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**ANALYSIS OF
GHANA'S LEGISLATIVE AND
POLICY FRAMEWORK ON
VIOLENCE AND HARASSMENT
IN THE WORLD OF WORK**



Foreign, Commonwealth
& Development Office

This is an independent report commissioned and funded by the Foreign, Commonwealth & Development Office. This material has been funded by UK Aid from the UK Government, however the views expressed do not necessarily reflect the UK Government's official policies



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ACTIONAID GHANA

MARCH 2021

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LIST OF ACRONYMS & ABBREVIATIONS

AA	ActionAid
AAG	ActionAid Ghana
ACT	Act of Parliament
CEDAW	Convention on the Elimination of all forms of Discrimination against Women
CHRAJ	Commission on Human Rights and Administrative Justice
CBOs	Community Based Organisations
CSO	Civil Society Organisation
DFID	Department for International Development
DOVVSU	Domestic Violence and Victim Support Unit
FIDA	International Federation of Women Lawyers
FGDs	Focus Group Discussions
GBV	Gender Based Violence
ILO	International Labour Organisation
ISSER	Institute of Statistical, Social and Economic Research
LAWA	Leadership and Advocacy for Women in Africa
LGBT	Lesbian Gay Bisexual and Transgender
MDAs	Ministries, Departments and Agencies
MOGCSP	Ministry of Gender, Children and Social Protection
NAACP	National Association for the Advancement of Coloured People
NDPC	National Development Planning Commission
NLC	National Labour Commission
SDGS	Sustainable Development Goals
SRVAW	Special Rapporteur on Violence Against Women
TOR	Terms of Reference
TUC	Trade Union Congress
UN	United Nations
VAWG	Violence Against Women and Girls
WAG	Women and Girls
YUM	Young Women Life Choices and Livelihoods

ACKNOWLEDGEMENTS

ActionAid Ghana is grateful to Hilary Amesika Gbedemah and Sheila Minkah-Premo for leading this study and compiling the report through research, case study analysis and interpretation of international and national laws/policies, conventions on women, labour, gender among others.

We wish to also extend our profound gratitude to all individuals who participated in the key informant interviews and the validation workshop for their technical insights, suggestions and guidance in directing this piece of work.

Special thanks to the strategic roles played by Sumaila Abdul-Rahman, Country Director of ActionAid Ghana; John Nkaw, Head of Programmes, Campaigns and Innovation; Margaret Brew-Ward, Women's Rights and Campaigns Manager; and Akosua Kwafo Ogyiri, Communication/PR Manager in finalising the report for publication.

1.0 INTRODUCTION

This is a report on a scoping study of existing legislative and policy framework aimed at addressing violence against women and girls in the world of work (formal and informal). It also identifies the capacity gaps in existing laws in order to comply with the provisions of ILO Convention 190 and Recommendation 206 on the elimination of Violence and Harassment in the World of Work.

This report is divided into seven sections. After this introduction, background information on sexual harassment in the workplace and labour rights is presented. This is followed by the third section that presents the methodology used for this research. The fourth section presents the findings of the scoping study. Based on the findings from the scoping study, the fifth section presents the analysis of national laws, and identifies the gaps in effectively addressing sexual harassment in the workplace. The sixth section summarises the recommendations for government, institutions, civil society and others. The final part of the report is the conclusion.

2.0 BACKGROUND

Gender based violence (GBV) in the world of work and access to decent work is a key focus of ActionAid's work. GBV is an urgent global human rights concern that leads to exploitation, vulnerability, precarity of work and ultimate economic as well as social inequality of women and other excluded groups, including people targeted on the basis of their gender identity. It limits fair access to the labour market, increases economic insecurity and most importantly, keeps millions of workers in insecure working conditions and their inability to enjoy their labour rights.

The International Labour Organisation (ILO)'s Decent Work Agenda is based on four pillars - productive employment, social dialogue, social protection and rights at work (with gender equality as a cross-cutting issue). These pillars are further broken down into 10 substantive elements of work indicators: employment opportunities; adequate earnings and productive work; decent working time; combining work, family and personal life; work that should be abolished; stability and security of work; equal opportunity and treatment in employment; safe work environment; social security; social dialogue; and employers' and workers' representation. Actual violence and harassment, plus the threat of it in the world of work undermines all of these pillars and attenuates women workers' rights to unionize and demand better pay and working conditions.

The International Labour Organisation adopted the Convention on Violence and Harassment in the World of Work (C190) and Recommendation (206) in June 2019 at the International Labour Conference.

In response to this convention to protect women workers from violence and harassment in workspaces (formal and informal), ActionAid Ghana undertook a scoping study to understand the situation in Ghana with regard to the existing legislative and policy environment. The study also sought to identify gaps in the implementation of existing policies.

3.0 METHODOLOGY FOR RESEARCH

The study aimed at undertaking a mapping of existing legislative and policy frameworks in Ghana on ending violence against women and girls in the workplace. Additionally, the study sought to identify the capacity gaps in existing laws in order to comply with the provisions of ILO Convention 190 and Recommendation 206 on the elimination of Violence and Harassment in the World of Work.

The specific objectives of the research were to:

- Scope out legislative and policy environment in Ghana regarding violence and harassment in the world of work;
- Identify gaps in implementation of such policies/laws;
- Make recommendations to address gaps in compliance with ILO Convention 190 and Recommendation 206.

Scope and Methodology

The approach and methodology adopted in undertaking the assignment consisted of the use of qualitative research methodologies. It also involved validation of the findings with key stakeholders to build consensus on the findings and recommendations. The methodology is described below.

The researchers undertook a scoping study identifying and reviewing the key policies and legislation relating to labour in the formal and informal workplace in Ghana and issues relating to violence against women and girls in the workplace.

A review of existing research reports on the issue of labour and sexual harassment was also conducted and the information summarised. Selected relevant international labour and sexual harassment related instruments were reviewed in the course of the study. At the national level relevant legislation dealing with labour and with violence against women including sexual harassment were identified and reviewed. Policy recommendations on labour and sexual harassment as well as case law on sexual harassment in the workplace were also identified and summarised as part of the desk review.

A few key informant interviews were undertaken with selected institutions and representatives of Civil Society Organisations (CSOs) to ascertain the nature of the problem of abuse of females in the workplace. A survey instrument was prepared and deployed online to facilitate the collection of data. Key persons from some of the institutions were also interviewed directly due to their inability to fill out the survey instrument.

The data was analysed and a draft report prepared and with recommendations summarised based on the findings. A stakeholder workshop was held to review the findings of the research. Based on feedback from stakeholders, the report was further reviewed and finalised.

4.0 FINDINGS

This section presents the findings from the scoping study. It looks at a number of international instruments dealing with labour rights and violence against women. It also looks at some national laws on the issue as well as case law and policy proposals as well as literature from other studies on the issue.

Violence against women is a global problem that affects women in different spheres of life – within the family, in the general community and the state as a whole. There are a number of international human rights instruments that calls on state parties to address violence against women in all spheres and is obliged “... In its dealings with other nations, to...(d) adhere to the principles of...(v) any other international organisation of which Ghana is a member” by virtue of Article 40 of Ghana's 1992 Constitution.

The report starts off with the ILO Convention 190, Concerning the Elimination of Violence and Harassment in the World of Work and Recommendation Concerning the Elimination of Violence and Harassment in the World of Work (Recommendation 206), 2019, before looking at other international instruments that have an impact on violence and harassment in the world of work.

4.1 INTERNATIONAL LAW

ILO Convention 190, Concerning the Elimination of Violence and Harassment in the World of Work and Recommendation Concerning the Elimination of Violence and Harassment in the World of Work (Recommendation 206), 2019

These instruments incorporate several existing human rights instruments, and carve

out a broad scope in protecting workers, employees, workers irrespective of their contractual status, persons in training, including interns and apprentices, workers whose employment has been terminated, volunteers, job-seekers, applicants, and individuals exercising the authority, duties or responsibilities of an employer.

ILO Convention 190

It was enacted by the ILO in 2019 and has 20 Articles arranged under eight parts covering several issues in the world of work including – Definitions; Scope; Core principles; Protection and prevention; Enforcement and remedies; Guidance, training and awareness raising; Methods of application and Final provisions.

Article 1.1(a) indicated that “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 included gender-based violence and harassment.” The definition is wider than the “workplace” and is comprehensive enough to reflect the definitions of violence in international instruments. The definition of harassment encompasses both quid pro quo and hostile environment situations.

The provision covers 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. The Convention covers violence and harassment in the world of work, extending to all sectors, private or public, the formal and informal economy, and whether in urban or rural areas.

With regard to the scope, it 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, job seekers and job applicants, and individuals exercising the authority, duties or responsibilities on and of an employer.

Under the core-principles, it is expected that each member that ratifies the Convention is expected to respect, promote and realise the right of everyone to a world of work free from violence and harassment.

It states further that each member shall adopt, in accordance with national law and circumstances and in consultation with representatives' employers and workers organisations "... an inclusive, integrated and gender-responsive approach for the prevention and elimination of violence and harassment in the world of work." It states further that such an approach should take into account violence and harassment involving third parties where applicable.

There are provisions on protection, prevention, enforcement, remedies, assistance, guidance, training and awareness-raising. It calls for the adoption of policies at the corporate level and for effective remedies when it occurs.

It indicates that formal ratification of the Convention shall be communicated to the Director general of the ILO for registration.

Recommendation 206

The provisions of the Recommendations supplement those of the Violence and Harassment Convention, 2019 and should be read in conjunction with it. It has four parts that covers the following: Core principles; Protection and prevention; Enforcement, remedies and assistance; Guidance, training and awareness raising.

Under the protection and prevention section it calls for the protection of complaints, victims, witnesses and whistle-blowers against victimization or retaliation.

With regard to workplace risks, it calls for analysis of factors that can increase the likelihood of violence and harassment. Among others it includes third parties such as clients, customers, service providers, users, patients and members of the public.

It calls for members to take legislative or other measures particularly to protect migrant workers particularly among them. It also calls for effective dispute mechanism to be put in place.

It calls on members to fund, develop, implement and disseminate as appropriate 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.

Other International Instruments

Other international instruments of relevance are identified and summarised below.

i. Convention on the Elimination of all forms of Discrimination Against Women, GA, Res. 34/180 of 18th December 1979

This Convention (also referred to as CEDAW), which entered into force in December 1979 was ratified by Ghana in February 1986. Article 1 defines "discrimination against women" as "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, further elaborated by CEDAW General Recommendation 28, outlines the core obligations of states

- (b) To adopt appropriate legislative and other measures, including sanctions
- (c) To establish legal protection through competent national tribunals and other public institutions
- (d) To refrain from engaging in any act or practice of discrimination 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;

Article 11 enjoins states parties to eliminate discrimination against women in employment and guaranteeing on the basis of equality with men,

- (a) The right to work as an inalienable right of all human beings;
- (c) The right to ... promotion, job security and all benefits and conditions of service ...
- (f) The right to protection of health and to safety in working conditions ...

ii. CEDAW General Recommendation No. 19 (1992)

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

Paragraph 18 defines sexual harassment as including "*such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demand, 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 grounds 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.*"

The Ghanaian case of **Commission on Human Rights and Administrative Justice v Norvor** [2001-2002] 1 GLR 78 also established that sexual harassment is discrimination against women.

Specific recommendations in General Recommendation 19 include

(i) Effective complaints procedures and remedies, including compensation, be provided;

(j) States parties' reports should include information on sexual harassment, and measures to protect women from sexual harassment and other forms of violence and coercion in the workplace;

(t) States parties should take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, including,

(i) Effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including ... sexual harassment in the workplace;

(v) States parties' reports 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.

iii. The Declaration on the Elimination of Violence against Women (1993)

This provided 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 freedom". Paragraph 2 refers to sexual harassment and intimidation at work.

iv. CEDAW General Recommendation No. 35 (2017)

The Recommendation is on gender-based violence against women updating general recommendation No. 19. Paragraph 14 states that sexual harassment is a form of gender-based violence.

Part III, Paragraphs 21-26 espouse the general obligations of states parties, which is responsibility for acts or omissions of state and non-state actors, as well as due diligence obligations at the executive legislative and judicial levels. Paragraph 24 provides that "States 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".

Recommendations, set out in Part IV cover prevention, prosecution, punishment, reparations, coordination, monitoring and data collection. Measures outlined are to be implemented with a victim/survivor-centred approach, acknowledging women as subjects of rights and promoting their agency and autonomy, including the evolving capacity of girls, from childhood to adolescence. Also, they are to be designed and implemented with the participation of women, taking into account the particular situation of women affected by intersecting forms of discrimination.

v. Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence: The Istanbul Convention (2011)

An interesting feature of the Istanbul Convention is its Article 76. Under it, the Convention is open to non-member States of the Council of Europe for accession. The Special Rapporteur on Violence against Women observed that additionally, “its **detailed standards have a universal value and all States can use them to improve their national legislation**”.

Articles 33, 35 and 36 of the Istanbul Convention, outline psychological, physical and sexual violence respectively, and set standards applicable to the prevention of violence against women in the workplace.

Under Article 40, States are to 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”.

vi. The Beijing Declaration and Platform for Action contains several provisions on workplace violence (1995)

Paragraph 114 defines “**violence against women**” as 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.

Violence against women encompasses sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution.

Paragraph 225 states that violence against women violates, impairs or nullifies their enjoyment of human rights and fundamental freedoms. Taking into account the ***Declaration on the Elimination of Violence against Women*** and the work of ***Special Rapporteurs*** on gender-based violence, such as ... sexual harassment, Governments should take urgent action to combat and eliminate all forms of violence against women in private and public life, whether perpetrated or tolerated by the State or private persons.

