribute actively to preventing all forms of violence covered by the scope of this Convention.

5. Parties shall ensure that culture, custom, religion, tradition or so-called “honour” shall not be considered as justification for any acts of violence covered by the scope of this Convention.

6. Parties shall take the necessary measures to promote programmes and activities for the empowerment of women.

Article 13 – Awareness-raising

1. Parties shall promote or conduct, on a regular basis and at all levels, awareness-raising campaigns or programmes, including in co-operation with national human rights institutions and equality bodies, civil society and non-governmental organisations, especially women’s organisations, where appropriate, to increase awareness and understanding among the general public of the different manifestations of all forms of violence covered by the scope of this Convention, their consequences on children and the need to prevent such violence.

2. Parties shall ensure the wide dissemination among the general public of information on measures available to prevent acts of violence covered by the scope of this Convention.

[...]

Article 15 – Training of professionals

1. Parties shall provide or strengthen appropriate training for the relevant professionals dealing with victims or perpetrators of all acts of violence covered by the scope of this Convention, on the prevention and detection of such violence, equality between women and men, the needs and rights of victims, as well as on how to prevent secondary victimisation.

2. Parties shall encourage that the training referred to in paragraph 1 includes training on co-ordinated multi-agency co-operation to allow for a comprehensive and appropriate handling of referrals in cases of violence covered by the scope of this Convention.

Article 16 – Preventive intervention and treatment programmes

[...]

2. Parties shall take the necessary legislative or other measures to set up or support treatment programmes aimed at preventing perpetrators, in particular sex offenders, from re-offending.

[...]

Article 17 – Participation of the private sector and the media

1. Parties shall encourage the private sector, the information and communication technology sector and the media, with due respect for freedom of expression and their independence, to participate in the elaboration and implementation of policies and to set guidelines and self-regulatory standards to prevent violence against women and to enhance respect for their dignity.

[...]

Chapter IV – Protection and support

Article 18 – General obligations

1. Parties shall take the necessary legislative or other measures to protect all victims from any further acts of violence.

2. Parties shall take the necessary legislative or other measures, in accordance with internal law, to ensure that there are appropriate mechanisms to provide for effective co-operation between all relevant state agencies, including the judiciary, public prosecutors, law enforcement agencies, local and regional authorities as well as non-governmental organisations and other relevant organisations and entities, in protecting and supporting victims and witnesses of all forms of violence covered by the scope of this Convention, including by referring to general and specialist support services as detailed in Articles 20 and 22 of this Convention.

3. Parties shall ensure that measures taken pursuant to this chapter shall:

- be based on a gendered understanding of violence against women and domestic violence and shall focus on the human rights and safety of the victim;
- be based on an integrated approach which takes into account the relationship between victims, perpetrators, children and their wider social environment;
- aim at avoiding secondary victimisation;
- aim at the empowerment and economic independence of women victims of violence;
- allow, where appropriate, for a range of protection and support services to be located on the same premises;
- address the specific needs of vulnerable persons, including child victims, and be made available to them.

4. The provision of services shall not depend on the victim's willingness to press charges or testify against any perpetrator.

[...]

Article 19 – Information

Parties shall take the necessary legislative or other measures to ensure that victims receive adequate and timely information on available support services and legal measures in a language they understand.

[...]

Chapter V – Substantive law

Article 29 – Civil lawsuits and remedies

1. Parties shall take the necessary legislative or other measures to provide victims with adequate civil remedies against the perpetrator.

2. Parties shall take the necessary legislative or other measures to provide victims, in accordance with the general principles of international law, with adequate civil remedies against State authorities that have failed in their duty to take the necessary preventive or protective measures within the scope of their powers.

Article 30 – Compensation

1. Parties shall take the necessary legislative or other measures to ensure that victims have the right to claim compensation from perpetrators for any of the offences established in accordance with this Convention.

2. Adequate State compensation shall be awarded to those who have sustained serious bodily injury or impairment of health, to the extent that the damage is not covered by other sources such as the perpetrator, insurance or State-funded health and social provisions. This does not preclude Parties from claiming regress for compensation awarded from the perpetrator, as long as due regard is paid to the victim's safety.

3. Measures taken pursuant to paragraph 2 shall ensure the granting of compensation within a reasonable time.

[...]

Article 33 – Psychological violence

Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of seriously impairing a person's psychological integrity through coercion or threats is criminalised.

[...]

Article 35 – Physical violence

Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of committing acts of physical violence against another person is criminalised.

Article 36 – Sexual violence, including rape

1. Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalised:

engaging in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object;

[...]

b) engaging in other non-consensual acts of a sexual nature with a person;

[...]

2. Consent must be given voluntarily as the result of the person's free will assessed in the context of the surrounding circumstances.

3. Parties shall take the necessary legislative or other measures to ensure that the provisions of paragraph 1 also apply to acts committed against former or current spouses or partners as recognised by internal law.

[...]

Article 40 – Sexual harassment

Parties shall take the necessary legislative or other measures to ensure that any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment, is subject to criminal or other legal sanction.

[...]

Article 43 – Application of criminal offences

The offences established in accordance with this Convention shall apply irrespective of the nature of the relationship between victim and perpetrator.

[...]

Article 45 – Sanctions and measures

1. Parties shall take the necessary legislative or other measures to ensure that the offences established in accordance with this Convention are punishable by effective, proportionate and dissuasive sanctions, taking into account their seriousness. These sanctions shall include, where appropriate, sentences involving the deprivation of liberty which can give rise to extradition.

[...]

Article 46 – Aggravating circumstances

1. Parties shall take the necessary legislative or other measures to ensure that the following circumstances, insofar as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of internal law, be taken into consideration as aggravating circumstances in the determination of the sentence in relation to the offences established in accordance with this Convention:

[...]

- b) the offence, or related offences, were committed repeatedly;
- c) the offence was committed against a person made vulnerable by particular circumstances;
- d) the offence was committed against or in the presence of a child;
- e) the offence was committed by two or more people acting together;
- f) the offence was preceded or accompanied by extreme levels of violence;
- g) the offence was committed with the use or threat of a weapon;
- h) the offence resulted in severe physical or psychological harm for the victim;
- i) the perpetrator had previously been convicted of offences of a similar nature.

[...]

Article 48 – Prohibition of mandatory alternative dispute resolution processes or sentencing

1. Parties shall take the necessary legislative or other measures to prohibit mandatory alternative dispute resolution processes, including mediation and conciliation, in relation to all forms of violence covered by the scope of this Convention. [...]

Chapter VI – Investigation, prosecution, procedural law and protective measures

Article 49 – General obligations

Parties shall take the necessary legislative or other measures to ensure that investigations and judicial proceedings in relation to all forms of violence covered by the scope of this Convention are carried out without undue delay while taking into consideration the rights of the victim during all stages of the criminal proceedings. [...]

Article 50 – Immediate response, prevention and protection

1. Parties shall take the necessary legislative or other measures to ensure that the responsible law enforcement agencies respond to all forms of violence covered by the scope of this Convention promptly and appropriately by offering adequate and immediate protection to victims.

w. Parties shall take the necessary legislative or other measures to ensure that the responsible law enforcement agencies engage promptly and appropriately in the prevention and protection against all forms of violence covered by the scope of this Convention, including the employment of preventive operational measures and the collection of evidence.

[...]

Article 53 – Restraining or protection orders

1. Parties shall take the necessary legislative or other measures to ensure that appropriate restraining or protection orders are available to victims of all forms of violence covered by the scope of this Convention.

2. Parties shall take the necessary legislative or other measures to ensure that the restraining or protection orders referred to in paragraph 1 are:

–available for immediate protection and without undue financial or administrative burdens placed on the victim;

–issued for a specified period or until modified or discharged;

–where necessary, issued on an ex parte basis which has immediate effect;

–available irrespective of, or in addition to, other legal proceedings;

–allowed to be introduced in subsequent legal proceedings.

3. Parties shall take the necessary legislative or other measures to ensure that breaches of restraining or protection orders issued pursuant to paragraph 1 shall be subject to effective, proportionate and dissuasive criminal or other legal sanctions.

[...]

Article 56 – Measures of protection

1. Parties shall take the necessary legislative or other measures to protect the rights and interests of victims, including their special needs as witnesses, at all stages of investigations and judicial proceedings, in particular by:

a) providing for their protection, as well as that of their families and witnesses, from intimidation, retaliation and repeat victimisation;

b) ensuring that victims are informed, at least in cases where the victims and the family might be in danger, when the perpetrator escapes or is released temporarily or definitively;

c) informing them, under the conditions provided for by internal law, of their rights and the services at their disposal and the follow-up given to their complaint, the charges, the general progress of the investigation or proceedings, and their role therein, as well as the outcome of their case;

d) enabling victims, in a manner consistent with the procedural rules of internal law, to be heard, to supply evidence and have their views, needs and concerns presented, directly or through an intermediary, and considered;

e) providing victims with appropriate support services so that their rights and interests are duly presented and taken into account;

f) ensuring that measures may be adopted to protect the privacy and the image of the victim;

g) ensuring that contact between victims and perpetrators within court and law enforcement agency premises is avoided where possible;

h) providing victims with independent and competent interpreters when victims are parties to proceedings or when they are supplying evidence;

i) enabling victims to testify, according to the rules provided by their internal law, in the courtroom without being present or at least without the presence of the alleged perpetrator, notably through the use of appropriate communication technologies, where available.

[...]

Article 57 – Legal aid

Parties shall provide for the right to legal assistance and to free legal aid for victims under the conditions provided by their internal law.

[...]

Article 60 – Gender-based asylum claims

1. Parties shall take the necessary legislative or other measures to ensure that gender-based violence against women may be recognised as a form of persecution within the meaning of Article 1, A (2), of the 1951 Convention relating to the Status of Refugees and as a form of serious harm giving rise to complementary/subsidiary protection.

2. Parties shall ensure that a gender-sensitive interpretation is given to each of the Convention grounds and that where it is established that the persecution feared is for one or more of these grounds, applicants shall be granted refugee status according to the applicable relevant instruments.

3. Parties shall take the necessary legislative or other measures to develop gender-sensitive reception procedures and support services for asylum-seekers as well as gender guidelines and gender-sensitive asylum procedures, including refugee status determination and application for international protection.

Article 61 – Non-refoulement

1. Parties shall take the necessary legislative or other measures to respect the principle of non-refoulement in accordance with existing obligations under international law.

2. Parties shall take the necessary legislative or other measures to ensure that victims of violence against women who are in need of protection, regardless of their status or residence, shall not be returned under any circumstances to any country where their life would be at risk or where they might be subjected to torture or inhuman or degrading treatment or punishment.

[...]

3.3 [Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence](#)⁶¹

Chapter I – Purposes, definitions, equality and non-discrimination, general obligations

Article 2 – Scope of the Convention

36. Paragraph 1 states that the focus of this Convention is on all forms of violence against women which includes domestic violence committed against women. The drafters considered it important to emphasise that the majority of victims of domestic violence are women.

Article 3 – Definitions

40. The definition of “violence against women” makes clear that, for the purpose of the Convention, violence against women shall be understood to constitute a violation of human rights and a form of discrimination. This is in line with the purpose of the Convention set out in Article 1 (b) and needs to be borne in mind when implementing the Convention. The second part of the definition is the same as contained in Council of Europe Recommendation Rec(2002) 5 of the Committee of Ministers to member states on the protection of women against violence, the CEDAW Committee General Recommendation No. 19 on violence against women (1992), as well as in Article 1 of the United Nations Declaration on the Elimination of All Forms of Violence against Women. The drafters have, however, expanded it to include the notion of “economic harm” which can be related to psychological violence.

Article 5 – State obligations and due diligence

⁶¹ Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence Istanbul, 11 May 2011, available at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800d383a> (last visited 15 November 2019).

