Standard-Setting Committee: Violence and Harassment in the World of Work

Instruments to be submitted for adoption by the Conference

A. Text of the Convention concerning the elimination of violence and harassment in the world of work

The General Conference of the International Labour Organization,

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

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

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

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

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

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

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

Recalling that Members have an important responsibility to promote a general environment of zero tolerance to violence and harassment in order to facilitate the prevention of such behaviours and practices, and that all actors in the world of work must refrain from, prevent and address violence and harassment, and

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

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

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

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

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

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

Having determined that these proposals shall take the form of an international Convention,

adopts this … day of June of the year two thousand and nineteen the following Convention, which may be cited as the Violence and Harassment Convention, 2019:

I. DEFINITIONS

Article 1

1. For the purposes of this Convention:

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

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

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

II. Scope

Article 2

1. This Convention protects workers and other persons in the world of work, including employees as defined by national law and practice, as well as persons working irrespective of their contractual status, persons in training, including interns and apprentices, workers whose employment has been terminated, volunteers, jobseekers and job applicants, and individuals exercising the authority, duties or responsibilities of an employer.

2. This Convention applies to all sectors, whether private or public, both in the formal and informal economy, and whether in urban or rural areas.

Article 3

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

(a) in the workplace, including public and private spaces where they are a place of work;

(b) in places where the worker is paid, takes a rest break or a meal, or uses sanitary, washing and changing facilities;

(c) during work-related trips, travel, training, events or social activities;

(d) through work-related communications, including those enabled by information and communication technologies;

(e) in employer-provided accommodation; and

(f) when commuting to and from work.

III. Core principles

Article 4

1. Each Member which ratifies this Convention shall respect, promote and realize the right of everyone to a world of work free from violence and harassment.

2. Each Member shall adopt, in accordance with national law and circumstances and in consultation with representative employers' and workers' organizations, an inclusive, integrated and gender-responsive approach for the prevention and elimination of violence and harassment in the world of work. Such an approach should take into account violence and harassment involving third parties, where applicable, and includes:

(a) prohibiting in law violence and harassment;

(b) ensuring that relevant policies address violence and harassment;

(c) adopting a comprehensive strategy in order to implement measures to prevent and combat violence and harassment;

(d) establishing or strengthening enforcement and monitoring mechanisms;

(e) ensuring access to remedies and support for victims;

(f) providing for sanctions;

(g) developing tools, guidance, education and training, and raising awareness, in accessible formats as appropriate; and

(h) ensuring effective means of inspection and investigation of cases of violence and harassment, including through labour inspectorates or other competent bodies.

3. In adopting and implementing the approach referred to in paragraph 2 of this Article, each Member shall recognize the different and complementary roles and functions of governments, and employers and workers and their respective organizations, taking into account the varying nature and extent of their respective responsibilities.

Article 5

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

Article 6

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

IV. PROTECTION AND PREVENTION

Article 7

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

Article 8

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

(a) recognizing the important role of public authorities in the case of informal economy workers;

(b) identifying, in consultation with the employers' and workers' organizations concerned and through other means, the sectors or occupations and work arrangements in which workers and other persons concerned are more exposed to violence and harassment; and

(c) taking measures to effectively protect such persons.

Article 9

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

(a) adopt and implement, in consultation with workers and their representatives, a workplace policy on violence and harassment;

(b) take into account violence and harassment and associated psychosocial risks in the management of occupational safety and health;

(c) identify hazards and assess the risks of violence and harassment, with the participation of workers and their representatives, and take measures to prevent and control them; and

(d) provide to workers and other persons concerned information and training, in accessible formats as appropriate, on the identified hazards and risks of violence and harassment and the associated prevention and protection measures, including on the rights and responsibilities of workers and other persons concerned in relation to the policy referred to in subparagraph (a) of this Article.

