

# This Is Not Working



**A global opportunity  
for change**

March 2019



It starts with equal

A woman with dark hair is focused on her work at a sewing machine. She is wearing a light-colored shirt and a watch. The machine is a large, industrial-style sewing machine with a prominent needle and foot. The background is slightly blurred, showing other people and equipment in what appears to be a factory or workshop environment. The lighting is soft, highlighting the woman's face and the machine's details.

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This Is Not Working

# A global opportunity for change



## Foreword

Like many Australians, I started my working life in retail and hospitality jobs – on my feet, serving customers. Later in my career, I've focused on supporting people in different ways – working to influence laws and practices, to deliver social justice, and equality between women and men. I know these kinds of positions are not the experience of the majority of Australian women. The most common jobs for women in Australia include sales assistants, and registered nurses.<sup>1</sup> A quarter of working women are in professional occupations including teachers and clinical hospital and medical staff.<sup>2</sup> Our workspace is not necessarily behind a desk – it can be behind the wheel of a car or truck, in a paddock or greenhouse on the farm, or on our feet in a school or hospital. Different places of work, but there are similar challenges we all face – whether from colleagues, bosses or customers. What we all have in common is a desire to get our job done free from abuse and harassment.

Around the world, while the opportunities for women in the formal workforce are growing, in the majority of countries women are still denied the same rights and access to jobs as men.<sup>3</sup> More than 2.7 billion women are legally restricted in their job choices, often based on spurious health claims.<sup>4</sup> For women across the globe, their employment situation is likely to be more vulnerable – without protection or access to remedies if something goes wrong. Globally, over 2 billion people are in informal employment, with women more likely to be in the most vulnerable positions.<sup>5</sup> Women go to work to contribute to their community, support families and grow their own careers. We do not go to work to suffer harassment or violence, and then cope with the physical, emotional and economic toll it brings.

Women worldwide experience sexual harassment at work<sup>6</sup>, yet more than one-third of the world's countries

do not have any laws prohibiting workplace harassment. There is no international legal standard which specifically protects women at work from this abuse, leaving nearly 235 million women vulnerable every day.<sup>7</sup> Workplace harassment is a global problem requiring a global response.

This a matter of women's fundamental human rights. Furthermore, there's a real economic benefit to tackling sexual harassment at work. Some estimates show that advancing women's equality could result in an additional \$4.5 trillion of annual GDP by 2025 for the Asia-Pacific region.<sup>8</sup> Through CARE's work in female-dominated workplaces like garment factories in Bangladesh, coffee plantations in Papua New Guinea, and tea fields in Sri Lanka, we have seen positive results from supporting women to challenge forced labour and exploitation. There are economic as well as social gains when women are empowered, and workplaces develop practices that ensure workers have a voice. In Sri Lanka we found that for every dollar invested in empowering workers, tea businesses gained more than US\$26 in returns.<sup>9</sup>

We also know our work alone is not enough to challenge the global pervasiveness of gender-based harassment and violence.

## A global opportunity for change

In 2019, we have a momentous opportunity to change the game. If adopted, the International Labour Organization (ILO) Convention on ending violence and harassment in the world of work will be the first internationally binding commitment of its kind. It will ensure countries endorse new protections. Last year, CARE Australia, with nearly 5,000 supporters, influenced the Australian Government to vote for this binding Convention – one that will include all working women, everywhere.

However, our job is not done. Once again, we ask for your support, to stand with CARE and more than 160,000 people from a diverse group of countries including the US, France, UK, Pakistan, Ecuador, Colombia, Guatemala and Honduras who have joined us to call for robust international standards to end violence and harassment at work.

As ILO negotiations continue, some of the world's lowest-paid, most vulnerable women are at risk of being excluded from the Convention's remit. Women working in private homes as maids or nannies, or on the streets as sex workers and market stall vendors, or migrants working far from home, are all threatened with being left out of these new standards. If this new global law is going to protect the world's poorest and most vulnerable women, we need to make sure the current draft of the Convention is not watered down during the ILO negotiations in June 2019. Strong international standards will benefit employers too, reducing turnover costs, and supporting a productive workforce.

Whether you sit at a desk, wield a scalpel, drive a train, or serve customers in a store, you do not deserve harassment. From factory to field, home to the street – no one's job should leave them vulnerable to violence.