59. Against the backdrop of these developments in international law and jurisprudence, the drafters considered it important to enshrine a principle of due diligence in this Convention. It is not an obligation of result, but an obligation of means. Parties are required to organise their response to all forms of violence covered by the scope of this Convention in a way that allows relevant authorities to diligently prevent, investigate, punish and provide reparation for such acts of violence. Failure to do so incurs state responsibility for an act otherwise solely attributed to a non-state actor. As such, violence against women perpetrated by non-state actors crosses the threshold of constituting a violation of human rights as referred to in Article 2 insofar as Parties have the obligation to take the legislative and other measures necessary to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence covered by the scope of this Convention, as well as to provide protection to the victims, and that failure to do so violates and impairs or nullifies the enjoyment of their human rights and fundamental freedoms.

Chapter III – Prevention

Article 15 – Training of professionals

98. The training and sensitisation of professionals to the many causes, manifestations and consequences of all forms of violence covered by the scope of this Convention provides an effective means of preventing such violence. Training not only allows to raise awareness among professionals on violence against women and domestic violence, but contributes to changing the outlooks and the conduct of these professionals with regard to the victims. Furthermore, it significantly improves the nature and quality of the support provided to victims. [...]

100. The relevant professionals may include professionals in the judiciary, in legal practice, in law enforcement agencies and in the fields of health care, social work and education. [...]

101. The content of paragraph 2 is linked to the greater aim of the Convention to establish a comprehensive approach to prevent and combat all forms of violence covered by its scope. This provision requires Parties to encourage that the training referred to in paragraph 1 also includes training on coordinated multi-agency co-operation, complementing in this way the obligations laid down in Article 7 of this Convention. Consequently, professionals should also be taught skills in multi-agency working, equipping them to work in co-operation with other professionals from a wide range of fields.

[...]

Article 17 – Participation of the private sector and the media

106. [...] the reference in Article 17, paragraph 1, to policies, guidelines and self-regulatory standards to prevent violence against women should be construed as encouraging more private companies to establish protocols or guidelines on, for example, how to deal with cases of sexual harassment in the workplace. [...]

Article 40 – Sexual harassment

207. This article sets out the principle that sexual harassment be subject to criminal or “other” legal sanction, which means that the drafters decided to leaving to the Parties to choose the type of consequences the perpetrator would face when committing this specific offence. While generally considering it preferable to place the conduct dealt with by this article under criminal law, the drafters acknowledged that many national legal systems consider sexual harassment under civil or labour law. Consequently, Parties may choose to deal with sexual harassment either by their criminal law or by administrative or other legal sanctions, while ensuring that the law deals with sexual harassment.

208. The type of conduct covered by this provision is manifold. It includes three main forms of behaviour: verbal, non-verbal or physical conduct of a sexual nature unwanted by the victim. Verbal conduct refers to words or sounds expressed or communicated by the perpetrator, such as jokes, questions, remarks, and may be expressed orally or in writing. Non-verbal conduct, on the other hand, covers any expressions or communication on the part of the perpetrator that do not involve words or sounds, for example facial

expressions, hand movements or symbols. Physical conduct refers to any sexual behaviour of the perpetrator and may include situations involving contact with the body of the victim. As in Article 36, any of these forms of behaviour must be of a sexual nature in order to come within the remit of this provision. Furthermore, any of the above conduct must be unwanted on the part of the victim, meaning imposed by the perpetrator. Moreover, the above acts must have the purpose or effect of violating the dignity of the victim. This is the case if the conduct in question creates an intimidating, hostile, degrading, humiliating or offensive environment. It is intended to capture a pattern of behaviour whose individual elements, if taken on their own, may not necessarily result in a sanction.

209. Typically, the above acts are carried out in a context of abuse of power, promise of reward or threat of reprisal. In most cases, victim and perpetrator know each other and their relationship is often characterised by differences in hierarchy and power. The scope of application of this article is not limited to the field of employment. However, it should be noted that the requirements for liability can differ depending on the specific situation in which the conduct takes place.

[...]

Chapter VI – Investigation, prosecution, procedural law and protective measures

[...]

Article 53 – Restraining or protection orders

267. This provision sets out the obligation to ensure that national legislation provides for restraining and/or protection orders for victims of all forms of violence covered by the scope of this Convention. Furthermore, it establishes a number of criteria for such orders to ensure that they serve the purpose of offering protection from further acts of violence. [...]

273. The fourth indent seeks to ensure the possibility for victims to obtain a restraining or protection order whether or not they choose to set in motion any other legal proceedings. [...] Standing to apply for a restraining or protection order shall therefore not be made dependent on the institution of criminal proceedings against the same perpetrator. [...]

275. Paragraph 3 aims at ensuring respect for restraining and protection orders by requiring “effective, proportionate and dissuasive” sanctions for any breach of such orders. These sanctions may be of a criminal law or other legal nature and may include prison sentences, fines or any other legal sanction that is effective, proportionate and dissuasive.

Article 57 – Legal aid

294. In the immediate aftermath of violence many victims of violence against women and domestic violence may be forced to leave all their belongings or jobs behind on a moment's notice. Judicial and administrative procedures are often highly complex and victims need the assistance of legal counsel to be able to assert their rights satisfactorily. In these cases, it might be difficult for victims to effectively access legal remedies because of the high costs which can be involved in seeking justice. For this reason the drafters believed it essential to place an obligation on Parties to provide for the right to legal assistance and to free legal aid for victims under the conditions provided by their internal law. [...]

3.4 [European Social Charter 1996 \(Revised\)](#)⁶²

⁶² Council of Europe, European Social Charter (Revised), 3 May 1996, ETS 163, available at <https://rm.coe.int/168007cf93>

Article 26 – The right to dignity at work

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:
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;
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.

3.5 [Treaty of Lisbon \(amending the Treaty of the European Union and the Treaty establishing the European Community\)](#)⁶³

Article 2

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

Article 3

1. The Union's aim is to promote peace, its values and the well-being of its peoples.

[...]

3. [The Union] shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child. [...]

Article 9

In all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies. [...]

[...]

3.6 [EU Charter of Fundamental Rights](#)⁶⁴

CHAPTER I - DIGNITY

Article 1 Human dignity

Human dignity is inviolable. It must be respected and protected.

(last visited 15 November 2019).

⁶³ Treaty of Lisbon amending the Treaty on the European Union and the Treaty establishing the European Community, 17 December 2007, consolidated version available at

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228848/7310.pdf

(last visited 15 November 2019).

⁶⁴ European Union, Charter of Fundamental Rights of the European Union, 26 October 2012, 2012/C 326/02, available at http://www.europarl.europa.eu/charter/pdf/text_en.pdf (last visited on January 9, 2019). The Charter became legally binding on the EU with the entry into force of the Treaty of Lisbon, in December 2009 (last visited 15 November 2019).

Article 3 Right to the integrity of the person

Everyone has the right to respect for his or her physical and mental integrity.

In the fields of medicine and biology, the following must be respected in particular: the free and informed consent of the person concerned, according to the procedures laid down by law, the prohibition of eugenic practices, in particular those aiming at the selection of persons, the prohibition on making the human body and its parts as such a source of financial gain, the prohibition of the reproductive cloning of human beings.

Article 4 Prohibition of torture and inhuman or degrading treatment or punishment

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 6 Right to liberty and security

Everyone has the right to liberty and security of person.

Article 7 Respect for private and family life

Everyone has the right to respect for his or her private and family life, home and communications.

CHAPTER III - EQUALITY

Article 20 Equality before the law

Everyone is equal before the law.

Article 21 Non-discrimination

1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited. [...]

Article 23 Equality between men and women

Equality between men and women must be ensured in all areas, including employment, work and pay. The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.

CHAPTER VI - JUSTICE

Article 47 Right to an effective remedy and to a fair trial

Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article. [...]

Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.

3.7 [Council Directive 2000/78/EC Establishing a General Framework for Equal Treatment in Employment and Occupation](#) ⁶⁵

[...]

Article 1

⁶⁵ Council Directive 2000/78/EC Establishing a General Framework for Equal Treatment in Employment and Occupation, 27 November 2000, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32000L0078> (last visited 15 November 2019).

Purpose

The purpose of this Directive is to lay down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, with a view to putting into effect in the Member States the principle of equal treatment.

Article 2

Concept of discrimination

1. For the purposes of this Directive, the "principle of equal treatment" shall mean that there shall be no direct or indirect discrimination whatsoever on any of the grounds referred to in Article 1.

[...]

3. 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.

4. An instruction to discriminate against persons on any of the grounds referred to in Article 1 shall be deemed to be discrimination within the meaning of paragraph 1.

[...]

Article 3

Scope

1. Within the limits of the areas of competence conferred on the Community, this Directive shall apply to all persons, as regards both the public and private sectors, including public bodies, in relation to:

(a) conditions for access to employment, to self-employment or to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion;

(b) access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience;

(c) employment and working conditions, including dismissals and pay;

[...]

3.8 [Recast Directive 2006/54/EC on Sex Discrimination in Employment](#) ⁶⁶

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

[...]

Whereas:

(1) 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,

⁶⁶ Recast Directive 2006/54/EC of the European Parliament and of the Council on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (consolidating, among others, Directive 2002/73 and relevant EU case law), 5 July 2006, available at

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32006L0054> (last visited 15 November 2019).

See also Directive 2002/73/EC of the European Parliament and of the Council (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, 23 September 2002, available at

<https://www.equalrightstrust.org/sites/default/files/ertdocs//EU%20Directive%202002-73%20amending%2076-207.pdf> (last visited 15 November 2019).

and working conditions and Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes have been significantly amended. Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women and Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex also contain provisions which have as their purpose the implementation of the principle of equal treatment between men and women. Now that new amendments are being made to the said Directives, it is desirable, for reasons of clarity, that the provisions in question should be recast by bringing together in a single text the main provisions existing in this field as well as certain developments arising out of the case-law of the Court of Justice of the European Communities (hereinafter referred to as the Court of Justice).

(2) Equality between men and women is a fundamental principle of Community law under Article 2 and Article 3(2) of the Treaty and the case-law of the Court of Justice. Those Treaty provisions proclaim equality between men and women as a 'task' and an 'aim' of the Community and impose a positive obligation to promote it in all its activities.

[...]

(4) Article 141(3) of the Treaty now provides a specific legal basis for the adoption of Community measures to ensure the application of the principle of equal opportunities and equal treatment in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.

(5) Articles 21 and 23 of the Charter of Fundamental Rights of the European Union also prohibit any discrimination on grounds of sex and enshrine the right to equal treatment between men and women in all areas, including employment, work and pay.

(6) Harassment and sexual harassment are contrary to the principle of equal treatment between men and women and constitute discrimination on grounds of sex for the purposes of this Directive. These forms of discrimination occur not only in the workplace, but also in the context of access to employment, vocational training and promotion. They should therefore be prohibited and should be subject to effective, proportionate and dissuasive penalties.

(7) In this context, employers and those responsible for vocational training should be encouraged to take measures to combat all forms of discrimination on grounds of sex and, in particular, to take preventive measures against harassment and sexual harassment in the workplace and in access to employment, vocational training and promotion, in accordance with national law and practice.

[...]

HAVE ADOPTED THIS DIRECTIVE:

TITLE I GENERAL PROVISIONS

Article 1

Purpose

The purpose of this Directive is to ensure the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

To that end, it contains provisions to implement the principle of equal treatment in relation to:

- (a) access to employment, including promotion, and to vocational training;
- (b) working conditions, including pay;
- (c) occupational social security schemes.

It also contains provisions to ensure that such implementation is made more effective by the establishment of appropriate procedures.

