



ECAM

MODEL POLICY AGAINST VIOLENCE AND HARASSMENT IN THE WORKPLACE



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LIST OF ABBREVIATIONS AND ACRONYMS

AIDS	Acquired Immunodeficiency Syndrome
CSO	Civil Society Organization
C190	Convention 190
ECAM	Employers Consultative Association of Malawi
FBO	Faith Based Organization
GBV	Gender Based Violence
HIV	Human Immunodeficiency Virus
ILO	International Labour Organization
NGO	Non-Governmental Organisation
MDA	Ministry, Department and Agency
MIP	Malawi 2063 Implementation Plan
MHRC	Malawi Human Rights Commission
NGO	Non-Governmental Organization
OHS	Occupational Health and Safety
R206	Resolution 206
SADC	Southern African Development Cooperation
SDG	Sustainable Development Goal
SGBV	Sexual Gender Based Violence

GLOSSARY OF TERMS

Employee:	A person who is hired to work for another or for a business, firm, etc, in return for payment
Employer:	The authority which through oral or written contract of employment, employs and pays persons/employees for their labour
Gender:	Refers to a range of socially constructed roles and relationships, responsibilities, attitudes, behaviours, values, status and privileges that society ascribes to men, women, boys and girls on a given culture or location.
Gender Equality:	Entails the concept that all human beings, both men and women, are free to develop their personal abilities and make choices without the limitations set by stereotypes, rigid gender roles, or prejudices.
Gender Main-streaming:	The process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area and at all levels.
Gender-Responsive:	Refers to a policy or program that fulfills two basic criteria: a) gender norms, roles and relations are considered, and b) measures are taken to actively reduce the harmful effects of gender norms, roles and relations—including gender inequality
Gender Based Violence:	Any act perpetrated by a person against another that results in, or is likely to result in, physical, sexual or psychological harm or suffering, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.
Gender-based violence and harassment:	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.
Inclusive:	Including all the services, items, persons, part or group normally expected or required
Industry:	A specific group of similar types of companies
Policy:	A deliberate system of guidelines to guide decisions and achieve rational outcomes. A policy is a statement of intent and is implemented as a procedure or protocol.
Perpetrator:	A person who carries out a harmful, illegal, or immoral act
Respondent:	A person who replies to something such as a survey or set of questions.
Sexual harassment:	Any form of unwanted verbal, non-verbal or physical conduct of a sexual nature, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person, would be offended, humiliated or intimidated.

Victim:	A person harmed, injured, or killed as a result of a crime, accident, or other event or action
Whistle-Blower:	A person who comes forward and shares his/her knowledge on any wrongdoing which he/she thinks is happening in the whole organisation or in a specific department.
Violence and harassment at the workplace:	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. Detailed examples are provided at Annex 9.2.

1. INTRODUCTION

Workplace violence and harassment is well recognized as a significant and ongoing threat to workers' health and safety, as well as to organizational productivity and reputation. Despite this, too many people continue to be exposed to it, and its eradication must be unanimously pursued by all employers. Workplace violence and harassment constitutes situations where workers, employers and other people are threatened, bullied, attacked, or assaulted at work. Any of these forms pose significant challenges to the safety, health and well-being of all persons and can bring physical and mental harm. Not only do employers have the duty of care towards the workforce, but there is also a vested interest to create a world of work free from violence and harassment, as companies' productivity, reputation and overall performance can be negatively impacted if violence and harassment are not addressed.

Recognising that the local context has not been spared of violence and harassment, including sexual harassment in the workplace, the Employers' Consultative Association of Malawi (ECAM), in collaboration with the Ministry of Labour, sought financial and technical assistance from the International Labour Organisation (ILO) to develop a Workplace National Model Policy against Violence and Harassment. This model policy is the first of its kind and has been developed in a consultative and participatory manner, involving representation at policy, technical cooperation, development partner and implementation levels of the strategic partners spectrum.

The model policy development process involved wide and participatory consultations with relevant government ministries, departments and agencies (MDAs); representatives of employees (unions); non-governmental organisations (NGOs); employers and employees of selected companies, firms and plantations; tertiary education institutions, among others. The selected participants also covered a wide spectrum of industries that included government, watchdogs, manufacturing, agriculture, health, education, energy, utilities, finance, banking, telecommunications, transport, media, transport and hospitality.

The consultation process culminated into development of an Issues Paper, which informed development of this model policy. In order to comprehensively and effectively address issues of violence and harassment, including sexual harassment, the model policy focuses on the following seven thematic areas:

- i) Commitment and Support for Workplace Policies;
- ii) Knowledge and Awareness about Violence and Harassment;
- iii) Assessing, Managing and Mitigating Hazards and Risks of Violence and Harassment;
- iv) Development of Policies, Standards and Guidelines on Violence and Harassment;
- v) Implementation of Policies, Standards and Guidelines on Violence and Harassment;
- vi) Complaints and Reporting Procedures on Violence and Harassment; and,
- vii) Victim Support, Remedies and Sanctions on Violence and Harassment;



Being a model policy, it also includes an implementation plan for operationalising adaptation by the respective organisations, according to their own contexts. In addition, it also describes how the monitoring and evaluation function will be implemented at various levels, other than including the actual M&E framework itself.

2. BACKGROUND

In June 2019, at the Centenary Conference of the ILO, the Violence and Harassment Convention (No. 190-C190) and its accompanying Recommendation (No. 206- R206) were adopted, calling for the prohibition and prevention of violence and harassment in the world of work. The convention places obligations on employers to take proactive and practical steps to prevent violence and harassment by among others:

- i) Providing and maintaining a safe system of work and environments that are safe and without risk to the safety and health of workers, including the risk of violence and harassment;
- ii) Adopting and implementing a workplace policy on violence and harassment, in consultation with workers and their representatives;
- iii) Incorporating violence and harassment and associated psychosocial risks in the management of occupational health and safety (OSH);
- iv) Identifying hazards and assess the risks of violence and harassment;
- v) Putting in place measures to mitigate, control and prevent the risk of work-related violence and harassment; and,
- vi) Providing relevant and accessible information, instruction, training, and supervision to the workers and other people concerned, so that they can perform their work in a manner that is safe and without risk to safety and health, including violence and harassment.

Although Malawi is yet to ratify the C190 and its recommendations, it has however, been discussed extensively during national dialogue, involving government, representatives of employers and employees, civil society organisations (CSOs), faith-based organisations (FBOs) and development partners. In May 2023, the Tripartite Labour Advisory Council recommended to Government that Malawi should ratify the C190. This notwithstanding, many organisations are by default, as part of good labour practices, already incorporating provisions that directly or indirectly relate to the C190 recommendations into their own instruments that address elements of violence and harassment. This is evident through policies focusing on sexual abuse, harassment and exploitation; gender equality, discrimination and social inclusion; and, prevention of gender-based violence that are either already being implemented or have just been developed and pending administrative approvals.

In order to contextualise better some of the hazards and risks relating to elements of violence and harassment, ECAM recently commissioned a Gender Audit, which revealed that a significant number of small organisations have no formal gender and equality policies (under 25%) and 18% of the large companies do not have sexual harassment and anti-discrimination policies in place. Managing violence and harassment at work is, therefore, an essential part of the OSH management system and should be an integral part of organizational risk assessment and management processes, in order to create a world of work free from violence and harassment.

