

ILO CONVENTION 190 AND RECOMMENDATION 206

Policy Brief

December 2021



Coinciding with the 100 year anniversary of the founding of the International Labour Organization (ILO), and as a **result of a decade of mobilising** and organising of labour unions, women's rights organisations, civil society and activists, a **landmark convention** and its accompanying Recommendation 206 (R206) that addresses work related violence and harassment was adopted in June 2019. The ILO Convention 190 (C190) came into force two years later in June 2021. It currently has **nine ratifications**¹, three of which are African Member States, namely: Mauritius, Namibia, and Somalia, signifying their commitment to the provisions of the Convention as well as to be held accountable for their implementation.

Following its preamble, Convention 190 defines key terms; identifies the scope; lays out its core principles; addresses issues related to protection and prevention; enforcement and remedies; guidance, training and awareness-raising; proceeds to lay out the method of application; and concludes with final provisions. The proposals emerging from the Convention are further elaborated in Recommendation 206, providing a pathway to the realisation of the Convention's progressive provisions.

This policy brief is part of the efforts under the Advancing Women's Engagement: Strengthening Opportunities to Mobilise for Equality programme (AWESOME)² funded by the Dutch Ministry of Foreign Affairs. AWESOME aims to strengthen the diverse women's movement in Ethiopia, Kenya and Uganda, and is focused on creating a strong policy environment that supports women leadership and the elimination of violence against women and girls. One of the key interventions under AWESOME is to support and advocate for the ratification, domestication, and implementation of C190 in the three focus countries.

This policy brief outlines the major provisions of ILO Convention 190 and its attendant Recommendation to give a broad overview of what the Convention entails. The policy brief includes a case study of Namibia, the first African country to have ratified the Convention, and the third globally, to provide an example for Member States to take lessons from and adapt accordingly. AWESOME partners in the three countries stand ready to support government counterparts and implementing entities to take the necessary steps to ratify the Convention, but more importantly, to domesticate and implement the provisions for a safer world of work for their people.

1. The nine countries which have ratified are: Argentina, Ecuador, Fiji, Greece, Italy, Mauritius, Namibia, Somalia, and Uruguay. This is as of November 4, 2021 according to: https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:3999810. C190 comes into force in a state party one year from the date of ratification. It is now in force in Fiji and Uruguay and will be in force in Namibia as of December 9, 2021.

2. AWESOME is led by Womankind Worldwide in partnership with the Ethiopian Women with Disabilities National Association and Siqqee Women's Development Association in Ethiopia, the Federation of Women Lawyers (Kenya) and Women Challenged to Challenge in Kenya, and the Forum for Women in Democracy and National Union of Women with Disabilities in Uganda.

PROGRESSIVE PROVISIONS

C190 and R206 build on a range of existing human and women's rights treaties, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) as well as ILO Convention 189 that calls for decent work for domestic workers. The 1998 ILO Declaration on Fundamental Principles and Rights commits all ILO Member States to respect, promote and realise the core principles and rights in the work place, whether or not they have ratified the specific conventions.³ C190 and R206 recognise, for the first time in international law, the **right of all to work free from violence and harassment**, and set an obligation on parties to uphold this right. The Convention and its accompanying Recommendation contain **progressive provisions** that define work broadly, reaffirm the right to dignified work, freedom from violence, fear and coercion in all areas related to work, including in seeking employment, on the way to and from work, on work trips, during work hours as well as during breaks. C190 and R206 are the first international labour standards to **provide a framework for preventing, addressing and eliminating violence and harassment in the world of work**. They cover both the public and private sphere, the informal and formal sector, and urban and rural areas.

QUICK FACTS

Known as	Violence and Harassment Convention (C190)
Complemented by	Recommendation 206 (the how to)
Adopted	21 June 2019
Entered into Force	25 June 2021
Ratifications	Nine (of which 3 are African)

C190 and R206 are **gender-responsive and inclusive**. The Convention addresses **gender-based violence** and **sexual harassment** and pays attention to violence and harassment levelled at people with disabilities. It recognises the **disproportionate impact** of violence and harassment on women and girls, and in particular on **women with disabilities**, among other categories of marginalised groups. To remove doubt or ambiguity, the Convention **comprehensively defines** what constitutes violence and harassment, using a broad definition that includes threats that not only result in, but also aim to or could possibly lead to physical, psychological, sexual and economic harm.⁴ It recognises the effects of **domestic violence** on the world of work and call for measures to mitigate its impact. The Convention further calls for **gender-responsive dispute resolution** mechanisms that take into account the specific experiences and needs of women and girls. It reiterates the principle of **equality and non-discrimination**, further asserting not only the right to work but also rights at work. Furthermore, C190 insists that measures must address multiple and intersecting forms of discrimination, unequal gender-based power relations, gender stereotypes, and gender, social and cultural norms that support violence and harassment.

3. These include freedom of association and right to collective bargaining, elimination of forced and compulsory labor, abolition of child labor, elimination of discrimination in employment and occupation.

Cognisant of the multi-faceted nature of preventing, remedying and elimination work-related violence and harassment, C190 and R206 reiterate the need for a **multi-sectoral approach**. Recommendation 206 provides possible ways of enforcing the Convention and proposes solutions for when violence and harassment occur, including protection of victims and/or survivors and whistle-blowers.