Article 2

Definitions

1. For the purposes of this Directive, the following definitions shall apply:

- (a) 'direct discrimination': where one person is treated less favourably on grounds of sex than another is, has been or would be treated in a comparable situation;
- (b) 'indirect discrimination': where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary;
- (c) 'harassment': where 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;
- (d) '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;

[...]

2. For the purposes of this Directive, discrimination includes:

- (a) harassment and sexual harassment, as well as any less favourable treatment based on a person's rejection of or submission to such conduct;

[...]

TITLE III

HORIZONTAL PROVISIONS

CHAPTER 1

Remedies and enforcement

Section 1

Remedies

Article 17

Defence of rights

1. Member States shall ensure that, after possible recourse to other competent authorities including where they deem it appropriate conciliation procedures, judicial procedures for the enforcement of obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them, even after the relationship in which the discrimination is alleged to have occurred has ended.
2. Member States shall ensure that associations, organisations or other legal entities which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring that the provisions of this Directive are complied with, may engage, either on behalf or in support of the complainant, with his/her approval, in any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive.
3. Paragraphs 1 and 2 are without prejudice to national rules relating to time limits for bringing actions as regards the principle of equal treatment.

Article 18

Compensation or reparation

Member States shall introduce into their national legal systems such measures as are necessary to ensure real and effective compensation or reparation as the Member States so determine for the loss and damage sustained by a person injured as a result of discrimination on grounds of sex, in a way which is dissuasive and proportionate to the damage suffered. Such compensation or reparation may not be restricted by the fixing of a prior upper limit, except in cases where the employer can prove that the only damage suffered by an applicant as a result of discrimination within the meaning of this Directive is the refusal to take his/her job application into consideration.

Section 2 **Burden of proof**

Article 19

Burden of proof

1. Member States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment.
2. Paragraph 1 shall not prevent Member States from introducing rules of evidence which are more favourable to plaintiffs.
3. Member States need not apply paragraph 1 to proceedings in which it is for the court or competent body to investigate the facts of the case.
4. Paragraphs 1, 2 and 3 shall also apply to:
 - (a) the situations covered by Article 141 of the Treaty and, insofar as discrimination based on sex is concerned, by Directives 92/85/EEC and 96/34/EC;
 - (b) any civil or administrative procedure concerning the public or private sector which provides for means of redress under national law pursuant to the measures referred to in (a) with the exception of out-of-court procedures of a voluntary nature or provided for in national law.
5. This Article shall not apply to criminal procedures, unless otherwise provided by the Member States.

CHAPTER 2

Promotion of equal treatment — dialogue

Article 20

Equality bodies

1. Member States shall designate and make the necessary arrangements for a body or bodies for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on grounds of sex. These bodies may form part of agencies with responsibility at national level for the defence of human rights or the safeguard of individuals' rights.

[...]

Article 21

Social dialogue

1. Member States shall, in accordance with national traditions and practice, take adequate measures to promote social dialogue between the social partners with a view to fostering equal treatment, including, for example, through the monitoring of practices in the workplace, in access to employment, vocational training and promotion, as well as through the monitoring of collective agreements, codes of conduct, research or exchange of experience and good practice.

[...]

Article 22

Dialogue with non-governmental organisations

Member States shall encourage dialogue with appropriate non-governmental organisations which have, in accordance with their national law and practice, a legitimate interest in contributing to the fight against discrimination on grounds of sex with a view to promoting the principle of equal treatment.

CHAPTER 3

General horizontal provisions

Article 23

Compliance

Member States shall take all necessary measures to ensure that:

- (a) any laws, regulations and administrative provisions contrary to the principle of equal treatment are abolished;
- (b) provisions contrary to the principle of equal treatment in individual or collective contracts or agreements, internal rules of undertakings or rules governing the independent occupations and professions and workers' and employers' organisations or any other arrangements shall be, or may be, declared null and void or are amended;
- (c) occupational social security schemes containing such provisions may not be approved or extended by administrative measures.

Article 24

Victimisation

Member States shall introduce into their national legal systems such measures as are necessary to protect employees, including those who are employees' representatives provided for by national laws and/or practices, against dismissal or other adverse treatment by the employer as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with the principle of equal treatment.

Article 25

Penalties

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive, and shall take all measures necessary to ensure that they are applied. The penalties, which may comprise the payment of compensation to the victim, must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by 5 October 2005 at the latest and shall notify it without delay of any subsequent amendment affecting them.

Article 26

Prevention of discrimination

Member States shall encourage, in accordance with national law, collective agreements or practice, employers and those responsible for access to vocational training to take effective measures to prevent all forms of discrimination on grounds of sex, in particular harassment and sexual harassment in the workplace, in access to employment, vocational training and promotion.

Article 27

Minimum requirements

1. Member States may introduce or maintain provisions which are more favourable to the protection of the principle of equal treatment than those laid down in this Directive.

[...]

Article 33

Implementation

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 15 August 2008 at the latest or shall ensure, by that date, that management and labour introduce the requisite provisions by way of agreement. Member States may, if necessary to take account of particular difficulties, have up to one additional year to comply with this Directive. Member States shall take all necessary steps to be able to guarantee the results imposed by this Directive. They shall forthwith communicate to the Commission the texts of those measures.

[...]

3.9 [Directive 2010/41/EU on Equal Treatment in Self Employment](#)⁶⁷

Article 1

Subject matter

1. This Directive lays down a framework for putting into effect in the Member States the principle of equal treatment between men and women engaged in an activity in a self-employed capacity, or contributing to the pursuit of such an activity, as regards those aspects not covered by Directives 2006/54/EC and 79/7/EEC.

[...]

Article 2

Scope

This Directive covers:

(a) self-employed workers, namely all persons pursuing a gainful activity for their own account, under the conditions laid down by national law;

[...]

Article 3

Definitions

For the purposes of this Directive, the following definitions shall apply:

(a) 'direct discrimination': where one person is treated less favourably on grounds of sex than another is, has been or would be, treated in a comparable situation;

(b) 'indirect discrimination': where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that

⁶⁷ Directive 2010/41/EU of the European Parliament and of the Council on the Application of the Principle of Equal Treatment Between Men And Women Engaged in an Activity in a Self-Employed Capacity (repealing Council Directive 86/613/EEC), 7 July 2010, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32010L0041&from=EN> (last visited 15 November 2019).

provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary;

(c) 'harassment': where unwanted conduct related to the sex of a person occurs with the purpose, or effect, of violating the dignity of that person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment;

(d) '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.

Article 4

Principle of equal treatment

1. The principle of equal treatment means that there shall be no discrimination whatsoever on grounds of sex in the public or private sectors, either directly or indirectly, for instance in relation to the establishment, equipment or extension of a business or the launching or extension of any other form of self-employed activity.

2. In the areas covered by paragraph 1, harassment and sexual harassment shall be deemed to be discrimination on grounds of sex and therefore prohibited. A person's rejection of, or submission to, such conduct may not be used as a basis for a decision affecting that person.

[...]

Article 9

Defence of rights

1. The Member States shall ensure that judicial or administrative proceedings, including, where Member States consider it appropriate, conciliation procedures, for the enforcement of the obligations under this Directive are available to all persons who consider they have sustained loss or damage as a result of a failure to apply the principle of equal treatment to them, even after the relationship in which the discrimination is alleged to have occurred has ended.

2. The Member States shall ensure that associations, organisations and other legal entities which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring that this Directive is complied with may engage, either on behalf or in support of the complainant, with his or her approval, in any judicial or administrative proceedings provided for the enforcement of obligations under this Directive.

3. Paragraphs 1 and 2 shall be without prejudice to national rules on time limits for bringing actions relating to the principle of equal treatment.

Article 10

Compensation or reparation

The Member States shall introduce such measures into their national legal systems as are necessary to ensure real and effective compensation or reparation, as Member States so determine, for the loss or damage sustained by a person as a result of discrimination on grounds of sex, such compensation or reparation being dissuasive and proportionate to the loss or damage suffered. Such compensation or reparation shall not be limited by the fixing of a prior upper limit.

Article 11

Equality bodies

1. The Member States shall take the necessary measures to ensure that the body or bodies designated in accordance with Article 20 of Directive 2006/54/EC are also competent for the promotion, analysis,

monitoring and support of equal treatment of all persons covered by this Directive without discrimination on grounds of sex. [...]

Article 12

Gender mainstreaming

The Member States shall actively take into account the objective of equality between men and women when formulating and implementing laws, regulations, administrative provisions, policies and activities in the areas referred to in this Directive.

Article 13

Dissemination of information

The Member States shall ensure that the provisions adopted pursuant to this Directive, together with the relevant provisions already in force, are brought by all appropriate means to the attention of the persons concerned throughout their territory.

Article 14

Level of protection

The Member States may introduce or maintain provisions which are more favourable to the protection of the principle of equal treatment between men and women than those laid down in this Directive.

[...]

3.10 [Council Directive \(89/391/EEC\) on the Introduction of Measures to Encourage Improvements in the Safety and Health of Workers at Work](#)⁶⁸

[...]

SECTION II

EMPLOYERS' OBLIGATIONS

Article 5

General provision

1. The employer shall have a duty to ensure the safety and health of workers in every aspect related to the work.
2. Where, pursuant to Article 7 (3), an employer enlists competent external services or persons, this shall not discharge him from his responsibilities in this area.

[...]

Article 6

General obligations on employers

1. Within the context of his responsibilities, the employer shall take the measures necessary for the safety and health protection of workers, including prevention of occupational risks and provision of information and training, as well as provision of the necessary organization and means.

⁶⁸ Council Directive on the introduction of measures to encourage improvements in the safety and health of workers at work, 12 June 1989 (89/391/EEC), available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01989L0391-20081211> (last visited 15 November 2019).

The employer shall be alert to the need to adjust these measures to take account of changing circumstances and aim to improve existing situations.

[...]

3.11 [Directive 2012/29/EU Establishing Standards on the Rights, Support and Protection of Victims of Crime](#) ⁶⁹

Chapter 4 - Protection of victims and recognition of victims with specific protection needs

Article 18

Right to protection

Without prejudice to the rights of the defence, Member States shall ensure that measures are available to protect victims and their family members from secondary and repeat victimisation, from intimidation and from retaliation, including against the risk of emotional or psychological harm, and to protect the dignity of victims during questioning and when testifying. When necessary, such measures shall also include procedures established under national law for the physical protection of victims and their family members.

Article 22

Individual assessment of victims to identify specific protection needs

1. Member States shall ensure that victims receive a timely and individual assessment, in accordance with national procedures, to identify specific protection needs and to determine whether and to what extent they would benefit from special measures in the course of criminal proceedings, as provided for under Articles 23 and 24, due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.

[...]

3. In the context of the individual assessment, particular attention shall be paid to victims who have suffered considerable harm due to the severity of the crime; victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics; victims whose relationship to and dependence on the offender make them particularly vulnerable. In this regard, *victims of [...] gender-based violence, [...] sexual violence, exploitation [...] shall be duly considered.*

[...]

Article 23

Right to protection of victims with specific protection needs during criminal proceedings

[...]

2. The following measures shall be available during criminal investigations to victims with specific protection needs identified in accordance with Article 22(1): [...]

(d) all interviews with victims of sexual violence, gender-based violence or violence in close relationships, unless conducted by a prosecutor or a judge, being conducted by a person of the same sex as the victim, if the victim so wishes, provided that the course of the criminal proceedings will not be prejudiced.

⁶⁹ European Union: Council of the European Union, Directive 2012/29/EU of the European Parliament and of the Council of October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, 14 November 2012, L 315/57, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&from=en> (last visited 15 November 2019).

