

*REGULATORY ACTION
AGAINST BULLYING AND
HARASSMENT IN THE
WORKPLACE IN AN
INTERNATIONAL
PERSPECTIVE:
FROM RESEARCH TO POLICY*

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Katherine Lippel, CRC in OHS Law,
University of Ottawa; Adjunct scientist IWH

Outline of presentation

- What needs to be considered in examining appropriate regulatory response?
 - ▣ Introductory definition and distinctions
 - ▣ Who are the targets? Who are the perpetrators? What are the impacts of work organisation?
 - ▣ How do answers vary between jurisdictions?
 - ▣ What are the consequences?
 - ▣ Challenges in the current economic climate
- Regulatory strategies and effectiveness
 - ▣ Explicit legislation
 - ▣ Broader legislative frameworks
- Conclusion: Why regulate bullying and harassment?

What needs to be considered?



Bullying/Psychological

Harassment/Mobbing vs discriminatory

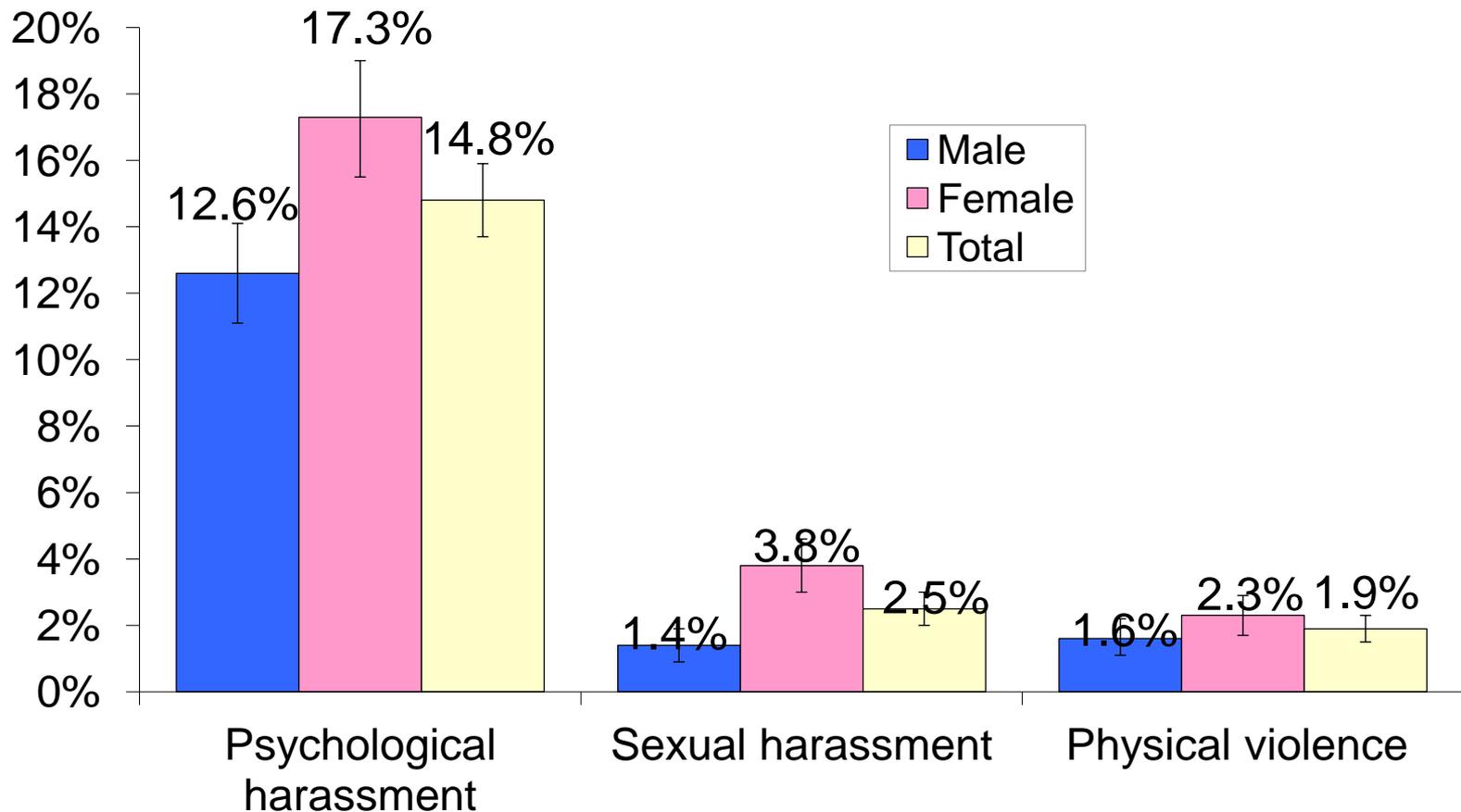
harassment

- EQCOTESST question on psychological harassment
 - ▣ During the past 12 months at your current main job, were you subjected to psychological harassment, that is, repeated verbal harassment or actions that affected your dignity or personal integrity?
- EQCOTESST question on sexual harassment
 - ▣ During the past twelve months, at your current main job, have you been subjected to unwanted words, gestures or actions of a sexual nature?

Who are the targets?

- Women more likely to be targets of bullying than men
 - ▣ Fourth European Working Conditions Survey, 2005
 - ▣ EQCOTESST 2007-2008 (Québec, 2011)
- Younger women more likely to be targets in European study but not in Québec study
- Members of trade unions more likely to be targets than others in Québec study, but this could be a sector effect or a reporting effect

Prevalence of the different forms of occupational violence (previous 12 months) EQCOTESST 2007-2008