SITUATION ANALYSIS

3.1 Overview

Violence and harassment at the workplace is a phenomenon not mostly debated about, yet it has the potential to have dire consequences for the employee at individual level, including physical and psychological effects, as well as for the employer and the society involved, through economic losses and reputational damage. Despite this potential impact, not much research and data thereof has been done to establish the depth of the situation and consolidate mitigating measures, as applicable. According to an ILO Global Survey Report (the first of its kind) conducted in 2021, statistics on violence and harassment in the world of work are sporadic and scarce. Comparability of data is therefore problematic, because different concepts, definitions and methods are used. Statistics are often collected for a specific occupation, industry or group and may not be disaggregated by sex¹.

Despite the limited data, violence and harassment at the workplace remain a global problem that needs individual countries to take firm measures in preventing, addressing and responding to it, 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, and is unacceptable and incompatible with decent work. This is in alignment with Article 1 of Convention 187, Promotional Framework for Occupational Safety and Health Convention, which stipulates that the term a “national preventative safety and health culture refers to a culture in which the right to a safe and healthy working environment is respected at all levels, where government, employers and workers actively participate in securing a safe and healthy working environment through a system of defined rights, responsibilities and duties, and where the principle of prevention is accorded the highest priority.”²

3.2 Prevalence of Violence and Harassment at the Workplace

Statistics on prevalence of violence and harassment at the workplace in Malawi is rather scanty. Nonetheless, the Malawi Human Rights Commission (MHRC) has done some research, albeit on sexual harassment, as opposed to violence and harassment broadly. The research conducted includes a Situation Analysis on Sexual Gender Based Violence (SGBV), and Sexual Harassment in the Workplace. Both studies indicated a large knowledge gap on sexual harassment at the workplace, including gender related laws, specifically the Gender Equality Act. “Many people are not aware of the laws that protect them from abuse and violation of their rights”.³ Additionally the lack of awareness also means that most of the institutions consulted did not have a violence and harassment policy in place. The situational analysis report indicated that only 20% of consulted institutions had a sexual harassment policy, while 10% had it in draft form and 70% did not have one entirely. It should also be noted that the national gender audit, although biased towards gender related elements, does contain statistics on issues related to violence and harassment at the workplace.

In terms of prevalence, most data, including the data from the MHRC studies, are specific to sexual harassment and can therefore not be exhaustively representative of statistics on violence and harassment at the workplace. Nonetheless, the research report by MHRC indicated that about 17% of respondents indicated to

3 MHRC (2021) *Situation Analysis: Report on Engaging the Private, Public, and Informal Sector on Addressing SGBV and Sexual Harassment in the Workplace*. MHRC



have received a range of between 1-5 complaints on sexual harassment at the workplace, followed by 2% who mentioned to have received a range of between 6-10 complaints within the past 24 months, followed by 1% of respondents who mentioned that they received more than 16 complaints. However, the majority of respondents, about 51%, indicated that they never received any complaints of sexual harassment in their respective institutions in the past 24 months. Some of them, about 29%, indicated that they do not know whether their institutions received a complaint or not.

The results also showed that females were more likely to experience sexual harassment at the workplace than men. About 48% of respondents mentioned female employees as the category of workers most exposed to sexual harassment, followed by 37%, who mentioned junior staff and interns as those most vulnerable at the workplace.

3.3 Reporting Cases of Violence and Harassment

According to the National Gender Audit report by ECAM, “harassment and gender-based violence that reach the news are only a tip of the iceberg and companies appear to under-estimate gender-based discrimination, harassment and abuse in the workplace. To an extent, this can be attributed to the fact that many instances of gender-based harassment and abuse go unreported, or are reported outside the organization”. Under-reporting of violence and harassment in the world of work is therefore a challenge. There are a number of contributing factors to under-reporting, including fear of victimization and retaliation, as well as the lack of effective or accessible enforcement and monitoring systems in many countries.

The ILO Global Survey found that “many survey respondents who did not share their experience of violence and harassment said it was because “procedures at work were unclear” (43.1 per cent) or due to “lack of trust in police, community leaders or labour inspectors” (42.5 per cent). Similar sentiments are true for Malawi. The National Gender Audit report indicates that “only 17% of women experiencing harassment reported the issue to Human Resource departments, with a further 13% reporting the incident outside the company. Further, the report indicated that at least 40% of women experiencing discrimination or harassment took no action or left their job. The three most important reasons given were that the individual did not know what to do (30,7%), that the harasser, as a boss or supervisor, was in a position of power in the organisation (30,7%), and that the individual was concerned about the potential negative impact on her career (29,8%).”⁴

Further, the situational analysis by MHRC also found that among institutions consulted, “there were no clear and functional reporting procedures, mechanisms and structures for reporting sexual harassment cases.” Additionally, MHRC also found that in general, “institutions do not do enough to protect victims and whistle blowers,” due to an absence of policies that guide conduct and prevent sexual harassment, as well as absence of whistle-blower protection mechanisms, thus another reason for underreporting of violence or harassment cases. This is further compounded by the lack of specialized committees within institutions to handle sexual harassment complaints. The study found that sexual harassment cases are treated like regular disciplinary issues and this has implications on the type of remedy that one can get.

It should be noted, nonetheless, that trade unions established by the Malawi Congress of Trade Unions can serve an important role in the protection of workers in the informal sector, as well as assist in the manage-



ment and encouragement of reporting of violence and harassment cases for this vulnerable group of workers. According to an ILO report for example, the “Tobacco and Allied Workers’ Union of Malawi has introduced a number of measures to protect women workers and young girls, including a policy on sexual harassment, ratified by the Malawi Congress of Trade Unions and the Malawi Human Rights Commission in 2015” (ILO 2019f).⁵

Going forward, emphasis in response to violence and harassment cases should therefore be on victim support. In general terms, current response mechanisms focus on sanctions and punishments, centred around the perpetrator, with inadequate emphasis on victim support. Further, the punishment perspective means that offenders are generally not rehabilitated. This creates the likelihood of repeat offenders. There is need therefore for an inclusive, integrated and gender-responsive approach in the prevention and elimination of violence and harassment in the world of work, as stipulated by C190. According to the Gender Audit report, this inclusive approach would include recognition and awareness of violence and harassment at the workplace, with a ‘zero-tolerance stance’, as well as fostering an open culture within an organization, in order to encourage reporting. Supporting victims throughout the process and ensuring that the process is fast-tracked is also part of the approach, which would help ensure that the organisation/company’s ‘memory of the incident’ is not lost and a victim is assisted accordingly.

