



ENDING GENDER-BASED VIOLENCE IN THE WORLD OF WORK IN THE UNITED STATES



AFL-CIO

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INTRODUCTION

SEX- AND GENDER-BASED VIOLENCE (GBV) against women in the world of work is an epidemic that requires a systemic response. The purpose of this report is to clearly define GBV, describe its prevalence and explain the circumstances that allow it to persist. The report concludes with recommendations to effectively prevent and address GBV in the workplace.

THE PROBLEM

GBV is a fundamental violation of human rights. It is a manifestation of gender-based discrimination and unequal power relations between men and women. GBV in the world of work includes, but is not limited to, sexual violence in all of its forms, including sexual harassment as it is legally defined, as well as stalking behaviors, assault and rape, trafficking, coercion, and restrictions on freedom of movement that occur while at work or on the way to and from work. GBV encompasses intimate partner violence that impacts survivors' work lives, and harassment and violence that occurs within the context of employment

committed on or off the jobsite by nonintimate partner co-workers, managers, clients or patients.

While GBV impacts all workers, women suffer at a much higher rate than men.¹ Men can and do experience GBV in the world of work, particularly relating to sexual identity and gender expression. This reflects the fact that GBV stems from a social and political hierarchy that values and enforces traditionally defined masculinity as an expression of power and prestige. Transgender individuals in particular face high levels of violence

in general due to this dynamic,² including in their professional lives.

Women's intersecting identities shape where and how they experience GBV. Socioeconomic status, race, ethnicity, religion, sexuality, gender expression, age and immigration status all can enhance the likelihood that a woman will experience GBV in her working life. For some, it is these multiple identities that place them at risk for higher incidence of GBV.

Economic insecurity, particularly precarious employment and low wages, greatly contributes to vulnerability to violence. Workers without stable employment or economic security are less likely to report GBV for fear of losing their jobs. Women comprise the majority of part-time and temporary workers in the United States, as well as the majority of low-paid workers and those making minimum wage.³ Many of these workers live paycheck to paycheck and cannot afford even a brief break in employment. These jobs provide little to no flexibility to meet work and family responsibilities, and most workers are at-will, meaning they can be fired at any time for any reason—or no reason at all. The structure of the workplace and the working arrangement, particularly informal or isolated work settings, presents opportunities that perpetrators can exploit.⁴ Informal working arrangements, particularly those involving multiple levels of subcontracting, decrease oversight and accountability. This underscores the importance of good working conditions, job security and labor rights, including protections for voicing concerns about work or conditions at work.

Many workplaces lack adequate internal policies to address GBV. Even when policies do exist, employees and managers may not be aware of their existence or lack proper training on policy requirements. In addition, failure to fully and fairly enforce these policies presents an additional barrier. In many worksites and industries, especially low-wage sectors, sexual harassment and other forms of GBV are ingrained in workplace or industry culture and norms, such that exposure to mistreatment and violence is considered part of the job, not a violation of human and worker rights.

The prevalence of GBV creates an environment in which women may be afraid to go to work. It can impact effectiveness and productivity, because women may become anxious, distracted and concerned about their safety. Ultimately, this impacts both their quality of work and the employer's bottom line.

STATISTICS

Capturing a complete picture of GBV committed in the world of work is incredibly difficult, because only a small percentage of survivors report the abuse. For example, while 50% to 80% of women experience sexual harassment at work, only 25% tell anyone, and only 5% complain formally.⁵ Many survivors do not come forward because they do not think they will be believed, or they fear they will lose their jobs or otherwise face negative consequences for speaking out. Complaint rates may be even lower in certain sectors or communities, due to such additional constraints as language barriers or an informal working arrangement that lacks clear management structures.