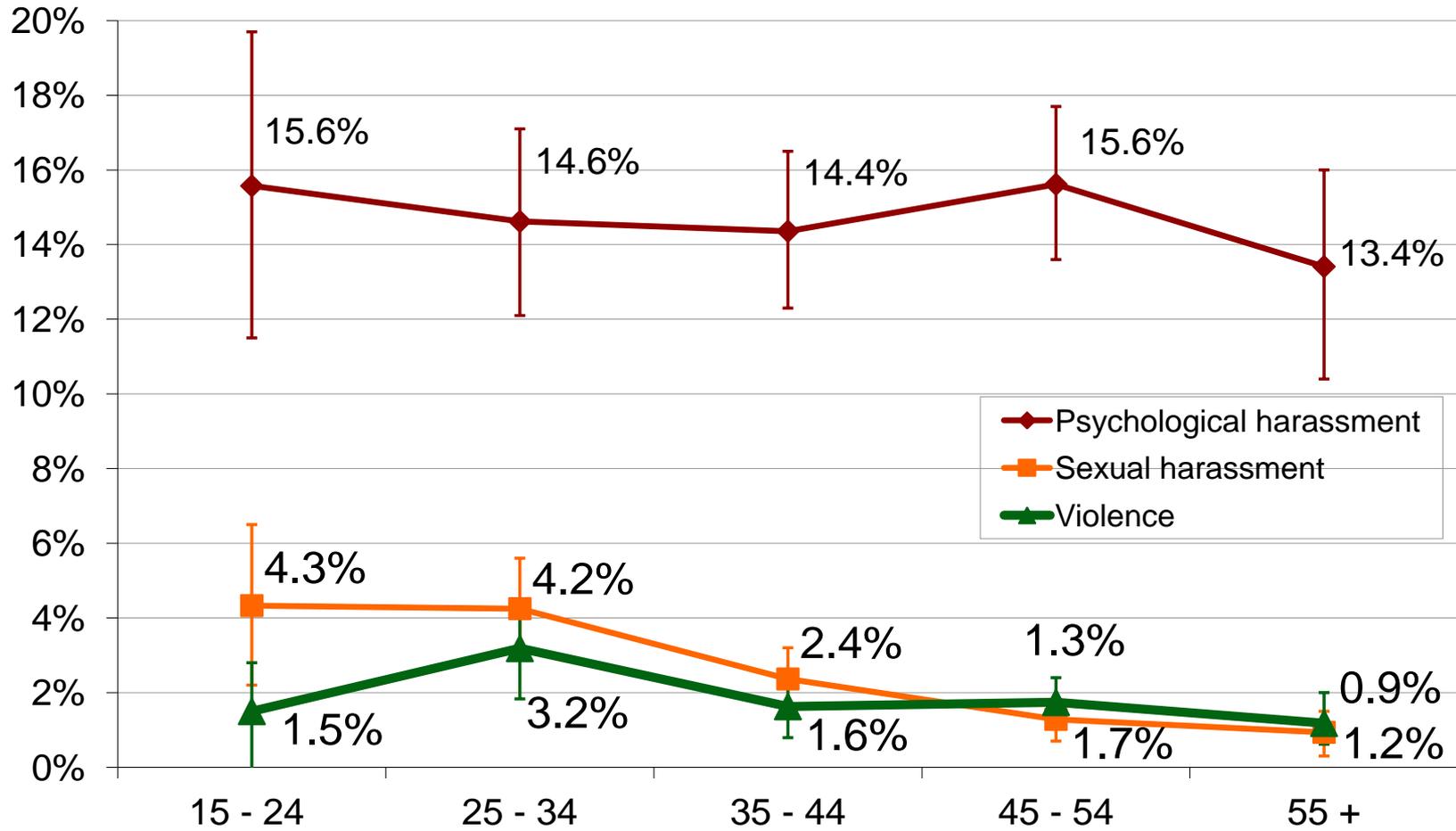


Khi-2 statistically significant on the basis of sex (.05) for psychological harassment and sexual harassment but not for physical violence.

In other words, in the previous 12 months, in Québec

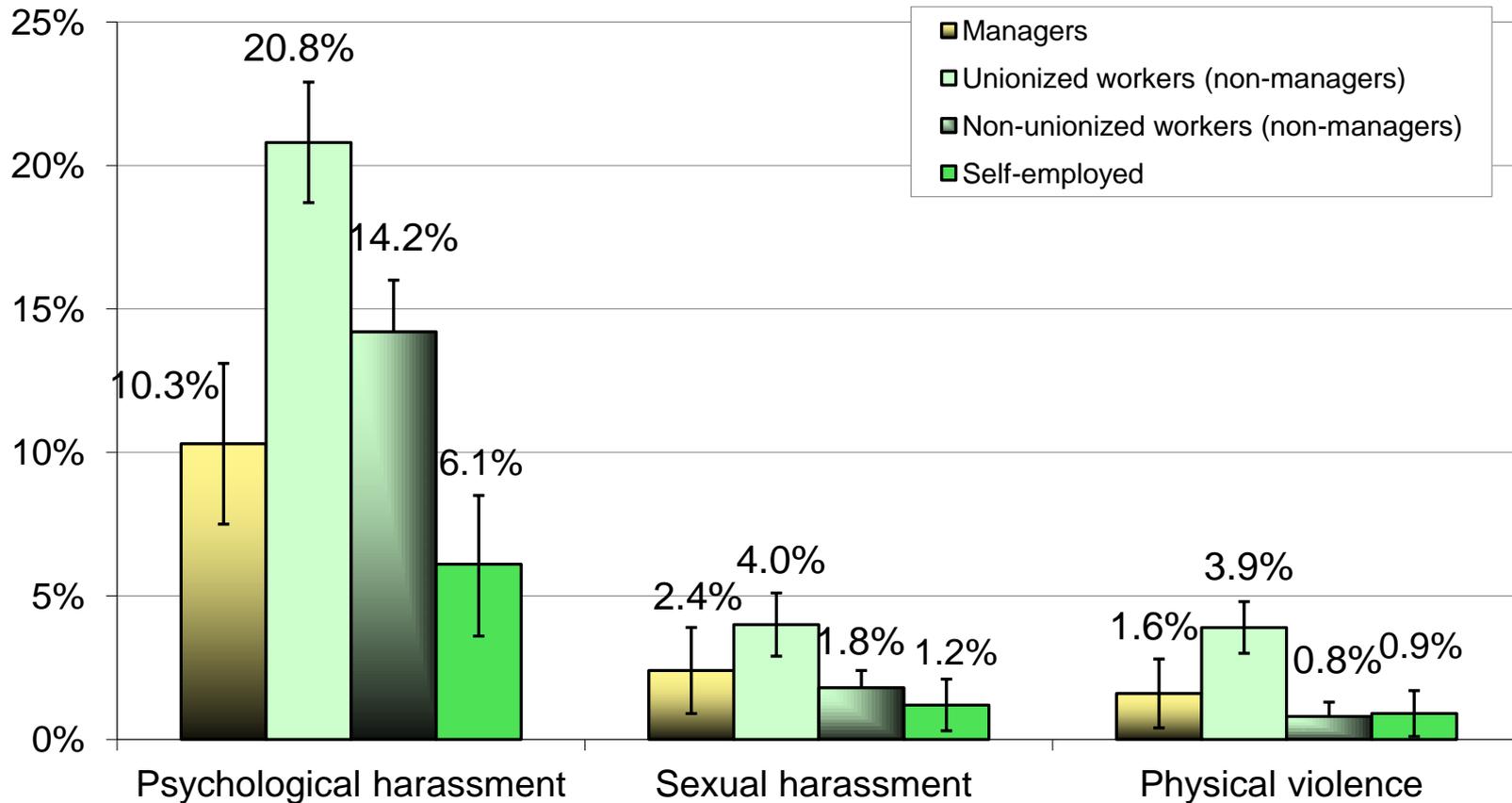
- 528,000 workers were the targets of psychological harassment
- 90,000 workers were the targets of sexual harassment
- 69,000 workers were the targets of physical violence
- In a population of 3,567,000 eligible workers
- 15 hours + for at least 8 weeks

Prevalence of each form of violence according to age of target



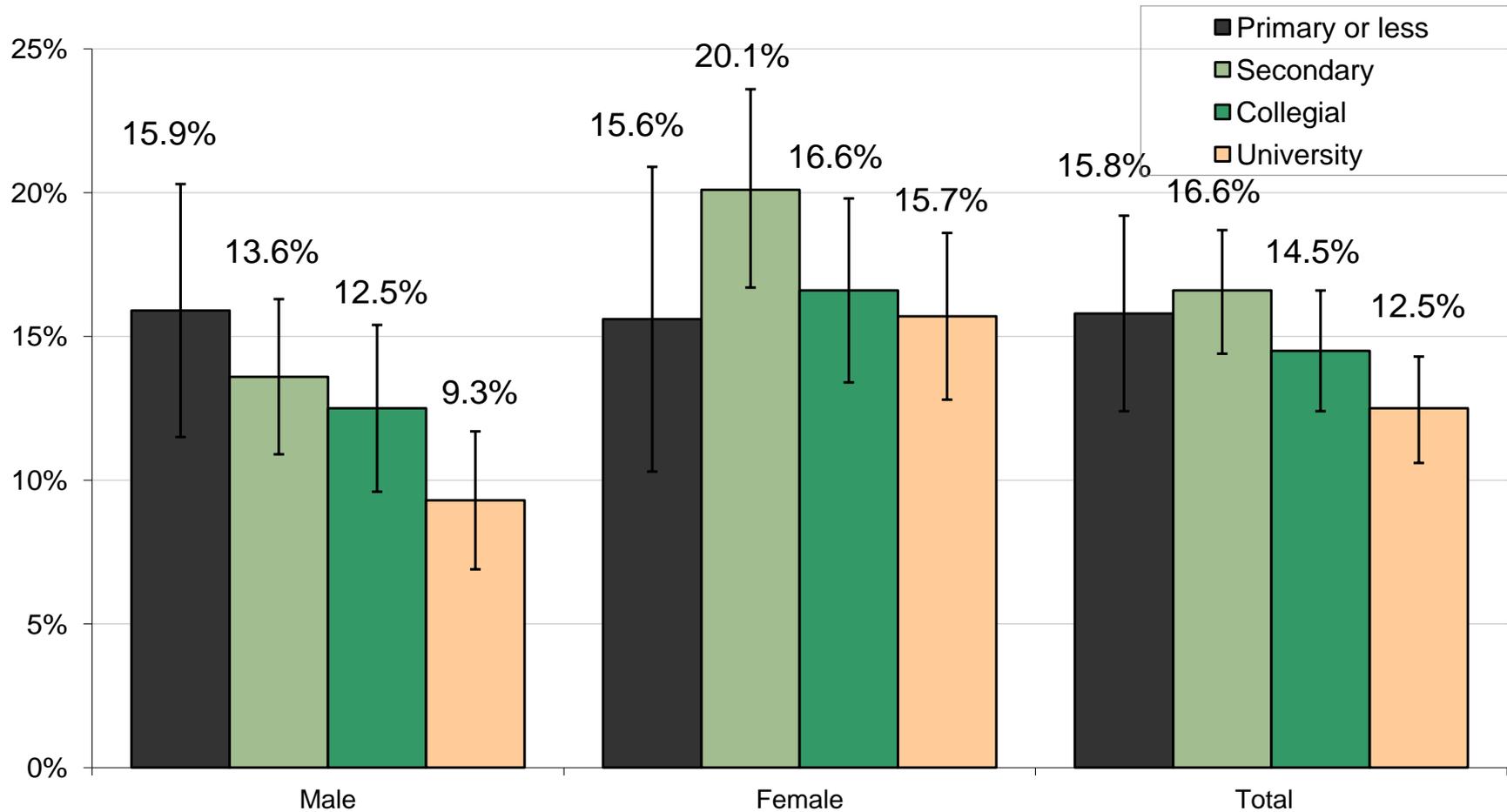
Khi-2 statistically significant on the basis of age (.05) for sexual harassment and physical violence but not for psychological harassment.