**Sally Moyle,**  
Chief Executive, CARE Australia  
March 2019

If you have experienced sexual harassment in the workplace, or you have observed sexual harassment and want to do something about it, the Australian Human Rights Commission can investigate and resolve complaints of discrimination, harassment and bullying. Visit [www.humanrights.gov.au](http://www.humanrights.gov.au) for more information.

If you, a child, or another person is in immediate danger of assault call 000

For sexual assault, domestic and family violence counselling services call 1800 RESPECT (1800 737 732) for 24/7 phone services or visit [www.1800respect.org.au](http://www.1800respect.org.au)

Front cover image: © CARE

# A global problem

Everybody, everywhere has the right to work free from violence and harassment.

In at least 18 countries, husbands can legally prevent their wives from working. 104 economies have laws in place to stop women working in certain jobs, just because they are women.<sup>10</sup> In 130 countries around the world, laws have been enacted that recognise abuse in workplaces, but for many women these laws are too often weak and unenforced.<sup>11</sup>

There are still too many countries where there are no legal processes against sexual harassment, leaving nearly 235 million women vulnerable every single day.

Sexual harassment is any unwanted, unwelcome, or uninvited behaviour of a sexual nature that makes a person feel humiliated, intimidated, or offended.<sup>12</sup> Sexual harassment can take many forms including sexist and sexual hostility, unwanted sexual attention, and sexual coercion. In countries where sexual harassment in the workplace has been defined, some common elements include it:

- occurs in the place of work or in a work-related environment
- occurs because of the person's sex and/or it is related to or about sex
- is unwelcome, unwanted, uninvited, not returned, not mutual, and
- affects the work environment itself or terms or conditions of employment.<sup>13</sup>

**By defining what is appropriate behaviour for genders, social norms limit women's choice of whether to work and where they work.<sup>14</sup>**

The impact of sexual harassment is long lasting, and devastating. If a young woman is harassed early in her career, it is probable she will suffer long-term psychological effects,<sup>15</sup> and Australian evidence shows it is young women (aged 18 to 29) who are more likely to have experienced sexual harassment at work.<sup>16</sup>

Women harassed in male-dominated industries (such as the military) are twice as likely to report a heart attack later in life compared with women who were not harassed.<sup>17</sup> One US study found 80% of women experiencing sexual harassment left their job within two years.<sup>18</sup> The first groundbreaking studies on sexual harassment, from the 1970s, clearly showed sexual harassment 'undercuts women's autonomy outside the home'.<sup>19</sup>

Globally, while sexual harassment is experienced in all professions, it is most common in industries dominated by men, particularly those where men control the highest-ranking jobs in the business.<sup>20</sup> Women also generally participate in the labour market at significantly lower rates than men. In countries across the world, women are denied employment under laws claiming to protect their health and wellbeing including preventing women from working at night, forbidding them from working while pregnant, from lifting certain objects or tools, being near certain chemicals, or forcing an earlier retirement age.<sup>21</sup>

Today's global economy frames women as a cheap, flexible labour force informed by outdated notions of domesticity and sexuality.<sup>22</sup> With men setting the rules, hiring the workers, and dominating the workforce, it becomes a self-fulfilling prophecy that sexual harassment is both a symptom and a driver of male dominance across workplaces.<sup>23</sup>



## A focus on Asia and Latin America

Participation in the workforce looks a little different closer to home. Developing countries across Asia have high participation rates of women in the workforce. This is linked to prevailing poverty and limited access to social protections or welfare safety nets, meaning women have little option but to work – even though harassment, ill-treatment and unsafe conditions remain. Across the Mekong region, women's participation in the workforce is high, with 81% of women in Cambodia actively seeking paid employment or working. It is 77% in Lao PDR, and 73% in Vietnam. The male labour participation rate across Asia and the Pacific is 71-89%. In the Asia region's more developed countries such as the Republic of Korea, Indonesia, Japan, Malaysia and the Philippines, the female participation rate is only 50%.<sup>24</sup>