V. Enforcement and remedies

Article 10

Each Member shall take appropriate measures to:

(a) monitor and enforce national laws and regulations regarding violence and harassment in the world of work;

(b) ensure easy access to appropriate and effective remedies and safe, fair and effective reporting and dispute resolution mechanisms and procedures in cases of violence and harassment in the world of work, such as:

(i) complaint and investigation procedures, as well as, where appropriate, dispute resolution mechanisms at the workplace level;

(ii) dispute resolution mechanisms external to the workplace;

(iii) courts or tribunals;

(iv) protection against victimization of or retaliation against complainants, victims, witnesses and whistle-blowers; and

(v) legal, social, medical and administrative support measures for complainants and victims;

(c) protect the privacy of those individuals involved and confidentiality, to the extent possible and as appropriate, and ensure that requirements for privacy and confidentiality are not misused;

(d) provide for sanctions, where appropriate, in cases of violence and harassment in the world of work;

(e) provide that victims of gender-based violence and harassment in the world of work have effective access to gender-responsive, safe and effective complaint and dispute resolution mechanisms, support, services and remedies;

(f) recognize the effects of domestic violence and, so far as is reasonably practicable, mitigate its impact in the world of work;

(g) ensure that workers have the right to remove themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to life, health or safety due to violence and harassment, without suffering retaliation or other undue consequences, and the duty to inform management; and

(h) ensure that labour inspectorates and other relevant authorities, as appropriate, are empowered to deal with violence and harassment in the world of work, including by issuing orders requiring measures with immediate executory force, and orders to stop work in cases of an imminent danger to life, health or safety, subject to any right of appeal to a judicial or administrative authority which may be provided by law.

VI. Guidance, training and awareness-raising

Article 11

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

(a) violence and harassment in the world of work is addressed in relevant national policies, such as those concerning occupational safety and health, equality and non-discrimination, and migration;

(b) employers and workers and their organizations, and relevant authorities, are provided with guidance, resources, training or other tools, in accessible formats as appropriate, on violence and harassment in the world of work, including on gender-based violence and harassment; and

(c) initiatives, including awareness-raising campaigns, are undertaken.

VII. Methods of application

Article 12

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

VIII. FINAL PROVISIONS

Article 13

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

Article 14

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification is registered.

Article 15

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention within the first year of each new period of ten years under the terms provided for in this Article.

Article 16

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and denunciations that have been communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification that has been communicated, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

Article 17

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

Article 18

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this

Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 19

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

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

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

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

Article 20

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

B. Text of the Recommendation concerning the elimination of violence and harassment in the world of work

The General Conference of the International Labour Organization,

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

Having adopted the Violence and Harassment Convention, 2019, and

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

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

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

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

I. Core principles

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

3. Members should ensure that all workers and employers, including those in sectors, occupations and work arrangements that are more exposed to violence and harassment, fully enjoy freedom of association and the effective recognition of the right to collective bargaining consistent with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

4. Members should take appropriate measures to:

(a) promote the effective recognition of the right to collective bargaining at all levels as a means of preventing and addressing violence and harassment and, to the extent possible, mitigating the impact of domestic violence in the world of work; and

(b) support such collective bargaining through the collection and dissemination of information on related trends and good practices regarding the negotiation process and the content of collective agreements.

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

(Employment and Occupation) Convention (No. 111) and Recommendation (No. 111), 1958, and other relevant instruments.

II. Protection and prevention

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

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

(a) state that violence and harassment will not be tolerated;

(b) establish violence and harassment prevention programmes with, if appropriate, measurable objectives;

(c) specify the rights and responsibilities of the workers and the employer;

(d) contain information on complaint and investigation procedures;

(e) provide that all internal and external communications related to incidents of violence and harassment will be duly considered, and acted upon as appropriate;

(f) specify the right to privacy of individuals and confidentiality, as referred to in Article 10(c) of the Convention, while balancing the right of workers to be made aware of all hazards; and

(g) include measures to protect complainants, victims, witnesses and whistle-blowers against victimization or retaliation.