3.4 Linkages with Other Relevant Legal and Policy Frameworks

Guiding Global Frameworks

While there have been a number of legal and strategic instruments that respond to gender-based violence (GBV), sexual harassment and occupational safety globally, not many such instruments exist to respond to violence and harassment in the world of work. Currently, the key global instruments that guide the response to violence and harassment at the workplace are the Violence and Harassment Convention (No. 190) and its accompanying Recommendation (No. 206), adopted in June 2019. These instruments, provide a common framework for the prevention and elimination of violence and harassment in the world of work, including gender-based violence and harassment.

a) C190 - Violence and Harassment Convention

C190 is a key reference document for the development of policies on violence and harassment at the workplace. The convention recognizes the right of everyone to a world of work free from violence and harassment, including gender-based violence and harassment and provides clear definitions of these terms. In addition, C190 calls for an adoption of an inclusive, integrated and gender-responsive approach for the prevention and elimination of violence and harassment in the world of work. It calls for members to ensure the following; a) *Capacity building*; b) *Complaint and investigation procedures*; c) *Protection of individuals*; and, d) *Access to support services*.

b) Violence and Harassment Recommendation, 2019 (R206)

5 International Labour Organization (2020). *Violence and Harassment in the World of Work: A Guide on Convention No. 190 And Recommendation No. 206*. International Labour Office, Geneva.



The provisions of R206 supplement those of the Violence and Harassment Convention 190, 2019 above. R206 accompanies Convention No. 190, by providing more detailed guidance on how Convention No. 190 could be applied. Both Convention No. 190 and R206 “recognize that the right to be free from violence and harassment in the world of work is inseparable and closely interrelated with all fundamental principles and rights at work and, more broadly, with decent work.”⁶ R206 outlines related procedures that must be adopted in the application of C190 and these include: *a) Prevention and risk mitigation; b) Inclusivity; c) Capacity building; d) Complaint and dispute resolutions; e) Victim support services; and, f) Handling perpetrators of violence.*

c) Sustainable Development Goals (SDG) 5 and 8

Both SDG 5 and 8, though not directly, speak to violence and harassment at the work place. SDG 5 calls for gender equality and one of its targets is to eliminate all forms of violence against all women and girls in the *public and private spheres*, including sexual violence and harassment at their workplace. Additionally, one of the targets for SDG 8 aims to “*Achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value.*” SDG 8, therefore, calls for an inclusive economic growth for all by promoting safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment.⁷ A safe and secure working environment also means one that is safe from violence and harassment.

d) Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (the Maputo Protocol)

Although very limited, in terms of provisions for violence and harassment at the work place, Article 13 of the Maputo Protocol on Economic and Social Welfare calls for “*transparency in recruitment, promotion and dismissal of women, and combat and punish sexual harassment in the workplace.*” The protocol also calls for access to “*counselling and rehabilitation services to women who suffer abuses and sexual harassment,*”⁸ a provision that is also in synch with C190 and R206.

National Frameworks

Malawi, has legal and policy frameworks that either directly or indirectly address violence and harassment, including sexual harassment. These include: the Constitution of Malawi (2000), Labour Relations Act (1996), Employment Act (2000), Occupational Health, Safety and Welfare Act (1997), Gender Equality Act (2013), National Employment and Labour Policy, National Gender Policy (2015). Although these legal frameworks are in place, they are not comprehensive enough to address emerging issues, such as violence and harassment, including sexual harassment in the workplace. Currently, the Ministry of Labour is in the process of developing a model Code of Conduct that will incorporate issues of violence and harassment in the place of work and expected to be adapted by organisations and enterprises. That calls for the formulation of organization specific

6 ILO Geneva (2021). Violence and harassment in the world of work: A guide on Convention No. 190 and Recommendation No. 206. ILO Geneva

7 <https://gcap.global/news/facesofmigration-violence-and-harassment-in-the-world-of-work-video/>

8 d) African Union (2003) Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa. African Union.



policies that are comprehensive enough and deal with specific issues on harassment and violence including sexual harassment.

Therefore, the formulation of Model National Workplace Policy on Harassment and Violence has largely been informed by the existing legal and policy frameworks to set international standards and instruments on addressing harassment and violence violations at the workplace. Below are some of the national legal and policy frameworks, instruments and protocols that have informed the formulation of the Model National Policy on Harassment and Violence:

a) The Malawi Constitution (2000)

The Malawi Constitution guarantees rights to every citizen and is also specific on labourers' rights. It acknowledges that no person shall be subject to torture of any kind or to cruel, inhuman or degrading treatment or punishment, including at the workplace. It makes provisions for accessing justice and legal remedies for all employees.

b) Labour Relations Act (1996)

The Malawi Labour Relations Act aims at promoting sound labour relations, through the protection and promotion of freedom of association, the encouragement of effective collective bargaining and the promotion of orderly and expeditious dispute settlement, conducive to social justice and economic development.

c) Employment Act 2000

The Malawi Employment Act establishes, reinforces and regulates minimum standards of employment, with the purpose of ensuring equity necessary for enhancing industrial peace, accelerated economic growth and social justice, and for matters connected therewith and incidental thereto. It makes provisions for the protection of employees. It is very categorical on zero tolerance on discrimination against workers on the grounds of race, colour, nationality, ethnic or social origin, national extraction, religion, political opinion, language, sex, marital status, family responsibilities, age, disability, property or birth. makes provisions on the prohibition against forced labour, prohibits any form of discrimination to both workers and employers, and provides for remedies to avoid infringement of labour rights.

d) Occupational Health, Safety and Welfare Act 1997

The Occupational, Safety and Welfare Act makes provision for the regulation of the conditions of employment in workplaces, as regards the safety, health and welfare of persons employed therein. Matters of violence and harassment in the workplace have a bearing on safety, health and welfare of employees.

e) Gender Equality Act (2013)

The Gender Equality Act promotes gender equality, equal integration, influence, empowerment, dignity and opportunities, for men and women in all functions of society; prohibit and provide redress for sex discrimina-



tion; harmful practices and sexual harassment; provide for public awareness on promotion of gender equality, and provide for connected matters. “Harmful practice” means a social, cultural, or religious practice which, on account of sex, gender or marital status, does or is likely to undermine the dignity, health or liberty of any person; or that may result in physical, sexual, emotional, or psychological harm to any person. It also makes definitions of sexual harassment and makes provisions to address sexual harassment at the workplace.

f) HIV and AIDS Management Act (2018)

The HIV and AIDS Management Act prohibits HIV testing as a pre-condition for recruitment, training and promotion; termination of employment on grounds of HIV or AIDS; discrimination, and unfair treatment, solely on grounds of being perceived to be living with HIV; or other matters arising out of an employment relationship. Such practices are bound to constitute hazards and risks for violence and harassment in the workplace.

g) The Malawi 2063 First Implementation Plan (MIP 1)

The Malawi 2063 MIP1 is the current national development blueprint and overarching strategy for the country, with the purpose of serving as a single reference document for policy makers in Government; the Private Sector; Civil Society Organizations; Donors and Cooperating Partners and the general public on socio-economic growth and development priorities for Malawi. It recognises gender and labour rights to be very important in national development. The long-term goal on economic empowerment and civic participation in the Malawi 2063 MIP1 is to mainstream gender and provisions for equal rights, equal opportunities in employment and protection against any forms of discrimination, for sustainable development.