Across the Mekong region and other parts of Asia, even if the jobs are unsafe, or unregulated, women have to work. Women are ending up in vulnerable employment, and at rates higher than men are. In vulnerable employment, workers cannot access protections or supports such as employment watchdogs or unions if something goes wrong, and working in a family business can make it hard to challenge management. Most working women in Cambodia (57%), Indonesia (56%), India (81%) the Lao PDR (89%) and Vietnam (62%) are in vulnerable employment.<sup>26</sup>

Across Latin America, one in every four women earning a wage works in someone else's home, with only 10% of these women having a legal contract.<sup>27</sup> During their working day, they are often subjected to unwanted advances or demeaning behaviours by their employers. Often we consider the home as separate to our jobs or as a safe haven, but for nearly 20 million women in the Latin American and Caribbean region it is their place of work.<sup>28</sup> Domestic work has been identified by the ILO as high-risk for forced labour and modern slavery.<sup>29</sup> With no basic benefits, or little chance to negotiate labour protections, domestic workers are at considerable risk of physical or sexual violence.<sup>30</sup> Behind the closed doors of their employer's home, domestic workers have little chance to access police, unions or often family. The option of leaving is not realistic, as it would give rise to unemployment and homelessness.

### Case Study:

#### Sunita - Construction Worker, Nepal

Sunita and her husband Ramesh married young. They have one daughter and live together with Ramesh's parents in the Lalitpur district of Nepal.

Both Sunita and Ramesh work as manual labourers for their livelihood. As work in the construction sector is seasonal, they are not often employed in the same site.

On 8 March 2018, Sunita was working at the home of a middle-aged male relative in her village. At around 1pm when she returned after delivering bricks, he was the only one present in the house. He took advantage of the isolated environment and grabbed Sunita by the wrists and molested her. She cried for help but he covered her mouth and continued to molest her.

Her repeated attempts to escape failed until she grabbed a pot and struck him on the head. She then ran outside and cried for help. All the villagers including her husband arrived, and the culprit was beaten by the crowd, then submitted to police custody.

The incident left Sunita sleepless for many nights, and she now feels that women are not safe anywhere:

**“A place of work should be dignified and safe. I know that most women in the construction sector have been abused and working in such an unsafe environment is a huge challenge for us.”**

Through various initiatives, such as the Safe Justice and Sambodhan projects, CARE works with individual households, communities, and local governments to tackle the cultural norms that lead to gender-based violence.

By focusing on women's empowerment, engaging men and boys, facilitating community dialogues, and strengthening laws, CARE is supporting marginalised communities and people of all genders to exercise their right to a life of dignity, security, freedom and safety.

### Definitions

#### Vulnerable Employment

Vulnerable employment is defined by the ILO as own-account (self-employed, running market stalls for example) or unpaid family work (such as workers in a family business including family owned and operated shops, and farms). Those in vulnerable employment are less likely to have formal work arrangements, leaving them without decent work conditions, adequate social security, or access to other legal protections.<sup>25</sup>

#### Informal Work

Informal work is done beyond the reach of formal laws and enforcement mechanisms, and is often insecure, poorly remunerated and lacking social protections. This includes cash-in-hand work, and other jobs without formal employment contracts.

#### Dignified work

CARE defines dignified work as women gaining respect and recognition through earning a living wage, exercising greater agency (the knowledge and ability to make choices) and experiencing equitable relations at work and in the home and benefiting from structures that respond to the needs of women and men equally and with dignity.

# The business cost of violence

The presence of conditions that hinder the ability of women to realise their full capabilities has economic consequences.<sup>31</sup>

The economic impacts of sexual harassment are becoming increasingly well-known. Apart from a decline of a woman's earning capacity – harassment and violence costs employers too.<sup>32</sup> There is a strong economic benefit to ensuring gender equality in the workplace, and supporting women in the labour market.

