

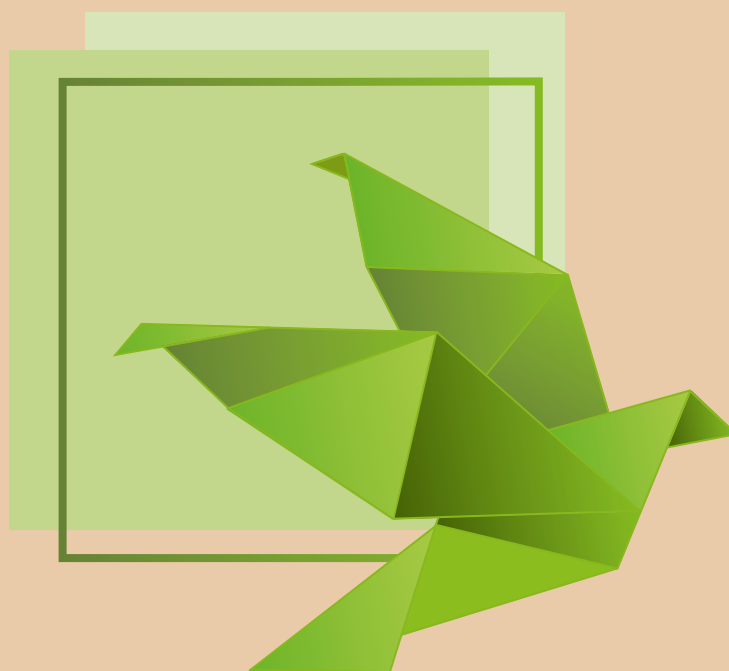


International  
Labour  
Organization



Report V (1)

# Ending violence and harassment in the world of work



International  
Labour  
Conference

108th Session, 2019

## ATTENTION

In accordance with Article 39 of the Standing Orders of the International Labour Conference, governments are invited to make comments on the present report, after consultation with the most representative organizations of employers and workers. **The comments must reach the Office no later than 8 November 2018.** They will form the basis of the background report for the 2019 ILC discussion.

**International Labour Conference, 108th Session, 2019**

**Report V(1)**

# **Ending violence and harassment in the world of work**

**Fifth item on the agenda**

**International Labour Office, Geneva**

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## INTRODUCTION

At its 325th Session (October–November 2015), the Governing Body of the International Labour Office decided to place a standard-setting item on “Violence against women and men in the world of work” on the agenda of the 107th Session (May–June 2018) of the International Labour Conference, with a view to a double discussion.<sup>1</sup> The term “violence” was later replaced by “violence and harassment” as suggested by the tripartite Meeting of Experts on Violence against Women and Men in the World of Work, held in Geneva from 3 to 6 October 2016, with the aim “to ensure the range of unacceptable behaviour is adequately understood and addressed”.<sup>2</sup>

In accordance with article 39(1) of the Standing Orders of the Conference, the Office prepared a preliminary report setting out the law and practice in different countries concerning the issue of violence and harassment in the world of work.<sup>3</sup> The report contained a questionnaire and was transmitted to member States in May 2017. Governments were invited to send their replies by 22 September 2017, after consultation with the most representative organizations of employers and workers. Based on the replies received, the Office prepared a second report on the item,<sup>4</sup> which was thereafter communicated to member States. These two reports formed the basis for the first discussion of the item by the Conference, at its 107th Session (May–June 2018).

On 8 June 2018, the International Labour Conference, meeting in Geneva at its 107th Session, adopted the following resolution:<sup>5</sup>

The General Conference of the International Labour Organization,

Having adopted the report of the Committee appointed to consider the fifth item on the agenda,

Having in particular approved as general conclusions, with a view to the consultation of Governments, proposals for a Convention supplemented by a Recommendation concerning violence and harassment in the world of work,

Decides that an item entitled “Violence and harassment in the world of work” shall be included in the agenda of its next ordinary session for second discussion with a view to the adoption of a Convention supplemented by a Recommendation.

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<sup>1</sup> ILO: *Minutes of the 325th Session of the Governing Body of the International Labour Office*, GB.325/PV, para. 33(a).

<sup>2</sup> ILO: *Report of the Director-General: Fifth Supplementary Report: Outcome of the Meeting of Experts on Violence against Women and Men in the World of Work*, GB.328/INS/17/5, Appendix I, point 33.

<sup>3</sup> ILO: *Ending violence and harassment against women and men in the world of work*, Report V(1), International Labour Conference, 107th Session, Geneva, 2018.

<sup>4</sup> ILO: *Ending violence and harassment in the world of work*, Report V(2), International Labour Conference, 107th Session, Geneva, 2018.

<sup>5</sup> ILO: *Reports of the Standard-Setting Committee: Resolution and proposed Conclusions submitted for adoption by the Conference*, in *Provisional Record* No. 8A, International Labour Conference, 107th Session, Geneva, 2018.