h) National Employment and Labour Policy

The National Employment and Labour Policy aims at promoting full employment with a view to stimulating economic growth and development; raising levels of living; meeting manpower requirements and overcoming unemployment and under-employment. It regulates the relationship between workers, managers, and owners to ensure everyone is treated fairly and respectfully. It includes how and when an employee can work, what they should be paid, including the minimum wage, and the minimum conditions that are safe and appropriate to work in. It also determines when someone can be hired or fired and outlines the rights of employees and employers.

i) Gender Equality Policy

The policy aims at mainstreaming gender in the national development process to enhance participation of men, women, boys and girls for sustainable and equitable development for poverty eradication. This places emphasis on equity and inclusiveness, which is critical in the workplace in addressing certain forms of violence and harassment. It also aims at reducing gender-based violence, which also tends to occur in workplace settings, as elements of violence and harassment.

j) HIV and AIDS Policy

The policy acknowledges that discrimination against people living with HIV (PLHIV) in workplace has been a challenge, resulting in unfair: dismissal, recruitment, training, promotion and denial of employee benefits, practices which are against fundamental principles of human rights. It therefore obliges all employers to protect PLHIV from such practices and ensure that workplaces are free from any kind of stigma and discrimination against PLHIV. This will ultimately ensure full participation of PLHIV and the affected individuals in the economic development at all levels. In addition, all HIV infected persons have the constitutional right to confidentiality. An employee is, therefore, not obliged to disclose his or her HIV Status to their employers, unless it is at the employees' own discretion.

4. PROBLEM STATEMENT

There are existing national legal and policy frameworks that to a large extent, indirectly address issues of violence and harassment in the workplace, particularly on elements related to gender equality and non-discrimination, sexual abuse and exploitation. Similarly, most organisations have either developed standalone policies, codes of conduct or mainstreamed these elements in their staff terms and conditions of services, to manage issues of violence and harassment, including sexual harassment, alongside other grievance and disciplinary procedures.

However, these frameworks do not comprehensively define elements of violence and harassment, nor comprehensively provide for critical aspects of prevention and management of the same, in terms of rights and responsibilities of workers and employers in preventing violence and harassment at work; complaints reporting and investigation handling procedures, including confidentiality; measures to protect complainants, victims, witnesses and whistle-blowers against victimization or retaliation; support systems for employees who are victims of violence and harassment; and, remedies and sanctions on proven cases.

On the other hand, the existing frameworks are limited to the internal environment, even in settings where there is significant engagement of third parties in organisations' businesses, in the form of customers, contractors and visitors. In addition, most of these instruments are either outdated or not regularly monitored and reviewed, to incorporate emerging issues, such as violence and harassment. Furthermore, there is limited or no assessment of the existing and potential hazards and risks that aggravate violence and harassment within organisations, which could otherwise systematically and progressively inform organizational policies, standards and guidelines. Organisations are also currently not obliged to routinely report on cases of violence and harassment to any national authority, in order to ascertain the extent of the problem by appropriate parameters.

Violence and harassment at work can have detrimental effects, including lost productivity, increased litigation cost, increased employee turnover and absenteeism, and reputational damage. Everyone in the world of work, including workers and employers, should therefore be protected from violence and harassment to avert these negative outcomes. Providing a safe and healthy working environment is not only a national requirement, but also a fundamental principle and right at work. Once adapted by organisations, this model policy will therefore better equip employers to take appropriate steps and measures to mitigate the risks, and prevent violence and harassment at work for the persons, places, situations and circumstances within their control. Creating a world of work that is free from violence and harassment would have benefits for businesses, including increased productivity, reduced absenteeism, and lower employee turnover.



5. PURPOSE OF THE POLICY

This model policy will be used to assist workplaces, including public and private sectors; small and large organizations alike, to come up with their own specific policies that will cover all forms of violence and harassment, including physical, verbal, psychological, and sexual, so that workplaces are free from violence and harassment. This will ensure that enterprises provide a safe and secure working environment for all employees, regardless of their gender, race, ethnicity, religion, sexual orientation, or other personal characteristics.

6. BROAD POLICY DIRECTIONS

6.1 Goal

The overall goal of the model policy is *to attain a workplace that is free from violence and harassment, including sexual harassment.*

6.2 Policy Outcomes

- i) High-level commitment and support for workplace policies secured
- ii) Improved knowledge and awareness about violence and harassment
- iii) Assessment, management and mitigation of hazards and risks of violence and harassment institutionalized
- iv) Policies, standards and guidelines on violence and harassment developed
- v) Policies, standards and guidelines on violence and harassment implemented
- vi) Complaints and reporting procedures on violence and harassment enhanced
- vii) Victim support, remedies and sanctions on violence and harassment strengthened

6.2 Policy Objectives

The broad objectives of this policy are to:

- i) Secure high-level commitment and support for workplace policies
- ii) Improve knowledge and awareness about violence and harassment
- iii) Institutionalize assessment, management and mitigation of hazards and risks of violence and harassment
- iv) Facilitate development of policies, standards and guidelines on violence and harassment
- v) Promote implementation of policies, standards and guidelines on violence and harassment

- vi) Enhance complaints and reporting procedures on violence and harassment
- vii) Strengthen victim support, remedies and sanctions on violence and harassment

6.3 Guiding Principles

National Ownership and Leadership: The policy will promote ownership at all levels of the cascade of stakeholders that include government and social partners (employers, employees and their representatives). Overall leadership remains with government, to provide oversight, stewardship and demand mutual accountability for results.

Human Rights-Based Approach: The policy will create an enabling environment to respect, promote and realize fundamental principles and rights at work, enjoyment of decent work and attainment of a world of work free from violence and harassment. It will also ensure the right to equality and non-discrimination for workers and other persons belonging to one or more vulnerable groups.

Gender-responsive: The policy will tackle the root causes of gender-based violence and harassment, as well as reducing their harmful effects. It will intentionally employ gender considerations, in order to affect the design, development, implementation and results of violence and harassment related programmes and strategies, regulations, as well as collective agreements. This approach will also reflect the girls' and women's realities, by paying attention to their unique needs; ensuring their participation in decision-making processes at all levels; valuing their perspectives; and, respecting their experiences, with a view to promoting gender equality in practice and achieving gender equity.

Inclusiveness: The policy will embrace a broad personal scope of protection, as well as ensure that consultations better capture all different needs and realities. This is a departure from the 'one-size-fits-all' solution, given the diverse range of individuals to be protected, which calls for measures to recognize and take into account the specificities and vulnerabilities of each individual or group, the different sectors or occupations where they operate, as well as work arrangements, through which they provide work or are provided work, including possible interaction with third parties, where applicable.

Integration, harmonisation and alignment: The policy will ensure that the violence and harassment phenomenon is addressed in all relevant organizational frameworks that deal with labour and employment; occupational safety and health; equality and non-discrimination; sexual abuse and exploitation. It will also ensure availability of comprehensive measures on prevention and protection; enforcement and remedies; and guidance, training and awareness raising, while taking into account the different and complementary roles and functions of governments, employers and workers (and their respective organizations), according to the varying nature and extent of their responsibilities.



Equality and non-discrimination: The policy will promote equality at work and tackle intersecting and multiple discrimination to prevent and end violence and harassment. Organisations will therefore adopt, regulations and policies that ensure the right to equality and non-discrimination in employment and occupation, including for women workers, as well as for 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. These will directly address *personal characteristics*, such as race or ethnicity, disability, sexual orientation and gender identity, HIV/AIDS status, or family responsibilities that make individuals or groups more exposed to the risk of violence and harassment.