3. The following measures shall be available for victims with specific protection needs identified in accordance with Article 22(1) during court proceedings:

- (a) measures to avoid visual contact between victims and offenders including during the giving of evidence, by appropriate means including the use of communication technology;
 - (b) measures to ensure that the victim may be heard in the courtroom without being present, in particular through the use of appropriate communication technology;
 - (c) measures to avoid unnecessary questioning concerning the victim's private life not related to the criminal offence; and
 - (d) measures allowing a hearing to take place without the presence of the public.
- [...]

3.12 [OSCE Decision No. 7/14 Preventing and Combating Violence Against Women](#)⁷⁰

[...]

The Ministerial Council,

Reaffirming the commitment to respect human rights and fundamental freedoms for all without distinction as to race, sex, language or religion, as enshrined in the provision of the Helsinki Final Act of 1975,

[..]

Deeply concerned by the persistence of violence against women as one of the most pervasive human rights violations in the OSCE area, manifested as physical, sexual, and psychological violence and reiterating the particular need to take more vigorous measures in preventing and combating violence against women, to which gender inequality can be among the major contributing factors,

[...]

Calls on the participating States to take on the following measures related to combating and preventing violence against women in the areas of developing legal frameworks and partnerships, preventing and prosecuting violence against women, and protecting victims;

[...]

(A) Legal framework

Calls on the participating States to:

– Request, as appropriate, opinions produced by the ODIHR on legal and policy frameworks for preventing and combating violence against women, including domestic violence;

– Collect, maintain and make public reliable, comparable, disaggregated, and comprehensive evidence based data and statistics regarding all forms of violence against women, including sexual and domestic violence, whilst ensuring compliance with their data protection laws, and include information on the number of cases reported to law enforcement bodies, the numbers investigated and prosecuted and the sentences imposed;

⁷⁰ OSCE Decision No. 7/14 Preventing and Combating Violence Against Women, MC.DEC/7/14/Corr.1 (5 December 2014), available at <https://www.osce.org/cio/130721?download=true> (last visited 15 November 2019).

– Align national legislation with relevant international standards they have undertaken, if they have not done so already, and OSCE commitments on all forms of violence against women, and consider best practices when adopting relevant legislation;

– Give consideration to the signature and ratification of relevant regional and international instruments, such as the Council of Europe Convention on preventing and combating violence against women and domestic violence, where applicable.

[...]

(B) Prevention

Encourages the participating States to:

– Strengthen efforts to reach out to the public through public awareness and sensitization activities, in order to address negative stereotypes, attitudes, and prejudices which contribute to all forms of violence against women;

– Take appropriate measures to increase the engagement and participation of men and boys in the prevention and elimination of all forms of violence against women, including sexual and domestic violence;

– Take measures to raise awareness of the vicious cycle of violence that might emanate from physical, sexual, and psychological violence experienced in childhood and adolescence;

– Develop programmes to work with the perpetrators of violence against women, both during and after their sentence in order to avoid repeat offenses;

– Provide treatment, counselling and training courses and other measures to prevent re-victimization and trauma, including during judicial processes.

[...]

(C) Protection

5. Encourages the participating States to:

– Ensure that victims of all forms of violence against women receive timely and adequate information on available legal measures and support services, such as sexual violence crisis centres, shelters or other relevant structures, as well as healthcare, and to ensure that they are easily accessible;

– Promote programmes and activities that empower and support women who have been victims of violence.

[...]

(D) Prosecution

7. Encourages the participating States to:

- Strengthen the efforts to investigate, prosecute and punish the perpetrators of all forms of violence against women and provide victims with protection and appropriate remedies;
- Ensure the development and effective implementation of legislation that criminalize violence against women and that provides for preventative and protective measures, such as emergency barring orders and protection orders, where they exist, as well as the investigation, and submission for prosecution and appropriate punishment of perpetrators, including with a view to end impunity.

(E) Partnership

8. Encourages the participating States to:

- Develop comprehensive and coordinated national policies aimed at combating all forms of violence against women, encompassing all relevant actors, such as law enforcement and the justice sector, parliaments, national human rights institutions, healthcare and social services as well as civil society organizations. [...]

3.13 [African Charter on Human and Peoples' Rights](#) ⁷¹

Article 2

Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

Article 3

1. Every individual shall be equal before the law.
2. Every individual shall be entitled to equal protection of the law.

Article 4

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. [...]

Article 5

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

Article 6

Every individual shall have the right to liberty and to the security of his person. [...]

Article 15

Every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work.

⁷¹ Organization of African Unity, African Charter on Human and Peoples' Rights ("Banjul Charter"), 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986), available at http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf (last visited 15 November 2019).

Article 16

1. Every individual shall have the right to enjoy the best attainable state of physical and mental health.
2. States parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.

Article 18

[...]

3. The State shall ensure the elimination of every discrimination against women [...]

Article 28

Every individual shall have the duty to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance. [...]

- 3.14 [Protocol to the African Charter on Human and Peoples' Rights on the Right of Women in Africa \(Maputo Protocol\)](#)⁷²

Article 2 Elimination of Discrimination Against Women

States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures. In this regard they shall:

- a) include in their national constitutions and other legislative instruments, if not already done, the principle of equality between women and men and ensure its effective application;
- b) enact and effectively implement appropriate legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women;
- c) integrate a gender perspective in their policy decisions, legislation, development plans, programmes and activities and in all other spheres of life;
- d) take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist;
- e) support the local, national, regional and continental initiatives directed at eradicating all forms of discrimination against women.

2. States Parties shall commit themselves to modify the social and cultural patterns of conduct of women and men through public education, information, education and communication strategies, with a view to achieving the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for women and men.

Article 3 Right to Dignity

1. Every woman shall have the right to dignity inherent in a human being and to the recognition and protection of her human and legal rights.
2. Every woman shall have the right to respect as a person and to the free development of her personality.
3. States Parties shall adopt and implement appropriate measures to prohibit any exploitation or degradation of women.

⁷² African Union, Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 11 July 2003, available at http://www.achpr.org/files/instruments/women-protocol/achpr_instr_proto_women_eng.pdf (last visited 15 November 2019).

4. States Parties shall adopt and implement appropriate measures to ensure the protection of every woman's right to respect for her dignity and protection of women from all forms of violence, particularly sexual and verbal violence.

Article 4 The Rights to Life, Integrity and Security of the Person

1. Every woman shall be entitled to respect for her life and the integrity and security of her person. All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited.

2. States Parties shall take appropriate and effective measures to:

- a) enact and enforce laws to prohibit all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public;
- b) adopt such other legislative, administrative, social and economic measures as may be necessary to ensure the prevention, punishment and eradication of all forms of violence against women;
- c) identify the causes and consequences of violence against women and take appropriate measures to prevent and eliminate such violence;
- d) actively promote peace education through curricula and social communication in order to eradicate elements in traditional and cultural beliefs, practices and stereotypes which legitimise and exacerbate the persistence and tolerance of violence against women;
- e) punish the perpetrators of violence against women and implement programmes for the rehabilitation of women victims;
- f) establish mechanisms and accessible services for effective information, rehabilitation and reparation for victims of violence against women; [...]

Article 8 Access to Justice and Equal Protection before the Law

Women and men are equal before the law and shall have the right to equal protection and benefit of the law. States Parties shall take all appropriate measures to ensure:

- a) effective access by women to judicial and legal services, including legal aid;
- b) support to local, national, regional and continental initiatives directed at providing women access to legal services, including legal aid;
- c) the establishment of adequate educational and other appropriate structures with particular attention to women and to sensitise everyone to the rights of women;
- d) that law enforcement organs at all levels are equipped to effectively interpret and enforce gender equality rights;
- e) that women are represented equally in the judiciary and law enforcement organs;
- f) reform of existing discriminatory laws and practices in order to promote and protect the rights of women. [...]

Article 13 Economic and Social Welfare Rights

States Parties shall adopt and enforce legislative and other measures to guarantee women equal opportunities in work and career advancement and other economic opportunities. In this respect, they shall:

[...]

- c) ensure transparency in recruitment, promotion and dismissal of women and combat and punish sexual harassment in the workplace;
- d) guarantee women the freedom to choose their occupation, and protect them from exploitation by their employers violating and exploiting their fundamental rights as recognised and guaranteed by conventions, laws and regulations in force;
- e) create conditions to promote and support the occupations and economic activities of women, in particular, within the informal sector;

[...]

g) introduce a minimum age for work and prohibit the employment of children below that age, and prohibit, combat and punish all forms of exploitation of children, especially the girl-child;

[...]

m) take effective legislative and administrative measures to prevent the exploitation and abuse of women in advertising and pornography.

Article 14 Health and Reproductive Rights

1. States Parties shall ensure that the right to health of women, including sexual and reproductive health is respected and promoted. [...]

Article 25 Remedies

States Parties shall undertake to:

a) provide for appropriate remedies to any woman whose rights or freedoms, as herein recognised, have been violated;

b) ensure that such remedies are determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by law.

3.15 [American Convention on Human Rights](#) ⁷³

CHAPTER II - CIVIL AND POLITICAL RIGHTS

[...]

Article 5. Right to Humane Treatment

1. Every person has the right to have his physical, mental, and moral integrity respected.

2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. [...]

Article 7. Right to Personal Liberty

1. Every person has the right to personal liberty and security.

[...]

Article 11. Right to Privacy

1. Everyone has the right to have his honor respected and his dignity recognized.

2. No one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honor or reputation.

3. Everyone has the right to the protection of the law against such interference or attacks.

[...]

Article 24. Right to Equal Protection

All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law.

Article 25. Right to Judicial Protection

⁷³ Organization of American States (OAS), American Convention on Human Rights, "Pact of San Jose", Costa Rica, 22 November 1969, available at <https://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm> (last visited 15 November 2019).

1. Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.
2. The States Parties undertake:
 - a. to ensure that any person claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the state;
 - b. to develop the possibilities of judicial remedy; and
 - c. to ensure that the competent authorities shall enforce such remedies when granted.

CHAPTER III - ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

Article 26. Progressive Development

The States Parties undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires.

- 3.16 [Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women \(Belem do Para\)](#)⁷⁴

CHAPTER I

DEFINITION AND SCOPE OF APPLICATION

Article 1

For the purposes of this Convention, violence against women shall be understood as any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere.

Article 2

Violence against women shall be understood to include physical, sexual and psychological violence:
[...]

- b. that occurs in the community and is perpetrated by any person, including, among others, rape, sexual abuse, torture, trafficking in persons, forced prostitution, kidnapping and sexual harassment in the workplace, as well as in educational institutions, health facilities or any other place; and
- c. that is perpetrated or condoned by the state or its agents regardless of where it occurs.

CHAPTER II

RIGHTS PROTECTED

Article 3

Every woman has the right to be free from violence in both the public and private spheres.

Article 4

⁷⁴ Organization of American States (OAS), Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belem do Para"), 9 June 1994, available at <http://www.oas.org/juridico/english/treaties/a-61.html> (last visited 15 November 2019).

Every woman has the right to the recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others:

- a. The right to have her life respected;
- b. The right to have her physical, mental and moral integrity respected;
- c. The right to personal liberty and security;
- d. The right not to be subjected to torture;
- e. The rights to have the inherent dignity of her person respected and her family protected;
- f. The right to equal protection before the law and of the law;
- g. The right to simple and prompt recourse to a competent court for protection against acts that violate her rights;
- h. The right to associate freely;
- i. The right of freedom to profess her religion and beliefs within the law; and
- j. The right to have equal access to the public service of her country and to take part in the conduct of public affairs, including decision-making.

Article 5

Every woman is entitled to the free and full exercise of her civil, political, economic, social and cultural rights, and may rely on the full protection of those rights as embodied in regional and international instruments on human rights. The States Parties recognize that violence against women prevents and nullifies the exercise of these rights.