In the light of this resolution and in conformity with article 39(6) of the Standing Orders of the Conference, the Office has prepared the texts of a proposed Convention and Recommendation. The texts are formulated on the basis of the first discussion by the Conference and take into account the replies received to the questionnaire contained in the preliminary report. The purpose of this present report, which should reach governments no later than two months from the closing of the 107th Session of the Conference, is to transmit the proposed Convention supplemented by a Recommendation to governments in accordance with the Standing Orders.

Governments are hereby requested to inform the Office within three months from the publication of this report, and after consulting with the most representative organizations of employers and workers, whether they have any amendments to suggest or comments to make. Taking into account the first discussion, the Office has provided further clarifications and proposals, has suggested some changes to the text adopted at the 107th Session of the Conference and has included comments explaining the rationale for the suggested changes. Pursuant to article 39(6) of the Standing Orders of the Conference, the replies should be communicated to the Office at the earliest opportunity, and in any case not later than **8 November 2018** – preferably by email to [VIOLENCEHARASSMENT@ilo.org](mailto:VIOLENCEHARASSMENT@ilo.org). The comments received will be reflected in the fourth and final report on the item, which will be prepared by the Office for the consideration of the Conference at its 108th Session (June 2019).

Governments are further requested to communicate to the Office, by the same date, whether they consider that the proposed texts provide a satisfactory basis for the second discussion by the Conference in 2019. Governments are also asked to indicate which organizations of employers and workers they consulted before they finalized their replies, pursuant to article 39(6) of the Standing Orders. It should be noted that such consultations are required by Article 5(1)(a) of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), for countries that have ratified this Convention. The results of the consultations should be reflected in the governments' replies.

## OFFICE COMMENTARY ON THE PROPOSED TEXTS

The texts of a proposed Convention supplemented by a Recommendation concerning the elimination of violence and harassment in the world of work are based on the Conclusions adopted by the International Labour Conference following its first discussion of the item at its 107th Session, in May–June 2018 (the “Conclusions”).

In accordance with the practice established in 1988, the report of the Standard-Setting Committee on Violence and Harassment in the World of Work appointed by the Conference to consider this item (“the Committee”) was published and is available to member States in its entirety, as is the record of the discussion of the item in the plenary sitting of the 107th Session of the Conference.<sup>6</sup>

In this current report, the Office has incorporated a number of drafting changes to the text of the proposed instruments, in order to provide greater clarity and consistency, to harmonize certain provisions, to further align the two official language versions and to ensure coherence with the content of and standard drafting practice for international labour standards. The proposed changes and the rationale behind them are explained in the Office commentary. The Office also revised some of the headings in the proposed texts to better align them with the content of the provisions. This is with the objective of facilitating discussions and consensus at the second and final discussion of the item at the 108th Session (2019) of the International Labour Conference.

In proposing these modifications, the Office has fully taken into account the views expressed by the tripartite constituents and the agreements reached during the first discussion. The wording left in square brackets in the text after the first discussion remains in square brackets in the proposed Recommendation.

The Office wishes to draw the particular attention of member States to some issues arising in connection with some of the provisions adopted by the Conference, and to related proposals formulated in the Office commentary. The Office invites comments on these proposals, which are not integrated into the proposed texts, as the comments will inform the fourth and final report on the item, which the Office is required to prepare in accordance with article 39(7) of the Standing Orders of the Conference.

The first discussion of the Committee showed a clear agreement on the timeliness and necessity of a response to violence and harassment and an intention by all parties to reach an agreement. Language from point 1 to point 23(c) of the Conclusions, as amended, was carried by a clear majority, including that the instruments should take the form of a Convention supplemented by a Recommendation. Because of a lack of time, the Committee decided to place points 23(d) to 37 of the Conclusions in square brackets, on the understanding that the brackets indicated that those points had not been discussed, and had, thus, been neither rejected nor agreed to. Bracketing text has been used by the

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<sup>6</sup> ILO: *Reports of the Standard-Setting Committee on Violence and Harassment in the World of Work: Summary of proceedings*, Provisional Record No. 8B(Rev.), and *Plenary sitting*, Provisional Record No. 8C, International Labour Conference, 107th Session, Geneva, 2018.

Conference on a number of occasions in recent years. It was further decided that the bracketed text would be reproduced in the proposed Recommendation. The Committee notes that, as a consequence, all the amendments referring to the bracketed text would fall, and that they would have to be resubmitted at the next session of the Conference, as appropriate.<sup>7</sup>

## PROPOSED CONVENTION

### *Preamble* (Point 6 of the Conclusions)

The Office has established a standard preambular text in line with usual drafting practice and based on point 6 of the Conclusions.

With regard to the sixth preambular paragraph (point 6(e) of the Conclusions), a majority agreed on language recalling that violence and harassment is “a form of human rights violation” after consideration of several proposals. The Office believes that there may be room for further improving and clarifying the preambular text in this regard and, therefore, invites comments on whether this issue could instead be addressed in the fourth preambular paragraph, drawing on the language in the Preamble of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). This alternative formulation of the fourth preambular paragraph would read as follows:

Considering that violence and harassment in the world of work constitutes a violation of human rights enunciated in relevant international instruments such as the Universal Declaration of Human Rights ...