Prevalence of each form of violence according to type of work contract



Khi-2 statistically significant on the basis of work contract (.05) for all forms of violence studied.

Prevalence of psychological harassment according to education and sex (EQCOTESST 2007-2008)



Khi-2 statistically significant on the basis education (.05) for men and total, but NOT significant for women.

Who are the perpetrators?

- Depends on the jurisdiction

Supervisors and managers

Poland

Québec

Lithuania

Spain

Colleagues

Denmark

Sweden

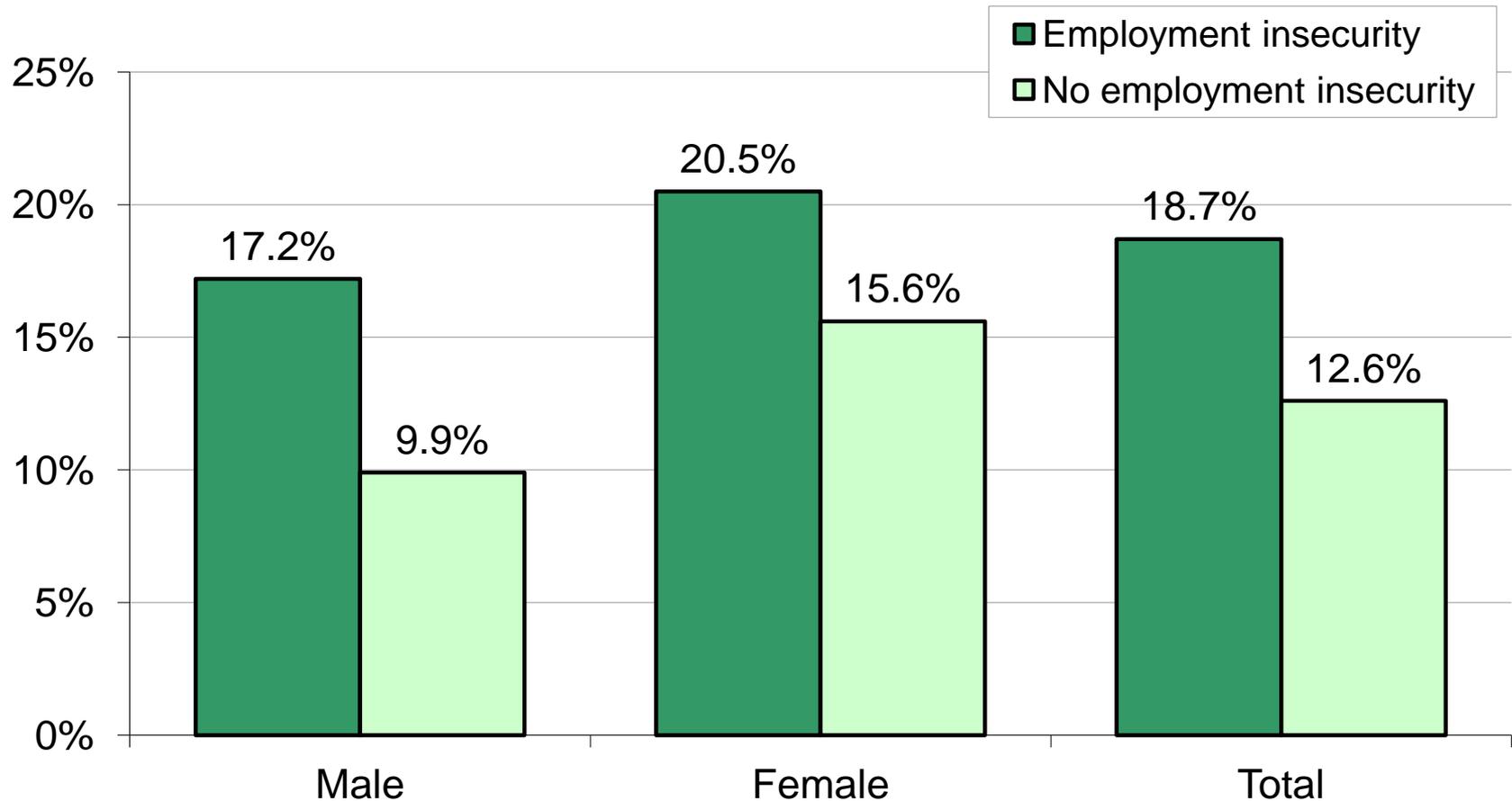
Current economic climate - 1

□ Job insecurity

- ▣ Prevalence of bullying is higher in the context of organisational change.
- ▣ the relationship between organizational change and bullying is fully mediated by role conflict and job insecurity
- ▣ Baillen & DeWitte, *Economic and Industrial Democracy*, 2009, Vol. 30(3): 348–371