7. POLICY PRIORITY AREAS

The goal of this model policy will be realized by pursuing strategies under the following seven thematic areas:

- i) Commitment and Support for Workplace Policies;
- ii) Knowledge and Awareness about Violence and Harassment;
- iii) Assessing, Managing and Mitigating Hazards and Risks of Violence and Harassment;
- iv) Development of Policies, Standards and Guidelines on Violence and Harassment;
- v) Implementation of Policies, Standards and Guidelines on Violence and Harassment;
- vi) Complaints and Reporting Procedures on Violence and Harassment; and,
- vii) Victim Support, Remedies and Sanctions on Violence and Harassment.

7.1 Policy Priority Area 1: Commitment and Support for Workplace Policies

Employers have a duty of care towards their workforce and should create an inclusive working environment free from violence and harassment regardless of the size or sector of the enterprise. Employers are responsible for providing a safe and healthy working environment, by preventing as far as reasonably practicable, any work-related risk to the safety and health of workers. Every employer has an obligation to ensure, as much as reasonably practicable, that workers are not exposed to violence and harassment concerning any matter or circumstance arising out of employment.

There is varied level of commitment by employers in addressing violence and harassment, including sexual harassment. Some organisations' management have openly denounced these elements and have gone further to support implementation of related policies, through creation of and financing platforms for awareness raising, and capacity building of those charged with enforcement of the policies. On the contrary, some organisations have never done this and do not seem to have immediate plans to do so.

Policy Statement 1: This policy will ensure executive commitment and support for workplace policies to address violence and harassment

Strategies:

- i) Ensure that executive management, in consultation with all stakeholders, issue a clear policy statement of intent, denouncing the existence and recognizing the importance of the fight against workplace violence and harassment, including sexual harassment in the workplace
- ii) Develop a management style that prioritises a caring attitude, mutual respect and dignity of employees, and also premised on openness, communication and dialogue, in order to defuse and eliminate violence and harassment
- iii) Institutionalize capacity building of all staff to raise awareness on harassment and violence in the workplace
- iv) Identify and allocate necessary human, financial and material resources towards implementation of the workplace policy
- v) Establish and support internal operational structures and mechanisms for managing and responding to harassment and violence

7.2 Policy Priority Area 2: Knowledge and Awareness about Violence and Harassment

The C190 highlights the importance of providing guidance, training and resources, in accessible formats as appropriate, in order to equip relevant authorities, as well as employers and workers and their respective organizations with the information and tools necessary to prevent and eliminate violence and harassment within their respective areas of influence. This is considered as the pre-requisite for gaining the necessary knowledge and skills to accelerate the desired socio-cultural change that will in turn address violence and harassment in the workplace. C190 acknowledges the role of multi-sectoral stakeholders in this regard, and also highlights the need for governments and implementing organisations to undertake initiatives, such as awareness-raising campaigns, as an important component of a broader strategy to prevent and eliminate violence and harassment, within the context of an inclusive, integrated and gender-responsive approach.

It is, therefore, essential that the workplace policy be accompanied by initiatives to raise awareness among, and be communicated to management, supervisors and staff, clients, customers, suppliers and local communities, about elements of violence and harassment, the adverse effects (at individual, organizational and community levels), and of the advantages of undertaking immediate action to eliminate or reduce violence and harassment, including sexual harassment at the workplace. Employers, workers and their representatives should be actively engaged in enhancing recognition of workplace violence and harassment, as a major threat to health and safety, service efficiency, productivity, equal treatment and decent work.

There is generally high awareness about elements of violence and harassment, including sexual harassment by both employers and employees in the country. Most perpetrators of violence and harassment, including sexual harassment are generally those in positions of authority, as well as clients and customers of services. On the other hand, victims are those in vulnerable situations, such as junior employees; temporary and casual employees; females, especially relatively young ones; and, students. Considering the dynamic nature of the industries involved, where there is continuous recruitment and staff attrition, coupled with the dynamic nature of the socio-cultural landscape, it is very important to correspondingly and continuously maintain high knowledge and awareness levels about violence and harassment, as well as the means to prevent and eliminate it from the workplace.



Policy Statement 1: The policy will ensure that organizations build mechanisms for enhancing knowledge and awareness amongst employers, employees, clients, customers and the general public about violence and harassment.

Strategies:

- i) Employers, in consultation with workers and their representatives, should initiate and support programmes at their workplaces that aim to inform, educate and train workers about the prevention of workplace violence, the enterprise's policy and strategies in place, and available support for workers in the event that workplace violence and harassment incidences occur.
- ii) Create and disseminate training and awareness-raising materials for employers and workers on violence and harassment at the workplace
- iii) Diversify information dissemination platforms for training and awareness-raising materials, through modalities such as notice boards, the intranet and team meetings
- iv) Establish and support internal operational structures and mechanisms for awareness raising on violence and harassment
- v) Initiate and intensify targeted awareness-raising campaigns at appropriate levels of the organisations and industries

7.3 Policy Priority Area 3: Assessing, Managing and Mitigating Hazards and Risks of Violence and Harassment

One of the first steps to be taken when considering the prevention of work-related violence and harassment, is an assessment or diagnosis of the relevant hazards and situations at risk, as an integral part of the occupational safety and health management system, and of the overall organisational management of institutions. Analysing available information in the form of official records concerning incidents, absenteeism, turnover; information on the management style; information from regular workplace inspections; reports from periodical general and situation-specific surveys; discussions with workers and their representatives; contacts with other employers, employers' organisations, relevant governmental organisations; and, customer/patient advocacy groups, among other sources is essential for the hazards and risk assessment process.

There are a number of work situations that have been identified as being at special risk of workplace violence and harassment. Certain employees are exposed to the entire range of such situations of risk and this makes them unique in terms of the importance and spread of workplace violence and harassment. Working in contact with the public, working with objects of value, working with people in distress, working in conditions of special vulnerability, among others puts employees at a heightened risk than other work environments. In order to fully assess the specific relevance of situations at special risk in different workplaces, an analysis should be conducted to establish the presence of such situations within each workplace and each category of workers employed there. This is an essential pre-condition for a targeted and effective intervention, and should be accomplished before designing and implementing any interventions at the workplace.

Generally, there is no systematic assessment of risks or hazards with regard to violence and harassment in many organisations, including for those that have recently developed related policies. However, hazards and risks assessment are very critical aspects in addressing incidences of harassment and violence in the workplace. Elimination of harassment and violence in the workplace is contingent upon the cooperation of workers



such as for OSH, codes of conduct or employee handbooks. Notwithstanding this, some of the policies are outdated and do not comprehensively address all key aspects of dealing with violence and harassment in the work place, such as reporting; investigations; confidentiality; protection of complainants/ victims, witnesses and whistle blowers; and, post incident support for victims. Where violence and harassment issues are included in other existing frameworks, they are just mentioned in passing, not well defined, and considered in a generalised manner, as other forms of indiscipline.