Paragraph 163 notes that many women in paid work experience obstacles that prevent them from achieving their potential. The experience of sexual harassment is an affront to a worker's dignity and prevents women from making a contribution commensurate with their abilities. Paragraph 73 observes that sexual harassment contributes to discrimination in girls' access to education.

Paragraph 118 explains that 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.

Paragraph 121 notes the lack of or inadequate documentation and research on domestic violence, sexual harassment and violence against women and girls in private and in public, including the workplace impede efforts to design specific intervention strategies. Men's groups mobilizing against gender violence are necessary allies for change.

Paragraphs 127, 180, and 182 identify diverse actors and stakeholders including Governments, the United Nations employers, trade unions, community and women's organizations youth organizations and non-governmental organizations who are to,

- Develop programmes and procedures to eliminate sexual harassment and other forms of violence against women in all educational institutions, workplaces and elsewhere;
- 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, as well as legal protection against sexual and racial harassment;
- Enact and enforce laws and develop workplace policies against ...discriminatory working conditions and sexual harassment; mechanisms should be developed for the regular review and monitoring of such laws;

Paragraph 290 states that the effective implementation of the Platform will require changes in the internal dynamics of institutions and organizations, including values, behaviour, rules and procedures inimical to the advancement of women and the elimination of sexual harassment.

Emphasis is placed on improved data collection on the victims and perpetrators of all forms of violence against women, such as domestic violence and sexual harassment.

vii. SDGs Goal 8 focuses on the Protection of labour rights and promoting safe and secure working environments for all workers by 2030

The SDGs refer to “decent work” and “safe and secure working environments for all workers.” Although they do not mention sexual harassment directly, 8.5 targets the achievement of full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value. Target 8.8 aims at protecting labour rights and promoting safe and secure working environments for all workers, migrant workers, particularly women migrants, and those in precarious employment.

viii. Domestic Workers ILO Convention 189 (2011)

Article 1 defines domestic work as work performed in or for households, and a domestic worker as any person engaged in domestic work within an employment relationship;

Article 3 mandates Member states to ensure the effective promotion and protection of the human rights of all domestic workers, as set out in the Convention. They include the duty to respect, promote and realize the fundamental principles and rights at work, namely

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

Under Article 5, member states should ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence.

ix. Statement on ending Sexual Harassment against Women and Girls with Disabilities¹

With regards to particular groups discriminated against, the UN-Women, the Committee on the Elimination of Discrimination against Women, and the Committee on the Rights of Persons with Disabilities issued a Joint Statement on ending sexual harassment against women and girls with disabilities. Salient provisions in the statement were that states should

- Utilize the experiential knowledge of women and girls with disabilities, to shape initiatives intended to prevent, combat, sanction and eliminate sexual harassment
- Ensure that gender and disability inequalities are central considerations in efforts to end gender-based violence against women, including sexual harassment, in line with CEDAW General Recommendation No.35 (2017).
- Forge partnerships with civil society organizations and organizations of women with disabilities, sexual violence, and sexual harassment against women and girls with disabilities who are institutionalized.
- Collaborate to adopt effective legislation and policies to ensure that sexual harassment against women and girls with disabilities are identified, investigated and prosecuted.

The interventions in the statement also give direction to the processes by which legislation should be drafted, and stakeholders engaged.

x. Inter-parliamentary Union (IPU) sexism, harassment and violence against women parliamentarians² and IPU Guidelines for the elimination of sexism, harassment and violence against women in parliament (2019)³

The two publications reference CEDAW, and documents research on harassment against female parliamentarians, who are to be in the vanguard of legislating against sexual harassment, and for whom parliament is the workplace.

The research surveyed 55 women parliamentarians from 39 countries spread over five regions of the world: 18 in Africa, 15 in Europe, 10 in Asia-Pacific, 8 in the Americas and 4 in Arab countries, from age bands 18-30 to 71-80. 58 per cent were from ruling parties and 42 per cent from opposition parties). During their parliamentary terms, 65.5 per cent of them had been subjected to humiliating sexist remarks, and 20 per cent said they had been sexually harassed. 7.3 per cent said that someone had tried to force them to have sexual relations. Additionally, they experienced economic abuse – denial of funds – as well as threats of death, rape, beatings, abduction and threats to kidnap or kill the children of women parliamentarians.

¹<https://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

²en_issues_brief-women-23nov.pdf

³IPU Guidelines for the Elimination of Sexism, harassment and violence against women in Parliament 2019.PDF)

Recommendations included

- Strong and strictly enforced laws on gender equality and violence against women.
- Specific laws against harassment and political violence against women Standing orders and codes of conduct. Sexual harassment policy and complaint settlement procedures. Countering online threats and other forms of cyber-violence.
- Strengthening internal mechanisms in parliament. Parliamentary codes of conduct with respect to sexual harassment:
- Maintaining security in parliament. Role of solidarity among women parliamentarians
- Changing the political culture

xi. **Statements of the UN Special Rapporteur on Violence Against Women (UN SRVAW) (31 May 2019) Geneva**

The Beijing platform paragraph 225 mentions that attention should be paid to the mandate of the UN SRVAW. The UN SRVAW together with independent human rights mechanisms issued a Joint Statement on *Violence and harassment against women and girls in the world of work* as a human rights violation, (**SRVAW Joint Statement on Violence against Women in the World of Work May 2019.pdf**) calling on the ILO in its 108th session in June 2019, at which negotiations for the Convention (190) would be concluded, to safeguard existing standards on sexual harassment as a human rights violation. The statement said “A denial of these standards would not only constitute an alarming setback in the promotion and protection of human rights and women's rights, but would seriously undermine the efforts made by

women and men in all regions of the world in the last twenty-five years to advance women's rights. We have achieved strong human rights standards and consider that these rollbacks are unacceptable”.

Regional Instruments

There are a number of instruments at the Africa regional level that also has provisions addressing violence and harassment in the world of work.

i. African Charter on Human and People's Rights, OAU Doc. CAB/LEG/24.9/49 (1999)

The African Charter on Human and People's Rights (ACHPR/the Charter) is the Africa regional human rights instruments. It calls for the removal of inequalities and for equal protection of the law.

Article 18 of the Charter calls for the elimination of all forms of discrimination against women and children as set out in other human rights instruments.

ii. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003)

This entered into force on 25th November 2005. Ghana ratified the Protocol on 13th June 2007.

Article 3 requires States to adopt 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”. Articles 12 and 13 have more specific provisions.

Under Article 12 on the Right to Education and Training, States Parties are to take all appropriate measures to:

- protect women, especially the girl-child from all forms of abuse, including sexual harassment in schools and other educational institutions and provide for sanctions against the perpetrators of such practices;
- provide access to counselling and rehabilitation services to women who suffer abuses and sexual harassment;

Article 13 on Economic and Social Welfare Rights calls for the adoption and enforcement of legislative and other measures to guarantee women equal opportunities in work and career advancement, and should: 'ensure transparency in recruitment, promotion and dismissal of women and combat and punish sexual harassment in the workplace.'

iii. Agenda 2063 (2015)

The African Union's Agenda 2063 is rooted in Pan Africanism and African Renaissance, provides a robust framework for addressing past injustices and the realisation of the 21st Century as the African Century. It takes into account past plans and commitments and lessons from them in the implementation of Agenda 2063.

It expresses African Aspirations for 2063 and has seven aspirations. Aspiration 3 is "An Africa of good governance, democracy, respect for human rights, justice and the rule of law." Under this aspiration it calls for gender equality and the rule of law.

Among others it calls for people centred development, gender equality and youth

empowerment which place the African people at the centre of all continental efforts, to ensure their participating in the transformation of the continent and to build caring and inclusive societies. It indicates that "No society can reach its full potential, unless it empowers women and youth and removes all obstacles to women's full participating in all areas of human endeavours. Africa must provide an enabling environment for its women, children and young people to flourish and reach their full potential."

4.2 NATIONAL LAWS

Under the Ghanaian national legal framework, there are a number of laws that address violence against women in the workplace. There are several laws that apply to work within the formal sector. Domestic work in Ghana, like in most developing countries remains invisible and is often not regarded as work. Domestic workers in Ghana are mostly women and children working as housekeepers, cooks and nannies; and men performing duties such as driving, security and gardening. There is a high propensity for abuse of domestic workers including sexual abuse.

Some of the laws relating to violence in both the formal and informal workplace are identified and summarised in this section.

Constitution of Ghana, 1992

The Constitution, 1992 came into force on 7 January 1993 and was amended on 16 December 1996.

Its Chapter 5 covers "Fundamental Human Rights and Freedoms" which can be interpreted to prohibit sexual harassment and violence.

Article 12(2) states that “Every person in Ghana, whatever their race, place of origin, political opinion, colour, religion, creed or gender shall be entitled to the fundamental human rights and freedoms of the individual contained in this Chapter but subject to respect for the rights and freedoms of others and for the public interest”.

- Article 13 – Protection of the right to life.
- Article 14 – Protection of personal liberty.
- Article 15 – Respect for human dignity. No one is to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.
- Article 16 – This article prohibits slavery, forced labour and servitude.
- Article 17(2) ensures equality and freedom from discrimination on grounds of gender, race, colour, ethnic, origin, religion, creed or social or economic status, and (3) amplifies this to cover place of origin and occupation; (4) constitutionally protects affirmative action generally.
- Article 21(1)(e) guarantees the right to form or join a trade union; its clause (4) allows limitations by order of a court in the interest of defence, public safety or public order, or movement or residence within Ghana as long as reasonably justifiable in terms of the spirit of the Constitution.
- Article 24 lays down economic rights, including the right to work under satisfactory, safe and healthy conditions and to receive equal pay for equal work; its clause (3) states,

among other things, that: “Every worker has the right to form or join a trade union of his choice for the promotion and protection of his economic rights and social interests”. clause (4) permits restrictions if reasonably necessary in the interest of national security or public order, or for the protection of the rights and freedoms of others.

- Article 27(1) promotes women's rights, including paid leave during maternity; (2) requires the provision of child care facilities.
- Chapter 6 is entitled “Directive principles of State policy”. Article 35 (6) requires the State to take appropriate measures to achieve reasonable regional and gender balance in recruitment and appointment to public offices.
- Article 36(6) lays down the economic objectives, including that the State afford equality of economic opportunity to all citizens, in particular taking all necessary steps to ensure full integration of women into the mainstream of Ghana's economic development. Its clause (10) safeguards the health, safety and welfare of all persons in employment; and its subsection (11) requires the State to “encourage the participation of workers in the decision-making process at the workplace”.
- Article 40 on international relations states: “In its dealings with other nations, Government shall...(d) adhere to the principles of...(v) any other international organisation of which Ghana is a member”. Ghana joined the ILO in 1957.

Labour Act, 2003 (Act 651)

The Labour Act, 2003 (Act 651) makes specific provisions on sexual harassment in Ghana. **Section 175** of the Act defines sexual harassment as follows:

"sexual harassment" means any unwelcome, offensive or importunate sexual advances or request made by an employer or superior officer or a co-worker to a worker, whether the worker is a man or woman;

According to **section 15** of Act 651, a contract of employment may be terminated by a worker on grounds of sexual harassment. This means that a worker who is a victim of sexual harassment may rely on that as a ground to terminate his or her employment.

Section 63(3) (b) of the Act provides that;

Without limiting the provisions of subsection (2), a worker's employment is deemed to be unfairly terminated if with or without notice to the employer, the worker terminates the contract of employment;

(b) because the employer has failed to take action on repeated complaints of sexual harassment of the worker at the workplace.

The language of section 63(3) (b) suggests that, where a worker complains repeatedly of sexual harassment and the employer fails to act to address the complaints, causing the worker to terminate the contract of employment with or without notice, then such a termination of employment amounts to an unfair termination.

Part VI of the Labour Act ensures protection of working women and Part V protects workers with disabilities.

These provisions however suggest that, in the context of the labour laws, the provisions above apply only to someone who is a worker or an employee of an organisation. It appears that the provisions stipulated above will not apply if there is no contract of employment between a victim of sexual harassment and the employer. (See sections 15 (b) and 63 of the Labour Act). If it is established that there are no internal processes for addressing it, the fines may be heavier. If a pattern of harassment against women can be established against a company it would amount to discrimination under the law and a fine may be imposed.

Part VII also deals with employment of young persons and is covered under sections 58 to 61 of the Labour Act. A young person is defined in section 175 as a person of or above 18 years of age but below 21 years.

It indicates in section 58(1) that "A young person shall not be engaged in any type of employment or work likely to expose the person to physical or moral hazard." It also indicates in 58(2) that the Minister may, by legislative instrument, determine the type of employment that is likely to expose a young person to physical or moral hazard. It indicates further that there is the need for medical clearance before a young person can be employed.

National Labour Commission Regulations, 2006 (L.I. 1822)

Sections 135 to 152 of the Labour Act, 2003 (Act 651) makes provision for the setting up of the National Labour Commission (NLC/Commission) and sets out its role. The National Labour Commission Regulations of 2006 (L.I. 1822) sets up the NLC by virtue of section 152 of Act 651. The prime function of the NLC is to facilitate settlement of industrial disputes.

The function of the Commission includes the settlement of industrial disputes through negotiations and other effective alternative methods of dispute resolution, such as mediation and arbitration. It is to the Commission that workers are mandated to lodge all labour issues including that of sexual harassment and violence.