In just one year (2015), sexual harassment charges filed with the US Equal Employment Opportunity Commission cost organisations and harassers US\$46 million, on top of any monetary damages awarded through litigation.<sup>33</sup>

An Australian study in 2018 found each reported individual sexual harassment case cost a company AU\$25,000 on average to resolve.<sup>34</sup> Another study found US corporations lose about US\$22,500 in productivity for every harassed individual.<sup>35</sup> In Cambodia, CARE's research found the cost of sexual harassment to the garment manufacturing industry to be approximately US\$89 million per year, the equivalent of 0.52% of the country's GDP.<sup>36</sup>

In Australia, the Human Rights Commission is currently reviewing our sexual harassment laws with a final report due in late 2019. Their survey of 10,000 Australians found almost two in five women (39%) and just over one in four men (26%) experienced sexual harassment in the workplace in the last five years.<sup>37</sup> A similar ACTU survey found over six out of ten workers had witnessed sexual harassment.<sup>38</sup> However, only 17% of those who had experienced sexual harassment made a formal complaint and over two-thirds of those who witnessed or were aware of sexual harassment did nothing to prevent it or limit the harm that it caused.<sup>40</sup>

When someone in Australia who had experienced sexual harassment did seek advice or support, they turned to friends or family.<sup>41</sup> Informal networks are vital to identifying and responding to sexual harassment, but many of us do not know what to do when something happens. The impact on women, through reduced working opportunities, and increased health risks, compounds the challenge.

In the time of #metoo and growing global awareness of sexual harassment, governments need to step up and provide clear pathways for reporting and support resources.

'Patriarchy is deeply ingrained in most Asian countries'<sup>42</sup> and this enables persistent imbalance and restrictions in economic opportunities for women. As noted by the Asian Development Bank Institute 'government intervention, through the legislation and execution of concrete plans of action, is a crucial component'<sup>43</sup> in progressing towards gender equality in the economy.

Countries that do have workplace sexual harassment laws in place are also more likely to have women with majority ownership in businesses.<sup>44</sup> And there will be strong benefit for the whole economy too, as McKinsey Global Institute found 'advancing women's equality could result in an estimated \$4.5 trillion of additional GDP in 2025' for the Asia-Pacific region.<sup>45</sup>

**It would be helpful if employers started by acknowledging that gendered violence is likely to exist in their organisations.<sup>46</sup>**

Globally, employers are under increasing scrutiny regarding practices in their supply chains, recognising the broad reach, across borders, of many corporations. The spread in the stages of production, short lead times and short-term buyer-supplier relationships reduce visibility and control over a business' supply chain and can create challenges for meeting human rights responsibilities.



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Governments too are looking to implement laws, giving local enforcement to international standards such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). CEDAW has been ratified by 189 states since 1979.

Despite significant progress, 35 of these countries do not have legislation on sexual harassment, 59 do not have legislation on sexual harassment in the workplace, and 157 do not have legislation on sexual harassment in public spaces.<sup>47</sup> Global mechanisms – such as UN and ILO conventions send a strong message of what the international benchmark is. Adhering to national and international labour standards brings benefits to workers and business, ensures a clear mandate to operate, and helps build brand equity.

**Government intervention, through legislation and execution of concrete plans of action, is a crucial component in addressing deeply rooted gender discrimination and achieving gender equality.<sup>48</sup>**

# Sorya's story



At 34, Cambodian Sorya already has 16 years of experience in the garment industry. She has been working in factories since she was 18. In that time she has experienced more than her fair share of sexual harassment at work.

**“Sometimes my colleagues would hug me from behind and call me ‘honey.’ Sometimes they would tease me verbally. I tried to accept it but in my heart I was so mad and really wanted them to stop.”**

Sorya tried to take their behaviour as jokes, and would dismiss it, not daring to demand they stop touching her because she was worried about her job. There was no sexual harassment policy in her workplace to support her.

Back then, she did not even know it was called sexual harassment – she just knew it made her mad, and made her not want to go to work. However Sorya is the sole earner in her family. Her husband is a stay-at-home dad and looks after their three children aged 6, 12, and 15. So the whole family depends on her.

No matter how much sexual harassment she experienced from her colleagues, she still had to go to work.

**“It was very hard for me and I was so angry.” Once, while cutting fabric at work, a male colleague grabbed her from behind, and she almost lost control: “My hand holding the scissors was trembling and I almost struck him with the scissors. But I held back my anger and told him that it was too much and to stop it.”**

When CARE brought its Enhancing Women's Voice to Stop Sexual Harassment (STOP) project to Sorya's workplace, things changed. The project helps create safer environments for women workers in garment factories by reducing sexual harassment through training for workers and management, the development of an effective policy, and the implementation of safe reporting mechanisms.