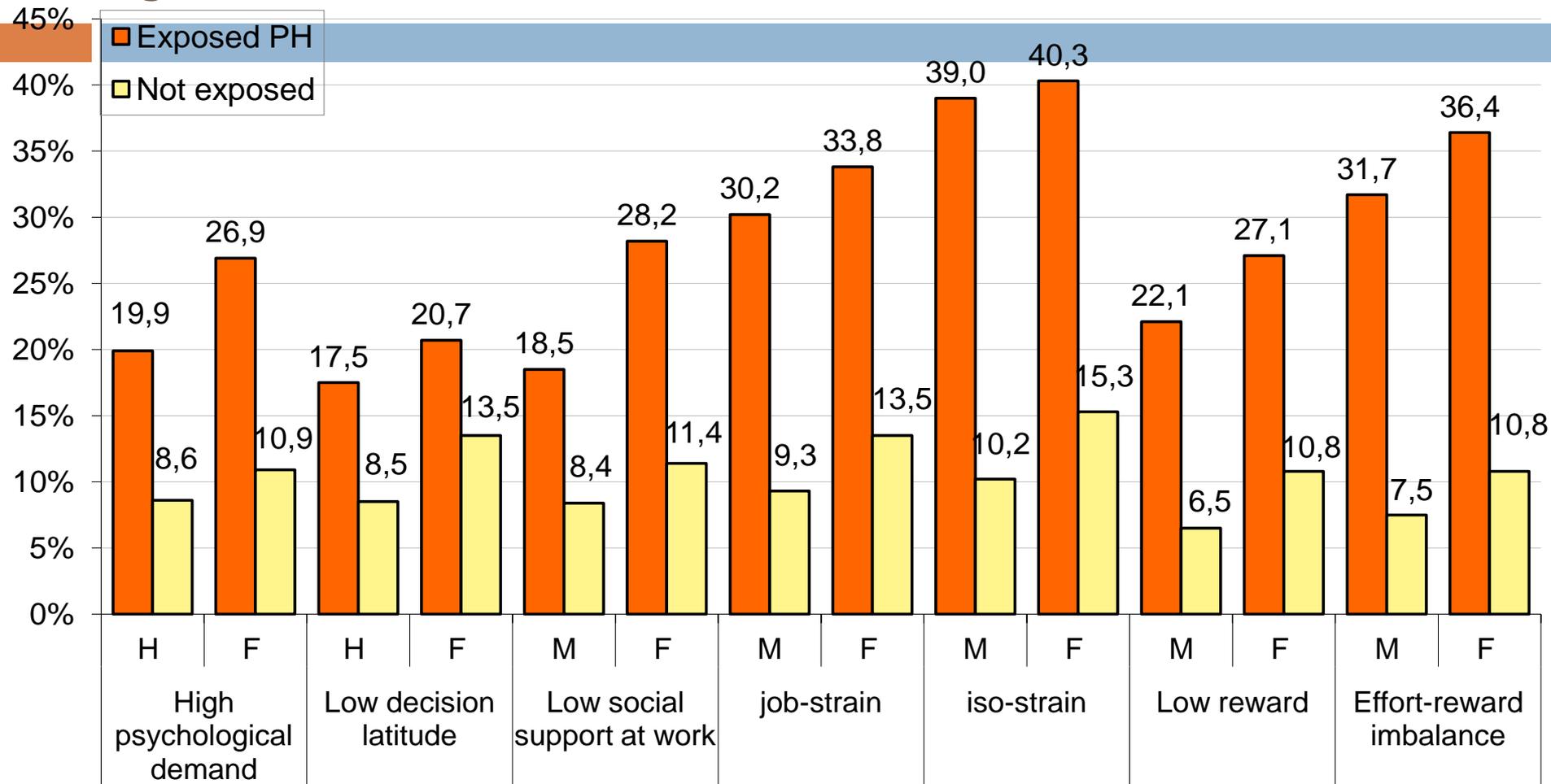
EQCOTESST 2007-2008 (Québec)

Prevalence of psychological harassment according to employment insecurity and sex



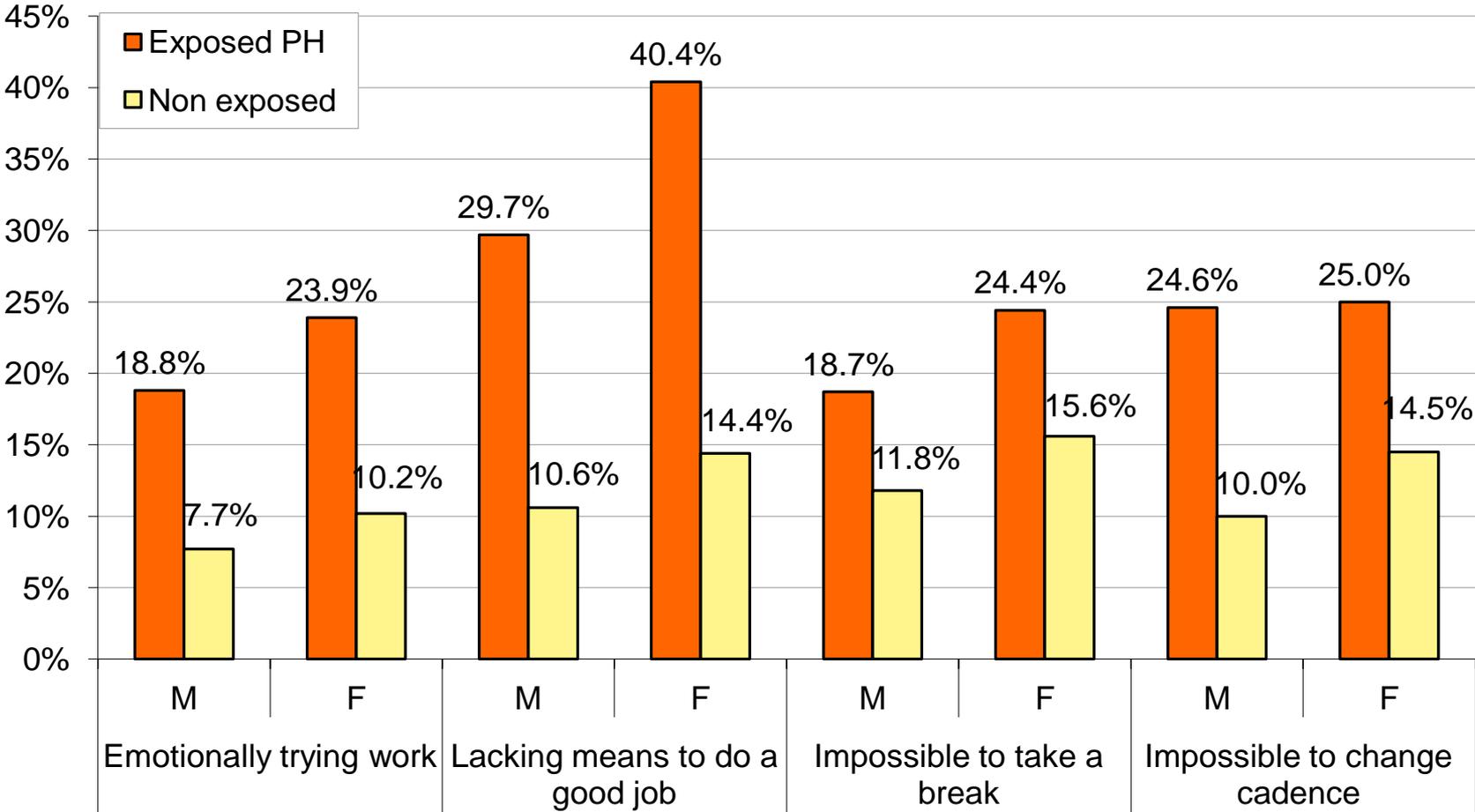
Khi-2 statistically significant (.05) for men, women and total

Prevalence of psychological harassment according to organisational constraints and sex



Khi-2 statistically significant (.05)

Prevalence of psychological harassment according to organisational constraints and sex