Labour Regulations, 2007 (L.I. 1833)

This Legislative Instrument (L.I.) was enacted on 28th day of May 2007, in the exercise of the power conferred on the Minister responsible for Manpower, Youth and Employment by section 174 of Act 651. Its main focus is on employment agencies, regulations on conditions of employment, of persons with disability and restrictions on recruitment amongst others. Additionally, according to Regulation 7 of L.I. 1833, employment of young persons in hazardous work is prohibited.

Labour (Domestic Workers) Regulations, 2020 (L.I 2408)

In exercise of the power conferred on the Minister responsible for labour by section 174 of the Labour Act, 2003, (Act 651) the Labour (Domestic Workers) Regulations, 2020 (L.I 2408) was made on 11th day of June 2020. The purpose of these Regulations is to protect the rights of domestic workers and define the employment relationship between a domestic worker and the employer of that worker. The Regulations apply to a domestic worker and the employer of a domestic worker.

Section 175 of the Labour Act, 2003, (Act 651) defines Domestic Worker to mean "...a person who is not a member of the family of a person who employs him or her as house help." This excludes a family member providing services in the domestic setting

from qualification as a domestic worker.

Regulation 17 of L.I 2408 provides for the prohibition of sexual harassment and domestic violence. It states that:

"(1) – An employer of a domestic worker shall ensure that the domestic worker is not subjected to any form of sexual harassment and violence at the work place of the domestic worker."

(2) A domestic worker may report any case of sexual harassment or domestic violence to the nearest District Labour Officer and other relevant authorities including the Ghana Police Service and the Commission on Human Rights and Administrative Justice in accordance with the Labour Act and the Domestic Violence Act, 2007 (Act 732).

(3) A domestic worker shall not perpetuate sexual harassment or domestic violence against the employer of that domestic worker, a dependent of the employer or an occupant of the household of the employer.

Regulation 18(3)(b) of L.I. 2408 provides that, a contract of employment of a domestic worker is considered to be unfairly terminated if that domestic worker terminates the contract of employment because of the failure of the employer to take action on repeated complaints of sexual harassment of the domestic worker by the employer or a dependent of that employer or an occupant of the household of that employer.

Regulation 18(4) goes on to state that where a domestic worker terminates a contract of employment as a result of sexual harassment or domestic violence, the domestic worker may lodge a complaint with the District Labour Officer.

Under Regulation 18(7), the Regulation provides that where the court establishes that an employer of a domestic worker or a dependent of that employer or an occupant of the household of that employer has committed sexual harassment or domestic violence, against the domestic worker, the contract of employment shall be deemed terminated.

Domestic Violence Act, 2007 (Act 732)

The Act penalizes domestic violence within a previous or existing domestic relationship. A domestic relationship includes one in which a residence is shared, and where a person is a house help in the household. Ultimately, the court has the power to determine whether or not a relationship is a domestic one.

Section 1 of the Act provides a wide definition of domestic violence and provides examples which include physical, sexual, economic, emotional, verbal or psychological abuse, harassment, sexual harassment, intimidation and conduct likely to detract from another person's dignity and worth, all of which could constitute abuses a domestic worker could be prone to. Its comprehensive scope of acts constituting domestic violence has the potential of offering wide protection to domestic workers.

With regards to relationships covered, the Act however applies to only domestic relationships and includes domestic workers in the protected categories defined in section 2(1)(h) as a "house help in the household of the respondent..." This gives domestic workers the right to report abuses against them and to apply for various reliefs under the law. It also gives protection to family members living with others and providing domestic services.

Section 42 of the Act however provides a useful definition of harassment to mean;

'sexual contact without the consent of the person with whom the contact is made, repeatedly making unwanted sexual advances, repeatedly following, pursuing, or accosting a person or making persistent, unwelcome communication with a person and includes,

(a) watching, loitering outside or near a building where the harassed person resides, works, carries on business, studies or happens to be;

(b) repeatedly making telephone calls or inducing a third person to make telephone calls to the harassed person, whether or not conversation ensues;

(c) repeatedly sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects or messages to the harassed person's residence, school or workplace; or

(d) engaging in any other menacing behaviour.'

The Domestic Violence Act requires all cases to be reported to the Police for prosecution in its section 6. The Police are expected to prosecute such cases under the Criminal and Other Offences Procedure Act, 1960 (Act 560).

Criminal and Other Offences Act, 1960 (Act 29)

Sexual harassment is not specifically criminalised under the Criminal and other Offences Act, 1960 (Act 29). Therefore, sexual harassment is not treated as a criminal offence in Ghana.

However, section 103 of Act 29 treats indecent assault as an offence and it involves some form of bodily contact. Indecent Assault is defined in section 103 as follows:

'A person commits the criminal offence of indecent assault if, without the consent of the other person that person;

(a) forcibly makes a sexual bodily contact with the other person, or

(b) sexually violates the body of the other person, in a manner not amounting to carnal knowledge or unnatural carnal knowledge'.

A person who is guilty of indecent assault commits a misdemeanour and is liable to a term of imprisonment of not less than six months. Though indecent assault may be a form of sexual harassment at the workplace, the definition of sexual harassment in the Labour Act suggests that the ambit of sexual harassment is wider than indecent assault.

Such cases are also expected to be reported to the Police and to be prosecuted under the Criminal and Other Offence Procedure Act, 1960 (Act 30).

Children's Act, 1998 (Act 560)

Like any other form of child work, child domestic workers are covered by the Children's Act, 1998 (Act 560).

A child is defined as a person below the age of 18 years. Sections 12 and 87 prohibits the engagement of children in exploitative labour. Exploitative labour is defined to mean labour depriving the child of its health, education or development.

Part V deals with the Employment of Children. It indicates that the minimum age at which a child can be admitted for employment is 15 years. (Section 89). The minimum age for hazardous work is 18 years and Section

91 defines hazardous work as work that is likely to expose the child to harm. District Labour Officers are to enforce the law in the formal sector (section 94) and Social Services Sub Committee of District Assemblies are to enforce it in the informal sector. (Section 95).

The law also makes provision for apprenticeship for children in sections 97 to 104 of the Children's Act. It indicates that the minimum age at which a child can be admitted to apprenticeship is 15 years. Section 99 sets out the responsibilities of the Master Craftsmen and it includes responsibility for any harm caused to the apprentice. Section 17 generally prohibits child abuse and calls for it to be reported.

Whistle-Blower Act, 2006 (Act 720)

The Whistle-Blower Act (Act 720), is an important anti-corruption tool. The purpose of Act 720 was to improve the nation's ability to fight corruption and other forms of illegal and unethical conduct that negatively affect State Corporate Institutions. The Whistle-Blower Act is administered by the Commission on Human Rights and Administrative Justice (CHRAJ). The Commission also serves as Ghana's Anti-Corruption Agency and Ombudsman.

The Whistle-Blower Act provides legal protections to people who report "impropriety" which includes economic crimes, violation of law, miscarriages of justice, misappropriation of public resources, dangers to public health or the environment – whether they have occurred or are likely to occur. It provides protections and remedies to all people – employees and citizens – who report these crimes and misconducts in the public interest.

Whistleblowers are legally protected from retaliation in the workplace, including dismissal, suspension, denial of promotion, involuntary transfer and harassment. The Act encourages and supports individuals to “blow the whistle” on unlawful or other illegal conduct or corrupt practices of culprits. It therefore protects any person who “blows the whistle” or exposes the corrupt or other unlawful conduct of culprits. This was necessary in order to ensure that whistleblowers are not victimized by being fired from their work, harassed, intimidated, discriminated against, assaulted or even killed by those who engaged in such improper conduct, or those who may benefit from it.

In order to qualify for protections, disclosures must be made in good faith and with a reasonable belief that the information is true. Unless it can be proven that information disclosed was knowingly false, whistleblowers are not liable to civil lawsuits or criminal prosecution.

Information may be reported to a wide range of people, institutions and organizations, including employers, police, Attorney-General, Parliament members, Ministers, CHRAJ, National Media Commission, Chiefs and religious groups. Investigations must be completed within 60 days.

Section 19 of Act 720 provides for void employment contracts. It states that (1) A provision in a contract of employment or other agreement between an employer and an employee is void if it

- a) seeks to prevent the employee from making a disclosure,
- b) has the effect of discouraging an employee from making a disclosure,

- c) precludes the employee from making a complaint in respect of victimisation, or
- d) prevents an employee from bringing an action in court or before an institution to claim relief or remedy in respect of victimisation.
- e) Subsection (1) also applies to a contract of employment or agreement in existence on the commencement of this Act.

The reality is that, in reporting “impropriety” within their place of employment, employees more often than not risk victimisation, recrimination and sometimes dismissal as it is often the case that the messenger, rather than the important message that is conveyed, is attacked.

Outside the employment context, the law will consider that a whistleblower has been victimised if any person or institution treats that person negatively because he/she made a disclosure under Act 720.

Other Laws

i. **Commission on Human Rights and Administrative Justice, 1993 (Act 456)**

This law establishes a Commission on Human Rights and Administrative Justice (CHRAJ) to investigate complaints of violations of fundamental human rights and freedoms, injustice and corruption, abuse of power and unfair treatment of persons by public officers in the exercise of their duties, with power to seek remedy in respect of such acts or omissions.

CHRAJ has been involved in investigating some cases relating to sexual harassment in the workplace before the setting up of the NLA. Currently CHRAJ has offices in all most Districts in Ghana and ordinary persons whose rights are abused have access to them to settle disputes on the abuse of their rights.

ii. Human Trafficking Act, 2005 (Act 694)

Act 694 covers the recruitment, transportation, transfer, harbouring, trading or receipt of persons, within and across borders, by the use of threat, fraud and exploitation of vulnerability or by paying to gain consent as well as induced prostitution and other forms of sexual exploitation, forced labour, slavery or the removal of organs. Complaints can be filed with the police not only by the victim, but also by any person having information about the trafficking. Sanctions for persons convicted of trafficking include imprisonment for not less than 5 years.

iii. Free Zone Act, 1995 (Act 504)

Act 504, section 34 covers employment in free zones, clarifying that there is freedom to negotiate matters “as shall be consistent with the ILO Conventions on workers' rights and conditions of service.”

iv. The Shipping Act, 2003, (Act 645)

This law regulates the engagement and welfare of seafarers, in particular with respect to crew agreements, wages, occupational safety and health, required provisions and water on board, protection of seafarers from imposition and relief and repatriation. Part VII regulates safety of life at sea. The Act applies to Ghanaian ships wherever they may be and other ships while in a port or place in or within the territorial and other waters of Ghana (section 480).

v. Courts Act, 1993 (Act 459)

Pursuant to Article 11 of the 1992 Constitution, the laws of Ghana comprise the Constitution; enactments of Parliament; orders, rules and regulations; and the common law, which includes customary law. The independence of the judiciary from the executive and legislative branches of government is constitutionally entrenched in Chapter 11 of the Constitution.

The Courts Act, 1993 (Act 459) sets out the structure of the court system in Ghana and defines the respective scope of jurisdiction for the various levels within the court structure.

At the apex of the court system in Ghana is the Supreme Court, the highest court of the land. Immediately below the Supreme Court is the Court of Appeal and below the Court of Appeal is the High Court. Regional Tribunals, roughly equivalent to the High Court, were introduced into the formal court system under the 1992 Constitution and have concurrent jurisdiction with the High Court in criminal matters. In practice, the Regional Tribunal is almost non-existent. Together, these four courts constitute the Superior Courts of Judicature in Ghana.

By section 2 of the Act 459, the Supreme Court has appellate and other jurisdiction as may be conferred on it by the Constitution or by any other law. The Supreme Court as provided by section 3 has, subject to the jurisdiction of the High Court in the enforcement of the Fundamental Human Rights and Freedom as provided in Article 33 of the Constitution, 1992, the power to hear constitutional cases under Article 2 of the Constitution.

The Court of Appeals per section 11 of Act 459 has jurisdiction to hear and determine subject to the provisions of the Constitution, appeals from a judgment decree or order of the High Court and Regional Tribunals as well as some circuit court cases.

The High court on the other hand, in accordance with section 15 has original jurisdiction in all matters, appellate jurisdiction in a judgment of the Circuit court in the trial of a criminal case and appellate jurisdiction in any judgment of a District court or Juvenile court. Additionally, it has jurisdiction to enforce the Fundamental Human Rights and Freedoms guaranteed by the Constitution. The High Court per section 17 has supervisory jurisdiction over all lower courts and any lower adjudicating authority. At the High Court level, the Judicial Service has by directives established a number of divisions including a Human Rights Division and Labour Division. These courts handle a lot of labour related issues including those that raise constitutional violations.

Below the High Court are the Circuit Courts and the District Courts whose jurisdictions are limited to particular geographical areas and which adjudicate minor civil claims (with a monetary cap, GHS2 million for Circuit and GHS500,000 for District Courts)⁴ and minor criminal offences. Section 42 of Act 459 provides for the jurisdiction of the Circuit court in civil matters.

Per section 43, the Circuit Court has original jurisdiction in all criminal matters other than treason, offences triable on indictment and offences punishable by death. There is no limit as to the number of years the court can impose in sentencing. Cases are however limited to the circuit in which it happened.

The criminal jurisdiction of the District Court is set out in section 48 of Act 459 (as amended). A District Court has jurisdiction to try cases summarily; it is however limited to trying second degree felonies and misdemeanours where the punishment does not exceed; a fine of 500 penalty units, or a term of imprisonment not exceeding 2 years or both.