### *Article 1(a)* (Point 3(a) of the Conclusions)

The Committee discussed the provision regarding the concept of “violence and harassment” extensively, revealing a diversity of perspectives concerning both the structure (whether to define “violence” and “harassment” separately or together) and the substance (regarding specific behaviours that constitute violence or harassment or specific categories or forms).

The result of the Committee’s deliberations was an agreement to maintain “violence and harassment” as a single concept. This was with the understanding that such formulation would be applicable to a variety of situations, providing greater flexibility to Members when designing a national response to violence and harassment. The Office recalls that the tripartite Meeting of Experts on Violence against Women and Men in the World of Work in 2016 had reached a similar conclusion. Furthermore, and following the logic of a single concept, the Office notes that the Committee agreed to refer to “gender-based violence and harassment” throughout the text.

The Committee further considered that this concept would be improved by replacing the word “continuum” with “range”. This change clarifies that violence and harassment can be understood to encompass different conducts, which can be either independent behaviours or a combination thereof, including escalating conduct. The Office highlights that this understanding allows for different responses to be taken depending on the conduct. As such, the term provides flexibility to accommodate national laws and

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<sup>7</sup> ILO: *Provisional Record* No. 8B(Rev.), op. cit, para. 1414.



regulations, enabling Members to implement a single definition of “violence and harassment” or to define each term separately at the national level.

The Committee discussed whether there was a need for further clarification of subparagraph (a). Bearing in mind the Committee’s extensive discussions on this matter, the Office invites comments on whether the inclusion of an indicative, non-exhaustive list of behaviours illustrating how violence and harassment can be manifested or setting out generally recognized categories or forms of violence and harassment would address the concerns of the Committee. If agreed to, this new provision would be included in the proposed text of a Recommendation with the aim of providing further guidance on how Article 1(a) can be understood, while, at the same time, preserving the flexibility and adaptability provided by the concept of violence and harassment.

*Article 1(c)*  
*(Point 3(c) of the Conclusions)*

Extensive and detailed discussions were held in relation to this subparagraph containing the concept of “worker”. While there was unanimity on the fact that no one in the world of work should be subject to violence and harassment, some concerns were raised regarding the inclusion of certain categories under the rubric of “worker”.

The Office would like to clarify in this respect that this wording ensures broad protection against violence and harassment in all aspects of employment and occupation, in line with the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), including hiring, training, advancement, security of tenure and conditions of employment. This would include, as provided for in Article 1(c), persons in training, interns, apprentices, workers whose employment has been terminated, volunteers, jobseekers and job applicants. The provision would also interact with the possible new Article after Article 4 of the proposed Convention, which clarifies that different actors in the world of work can have different and complementary responsibilities. These different responsibilities are set out in the operative provisions, and the obligations that different actors have towards certain categories of workers may vary. To further clarify this point, the Office has, for example, included the term “concerned” in Article 9(d) (see Office commentary on Article 9).

The Office, while being mindful not to reduce the scope of protection, has modified some categories in subparagraph (c). The reference to “laid-off workers” has been replaced with “workers whose employment has been terminated” to align it with the expression “*travailleurs licenciés*” in the French version of the proposed text. The reference to “suspended workers” has been deleted, as these are considered “workers” in so far as their employment relationship has not been terminated.

*Article 2*  
*(Point 4 of the Conclusions)*

This provision, as approved by the Committee, tailors the scope of the instrument to the “world of work”, including situations listed in subparagraphs (a) to (f) which go beyond the physical workplace. This comprehensive understanding reflects the Committee’s agreement on the need to address violence and harassment with a forward-looking approach that takes into consideration the evolving nature of work. Furthermore, it may be recalled that the term “world of work” was introduced throughout the Conclusions following the amendment process, and that the use of this concept is coherent with existing ILO instruments related to occupational safety and health, as well as with the HIV and AIDS Recommendation, 2010 (No. 200), the Employment Policy

(Supplementary Provisions) Recommendation, 1984 (No. 169), and the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205).

That being said, the Office recalls that some concerns were expressed during the first discussion that subparagraphs (a) to (f) include situations over which employers might have little or no control and that, when interpreted together with concepts in point 3 of the Conclusions, this provision could possibly result in an undue burden on employers.

In response to this concern, the Office clarifies that, in line with the deliberations of the Committee, not all aspects of the list included in this provision are intended to be applied in every circumstance to each and every actor. Rather, it is meant to encompass a broad scope of application in which governments, employers and workers, and their respective organizations, have responsibilities of varying reach. To provide further clarity, the Office invites comments on the inclusion of a possible new provision after Article 4 of the proposed Convention (see Office commentary on a possible new Article after Article 4). The Office also refers to the Office commentary under Article 9 regarding the specific responsibilities of employers, where further clarification has also been included.