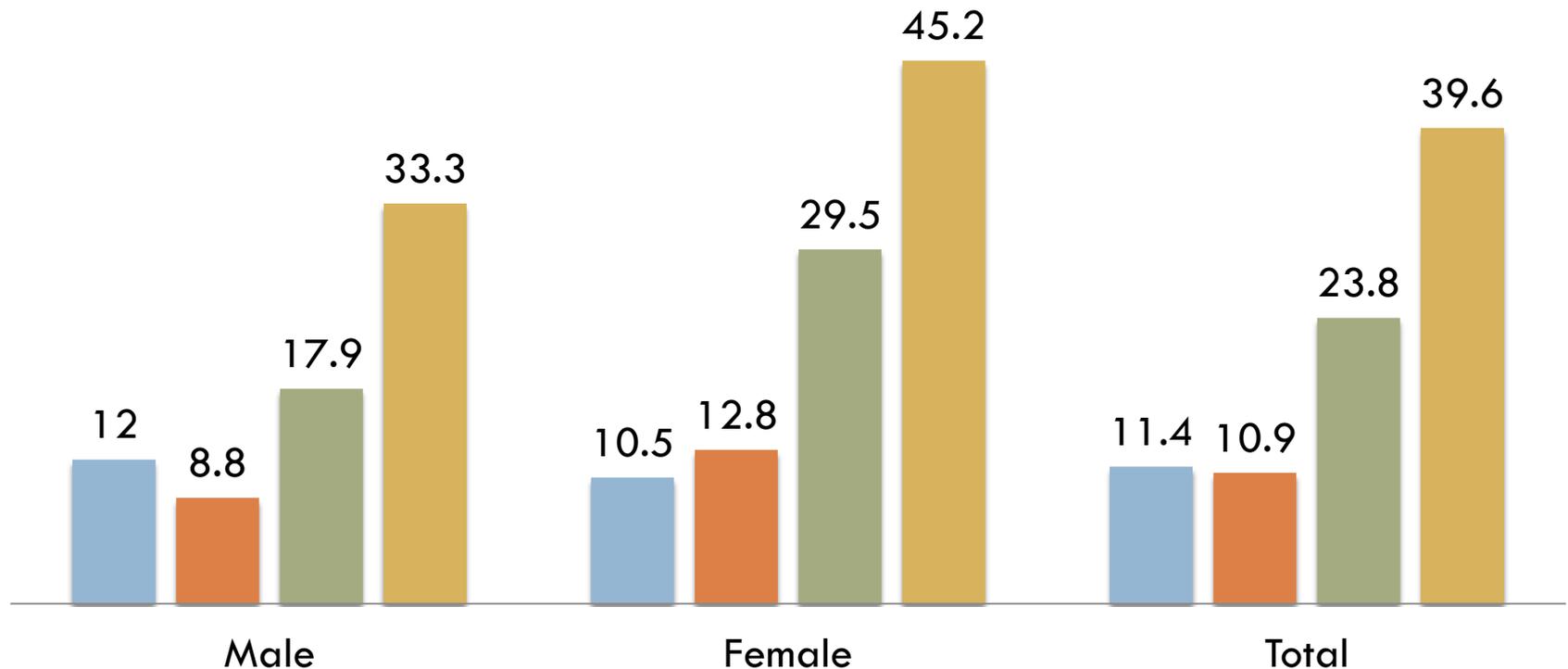


Khi-2 statistically significant (.05)

Prevalence of psychological harassment according to frequency of tension with the public

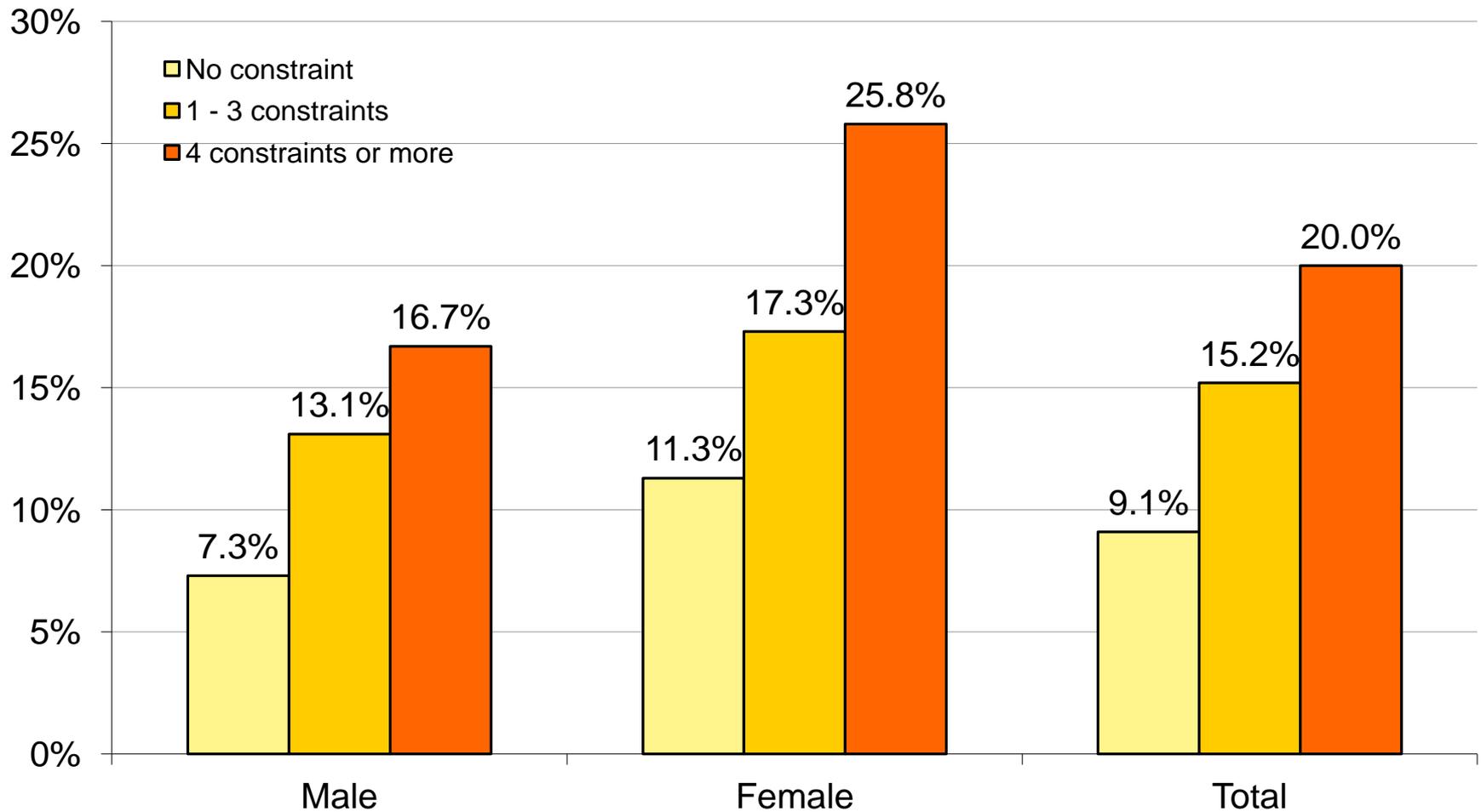
Frequency of tension with public & P.H.

■ Never ■ Sometimes ■ Often ■ Always



Khi-2 statistically significant (.05) for men, women and total

Prevalence of psychological harassment according to exposure to physical constraints (index)

