



Government of Malawi

NATIONAL CODE OF CONDUCT ON VIOLENCE AND HARASSMENT IN THE WORLD OF WORK

(Adopted on 27th June, 2024 at Chikho Hotel, Mponela)

Ministry of Labour

Private Bag 344

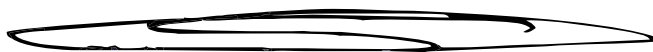
LILONGWE 3

Tel. (265) 773 277

Email: labour@labour.gov.mw

STATEMENT BY THE MINISTRY OF LABOUR

This Code of Conduct demonstrates Government's commitment and determination towards the elimination of violence and harassment in the world of work in line with ILO Convention No. 190 and its accompanying Recommendation number 206. Violence and harassment is contrary to the right to human dignity. As such, it deserves to be eliminated as a matter of urgency. The Code provides guidance on response measures for the world of work and covers all aspects of violence and harassment, namely: Protection and prevention; Reporting; Response and redress; Enforcement and remedies; and Guidance, training and awareness raising. It further elaborates the roles of the key players, including Government, employers and workers. Being a non-binding tool, cooperation among stakeholders and actors is paramount and I wish to urge all stakeholders to work together in ending violence and harassment in Malawi's workplaces. For our part, the Ministry pledges to play its rightful role as the custodian of labour laws.



Chikondano Mussa
Secretary for Labour

STATEMENT BY THE EMPLOYERS' CONSULTATIVE ASSOCIATION OF MALAWI (ECAM)

This Code represents an important milestone for employers in efforts to eliminate violence and harassment in the world of work. Violence and harassment, besides being a serious violation of the human rights of the victim, impacts productivity and profitability and the image of business. The Code, together with our “Statement on zero tolerance against violence and harassment in the world of work” will propel employers to intensify interventions in this area. Our members will adapt the Code to their respective situations for maximum impact and establish or strengthen relevant workplace committees. We look up to Government to provide strategic policy direction and guidance as and when needed.



George A.K. Khaki
Executive Director

STATEMENT BY THE MALAWI CONGRESS OF TRADE UNIONS (MCTU)

Violence and harassment remain one of the most serious challenges facing the world of work today and trade unions will not rest until all workplaces are free of this vice. Key strategies to be employed by the unions include the intensification of training programmes and awareness raising campaigns in an inclusive manner and ensuring that collective bargaining process cover violence and harassment. This will empower employees so that they become active participants in defending their rights against violence and harassment. The Ministry of Labour is called upon to strengthen integrated labour inspections as an integral part of law enforcement tool and to serve as a platform for tripartite engagement to end workplace violence and harassment. Employers are reminded about their duty of ensuring a healthy and safe work environment, including against violence and harassment, in line with the decent work aspirations and social justice.



Madalitso Njolomole
Secretary General

1.0 INTRODUCTION

The National Code of Conduct on Violence and Harassment in the World of Work (the Code) has been developed to help in preventing and addressing violence and harassment in Malawi's workplaces. It is a product of stakeholder consensus, following extensive and thorough consultations led by the social partners. The development of this Code has been informed largely by the Violence and Harassment Convention, No. 190 (C190) and its accompanying Recommendation No. 206 adopted during the Centenary Conference of International Labour Organisation (ILO) held in June 2019. The convention sets out a clear and common framework to prevent and address violence and harassment based on a rights-based, inclusive, integrated and gender-responsive approach. The approach is holistic. Furthermore, C190 has a broad scope, extending beyond the physical workplace to cover the world of work. It also goes beyond gender considerations by covering both male to male and female to female violence and harassment.

2.0 GOAL

The goal of this Code is to eliminate violence and harassment in the world of work, by applying an inclusive, integrated and gender responsive approach.

3.0 OBJECTIVES

The overall objective of the Code is to guide workplaces on how to better protect employees and other people concerned and to empower employees to be active participants against violence and harassment.