Aside the limitation above, a District Court has jurisdiction to try any other offence suitable to the Attorney General to be tried summarily, provided the offence is not punishable by death, imprisonment for life, or an offence declared by any enactment to be a first-degree felony.

vi. Civil Law – The Law of Torts

In most common law jurisdictions, like Ghana, sexual harassment may also constitute a tortious offence for which the victim can sue the perpetrator and the company for heavy damages for allowing it to happen. A tort occurs if a person is touched without their consent. Thus, a victim of sexual harassment can initiate an action in torts to seek redress for the wrong done to her/him. While penal procedures predetermine the punishment, in civil procedures, the victim may be able to influence the level and redress they choose to pursue. The victim may therefore claim for other losses including loss of income as a result of the acts of sexual harassment.

⁴See Courts Regulations, 2020 (L.I. 2429)

4.3 CASE LAW

When sexual harassment in the workplace occurs, it can be taken to the CHRAJ, National Labour Commission or to a court. There are however very few reported cases on sexual harassment in the workplace in Ghana. One each of the classic national and international cases are the following:

i. Commission on Human Rights and Administrative Justice v Norvor [2001-2002]1GLR 78

A case of sexual harassment was filed against Professor Norvor, the Managing Director of Fan Airlines Limited by a former employee who alleged sexual harassment in the course of her work. After its investigations CHRAJ confirmed the allegations and ordered him to pay compensation to the said employee. The matter was later taken to court for enforcement.

ii. Anita Hill v Clarence Thomas⁵

The conservative Supreme Court Justice Clarence Thomas was appointed to the court in 1991 by President George H.W. Bush, an action that "was instantly controversial" among the NAACP (National Association for the Advancement of Colored People), which "feared that Thomas's conservative stance on issues such as affirmative action would reverse the civil rights gains that Justice [Thurgood] Marshall had fought so hard to achieve." Women's groups also feared that Thomas would enact anti-abortion legislation.

All groups were ultimately shocked, however, when Clarence Thomas was accused of sexual harassment by a University of Oklahoma law Professor named Anita Hill, who had once worked for him at the Equal Employment Opportunities Commission. Despite the allegations and investigation, Thomas was narrowly elected to the U.S. Supreme Court, and Hill was criticized for 'character assassination'.

iii. CEDAW Communications Vertido v. Philippines (Committee on the Elimination of Discrimination against Women (CEDAW); 2010. CEDAW/C/46/D/18/2008)

The author of the communication worked as Executive Director of the Davao City Chamber of Commerce and Industry in the Philippines. She filed a complaint against the then President of the Chamber, accusing him of raping her. She alleged that the accused offered her a lift home following a business meeting one evening and that, instead, raped her in a nearby hotel.

She subsequently submitted a communication to the CEDAW Committee alleging that the acquittal of the Director breached the right to non-discrimination, the right to an effective remedy, and the freedom from wrongful gender stereotyping, in violation of articles 2(c), 2(d), 2(f) and 5(a) of CEDAW.

The Committee found that author also suffered pecuniary damages due to the loss of her job. It recommended that the state party

- Provide appropriate compensation commensurate with the gravity of the violations of her rights;

⁵The Anita Hill case was a Senate Judiciary Committee hearing during Clarence Thomas Supreme Court nomination. The Wikipedia address is: https://en.wikipedia.org/wiki/Anita_Hill

- Ensure that all legal procedures in cases involving crimes of rape and other sexual offenses are impartial and fair, and not affected by prejudices or stereotypical gender notions;
- Appropriate and regular training on the Convention on the Elimination of All Forms of Discrimination against Women, its Optional Protocol and its general recommendations, in particular general recommendation No. 19, for judges, lawyers and law enforcement personnel;
- Appropriate training for judges, lawyers, law enforcement officers and medical personnel in understanding crimes of rape and other sexual offences in a gender-sensitive manner so as to avoid revictimization of women having reported rape cases and to ensure that personal morals and values do not affect decision-making.

This case provides illustration of how violence against women in the world of work can occur under the ILO C.190 Article 3 (f) in the context of harassment when commuting to and from work

4.4 FINDINGS FROM INSTITUTIONS

A survey was undertaken with a number of institutions and organisations which were purposively selected due to the roles they were expected to play on labour and in the handling of sexual harassment in the workplace issues. For those that could not participate in the survey, interviews were undertaken with officials of these institutions.

This section presents a summary of the findings.

Summary of findings from Interviews

i. National Labour Commission

Their response indicated that only a few sexual harassment in the workplace related cases are reported to them which go through their normal case handling processes. These are mainly individual complaints of sexual harassment in the workplace. This involves a formal petition being submitted to them with the claim of the petitioner. The other party is invited to respond to the allegation. A hearing is held at their office by officers to try to resolve the dispute. If this is not possible the matter is referred to an Alternative Dispute Resolution (ADR) practitioner to mediate. A mediation agreement is entered into if the ADR is successful and the outcome can be enforced or forwarded to court for enforcement. If one party refuses to cooperate, a suit can be filed in court.

ii. Commission on Human Rights and Administrative Justice

CHRAJ also reported receiving complaints of sexual harassment in the workplace at its regional offices.⁶ They undertake investigations as they do with all cases reported to them and use ADR to settle such matters. When decisions made are not complied with, they have the right to apply to the court for enforcement as they did in the Norvor case.

⁶ Interview held with CHRAJ Official.

Summary of Survey findings

The respondents to the survey included governmental and non-governmental bodies. They included the following: Ministry of Employment and Labour Relations, Labour Department, Trades Union Congress (TUC), General Agricultural Workers Union of TUC, Ministry of Gender Children and Social Protection, FIDA Ghana and LAWA-Ghana Alumnae Incorporated.

The survey was undertaken as part of the scoping study. About 12 participants from key stakeholder organisations were identified to respond to the survey anonymously. However, respondents were from 7 organisations only.

The responses indicate that there is widespread support for Ghana's adoption of ILO Convention 190 on Violence and Harassment in the World of Work (C190) and Recommendation (206). There were also calls for increased sensitization and stronger national legislative policies and enforcement of sexual harassment laws.

On the type of work done by the institutions or organisations that responded to the survey, majority (86%) of the respondents indicated that they are involved in advocacy work. Other responses included: enforcement of labour standards; policy formulation (by the various Ministries that responded); reporting and investigating cases of sexual harassment; prevention and advocacy work against sexual harassment against women in the workplace.

With regard to the types of clients they served, the majority of participating organisations indicated that they work with adult men and women. Only a few (14%)

organisations (FIDA-Ghana and LAWA-Ghana) provided services dedicated to women. Some organisations work with disabled individuals and groups, while others offer services to female domestic workers.

With regard to the types of work done by institutions or organisations, it was indicated by the majority of participating institutions or organisations that they handle labour related cases. Majority (71%) of participating agencies are involved in handling human rights and abuse cases.

On the types of matters handled with respect to children aged 15 plus, about 57% of participating organisations indicated that they handle both labour and abuse cases pertaining to children. One organization FIDA-Ghana handles cases related to non-maintenance of children, and non-maintenance of teenage mothers by their partners. The Labour Department handles matters relating to child apprentices.

On the number of cases handled by agencies and organisations between 2018 and 2020 the responses were skewed by that of FIDA which handles large case volumes on a yearly basis. The organisation dealt with an average of 645 cases between 2018 – 2020, while other respondents, on average, handled less than 10 cases on a yearly basis. Reported data from study participants that provided responses show that a total cumulative average of 66 cases were handled across the 2018 – 2020 period.

On what percentage of the matters handled emanate from organisations, which have policies on sexual harassment/workplace violence, the data indicated that participating organisations handle low volumes of cases (a total cumulative average of 4%) from

companies which have policies on sexual harassment/workplace violence.

With regard to the percentage of cases pursued to conclusion the survey revealed that on average, 19% of cases are pursued to conclusion by study participants. FIDA reported the highest case completion percentage (65%).

On why cases are not pursued to conclusion, the responses were as follows:

- Lack of financial capacity to pursue cases in court;
- Reluctance to seek legal redress where families are concerned, particularly husbands or male partners, so complainants may decide to settle matters at home;
- Lack of cooperation between victims and witnesses during prosecutions;
- Vulnerable women and girls are not encouraged to report harassment because they do not want to be negatively tagged or be disgraced in their communities;
- "Proper structures at workplaces to facilitate reporting are not in place;"
- Interventions by religious/traditional leaders;
- Withdrawal by victims;

With regard to the remedies available at the institutions, majority (60%) of participating agencies indicated that they refer cases of violence and acts of sexual harassment against women to other institutions. It was also indicated that summary dismissals (as stated in collective agreements) are an alternative remedy provided by a participating agency.

On the systems in place for data collection on cases reported, it was indicated that they

could be found in reports submitted and data as documented in files/folders.

Respondents indicated that data collected is utilized as follows:

- Data collected is analyzed to determine trends in workplace abuses against women.
- Analyzed data form the bedrock for relevant statistics which help inform the development of policy as well as support education and advocacy efforts.

Responses to challenges faced in addressing violence against women/sexual harassment in the workplace, elicited the following responses:

- Reluctance to report cases to the Police due to hostile attitude from Police or some DOVVSU staff;
- Victims are unwilling to report cases for fear of losing their job or being stigmatized, especially in cases where perpetrators are the leaders of organization;
- "Lack of a [national] legal provision that comprehensively addresses violence against women/sexual harassment in the workplace;"
- "Sexual harassment is not comprehensively featured in employment contracts;"
- "Resource constraints in organising mass education on existing legislations for all workers."

On what can be done to address violence against women in the workplace recommended were as follows:

- “Our Laws must be amended to define what sexual harassment is, the role of law enforcement should be clearly spelt out, and punitive measures must be made explicitly clear.”
- “There should be proper reporting mechanisms in the Collective Agreements and the Labour Act;”
- “Education for workers on existing legislations at workplaces;”
- “Regarding sexual harassment, all employers must have sexual harassment policies which must be made available to all staff upon recruitment;”
- “Open door policy with a clear reporting procedure that shields the victim and rather looks into the merits of the case.”

On their views on ILO Convention 190 on Violence and Harassment in the World of Work (C190) and Recommendation (206) in June 2019 at the International Labour Conference.

- The two instruments are seen as, “a comprehensive and inclusive convention that if adopted, can guarantee the rights of all vulnerable workers against SGBV at the workplace.”
- “These are ground breaking instruments that provide a clear framework for action against sexual harassment. It holds a lot of promise to transform the future of work, as women and girls can now work based on dignity and respect. The right of women to a world of work free from violence and harassment is now clearly backed by the force of an international treaty.

Women's rights organizations can also clearly now hold our governments accountable if we are able to advocate for it to be domesticated in national laws.”

- It has the potential to, “create an environment at the workplace devoid of fear of being sexually harassed.”

Recommendations

On how adopting ILO Convention 190 can help Ghana, it was indicated as follows:

- C190 is a 'one-stop' policy for protecting all categories of workers including workers not covered by the Labour Act 651 (2003).
- If adopted, Ghana will have a responsibility towards the ILO to report on the nation's activities to reduce violence against women in the workplace. It could be a key precursor for a comprehensive law against sexual harassment in the workplace to be passed.
- It will help Ghana address issues of sexual harassment including legal provisions, advocacy, education, policy and prevention in a more comprehensive manner.

On other recommendations to address violence against women/sexual harassment in the workplace?

- Clearer policies and reporting mechanisms on sexual and all other forms of abuses against women at the workplace.
- Nationwide and sustained education and sensitization on violence against women in the workplace.
- Creation of additional government-backed agencies to support the efforts of organizations such as DOVVSU to offer assistance to

victims in need of necessary support services.

Other recommendations and comments from the interviews and survey are as follows:

- The use of ADR to try to settle matters of sexual harassment in the workplace is very common.
- Very little was said about other non-violent forms of sexual harassment and how it is handled by institutions.
- Generally, the two key government Ministries and institutions and organisations that responded to the survey were of the view that the ratification and adoption of ILO C o n v e n t i o n 1 9 0 a n d recommendation 206 of 2019 will be very helpful in addressing all types of sexual harassment in Ghana's workplace as defined by the ILO.

4.5 POLICIES, POLICY PROPOSALS AND OTHER RECOMMENDATIONS

There are a number of policies and policy proposals that have been made in the literature, on the need for the removal of discriminatory practices against women in both formal and informal work places. This section examines and summarises number of them and the key recommendations they contain.

National Gender Policy (2015)⁷

The National Gender Policy was enacted in 2015 to give directions in addressing gender issues in Ghana and it sets out several strategies including labour related ones.

⁷<https://www.mogcsp.gov.gh/mdocs-posts/national-gender-policy/>

It indicates that Gender Equality and Women Empowerment are strategies for reducing poverty levels, social injustices among women and men, improving health standards and enhancing efficiency of public and private sector investments and domestic finance. Thus, achieving gender equality is regarded as the attainment of human rights and a pre-requisite for sustainable development.

Ghana's goals towards achieving gender equality targets are guided by its commitment to International Instruments, the 1992 Constitution and national development frameworks. Specifically, Article 17(1) and (2) of the 1992 Constitution guarantee gender equality and freedom of women and men, girls and boys from discrimination on the basis of social or economic status among others. Ghana's efforts at promoting gender equality and the empowerment of women, men, girls and boys are evident in its recent achievements as contained in various international indices.

The overarching goal of the Policy is to mainstream gender equality concerns into the national development processes by improving the social, legal, civic, political, economic and socio-cultural conditions of the people of Ghana particularly women, girls, children, the vulnerable and people with special needs; persons with disability and the marginalized.