Article 6

The right of every woman to be free from violence includes, among others:

- a. The right of women to be free from all forms of discrimination; and
- b. The right of women to be valued and educated free of stereotyped patterns of behavior and social and cultural practices based on concepts of inferiority or subordination.

CHAPTER III

DUTIES OF THE STATES

Article 7

The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to:

- a. refrain from engaging in any act or practice of violence against women and to ensure that their authorities, officials, personnel, agents, and institutions act in conformity with this obligation;
- b. apply due diligence to prevent, investigate and impose penalties for violence against women;
- c. include in their domestic legislation penal, civil, administrative and any other type of provisions that may be needed to prevent, punish and eradicate violence against women and to adopt appropriate administrative measures where necessary;
- d. adopt legal measures to require the perpetrator to refrain from harassing, intimidating or threatening the woman or using any method that harms or endangers her life or integrity, or damages her property;
- e. take all appropriate measures, including legislative measures, to amend or repeal existing laws and regulations or to modify legal or customary practices which sustain the persistence and tolerance of violence against women;
- f. establish fair and effective legal procedures for women who have been subjected to violence which include, among others, protective measures, a timely hearing and effective access to such procedures;
- g. establish the necessary legal and administrative mechanisms to ensure that women subjected to violence have effective access to restitution, reparations or other just and effective remedies; and

h. adopt such legislative or other measures as may be necessary to give effect to this Convention.

Article 8

The States Parties agree to undertake progressively specific measures, including programs:

- a. to promote awareness and observance of the right of women to be free from violence, and the right of women to have their human rights respected and protected;
- b. to modify social and cultural patterns of conduct of men and women, including the development of formal and informal educational programs appropriate to every level of the educational process, to counteract prejudices, customs and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on the stereotyped roles for men and women which legitimize or exacerbate violence against women;
- c. to promote the education and training of all those involved in the administration of justice, police and other law enforcement officers as well as other personnel responsible for implementing policies for the prevention, punishment and eradication of violence against women;
- d. to provide appropriate specialized services for women who have been subjected to violence, through public and private sector agencies, including shelters, counseling services for all family members where appropriate, and care and custody of the affected children;
- e. to promote and support governmental and private sector education designed to raise the awareness of the public with respect to the problems of and remedies for violence against women;
- f. to provide women who are subjected to violence access to effective readjustment and training programs to enable them to fully participate in public, private and social life;
- g. to encourage the communications media to develop appropriate media guidelines in order to contribute to the eradication of violence against women in all its forms, and to enhance respect for the dignity of women;
- h. to ensure research and the gathering of statistics and other relevant information relating to the causes, consequences and frequency of violence against women, in order to assess the effectiveness of measures to prevent, punish and eradicate violence against women and to formulate and implement the necessary changes; and
- i. to foster international cooperation for the exchange of ideas and experiences and the execution of programs aimed at protecting women who are subjected to violence.

Article 9

With respect to the adoption of the measures in this Chapter, the States Parties shall take special account of the vulnerability of women to violence by reason of, among others, their race or ethnic background or their status as migrants, refugees or displaced persons. Similar consideration shall be given to women subjected to violence while pregnant or who are disabled, of minor age, elderly, socioeconomically disadvantaged, affected by armed conflict or deprived of their freedom. [...]

4 REGIONAL CONSENSUS DOCUMENTS: RECOMMENDATIONS, RESOLUTIONS AND OTHER NON-BINDING INSTRUMENTS

4.1 [Recommendation \(2002\)5 of the Committee of Ministers to Member States on the Protection of Women against Violence](#)⁷⁵

The Committee of Ministers [...]

Recommends that the governments of member states:

I. Review their legislation and policies with a view to:

1. guaranteeing women the recognition, enjoyment, exercise and protection of their human rights and fundamental freedoms; [...]

II. Recognise that states have an obligation to exercise due diligence to prevent, investigate and punish acts of violence, whether those acts are perpetrated by the state or private persons, and provide protection to victims;

III. Recognise that male violence against women is a major structural and societal problem, based on the unequal power relations between women and men and therefore encourage the active participation of men in actions aiming at combating violence against women;

IV. Encourage all relevant institutions dealing with violence against women (police, medical and social professions) to draw up medium- and long-term coordinated action plans, which provide activities for the prevention of violence and the protection of victims; [...]

Appendix to Recommendation (2002) 5

For the purposes of this recommendation, the term “violence against women” is to be understood as any act of gender-based violence, which results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life. This includes, but is not limited to, the following:

[...]

b. violence occurring within the general community, including, inter alia, rape, sexual abuse, sexual harassment and intimidation at work, in institutions or elsewhere [...];

c. violence perpetrated or condoned by the state or its officials;

[...]

General measures concerning violence against women

[...]

3. Member states should introduce, develop and/or improve where necessary, national policies against violence based on:

⁷⁵Council of Europe: Recommendation (2002) 5 of the Committee of Ministers to Member States on the Protection of Women Against Violence, 30 April 2002, available at

<http://www.mmuncii.ro/pub/imagemanager/images/file/Domenii/Egalitate%20de%20sanse/Rec%20CMCE%205%202002%20Pr otejarea%20femeilor%20impotriva%20violentei%20-en.pdf> (last visited 15 November 2019).

See also Parliamentary Assembly of the Council of Europe (PACE), Resolution 1691 (2009) on Rape of women, including marital rape, 2 October 2009, available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17784> (last visited 15 November 2019).

- a) maximum safety and protection of victims;
- b) empowerment of victimised women by optimal support and assistance structures which avoid secondary victimisation;
- c) adjustment of the criminal and civil law including the judicial procedure;
- d) raising of public awareness and education of children and young persons;
- e) ensuring special training for professionals confronted with violence against women;
- f) prevention in all respective fields. [...]

Information, public awareness, education and training

Member states should:

6. compile and make available to the general public appropriate information concerning the different types of violence and their consequences for victims [...]

[...]

8. include in the basic training programmes of members of the police force, judicial personnel and the medical and social fields, elements concerning the treatment of domestic violence, as well as all other forms of violence affecting women;

9. include in the vocational training programmes of these personnel, information and training so as to give them the means to detect and manage crisis situations and improve the manner in which victims are received, listened to and counselled; [...]

Assistance for and protection of victims (reception, treatment and counselling)

Member states should:

23. ensure that victims, without any discrimination, receive immediate and comprehensive assistance provided by a coordinated, multidisciplinary and professional effort, whether or not they lodge a complaint, including medical and forensic medical examination and treatment, together with post-traumatic psychological and social support as well as legal assistance; this should be provided on a confidential basis, free of charge and be available around the clock;

[...]

26. provide documentation particularly geared to victims, informing them in a clear and comprehensible manner of their rights, the service they have received and the actions they could envisage or take, regardless of whether they are lodging a complaint or not, as well as of their possibilities to continue to receive psychological, medical and social support and legal assistance;

27. promote co-operation between the police, health and social services and the judiciary system in order to ensure such coordinated actions, and encourage and support the establishment of a collaborative network of non-governmental organisations;

28. encourage the establishment of emergency services such as anonymous, free of charge telephone help-lines for victims of violence and/or persons confronted or threatened by situations of violence; [...]

29. ensure that the police and other law-enforcement bodies receive, treat and counsel victims in an appropriate manner, based on respect for human beings and dignity, and handle complaints confidentially; [...] ensure, as far as possible, that the victims of violence have the possibility to be heard by a female officer should they so wish;

30. to this end, take steps to increase the number of female police officers at all levels of responsibility; [...]

33. take all necessary measures to ensure that none of the victims suffer secondary (re)victimisation or any gender-insensitive treatment by the police, health and social personnel responsible for assistance, as well as by judiciary personnel.

Criminal law, civil law and judicial proceedings

Criminal law

Member states should:

34. ensure that criminal law provides that any act of violence against a person, in particular physical or sexual violence, constitutes a violation of that person's physical, psychological and/or sexual freedom and integrity, and not solely a violation of morality, honour or decency;

35. provide for appropriate measures and sanctions in national legislation, making it possible to take swift and effective action against perpetrators of violence and redress the wrong done to women who are victims of violence. In particular, national law should:

[...] "penalise any sexual act committed against non-consenting persons, even if they do not show signs of resistance; [...]"

"penalise any abuse of the position of a perpetrator [...]."

Civil law

Member states should:

36. ensure that, in cases where the facts of violence have been established, victims receive appropriate compensation for any pecuniary, physical, psychological, moral and social damage suffered, corresponding to the degree of gravity, including legal costs incurred;

37. envisage the establishment of financing systems in order to compensate victims.

Judicial proceedings

Member states should:

38. ensure that all victims of violence are able to institute proceedings as well as, where appropriate, public or private organisations with legal personality acting in their defence, either together with the victims or on their behalf;

39. make provisions to ensure that criminal proceedings can be initiated by the public prosecutor;

40. encourage prosecutors to regard violence against women and children as an aggravating or decisive factor in deciding whether or not to prosecute in the public interest;

41. take all necessary steps to ensure that at all stages in the proceedings, the victims' physical and psychological state is taken into account and that they may receive medical and psychological care;

42. envisage the institution of special conditions for hearing victims or witnesses of violence in order to avoid the repetition of testimony and to lessen the traumatising effects of proceedings;

43. ensure that rules of procedure prevent unwarranted and/or humiliating questioning for the victims or witnesses of violence, taking into due consideration the trauma that they have suffered in order to avoid further trauma;

44. where necessary, ensure that measures are taken to protect victims effectively against threats and possible acts of revenge; [...]

Additional measures with regard to sexual harassment

Member states should:

60. take steps to prohibit all conducts of a sexual nature, or other conduct based on sex affecting the dignity of women at work, including the behaviour of superiors and colleagues: all conduct of a sexual nature for which the perpetrator makes use of a position of authority, wherever it occurs (including situations such as neighbourhood relations, relations between students and teachers, telephone harassment, etc.), is concerned. These situations constitute a violation of the dignity of persons;

61. promote awareness, information and prevention of sexual harassment in the workplace or in relation to work or wherever it may occur and take the appropriate measures to protect women and men from such conduct.

EXPLANATORY MEMORANDUM

[...]

32. Violence against women is committed in a wide range of relationships and locations. Abuse is perpetrated by: family members, [...] acquaintances (including colleagues and clients), those in various positions of authority (including bosses and superiors in the hierarchy, [...])

33. The state: the authors felt that the state was a key player in combating violence, and that governments have a responsibility to create a climate of zero tolerance of violence, by taking the appropriate measures and instituting a system of protection and prevention. [...]

Additional measures concerning sexual harassment

Paragraphs 60 and 61

94. In this area, direct reference should be made to the texts adopted in the European Union framework (Council of the European Communities Resolution of 25 May 1991 on the protection of the dignity of women and men at work, calling on member states to institute positive measures in the public sector, in keeping with national legislation, to serve as an example for the private sector; European Commission Recommendation of 27 November 1992 on the protection of the dignity of women and men at work, requesting member states to take measures in the public sector to implement the code of practice on measures to combat sexual harassment), and to Convention No. 111 of the International Labour Organisation on Discrimination (Employment and Occupation).

95. Situations of sexual harassment are unacceptable if: a) such conduct is unwanted, unreasonable and offensive to the recipient; b) in the workplace, a person's rejection of, or submission to, such conduct on the part of employers or workers is used explicitly or implicitly as a basis for employment decisions concerning this person; c) such conduct creates an intimidating, hostile or humiliating environment for the recipient.

[...]

4.2 [Council of Europe Recommendation CM/Rec\(2019\)1 on Preventing and Combating Sexism](#)⁷⁶

The Committee of Ministers,

[...]

Concerned that sexism is linked to violence against women and girls, whereby acts of “everyday” sexism are part of a continuum of violence creating a climate of intimidation, fear, discrimination, exclusion and insecurity which limits opportunities and freedom;

[...]

