

Committee Secretary
Joint Standing Committee on Treaties
PO Box 6021
Parliament House
Canberra ACT 2600

Re: *International Labour Organization Convention concerning the elimination of violence and harassment in the world of work (No. 190)* (Geneva, 21 June 2019)

Thank you for the opportunity make a submission in relation to the above matter. Attached to this correspondence, in the short time available to do so, I have set out some key benefits and opportunities associated with Australia ratifying and implementing this Convention and its accompanying Recommendation. My comments are drawn from my current doctoral research which is examining the potential of ‘new’ regulatory approaches, beyond the predominant anti-discrimination approach, to prevent gender-based violence in the world of work. In this research I examine, in detail, the provisions of the Convention and Recommendation and the concepts and principles which underpin their content. I was a member of the Worker’s Group for the *ILO Standard Setting Committee: violence and harassment in the world of work*, the body which negotiated the content of the Convention and its accompanying Recommendation. I was there in my capacity as a Technical Adviser to the Australian Worker’s Representative. My thoughts expressed in the attached document therefore also draw on this experience.

The Convention and its accompanying Recommendation have a lot to offer as a framework for new regulatory approaches to violence and harassment in the world of work. This is particularly so as Australia currently grapples with the current epidemic of gender-based violence and harassment, both in society and at work, that is well documented. The true benefit of these instruments is not in a slavish uptake of the text but in understanding the conceptual framework and principles that underpin those provisions. I have set out my views in relation to principles needed to underpin any policy and regulatory change designed to implement these standards in Australia. I hope that my brief summary (attached) is of assistance in your deliberations.

I would be happy to discuss this matter further with the Committee should there be a desire to do so.

Yours faithfully

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The benefits of an inclusive integrated and gender responsive approach to eliminating violence and harassment in the world of work: Insights on key beneficial features of ILO C190 – the Violence and Harassment Convention (and Recommendation 206).

1. The following summary of the key elements and benefits to Australia of ratification and implementation of ILO C190 (and R206) are drawn from doctoral research which reviews the potential of ‘new’ regulatory approaches, beyond the predominant anti-discrimination approach to the prevention of gender-based violence in the world of work.
2. My analysis draws on academic literature and reports that informed the development of the Convention; the text of the Convention and Recommendation; my own observations – as a technical advisor – for the Worker’s Group - during the development of the Convention, and interviews with ILO officials and members of the Worker’s Group.

The benefits of International Labour Standards

3. The Convention (ILO C190) and its accompanying Recommendation (R206) reflect the current global consensus with respect to frameworks for regulating violence and harassment (V&H) including gender-based violence and harassment (GBVH) at work.
4. This development is significant for several reasons but most particularly because it is the first international instrument to address violence and harassment in the world of work as its principal focus.
5. The Convention recognises the rights of everyone (regardless of employment status or the location of their work) to a world of work free from violence and harassment.
6. International Conventions of this nature have significant benefits. ILO Conventions have a normative force. They represent an international ‘naming’ of what are core basic labour standards. The existence of this normative standard is significant. They:
 - a. Raise community and political awareness of an issue
 - b. Provide guidance in terms of regulatory ‘asks’ for campaigns
 - c. Shape legislation and government, union, and employer action.
7. For these reasons the World Health Organisation considers ILO Conventions and others of this nature to be “*international public goods*” supporting health and economic development.
8. International labour standards have regulatory impact. By providing a framework for adaptation at the national state level (Vosko 2010, p. 13), they raise community and political awareness of an issue or issues which can result in attention and resources being devoted to addressing it as would be the case if Australia ratified the Convention.

The importance of ILO C190 for measures to prevent gender-based violence and harassment in the world of work.

9. The adoption of the Convention and Recommendation followed over a decade of feminist action within the global union movement and coalitions of women's organisations pushing for the adoption of an ILO instrument regarding the prevention of gender-based violence (GBV) in the workplace (Pillinger, Runge & King 2022). The Convention centres violence and harassment as a gendered phenomenon. It is acknowledgement that V&H disproportionately impact on women and girls (Preamble para 12).
10. The Convention acknowledges the need to tackle underlying causes and risk factors including gender stereotypes, multiple and intersecting forms of discrimination and unequal gender-based power relationships to end V&H in the world of work (Preamble para 12). It focusses a need on targeting the drivers of gendered violence and makes the connection between violence and the systemic factors that drive it.