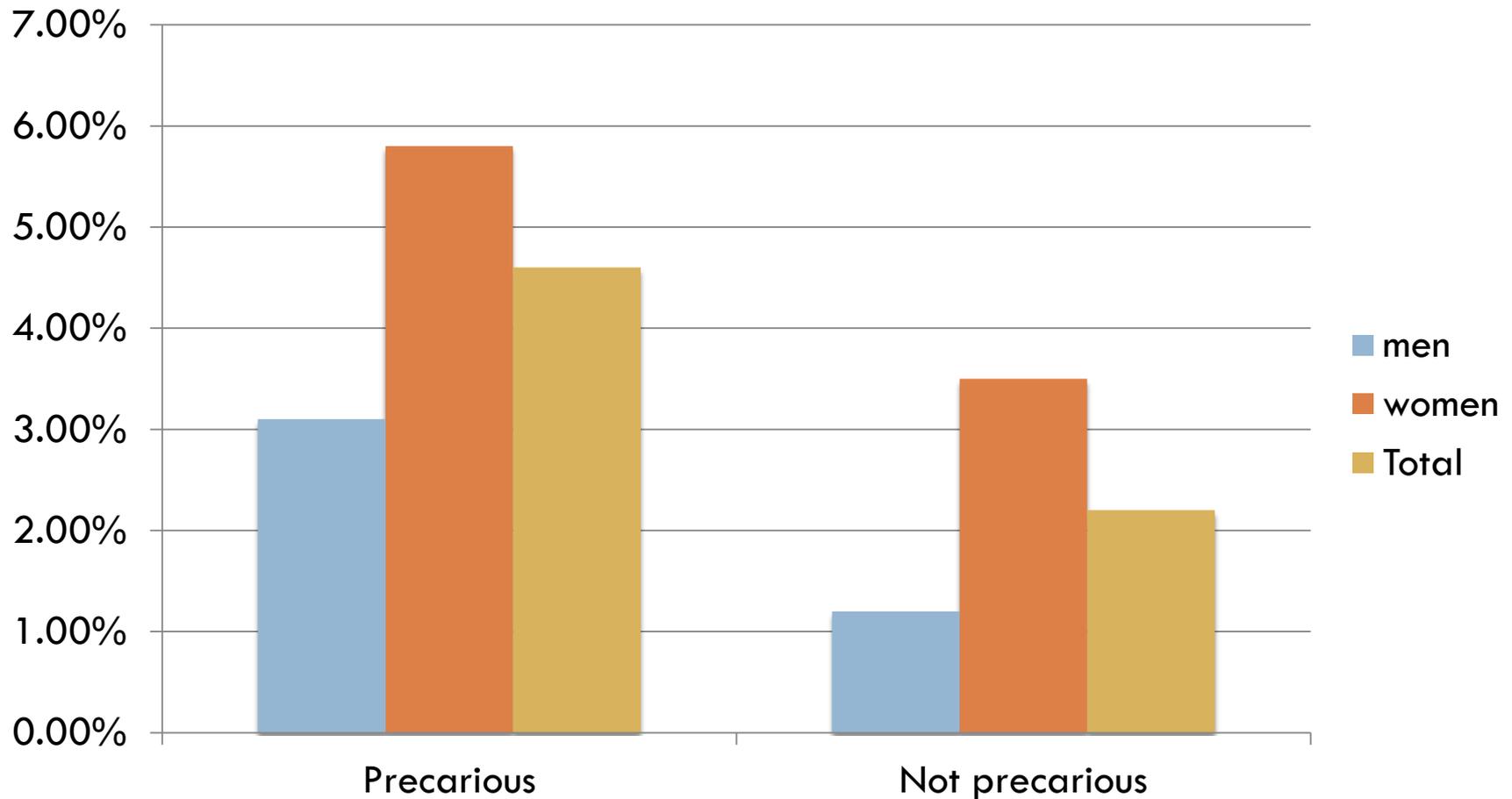


Khi-2 statistically significant (.05) for men, women and total

Current economic climate -2: Precarious employment

- South Australia
 - ▣ Permanent
 - ▣ Casual
 - ▣ Fixed term
 - ▣ Self-employed
- Casual workers were significantly **less likely** than workers on permanent or fixed term contracts to report bullying.
- Keuskamp et al, in press, Aust NZ JPH
- Québec
 - ▣ Permanent
 - ▣ Temporary (fixed term and casual)
- No significant difference in exposure for men
- Women with temporary contracts were significantly **less likely** than workers on permanent contracts to report bullying
 - Eqcotesst 2007-2008

Prevalence of sexual harassment and precarious contracts (EQCOTESST 2007-2008)



Khi-2 statistically significant (.05) for total only.

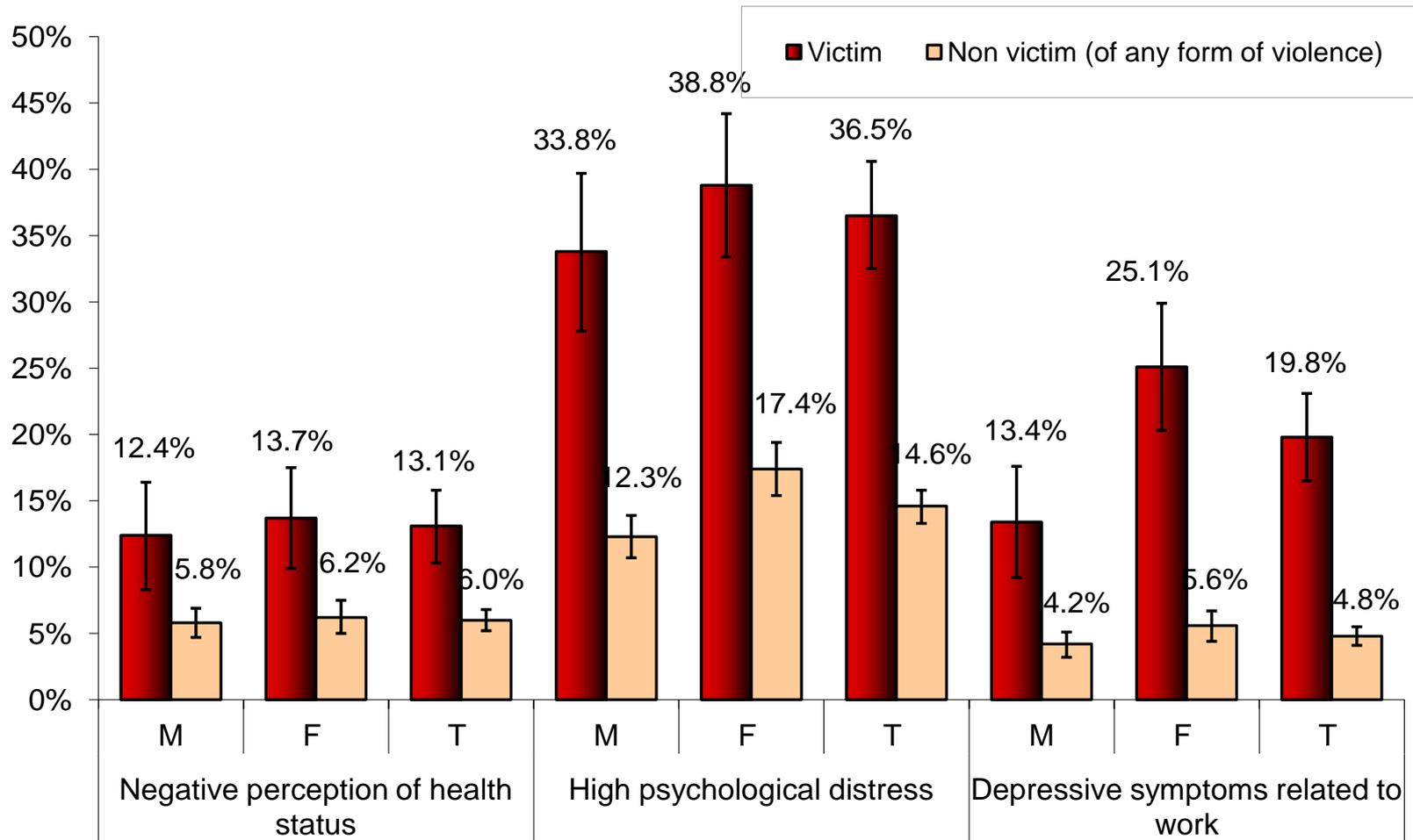
But in Belgium temporary workers more at risk...

- How can we explain higher prevalence of bullying/psychological harassment experienced by permanent workers in some jurisdictions and not in others?
- How can we explain higher prevalence of sexual harassment in temporary workers in Australia and Québec?
- Who can be fired at will?
- What are job protections available?
- Do they vary according to unionisation status?
- Who are temporary workers?
- Are the dynamics at play similar for both types of harassment?