Thanks to her involvement in CARE's STOP project, Sorya now understands that her colleagues' behaviour was sexual harassment.

**“I never knew anything about sexual harassment. Only after I engaged with CARE did I learn about it. Now we know that activities such as hugging without consent, poking our cheeks, or other small things that have physical or verbal aspects are not considered acceptable actions at all.”**

“Before there was no sexual harassment policy in my garment factory at all, but now we have one after CARE engaged with us. It helps us solve issues quickly. Workers now feel safe and secure because they can depend on the policy and other people.”

**“I learnt about many things from CARE, including violence against women and children, sexual harassment, and so many other things I cannot count them all. I have changed myself a lot.”**

Sorya is committed to stopping sexual harassment in her workplace, and now trains others in what is acceptable behaviour and the importance of reporting harassment – something that takes confidence to do.

“CARE staff taught me a lot about sexual harassment and now I share this knowledge with others. Everyone used to view it differently. They thought sexual harassment was only when people did extreme things such as force a kiss or sexual intercourse. I tell them that it is not only about this, but it is more than that. I share what I learnt from CARE with them, so they now all understand what sexual harassment is. Now they all understand more about sexual harassment, and with some of my complaints about the harassers, no one acts or jokes inappropriately anymore.”

CARE continues to work in factories like Sorya's, as well as engage with governments to strengthen the regulation of factories and enshrine in law the policies and mechanisms that will help address sexual harassment in the workplace.

# The Fix

Effective solutions will involve changing both work cultures and societal expectations beyond the workplace.<sup>49</sup>

CARE's experience shows we can build the personal capacity of individual workers with improved knowledge, skills and confidence; and through encouraging social dialogue and collective action, power relations between women workers, their employers and families are changed.

Organisations such as CARE work with local factories and women's organisations because we know the presence of strong women's movements are more important for progressing women's rights than the number of women legislators or national wealth.<sup>50</sup> A study of 70 countries over 40 years looking at violence against women, found the 'most important and consistent factor for driving policy change is feminist activism,'<sup>51</sup> including women-led advocacy and social movements.

We know that increasing individual women's capabilities can lead to temporary increases in their opportunities and income but their economic empowerment can only be achieved through also transforming unequal power relations and discriminatory structures. CARE's programs tackle long-term changes in social norms and economic structures, as well as supporting women to fulfil their rights.

CARE has also examined best practice ways to tackle sexual harassment in the workplace. *WHAT WORKS? Reducing sexual harassment in the workplace: A rapid review of evidence* argues any efforts must employ a 'whole of organisation' approach. Designing a holistic approach is dependent on strong corporate policies, including comprehensive complaint management processes and training for staff. Workplace leaders play a key role in shifting workplace norms by becoming 'champions of change' and sending a strong message about the type of workplace behaviour that will not be tolerated.<sup>52</sup>

## International Labour Organization

In 1919, the Treaty of Versailles helped mark the end of World War I and established the International Labour Organization.<sup>53</sup> World leaders recognised social justice as a key component of peace, and justice in the world of work needed significant improvement.

Workers were being increasingly exploited in a rapidly expanding industrial world, and markets were no longer confined to country borders, or particular trade routes. Cooperation was needed to support standard working conditions everywhere, building more stable markets and global economic interaction.

Some of the first Conventions adopted by government, employers and unions working together through the unique tripartite system of the ILO included regulation of working hours and protections for women if they became mothers.<sup>54</sup> Now, one hundred years on, we have the first-ever global attempt to tackle violence and harassment at work. If adopted, the Convention will be the first internationally binding commitment to ending violence and harassment in the world of work.

**Adhering to national and international labour standards brings benefits to workers and businesses, ensures a licence to operate, and helps build brand equity.<sup>55</sup>**

In June 2019, governments, employers and workers' representatives will meet at the International Labour Conference (ILC) – the highest decision-making body of the ILO. This is the opportunity to agree to a new global treaty, an ILO Convention, and guidelines to end violence and harassment in the world of work. During the ILC in 2018 (#ILC2018), most governments publicly declared their support, but until the text of a strong ILO Convention is agreed and adopted, we must make sure all governments – working with employers and unions – negotiate a truly relevant and inclusive treaty.