The five policy objectives or commitments are outlined below together with some of the strategies of relevance set out under them:

1. **Women's Empowerment and Livelihoods** - To accelerate efforts and commitments of government in empowering women (including women with disability) to have safe and secure livelihood, access to economic opportunities, decent work to improve earnings while addressing disparities in education, socio-economic and cultural issues, health and agriculture, trade and related matters.

Some of the proposed strategies set out under it include:

- a. *Employment/ Decent Work* - Engender employment policies in Ghana for greater inclusion, visibility and equal voice of both women and men in employment and the labour market in general; Promote the development of database on employment records for men and women in formal and informal sectors to track, evaluate and improve employment conditions for all particularly women; Implement support actions to strengthen the legal and administrative framework for labour administration.

2. **Women's Rights and Access to Justice** - To speed up enforcement and domestication of ratified International Treaties policies and strategies adopted by the

Government to tackle violence, discrimination and promote gender equality and women's empowerment nation-wide.

Some of the proposed strategies set out under it include:

- a. *Women and the legal system*
– Develop legal education programmes to promote access to justice options for women; Facilitate inter sectoral dialogues and actions on the promotion of legal aid and services in support of women's rights; promote advocacy for effective law enforcement for the enhancement of the rights of women;

- b. *Gender based Violence:*
Facilitate funding support for DV Secretariat and DOVVSU; Support the implementation of the national policy and plan of action of the Domestic Violence Act; Establish shelters for victims / survivors of domestic / gender-based violence; Strengthen and equip agencies including the Department of Social Welfare (DSW), DOVVSU, Anti-Human Trafficking Unit (AHTU) of the Ghana Police Service, Human Trafficking Secretariat (HTS) and Gender-based Courts / Human Rights Courts to effectively address gender based violence, abuses of

women's right, and trafficking of women and children.

- c. *Data Collection, Research and Information Management*: Liaise with the Ghana Statistical Service (GSS) to initiate the collection and documentation of gender sensitive data about Ghana; Promote the production of sex disaggregated information about essential matters in all sectors, regarding the issues of women and men, girls and boys including persons with disability; Promote and educate stakeholders on legislation and regulations on access to information that will facilitate women's empowerment.

- 3. Women's Leadership and Accountable Governance** - To enhance the participation of women in Leadership, Governance, and Decision making at all levels. In pursuance of this objective, a well-developed institutional capacity and a healthy political environment based on the rule of law, government effectiveness, control of corruption, regulatory quality, will be promoted as necessary conditions for women's interest and rights.

Some of the proposed strategies set out under it are as follows:

- a) *Women's leadership and accountable governance*: Review workplace and common area barriers to effective participating of women in governance processes; Enhance the

understanding of the implications of non-compliance in monetary and programmatic terms to gender mainstreaming policies and programmes

- 4. Economic Opportunities for Women** - To improve women's economic opportunities including engendering macro-economic and trade policies so that the basic and strategic needs of both men and women are addressed.

Some of the suggested strategies are:

- a. *Trade and industry*: Engage with the relevant institutions to develop a national policy for the informal sector (where women are concentrated), to take account of the challenges that confront women in trade and industry; Build on commitments of governments and connect gender to regional and international trade policies; Work with appropriate agencies to facilitate business environment that is favourable for women and men traders, exporters, importers.

- 5. Gender Roles and Relations** - To transform inequitable gender relations in order to improve women's status relative to that of men; to influence state policy in all areas and to identify strategies to facilitate equitable relations between women and men.

Some of the suggested strategies are:

- a. *Gender Roles:* Initiate processes with the GSS to gather sex disaggregated data and gender statistics to include (both quantitative and qualitative) data such as the different roles men and women play in their various societies and the gender differences shaped by ideological, political, historical, educational, religious, and economic and cultural determinants; Facilitate allocation of resource by public and private sector institutions to set up a regular gender awareness and sensitization programmes, to improve the culture for understanding gender roles and relationships in formal and informal decision making in homes, in communities and at work places; Facilitate the implementation of gender mainstreaming in accordance with the terms contained in the 4th Women's Conference in 1995 in Beijing.
- b. *Gender Relations:* Facilitate sector gender policies to transform gender norms, stereotypes, socialization issues and unequal power relations; focusing especially on educational systems, media, the labour market and leadership leading to sharing of responsibilities and confronting negative

masculine and feminine behaviour.

ActionAid, Securing Young Women's Rights to Freedom from Economic and Sexual Exploitation in Informal Workspaces in Ghana⁸

This is a report of a study undertaken for ActionAid Ghana by Gender Reflection Consultancy Services. They undertook research, case study analysis and interpretation of international and national laws/policies, conventions on labour, gender in the informal economy. The study was undertaken as part of AA Young Women Life Choices and Livelihoods (YUM) programme in Ghana and India, South Africa and Kenya. The programme aims to address structural barriers that marginalised and excluded young women in urban areas from fully enjoying economic security and bodily integrity. It supports young women to lead local and national advocacy in the four countries indicated and join global efforts to advance their rights. Young urban women are equipped to enhance their skills in order to challenge inequality and demand accountability at various levels for the delivery of their rights. AAG commissioned the programme in 2018 to understand in depth, the rights violations faced by young women workers in the informal work spaces of Ghana particularly in hair salons, tailoring, restaurants, bars, street hawking, markets and other spaces.

⁸Action Aid (2020), 'Securing Young Women's Rights to Freedom from Economic and Sexual Exploitation in Informal Workspaces in Ghana, ActionAid Ghana.'

Specifically, the research sought to: (a) Identify and assess the types of economic rights violations young urban women experience in informal workspaces; (b) Identify and assess the economic challenges confronting these women; (c) Assess the incidence and threats of sexual exploitation they face; (d) Conduct a scoping of relevant laws and policies available in Ghana to address the issues of exploitation identified and (e) Propose key recommendations that would improve upon the economic rights violations and sexual exploitation of the young urban women in the informal workspaces.

The report indicates that women make up a disproportionate percentage of workers in the informal sector. It is indicated that in non-agricultural jobs 74% women are in informal employment in sub-Saharan Africa. Women in the informal sector face a lot of challenges including sexual harassment.

On the issue of sexual exploitation there were several findings that confirmed that such women suffer extensive sexual exploitation but they had limited access to redress. 49% of women in the study confirmed that they have been sexually abused; 41% had been sexually harassed more than once; 17% experienced incessant or repetitious telling of sexual or dirty stories or jokes.

Several recommendations were made to improve the situation. Among these is the recommendation to “Protect informal women workers from economic and sexual exploitation” by doing the following –

- 1) Ratify and adopt key ILO Conventions
 - o prioritise the ratification and adoption of ILO Convention 189 (2011) on decent work

for domestic workers and related Recommendation 201

- o ratify and adopt ILO Convention 190 (2019) and related Convention 206, to ensure that all workers are protected from violence in the world of work. These are important given the Government's commitment to reduce VAWG.
- 2) Develop National Action Plans to support the implementation of ILO conventions 189 and 190 where there are none, led by the NDPC
 - 3) Strengthen the Labour Act, 2003 (Act 651) in line with ILO Convention 189 and 190. The Labour Department should:
 - 4) Hold employers to account for decent work conditions
 - 5) Implement the Domestic Workers Regulations, 2020
 - 6) Review and implement the Domestic Violence Act, 2007 (Act 732)

ActionAid, Falling through the Cracks: Tackling the Justice Deficit for Women Survivors in Ghana⁹

This is a research report which is part of a multi-country ActionAid campaign on access to justice for women looking both at the global barriers to justice as well as the specific deficits in each of the four countries the realization campaign focuses on.

⁹ActionAid (2019), Falling through the Cracks: Tackling the justice deficit for women survivors in Ghana.

This report presents Ghana's situation, where 71.5% of women have experienced violence in their lifetime and where despite a comprehensive Domestic Violence Act being passed in 2007, too many survivors are yet to access justice to crimes against them. It identifies a number of implementation gaps in the DV Act and makes recommendations based on a series of focus group discussions held with women's rights organisations.

The report indicates that it is almost impossible for survivors of violence to report crimes, and where they do report to frontline services like the Police or within the community, achieving an effective remedy for the violence remains remote. It also mentions the delay in the passage of the Domestic Violence Regulations in 2016. The time gap created problems with the uptake and use of the law by the Police and the Domestic Violence Victim Support Unit (DOVSSU). The report documents the problems victims encounter when patronizing DOVSSU services. These include: financial cost in accessing services; location of their offices and lack of knowledge about their existence; the traumatic and often discriminatory experience inside DOVSSU offices; lack of privacy and inside adequate resources to guarantee confidentiality; costly medical examinations; insufficient knowledge of the Domestic Violence Act by police prosecutors; going to court can be physically or financially impossible.

Part 4 of the report looks at 'Women in informal work and their access to Justice.' Focus group discussions were held with groups of women domestic workers and bar and restaurant workers to access their experiences of violence in their work and social spaces. It was found that they experience violence 24 hours a day, 365 days

a year, and because of their informal status are least heard and visible. They exemplify the shortcomings and grey areas of the legal framework, as well as the rootedness of patriarchy and social norms. The Domestic Violence Act includes domestic workers/house-helpers in its scope of domestic relations. This provided hope that the Domestic Violence Act could be extended to include gender-based violence in the workplace, in particular the precarious workers in the informal sector. A judge however indicated that the DV Act covers domestic workers not as a workplace issue but as a domestic relationship. It was observed that there has not been any judicial interpretation of the Act in the courts.

It was further observed that even though the Labour Act includes sexual harassment, it appears only to apply to workers in the formal sector and excludes those in precarious work such as domestic workers and informal sector workers, such as women who work in bars and restaurants.

They made a number of policy recommendations which are summarised as follows:

- Ensure that all workers enjoy a violence-free working environment through the realization of their rights in the workplace
 - Government
 - Ratify and adopt into national law ILO Conventions 189 and 190 to ensure that all workers are protected from violence in the workplace.

- Develop national action plans to support the implementation of ILO Conventions 189 and 190, where there are none and ensure political follow-through including adequate national budgets for implementation and rigorous monitoring mechanisms.
 - Review existing labour laws and regulations and bring them in line with ILO Conventions 189 and 190.
 - Support women's human rights organisations, trade unions and labour organisations to monitor progress of implementation, conduct strategic litigation and provide expert advice.
 - Put in place rigorous measures to facilitate easily accessible justice for survivors of workplace violence.
- o Civil Society
 - Engage in strategic targeted campaigning to ensure that the ILO Conventions 189 and 190 are ratified using a number of strategies.
 - Engaging in the awareness raising and movement building of workers' organisations, trade unions, NGOs and women's rights organisations through a number of strategies.
- Ensure a reduction in violence against women and increase survivor's access to justice through a well-resourced and sustainable Domestic Violence Fund for survivors.
 - o Government
 - Include the Domestic Violence Fund in the budget line of the Ministry of Women, Gender and Social Protection
 - Parliament to accept the annual allocation of the DV Fund at USD4million by 2020.
 - Operationalise the DV Fund within the next 10 years in all regions through a process of decentralisation.
 - Operationalise the DV Fund so that the provision of shelters in the DV Act can be realised
 - Establish mechanisms to ensure easy and equitable access to the Fund.
 - Depoliticise the DV Management Board to ensure that its appointees serve their full term.

- o Civil society
 - Engage in strategic targeted advocacy aimed at the Ministry of Gender and the Gender Committee in Parliament to achieve buy in and support for the allocation of national budget for the DVF
 - Establish a working partnership between the media and civil society organisations to raise awareness across old and new media platforms
 - Develop a platform for inclusive discussion between CSO, the media and state actors.
 - Provide strategic support to the DV Management Board for fundraising.
 - Engage in strategic advocacy with political parties to ensure that domestic violence is included in their manifestos, thus giving our society a mechanism to hold them accountable by.

- Ensure a significant reduction in violence against women and increase in survivors' access to justice through unlearning and challenging gender exclusive values.

These values include informal, community based legal systems, national normalisation on perceptions of women as properties of men; and the overall placement of domestic violence as a private issue.

Like Your Own Child? Employers' Perspectives and Domestic Work Relations in Ghana¹⁰

Studies have generally found that domestic workers in Ghana are among the most exploited and badly treated of workers - poorly paid, without formal job descriptions and terms and conditions of service, expected to work unreasonably long hours and perform tasks which depend on the changing needs of their employers. (LAWA Ghana 2003; Akurang-Parry 2010; UNICEF 2005; Tsikata 2009; Tsikata 2011; Labour Research Policy Institute of Ghana TUC, undated).

While these conditions cry out for regulations to protect domestic workers and improve their terms and conditions of work, this remains a difficult task in prospect in Ghana and elsewhere in spite of the recent ILO Convention on Decent Work for Domestic Workers (Convention No. 189 of 2011)

¹⁰Dr. Dzodzi Tsikata, in *Transatlantic Feminisms – Women and Gender Studies in Africa and the Diaspora*, Edited by Cheryl R. Rodriguez, Dzodzi Tsikata and Akosua Adomako Ampofo, Lexington Books, 2005

Several factors account for this particularly for women domestic workers. These include - the relative isolation of domestic workers in private homes, gender-based discrimination, their relative youthfulness, lack of work experience and marketable skills, and a generalized perception of domestic work as a stop-gap activity which is not quite employment. In addition, the limitations of the existing institutional regime for domestic work, the largely informal and undocumented nature of domestic relations, and the socio-economic conditions of work in Ghana do not favour the effective regulation of work in general and domestic work in particular. She states further that over three decades of economic liberalization policies and the liberalization of labour markets have resulted in a deeper entrenchment of informal work, which occurs within production systems which are household based and regulated by customary practices in the various sectors.