Current economic climate 3

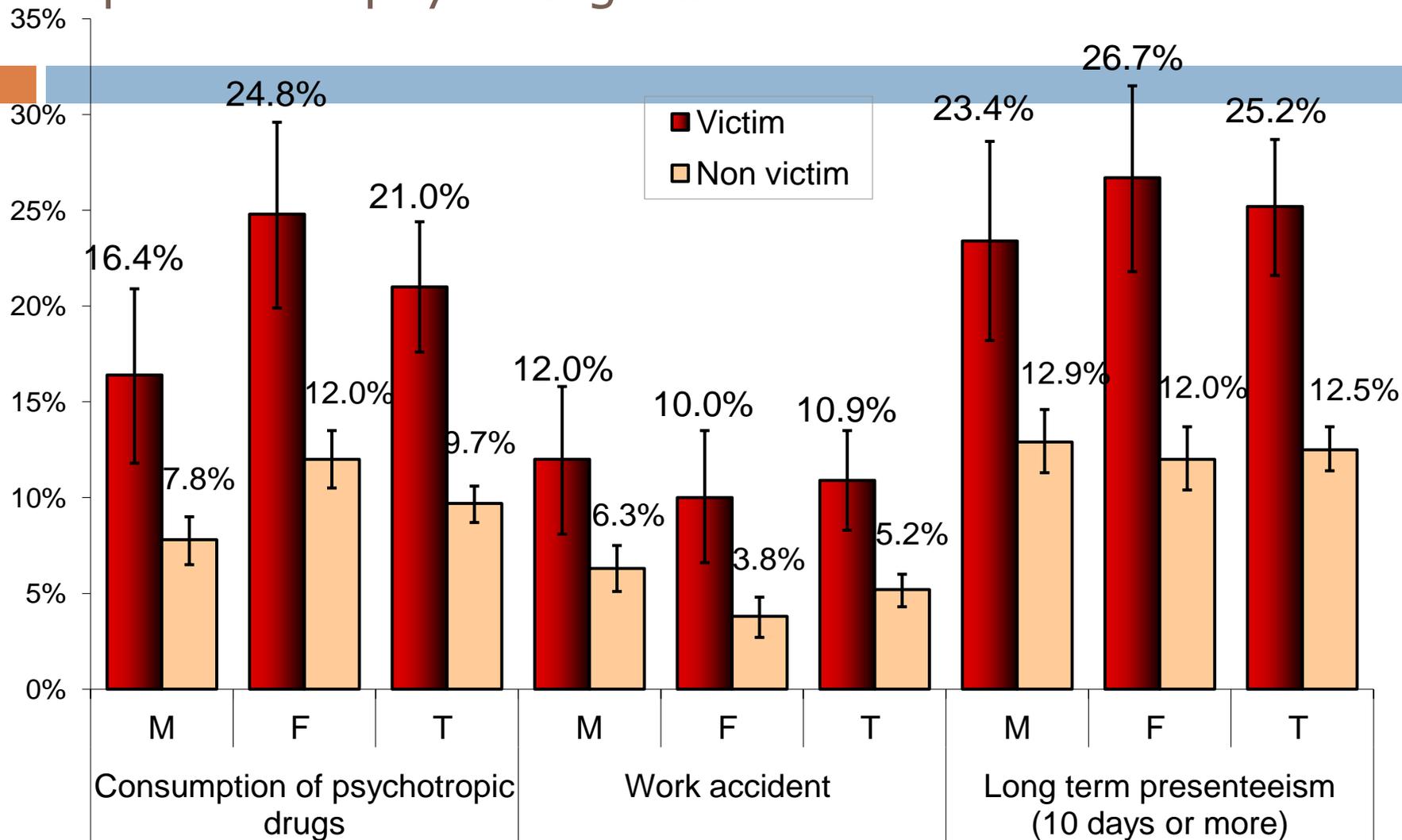
- Sectors at higher risk for occupational violence
 - ▣ Health care and social services
 - ▣ Education
 - ▣ Public administration
 - ▣ Fourth European Working Conditions Survey, 2005
 - ▣ EQCOTESST 2007-2008
- To what extent are management strategies for restructuring of the public sector exacerbating hazards of violence and harassment?
 - ▣ Effect on clients
 - ▣ Effect on relations between colleagues
 - Lippel, *Healthcare papers*, 2011

Prevalence of health indicators according to exposure to psychological harassment



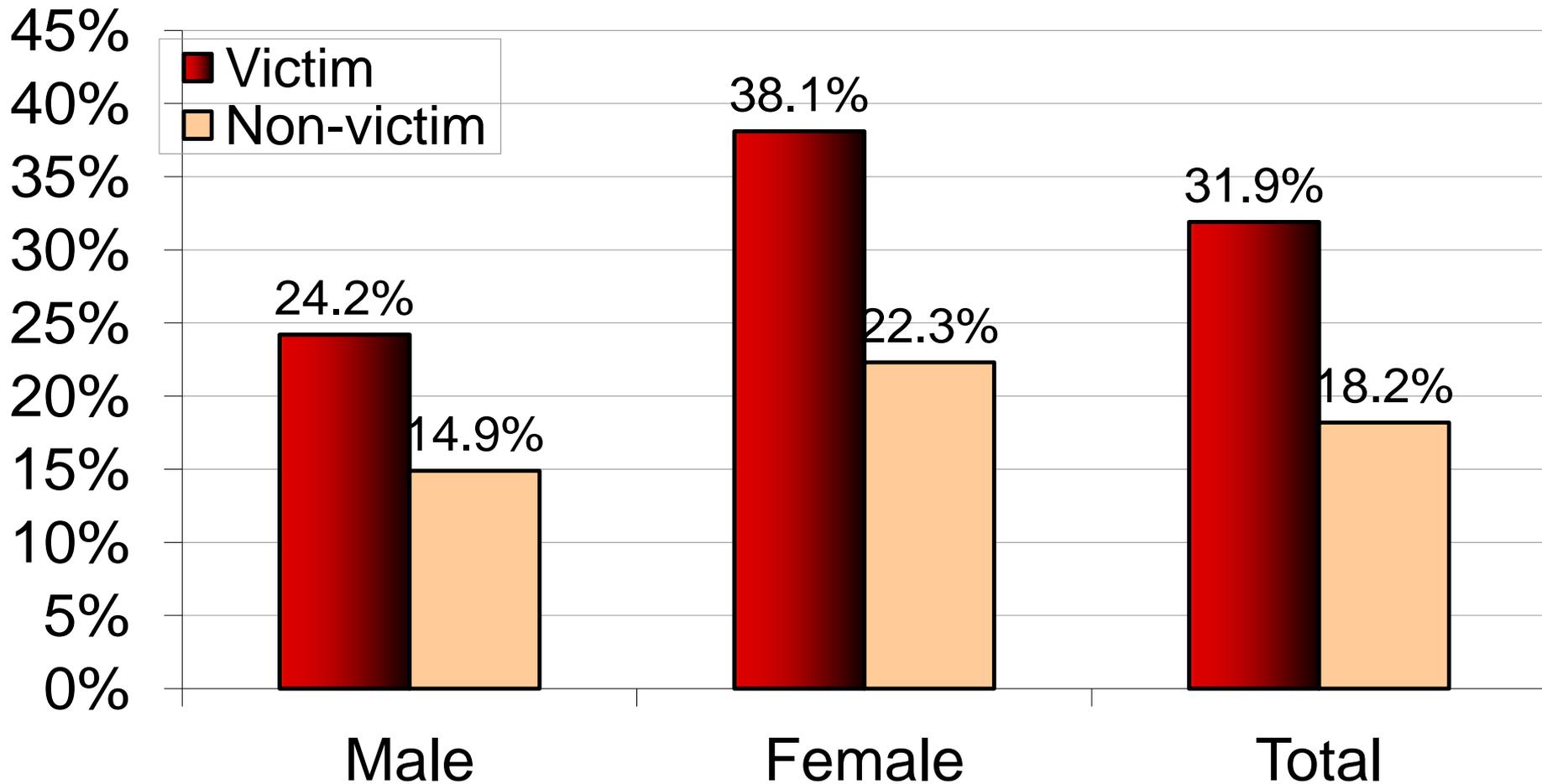
Khi-2 statistically significant (.05) for men, women and total

Prevalence of health indicators according to exposure to psychological harassment



Khi-2 statistically significant (.05) for men, women and total

Prevalence of MSDs perceived to be related to principle job according to exposure to psychological harassment and sex



Khi-2 statistically significant (.05) for men, women and total

Psychosocial risks and health

- Exposure to each form of violence is associated with negative health outcomes.
- Exposure to multiple forms of violence is associated with a higher prevalence of negative health outcomes.
- Regulatory responses thus require programmes to
 - ▣ Prevent workplace bullying
 - ▣ Support targets economically when they withdraw from work
 - ▣ Ensure adequate job protection and return to work

Regulatory strategies and effectiveness



- Workers comp/sickness insurance

- Anti-stalking/harassment

Tort / social security

Criminal

Bullying legislation

Labour

Human rights

- Discrimination
- Right to dignity

- OHS
- Wrongful dismissal

Explicit regulation (1993-2011)

- ▣ Sweden
- ▣ France
- ▣ Belgium
- ▣ Denmark
- ▣ Finland
- ▣ Canada (Québec, Saskatchewan, Ontario, Federal)
- ▣ Australia (South Australia; Victoria)
- ▣ Brazil (Specific states and municipalities)
- ▣ Colombia

Variations

- Broad or narrow definitions of bullying/harassment?
- Is ensuring a harassment free workplace the responsibility of the employer only or may others be the subject of public sanction?
- Complaints based systems or proactive prevention?
- Who investigates? Who files complaints? To whom?
- What sanctions? Damages to the target? Job protection for the target? Job protection for those who support the target?
- What social protections? Workers' compensation/sickness insurance for disability? Health care costs?