Adoption of an ILO Convention would be the first step to building global accountability on this issue – and

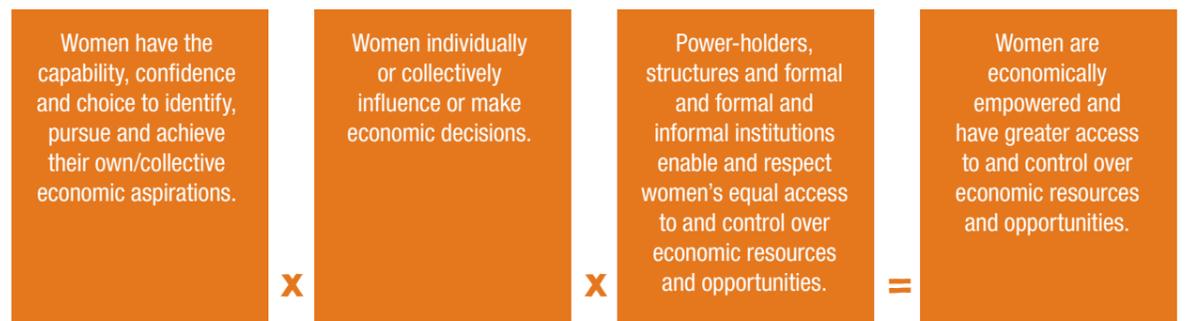


changing the narrative for women everywhere. Signatory governments would need to address these matters, making responsibilities clear for all sectors. Global standards are what countries and companies look to, in support of successful trade arrangements, and that will mean governments implementing legislation against violence and harassment in the world of work at a national level. The bar can be raised to protect even more women in countries across the world.

International regulatory frameworks set standards of obligations on businesses and protections for workers. Complying with international standards related to preventing violence, harassment, and discrimination requires enterprises to take a gendered approach – one that understands the relationship between gender, power and inequality. Multinational corporations are taking positive steps, adopting codes of conduct and global framework agreements to ensure women's rights are protected and promoted in the global supply chain.

**Decent work for all is possible but societies have to make it happen.<sup>56</sup>**

## CARE's Women's Economic Empowerment Theory of Change



# Words Matter:

## Key Issues for a new Convention.

Following the 2018 International Labour Conference, #ILC2018, the ILO issued a report of the deliberations and agreements reached by government, union and employer representatives. This 'Brown Report'<sup>57</sup> includes a proposed Convention on ending violence and harassment in the world of work, to be reviewed prior to the ILC in June 2019.

### Violence and Harassment – it's a range of behaviours

During #ILC2018 there was agreement to define violence and harassment broadly, as "a range of unacceptable behaviours and practices, or threats thereof...". The word 'range' signifies a recognition that an unacceptable action could contain elements of both harassment and violence. It is vital that the multiplicity and diverse forms of violence and harassment remain included in the Convention.

This definition reflects many national laws, as outlined by an 80-country survey.<sup>58</sup> In the majority of countries, violence and harassment in the world of work was defined to include both physical and psychological conduct.<sup>59</sup> The study also found definitions of various forms of violence most often focus on the result or effect of the conduct (e.g. harm, loss of dignity) as opposed to the nature of the act or conduct.

The broad wording of the Brown Report ensures the definition of violence and harassment is fit-for-purpose to cover the full range of behaviours that should be prohibited. This includes emerging or new forms of violence and harassment such as the increasing use of technology and social media to stalk and harass workers. Too narrow a definition could leave many workers still vulnerable.

### Workers – we need to include everyone

A broad definition of 'worker' was agreed at #ILC2018 and is fundamental to a 'leave no one behind' approach when it comes to ending violence and harassment in the world of work. The definition proposed in the Brown Report ensures workers in all sectors most in need of protection are not excluded, whether they work in the formal or informal economy, in rural or urban areas, and irrespective of contractual status. With a shared responsibility to protect the rights of workers, governments can look at local solutions, even when employers continue to marginalise certain workplaces and jobs. The definition also future-proofs the standards and ensures protection is in place in a rapidly-changing world of work.

Workers in vulnerable employment could at last be covered by some legal protections, whether they work as a maid in Argentina, a farm hand in Queensland, or a garment worker in Cambodia.