Recommends that the governments of member States:

⁷⁶ Council of Europe Recommendation CM/Rec(2019)1 on Preventing and Combating Sexism, adopted by the Committee of Ministers of the Council of Europe on 27 March 2019, available at <https://rm.coe.int/prems-055519-gbr-2573-cmrec-2019-1-web-a5/168093e08c>

(last visited 15 November 2019).

1. Take measures to prevent and combat sexism and its manifestations in the public and private spheres, and encourage relevant stakeholders to implement appropriate legislation, policies and programmes, drawing on the definition and guidelines appended to this Recommendation;
[...]

Appendix to Recommendation CM/Rec(2019)

Guidelines for preventing and combating sexism: measures for implementation

Definition

For the purpose of this Recommendation, sexism is:

Any act, gesture, visual representation, spoken or written words, practice or behaviour based upon the idea that a person or a group of persons is inferior because of their sex, which occurs in the public or private sphere, whether online or offline, with the purpose or effect of:

- i. violating the inherent dignity or rights of a person or a group of persons; or
- ii. resulting in physical, sexual, psychological or socio-economic harm or suffering to a person or a group of persons; or
- iii. creating an intimidating, hostile, degrading, humiliating or offensive environment; or
- iv. constituting a barrier to the autonomy and full realisation of human rights by a person or a group of persons; or
- v. maintaining and reinforcing gender stereotypes

[...]

II.D. Workplace

Workplace sexism takes many forms and is present in the public and the private sector. It manifests itself through sexist comments, and behaviour aimed at an employee or group of employees. Sexism in the workplace includes, among others, derogatory comments, objectification, sexist humour or jokes, overfamiliar remarks, silencing or ignoring people, gratuitous comments about dress and physical appearance, sexist body language, lack of respect and masculine practices which intimidate or exclude women and favour fellow men. It impinges upon equality and dignity at work. [...] contributes to the glass ceiling that limits women's promotion opportunities. [...]

Some workplace environments are especially male-dominated, with a high risk of fostering a culture of sexism. In addition, women occupying decision making positions or those perceived as challenging the institutional male dominated hierarchy may be especially subject to sexism. [...]

The governments of member States are invited to consider the following measures:

II.D.1. Review labour legislation to prohibit sexism and sexist acts at work, and promote good practices such as risk analysis, mitigation and management measures, complaints mechanisms, remedies for victims and disciplinary action through civil or administrative law processes.

II.D.2. Encourage and provide support for the systematic review of rules, policies and regulations within both public- and private-sector establishments with a view to the adoption of appropriate codes of behaviour that incorporate complaints mechanisms and disciplinary measures in relation to sexism and sexist acts. This should also include intersecting forms of sexism, for instance, concerning migrant status or disability.

II.D.3. Encourage independent professions, professional organisations and trade unions to embrace the fight against sexism within their organisations, including in their internal rules.

II.D.4. Devise and make widely available a toolkit for combating sexism, including relevant legislative provisions and explanations as to the institutional benefits of eliminating sexism, and examples of sexist acts and of good practices for the elimination of sexism. Employers and managers, union representatives and other relevant personnel should be reminded of their obligation to eliminate workplace sexism and of the remedial action available for victims.

II.D.5. Urge commitment from the highest level (in the public and private sectors) for the promotion of an institutional culture that rejects sexism within the workplace, for instance through the drawing up of equality policies, internal guidelines and campaigns on different forms of sexism and deconstruction of stereotypes, increasing the number of women in decision-making positions and breaking the glass ceiling, including through temporary special measures such as targets and quotas.

II.D.6. Urge commitment from the highest level (in the public and private sectors) to promote awareness, information and prevention as regards sexist behaviour and to take all appropriate measures to protect workers from such conduct.

II.E. Public sector

Sexism in the public sector and reliance on gender stereotypes can result in the refusal of public services and unequal access to resources. At the same time, women working in the public sector, including those elected or members of decision-making bodies, at all levels, frequently face challenges to their dignity, legitimacy and authority owing to sexism and sexist behaviour.

The governments of member States are invited to consider the following measures:

II.E.1. Include provisions against sexism and sexist behaviour and language in internal codes of conduct and regulations, with appropriate sanctions for those working in the public sector, including elected assemblies.

II.E.2. Support initiatives and investigations undertaken by parliamentarians, civil society organisations, trade unions or activists to address sexism in the public sphere.

II.E.3. Promote the inclusion of gender equality provisions within the applicable legal framework as good public tender/procurement practice.

II.E.4. Ensure training of public sector employees on the importance of nonsexist behaviour in working with the public, as well as with workplace colleagues. Such training should include the definition of sexism, its different manifestations, ways to deconstruct gender stereotypes and biases, and how to respond to them.

II.E.5. Inform recipients of public services about their rights as regards nonsexist behaviour through, for example, awareness-raising campaigns and specific reporting schemes to identify and mediate possible problems.

[...]

4.3 [European Parliament Resolution \(2017/2897\(RSP\)\) on Combating Sexual Harassment and Abuse in the EU](#)⁷⁷

The European Parliament,

[...]

A. whereas gender equality is a core value of the EU – as recognised in the Treaties and the Charter of Fundamental Rights – which the EU has committed to integrating into all its activities;

[...]

C. whereas sexual harassment is defined in EU law as ‘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;

D. whereas sexual harassment is a form of violence against women and girls and is the most extreme yet persistent form of gender-based discrimination; whereas some 90 % of victims of sexual harassment are female and approximately 10 % are male; whereas according to the EU-wide FRA study of 2014 entitled ‘Violence against women’ one in three women have experienced physical or sexual violence during their adult lives; whereas up to 55 % of women have been sexually harassed in the EU; whereas 32 % of all victims in the EU said the perpetrator was a superior, colleague or customer; whereas 75 % of women in professions requiring qualifications or top management jobs have been sexually harassed; whereas 61 % of women employed in the service sector have been subjected to sexual harassment; whereas 20 % of young women (between the ages of 18 and 29) in the EU-28 have experienced cyber harassment; whereas one in ten women have been subjected to sexual harassment or stalking using new technology;

E. whereas cases of sexual harassment and bullying are significantly underreported to the authorities due to a fairly persistent low social awareness of the issue, insufficient channels for victim support and the perception that it is a sensitive issue for society, despite the existence of formal procedures to tackle it in the workplace and in other spheres;

F. whereas sexual violence and harassment in the workplace is a matter of health and safety and should be treated and prevented as such;

G. whereas discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation is prohibited by EU law;

H. whereas sexual violence and harassment are contrary to the principle of gender equality and equal treatment and constitute gender-based discrimination, and are therefore prohibited in employment, including with regard to access to employment, vocational training and promotion;

⁷⁷ Combating sexual harassment and abuse in the EU, European Parliament Resolution, 26 October 2017 (2017/2897(RSP)), available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2017-0417+0+DOC+PDF+VO//EN> (last visited 15 November 2019).

I. whereas the persistence of gender stereotypes, sexism, sexual harassment and abuse is a structural and widespread problem throughout Europe and the world, and is a phenomenon that involves victims and perpetrators of all ages, educational backgrounds, incomes and social positions, and whereas this has physical, sexual, emotional and psychological consequences for the victim; whereas the unequal distribution of power between men and women, gender stereotypes and sexism, including sexist hate speech, offline and online, are root causes of all forms of violence against women and have led to men's domination over women and discrimination against them and to women's full advancement being prevented;

J. whereas the Beijing Platform for Action's definition of violence against women encompasses, but is not limited to, physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere;

K. whereas the Victims' Rights Directive defines gender-based violence as a form of discrimination and a violation of the fundamental freedoms of the victim and includes violence in close relationships, sexual violence (including rape, sexual assault and harassment) [...]; whereas women victims of gender-based violence and their children often require special support and protection because of the high risk of secondary and repeat victimisation, of intimidation and of retaliation connected with such violence;

[...]

M. whereas sexual harassment and abuse, predominantly by men against women, is a structural and widespread problem throughout Europe and the world, and is a phenomenon that involves victims and perpetrators of all ages, educational backgrounds, incomes and social positions, and that is linked to the unequal distribution of power between women and men in our society;

[...]

O. whereas women in the European Union are not equally protected against gender-based violence, sexual harassment and abuse owing to differing policies and legislation across the Member States; whereas judiciary systems do not provide sufficient support to women; whereas the perpetrators of gender-based violence are often already known to the victim and whereas in many cases the victim is in a position of dependence, which increases their fear of reporting the violence;

P. whereas all Member States have signed the Istanbul Convention, but only 15 have ratified it; [...] whereas Article 40 of the Istanbul Convention stipulates that 'parties shall take the necessary legislative and other measures to ensure that any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment, is subject to criminal or other legal sanction';

Q. whereas violence and harassment in political life is disproportionately targeted at women; whereas such violence constitutes a violation of human rights and fundamental freedoms, including the obligation to ensure that women can freely participate in political representation;

R. whereas sexual harassment is defined in Article 12a of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union;

5. whereas sexual harassment or sexist behaviour is not harmless and whereas trivialising sexual harassment or sexual violence by using understated language reflects sexist attitudes towards women and communicates messages of control and power in the relationship between men and women, impacting on women's dignity, autonomy and freedom;

[...]

Zero tolerance and the fight against sexual harassment and sexual abuse in the EU

1. Strongly condemns all forms of sexual violence and physical or psychological harassment and deplores the fact that these acts are too easily tolerated, whereas in fact they constitute a systemic violation of fundamental rights and a serious crime that must be punished as such; stresses that impunity must end by ensuring that perpetrators are prosecuted;

2. Insists on effective implementation of the existing legal framework addressing sexual harassment and abuse, encouraging at the same time the EU Member States, as well as public and private companies, to take further measures to effectively prevent and end sexual harassment in the workplace and elsewhere; stresses that the dedicated legal procedures established to address sexual harassment cases in the workplace should be followed;

3. Welcomes initiatives such as the #MeToo movement that aim to report cases of sexual harassment and violence against women; strongly supports all the women and girls who have participated in the campaign, including those who denounced their perpetrators;

4. Calls on the Commission and the Member States to adequately monitor the correct implementation of the EU directives prohibiting harassment on the basis of gender and sexual harassment, and to ensure that the EU Member States strengthen the human resource capacity of equality bodies supervising discriminatory practices and make sure that these bodies are given a clear mandate and adequate resources to cover the three areas of employment, self-employment and access to goods and services;

5. **Calls on the Commission to assess, exchange and compare the existing best practices of combating sexual harassment in the workplace and to disseminate the results** of this assessment as regards the effective measures that Member States could take to encourage companies, social partners and organisations involved in vocational training to prevent all forms of gender-based discrimination, in particular as regards harassment and sexual harassment in the workplace;

6. Highlights the central role of all men in committing to change and to ending all forms of harassment and sexual violence, by combating circumstances and structures which enable, even passively, the behaviour that leads to this and challenging any misconduct or inappropriate behaviour; calls on the Member States to actively involve men in awareness-raising and prevention campaigns;

7. Believes that key actions to combat sexual harassment include tackling the issues of under-reporting and social stigma, establishing procedures of workplace accountability, active engagement of men and boys in violence prevention, and action against emerging forms of violence, e.g. in cyberspace;

8. Is alarmed that harassment of women online and especially on social media, ranging from unwanted contact, trolling and cyber-bullying to sexual harassment and threats of rape and death, is becoming widespread in our digital society, which also gives rise to new forms of violence against women and girls,

such as cyber-bullying, cyberharassment, the use of degrading images online and the distribution on social media of private photos and videos without the consent of the people involved;

9. Calls on the Commission and the Member States to ensure that funding mechanisms for programmes to combat violence against women can be used for awareness raising and to support civil society organisations addressing violence against women, including sexual harassment;