What happens when there are no specific laws?

- European Framework Directive 89/391/EEC on Occupational Health and Safety
 - Tool for labour inspectors in Europe
 - Leka et al, 2011; Velasquez, 2010
- Classic labour law
 - Wrongful dismissal, constructive dismissal, workers' compensation
- Classic civil law
 - tort
- Human rights legislation/constitutional protections
 - Protection of the right to dignity

Preconditions for successful regulation

- Understanding of the phenomenon of bullying in your jurisdiction
 - ▣ Is vertical bullying more prevalent, or horizontal bullying?
 - ▣ Are there gender differences ?
 - in prevalence
 - With regard to authors
 - With regard to targets
 - ▣ What are the policy implications of these differences?

Who is called upon to implement legislation?

- Labour inspectors
- Employers
- Unions
- Labour arbitrators
- Administrative tribunals
- Courts
 - Are they trained to fulfill their mission?
 - Do they want to fulfill this mission?

How do you measure effectiveness?

- Number of complaints filed?
- Number and nature of changes in workplaces?
 - ▣ By the employer
 - ▣ By unions
 - ▣ By workers
- Are there perverse effects of the legislation?

Can effectiveness be measured by prevalence of bullying in population studies?

- ▣ France 8% Eurofound, 2005
- ▣ Finland 17% Eurofound, 2005
- ▣ South Australia 15% Keuskamp et al, in press
- ▣ Québec 15% EQCOTESST 2007-2008

- ▣ European average 5% Eurofound, 2005
- ▣ Bulgaria 2% Eurofound, 2005

Things to watch out for

- Existence of specific legislation may eclipse the importance of other unnamed psychosocial hazards or even discriminatory harassment
 - ▣ Cox, 2010
- Health effects of process on targets
 - ▣ Yamada, *Florida Coastal Law Review*, Vol. 11, 2010
- Health effects of process on perpetrators
 - ▣ Jenkins et al, *International Journal of Workplace Health Management*, 2011

Intervention evaluation studies needed

- To measure types of changes resulting from legislation
 - ▣ Are people aware of the concept of workplace bullying?
 - ▣ Are there more policies adopted in workplaces?
 - ▣ Are those policies implemented and effective?
 - ▣ Are worker representatives seeking to be trained in issues relating to bullying?
 - ▣ Are there more support mechanisms provided to workers?
 - ▣ Are workers using them?
 - ▣ What are the effects of conciliation and mediation mechanisms built into the system?
 - Do they help the targets or just facilitate the management of the system put in place

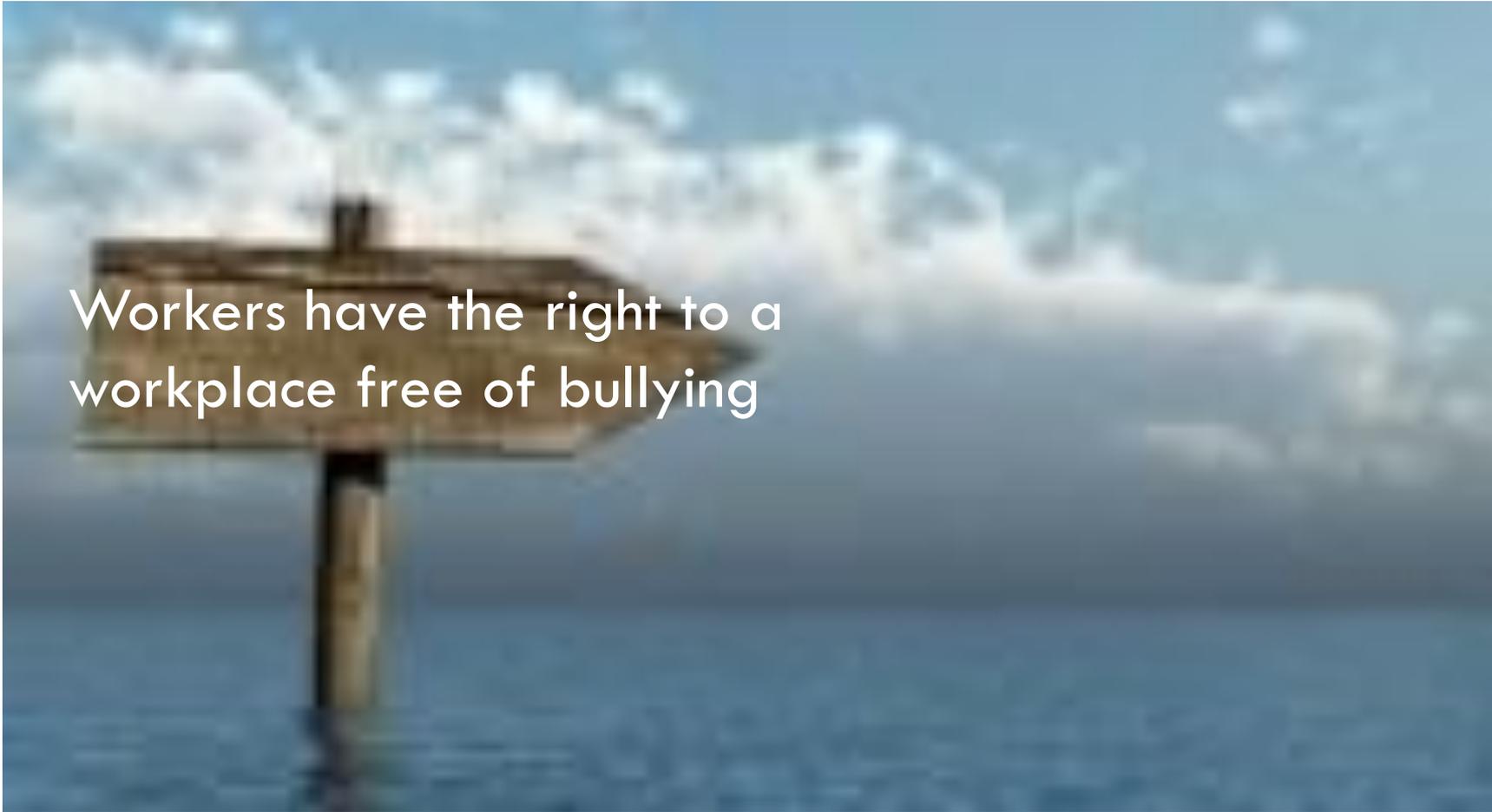
What are the objectives in legislating?

- Pedagogical effect of naming [what] and explicitly prohibiting
- Providing latitude to targets to withdraw from bullying without sanction and with economic and medical support
- Making workplace actors responsible for prevention

Best practices?

- Much depends on the efficacy of the agency called upon to protect workers
 - Velasquez, 2010
- Legislation that explicitly targets bullying without providing economic support for workers to exercise their rights may be less effective than correctly applied occupational health and safety legislation

Why regulate bullying and harassment?



Workers have the right to a workplace free of bullying

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