To contribute to the under-researched stand in the literature, the researchers included employers with attention to the following: their demographic characteristics, their recruitment practices, the terms and conditions they favoured and why, the job description of their domestic workers, who their ideal domestic worker and employer were and their attitudes to the regulation of domestic work.

The main recommendation from the research was for regulation to improve the conditions of domestic workers. All the employers interviewed for this research were of the view that regulation would be critical for improving the conditions of domestic workers. While some were clear about what such a regulation should cover, others were not so clear. Those who were clear felt the regulations should cover issues of corporal

punishment, food, wages, the challenges of enforcement and how to overcome them, and end of service benefits.

Domestic work and domestic workers in Ghana: An overview of the legal regime and practice. (Conditions of Work and Employment Series No. 23)¹¹

This paper was first published in 2009 and was commissioned to obtain an overview of the legal and institutional regimes governing domestic work in Ghana and to contrast this against the conditions of domestic workers. This was intended to help identify the problems and challenges they confront in Ghana, and provide insights for the drafting of possible international instruments on this subject matter.

The paper is based on secondary sources as well as on interviews with key informants, such as policy-makers, union leaders, employment agencies and civil society organizations. It is hoped that it will help fill a knowledge gap as the information on this segment of the working population is usually scarce and scattered.

It maintains that domestic work is pervasive in Ghana and domestic workers form a significant component of the informal economy, which is the main economy in Ghana, as it is in other developing countries. Like others in the informal economy, but even more so, domestic workers are largely undocumented because of the nature of their work and workplace.

¹¹Dr. Dzodzi Tsikata, Senior Research Fellow, Institute of Statistical, Social and Economic Research (ISSER) and Deputy Head, Centre for Gender Studies and Advocacy (CEGENSA) University of Ghana

The paper observed that the informality of arrangements for domestic work, the customary law and practice developed around domestic work relations over the years, and the isolation, youth and lack of education of domestic workers has meant that their rights are not enforced. This is compounded by the fact that the labour inspection regime does not include private homes in its definition of establishments. It argues that domestic workers have neither been explicitly excluded nor provided for by the Labour Act of 2003, except that they are excluded from the provisions relating to hours of work and rest periods.

The paper made a number of recommendations one of which was that special regulations for domestic labour need to be implemented urgently. In addition to detailing terms and conditions of service, such regulations should clarify who is the employer of the domestic worker — the user of the service or the employment agency — in cases where employment agencies recruit these workers.

Economic and Social Costs of Violence Against Women & Girls (VAWG) in Ghana: Summary Report April 2019¹²

In recognition of the dearth of knowledge on these impacts and costs, the UK Department for International Development (DFID) funded research to investigate the social and

economic costs of VAWG in Ghana, Pakistan and South Sudan (2014–19), as part of its wider 'What Works to Prevent Violence' research and innovation programme. A consortium, led by the National University of Ireland, Galway, with Ipsos MORI and the International Centre for Research on Women (ICRW) at the University of Ghana and working in collaboration with the Institute of Statistical, Social and Economic Research (ISSER), undertook the research.

This study used a mixed method approach including both quantitative surveys of individual women, households and businesses, and qualitative inquiry methods including key informant interviews, participatory focus groups, and individual in-depth interviews. An overall sample of 2002 women between the ages of 18 years – 60 years drawn from 84 primary sampling units across the main ten regions of Ghana was used to estimate the economic losses caused by VAWG as well as the non-economic costs of violence that impact on economic growth, development and social stability in Ghana.

The study found amongst others that nearly one in four women reported experiencing workplace violence. Additionally, that the impacts of violence on the productivity of women experiencing violence from the study are significant. Women who experience violence miss more days of work and are less productive than women who do not suffer violence. National estimates show that about US\$19 million is spent on violence-related expenditure annually by households in Ghana. Of this, work place violence accounts for about US\$2.6 million. This shows that violence against women is costing households and the country dearly with huge sums of money being dissipated by households in dealing with its effects.

¹²Authors - National University of Ireland, Galway: Mrinal Chadha, Stacey Scriver, Carol Ballantine, Srinivas Raghavendra, Muhammad Sabir, Nata Duvvury; Ipsos MORI: Sara Grant-Vest, John Kennedy, William Mensah; International Centre for Research on Women: Gina Alvarado, Lila O'Brien-Milne, Jennifer Mueller; Institute of Statistical, Social and Economic Research (ISSER), University of Ghana: Felix Asante, Ama Fenny, Makafui Dzudzor.

In sum, families are burdened by the direct costs from VAWG, survivors may lose their positions in society and their work may be compromised, causing further financial pressures that impact wellbeing. Economically these costs add up to a significant loss to households and society.

The results of the study highlighted the urgent need for comprehensive prevention efforts by a wide range of actors - from local authorities and community leaders to business leaders and national government. The following recommendations were suggested:

1. Build VAWG prevention into national policies and budgets and scale up current efforts to prevent VAWG by mainstreaming evidence-based violence prevention approaches into education, health, social protection and other sectors.
2. Involve business Associations and Chambers of commerce to invest in prevention programmes and activities for combatting VAWG.
3. Advocate for revisions to leave regulations in public and private sector to address the additional burden that violence places on women.
4. Strengthen existing support services, and challenge the norms that limit women's help-seeking behaviour after experiences of violence by partners, family members, colleagues or others.
5. Improve policy on the non-physical forms of violence such as psychological and economic violence.

The study concluded by stating that ending violence against women and girls in all its forms is a moral, ethical and human rights priority. It also stated that such violence also has significant costs that stifle development and undermine efforts to reduce poverty and accelerate growth.

Examining Sexual Harassment Experiences in the Ghanaian Work Environment: Behavioural Responses and Effects on both Women and Men¹³

The paper examines the prevalence of sexual harassment at the workplace in Ghana and determines how both males and females react to such behaviors. The study also ascertains the extent to which cases of sexual harassment are reported by the victims in Ghana and finally, examines the relationship between gender and employees' response strategy and the negative impact of sexual harassment on both men and women workers in Ghanaian work environment.

¹³Josephine Ganu, Ph.D., Adventist University of Africa, Kenya and Peter Agyekum Boateng, Valley View University, Adenta, Ghana (January 2013), https://www.researchgate.net/publication/299483470_Examining_Sexual_Harassment_Experiences_in_the_Ghanaian_Work_Environment_Behavioural_Responses_and_Effects_on_bothWomen_and_Men

A survey research, convenient sampling technique was adopted for this study. Data was collected with a closed ended questionnaire from 324 respondents within the metropolitan area of Tema in Ghana. The study revealed that sexual harassment is still prevalent and incidence report is very low. Factors that contribute to such situation may include a lack of awareness of what constitutes sexual harassment, the absence of advocacy groups, lack of enforcement of legislation, fear of humiliation, lack of prove and blacklisting among others. Men and women tend to perceive and react to sexual harassment differently, but women are negatively affected mostly. Multiple response frequencies and chi square analysis was utilized.

The study outcome supports the conclusion that the seriousness of sexual harassment is far beyond any individual employee. Thus, the damaging effects of sexual harassment have direct impact on the overall image and financial stability of an organization and a country's economy in the long run. Nations, businesses, and individuals are therefore encouraged to conglomerate and tighten their fronts against workplace sexual harassment.

Policy makers and individuals may consider such actions as institutionalizing a zero-tolerance culture, establishing clear procedures for handling sexual harassment grievances, ensuring strict confidentiality in handling these issues, establishing units that provide support for affected individuals, and encouraging employees to courageously confront sexual harassers.

5.0 ANALYSIS

This section seeks to assess the extent to which Ghana’s laws meet the requirements of international law particularly ILO Convention 190 and 189.

It identifies key provisions of ILO Convention 190 as well as 189 and assesses how far national laws and practices meet the requirements. In addition, it identifies gaps in national laws and makes recommendations on how to address the gaps identified.

In addition to the two ILO Conventions, relevant provisions in other key international instruments will be similarly analysed with regard to how they address sexual harassment in the workplace.

Below is a table with the analysis.

Requirements of the International Normative Framework	Status of national laws on required provision	Gaps and recommendations
ILO Convention 190: Definition, Scope, Applicability		
<p>ILO Convention 190 (2019)</p> <p>Article 1.1(a) Defines “violence and harassment” in the world of work which is wider than the “workplace” and is comprehensive enough to reflect the definitions of violence in international instruments. The definition of harassment encompasses both quid pro quo and hostile environment situations.</p> <p>The provision covers 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.</p>	<p>Labour Act</p> <p>Section 175 (b) defines “sexual harassment” as: “any unwelcome, offensive or importunate sexual advances or request made by an employer or superior officer or a co-worker to a worker, whether the worker is a man or woman.”</p> <p>There is no elaboration on the sexual harassment provisions apart from making it a ground for unlawful termination if a worker resigns as a result of sexual harassment.</p>	<p>There is no express definition of</p> <ul style="list-style-type: none"> • “violence and harassment” “in the world of work” in Ghana's Labour Act as in ILO C.190 • harassment that encompasses a hostile environment <p>Recommendations: The Labour Act should be amended to clearly define violence and harassment in the world of work, applicable to the range of actors and work environments as defined in Article 1.1(a) of ILO C.190</p>

Requirements of the International Normative Framework	Status of national laws on required provision	Gaps and recommendations
ILO Convention 190: Definition, Scope, Applicability		
<p>Article 1.1(b) defines “gender-based violence and harassment” as 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</p> <p>Article 1.2. provides that definitions in national laws and regulations may provide for a single concept or separate concepts.</p>	<p>There is no such definition in Ghana's laws.</p>	<p>Recommendations:</p> <ul style="list-style-type: none"> • The use of a single concept in laws as used in Article ILO C. 190 1(b). • Ghana should have a policy on gender-based violence to recognise that women suffer gender-based violence in many spheres of life that need to be addressed. It should include the concept of “ gender-based violence and harassment” in its labour laws and how it should be addressed in laws. The range of persons to be protected by the provisions on violence and sexual harassment is much wider than in Ghana's laws.
<p>II Scope – Article 2.1 - offers protection to 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, job-seekers and job applicants, and individuals exercising the authority, duties and responsibilities of an employer.</p>	<p>The Labour Act applies only to employees and employers.</p> <p>The Domestic Violence Act and its Regulations applies only to domestic workers and their employers in the domestic setting.</p> <p>The Children's Act has provisions on apprenticeship for children and young persons.</p>	<p>The range of persons to be protected by the provisions on violence and sexual harassment is much wider than in Ghana's laws.</p> <p>Recommendations: The Labour Act, the Domestic Violence Act and the Children's Act need to be reviewed to widen the scope of persons needing protection in line with Article 2.1 of ILO C. 190, to enable job-seekers and those who are technically not employees to come within its ambit.</p>
<p>Article 2: Applicability The Convention applies to all sectors, private or public, the formal and informal economy, and urban or rural areas.</p>	<p>The Labour Act applies to the whole country mainly to the formal sector including both public and private.</p>	<p>The Labour Act does not have adequate provisions on informal workers.</p>

Requirements of the International Normative Framework	Status of national laws on required provision	Gaps and recommendations
ILO Convention 190: Definition, Scope, Applicability		
	<p>It makes brief reference to domestic workers and task workers but the provisions are limited and appears to exclude them from all benefits enjoyed by formal workers</p> <p>The Domestic Violence Act applies to those in a domestic relationship and house helps.</p> <p>The Children's Act applies to children between 15-18 years working in the informal sector or undertaking apprenticeships.</p>	<p>Recommendations: There is the need to review the Labour Act to enable it to apply equally to informal workers as indicated in Article 2 of ILOC.190.</p>
<p>Article 3 – Locations The Convention broadens the concept of the work place, providing specific examples of locations where the violence and harassment may occur. They include:</p> <ul style="list-style-type: none"> • (a) the workplace, including public and private spaces which are places 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. 	<p>The Labour Act applies mainly to the formal workplace.</p> <p>The Domestic Violence Act applies to those in a domestic relationship and house helps.</p> <p>The Children's Act applies to children between 15-18 years working in the informal sector or undertaking apprenticeships.</p>	<p>All the laws apply to the workplace only</p> <p>Recommendations More specific provisions are needed conforming to Article 3 of ILO C.190 on violence in other work locations including employer accommodation, transit to and from work, especially in the COVID 19 context of virtual workplaces and communications.</p>
<p>Article 4 Core Principles (ILO C190) 2. There should be</p> <ul style="list-style-type: none"> • consultation with representative employers' and workers' organizations 	<p>The Labour Act does not have adequate provisions on violence and harassment</p>	<p>Recommendations Legislation laws should be passed prohibiting workplace violence and harassment, polices should address same.</p>