Policy Statement 1: This policy will ensure that organisations develop clear and concise violence and harassment workplace policies, in consultation with workers' representatives.

Strategies:

- i) Establish the organisation's legal responsibilities regarding violence and harassment, under the applicable legal frameworks
- ii) Identify necessary information regarding existing related policies, violence, harassment incidences and concerns to inform the workplace policy
- iii) Develop or adapt a comprehensive and all-inclusive violence and harassment policy that is fully endorsed by management and approved by the board
- iv) Incorporate representatives of the major public, customer and client groups, where appropriate, in the development of policies and strategies to prevent workplace violence and harassment
- v) Integrate the violence and harassment policy into other existing policies, such as policies for OSH and codes of conduct for an inclusive, holistic and consistent implementation approach that leverages on specific and collective entry points
- vi) Institutionalise joint reviews and, where necessary, update the workplace policy on a specified intervals of at least once every 3 years, or following any major changes to key elements of the policy.

7.5 Policy Priority Area 5: Implementation of Policies, Standards and Guidelines on Violence and Harassment

Having a policy on violence and harassment, whether a standalone or part of the gender equality and non-discrimination; sexual abuse and exploitation; or OSH policy, is just a first step in the right direction. How the workforce is affected by such policies in their day-to-day life is more significant than what is contained in a document. This then makes the organizational culture, communication and training essential for achievement of the desired outcomes. Implementing the policy consistently and reaching out to the entire workforce and related persons, to ensure the workplace is free from the risk of violence and harassment is the main aim of the policy.

Workers, managers and supervisors should be equipped with knowledge and understanding of the concept of workplace violence and harassment, as well as their responsibilities in preventing and managing it. In order to effectively achieve this objective, training programmes should be tailored to the specific needs of these target-



ed audiences, including any structures created for this particular cause. The training should advance principles of equity and equality and ensure that all the staff understand and follow the same rules and policies, and are equally rewarded, disciplined, and sanctioned for unacceptable behaviour.

Some companies and firms use the induction period to introduce and orient new employees to overall policies, including those that cover violence and harassment, including sexual harassment. Other opportunities, such as quarterly meetings and staff engagement sessions, are also used to remind employees about these policies. Other platforms, such as intranet, staff portals, posters, circulars and emails are used to share and popularise these policies. Vernacular language is also used in some instances to disseminate and orient field staff on such policies during specific sessions.

While these policies are widely shared and disseminated, understanding, especially at the lower levels seems to be a challenge that needs to be addressed, especially as firms and companies continuously recruit staff. On the other hand, some organisations do not specifically have designated and on-going staff orientation and training sessions on both the policy and its implementation modalities. The other clear limitation is that most of these policies are inward looking and do not address aspects to do with ‘third parties’, such as customers, clients, contractors and visitors. It follows, therefore, that these third parties are not aware of existence of such policies.

Policy Statement 1: The policy will ensure equality and non-discrimination for women and groups in vulnerable situations in the workplace.

Strategies:

- i) Extend protection against violence and harassment in the world of work to a variety of individuals, regardless of their contractual status
- ii) Ensure equitable participation among employers, workers and their representatives in the implementation structures and processes for prevention and management of violence and harassment in the workplace
- iii) Ensure that violence and harassment prevention and management processes are accessible to all workers and other persons concerned on an equal basis
- iv) Promote gender equality in organizational practices, such as recruitment, promotions and deployment, in order to mitigate hazards and risks that impact on violence and harassment
- v) Ensure that workplace policies comprehensively stipulate the rights and responsibilities of the workers and the employer.

Policy Statement 2: Ensure that the policy is promoted and communicated to all relevant stakeholders.

Strategies:

- i) Widely popularize the violence and harassment policy to all relevant individuals and their representatives
- ii) Ensure that tools, guidance, education and training are provided in accessible formats, according to different needs of people, including people with disabilities and those in other vulnerable situations



Policy Statement 3: The policy will ensure that information and training on the policy is provided to the workforce.

Strategies:

- i) Strengthen information dissemination to workers and other concerned persons, in accessible formats, as appropriate, on identified hazards and risks of violence and harassment, and the associated prevention and protection measures, including on respective rights and responsibilities
- ii) Establish special communication channels in periods of reform and organizational change
- iii) Identify the special training needs and skills required for preventing or coping with workplace violence under particular circumstances
- iv) Devise effective approaches and methodologies for training, as a means for preventing violence and harassment
- v) Strengthen capacity of managers, line supervisors and workers to prevent, effectively manage conflicts and referral of cases, as well as respond to allegations of violence and harassment
- vi) Expose all new employees to mandatory training on the content of the workplace policy, as part of their induction into the organisations
- vii) Institutionalise refresher training courses for employees on the content of the workplace policy from time to time

Policy Statement 4: The policy will ensure establishment and/or strengthening of monitoring and evaluation mechanisms to monitor and enforce compliance, in relation to the policy on violence and harassment in the workplace

Strategies:

- i) Institutionalise a national monitoring and evaluation system for violence and harassment by piggy-backing on the Labour Market Management Information System
- ii) Develop mechanisms for routine collecting of data and information in the area of workplace violence and harassment
- iii) Commission periodic reviews to determine the effectiveness of the workplace violence and harassment management systems for controlling and preventing workplace violence and harassment, dissemination of the results
- iv) Engage workers in developing criteria for evaluation and receiving regular feedback from them to check on how well instituted measures are working and to make modifications as necessary
- v) Organise periodical joint meetings of management and workers to discuss the measures put in place
- vi) Ensure effective means of inspection and investigation, including through labour inspectorates and other competent bodies

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- vii) Evaluate the quality and uptake of the referral services and adjust partnerships or service providers accordingly

7.6 Policy Priority Area 6: Complaints and Reporting Procedures on Violence and Harassment

Appropriate measures should be planned to respond and minimize the effects of workplace violence and harassment, and to prevent similar occurrences in the future. These include reporting and complaints procedures, and a system of dispute resolution. Once these measures have been created, they need to be implemented and properly communicated to all relevant parties. One of the key challenges in the area of violence and harassment in the world of work is under-reporting. The reasons for reluctance to reporting vary, but this is particularly the case if the victims/complainants are not confident that the report will be received, acted upon, and their rights to confidentiality respected, or if they feel reporting an incident might adversely affect their job, attract reprisals, stigmatization (in the case of sexual abuse) and discrimination. Absence of clear and trusted complaints resolution and reporting procedures, coupled with lack of enforcement and monitoring of available complaints mechanisms, compound the limited reporting on incidences.

In order to promote reporting of violence and harassment, procedures for reporting and complaints should be developed, in collaboration with workers, and clearly communicated to all staff, including new workers. Witnesses to workplace violence and harassment should also be encouraged to report, as deemed fit.

Policy Statement 1: The policy will ensure that ALL staff members have access to safe, fair and effective complaints and reporting mechanisms and procedures.