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

(a) arise from working conditions and arrangements, work organization and human resource management, as appropriate;

(b) involve third parties such as clients, customers, service providers, users, patients and members of the public; and

(c) arise from discrimination, abuse of power relations, and gender, cultural and social norms that support violence and harassment.

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

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

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

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

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

III. Enforcement, remedies and assistance

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

(a) the right to resign with compensation;

(b) reinstatement;

(c) appropriate compensation for damages;

(d) orders requiring measures with immediate executory force to be taken to ensure that certain conduct is stopped or that policies or practices are changed; and

(e) legal fees and costs according to national law and practice.

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

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

(a) courts with expertise in cases of gender-based violence and harassment;

(b) timely and efficient processing;

(c) legal advice and assistance for complainants and victims;

(d) guides and other information resources available and accessible in the languages that are widely spoken in the country; and

(e) shifting of the burden of proof, as appropriate, in proceedings other than criminal proceedings.

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

(a) support to help victims re-enter the labour market;

(b) counselling and information services, in an accessible manner as appropriate;

(c) 24-hour hotlines;

(d) emergency services;

(e) medical care and treatment and psychological support;

(f) crisis centres, including shelters; and

(g) specialized police units or specially trained officers to support victims.

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

(a) leave for victims of domestic violence;

(b) flexible work arrangements and protection for victims of domestic violence;

(c) temporary protection against dismissal for victims of domestic violence, as appropriate, except on grounds unrelated to domestic violence and its consequences;

(d) the inclusion of domestic violence in workplace risk assessments;

(e) a referral system to public mitigation measures for domestic violence, where they exist; and

(f) awareness-raising about the effects of domestic violence.

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

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

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

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

IV. Guidance, training and awareness-raising

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

(a) programmes aimed at addressing factors that increase the likelihood of violence and harassment in the world of work, including discrimination, the abuse of power relations, and gender, cultural and social norms that support violence and harassment;

(b) gender-responsive guidelines and training programmes to assist judges, labour inspectors, police officers, prosecutors and other public officials in fulfilling their mandate regarding violence and harassment in the world of work, as well as to assist public and private employers and workers and their organizations in preventing and addressing violence and harassment in the world of work;

(c) model codes of practice and risk assessment tools on violence and harassment in the world of work, either general or sector-specific, taking into account the specific situations of workers and other persons belonging to the groups referred to in Article 6 of the Convention;

(d) public awareness-raising campaigns in the various languages of the country, including those of the migrant workers residing in the country, that convey the unacceptability of violence and harassment, in particular gender-based violence and harassment, address discriminatory attitudes and prevent stigmatization of victims, complainants, witnesses and whistle-blowers;

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

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

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

C. Resolution concerning the elimination of violence and harassment in the world of work

The General Conference of the International Labour Organization, meeting at its 108th (Centenary) Session, 2019,

Having adopted the Violence and Harassment Convention, 2019, and its accompanying Recommendation,

Recognizing the right of everyone to a world of work free from violence and harassment,

Acknowledging the historic opportunity to shape a future of work based on dignity and respect, free from violence and harassment,

Stressing the essential role of member States and the social partners in ending violence and harassment in the world of work,

Mindful that the success of the Convention and the Recommendation will depend upon their effective promotion and implementation,

1. Invites member States to ratify the Violence and Harassment Convention, 2019,

2. Invites governments, in consultation with employer and worker organizations, to implement the Violence and Harassment Convention and Recommendation, 2019,

3. Invites the Governing Body of the International Labour Office to request the Director-General to develop a comprehensive strategy for the wide ratification of the Violence and Harassment Convention, 2019, and effective implementation of the instruments, including measures to:

(a) support constituents through awareness-raising initiatives, promotional materials, research and technical assistance;

(b) bring these instruments to the attention of relevant international and regional organizations, and promote partnerships and joint initiatives to eliminate violence and harassment in the world of work; and

(c) allocate resources within the existing and forthcoming programmes and budgets and mobilize extrabudgetary resources to carry out the above-mentioned activities with the tripartite constituents.