Requirements of the International Normative Framework	Status of national laws on required provision	Gaps and recommendations
ILO Convention 190: Definition, Scope, Applicability		
<ul style="list-style-type: none"> • an inclusive, integrated and gender-responsive approach to the prevention and elimination of workplace violence and harassment. It should take into account violence and harassment involving third parties, and ensure: <ul style="list-style-type: none"> (a) laws prohibiting violence and harassment; (b) policies address violence and harassment; (c) comprehensive strategies to implement measures that prevent and combat violence and harassment; (d) the establishment or strengthening of enforcement and monitoring mechanisms; (e) access to remedies and support for victims; (f) sanctions; (g) tools in accessible formats are developed for, guidance, education and training, and awareness raising, (h) effective means of inspection and investigation of cases of violence and harassment, including through labour inspectorates or other competent bodies. 		<p>Approaches to the law-making process, legislation and implementation should conform to the core principles of ILO C.190 Article 4.</p> <p>The law-making process should be consultative, inclusive and gender-responsive, taking into account violence and harassment involving third parties.</p> <p>Implementation: There should be</p> <ul style="list-style-type: none"> • comprehensive implementation strategies • enforcement and monitoring mechanisms • support for victims, access to remedies and effective sanctions • tools for guidance, education, training, and awareness raising • effective means of inspection and investigation of cases
Domestic Workers ILO Convention 189 [2011]: Violence and harassment – Domestic Workers		
<p>Article 1 defines domestic work as work performed in or for households.</p> <p>A domestic worker is any person engaged in domestic work within an employment relationship;</p>	<p>Labour (Domestic Workers) Regulations, 2020 (L.I. 2408)</p> <p>A non-exhaustive definition of "domestic work, includes (a) domestic chores performed in any home or domestic setting;</p>	<p>Recommendation Definition of a Domestic worker</p> <p>The Labour Act and Labour Domestic (Workers) Regulations, 2020 (L.I. 2408) implies that the existence of a family relationship</p>

Requirements of the International Normative Framework	Status of national laws on required provision	Gaps and recommendations
Domestic Workers ILO Convention 189 [2011]: Violence and harassment – Domestic Workers		
	<p>(b) informal work performed by a domestic worker who also performs household chores in the home of an individual;</p> <p>(c) assistance in petty commercial activity;</p> <p>(d) security services;</p> <p>(e) gardening;</p> <p>There is no definition of a domestic worker in the L.I. 2408, but the Labour Act Section 175 defines "domestic worker" as "a person who is not a member of the family of a person who employs him or her as househelp"</p>	<p>precludes a domestic worker relationship, and by implication, the protections the law confers.</p> <p>It is recommended that the definition follow that of the ILO C.189 which requires an employment relationship <i>simpliciter</i></p>
<p>Under Article 5, measures should be taken to ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence.</p>	<p>Labour (Domestic Workers) Regulations, 2020 (L.I. 2408)</p> <p>s. 17. (1) & (3)</p> <p>A two-way prohibition of sexual harassment and domestic violence is provided for.</p> <p>17 (1) An employer should ensure the domestic worker is not subjected to any form of sexual harassment or violence. Similarly, in 17 (3) a domestic worker shall not perpetuate sexual harassment or domestic violence against the employer, a dependent of the employer or an occupant of the employer's household.</p>	<p>Recommendations</p> <p>Under s. 18 (3) (b) The law requires the failure of the employer to take action on "repeated complaints" of sexual harassment from the worker to enable the conduct constitute grounds for unfair termination.</p> <p>Recommendation</p> <p>The provision in Regulation 17 of the Labour (Domestic Workers) Regulations, 2020 (L.I. 2408) is vague and contains too many variables, and could result in the negation of the domestic worker's rights. There is the need to review it.</p>

Requirements of the International Normative Framework	Status of national laws on required provision	Gaps and recommendations
Domestic Workers ILO Convention 189 [2011]: Violence and harassment – Domestic Workers		
	<p>17 (2) A domestic worker may report a sexual harassment or domestic violence case to the nearest District Labour Officer, other relevant authorities including the Police, and the Commission on Human Rights and Administrative Justice in accordance with the Act and the Domestic Violence Act, (Act 732).</p> <p>18 (3) A domestic worker's contract is considered unfairly terminated if the worker terminates it due to (a) ill-treatment by the employer, (b) failure of the employer to take action on repeated complaints from the domestic worker of sexual harassment</p> <p>A complaint may be lodged with the District Labour Officer</p>	
<p>Article 3 mandates the effective promotion and protection of the human rights of all domestic workers, as set out in the Convention. They include the duty to respect, promote and realize the fundamental principles and rights at work, namely (a) freedom of association and the effective recognition of the right to collective bargaining;</p>	<p>The 1992 Constitution guarantees freedom of association, prohibits forced labour, prohibits discrimination on the basis of gender in all aspects of life and sets out some rights of workers</p> <p>The Labour Act makes provision for freedom of association, collective bargaining, it prohibits forced labour and some basic rights for workers in the formal sector.</p>	<p>Most of the protection offered to workers appears to be enjoyed by those in the formal sector. There is the need for more protection for workers in the informal sector.</p> <p>Recommendations All laws dealing with worker rights should reflect the provisions in Article 3 of C.189 which mandates the effective promotion and protection of the human rights of all domestic workers, as set out in the Convention.</p>

Requirements of the International Normative Framework	Status of national laws on required provision	Gaps and recommendations
Domestic Workers ILO Convention 189 [2011]: Violence and harassment – Domestic Workers		
<p>(b) the elimination of all forms of forced or compulsory labour;</p> <p>(c) the effective abolition of child labour; and</p> <p>(d) the elimination of discrimination in employment and occupation.</p>	<p>The Children's Act prohibits child labour, exploitative labour, discrimination, protection from torture of degrading treatment.</p>	<p>They include the duty to respect, promote and realize the fundamental principles and rights at work, namely</p> <p>(a) freedom of association and the effective recognition of the right to collective bargaining;</p> <p>(b) the elimination of all forms of forced or compulsory labour;</p> <p>(c) the effective abolition of child labour; and</p> <p>(d) the elimination of discrimination in employment and occupation.</p>
Domestic Violence Act, 2007 (Violence towards Workers in the Domestic Domain)		
	<p>The Act prohibits domestic violence within a domestic relationship. a domestic relationship includes one in which a residence is shared, and also where a person is a house help in the household of the respondent.</p> <p>Section 1 of the Domestic Violence Act contains an expansive definition of domestic violence that includes some elements of the definition of “violence and harassment.”</p> <p>"harassment" includes unwanted sexual advances, repeatedly, pursuing a person, loitering around the harassed person, sending unwelcome communication, or inducing a third persons do so, and engaging in any other menacing behaviour;</p>	

Requirements of the International Normative Framework	Status of national laws on required provision	Gaps and recommendations
DEFINITIONS OF SEXUAL HARASSMENT CEDAW General Recommendation No. 19 (1992)		
<p>Paragraph 18 defines sexual harassment as including “such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demand, whether by words or actions ... or when it creates a hostile working environment.”</p>	<p>The definition of sexual harassment in Ghana's Labour Act is confined to “sexual advances or request”.</p>	<p>The Labour Act does not include “showing pornography” and creating a “hostile working environment.”</p> <p>Recommendation:</p> <ul style="list-style-type: none"> • Extend the definition of sexual harassment to cover a hostile working environment as in paragraph 18 of CEDAW Gen. Rec. 19 • Provide for criminal/ other legal sanctions
The Beijing Declaration and Platform for Action (1995)		
<p>Violence against women encompasses sexual harassment and intimidation at work and in educational institutions</p>		<p>Ghanaian law does not have a definition of violence against women.</p> <p>Recommendations Provide a definition of violence against women in the labour laws of Ghana</p>
Council of Europe Convention on preventing and combating violence against women and domestic violence: The Istanbul Convention (2011)		
<p>The Istanbul Convention also proscribes “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”.</p>		

Requirements of the International Normative Framework	Status of national laws on required provision	Gaps and recommendations
REMEDIES Obligation to take “legal and <i>other measures</i>” CEDAW General Recommendation 19		
<p>Paragraph 24 (t) States parties should take all legal and <i>other measures</i> that are necessary to provide effective protection of women against gender-based violence, including,</p> <p>(l) Effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including ... sexual harassment in the workplace;</p>	<p>The Labour Act does not make reference to compensatory provisions and damages</p>	<p>Legislative measures Labour (Domestic Workers) Regulations, 2020 (L.I. 2408) has been passed.</p> <p>Recommendations:</p> <ul style="list-style-type: none"> • Examine international instruments for “<i>other measures</i>” that are necessary to address violence and sexual harassment in the workplace. • The law should contain compensatory provisions and reliefs. • In the NOVOR v. FAN AIR case the following award in favour of the complainant: legal fees, compensation for injury to her dignity and self-respect as well as for humiliation suffered; loss of wages during the period of wrongful dismissal
The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa: Maputo Protocol, entered into force on 25th November 2005		
<p>Article 13 Economic and Social Welfare Rights Adoption and enforcement of legislative and <i>other measures</i> to guarantee women equal opportunities in work and career advancement</p> <p>Ensure transparency in recruitment, promotion and dismissal of women and combat and punish sexual harassment in the workplace</p>	<p>In the Labour Act, sexual harassment which results in dismissal or resignation from work is punishable</p>	<p>“adoption and enforcement of legislative and other measures” No provision on combating sexual harassment in the workplace to guarantee women equal opportunities in work and carrier advancement.</p>

Requirements of the International Normative Framework	Status of national laws on required provision	Gaps and recommendations
The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa: Maputo Protocol, entered into force on 25th November 2005		
		<p>Recommendations Ghana's labour laws can include provisions on transparency in recruitment, promotion and dismissal of women and combat and punish sexual harassment in the workplace as provided in Article 13 of the Maputo Protocol.</p>
Istanbul Convention (2011)		
<p>Article 40</p> <p>States are to 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”.</p>		<p>In Ghana's labour law there are no Criminal sanctions when sexual harassment in the workplace occurs.</p> <p>Recommendations Criminal sanctions should be imposed when sexual harassment in the workplace occurs.</p>
CEDAW General Recommendation No. 35 Guidance for the law reform and implementation process where violence against women is being addressed		
<p>Part IV covers prevention, prosecution, punishment, reparations, coordination, monitoring and data collection.</p> <p>These are to be implemented</p> <ul style="list-style-type: none"> • with a victim/survivor-centred approach • acknowledging women as subjects of rights • promoting women's agency and autonomy 		<p>The labour laws do not make provision for prevention, prosecution, punishment, reparations, coordination, monitoring and data collection on sexual harassment in the workplace</p>

Requirements of the International Normative Framework	Status of national laws on required provision	Gaps and recommendations
CEDAW General Recommendation No. 35 Guidance for the law reform and implementation process where violence against women is being addressed		
<ul style="list-style-type: none"> with the participation of women, taking into account women affected by intersecting forms of discrimination 		<p>Recommendations The guidance recommended in CEDAW General Recommendation No. 35 with regard to making provision for prevention, prosecution, punishment, coordination, monitoring and data collection on sexual harassment in the workplace should be incorporated into policy as well as the law-making and revision process.</p>
The Beijing Declaration and Platform for Action (1995) Research and Data Collection		
<p>Paragraph 121</p> <p>Lack/inadequate documentation and research on ... sexual harassment and violence against women and girls in private and in public, including the workplace which impedes efforts to design specific intervention strategies.</p> <p>Men's groups mobilizing against gender violence are necessary allies for change.</p> <p><i>Paragraphs 127, 180, and 182 identify diverse actors and stakeholders including Governments, the United Nations employers, trade unions, community and women's organizations youth organizations and non-governmental organizations for reform.</i></p>		<p>Recommendation Research and documentation to formulate appropriate interventions Mobilising men's groups for change Paragraphs 127, 180, and 182 Stakeholder identification needed to</p> <ul style="list-style-type: none"> Develop programmes and procedures to eliminate sexual harassment and other forms of violence against women in educational institutions, workplaces and all places;

Requirements of the International Normative Framework	Status of national laws on required provision	Gaps and recommendations
The Beijing Declaration and Platform for Action (1995) Research and Data Collection		
<p>Paragraph 290</p> <ul style="list-style-type: none"> • Effective implementation of the Platform demands changes in the internal dynamics of institutions and organizations, affecting values, behaviour, rules and procedures that impede women's advancement, and the elimination of sexual harassment. • Improved data collection on victims and perpetrators of violence against women, including sexual harassment. 		<ul style="list-style-type: none"> • Enact and enforce laws, introduce implementing measures, means of redress and access to justice, provide legal protection against sexual and racial harassment; • Enact and enforce laws <ul style="list-style-type: none"> • develop workplace policies against ...discriminatory working conditions and sexual harassment; • develop mechanisms for the regular review and monitoring of such laws; <p>Behavioral change</p> <p>Data collection</p>
SDGs Goal 8 - Protection of labour rights and promoting safe and secure working environments for all workers by 2030		
<p>Target 8.5</p> <p>The achievement of full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value.</p> <p>Target 8.8</p> <p>Protecting labour rights and promoting safe and secure working environments for all workers, migrant workers, particularly women migrants, and those in precarious employment.</p>	<p>The Labour Act makes provision for equal pay for work of equal value.</p> <p>The Children's Act does provide some protection for children who are permitted to work</p>	<p>No specific protection for decent work and for migrant women in Ghana's Labour laws.</p> <p>Recommendations</p> <ul style="list-style-type: none"> • Ghana's labour law should indicate the need for decent work for women and children in accordance with SDG Goal 8.

