

INTERNATIONAL LABOUR ORGANIZATION

C190 – VIOLENCE AND HARASSMENT CONVENTION 2019

1.0 Summary of the Convention

- 1.1 The Convention requires every State Party to respect, promote and realise the right of everyone to a world of work free from violence and harassment.
- 1.2 The Convention was adopted on 21 June 2019 and comes into force twelve months after the date on which the ratifications of two members have been registered with the ILO Director General.
- 1.3 Article 1 of the Convention defines the term “violence and harassment” in the world of work referring to a range of unacceptable behaviors 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. It also defines the term “gender-based violence and harassment” as violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment.
- 1.4 Article 2 of the Convention protects workers and other persons in the world of work, including employees as defined by national laws and practice, as well as persons working irrespective of their contractual status, persons in training, including interns and apprentices, workers whose employment has been terminated, volunteers, jobseekers and job applicants, and individuals exercising the authority, duties and responsibilities of an employer. Moreover, the Convention applies to all sectors, whether private or public, both in the formal and informal economy, and whether in urban or rural areas.
- 1.5 Article 3 of the Convention sets out the application of violence and harassment in the world of work occurring in the course of, linked with or arising out of work:
 - (a) in the work place, including public and private spaces where they are a place of work;
 - (b) in places where the worker is paid, takes a rest break or a meal, or uses sanitary, washing and changing facilities;
 - (c) during work related trips, travel, training, events or social activities;

- (d) through work related communications, including those enabled by information and communication technologies;
 - (e) in employer provided accommodation; and
 - (f) when commuting to and from work.
- 1.6 Article 4 to Article 6 of the Convention outline core principles of the Convention which *inter alia* include that States Parties must adopt, in accordance with national law and circumstances and in consultation with representative employers' and workers' organizations, an inclusive, integrated and gender-responsive approach for the prevention and elimination of violence and harassment in the world of work.
- 1.7 States Parties must also with a view to preventing and eliminating violence and harassment in the world of work, shall respect, promote and realize the fundamental principles and rights at work, namely freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour and the elimination of discrimination in respect of employment and occupation, as well as promote decent work.
- 1.8 Article 7 to Article 9 of the Convention outline obligations of States Parties with respect to protection and prevention of violence and sexual harassment at the work place.
- 1.9 Article 9 of the Convention states that each member shall adopt laws and regulations requiring employers to take appropriate steps commensurate with their degree of control to prevent violence and harassment in the world of work, including gender-based violence and harassment, and in particular, so far as is reasonably practicable, to:
- (a) adopt and implement, in consultation with workers and their representatives, a workplace policy on violence and harassment;
 - (b) take into account violence and harassment and associated psychological risks in the management of occupational safety and health;
 - (c) identify hazards and assess the risks of violence and harassment, with the participation of workers and their representatives, and take measures to prevent and control them; and
 - (d) provide to workers and other persons concerned information and training, in accessible formats as appropriate, on the identified hazards and risks of violence and harassment and the associated prevention and protection

measures, including on the rights and responsibilities of workers and other persons concerned in relation to the policy referred to in subparagraph (a) of this Article.

- 1.10 Article 10 of the Convention outline enforcement and remedial measures that must be adopted by States Parties to the Convention, that is to monitor and enforce national laws and regulations regarding violence and harassment at work and ensure easy access to appropriate and effective remedies and safe, fair and effective reporting and dispute resolution mechanisms and procedures in cases of violence and harassment at the workplace.
- 1.11 Articles 11 and 12 outline obligations with respect to training and awareness raising and application of the Convention.
- 1.12 Articles 13 to 20 outline administrative matters with regards to the ratification process and procedure under the Convention.

2.0 Requirements for Implementation

- 2.1 Given the salient provisions of the Fijian Constitution and the relevant national laws and policies, Fiji is in compliance with the minimum requirements of the Convention. Therefore there is no legal impediment to the ratification of the Convention.
- 2.2 Article 14 of the Convention states that the Convention shall come into force 12 months after the date on which the second State to ratify it registers their ratification with the Director-General. Currently no State has ratified this Convention.
- 2.3 With respect to procedural issues pertaining to the deposit of the instrument of ratification, these are outlined under Articles 13 to 20 of the Convention.

3.0 Impact of the Convention

- 3.1 Ratification of the Convention will strengthen Fiji's national laws and policies such as, the Employment Relations Act 2007, the National Sexual Harassment Policy, National Gender Policy and also complement the United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) which Fiji ratified in 1995.