Strategies:

- i) Facilitate development or updating of procedures for complaints and reporting, in collaboration with workers, and ensure that they are clearly communicated to all staff, including new workers, lower ranking and those in remote settings
- ii) Ensure that reports and complaints are dealt with quickly, reasonably, and within established timelines
- iii) Establish referral mechanisms for internal workplace grievances on violence and harassment to the relevant national authorities
- iv) Ensure protection and confidentiality of complainants and witnesses and whistleblower through measures such as paid leave of absence, or moving to another workplace or location
- v) Avail concerned parties with information on the procedures for investigating and resolving complaints, including clear information on the consequences of violent behaviours
- vi) Constitute independent committees or teams (from time to time) that receive reports of violent incidents, make inquiries into and conduct surveys on workplace violence and respond with recommendations for corrective strategies
- vii) Institute mechanisms for effective and comprehensive record keeping of all cases, from reporting to resolution stages

Policy Statement 2: The policy will ensure comprehensive victim-centered dispute resolutions mechanisms.



Strategies:

- i) Enhance victim representation, legal advice and assistance through trade unions, professional organisations, and if necessary, colleagues
- ii) Ensure that any information relating to an individual's grievances and disciplinary procedures, medical treatment, debriefing, counselling and rehabilitation is kept confidential, in accordance with national laws and regulations
- iii) Facilitate provision of information to all staff on procedures to ensure confidentiality and protection of complainants from reprisals and/or victimization
- iv) Ensure timely and efficient processing of cases by employers, to allow a complainant to go back to normalcy

7.7 Policy Priority Area 7: Victim Support, Remedies and Sanctions on Violence and Harassment

Recovery from workplace violence may involve a long period of rehabilitation. Workers should be supported during the entire period of rehabilitation, allowed all necessary time to recover, but also encouraged to return to work. It is also important to ensure that when victims of workplace violence return to work, they feel safe in their environment, both from physical and psychological violence. Other common measures to support and protect victims include re-assignment to other duty locations or departments, on site or other geographic settings altogether. While some organisations do provide the necessary support to meet immediate physical needs and facilitate eventual psychological healing processes, that include payment of medical bills, transport, counseling and psychosocial support, others do not and both employers and employees are not aware of any such provisions.

In many cases, response to cases of violence and harassment focuses on punishment of the perpetrator and less on supporting the victim or complainant. Most institutions do not have clear procedures on how the victim or complainant will be supported to allow a fast-tracked process in case handling and eventually their healing and assimilation back into the workplace. Clear dispute resolutions and victim support procedures will allow and encourage more reporting of cases of violence and harassment.

An effective response to reports and incidences of workplace violence and harassment is key to preventing and eliminating them. It will also give the message to workers that workplace violence and harassment is taken seriously and that consistent and appropriate action will be taken. This will help to institutionalize a peaceful workplace culture. National legal requirements and other policy imperatives often dictate workplace level regulations and procedures regarding the prevention and management of violence and harassment at the workplace. In many organisations, reported incidences follow stipulated grievance and disciplinary procedures for investigations, case hearing and sanctioning. However, the existing procedures need to be updated, in order to incorporate emerging issues and phenomenon.

Policy Statement 1: The policy ensure that a complainant or victim of violence and harassment is provided with all the necessary support, including legal, social, medical and administrative support.

Strategies:



and employers in identifying the potential hazards and assessing the associated risks. Therefore, workers have a critical role to play in helping to identify workplace hazards, because of their knowledge and familiarity with facility operations, process activities and potential threats. Hazard identification, in this case, should address all existing occupational hazards and risks, including psychosocial factors and the hazards and risks associated with violence and harassment. There is need for increased communication between employers and workers to identify existing and potential risks and hazards.

Policy Statement 1: This policy will ensure that organizations develop and implement risk and hazards reduction mechanisms in consultation with workers.

Strategies:

- i) Institutionalize a risk management cycle to normalize the combat of workplace violence as an ongoing process within organisations
- ii) 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
- iii) Implement routine assessment of the incidences of workplace violence and the factors that support or generate workplace violence and harassment
- iv) Provide information, in accessible formats as appropriate, on the risks involved in specific situations and provide effective communication channels to workers at special risk, with clear measures for prevention, protection and responding to incidences of violence and harassment
- v) Employers, in consultation with workers and their representatives, should institute measures to ensure that the additional risks attached to working on high-risk tasks, in particular circumstances, or at specific times of the day or night, are mitigated by appropriate preventive interventions
- vi) Proactively promote awareness of the risks and the destructive impact of workplace violence and harassment

7.4 Policy Priority Area 4: Development of Policies, Standards and Guidelines on Violence and Harassment

All organisations are bound to benefit from having policies on violence and harassment at work that are easily accessible. An organisational policy that is developed in consultation with workers and their representatives or OSH committee, can help to set out how the entity will prevent and respond to violence and harassment, and set expectations about conduct and behaviours in the workplace. Organisational policies establish a process for raising concerns and addressing unacceptable behaviour, even if that behaviour does not violate the law. The organisation should also commit to investigating allegations, and consequently give confidence and trust to the victims to speak up. To ensure effective implementation of the policies, endorsement by management and approval by the boards are critical.

Many organisations already have or have recently developed policies that either directly or indirectly cover violence and harassment, by focusing on issues of gender equality and gender-based violence; sexual abuse and exploitation. Some of these policies have been integrated into other existing or emerging organisational policies,

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- i) Ensure that employers, workers and their representatives, collaborate to develop grievance and disciplinary procedures that deal with complaints of workplace violence and harassment that include fair and equitable processes for the investigation and resolution of complaints
 - ii) Establish and provide appropriate packages of short, medium and long-term assistance (e.g. medical care and treatment, psychological support such as counselling services) to all those affected by workplace violence and harassment, including legal aid, as required
 - iii) Ensure that the employer, in collaboration with workers and their representatives, provide support to workers affected by workplace violence, during the entire period and allow all necessary time to recover, within reason
 - iv) Facilitate necessary referrals and administrative support to link the victim or complainant to appropriate services, including the police, court and health facilities
 - v) Whenever possible and convenient, encourage employees to return to work, while avoiding too much pressure at first, and special working arrangements made, when necessary, to facilitate reintegration
 - vi) Ensure that applicable and appropriate sanctions are administered to perpetrators of violence and harassment, in accordance with national legal provisions and other applicable organizational disciplinary and code of conduct provisions

8. IMPLEMENTATION ARRANGEMENTS

8.1 Institutional Arrangements

The diverse nature of the industries involved in employment and labour related processes, coupled with the complexity of effectively addressing violence and harassment, including sexual harassment in the workplace, calls for involvement of multiple stakeholders along the cascade. The strategic stakeholders in the implementation process therefore include: the Ministries of Labour; Gender, Trade and Industry; constitutional watchdogs such as the Malawi Human Rights Commission and Ombudsman; Workers' unions; Employers from various organisations; Development Partners; and, CSOs. Their respective roles are outlined below:

Ministry of Labour: Provides the overall policy guidance, technical assistance and also responsible for monitoring implementation, evaluation and review of the policy.

Ministry of Gender: Provides overall policy guidance on gender equality and gender-based violence issues, which have a direct bearing on violence and harassment, including sexual harassment in the workplace.

Ministry of Trade: Provides overall policy guidance on all trade and industry investments, which in turn creates jobs and employment for the labour force in the country. It will therefore ensure that prevention and management of violence and harassment, including sexual harassment, are mainstreamed into all trade and industry investment agreements.