Following standard drafting practice, the chapeau of this provision has been redrafted to include the words “This Convention applies to”. With respect to subparagraph (a) of the provision, some specific concerns were raised regarding the reference to “public and private spaces where they are a place of work”. The Office notes that this reference is intended to cover the situation in particular of those in the informal economy, such as street vendors, as well as domestic or home-based workers. As regards subparagraph (b) of this provision, it may be recalled that a reference to sanitary and washing facilities was introduced through the amendment process to encompass those situations in which the lack of adequate sanitary and washing facilities increases the risk of violence and harassment. In this light, the Office has also included a reference to “changing facilities”, in accordance with the Occupational Safety and Health Recommendation, 1981 (No. 164).

*Article 3*  
*(Point 5 of the Conclusions)*

Following standard drafting practice, the phrase “For the purposes of this Convention” has been introduced at the beginning of this provision.

*Article 4*  
*(Point 7 of the Conclusions)*

In this provision, the content of point 7 of the Conclusions has been divided into two separate paragraphs, to improve clarity and readability; the consequential drafting changes have also been made.

In paragraph 2(h), the Office has replaced “labour inspection” with “labour inspectorates”, to ensure coherence with the subsequent reference to “other competent bodies” and to align the wording more closely with point 13(g) of the Conclusions, as amended (now Article 10(h)). Along the same lines, the Office has removed the term “workplace” for greater consistency with subparagraphs (a) and (b) of this provision.

*Possible new Article after Article 4*  
*(not included in the proposed text)*

During the first discussion of the Committee, concerns were raised by some delegates that the concepts of “violence and harassment”, “worker” and “world of work”,

and their interaction, could result in the instrument having a particularly wide scope and overly expanding the rights and obligations of the relevant actors, in particular the obligations of the employers.

The Office recalls that the response to violence and harassment encompasses multiple actors and is dependent on the context in which it occurs. The Office further recalls that, during the first discussion, it was agreed that the aim of the instruments is to ensure the protection of all persons in the world of work. A broad scope of application takes this into account and is compatible with the notion that different measures taken by different actors can address different situations, with a view to ensuring the desired protection.

Taking into account the deliberations of the Committee, the Office invites comments on a possible new Article to be included between Articles 4 and 5 clarifying that responsibility may vary, and that coordination and cooperation among those involved is important to maximize the impact of their respective actions. The new provision would read as follows:

In adopting and implementing an inclusive, integrated and gender-responsive approach for the elimination of violence and harassment in the world of work, Members shall:

- (a) recognize that governments, and employers and workers and their respective representatives, have different and complementary roles and responsibilities in preventing and addressing violence and harassment in the world of work; and
- (b) promote coordination and cooperation between them.

*Article 6*  
*(Point 10 of the Conclusions)*

The Office has replaced the term “for all workers” with “in employment and occupation”. This change is consistent with the principles set out in Articles 1 and 5 and with the broad approach adopted in Article 7, and clarifies that all human beings are entitled to the right to equality and non-discrimination. This is in conformity with the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), in which the words “employment and occupation” were considered as protecting “not only persons whose status [is] that of employee but also those whose status [is] that of ‘worker on own account’, ‘employer’ or ‘unpaid family worker’”.<sup>8</sup>

It may be recalled that Article 6 is the outcome of lengthy discussions by the Committee on point 10 of the Conclusions. As foreseen in the proposed Conclusions of Report V(2), this provision included a list containing specific groups of workers disproportionately affected by violence and harassment. Divergent opinions emerged during the first discussion as to whether the list should be maintained. While some Committee members considered that listing these specific groups provided them with necessary visibility, concerns were expressed regarding the risk that an enumeration including some groups could exclude or neglect other groups, and would render the provision less adaptable to national contexts.

Following extensive discussions and informal consultations, an agreement was reached to substitute the list with a general reference to “vulnerable groups or groups in situations of vulnerability”. It was acknowledged that, while all persons should be protected, specific attention needed to be drawn to the fact that some groups of workers are disproportionately affected by violence and harassment. This wording was, therefore,

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<sup>8</sup> ILO: *Discrimination in the field of employment and occupation*, Report IV(1), International Labour Conference, 42nd Session, 1958, Appendix.

adopted to ensure that the essence of point 10 was maintained, while facilitating application in different national contexts. Some Committee members proposed to reintroduce the list originally set out in point 10 of the proposed Conclusions of Report V(2) during the discussion of point 26 (see Office commentary on Paragraph 12 of the proposed Recommendation). This was with a view to ensuring that these groups were afforded visibility.

Bearing in mind the extensive discussions of the Committee, and with a view to improving precision in the text, the Office observes that the reference to “vulnerable groups”, per se, may be read as characterizing these groups as inherently vulnerable and, therefore, could be inadvertently stigmatizing. As such, the Office would like to suggest that deleting the reference to “vulnerable groups” while maintaining the reference to “groups in situations of vulnerability” would best preserve the intent of the Committee and would not restrict the scope of protection of this provision. At the same time, it would avoid any potential stigmatization, making it clear that any group is not inherently vulnerable to violence and harassment, but rather can be placed in a situation of vulnerability given certain circumstances. In considering this provision, Members may wish to comment as to whether they would like to reconsider the use of “vulnerable groups” and, instead, to simply refer to “groups in situations of vulnerability”.