According to the U.S. Department of Justice, employees experienced 36,500 rapes and sexual assaults at work between 1993–1999 (the last time these statistics were gathered), with 80% of the victims being women.⁶ Between 2005–2009, rape and sexual assault accounted for 2.3% of all nonfatal violence in the workplace.⁷ In 2016, the U.S. Equal Employment Commission received 12,860 complaints regarding sex-based harassment.⁸

GBV has an enormous impact on women and the workplace as a whole. Studies and surveys found that:

- 25% of rape victims lose their job within a year of the assault;
- 30%–53% of employed victims of intimate partner violence lose their jobs due at least in part to the domestic violence;
- 78% reported being late to work as a result of domestic abuse;
- 47% reported being assaulted before work;
- 67% said the perpetrator came to the workplace; and
- 96–98% of employed domestic violence victims experienced problems at work related to the violence.⁹

In 2005, a national benchmark survey of 1,200 employed adults (ages 18 and older) in the United States by the Corporate Alliance to End Partner Violence found that intimate partner violence has a wide and far-reaching effect on Americans' working lives:

- 44% of employed adults surveyed personally experienced domestic violence's effect in their workplaces;
- 21% of respondents (men and women) identified themselves as victims of intimate partner violence; and
- 64% of victims of domestic violence indicated their ability to work was affected by the violence.¹⁰



STUDIES BY SECTOR

Certain occupations and sectors have particularly high rates of GBV due to their structure, location, or the ingrained hierarchies and norms of the job. This section explores recent reports that have gathered statistics and other information in some of the most vulnerable sectors.

SERVICE INDUSTRY WORKERS

Client-facing, tip-based service industry workers, such as restaurant, entertainment and hospitality workers, are frequent targets of GBV by bosses, co-workers and customers. Working for tips enables and facilitates GBV, as customers feel entitled to attention and approval for their money, and managers often feel more empowered to comment and advise on physical appearance in order to appeal to the perceived needs of customers.

Restaurant Workers

Although men and women are sexually harassed while working in restaurants, as documented in [The Glass Floor](#), a study by Restaurant Opportunities Centers (ROC) United, women are sexually harassed at higher rates than men and the harassment is more egregious. Nearly twice

as many women as men reported being deliberately touched, pinched, kissed or fondled.¹¹ Sixty percent of women respondents in the study reported being sexually harassed, and more than half reported incidents occurring on at least a weekly basis. Due to the public-facing nature of the job, respondents stated managers were more likely to encourage women workers to dress “sexier” and wear more revealing clothes, creating a climate where commenting and focusing on physical appearance is encouraged and normalized.

Hospitality Workers

[Hands Off Pants On](#), an investigation conducted by UNITE HERE Local 1, found that 58% of hotel workers and 77% of casino workers surveyed in Chicago have

been sexually harassed by a guest. Of these, almost half of all hotel workers had a guest answer the door naked or expose themselves. Fifty-six percent of women who had been harassed by a guest said they did not feel safe returning to work after the incident, but many reported they felt there was nothing they or anyone could do about it.¹² Only 19% of hospitality workers surveyed said they had received training from their employer on how to deal with sexual harassment by guests.

Property Services Workers

Property service workers, particularly janitors, are vulnerable to GBV due to both the nature of the job and the composition of the workforce. As detailed in [Race to the Bottom](#), a University of California, Berkeley Labor Center report, property service workers usually work in isolated environments, alone in empty office buildings overnight. In addition, hiring of janitorial staff often occurs through layers of subcontractors, which reduces accountability and oversight. Further, janitors frequently are managed by a chain of supervisors who overwhelmingly are male.¹³ [The Perfect Storm](#), a complementary report, found that “the property services industry is structured in a way that isolates workers who are uniquely vulnerable to sexual harassment, and then creates conditions in which workers are afraid to step forward to report harassment.”

Domestic Workers

Domestic workers provide care for children, individuals with disabilities and the elderly in private homes. The majority are women, primarily immigrants, and some also rely on their employer for housing. Many work on a temporary basis. They work for low wages and long hours, and many are the primary wage earners in their families. Due to the small employer size, they also often are exempt from protection by federal employment laws. The intimate nature of the work, combined with the vulnerability of most workers in this sector, presents a heightened risk for GBV, but because the home often is regarded as private, it can be particularly difficult to identify and address. [Behind Closed Doors](#) surveyed California domestic workers and found 9% had experienced sexual harassment in the past two months, another 9% indicated they had experienced violence at the hands of their employer, and a further 20% had been insulted or threatened by their employer.¹⁴