Malawi Human Rights Commission: Is a constitutional body mandated to protect and promote human rights and independently investigate cases of violation of the same, as well as monitor adherence and trends in implementation of human rights related agreements, treaties and conventions. It will continue to monitor the human rights aspects of prevention and management of violence and harassment in the workplace, including sexual harassment.

The Ombudsman: Is a constitutional body mandated to receive and investigate complaints of alleged malad-



ministration, by public institutions, which include employment and labour related issues, such as violence and harassment in the workplace, including sexual harassment.

Trade Unions: Responsible for negotiating for, and monitoring implementation of better and fair working conditions, which includes prevention and management of violence and harassment in the workplace, including sexual harassment.

Employers: They have the primary responsibility for providing a safe and healthy working environment, including a workplace free from violence and harassment, including sexual harassment. Employers will therefore take appropriate steps and measures to mitigate the risks and prevent violence and harassment at work for the persons, places, situations and circumstances within their control.

Development Partners: Will continue to provide technical assistance and complement government efforts in resource mobilization, to facilitate comprehensive and effective design, as well as implementation of programmes that address violence and harassment, including sexual harassment.

Civil Society Organisations: They will continue to lobby for laws, policies and strategies that facilitate creation of an enabling environment for implementation of programmes that address issues of violence and harassment, including sexual harassment in the workplace. They will also keep institutions accountable for national and global commitments made by the government, concerning the ratification and implementation of C190, and this model policy.

8.2 Implementation Plan

This model policy will be adapted to organizational contexts, for development of organization specific policies, with specific interventions, milestones, detailed responsibilities and specified timelines. It therefore does not outline an implementation plan, other than providing a roadmap for operationalization of the model policy itself. This roadmap is appended as Annex 9.1.

8.3 Monitoring and Evaluation

Monitoring of the violence and harassment policies is extremely important, in order to assess effectiveness in preventing and eliminating violence and harassment in the workplace. Supervisors, managers and those responsible for dealing violence and harassment cases will be obliged to routinely report on compliance with the policies, including the number of incidents, how they were dealt with, and any recommendations made.

This will ensure that organisations continue to strengthen their ability to prevent workplace violence and harassment and its consequences. It will therefore be very essential to maintain good record keeping on reported cases of violence and harassment, as well as other records, such as absenteeism and information from exit interviews.

The Ministry of Labour will champion institutionalization of a national monitoring and evaluation system on violence and harassment. Implementing organisations will be expected to align their reporting to the prescribed system, tools, processes and frequency. This will leverage on the Labour Market Management Information System, in order to ensure harmonization and alignment with national systems. In addition, this will facilitate reporting at national and global level, as required by the C190.

Workplace surveys, assessing violence and harassment and psychosocial risks will be conducted on a regular



basis, in order to provide useful indicators about the effectiveness of the measures implemented. Periodic evaluations will therefore help organizations identify new or previously unnoticed risk factors, as well as deficiencies or failures in the risk prevention management programmes. They will also demonstrate the effectiveness of the trainings and all capacity building efforts by the organisations for their managers, supervisors and workers. These evaluations will also help improve compliance with stipulated workplace violence and harassment regulations.

8.4 Policy Review

The Model Policy will have continuous periodic evaluations, as and when agreed by key stakeholders. The evaluations will serve the purpose of assessing progress towards achievement of the seven outcomes outlined under section 7 above, as well as the overall impact of the interventions, aimed at preventing and eliminating violence and harassment in the workplace. The reviews will be coordinated by the Ministry of Labour, in collaboration with ECAM and ILO. Specific implementing organisational policies will be jointly reviewed by employers and workers' representatives and, where necessary, updated, at least once every 3 years. Any major changes to key elements of the policies will also trigger reviews, in order to keep in synch with the evolving operating environment.

9.

10. ANNEXES

10.1 Roadmap for Operationalisation of the Model Policy

Activity	Expected Output	Responsible Agent	Timeline
1. Launch the Model Workplace Policy	Policy launched	MoL and ECAM	January 2024
2. Conduct targeted dissemination of the Model Workplace Policy	Dissemination conducted	MoL and ECAM	January to March 2024
3. Provide technical assistance to organisations, as necessary, for adaptation of the Model Policy	Technical Assistance provided	MoL, ECAM and Implementing Organisations	From March 2024 and on-going
4. Develop a Violence and Harassment monitoring and evaluation module for incorporation into the Labour Market Information Management System	M&E module developed and incorporated	MoL and ECAM	April to July 2024
5. Build capacity of organisations for monitoring and reporting on violence and harassment	Capacity developed	MoL and ECAM	From July 2024 and ongoing
6. Conduct periodic evaluations of the Model Workplace Policy	Periodic evaluations conducted	MoL and ECAM	TBD ⁹

9 To be determined

10.2 Examples of Violence and Harassment¹⁰

a) Harassment

Harassment can include, but is not limited to any of the following acts or attempted acts:

- spreading rumours or gossip about an individual or group
- cyber bullying (threatening, spreading rumours or talking negatively about an individual online)
- threats made over the phone, by email, or through other medium to an employee, including from an (ex)partner or family member
- making offensive jokes or remarks
- playing unwanted practical jokes
- socially excluding or isolating someone
- stalking or inappropriately following a person
- tampering with someone's work equipment or personal belongings
- vandalizing or hiding personal belongings or work equipment
- impeding a person's work in any deliberate way
- persistently criticizing, undermining, belittling, demeaning or ridiculing a person
- intruding on a person's privacy
- public ridicule or discipline
- unwelcomed physical contact
- sexual innuendo or insinuation
- unwanted and inappropriate invitations or requests, including of a sexual nature
- displaying offensive posters, cartoons, images or other visuals
- making aggressive, threatening or rude gestures
- misusing authority, including:
 - constantly changing work guidelines
 - restricting information
 - setting impossible deadlines that lead to failure, and/or
 - blocking applications for leave, training or promoting in an arbitrary manner

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- engaging in any of the actions, conduct and comments outlined above against a person because of that person's:
 - race
 - national or ethnic origin
 - colour
 - religion
 - age
 - sex
 - sexual orientation
 - gender identity or expression
 - marital status
 - family status
 - genetic characteristics
 - disability, or
 - any of the other prohibited grounds that the *Canadian Human Rights Act* lists

Harassment is not any of the following:

- consensual workplace banter and interactions (unless it includes hurtful remarks about others, especially if they pertain to any of the prohibited grounds listed above)
- reasonable management action carried out in a fair way, such as day-to-day actions by a supervisor or manager related to:
 - performance
 - absenteeism
 - assignments
 - discipline, and
 - even dismissal (unless it is abusive or discriminatory)
- every workplace disagreement; if a conflict is poorly handled or left unresolved, it can lead to harassment

b) Violence



Violence can include, but is not limited to the following acts or attempted acts:

- verbal threats or intimidation
- verbal abuse, including swearing or shouting offensively at a person
- contact of a sexual nature
- kicking, punching, scratching, biting, squeezing, pinching, battering, hitting or wounding a person in any way
- attack with any type of weapon
- spitting at a person



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