### World of work – it's everywhere

Governments and employers should support the agreed scope of the 'world of work'. The proposed text in the Brown Report provides a welcome, necessary and implementable broad scope of the 'world of work' recognising situations of workplace violence and harassment can happen beyond the physical workplace.

Employers' groups have raised concerns they could not, and should not, be held liable for all harm caused in environments outside their sphere of control. However, the proposed definition of the world of work does not allocate responsibility: it simply describes the environments which may be considered to be within the world of work (i.e. sufficiently linked to or arising out of work) and where it could therefore reasonably be expected action can be taken to prevent and redress violence and harassment.

However, the appeal to a narrow definition of workplace risks excluding millions of workers, including some of the groups CARE works most closely with, such as domestic workers, home-based workers and workers in the informal economy (e.g. street vendors). As noted by the worker representative during the #ILC2018 negotiations, "the concept of the 'world of work' is often taken into account when addressing occupational safety and health risks or the duty of care owed by employers."<sup>60</sup>

Governments and workers have responsibilities, as was acknowledged by representatives during the #ILC2018 negotiations. However, employers can take steps to minimize the risk of violence and harassment in the world of work, even when this is not in their direct control. They can demonstrate leadership, recognising the impact workplace harassment has more broadly on workers' capacity to be productive and fit employees. A safer, productive community is a good outcome for everybody.

# Show your support

**Tell the Australian Government to use our vote at the International Labour Conference to ensure no woman is left unprotected by sexual harassment laws.**

2019 is set to be a momentous year for women's workplace rights. In June, governments, unions and employer bodies will come together to vote on the first global Convention on ending violence and harassment in the world of work.

Last year CARE Australia, with the help of 4,436 supporters, successfully influenced the Australian Government to vote in favour of a binding Convention. But our job is not done.

As negotiations continue, some of the world's lowest-paid, most vulnerable women are at risk of being excluded from the Convention's scope. If this global law is going to protect the world's poorest and most vulnerable women, we need to make sure the current draft of the convention is not watered down. We need the Australian Government to back an agreement that contains inclusive definitions of 'worker' and 'workplace', so that all women around the world are protected.

Visit [www.caretoact.org.au](http://www.caretoact.org.au) and sign the petition to help ensure everybody, everywhere, has the right to work free from violence and harassment.

## #ThisIsNotWorking

# Current laws

How workplace sexual harassment is addressed across the region.



## Australia

**Female Population:** 12,074,743  
**Female Labour Force (% of total labour force):** 46%

The *Sex Discrimination Act (1984)* prohibits discriminatory treatment on the basis of sex; gender identity; intersex status; sexual orientation; marital or relationship status (including same-sex couples); family responsibilities; pregnancy or potential pregnancy; or because an individual is breastfeeding. The Act also makes sexual harassment against the law.

Under law, sexual harassment is prohibited in all work-related activities, including applying for a job, being in a workplace, at training courses or conferences, interaction with customers, or in any place carrying out functions related to work.

Individuals can pursue complaints through the Australian Human Rights Commission. Discrimination and harassment are also prohibited through state and territory based legislation, and complaints based on these laws may be pursued through the appropriate state or territory based agency.

At a federal level, the *Fair Work Act (2009)* provides remedy for workers experiencing bullying in the workplace, and protections for workers based on anti-discrimination law. Criminal law, as applicable in each state or territory, covers acts of violence that may occur in a place of work.



## Cambodia

**Female Population:** 8,072,646  
**Female Labour Force (% of total labour force):** 50%

There are no specific comprehensive laws or regulations focused on workplace violence or harassment, and there is no legal definition of harassment or bullying under current labour laws.

The *Labour Law (1997)* does include numerous articles focused on discrimination and misconduct including the prohibition of 'sexual violation', and sexual harassment is an offence under the *Criminal Code (2010)*. In the Criminal Code sexual harassment is the 'abuse of one person of the authority conferred by his or her function against another person for the purpose of applying pressure repeatedly in order to obtain sexual favours'. The code does not expressly provide for, nor prohibit, its application in the workplace. However as the definition is not robust, the Code doesn't adequately address the broad range of issues encompassed within sexual harassment.

