

International Labour Conference, 108th Session, 2019

Report V(2A)

Ending violence and harassment in the world of work

Fifth item on the agenda

Addendum: Additional replies received

International Labour Office, Geneva

INTRODUCTION

In accordance with article 39(6) of the Standing Orders of the Conference, the Office prepared Report V(1),¹ which was communicated to governments, so as to reach them no later than two months from the closing of the 107th Session of the Conference. Pursuant to article 39(6) of the Standing Orders, governments were invited to send, after consulting the most representative organizations of employers and workers, their suggested amendments or comments.

Report V(2A)² contains the suggested amendments and comments from ILO constituents, and Report V(2B)³ contains the English and French versions of the proposed texts of the Convention and Recommendation. At the time the report was prepared, the Office had received replies from a number of governments, including the Netherlands and Namibia. However, due to technical reasons, these two replies were not included in the report at the time of publication. This addendum includes the submissions of the two governments, and complements Report V(2A).

In view of the restrictions on the length of Conference reports, and following the standard practice used in Report V(2A), the replies have not been reproduced in full, and the Office has, to the best of its ability, summarized the central ideas. These replies have been reflected in light of the structure of Report V(2A); therefore, provision numbers in bold correspond to Report V(1), and provision numbers in parenthesis correspond to the current numbering in Report V(2B).

The Office also received, after the preparation of the report, replies from further governments, which have not been included due to their late arrival.⁴

¹ ILO: *Ending violence and harassment in the world of work*, Report V(1), International Labour Conference, 108th Session, Geneva, 2019 (published in 2018).

² ILO: *Ending violence and harassment in the world of work*, Report V(2A), International Labour Conference, 108th Session, Geneva, 2019.

³ ILO: *Ending violence and harassment in the world of work*, Report V(2B), International Labour Conference, 108th Session, Geneva, 2019.

⁴ Australia, Côte d'Ivoire, Czech Republic, Greece, Guinea, India, Ireland, Japan, Kenya, Portugal, Republic of Korea, Saudi Arabia, Serbia, Slovenia, Singapore, Turkey and Zimbabwe.

REPLIES RECEIVED AND COMMENTS

I. GENERAL OBSERVATIONS

Namibia: The proposed texts provide a satisfactory basis for the second Conference discussion. Supports the adoption of a Convention supplemented by a Recommendation, based on the underlying principles that the dignity of all workers must be respected, and protection of a universal character afforded.

Netherlands: Prefers a stand-alone Recommendation; supports a Convention supplemented by a Recommendation if it has broad tripartite support and is not overly prescriptive.

II. OBSERVATIONS ON THE PROPOSED CONVENTION CONCERNING THE ELIMINATION OF VIOLENCE AND HARASSMENT IN THE WORLD OF WORK

Preambular paragraph 6

Namibia: Recognize that violence and harassment in the world of work “constitutes a violation of universal human rights”.

Netherlands: Office proposal is acceptable, but an alternative could be to indicate that violence and harassment are an impediment to the enjoyment of human rights.

Preambular paragraph 12

Netherlands: Delete “national”.

Article 1(a)

(Article 1(1)(a))

Netherlands: Prefers separate definitions. Flexibility to define the terms separately should be matched in the operational part of the Convention. The proposed list of behaviours could be included in informal guidance documents.

Article 1(c)

(Article 2)

Netherlands: Replace “the term ‘worker covers’” with “This Convention covers”.

New possible Article after Article 4

(Article 5(3))

Namibia: Office proposal is supported.

Netherlands: Subparagraph (a) does not provide legal certainty and seems more appropriate for the preamble. Use the language “shall seek to promote” in subparagraph (b) to respect social partners’ independence.

Article 6

(Article 7)

Namibia: Supports the term “groups in situations of vulnerability” or “persons in situations of vulnerability”, but not “vulnerable groups”.

Netherlands: Include both “vulnerable groups” and “groups in situations of vulnerability”.

Article 7

(Article 8)

Netherlands: Reformulate to read “prohibit and address violence and harassment”, or “pursue a national policy designed to ensure the effective abolition of violence and harassment”.

Article 9(a)

(Article 10(a))

Namibia: Using “workplace policy” may inadvertently imply that the policy covers only behaviour occurring at the physical premises of an employer, while the policy should have broader coverage.

Netherlands: “Workplace policy” is supported.

Article 9(c)

(Article 10(c))

Netherlands: Participation of workers and their representatives should be encouraged but not be a *conditio sine qua non* when employers undertake action to identify hazards and assess risks.

Article 9(d)

(Article 10(d))

Namibia: Using “workers concerned” may not adequately convey the intention that the employer’s duty to provide information and training does not extend to all persons referred to in Article 1(c).

Netherlands: Delete “concerned” or, alternatively, delete the reference to workers.

Article 10 (chapeau)

(Article 11 (chapeau))

Netherlands: Supports “appropriate measures”.

Article 10(a)

(Article 11(a))

Namibia: Delete “national”.

Article 10(b) (chapeau)

(Article 11(b) (chapeau))

Netherlands: Replace “easy access” with “effective access”; delete “effective” before “remedies”.

Article 10(e)

(Article 11(e))

Netherlands: Shorten subparagraph (e) by referring to effective access to appropriate remedies.

Article 10(f)

(Article 11(f))

Namibia: Supports the text.

Article 10(h)

(Article 11(h))

Netherlands: Refer to “labour inspectorates and other competent bodies” for consistency.

Article 12

(Article 13)

Namibia: Reformulate to read “... by means of national and local laws ...”.

III. OBSERVATIONS ON THE PROPOSED RECOMMENDATION CONCERNING
THE ELIMINATION OF VIOLENCE AND HARASSMENT
IN THE WORLD OF WORK

Paragraph 5

(Paragraph 10)

Netherlands: Office change is supported.

Paragraph 10

(Paragraph 9)

Namibia: Strongly supports the text.

Paragraph 11

Netherlands: Refer to “resources and/or assistance”.

Paragraph 12 (chapeau)

(Paragraph 12)

Namibia: A list is not supported. Selective listing could undermine the principle of universality and impede ratification. Reformulate to read “..., of women or other persons in situations of vulnerability”.

Netherlands: Include both objectives: ensuring that women and vulnerable groups or groups in situations of vulnerability are covered by equality and non-discrimination law and measures; and ensuring that measures preventing violence and harassment do not result in their restriction or exclusion from the labour market.

Paragraph 12(i)

(Paragraph 13(i))

Netherlands: Persons vulnerable due to their sexual orientation and gender identity should be mentioned.

Paragraph 13(d)

(Paragraph 14(d))

Netherlands: Insert “compensation for” at the beginning.

Paragraph 15(c)

(Paragraph 16(c))

Netherlands: Insert “provision of”.

Paragraph 17 (chapeau)

(Paragraph 18 (chapeau))

Netherlands: Replace “should include” with “could include one or more of the following”.

Paragraph 20

(Paragraph 21)

Netherlands: It is understood that the mandate can be flexibly defined.

Paragraph 22(b)

(Paragraph 23(b))

Netherlands: It is understood that the mandate can be flexibly defined.

Paragraph 22(f)

(Paragraph 23(f))

Netherlands: Delete.