The specific objectives are:

3.1 To increase the understanding of prevention and response measures on violence and harassment among employers and employees

3.2 To serve as a source of information for developing training and awareness raising material on violence and harassment in the world of work.

3.3 To guide employers and workers in the formulation of workplace codes of conduct and policies on violence and harassment.

4.0 SCOPE AND APPLICATION OF THE CODE BY WORKPLACES

This Code applies to all sectors, whether private or public, both in the formal and informal economy, and whether in urban or rural areas. It aims to protect workers and other persons in the world of work, including employees, as well as persons working irrespective of their contractual status, persons in training, including interns and apprentices, workers whose employment

has been terminated, volunteers, job seekers and job applicants, and individuals exercising the authority, duties or responsibilities of an employer.

The Code is voluntary and non-binding. Workplaces are expected to adapt it to their situation for maximum impact while at the same time, ensuring that there is no compromise on principles governing the elimination of violence and harassment elaborated in C190.

5.0 DEFINITION OF TERMS

Employee	Has the meaning ascribed to it in the Employment Act, Cap 55:01 (as amended)
Employer	Has the meaning ascribed to it in the Employment Act, Cap 55:01 (as amended)
Gender based violence and harassment	Means violence and harassment directed at persons because of their sex or gender or affecting a particular sex or gender disproportionately, and includes sexual harassment
Grievance Redress Mechanisms (GRM)	A procedure for addressing complaints – it provides steps for handling and resolving complaints

Violence and Harassment	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. Examples include: <i>(i) A manager demanding sexual favours from an employee in exchange for a promotion</i> <i>(ii) Making derogatory jokes about another employee</i> <i>(iii) Making unwelcome comments about another employee's religion or religious garments</i>
Workplace	Refers to premises made available to a person as a place of work
World of Work	This goes beyond the immediate physical workplace to cover situations arising in the course of, linked with or arising out of work in a workplace. Examples include:

	a) public and private spaces where they are places of work; b) places where the worker is paid, takes a rest break or meal, or uses sanitary, washing and changing facilities; c) work-related trips, travel, training or social events d) work-related communications, including those enabled by information and communication technologies e) employer-provided accommodation; and commuting to and from work
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6.0 GUIDING PRINCIPLES

The guiding principles of this Code are as follows:

Guiding Principle	
Inclusiveness	Covering all persons who may be found at a work in all sectors of the economy, both formal and informal
Timeliness	Timely response to cases of violence and harassment

Dignity	Promote the dignity of the victims/survivors of violence and harassment
Equality of treatment	Non-prejudicial and non-discriminatory when addressing or responding to cases of violence and harassment
Transformative	Ensuring that actions on violence and harassment in the world of work have a positive and more lasting impact
Gender responsive	Taking into account the gender dimension when addressing or responding to violence and harassment
Confidentiality	Ensuring that issues on violence and harassment are handled with the strictest confidence, including keeping the victim/survivor and suspected perpetrator anonymous
Ethical	Adhering to principles and guidelines for dealing with violence and harassment
Professionalism	Having the competence and skill and demonstrating the same in the handling of violence and harassment

7.0 THEMATIC AREAS

C190 obliges Member States “to promote a general environment of zero tolerance to violence and harassment in order to facilitate the prevention of such behaviours and practices, and that all actors in the world of work must refrain from, prevent and address violence and harassment” (ILO’s Violence and Harassment Convention, 2019 (No. 190)). In light of this responsibility, the implementation of the Code has been organized around the following 5 thematic areas:

- 1) Protection and Prevention
- 2) Reporting
- 3) Response and Redress
- 4) Enforcement and Remedies
- 5) Guidance, training and awareness raising

7.1 Protection and prevention

To provide protection and prevent violence and harassment in the world of work, the following are the standards to be adhered to, amongst others:

7.1.1 Recruitment	7.1.1.1. Workplaces to advertise vacancies and work readiness programmes through means that are widely accessible to the public such as
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	newspapers, radios, etc, and encourage women and vulnerable groups to apply as a measure aimed at addressing inequalities and discrimination in employment and occupation which has a direct effect on violence and harassment (C190, Article 6) 7.1.1.2 The advertisement in Paragraph 7.1.1.1 to state clearly that the policy of the enterprise is one of zero tolerance to violence and harassment 7.1.1.3. Enterprises to put in place clear, objective and transparent procedures and guidelines for identification of candidates, interviews and selection in order to give equal opportunity to all candidates. 7.1.1.4. Paragraph 7.1.1.3 shall also apply to internal recruitment
6.1.2 Promotion and grading	7.1.2.1. Workplaces to have clear and objective promotion guidelines and

	grading system that are well known and made available to the employees 7.1.2.2. Workplaces to put in place a training and promotion committee established in consultation with the employees 7.1.2.3. Workplaces to use competitive and generally accepted criteria for promotion
7.1.3 Employee Benefits	7.1.3.1. Workplaces to have clear and objective guidelines on employment benefits as guided by the Equal Remuneration Convention, number 100
7.1.4 Performance Management	7.1.4.1 Workplaces to adopt internationally accepted standards for performance appraisals 7.1.4.2 Workplaces to put in place a committee responsible for coordinating performance appraisals.
7.1.5 Safe and inclusive work arrangements	7.1.5.1 Workplaces to put in place appropriate protection measures for all persons in the case of work

	arrangements that present higher risks to violence and harassment e.g. night work or during social events 7.1.5.2 Workplaces to have disability friendly facilities, including providing training and awareness materials in accessible formats
	7.1.5.3 Employees to take part in the design, implementation and monitoring of the workplace policies, programmers and other activities addressing violence and harassment.

7.2 Reporting

The following need to be adhered to when reporting violence and harassment in the workplace.

7.2.1 Reporting and investigation	7.2.1.1. Workplaces to have clear and gender responsive mechanisms for reporting and investigating cases of violence and harassment which should be well known by employees. The mechanism should also provide for the
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	protection of those who report violence or harassment. 7.2.1.2. Workplaces to have anonymous reporting mechanisms to encourage reporting 7.2.1.3. Workplaces to designate officers to whom the reporting should be made 7.2.1.4 Workplaces to designate officers to carry out investigations. 7.2.1.5. Where possible, workplaces to employ well trained safeguarding personnel
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7.3 Response and Redress

The following should be adhered to with regard to response to violence and harassment and redress measures.

7.3.1 Response and Redress	7.3.1.1. Workplaces must have a gender responsive and effective Grievance Redress Mechanism (GRM) for handling cases of violence and harassment. 7.3.1.2. A GRM should be triggered immediately a case of violence and harassment is reported 7.3.1.3. Employer should provide a safe and conducive environment to victims of harassment or violence such as providing leave or flexible work arrangements 7.3.1.4 The Workplace should have a referral mechanism for cases, including referral to courts of law, indicating clearly the nature or type of cases to be referred to each institution concerned, e.g. Ministry of Labour, Ministry of Gender, Ministry of Health, Malawi Police, Malawi Human Rights Commission, etc. 7.3.1.5 Enterprises to submit annual reports to the ministry responsible for
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	labour on cases of violence and harassment, including the outcome/ conclusion of each case. 7.3.1.6 An enterprise to set up a committee comprising workers and management representatives to monitor violence and harassment and recommend to management measures and strategies for the elimination of the vice (the committee may be stand alone or may be part of an existing committee such as a safety committee provided for under the Occupational Safety, Health and Welfare Act.
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7.4 Enforcement and Remedies

The following are enforcement and remedies measures:

7.4.1 Enforcement and Remedies	7.4.1.1 Workplaces to develop workplace codes informed by this National Code and their risk assessment and incorporate them into the terms and conditions of employment to promote compliance.
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	The workplace code to stipulate dissuasive enough sanctions against perpetrators of violence and harassment 7.4.1.2 Workplaces to develop and implement a monitoring mechanism for cases of violence and harassment 7.4.1.3 Workplaces to keep and maintain a register of cases of violence and harassment to help in measuring progress and to inform interventions 7.4.1.4 Workplace to do risk assessments in consultation with workers to identify and regularly review areas and work arrangements that are prone to violence and harassment 7.4.1.5 Workplaces to cooperate with labour inspectors and trade unions on enforcement measures
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7.5 Guidance, training and awareness raising

The following are recommended on guidance, training and awareness raising:

7.5.1 Guidance, training and awareness raising	7.5.1.1 Government in consultation with the Social Partners to develop material for the provision of guidance, training and awareness programmes and build the capacity of both employers and workers 7.5.1.2 Workplaces to implement guidance, training and awareness programmes in close collaboration with the Ministry responsible for labour 7.5.1.3 Trade unions and employers' organisations to cover violence and harassment in all their programmes and activities including awareness/ training, membership recruitment, negotiations and collective bargaining 7.5.1.4 Government to organize joint training sessions of the social partners
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	to foster a common understanding of issues of violence and harassment 7.5.1.5 Workplaces to translate their workplace codes and other documents on violence and harassment into the languages understood by the employees 7.5.1.6 Workplaces to post anti violence and harassment messages on their notice boards and other strategic places in the workplace in the languages understood by the employees and clients
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8.0 ROLE OF GOVERNMENT, SOCIAL PARTNERS AND KEY STAKEHOLDERS

The roles of government, social partners, and other key stakeholders in addressing violence and harassment are outlined below:

Institution	Role
Ministry responsible for labour	• Provide leadership and coordination in the implementation of this code of conduct • Promote the mainstreaming of the elimination of violence and harassment • Ensure regular capacity building of social partners • Conduct labour inspections to enforce the law on violence and harassment • Ensure that relevant legislation addresses violence and harassment in the world of work
Ministry responsible for justice	• Facilitate the incorporation of provisions of the Code into the Employment Act

	• Prosecute perpetrators of violence and harassment under the relevant legislation
Ministry responsible for gender	• Raise awareness on the gender dimension of violence and harassment • Provide psycho-socio support services to victims/survivors • Provide shelter to victims/survivors, where necessary
Ministry responsible for health	• To treat victims of violence and harassment who have been physically abused
Ministry responsible for education	• Cover violence and harassment in the curriculum
Ministries responsible for information and civic education	• Carry out public awareness campaigns on the code, including tackling the root causes of violence and harassment
Malawi Police Service	• Education of the public to report cases of violence and harassment • Protection of both victims and suspected perpetrators of violence and harassment

	• Prosecution of suspected perpetrators
Malawi Human Rights Commission	• Use the Code as one of the tools for improving the implementation of the Gender Equality Act
Social Partners (ECAM and MCTU)	• Raise awareness and build the capacity of employees and employers to better respond to violence and harassment, including holding joint programmes
Employers	• Adopt workplace policies and codes of conduct on violence and harassment and implement them • Educate both employees and management on violence and harassment • Support workplace structures addressing violence and harassment and the staff involved • Take disciplinary action against perpetrators of violence and harassment in their workplace
Employees	• Adhere to the code

	• Report cases of violence and harassment occurring in the workplace for redress • Include violence and harassment on the agenda for negotiations and collective agreements • Take an active interest in learning about issues of violence and harassment in the workplace
Members of Parliament	• Refer victims of violence and harassment occurring in their respective constituencies to appropriate institutions • Support the passing and strengthening of legislation on violence and harassment • Participate in awareness raising on violence and harassment in their constituencies
NGOs and CSOs	• Raise awareness and support capacity building of stakeholders • Provide support to victims/survivors

Development and cooperating partners	• Provide technical and financial support to stakeholders and actors
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Note: Enterprises that are not able to implement any one of the provisions of this Code of Conduct owing to their small size should present those challenges to their nearest Labour Office for assistance.