THE CASE OF NAMIBIA

“The adoption of C190 has introduced an important framework within which Namibia can address deep-seated social problems...our country has been grappling with sexual and gender-based violence and harassment. The legacy of apartheid in the form of racist violence and harassment is unfortunately still alive, particularly in the world of work, and bullying and various forms of behaviours that inflict physical, emotional, and/or economic harm persist.”
HE Ambassador Penda Naanda⁵

Namibia was the first African Member State, and the third globally to ratify C190. The following steps that Namibia took in the lead up to ratification, and the steps it has taken since, all within the context of COVID can serve as an example and a model to borrow from for other Member States⁶:

-  Namibia’s approach to ratification was **systematic and inclusive**, they began to implement the convention as soon as they ratified it – this element ensured initial success
-  **Political will** – from the beginning of the ILO debate, the Minister of Labour and Employment Creation **appraised** Cabinet of the importance of the proposed new international labour standards. This was at a time when government was attempting to respond to public outcry against increasing GBV
-  Ministry of Planning put together a committed managerial level violence harassment **working group** – the role of each component of the Ministry in implementing the Convention was outlined and a **roadmap** was prepared
-  **Research** – with the assistance of the ILO, an initial study was conducted in 3 industries, and designed and validated by a tripartite group. The study found that 72% of women and a similarly high number of men agreed that sexual harassment was a reality for most women in Namibia

4. The Convention defines violence and harassment as: “a range of unacceptable behaviors and practices, or threats thereof, whether a single occurrence or one that is repeated that aim to, result in or are likely to result in physical, psychological, sexual or economic harm and includes gender based violence and harassment.”
5. Namibia’s Ambassador to the UN’s words as he deposited the instrument of ratification of C190 to the ILO
6. As shared by Namibia’s Deputy Minister of Labor and Employment Creation, Hafeni Ndemula during the Generation Equality Forum that took place in Paris from June 30-July 2, 2021.

- ▲ Met with representatives of employee organisations and trade unions to **assess the extent** to which Namibian laws and practice were in **compliance** with Convention 190 and Recommendation 206. It was concluded that it would take many years to achieve full compliance, but agreed that early ratification of the Convention should be undertaken due to the importance of implementing new standards
- ▲ Ministry **mobilised support** for ratification through a high-level briefing on the Convention, which was attended by 200 members – including representatives of government ministries, state owned enterprises, social partners and CSOs
- ▲ **Law Reform** – the ministry's proposal to incorporate a fundamental right to freedom from violence and harassment, obligations of the ILO Convention, into the Labour Act of 2007 was accepted
- ▲ **Compliance, formalities of ratification, explanatory memoranda** covering provisions of the Convention, stakeholder support, planned law reform were submitted to the Labour Advisory Council, the Attorney General, the Cabinet, and the National Assembly
- ▲ **Public awareness** raising – ongoing media coverage on the steps taken in the lead up to ratification and post ratification – contributed to growing public awareness to eradicate violence and harassment
- ▲ Ambitious plans to implement the provisions of the Convention are based on **short, medium and long-term strategies**, coordinated by multi-sectoral mechanisms, anchored in existing institutions
- ▲ The first phase consists of **changing hearts, training** master trainers across sectors, **high level coaching**, and innovative use of media to share experiences with other governments, social partners and other interested partners

RECOMMENDATIONS FOR ETHIOPIA, KENYA AND UGANDA

As the focus countries for the AWESOME program are Ethiopia, Kenya and Uganda, the following are recommendations for these three Member States:

- 1 Urgently ratify, domesticate and implement C190 and adopt R206
- 2 Make greater investments in quality, up-to-date, disaggregated (by age, gender, disability, socio-economic status) data that is both quantitative and qualitative and reflects the experiences of women who are often excluded, including those with disabilities to better tailor and inform policy and programmatic interventions

- 3** Identify the gaps within existing judicial systems, laws, policies, measures and practices and seek to amend and/or reform them to be in compliance with C190 and R206, and proceed to enforce them
- 4** Establish and strengthen safeguarding policies and practices, as well as enforcement and monitoring mechanisms. Workers, particularly those most marginalised – including women with disabilities, should meaningfully participate in these processes
- 5** Meaningfully engage and collaborate with disability and women's rights organisations, labour unions and movements as well as with civil society actors and activists to draw on their expertise in addressing violence and harassment
- 6** Mobilise maximum available resources and allocate adequate resources required for implementation, including by instituting progressive taxation, through gender-responsive budgeting and curbing illicit financial flows
- 7** Carry out popularisation to raise awareness of the provisions of C190 and R206 amongst the public, as well as sensitisation and capacity building for implementing entities and relevant government counterparts
- 8** Inculcate a culture of zero tolerance for violence and harassment through shifting and transforming socio-cultural and gender norms
- 9** Ensure accessibility for people with disabilities, including disability-friendly infrastructure and an enabling environment that facilitates women with disabilities to seek and secure work, go to and from work, leave employment without repercussion, access information, trainings, tools and redress mechanisms
- 10** Pay particular attention to places of work such as industrial parks, factories, and ports, as well as the domestic sphere that are particularly prone to abuse and have disproportionately high levels of violence and harassment

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