FARMWORKERS

Farmworker women represent a minority of the agricultural labor force in the United States. While it is difficult to get an accurate estimate of the female farmworker workforce, it is estimated that about 23% of the row crop workers are women.¹⁵ Their jobs are marked by low pay, dangerous working conditions, isolation and widespread gender discrimination, which makes them vulnerable to GBV, among other abuses. Eighty percent of female farmworkers working in the fields in central California reported they had experienced sexual harassment.¹⁶ In 2010, the University of California, Santa Cruz surveyed 150 female farmworkers in California. Almost 40% reported experiencing sexual harassment, from verbal advances to rape on the job. Twenty-four percent reported being sexually coerced by a supervisor.¹⁷ As documented in [Injustice on Our Plates](#) by the Southern Poverty Law Center, farmworker women face significant barriers to reporting or otherwise responding to the pervasive abuse. They tend to be non-English speakers who are unfamiliar with their rights, the U.S. legal system and the resources available to help them. Many are undocumented and fear, sometimes correctly, that contact with government authorities will result in deportation proceedings.¹⁸



CONSTRUCTION WORKERS

Women in sectors like construction that are traditionally male-dominated experience some of the highest rates of GBV. GBV both reflects and enforces a gendered hierarchy within workplaces, and this perceived threat to the “natural” order, combined with women’s isolation, creates an atmosphere where many of these workers are subjected to abuse. Women make up only 2.6% of workers in construction and extraction occupations, and a U.S. Department of Labor study found that 88% of them have reported experiencing sexual harassment at work.¹⁹

FOOD PROCESSING WORKERS

Seafood Workers

[Raising the Floor for Supply Chain Workers](#), a 2016 report by the National Guestworker Alliance, details the rampant sexual harassment in seafood processing centers. Workers reported sexual comments, physical touching and intimidation on the job. Workers who tried to report their abuse were told to forget that it happened.²⁰



Meatpackers

In 2009, the advocacy organization ASISTA conducted a survey of Iowa meatpackers. Out of the more than 100 women questioned, 41% reported having experienced unwanted touching on the job, and about 30% said they had experienced verbal sexual harassment. After rejecting an aggressor’s advances, more than a quarter of respondents said they had been threatened with termination from employment or assigned more difficult work.²¹

Poultry Workers

As documented in the 2016 report [Wages and Working Conditions in Arkansas Poultry Plants](#) by the Northwest Arkansas Workers’ Justice Center, and [a recent case](#) brought by the U.S. Equal Employment Opportunity Commission, poultry workers are vulnerable to GBV due to both the nature of the work and the makeup of the workforce. The industry relies on immigrant workers and people of color, pays low wages, and plants often are located in rural and isolated areas where there are limited job opportunities. As the report documents, workers who spoke out against sexual harassment suffered reprisals, and were accused of lying.²²



WORKER STORIES

Virtually every woman has a story of GBV in the world of work.

Linda,* a hotel housekeeper, recounts a disturbingly common experience among women in her profession. “I knocked on the guest door. I announced myself and the guest answered, ‘Come in.’ I opened the door and he was naked. It was horrible.”²³

Judith was trafficked to the United States from the Philippines to work as a housekeeper for a foreign diplomat in New York. When she arrived, she discovered she would be paid only a third of the amount she had been promised originally, and her employer seized her identification documents. She was forced to work 18 hours a day, seven days a week, and forbidden from speaking to anyone outside of the family. She was abused by the diplomat’s daughter and threatened with deportation if she reported the abuse.²⁴ In 2007, other domestic workers she had met at a local playground helped her escape, and the Damayan Migrant Workers Association, an organization founded in 2002 by Filipino survivors of human trafficking, helped her secure documentation for herself and her children.

Lucia* worked as a migrant farmworker in the Northern Plains, where she was raped by a supervisor repeatedly. On one occasion, her sister witnessed the assault, yet she felt powerless to come forward and complain. When she finally overcame her fear that she and her family members would be fired, she reported the abuse but her employer did not believe her, accused her of lying and claimed it wasn’t her employer since she was hired through a temporary agency. Even though she and her family had worked for this grower for decades, they avoided liability by making her question herself—even after her sister submitted a statement corroborating her account—and denying responsibility.