*Article 7*  
*(Point 9 of the Conclusions)*

In this provision, the term “national” has been removed to acknowledge that laws and regulations to address violence and harassment may need to be adopted at a number of levels. The provision needs to be read in conjunction with Article 12, which highlights that laws should also be adopted at the highest normative level of the country.

During the first discussion, concerns were expressed as to whether this provision implied the obligation for all Members to adopt laws and regulations, including for those Members that already had them in place. It may be recalled that the Office clarified in Report V(2), as well as during the discussions, that in ILO Conventions and Recommendations the expression “adopt laws and regulations” covers a number of national situations in addition to that of adopting new laws and regulations. For example, where provisions giving full effect to the relevant instrument have already been adopted, the member State would be in compliance. Where existing laws and regulations do not meet the level of protection of the relevant standard, the member State would need to amend its laws and regulations or adopt new ones. The expression “adopt laws and regulations” should be construed as providing the necessary flexibility to accommodate the situation where no laws and regulations may need to be adopted, but existing ones need to be amended.

*Article 8*  
*(Point 11 of the Conclusions)*

The Office notes that point 11(c) of the Conclusions concerns the privacy of individuals involved in situations of violence and harassment in the world of work and the confidentiality thereof. In this regard, the Office considers that, as this provision relates to situations involving alleged acts of violence and harassment, it would be better integrated into Article 10, which addresses enforcement and remedies. The Office has, therefore, moved this subparagraph from this provision to Article 10.

*Article 9*  
*(Point 12 of the Conclusions)*

In line with changes introduced in Article 7, the term “national” has been deleted in this provision to avoid redundancy (see Office commentary to Article 7).

During the first discussion, concerns were expressed on the implementation of measures encompassed in point 12 of the Conclusions, particularly when these are considered in the light of points 1 to 4 of the Conclusions, and when taking into account the size of the enterprise.

It may be recalled that, to address such concerns, an amendment had been accepted to include the wording “as far as it is reasonably practicable” in the chapeau. The Office has made a minor drafting change to align the language with the Occupational Safety and Health Convention, 1981 (No. 155), so that it would read “so far as is reasonably practicable”.

In relation to the sequence of subparagraphs of this provision, the Office considers that workplace policies, foreseen in point 12(b) of the Conclusions, are the main tool through which employers can undertake actions referred to in points 12(a), 12(c) and 12(d) of the Conclusions. Therefore, the Office has rearranged the order, so that the reference to workplace policies appears in the first subparagraph of Article 9. The subsequent subparagraphs have been renumbered accordingly.

In relation to subparagraph (a) of this provision, the Office has modified the language to replace “a policy on all forms of violence and harassment” with “a workplace policy on violence and harassment”. This aims to address concerns expressed during the first discussion as to whether the definition of “world of work” would require employers to take action in instances outside their control. The Office has proposed this wording to enhance clarity on the scope of employers’ obligations and on the understanding that, while employers may be able to take steps to prevent violence and harassment occurring in the course of, linked with or arising out of work, beyond the physical workplace, such measures would be taken within the framework of a workplace policy. The Office has also modified the beginning of subparagraph (a) to read “adopt and implement” to increase clarity, and has deleted the words “all forms of” for consistency with other amendments adopted in the first discussion.

In subparagraph (b), the Office has replaced “organization” with “management”, to align the language with the Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197).

Changes have also been made to subparagraph (d) so that it reads “provide to workers concerned information and training”, to clarify that the obligation of employers to provide information and training does not necessarily apply to all categories of workers set out in Article 1(c).

*Article 10*  
*(Point 13 of the Conclusions)*

Clauses of subparagraph (b) of this provision have been slightly amended by the Office:

- In subparagraph (i), the replacement of “mechanisms” with “procedures” aims to take into account the diverse ways in which enforcement and monitoring may be undertaken depending, for example, on the size of the enterprise. Likewise, a reference has been included to dispute resolution mechanisms at the workplace level

“where appropriate”, to acknowledge the importance of establishing institutionalized mechanisms where appropriate.

- In subparagraph (iii), the words “access to” have been deleted for language coherence.
- In subparagraphs (iv) and (v), a reference to “victims” has been included to ensure that, in cases where victims are not the complainants, they have access to protection against victimization or retaliation and to legal, social, medical and administrative support measures.

The Office has added a new subparagraph (c) to this provision, introducing the content of point 11(c) of the Conclusions (see Office commentary to Article 8). The Office has also modified the text to clarify that privacy is to be respected in relation to “individuals”, while confidentiality may concern, for example, data, procedures or information. The subsequent subparagraphs have been renumbered accordingly.

In relation to subparagraph (e), the Office has made minor language amendments to improve readability and has added “and harassment” after “gender-based violence”, in line with Article 1(b).

The Office invites comments on whether any further remedial action should be specified in this provision.