The Labour Law defines a worker broadly, as 'every person of all sex and nationality, who has entered into an employment contract in return of remuneration under the direction and management of another person, whether that person is natural or legal entity, public or private'. Hence enforcement of the laws is not as active within informal places of work.



## India

**Female Population:** 637,908,142  
**Female Labour Force (% of total labour force):** 25%

India has a specific law prohibiting sexual harassment at the workplace, and provide a redress mechanism for complaints. *The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (2013)* is actively enforced and applies across informal and formal workplaces. However, work is still needed on implementation of all aspects of the law, including compliance with redressal mechanisms and the need to convene local committees with the authority to address complaints.

An online portal [www.shebox.nic.in](http://www.shebox.nic.in) has been established by the Ministry of Women and Child Development, which provides an online complaints management system and supports workers in places where processes are not in place.



## Laos

**Female Population:** 3,392,922  
**Female Labour Force**  
**(% of total labour force):** 50%

There are no specific laws targeting sexual harassment, or addressing workplace violence and harassment. The *Labor Law (2013)* prohibits employers from 'violating the personal rights of employees, particularly female employees, through speech, sight, text, touch or touch inappropriate areas,' but does not define harassment, bullying or violence. The Labor Law also provides a contract may be cancelled and compensation sought for 'sexual harassment on the part of the employer or the employer ignores the occurrence of such actions'. These laws apply to both formal and informal working environments, excepting a range of civil servants and other state employees, and household workers. This Labor Law is scheduled for review prior to 2020.

The *Law on Anti-Violence Against Women and Children (2014)* includes coverage of 'domestic and foreign individuals, legal entities and organisations, the State and private sectors', and provides a definition of violence that includes rape, forced sex, sexual violations, gossiping, insulting, humiliating others, causing loss of reputation, honour of psychological stress and discrimination. Prosecutions under this law to date have not prioritised sexual harassment, rather being focused on gender-based violence such as rape, prostitution and human trafficking.



## Myanmar

**Female Population:** 27,040,191  
**Female Labour Force**  
**(% of total labour force):** 47%

There is no specific law or rule addressing violence and harassment in the workplace in Myanmar. However the Prevention of and Protection of Violence Against Women Bill drafted in 2013 calls for the protection of women from all forms violence including sexual violence, and harassment in the work place. This bill is still before parliament for debate and adoption.

In 2017, a draft Occupational Safety and Health law was also proposed. CARE and other NGOs have lobbied to see the inclusion of clauses to address psychological harm, inclusive of sexual harassment, to this Bill.

The current labour laws do not separate formal and informal workplaces, and domestic workers are recognised as employees. The *Settlement of Labour Dispute Law (2012)* requires employers to establish Workplace Coordination Committees to address labour disputes, and hear claims for compensation arising from injury or accidents occurring due to employment. An Arbitration Council hears matters that cannot be settled at the workplace level. Over 60% of published cases taken to the Arbitration Council have involved foreign-owned factories.



## Vietnam

**Female Population:** 46,834,625  
**Female Labour Force**  
**(% of total labour force):** 48%

The Labour Code legislates against the maltreatment of employees and committing sexual harassment at the workplace, and any such action can result in the unilateral termination of employment contracts. However, there is no express definition of maltreatment or sexual harassment. There are also no legal standards for concerning such activities in informal workplaces.

The Ministry of Labour, Invalids and Social Affairs, with the Vietnam General Confederation of Labour, and Vietnam Chamber of Commerce and Industry issued a Code of Conduct on Sexual Harassment in the Workplace for Viet Nam in 2015. The code is voluntary and does not have any legal effect but does put forward recommendations on developing, implementing and monitoring sexual harassment workplace policies.



## Other international obligations

The UN Guiding Principles on Business and Human Rights are based on international law, and provide a framework of 'Protect, Respect, Remedy' for States and companies on human rights in business operations. The Guiding Principles apply to all States and to all business enterprises, both transnational and others, regardless of their size, sector, location, ownership and structure. The Guiding Principles set out a state duty to prevent human rights abuses, a responsibility of business to respect human rights of individuals, and to provide access to survivors to judicial and non-judicial remedies.

The Principles are reflected and adapted in a range of other international guidelines and agreements including the OECD Guidelines for Multinational Enterprises and International Finance Corporation Performance Standards.

## Endnotes

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Thank you!

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