Mirna is a worker in a seafood processing plant in New Bedford, Massachusetts. Her supervisor made demeaning sexual comments to her and touched her and other workers inappropriately for months, knowing he would never be caught because the plant’s cameras were broken. He threatened workers on his line with termination if they spoke up about the abuse. Despite this

intimidation, Mirna and her co-workers began to organize. They formed an industrywide organizing committee and filed sexual harassment complaints and other workplace complaints. They are demanding an end to sexual harassment, a safe workplace, a right to organize and just wages, for themselves and all other seafood processing workers.²⁵

Tara,* a hotel worker, remembers how difficult it was to come forward to her supervisor after a guest harassed her. “I was embarrassed and afraid they were going to tell me it was my fault.”²⁶

** Names changed to protect privacy.*

IN HER OWN WORDS

My name is Jackie. I live in Girard, Ohio, and I was a server for nearly 30 years. I’m a part of the Restaurant Opportunities Centers United. I found ROC because I had a terrible manager for many years. It all began when I first started the job; I made great money and worked any shift that I wanted. However, my manager told me that I would make more tips if I used my sex appeal. I thought that it was a rude and nasty comment. As time went on, he began making more and more lewd comments to me. I refused him every time. He made a habit of tormenting all of the women servers in the restaurant. Over time, I witnessed him escalate his behavior. He began putting his hands on us. And he began making nastier and nastier comments to me. One day, when I refused him for the umpteenth time, he called me a “dirty Jew.” When I tried to fight back, he began cutting my hours. When I tried to get the other women to report him, he began stealing my tips. When I pushed him away from me, he tried to get me fired. This went on for years. Years of a never-ending stream of sexual harassment and anti-Semitism. He not only tormented me, he harassed every other woman. Finally, I’d had enough. And I felt so free. Except that I always think about the girls who still were at the restaurant. No woman should ever go through what I went through.





COSTS OF SEXUAL VIOLENCE

GBV in the world of work not only has profound negative effects on survivors, it imposes high costs on employers, the economy and society at large.

Intimate partner violence that occurs outside the workplace hampers job performance and productivity. The last time the United States Centers for Disease Control and Prevention attempted to quantify the costs, it concluded intimate partner violence cost the U.S. economy almost \$1 billion in lost productivity.²⁷ This survey did not attempt to include the violence women experience in the workplace from customers, clients, co-workers, supervisors and individuals they interact with while traveling to the worksite, which also interferes with the ability of workers to effectively do their jobs and affects the ability to retain employees. In 2008, total victimization costs of one rape were approximately \$151,423.²⁸ Sexual assault victims lose approximately \$2,200 due to decreased productivity and lost wages in the aftermath of sexual violence.²⁹ A 2009 study in Iowa estimated the cost of lost work due to sexual violence to be more than \$130 million.

GBV has a negative impact on all workers—on the victims who are targeted, the perpetrator and other co-workers

who might be witnesses to the violence. Employers stand to lose a significant amount by permitting or failing to remedy GBV. Firstly, they might face liability and related monetary damages if they are subject to penalties or lawsuits. Secondly, they stand to lose profits from employees, victims and perpetrators, whose productivity and quality of work are impacted by the GBV. A Maine study found that 74% of intimate partner abusers had access to their partner's workplace, and 21% of offenders reported they contacted their partner at their workplace in violation of a no-contact order. The majority of perpetrators of GBV are employed at the time they commit the violence, and the same Maine study found that 78% of surveyed perpetrators used workplace resources at least once to express remorse or anger, check up on, pressure or threaten their victim. Seventy percent of domestic abuse offenders lost an estimated 15,221 hours of work due to their domestic abuse arrests.³⁰ Safe workplaces also are more efficient and effective because all employees are able to maximize their potential in a setting free from GBV and its impacts.

THE FAILURE OF EXISTING LEGAL PROTECTIONS

Current legal frameworks are not adequate to address the full depth and range of GBV in the world of work. Sexual harassment, defined by courts to include unwanted sexual advances; visual, verbal or physical conduct of a sexual nature; indecent exposure; lewd remarks or requests; unwanted touching, hugging, groping or grabbing; pressure for dates; and unwanted advances and other forms of assault, including sexual assault and rape; is prohibited under federal law and many state and local laws as a form of sex discrimination, though some limitations exist. Sexual assault and rape are federal and state crimes, regardless of where they are committed. Irrespective of immigration status, documented and undocumented individuals are protected by civil and criminal laws that prohibit GBV committed at work, though some workers may be excluded from protection under civil employment laws, depending on the size of the employer.