*Article 11*  
*(Point 14 of the Conclusions)*

With the aim of improving clarity and readability, the Office has divided point 14(b) of the Conclusions into two subparagraphs in Article 11 of the proposed Convention, which now read:

- (b) guidance, resources, training or other tools are provided to employers and workers and their organizations, and to relevant authorities; and
- (c) initiatives, including awareness-raising campaigns, are undertaken.

*Article 12*  
*(Point 15 of the Conclusions)*

The term “national” has been inserted in this provision to clarify that violence and harassment in the world of work should be regulated at the highest normative level possible while respecting the constitutional system of every country. The phrase “The provisions of this Convention” has been included according to standard drafting practice.

## PROPOSED RECOMMENDATION

The Office has made minor changes throughout the text of the proposed Recommendation, including the bracketed provisions.

The Office has updated all cross-references to points of the Conclusions, with the corresponding Articles of the proposed Convention.

Relevant drafting changes have also been included to ensure that the content of the proposed Recommendation is coherent with the proposed Convention:

- The term “workplace” has been added before “policy” in Paragraph 8, to align it with the wording of Article 9(a) of the proposed Convention.

- The expression “in the world of work” has been inserted in Paragraph 14, to align it with similar language in Article 3 of the proposed Convention.
- The terms “expedited processes” in Paragraph 15(b) have been replaced by “expedited procedures”, in accordance with the language in Article 10(b) of the proposed Convention.
- A reference to “victims” has been included in Paragraph 15(c), to align it with Article 10(e) of the proposed Convention, which refers to victims of gender-based violence and harassment.
- The term “specialized” in the chapeau of Paragraphs 15 and 16 has been removed to align more closely with Article 10(e) of the proposed Convention.
- References to “gender-based violence” have been replaced with “gender-based violence and harassment” in Paragraphs 15, 16, 19 and 22, in accordance with Article 1(b) of the proposed Convention.
- The reference to “disproportionately affected workers” in Paragraph 22(c) has been replaced with “workers belonging to groups that are disproportionately affected by violence and harassment in the world of work”, to align more closely with Article 6 of the proposed Convention.

The Office also recalls that, as set out in the Office commentary to Article 1(a) of the proposed Convention, Members may wish to consider the possibility of inserting a new provision in the Recommendation containing an indicative, non-exhaustive list of behaviours illustrating how violence and harassment can be manifested or setting out generally recognized categories or forms of violence and harassment, supplementing Article 1(a).

#### *Preamble*

The Office has established a standard preambular text for the proposed Recommendation, in line with usual drafting practice.

#### *Paragraph 2 (Point 17 of the Conclusions)*

The Office has added a reference to “and implementing” after “adopting” for further clarity. The Office has also included the phrase “gender-responsive” before “approach”. This is to ensure coherence with the text of the proposed Convention, considering that such a reference was widely accepted by the Committee and introduced elsewhere in the Conclusions through several amendments. A cross-reference to Article 4(2) of the proposed Convention has been introduced in order to avoid repetition.

#### *Paragraph 4 (Point 19 of the Conclusions)*

In subparagraph (a) of this provision, the word “encourage” has been replaced by “promote”, in order to align the language with the Collective Bargaining Convention, 1981 (No. 154).

The Office recalls that some concerns were raised during the first discussion regarding the phrase “at all levels”. The Office clarifies that the intention of this expression is not to require that collective bargaining take place at each and every level, but rather to ensure that collective bargaining is possible at any level whatsoever, so that the parties may determine the relevant level or levels at which bargaining takes place.

*Paragraph 5  
(Point 20 of the Conclusions)*

In this Paragraph, content has been restructured to ensure coherence between different language versions.

The Office also notes that, considering its content, this provision would be more appropriate under “Protection and prevention”, after Paragraph 10 of the proposed Recommendation, and therefore invites comments in this regard.

*Paragraph 8  
(Point 23 of the Conclusions)*

For greater clarity, the Office has added the phrase “in laws and regulations” after “specify”. The Office has also aligned the language with Article 9(a) of the proposed Convention and has removed the reference to employers to avoid redundancy.

*Paragraph 9  
(Point 24 of the Conclusions)*

To improve readability, the content of point 24 of the Conclusions, now placed under Paragraph 9 of the proposed Recommendation, has been divided into subparagraphs (a) and (b).

*Paragraph 11  
(Point 37 of the Conclusions)*

The Office notes that this Paragraph, which was originally included under “Support and guidance” of the Conclusions, is more appropriate under “Protection and prevention”, and has consequently placed it after Paragraph 10.

In relation to the content of this provision, Members may wish to comment as to whether specific reference should also be made to resources and assistance for other actors in the informal economy.

*Paragraph 12  
(Point 26 of the Conclusions)*

The Office notes that the Committee did not discuss this provision due to lack of time and, therefore, placed it in square brackets.

In relation to the current wording of this provision, it may be recalled that the Committee included a reference to “vulnerable groups” and a non-exhaustive list of such groups (subparagraphs (a) to (i)) through the amendment process. The list stems from language that had been previously deleted from point 10 of the Conclusions. Hence, its inclusion in this provision is closely related to the Committee’s deliberations on point 10 (now Article 6), and the Office refers to the corresponding Office commentary in this regard.