A multidimensional representation of the problem of violence and harassment

11. The Preamble of a convention establishes the context within which the operative provisions are interpreted (ILO 2006, pp. paras 10-12). The Preamble in the Convention acknowledges the societal wide, labour market, enterprise specific and individual impacts of V&H.
12. Violence and harassment are represented as potential violations of human rights, a threat to equal opportunities and as being incompatible with decent work (Preamble para 6).
13. The impact of V&H across the labour market is contemplated. In this way V&H is a potential constraint on the delivery of quality public and private services and a break on workers' (particularly women worker's) access to the labour market (Preamble para 10).
14. At the institutional level V&H is seen as inconsistent with the development of sustainable enterprises due to its negative impact on workplace organisation, workplace relations, the reputation of the enterprise and work productivity (Preamble para 11).
15. At the individual level the impact of V&H on a person's psychological, physical, and sexual health, dignity, and family and social environment is recognised (Preamble para 9).
16. The significance of the complex multilayered representation of V&H in the Convention is that it breaks with historical framing of V&H as an individual issue of interpersonal conflict.
17. In addition, by emphasising the impact of violence on the labour market, the delivery of public and private services and connecting V&H with both the organisation of work and the sustainability of enterprises and productivity, the Convention reinforces the connection between work and V&H and thus the need for work based and work-related solutions to the problem.

An Inclusive Integrated and Gender Responsive (IIGR) approach

18. Under the Convention nations have the obligation to *respect, promote and realise* the rights of everyone to a world of work free from violence and harassment (Article 4 (1)). This obligation includes a requirement that each member nation adopt “*an inclusive, integrated and gender-responsive approach for the prevention and elimination of violence and harassment in the world of work*” (Article 4(2)).
19. The Conventions seeks to be inclusive of both all forms of V&H and all persons in the world of work (ILO 2018a, pp. 59-60). The concept of inclusiveness contained with the Convention starts with the right of everyone to a world of work free from V&H and extends to ensure that the scope of rights and protections contained within it are broad. This includes adopting a broad definition of V&H, including GBV (Article 1). An expansive view of the circumstances, locations and sectors within the labour market that constitute the ‘world of work’ (Article 3) is necessary.
20. The focus on an integrated approach is in response to the gaps shown in regulatory approaches and the impact of siloed policy approaches (Lippell 2016, 2018). An integrated approach to social policy involves matching policy goals and means through ‘mixing up’ and changing historical policy regimes which have been siloed from one another (Rayner & Howlett 2009). Hence the way the Convention draws from work health and safety, human rights, and equality traditions (ILO 2018a, pp. 59-60). The Convention seeks a new approach that draws from, and sits at the cross roads of, these traditionally siloed approaches (Lippell 2018).
21. An integrated approach includes a comprehensive definition of V&H; the right of all workers to a V&H free workplace; the prohibition of world of work violence; a comprehensive prevention strategy; enforcement and monitoring including safe and accessible complaints mechanisms; sanctions for perpetrators and remedies and support for victims; tools and policy frameworks for addressing V&H in the world of work (ILO 2017, p. para 398).
22. A focus on a gender responsive approach was incorporated to reflect the reality that V&H was contextualised and driven by dynamics both occurring within, and external to, the world of work including , “*but not limited to, power relations, gender norms, cultural and social norms, discrimination and economic inequalities*” (ILO 2018a, p. 18). The preference for gender responsiveness, which requires proactive measures, can be contrasted with a gender sensitive approach which connotes only an awareness of, or sympathy for, gender related issues (ILO 2018b paras 614-619).
23. I would recommend going further than the gender responsive approach taken in the Convention and propose a gender transformative approach is what is needed. A gender

transformative approach seeks to displace traditional gender power structures and address the social inequalities that drive gender-based violence and harassment (Gupta 2000).

Key principles to implement C190

24. Through my research I have identified the following key principles that should underpin regulatory and policy approaches designed to implement ILO C190

- Violence and harassment (V&H) are multidimensional phenomena with gendered impacts and drivers at societal, labour market organisational and individual levels.
- V&H are used as a means of social control. There is comprehension that gender-based violence and harassment (GBVH) is a means to reinforce power relationships that exist in society, the labour market, at work and in the home.
- There is a universal right to be free from V&H in the world of work.
- No worker is left behind. Groups of workers who are vulnerable or who are more likely to be subjected to V&H are contemplated and their circumstances specifically addressed. The scope of those who are protected is not limited by the nature of their relationship to work (e.g., not related to employment status). Protections are not limited by sector of the labour market or by geographical location.
- There is protection from all forms of V&H in the world of work. Definitions of V&H contemplate the full range of behaviours, acts and practices that injure or are likely to injure. Protections afforded extend to V&H in the world of work occurring during, linked with, or arising out of work.
- Tripartism and social dialogue are at the centre of approaches to address V&H including GBVH.
- The right to freedom of association and collective bargaining is given real effect without restrictions
- Eliminating V&H in the world of work requires a comprehensive, co-ordinated and prevention focussed approach that addresses contextual, societal, work related and individual drivers and risk factors.
- Preventing and eliminating V&H at work requires the integration of human rights (equality and non-discrimination), labour law, and WHS approaches. Jurisdictional and definitional barriers that prevent workers from raising concerns about multiple drivers of V&H are removed.
- Proactive measures which acknowledge and address, gender power-relationships at work and in society are needed. There is a need to address the underlying causes and risk factors of GBVH.

- Gender neutrality in legal, regulatory and policy approaches is rejected. Those with responsibility for preventing, eliminating, and addressing V&H comprehend the gendered nature of it.

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