Nonetheless, employees often are not willing to come forward to report GBV and its impacts. Many fear for their own safety, their family's safety and their job security. Intersecting identities, such as being a member of a racial or ethnic minority, immigration status or economic class, may make workers less likely to report due to the fear of retaliation or specific negative consequences, such as deportation for coming forward.³¹ Others may lack familiarity with their rights or the resources available to address GBV.

When employees attempt to access their legal rights by filing a complaint with a state or federal agency or pursuing a civil lawsuit, they face a number of challenges.³² Long wait times for investigations, little information about the process for pursuing an administrative claim and difficulty securing attorneys to take cases, particularly for low-paid workers, are among the reasons attempts to seek justice are often unsuccessful.

While federal law provides protection against GBV by an employer, supervisor, co-worker or third party, employees must meet a threshold to receive protection under the law, including meeting a minimum number of employees, filing the charge or complaint within a specific window of time and an administrative exhaustion requirement that must be satisfied before an individual may file a lawsuit to seek remedies. State-based remedies are desirable, because they may cover smaller employers, might not

require exhaustion of an administrative process to proceed to court, and might provide additional remedies for the victims. Unfortunately, many states lack provisions to address the specific types of discrimination GBV victims face.

Some state legislatures have implemented important measures to address the impact of GBV on working women. California, Delaware, Hawaii, Illinois, New York and Oregon have enacted legislation that specifically prohibits employers from discriminating against employees, including firing, demotions and changes to the nature of assigned work or work hours. These laws provide protections for victims regardless of whom the perpetrator is or where the victimization took place.

Illinois provides the broadest protection among these laws, prohibiting discrimination against employees who are or are perceived to be victims of sexual violence, and employees who have a family or household member who is, or is perceived to be, a victim of sexual violence, and requires employers to make reasonable accommodations related to the sexual violence. For example, an employer may provide a victim with a lock on her office door, or a change in her shift to increase her safety and security at work. Oregon's law prohibits employers from refusing to make reasonable safety accommodations requested by the victim unless the employer can demonstrate that the accommodation would impose an undue hardship on the employer. Under these statutes, an employee has a private right of action to hold the employer to account if it fails to abide by the law. Critically, employees are not required to report the abuse directly to their employer, but simply must establish that the employer knew.

In addition, California recently enacted a law requiring the Department of Industrial Relations to create a registry system intended to increase accountability in the janitorial contracting industry. The law requires sexual harassment and assault training and prevention programs for supervisors, and the availability of employee rights information, survivor resources and a complaint hot line.

Some state and local governments have made efforts to introduce broader provisions to address some of the discriminatory impact of GBV in the workplace, or adopted industry-specific measures to target specific ways this issue can play out, but more coordinated and comprehensive action is needed to fully address and eliminate this pernicious problem.



RECOMMENDATIONS

Domestic laws in the United States that prohibit GBV, including sexual harassment and abuse in the workplace, offer insufficient protections. Effectively addressing the problem requires strengthening legal mechanisms at the local, state, national and international levels, promoting employer accountability—including effective training and grievance redress—and empowering women workers through secure, stable employment and the right to organize for better treatment overall.

STRENGTHENING LEGAL MECHANISMS

All workers, regardless of employer size, should be protected from GBV committed at work. Civil legal remedies should not be capped or measured by the employer size. Congress should provide sufficient funding to enforce existing laws that prohibit sexual harassment, including resources for full and fair investigations, along with government-supported litigation where findings have been made that an employer violated federal anti-

discrimination laws. Anti-discrimination employment law must expressly prohibit GBV at work, and discrimination and retaliation against victims who report their victimization.

Federal and local governments, as well as employers, should engage unions, labor affiliates and worker centers as significant partners in creating worker-centered responses to GBV, and fund local service providers and anti-violence groups.