The Office suggests that there is a need to examine this provision with a view to its original intent. It may be recalled that, as proposed by the Office in Report V(2), point 26 read:

Members should ensure that measures to prevent violence and harassment do not result in the restriction of the participation of women or the other groups of workers referred to in point 10 in specific jobs, sectors or occupations, or their exclusion therefrom.



The specific intent of point 26, under the section “Prevention measures” of the proposed Conclusions in Report V(2), was to avoid that measures aimed at preventing violence and harassment would result in the restriction or exclusion of women or groups disproportionately affected by violence and harassment from specific jobs, sectors or occupations. However, the original intent of point 10, under “Fundamental principles and rights at work and protection”, was to ensure that laws, regulations and policies on the right to equality and non-discrimination would address the situation of workers belonging to such groups.

Therefore, while both provisions deal with groups disproportionately affected by violence and harassment, their focus and intent are markedly different. The Office considers that a provision that focuses on avoiding the unintended consequences of excluding such groups from the labour market is essential to addressing violence and harassment, and that the inclusion of subparagraphs (a) to (i) in point 26 changes this focus. Furthermore, the Office invites Members to reconsider replacing the terminology “vulnerable groups” with alternative language that avoids stigmatization, and refers to the Office commentary on Article 6 in this regard.

Bearing in mind the extensive deliberations of the Committee on this issue, the Office has not modified the text of the Conclusions, despite the inconsistencies referred to above. However, the Office invites comments on whether an alternative wording in the Recommendation could better serve the original purpose of each point and provide a good basis for the second discussion. Should the Members wish to consider this alternative, the Office would, firstly, suggest restoring the original meaning of point 26 by deleting the list of groups. Secondly, should Members want to hold a discussion on a list of groups disproportionately affected by violence and harassment, the Office suggests that it could be included in a specific new provision of the Recommendation aimed at supplementing Article 6 of the proposed Convention.

*Paragraph 13*  
*(Point 27 of the Conclusions)*

With a view to further aligning subparagraph (c) of this provision with the Labour Inspection Convention, 1947 (No. 81), and to avoid overly prescriptive language, the Office has deleted the reference to the employer.

*Paragraph 19*  
*(Point 33 of the Conclusions)*

The Office has introduced the words “officials of” before “other competent authorities”, to make it clear that training is provided to people, rather than institutions, and to ensure language coherence with the previous reference to “labour inspectors” in the same provision.

## PROPOSED TEXTS

### PROPOSED 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 Session on ... 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
- Recalling that violence and harassment in the world of work is a form of human rights violation, is a threat to equal opportunities, is unacceptable and incompatible with decent work, 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 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 the world of work, its institutions and governments can help, as part of other national measures, to recognize, respond to and address 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 AND SCOPE

### *Article 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;
- (c) the term “worker” covers persons in all sectors, both in the formal and informal economy, and whether in urban or rural areas, 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.

### *Article 2*

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) when commuting to and from work;
- (d) during work-related trips or travel, training, events or social activities;

- (e) through work-related communications enabled by information and communication technologies; and
- (f) in employer-provided accommodation.

#### *Article 3*

For the purposes of this Convention, victims and perpetrators of violence and harassment in the world of work can be employers and workers, and their respective representatives, and third parties, including clients, customers, service providers, users, patients and the public.

## II. CORE PRINCIPLES

#### *Article 4*

1. Each Member which ratifies this Convention shall recognize the right 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 elimination of violence and harassment in the world of work that includes:

- (a) prohibiting in law all forms of 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 and 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; and
- (h) ensuring effective means of inspection and investigation of cases of violence and harassment through labour inspectorates or other competent bodies.

#### *Article 5*

With a view to 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 safe and 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 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.

### III. PROTECTION AND PREVENTION

#### *Article 7*

Each Member shall adopt laws and regulations to 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) identifying, in consultation with the employers' and workers' organizations concerned and through other applicable means, sectors, occupations and work arrangements in which workers are more exposed to violence and harassment; and
- (b) taking measures to effectively protect such workers.

#### *Article 9*

Each Member shall adopt laws and regulations requiring employers to take steps, so far as is reasonably practicable, to prevent violence and harassment in the world of work, and in particular 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 concerned information and training on the identified hazards and risks of violence and harassment and the associated prevention and protection measures.

### IV. 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 that all persons concerned have easy access to appropriate and effective remedies and safe, fair and effective reporting and dispute resolution mechanisms in cases of violence and harassment, including:
  - (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;
- (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 dispute resolution mechanisms, support, services and remedies;
- (f) recognize the effects of domestic violence on the world of work and take measures to address them;
- (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 or health due to violence and harassment, without suffering undue consequences; and
- (h) ensure that labour inspectorates and other relevant authorities, as appropriate, are empowered to deal with violence and harassment, including by issuing orders requiring measures with immediate executory force, and orders to stop work in cases of an imminent danger to life or health.

#### V. 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) guidance, resources, training or other tools are provided to employers and workers and their organizations, and to relevant authorities; and
- (c) initiatives, including awareness-raising campaigns, are undertaken.