10. Calls on the Commission and the Member States to speed up the ratification of the Istanbul Convention; calls on the Member States to fully implement it, including by setting up a system of disaggregated data collection, which includes data broken down by the age and gender of the perpetrators and the relationship between the perpetrator and the victim, and which includes sexual harassment;

11. Calls on the Commission to submit a proposal for a directive against all forms of violence against women and girls and of gender-based violence; reiterates its call for the Commission to put forward a comprehensive EU strategy against all forms of genderbased violence, including sexual harassment and sexual abuse against women and girls;

12. Calls on the Council to activate the passerelle clause by adopting a unanimous decision to identify violence against women and girls (and other forms of gender-based violence) as an area of crime under Article 83(1) TFEU;

13. Calls for better inclusion of women in decision-making processes, in unions and in senior positions of organisations in the public and private sectors; calls on the Commission and the Member States, together with NGOs, social partners and equality bodies, to step up significant awareness-raising measures as regards the rights of the victims of sexual harassment and gender-based discrimination; stresses the urgent need for Member States, employers' organisations and trade unions to promote awareness of sexual harassment and to support and encourage women to report incidents immediately;

14. **Stresses the importance of dedicated training and awareness-raising campaigns regarding existing formal procedures on reporting sexual harassment in the workplace and victims' rights**, thus enforcing the principle of dignity at work and promoting a zero-tolerance approach as the norm;

Sexual harassment in parliaments, including the European Parliament

15. Strongly condemns the cases of sexual harassment that have been revealed in the media and expresses its strong support towards the victims of sexual harassment and abuse; stresses that, in order to be taken seriously, it is crucial for the EU institutions to firmly stand against any form of gender discrimination or any action that hinders gender equality;

16. Acknowledges the fact that, by a Bureau decision of 14 April 2014, the European Parliament adopted new rules which included the creation of dedicated bodies such as the Advisory Committee dealing with harassment complaints between Accredited Parliamentary Assistants and Members of the European Parliament and its prevention at the workplace and an earlier Advisory Committee dealing with harassment complaints and its prevention at the workplace for EP staff; notes with satisfaction the introduction of confidential reporting and the launch of an awareness-raising campaign aimed at combating sexual harassment within the House; notes the fact that other EU institutions have created similar bodies;

17. Calls on the President of Parliament and Parliament's administration:

- to urgently and thoroughly examine the recent media reports on sexual harassment and abuse in the European Parliament, while respecting the privacy of the victims, to share the findings with its Members and to propose adequate measures to prevent new cases;
- to evaluate and, if necessary, revise the composition of competent bodies so as to ensure independence and gender balance, and to further reinforce and promote the functioning of its Advisory Committee dealing with complaints of harassment between APAs and Members of Parliament as well as its Staff Advisory Committee for Parliament staff on harassment prevention, while acknowledging their important work;
- to revise its rules to also include trainees in all Advisory Committees on harassment prevention and to reinforce interest in strengthening their positive measures, and to avoid conflicts of interest regarding members of those important committee structures; to investigate formal cases, to maintain a confidential register of cases over time, and to adopt the best means to ensure zero tolerance at all levels in the institution;
- to set up a task force of independent experts to be convened with a mandate to examine the situation of sexual harassment and abuse in Parliament, which will carry out an evaluation of Parliament's existing Advisory Committee dealing with complaints of sexual harassment between APAs and Members of Parliament and the Staff Advisory Committee for Parliament staff on harassment prevention, and propose adequate changes;
- to fully support victims in procedures within Parliament and/or with the local police; to activate emergency protection or safeguarding measures where necessary and to fully implement Article 12a of the Staff Regulations, ensuring that cases are fully investigated and disciplinary measures applied;
- to ensure the implementation of a strong and effective action plan against sexual harassment in the interest of prevention and support and mandatory training for all staff and Members on respect and dignity at work so as to ensure that a zero tolerance approach becomes the norm; to fully engage in awareness-raising campaigns with all Members and services of the administration, with a special focus on groups in the most vulnerable positions, such as trainees, APAs and contract agents;
- to set up an institutional network of confidential counsellors tailored to Parliament's structures to support, advise and speak on behalf of victims, when needed, as is the practice for the Commission staff;

18. Calls on all colleagues to support and encourage victims to speak out and report cases of sexual harassment through improved formal procedures within Parliament's administration and/or to the police;

19. Resolves to adopt internal rules on whistle-blowing to safeguard the rights and interests of whistle-blowers and provide adequate remedies if they are not treated correctly and fairly in relation to their whistle-blowing;

20. Is very concerned that, all too often, assistants of Members (APAs) are afraid to speak out in cases of sexual harassment, as the 'loss of trust' clause in the APA statute means they can be dismissed with very short notice; calls for the participation of independent experts in dismissal procedures alongside the representatives of the administration with a view to an unbiased decision being reached;

21. Recommends that the European Ombudsman provide Parliament's High Level Group on Gender Equality and Diversity with data once a year as regards complaints about maladministration relating to gender equality in Parliament, with due respect for the decision of the European Parliament on the regulations and general conditions governing the performance of the Ombudsman's duties;

22. Calls on the Member States to examine the situation of sexual harassment and abuse in their national parliaments, to take active measures to combat it, and to implement and adequately enforce a policy of respect and dignity at work for elected members and staff; calls for the implementation of such a policy to be monitored;

23. Calls on the Member States to provide protective support for parliamentarians engaging with the public, particularly those experiencing sexual abuse and threats of gender-based violence, including online;

24. Calls for exchanges of best practice to be organised at all levels with other institutions and organisations such as UN Women, the Council of Europe, the EU institutions and stakeholders involved in promoting gender equality;

25. Calls on all politicians to act as responsible role models in preventing and combating sexual harassment in parliaments and beyond;

26. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States and the Parliamentary Assembly of the Council of Europe.

4.4 [SADC Protocol on Gender and Development](#) ⁷⁸

[...]

PART ONE – DEFINITIONS, GENERAL PRINCIPLES AND OBJECTIVES

[...]

ARTICLE 3 OBJECTIVES

The objectives of this Protocol are: (a) to provide for the empowerment of women, to eliminate discrimination and to achieve gender equality and equity through the development and implementation of gender responsive legislation, policies, programmes and projects;

[...]

PART TWO CONSTITUTIONAL AND LEGAL RIGHTS

ARTICLE 4 CONSTITUTIONAL RIGHTS

1. States Parties shall endeavour, by 2015, to enshrine gender equality and equity in their Constitutions and ensure that these rights are not compromised by any provisions, laws or practices.

2. States Parties shall implement legislative and other measures to eliminate all practices which negatively affect the fundamental rights of women, men, girls and boys, such as their right to life, health, dignity, education and physical integrity.

[...]

ARTICLE 6 DOMESTIC LEGISLATION

⁷⁸ Southern African Development Community (SADC) Protocol on Gender and Development, 17 August 2008, available at https://extranet.sadc.int/files/2112/9794/9109/SADC_PROTOCOL_ON_GENDER_AND_DEVELOPMENT.pdf (last visited 15 November 2019).

1. States Parties shall review, amend and or repeal all laws that discriminate on the ground of sex or gender by 2015.
2. States Parties shall enact and enforce legislative and other measures to:
 - (a) ensure equal access to justice and protection before the law;
 - (b) abolish the minority status of women by 2015;
 - (c) eliminate practices which are detrimental to the achievement of the rights of women by prohibiting such practices and attaching deterrent sanctions thereto; and
 - (d) eliminate gender based violence.

[...]

PART SIX – GENDER BASED VIOLENCE

[...]

ARTICLE 22 SEXUAL HARASSMENT

1. States Parties shall, by 2015, enact legislative provisions, and adopt and implement policies, strategies and programmes which define and prohibit sexual harassment in all spheres, and provide deterrent sanctions for perpetrators of sexual harassment.
2. States Parties shall ensure equal representation of women and men in adjudicating bodies hearing sexual harassment cases.

- 4.5 [African Commission on Human and Peoples' Rights Guidelines on Combating Sexual Violence and its Consequences in Africa](#)⁷⁹

3. Definitions

3. 1. Sexual violence

a. Sexual violence means any non-consensual sexual act, a threat or attempt to perform such an act, or compelling someone else to perform such an act on a third person. These acts are considered as non-consensual when they involve violence, the threat of violence, or coercion. Coercion can be the result of psychological pressure, undue influence, detention, abuse of power or someone taking advantage of a coercive environment, or the inability of an individual to freely consent. This definition must be applied irrespective of the sex or gender of the victim and the perpetrator, and of the relationship between the victim and the perpetrator.

b. Sexual violence is not limited to physical violence and does not necessarily involve physical contact. It takes many forms, and includes but is not limited to:

- sexual harassment;
- rape [...]

B. GENERAL PRINCIPLES AND OBLIGATIONS OF STATES

4. The non-discrimination principle

States must take the necessary measures to ensure that the rights of the victims of sexual violence are guaranteed, irrespective of their race, colour, national origin, citizenship, ethnicity, profession, political opinions, and any other opinions, and health including HIV status, disability, age, religion, culture, marital

⁷⁹ Guidelines on Combating Sexual Violence and its Consequences in Africa, adopted by the African Commission on Human and Peoples' Rights at the 60th Ordinary Session held in Niger (May 8-22, 2017), available at http://www.achpr.org/files/instruments/combating-sexual-violence/achpr_eng_guidelines_on_combating_sexual_violence_and_its_consequences.pdf (last visited 15 November 2019).

status, socio-economic status, status as a refugee, migrant or any other status, sexual orientation and identity, gender expression or any other factor that could lead to discrimination against them.

[...]

6. The due diligence principle

States must ensure that agents acting on their behalf or under their effective control refrain from committing any acts of sexual violence. States must adopt the necessary legislative and regulatory measures to act with due diligence to prevent and investigate acts of sexual violence committed by State and non-State actors, prosecute and punish perpetrators, and provide a remedies to victims. [...]

9. Obligation to guarantee access to justice and investigate and prosecute the perpetrators of sexual violence

9. 1. States must take measures to guarantee access to justice for all victims of sexual violence, including in rural areas. States must ensure that investigations into acts of sexual violence and the prosecution of the perpetrators are carried out:^[1]_{SEP}

- without unjustified delays
- independently, impartially and effectively^[1]_{SEP}
- in a manner that will lead to the identification and sentencing of the perpetrators.

9. 2. Investigations and prosecutions must consider the rights of victims throughout the proceedings and guarantee the well-being and safety of victims and witnesses (in accordance with the Part 4 of these *Guidelines*).

9. 3. States must also adopt measures to promote compliance with regional and international standards of protection for the rights of women and girls within traditional justice systems, to guarantee the rights of the victims of sexual violence and to eliminate the discrimination that persists in these systems. States must raise awareness and provide training for traditional authorities and other stakeholders, the majority of whom are men, who are involved with traditional justice mechanisms with a view to encouraging respect for equality between women and men as well as broader representation for women in these systems.

9. 4. States must take measures to prohibit the use of alternative methods of conflict resolution, such as mediation or conciliation, in dealing with cases involving sexual violence before and during civil and criminal proceedings, when those methods do not respect the rights of victims, especially women and girls. [...]

4.6 [Declaration on the Elimination of Violence Against Women and Elimination of Violence Against Children in ASEAN](#) ⁸⁰

[...]

WE, the Heads of State/Government of the Member States of the Association of Southeast Asian Nations (hereinafter referred to as "ASEAN"), namely Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Republic of the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam, on the occasion of the 23rd ASEAN Summit;

⁸⁰ The Declaration on the Elimination of Violence Against Women and Elimination of Violence Against Children in ASEAN (Association of Southeast Asian Nations), 9 October 2013, available at https://asean.org/?static_post=asean-regional-plan-action-elimination-violence-women-asean-rpa-evaw. See also ASEAN Regional Plan of Action on the Elimination of Violence against Women, 2016, available at <https://www.asean.org/storage/2012/05/Final-ASEAN-RPA-on-EVAW-IJP-11.02.2016-as-input-ASEC.pdf> (last visited 15 November 2019).

