

# ***Provisional Record***

107th Session, Geneva, May–June 2018

# **8A**



**Date:** Friday 8 June 2018

## **Fifth item on the agenda: Violence and harassment against women and men in the world of work**

### **Reports of the Standard-Setting Committee: Resolution and proposed Conclusions submitted for adoption by the Conference**

This *Provisional Record* contains the text of the resolution and proposed Conclusions submitted by the Standard-Setting Committee: Violence and Harassment in the World of Work for adoption by the Conference.

The report of the Committee on its proceedings has been published on the Conference website in *Provisional Record* No. 8B and is submitted for adoption by the Conference subject to corrections, which Committee members will be able to submit until 15 June 2018, 6 p.m.

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**Resolution to place on the agenda of the next ordinary session of the Conference an item entitled “Violence and harassment in the world of work”**

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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## PROPOSED CONCLUSIONS

### A. FORM OF THE INSTRUMENTS

1. The International Labour Conference should adopt standards on violence and harassment in the world of work.
2. These standards should take the form of a Convention supplemented by a Recommendation.

### B. DEFINITIONS AND SCOPE

3. For the purposes of these standards:
  - (a) the term “violence and harassment” in the world of work should be understood as 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) gender-based violence and harassment should be understood as violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment;
  - (c) the term “worker” should cover 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, laid-off and suspended workers, volunteers, jobseekers and job applicants.
4. Violence and harassment in the world of work should cover situations 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 and washing 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.
5. 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.

### C. PROPOSED CONCLUSIONS WITH A VIEW TO A CONVENTION

6. The Convention should include a preamble with the following wording:

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- (a) 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;
  - (b) reaffirming the relevance of the fundamental Conventions of the International Labour Organization;
  - (c) 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;
  - (d) recognizing the right of everyone to a world of work free from violence and harassment, including gender-based violence and harassment;
  - (e) 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;
  - (f) 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;
  - (g) 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;
  - (h) 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;
  - (i) 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;
  - (j) 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
  - (k) 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.

7. Each Member which ratifies the Convention should recognize the right to a world of work free from violence and harassment and, in accordance with national law and circumstances, adopt, 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;

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- (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 in the workplace through labour inspection or other competent bodies.

### **Fundamental principles and rights at work and protection**

8. With a view to eliminating violence and harassment in the world of work, each Member should 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.

9. Each Member should adopt national laws and regulations to prohibit violence and harassment in the world of work, including gender-based violence and harassment.

10. Each Member should adopt laws, regulations and policies ensuring the right to equality and non-discrimination for all workers, including women workers as well as 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.

### **Prevention measures**

11. Each Member should 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;
- (b) taking measures to effectively protect such workers; and
- (c) protecting the privacy and confidentiality of those individuals involved, to the extent possible and as appropriate.

12. Each Member should adopt national laws and regulations requiring employers to take steps, as far as it is reasonably practicable, to prevent violence and harassment in the world of work, and in particular to:

- (a) take into account violence and harassment and associated psychosocial risks in the organization of occupational safety and health;
- (b) adopt, in consultation with workers and their representatives, a policy on all forms of violence and harassment;
- (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

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- (d) provide workers with information and training on the identified hazards and risks of violence and harassment and the associated prevention and protection measures.

### **Enforcement, monitoring and victim support**

13. Each Member should 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 mechanisms at the workplace level;
  - (ii) dispute resolution mechanisms external to the workplace;
  - (iii) access to courts or tribunals;
  - (iv) protection against victimization of or retaliation against complainants, witnesses and whistle-blowers; and
  - (v) legal, social, medical and administrative support measures for complainants;
- (c) provide for sanctions, where appropriate, in cases of violence and harassment in the world of work;
- (d) provide that victims of gender-based violence in the world of work have effective access to effective, safe and gender-responsive dispute resolution mechanisms, support, services and remedies;
- (e) recognize the effects of domestic violence on the world of work and take measures to address them;
- (f) 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
- (g) 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.

### **Support and guidance**

14. Each Member, in consultation with representative employers' and workers' organizations, should 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; and
- (b) guidance, resources, training or other tools are provided to employers and workers and their organizations, and to relevant authorities; and initiatives, including awareness-raising campaigns, are undertaken.

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## **Means of implementation**

15. The Convention should be applied by means of 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.

### **D. PROPOSED CONCLUSIONS WITH A VIEW TO A RECOMMENDATION**

16. The Recommendation should include a preamble indicating that the provisions of the Recommendation should be considered in conjunction with those of the Convention.

#### **Fundamental principles and rights at work and protection**

17. In adopting an inclusive and integrated approach for the elimination of violence and harassment in the world of work, 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.

18. 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).

19. Members should take appropriate measures to:

- (a) encourage 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.

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

21. 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.

#### **Prevention measures**

22. 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.

23. Members should, as appropriate, specify that workers and their representatives should take part in the design, implementation and monitoring of the policy adopted by the employer on violence and harassment, referred to in point 12(b), and such policy should:

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- (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.*

24. *The workplace risk assessments referred to in point 12(c) should take into account factors that increase the likelihood of violence and harassment, in particular psychosocial hazards and risks, including those arising from third parties such as clients, customers, service providers, users, patients and the public, as well as from discrimination, the presence of unequal power relations, and gender, cultural and social norms that support violence and harassment.*

25. *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.*

26. *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.*

#### ***Enforcement, monitoring and victim support***

27. *The appropriate and effective remedies referred to in point 13(b) 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 the employer to take measures with immediate executory force to ensure that certain conduct is stopped or that policies or practices be changed; and*
- (d) *legal fees and costs.*



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

29. *The specialized dispute resolution mechanisms for gender-based violence referred to in point 13(d) should include:*

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

30. *The specialized support, services and remedies for victims of gender-based violence referred to in point 13(d) 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.*

31. *The measures to address the effects of domestic violence on the world of work referred to in point 13(e) should include:*

- (a) paid leave for victims of domestic violence;*
- (b) flexible work hours for victims of stalking and domestic violence;*
- (c) temporary or permanent transfers 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.*

32. *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.*

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33. *Labour inspectors and 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 discrimination against particular groups of workers.*

34. *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.*

35. *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 point 10.*

### ***Support and guidance***

36. *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 disproportionately affected workers;*
- (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, 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, including its underlying causes and risk factors; and*
- (g) campaigns aimed at fostering safe, healthy and harmonious workplaces free from violence and harassment.*

37. *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.]*