Requirements of the International Normative Framework	Status of national laws on required provision	Gaps and recommendations
SDGs Goal 8 - Protection of labour rights and promoting safe and secure working environments for all workers by 2030		
		<ul style="list-style-type: none"> There is also the need to have special provisions for migrant workers.
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 45/158 of 1990		
<p>Article 16 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.</p> <p>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:</p> <p>(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 this term;</p>		<p>There are no special provisions for migrant workers in Ghana's labour laws</p> <p>Recommendations There is the need for Ghana's labour laws to make special provision for migrant workers to protect their labour rights and protection from violence at work.</p>

Requirements of the International Normative Framework	Status of national laws on required provision	Gaps and recommendations
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 45/158 of 1990		
<p>(b) Other terms of employment, that is to say, minimum age of employment, restriction on home work and any other matters which, according to national law and practice, are considered a term of employment.</p>		
Convention on the Rights of the Child		
<p>Article 32</p> <p>This Article states that children have the right to be protected from doing work that is dangerous or injurious to their education, health or development. If a child works, then he or she has the right to be safe and paid fairly.</p> <p>1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.</p> <p>2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article.</p>	<p>Children's Act</p> <p>It prohibits child labour, exploitative labour, discrimination, protection from torture or degrading treatment.</p> <p>It indicates that the minimum age at which a child can be admitted for employment is 15 years. (Section 89). The minimum age for hazardous work is 18 years and Section 91 defines hazardous work as work that is likely to expose the child to harm.</p>	<p>Even though the law indicates the age at which children can work it does not provide for hours of work and conditions.</p> <p>Recommendations</p> <ul style="list-style-type: none"> • There is the need for regulations to guide how children aged 15-17 can work in permitted enterprises including their hours and conditions of work. • Regulations should also be made for children undergoing training as apprentices

Requirements of the International Normative Framework	Status of national laws on required provision	Gaps and recommendations
Convention on the Rights of the Child		
<p>To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:</p> <p>(a) Provide for a minimum age or minimum ages for admission to employment;</p> <p>(b) Provide for appropriate regulation of the hours and conditions of employment;</p> <p>© Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.</p>		

6.0 SUMMARY OF RECOMMENDATIONS

This section summarises the recommendations made from the scoping study. The recommendations made are targeted particularly at Government and institutions under it. Some are also targeted at employers, labour (formal and informal) and CSOs.

- (i) **Government** – The following recommendations are made for government to address:
- o Ratify and adopt into national law ILO Conventions 189 and 190 (together with its Recommendation 206) to ensure that all workers (formal and informal) are protected from violence in the workplace.
 - o Develop national action plans to support the implementation of ILO Conventions 189 and 190, where there are none and ensure political follow-through including adequate national budgets for implementation and rigorous monitoring mechanisms.
 - o Review existing labour and labour-related laws and regulations and bring them in line with ILO Convention 190:
 - The Labour Act should be amended to clearly define violence and harassment in the world of work, applicable to the range of actors and work environments as defined in Article 1.1(a) of ILO C.190.
 - Ghana should include the concept of “gender-based violence and harassment” in its labour laws as indicated in Article 1.1(b) of C.190
 - The Labour Act, the Domestic Violence Act and the Children’s Act need to be reviewed to widen the scope of persons needing protection in line with Article 2.1 of ILO C. 190, to enable those not yet employed such as job-seekers and those who are technically not employers to come within its ambit.
 - There is the need to review the Labour Act to enable it to apply equally to informal workers as indicated in Article 2 of ILOC.190.
 - More specific provisions are needed conforming to Article 3 of ILO C.190 on violence in work locations including employer accommodation, transit to and from work, especially in the COVID 19 context of virtual workplaces and communications.
 - Approaches to the law-making process, legislation and implementation should conform to the core principles of ILO C.190 Article 4.
- i) **Legislation** – Laws should be passed prohibiting workplace violence and harassment; policies should address same.
- ii) **The law-making process** should be consultative, inclusive and gender-responsive, taking into account violence and harassment involving third parties.

iii) **Implementation:** There should be: (a) comprehensive implementation strategies (b) enforcement and monitoring mechanisms (c) support for victims, access to remedies and effective sanctions; (d) tools for guidance, education, training, and awareness raising as well as effective means of inspection and investigation of cases.

- Review existing labour laws and regulations with regard to domestic workers and bring them in line with ILO Convention 189:
- **Definition of a Domestic worker** - The definition of domestic workers in the **Labour Act** implies that the existence of a family relationship precludes a domestic worker relationship, and by implication, the protections the law confers. The **Labour (Domestic Workers) Regulations, 2020 (L.I. 2408)** however has a more expansive definition. It is recommended that the definition in the Labour Act should follow that of the ILO C.189 which requires an employment relationship *simpliciter*.
- The provision in Regulation 17 of the **Labour (Domestic Workers) Regulations, 2020 (L.I. 2408)** is vague and contains too many variables, and could result in the negation of the domestic worker's rights. There is the need to review it.
- All laws dealing with workers' rights should reflect the provisions in Article 3 of C.189 which mandates the effective promotion and protection of the human rights of all domestic workers, as set out in the Convention. They include the duty to respect, promote and realize the fundamental principles and rights at work.
- Government should also consider other international human rights instruments that also have provisions that could guide Ghana in reviewing its laws to protect women from sexual harassment in the workplace. These include the following:
 - Review existing labour laws and regulations to address sexual harassment in the workplace in line with **CEDAW General Recommendation 19**
 - Extend the definition of sexual harassment to cover a hostile working environment as in paragraph 18 of CEDAW Gen. Rec. 19 and provide for criminal/other legal sanctions when it occurs.
 - Review existing labour laws and regulations in line with the **Beijing Declaration and Platform for Action:**
 - Provide a definition of violence against women in the labour laws of Ghana to ensure the protection of women in the workplace.
 - Even though the **Labour (Domestic Workers) Regulations, 2020 (L.I. 2408)** has been passed it is recommended that the following is done:

Examine international instruments for “*other measures*” that are necessary to address violence and sexual harassment in the workplace; The law should contain compensatory provisions and reliefs.

- Review labour laws and regulations in line with the **Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol)**: Ghana's labour laws can include provisions on transparency in recruitment, promotion and dismissal of women and combat and punish sexual harassment in the workplace as provided in Article 13 of the Maputo Protocol.
 - The guidance recommended in **CEDAW General Recommendation No. 35** with regard to making provision for prevention, prosecution, punishment, coordination, monitoring and data collection on sexual harassment in the workplace should be incorporated into policy as well as the law-making and revision
- **The Beijing Declaration and Platform for Action** calls for research and documentation to formulate appropriate interventions in its paragraph 121. It also calls for Stakeholder identification to:
- Develop programmes and procedures to eliminate sexual harassment and other forms of violence against women in educational institutions, workplaces and all places;
 - Enact and enforce laws, introduce implementing measures, means of redress and access to justice, provide legal protection against sexual and racial harassment;
 - Enact and enforce laws, develop workplace policies against ...discriminatory working conditions and sexual harassment; mechanisms for the regular review and monitoring of such laws.
 - Data collection to provide evidence of progress.
- **SDG Goal 8 – Protection of labour rights and promoting safe and secure working environments for all workers by 2030:**
- Ghana's labour law should indicate the need for decent work for women and children in accordance with SDG Goal 8.
 - There is also the need to have special provisions for migrant workers. This is also in line with the **International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 45/158 of 1990**.
 - Develop National Action Plans to support the implementation of ILO conventions 189 and 190 where there are none, led by the NDPC.

- The Labour Department should:
 - i. Hold employers to account for decent work conditions
 - ii. Implement the Domestic Workers Regulations, 2020
 - iii. Review and implement the Domestic Violence Act, 2007 (Act 732)

Government should also:

- Include the Domestic Violence Fund in the budget line of the Ministry of Women, Gender and Social Protection. This is yet to be done and there is a need to push for it.
- Parliament to accept the annual allocation of the DV Fund at USD\$4million by 2020.
- Operationalise the DV Fund within the next 10 years in all regions through a process of decentralisation.
- Operationalise the DV Fund so that the provision of shelters in the DV Act can be realised
- Establish mechanisms to ensure easy and equitable access to the Fund.
- Depoliticise the DV Management Board to ensure that its appointees serve their full term.
- Ensure a reduction in violence against women and survivor's access to justice through a well-resourced and sustainable Domestic Violence Fund for survivors including that for domestic workers.
- District Assemblies should protect workers' rights at the District Level including the rights of children undertaking apprenticeship.

(ii) **Government Institutions** – NLA, Police, CHRAJ, Labour Officers, District Assembly Social Services Sub-Committee all need to improve on their services with regard to addressing sexual harassment in the workplace. Other recommendations made are as follows:

- o The Beijing Declaration and Platform for Action Paragraph 290 calls for: Effective implementation of the changes in the internal dynamics of institutions and organizations, affecting values, behaviour, rules and procedures that impede women's advancement, and the elimination of sexual harassment;
- o Improved data collection on victims and perpetrators of violence against women, including sexual harassment.

(iii) **Employers (public and private)** – There is the need to sensitize employers on the need to address sexual harassment in the workplace. Some of the other strategies recommended are as follows:

- o Have policies in place to make it clear that sexual harassment in the workplace is unacceptable and will be punished.
- o Ensure that the workplace environment does not create a hostile environment for workers particularly women workers.

- o Ensure that all workers enjoy a violence-free working environment through the realization of their rights in the workplace.
 - o Identify potential third parties like clients and service providers that can perpetrate sexual harassment in the workplace and put structures in place to prevent it.
- (iv) **Labour: Employees (formal and Informal)** – There is the need to sensitize employees of their right to be free from sexual harassment and violence at the workplace. Some of the other recommendations made are as follows:
- o Ensure that workplace policies against sexual harassment are in place in their workplaces.
 - o Report incidents of sexual harassment that occurs in their workplace to appropriate authorities.
- (v) **Masters of apprentices and child apprentices:**
- o Masters should ensure that:
 - Children undergoing apprenticeships work in a violence free environment.
 - Sexual harassment and other forms of abuse of children under the care of Masters are addressed.
 - o Child apprentices are:
 - encouraged to know their rights.
 - Report abuses against them in a way that is confidential and safeguards their safety and rights.
- (vi) **Civil Society Organisations:**
- o Engage in strategic targeted campaigning to ensure that the ILO Conventions 189 and 190 are ratified through using a number of strategies.
 - o Engaging in the awareness raising and movement building of worker of workers' organisations, trade unions, NGOs and women's rights organisations through a number of strategies.
 - o Men's groups mobilizing against gender violence are necessary allies for change.
 - o Build VAWG prevention into national policies and budgets and scale up current efforts to prevent VAWG by mainstreaming evidence-based violence prevention approaches into education, health, social protection and other sectors.
 - o Involve business Associations and Chambers of commerce to invest in prevention programmes and activities for combatting VAWG.
 - o Advocate for revisions to leave regulations in public and private sectors to address the additional burden that violence places on women.
 - o Strengthen existing support services, and challenge the norms that limit women's help-seeking behaviour after experiences of violence by partners, family members, colleagues or others.

- o On the issue of domestic violence and informal workers the following recommendations are made:
 - Engage in strategic targeted advocacy aimed at the Ministry of Gender and the Gender Committee in Parliament to achieve buy in and support for the allocation of national budget for the DVF.
 - Establish a working partnership between the media and civil society organisations to raise awareness across and new media platforms
 - Develop a platform for inclusive discussion between CSO, the media and state actors.
 - Provide strategic support to the DV Management Board for fund raising.
 - Engage in strategic advocacy with political parties to ensure that domestic violence is included in their manifestos, thus giving our society a mechanism to hold them accountable by.
- Ensure a significant reduction in violence against women and increase survivors' access to justice through unlearning and challenging the values of informal, community based legal systems, national normalisation on perceptions of women as properties of or as being inferior to or less than men; and the overall placement of domestic violence as a private issue.

7.0 CONCLUSION

Sexual harassment is a product of culturally legitimated power and status differences between men and women. Cultural values and beliefs about men and women's appropriate status, roles and inherent worthiness drives a man to act as a sexual agent and treat a woman as a sexual object even when he lacks organizational or economic power over her. Accordingly, sexual harassment in the workplace may be seen as a direct derivative of the power differences attributed to males and females in the labour market in particular, and in the larger society.

Since Ghanaian women are in various ways socially vulnerable, they are more likely to become the targets of harassment in the workplace. The predictable result of this type of societal arrangement is that men are the most powerful actors in the labour market and, as such, women hold less power than men and are, therefore, more likely to be targets of sexual harassment because of this lack of power. These power differences can also be attributed to the Ghanaian culture of patriarchy and male dominance where men make the rules, retain responsibility for enforcing all of these rules, which tend to grant the greatest number of rewards to men. Hence, sexual harassment is a product of culturally legitimated power and status differences between men and women in Ghana.

This report has given an overview of the ILO Convention 190 and other international human rights norms on gender-based violence in the world of work on the standard that state parties are to comply with.

It has also looked at national laws in place in Ghana that address the situation and noted the gaps in them and made recommendations to improve the situation.

As Ghana is at the verge of reviewing its labour laws, it is important that the recommendations in this report are taken seriously to improve the world of work for women and girls in both the formal and informal sectors.

8.0 APPENDICES

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8.2 INTERNATIONAL LAWS

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Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence: The Istanbul Convention (2011)

Sustainable Development Goals (2015)

8.2.1 ILO Conventions

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ILO Convention 190 on Violence and Harassment in the World of Work (2019)

ILO Recommendation (206) of June 2019 at the International Labour Conference.

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 45/158 of 1990

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003)

Sustainable Development Goals, (2015) and SDGs Goal 8 Protection of labour rights and promoting safe and secure working environments for all workers by 2030

8.3 NATIONAL LAWS AND POLICIES

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Criminal Offences Act, 1960 (Act 29)

Labour Act, 2003 (Act 651)

Children's Act, 1998 Act 560)

Domestic Violence Act, 2007 (Act 732)

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Labour (Domestic Workers) Regulations, 2020 (L.I 2408)

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Whistle Blower Act, 2006 (Act 720)

National Gender Policy (2015)


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