UPHOLDING the goals, purposes and principles of ASEAN as enshrined in the ASEAN Charter and Cha-am Hua Hin Declaration on the Roadmap for the ASEAN Community (2009-2015);

REAFFIRMING the goals and commitments of ASEAN to eliminating violence against women and monitor their progress as reflected in the Declaration on the Elimination of Violence Against Women in the ASEAN Region adopted at the 37th ASEAN Ministerial Meeting (AMM) on 30 June 2004;

FURTHER REAFFIRMING the importance and general principles of the ASEAN Human Rights Declaration (AHRD) and the Phnom Penh Statement on the Adoption of the AHRD adopted at the 21th ASEAN Summit on 18 November 2012; [...]

ACKNOWLEDGING the commitments of individual ASEAN Member States to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) [...]

ACKNOWLEDGING the importance of intensifying efforts of ASEAN Member States to promote the rights of women and children, as well as to prevent and protect them from and respond to all forms of violence, abuse and exploitation of women and children particularly for those who are in vulnerable situations, [...]

RECOGNISING that violence against women and violence against children occur irrespective of the stages of the life cycle, whether at home, in school, in the workplace, in public or private spaces (including cyber space) as a result of gender bias, discriminatory and harmful traditional practices and must be eliminated as they impair human rights and fundamental freedoms of women and children; [...]

DO HEREBY DECLARE THAT:

ASEAN Member States, individually and/or collectively, express common resolve to eliminate violence against women and violence against children in the region through the following measures:

1. Strengthen and, where necessary, enact or amend national legislations for the elimination of violence against women and violence against children, and to enhance the protection, services, rehabilitation, education and training, recovery and reintegration of victims/survivors;
2. Integrate legislations, policies and measures to prevent and eliminate violence against women and violence against children and to protect and assist the victims/survivors in the national development plans and programmes with time- bound targets, adequate resources, and gender responsive planning and budgeting;
3. Strengthen a holistic, multi-disciplinary approach to promote the rights of women and children and adopt a gender responsive, child sensitive, and age-responsive approach to eliminate violence against women and violence against children in the region which includes effective laws, legislations, policies and measures to:
 - Investigate, prosecute, punish and, where appropriate, rehabilitate perpetrators;
 - Protect women and children victims/survivors and witnesses;
 - Provide victims/survivors with access to justice, legal assistance, protection, social welfare services, education, and health services, including counseling and peer-to peer support mechanisms, rehabilitation, recovery, and reintegration into the community, and consider provision iv of programme for families to properly give support to victims/ survivors;

- Instill awareness to prevent re-victimization of women and children from any form of violence and ensure it does not occur anywhere through various programmes, such as provision and promotion of vocational training and employment opportunities of women who are victims/survivors, access to reproductive health services, education and other basic social services;
- Promote family support services, parenting education, education and public awareness on the rights of women and children and the nature and causes of violence against women and violence against children to encourage active public participation in the prevention and elimination of violence;
- Create an enabling environment for the participation of women and children, including victims/survivors, in the prevention and elimination of violence against women and violence against children;
- Develop effective strategies to eliminate harmful practices which perpetuate gender stereotyping, violence against women and violence against children;

4. Strengthen the existing national mechanisms, with the assistance, where necessary, of the ACWC and other related stakeholders, in implementing, monitoring and reporting the implementation of the Concluding Observations and Recommendations of CEDAW, CRC and other Treaty Bodies as well as the accepted recommendations under the Universal Periodic Review Process of the United Nations Human Rights Council related to the elimination of all forms of violence against women and violence against children;

5. Strengthen the capacity of law enforcement officers, policy makers, social workers, health personnel, and other stakeholders to develop, implement, monitor and evaluate gender responsive and child friendly legislations, policies and measures for women and children victims of violence;

6. Encourage research and data collection and analysis in confidential concerning all forms of violence against women and violence against children to support the formulation and effective implementation of laws, policies and programmes to eliminate violence against women and violence against children for better protection of the victims/survivors in the region;

7. Strengthen the provision of support social welfare services to women and children victims/survivors of violence and their families in ASEAN through the establishment of an ACWC network of social services to facilitate the promotion of good practices, sharing of information, exchange of experts, social workers and service providers, including NGOs;

8. Strengthen partnerships with external parties at international, regional, national and local levels, including ASEAN Dialogue Partners, UN Agencies, civil society, community-based organisations, academia, philanthropists and private entities, in the work for the elimination of violence against women and violence against children in ASEAN and to mobilise resources to assist the victims/survivors;

WE TASK the relevant ASEAN bodies, in particular the ACWC, to promote the implementation of this Declaration and review its progress through appropriate instruments and actions with the support of ASEAN Member States.

[...]

4.7 [Declaration of Pachuca on Strengthening Efforts to Prevent Violence against Women](#) ⁸¹

We, the principal and alternate delegates of the InterAmerican Commission of Women (CIM) and the Experts of the Committee of Experts of the Follow-up Mechanism to the Belém do Pará Convention (MESECVI) of the Organization of American States (OAS), gathered in Pachuca, Hidalgo, Mexico, on May 15th 2014, on the occasion of the Hemispheric Forum Belém do Pará +20 “The Belém do Pará Convention and the prevention of violence against women: Good practices and proposals for the future,” and the Third Regular Session of the CIM Executive Committee 2013-2015;

[...]

RECOGNIZING

That violence against women and girls is an offense to human dignity and a violation of human rights; it undermines development, generates social instability and impedes progress towards justice and peace;

That the different forms of violence against women and girls are an obstacle to their individual development, weakens the exercise of their rights and freedoms, blocks the full development of their capacities and autonomy and limits their public, economic, social and political participation;

That in spite of the commitments adopted and the efforts made, of all the areas of work that are touched on by the Belém do Pará Convention, it is in the area of primary prevention that we have made the least progress in terms of the goals that have been set;

That although there has been a still incipient development of integral and integrated models of prevention that allows us to go beyond isolated efforts, we still possess little systematized knowledge on how to conduct prevention and how to measure the impact of prevention efforts; That the prevention of violence against women, including primary prevention, is affected by the consideration of violence against women as a “private” matter, by the lack of recognition of the different manifestations of violence against women, including psychological, economic and symbolic violence, sexual harassment and trafficking of women, among others, and by the interrelation between these manifestations of violence.

DECLARES THEIR COMMITMENT TO:

Reaffirm the validity and urgency of the provisions of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women and the Declaration and Platform for Action of the Fourth World Conference on Women, in light of their twentieth anniversaries, including the need to make visible the different manifestations of violence against women and their interrelatedness;

Strengthen the focus on primary prevention of violence against women as an essential part of an integrated response, without detracting from existing punishment, care and eradication efforts, on the basis of proven experiences and methodologies, taking into account the ensemble of agreed commitments on the promotion of and education in human rights and the elimination of gender stereotypes in education and communication, and addressing the various manifestations of violence against women and the needs of specific populations;

Combat the culture of impunity for violence against women and the utilization of discriminatory stereotypes and sexism in communications media;

In the area of legislation and public policy

⁸¹ Declaration of Pachuca on Strengthening efforts to prevent violence against women, OAS Committee of Experts of the Follow-up Mechanism to the Belém do Pará Convention (MESECVI), OEA/Ser.L/II.5.32 CIM/CD/doc.16/14 rev.3 (16 May 2014), available at <http://www.oas.org/es/mesecvi/docs/DeclaracionPachuca-EN.pdf> (last visited 15 November 2019).

Coordinate with the relevant government entities and civil society, including citizen observation, oversight and monitoring bodies, to promote that the actions undertaken to prevent, punish and eradicate violence against women and girls have sufficient political support and financial and human resources for their full and effective implementation and follow-up, on the basis of agreed commitments on human rights, from a perspective of results-based management and using progressive indicators that account for the access and enjoyment of women and men of their rights;

Include a participatory impact evaluation component in public policies on prevention, care and punishment of violence against women, with a view to identifying good practices and lessons learned;

Articulate policies to prevent violence against women and girls with: i) policies to punish and care for that violence, in order to maximize their impact on prevention; and ii) policies on security and prevention, punishment and care for social violence;

Mainstream a diversity approach in violence prevention policies in order to respond to the needs of specific groups;

Promote that policies adopted on the prevention of violence are State, rather than government policies, in order to ensure the continuity and sustainability of the response to violence against women and girls. Similarly, ensure that the policies adopted at the level of the State are valid in all the states of federal systems;

Compile information on the risk factors for violence against women and girls, taking into account the progress made in this area by the Pan American Health Organization (PAHO); Broaden the process of formulating public policies in order to include full citizen representation, with particular emphasis on marginalized groups.

In the area of education

Coordinate with the relevant government bodies to integrate a gender and human rights perspective in educational curricula and in non-formal educational environments, reaffirming the commitment to implement the Ministerial Declaration “Preventing through Education,” adopted by the First Meeting of Ministers of Health and Education to Stop HIV and STIs in Latin America and the Caribbean;

Incentivize educators to demonstrate the benefits for all of education on human rights and gender equality, and offer them certified professional development tools that are consistent with agreed commitments on human rights; Broaden the work of education for human rights and gender equality beyond the education sector to include other key spaces and actors such as mothers and father, teachers unions and organizations of educators, and religious groups, among others;

Include the issue of masculinities in all educational curricula in order to guide the socialization of boys and girls, with an emphasis on health and respectful gender and power relations, peaceful conflict resolution and the exercise of sexuality in conditions of equality and free from discrimination;

Articulate the work of the education sector with other relevant sectors, including health, justice and security and ensure that educational policies include a participatory evaluation component.

In the area of communication

Foster the elimination of gender stereotypes and sexist and discriminatory images and messages in communications media – including both content and publicity, in private and public media - promoting the use of inclusive language on the basis of strategies that promote creativity;

Foster the self-regulation of media – including ICTs – and their oversight through autonomous bodies that include citizen participation and, similarly, promote the fulfillment of international norms, respecting both freedom of expression – including the right of women and girls to information and communication – and the right to non-discrimination;

Promote gender training from a multi-cultural perspective in the curricula at all levels of journalism, publicity and communication; as well as within enterprises linked to communication; and foster gender certification for these entities;

Facilitate sufficient resources for the implementation of programs, campaigns and other actions designed to prevent violence against women and girls in the media; as well as evaluation of the impact of these measures; and that public media provide the example in terms of content that promotes equality; Work with civil society in the task of evaluating the fulfillment of the Belem do Para Convention in relation to communications media, as well as the application of sanctions to sexist publicity and media coverage.

WE REQUEST THAT THE EXECUTIVE COMMITTEE 2013-2015 AND THE EXECUTIVE SECRETARIAT OF THE CIM:

Follow-up the recommendations of the Belém do Pará +20 Hemispheric Forum “The Belém do Pará Convention and the Prevention of Violence against Women: Good practices and proposals for the future” through the Platform on Good Practices in the Implementation of the Belém do Pará Convention (<http://www.belemdopara.org>), by distributing the practices presented during the Forum and compiling and organizing additional information; and

Strengthen the utilization of traditional and alternative communications media to increase the visibility of the Belém do Pará Convention and the achievements of its Follow-up Mechanism (MESECVI).

4.8 Other Non-Binding Standards: Initiatives of Workers’ and Employers’ Organizations

4.8.1 [Framework agreement on harassment and violence at work \(European Trade Union Confederation et al.\)](#)



WORLD BANK GROUP

1818 H St. NW
Washington, DC 20433