#### VI. 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.

## PROPOSED 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 Session on ... 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 (“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(2) of the Convention, Members should address violence and harassment in the world of work in labour and employment, occupational safety and health, and equality and non-discrimination law, as well as in criminal law where appropriate.

3. Members should ensure that all workers, including those in sectors, occupations and work arrangements in which they are more exposed to violence and harassment, fully enjoy freedom of association and the right to collective bargaining in accordance 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 collective bargaining at all levels as a means of preventing and addressing violence and harassment in the world of work and dealing with the effects of domestic violence on 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 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.

6. 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

7. 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.

8. 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 on violence and harassment 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; and*
- (e) provide that all internal and external communications related to violence and harassment are to be duly considered and acted upon.*

9. *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, in particular psychosocial hazards and risks, including those arising from:*

- (a) third parties such as clients, customers, service providers, users, patients and the public; and*
- (b) discrimination, the presence of unequal power relations, and gender, cultural and social norms that support violence and harassment.*

10. *Members should adopt specific measures for sectors, occupations and work arrangements in which workers are more exposed to violence and harassment, such as night work, work in isolation, services, health care, emergency services, domestic work, transport, education and entertainment.*

11. *In facilitating the transition from the informal to the formal economy, Members should provide resources and assistance for informal economy workers 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 vulnerable groups, including:*

- (a) younger and older workers;*
- (b) pregnant and breastfeeding workers, and workers with family responsibilities;*
- (c) workers with disabilities;*
- (d) workers living with HIV;*
- (e) migrant workers;*
- (f) workers from indigenous and tribal peoples;*
- (g) workers who are members of ethnic or religious minorities;*



- (h) *caste-affected workers; and*
- (i) *lesbian, gay, bisexual, transgender, intersex and gender-nonconforming workers.*

### III. ENFORCEMENT, REMEDIES AND ASSISTANCE

13. *The appropriate and effective remedies referred to in Article 10(b) of the Convention in cases of violence and harassment should not be limited to the right to resign with compensation and should include:*

- (a) *reinstatement;*
- (b) *compensation for material and non-material damages;*
- (c) *orders requiring measures with immediate executory force to be taken to ensure that certain conduct is stopped or that policies or practices be changed; and*
- (d) *legal fees and costs.*

14. *Victims of violence and harassment in the world of work should have access to compensation in cases of psychosocial or physical disability leading to incapacity to work.*

15. *The dispute resolution mechanisms for gender-based violence and harassment referred to in Article 10(e) of the Convention should include:*

- (a) *courts with expertise in cases of gender-based violence and harassment;*
- (b) *expedited procedures;*
- (c) *legal advice and assistance for complainants and victims;*
- (d) *guides and other information resources available in the widely spoken languages of the country; and*
- (e) *shifting of the burden of proof.*

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

- (a) *support to help victims re-enter the labour market;*
- (b) *counselling and information services, including at the workplace;*
- (c) *24-hour hotlines;*
- (d) *emergency services;*
- (e) *medical care and treatment;*
- (f) *crisis centres, including shelters; and*
- (g) *specialized police units to support victims.*

17. *The measures to address the effects of domestic violence on the world of work referred to in Article 10(f) of the Convention should include:*

- (a) *paid leave for victims of domestic violence;*
- (b) *flexible working hours for victims of stalking and domestic violence;*
- (c) *temporary or permanent transfer of victims of domestic violence to other workplaces;*
- (d) *temporary protection from dismissal for victims of domestic violence;*
- (e) *workplace risk assessments specific to domestic violence;*

- (f) *a referral system to public mitigation measures for domestic violence, where they exist; and*
- (g) *awareness raising about the effects of domestic violence.*

18. *Perpetrators of violence and harassment in the world of work should be assisted through counselling or other measures, where appropriate, with a view to preventing the reoccurrence of violence and harassment and facilitating their reintegration into work.*

19. *Labour inspectors and officials of other competent authorities should undergo gender-responsive training with a view to identifying and addressing violence and harassment, psychosocial hazards and risks, gender-based violence and harassment, and discrimination against particular groups of workers.*

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

21. *Members should 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, in particular in respect of the groups of workers referred to in Article 6 of the Convention.*

#### IV. GUIDANCE, TRAINING AND AWARENESS RAISING

22. *Members should develop, implement and disseminate:*

- (a) *programmes aimed at addressing factors that increase the likelihood of violence and harassment, including discrimination, unequal 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, as well as to assist employers and workers and their organizations in preventing and addressing violence and harassment;*
- (c) *model codes of practice, workplace policies and risk assessment tools, either general or sector-specific, for all forms of violence and harassment, taking into account the specific situations of workers belonging to groups that are disproportionately affected by violence and harassment in the world of work;*
- (d) *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 at all levels of education and vocational training;*
- (f) *training programmes and materials for journalists and other media personnel on gender-based violence and harassment, including its underlying causes and risk factors; and*
- (g) *campaigns aimed at fostering safe, healthy and harmonious workplaces free from violence and harassment.]*