EMPLOYER ACCOUNTABILITY FOR REDUCING AND RESPONDING TO GBV

Employers must take greater responsibility by developing internal policies that deter violations, by helping support survivors when violations occur and by adopting due diligence mechanisms to respond to abuse in supply chains. This includes training at all management tiers to diminish the ability of supervisors to commit violations themselves or to ignore reports of subordinates. There should be clear mechanisms that educate workers on their rights and protect them when they come forward. Designated support roles, including union health and safety representatives, should be given trainings and paid time off to address complaints. Effective training should acknowledge the cultural and societal norms that contribute to and perpetuate GBV, and engage men as well as women in changing the culture in the workplace.³³

Employers should work with unions and worker organizations to address the specific needs and issues of their workplace and industry. Building the most responsive and meaningful policies requires engaging directly with women workers. For example, 96% of housekeepers surveyed in Chicago reported that they would feel safer if rooms were equipped with a panic button, and 90% of hospitality workers would feel more comfortable reporting a guest's sexual harassment if their employer was required to ban guests who sexually harass employees.

Employers should provide meaningful accommodations, including flexible work arrangements, access to advance of pay and counseling or referrals to appropriate support services.

Employers should adopt due diligence mechanisms and take meaningful responsibility for working conditions in their supply chains to ensure that subsidiaries, subcontractors, franchisees and other partners prevent and address GBV. This can take the form of contractual obligations, like the Fair Food Program³⁴ partnership among farmworkers, growers and food purchasers launched by the Coalition of Immokalee Workers, or the Equitable Food Initiative,³⁵ which requires lead firms to agree to a code of conduct that prohibits sexual harassment, among other types of exploitation, and institutes enforcement mechanisms for subcontractors and other entities throughout the supply chain.

PROTECT ORGANIZING AND COLLECTIVE BARGAINING RIGHTS

Workers acting collectively can confront gendered power hierarchies and implement positive changes at worksites. Eighty-eight percent of restaurant workers who experienced sexual harassment reported they would be more likely to talk to their supervisor about these experiences if they were a part of a group of co-workers. Workers who are represented by a union can include discussions of how GBV is identified and addressed in negotiations, and can promote provisions in collective bargaining agreements that protect workers who come forward. For example, the New York Hotel and Motel Trades Council negotiated language into an industrywide collective bargaining agreement that required panic buttons for all hotel housekeepers.³⁶ University graduate workers have negotiated protections from GBV in their contract and support for workers who come forward, including the ability to represent workers through grievance procedures.³⁷ Unions can help protect women who speak out, by starting campaigns like UNITE HERE Local 1's #ComeForward campaign, which encouraged women to report incidents and end the culture of silence surrounding GBV in the hospitality industry.³⁸

DEVELOP AND RATIFY INTERNATIONAL STANDARDS

The International Labour Organization will discuss an instrument on violence and harassment against women and men in the world of work in June 2018.³⁹ Developing a comprehensive instrument that provides a legal standard and guidance on effective policies to prevent and respond to GBV in the world of work is critical to establishing safe, productive and healthy workplaces for all. GBV is one of the most critical and widespread obstacles to women's economic empowerment and gender equality around the world.⁴⁰ As this report demonstrates, there are many areas where the United States needs to improve its own response to the problem, and an international instrument(s) will provide a baseline legal standard, as well as critical recommendations and best practices to develop a meaningful, systematic approach.

The ILO instrument(s) should include clear guidance on how to develop legal and regulatory frameworks to prevent and redress all forms of violence and harassment, and that protect all workers regardless of sector,

immigration status or any other categorization. This should include legal mechanisms to protect survivors from adverse action or discrimination on the basis of their disclosure, experience or perceived experiences with GBV, and training of labor officials to identify and redress GBV. It should include guidance for employers on how to develop and implement workplace safety strategies, including risk assessments, safety plans, training, and timely and effective processes for resolving concerns. Employer guidance must promote accountability, including accommodation and support for survivors and witnesses to intimate partner violence and redress for abuses committed both in-house and throughout

the supply chain. The instrument(s) also should include recommendations and best practices on how unions and employers can work together to tackle GBV, including peer training for women workers, and negotiating collective bargaining agreements and global framework agreements that contain specific measures to prevent, identify and redress abuse.

Governments, employers and workers all have a role to play in ending GBV in the world of work, and an ILO Convention, accompanied by a Recommendation, would provide a useful framework to help end GBV in the world of work and ensure all workers can fully and freely exercise their rights.

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