

# NEWSFLASH

## **ILO's Convention 190: Combating Violence and Harassment in the Workplace**

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Convention 190 of the International Labour Organization (ILO) is the first international treaty specifically addressing violence and harassment. It was adopted in 2019 and entered into effect in 2021. The Convention defines violence and harassment as “a range of unacceptable behaviors and practices, or make threats of such behaviors and practices, whether such are performed as 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.” The Convention defines gender-based violence and harassment as “violence and harassment directed against persons due to their sex or gender or affecting persons of a particular sex or gender disproportionately and includes sexual harassment.” It will be up to the Mexican government to describe violence and harassment as a single concept or treat them separately in its domestic legislation.

The Convention requires countries that ratify it to take measures to prevent violence and harassment, protect victims, and provide legal resources for those affected. It sets out specific measures that countries must take, including:

1. Enacting and enforcing laws prohibiting violence and harassment.
2. Raising awareness about violence and harassment.
3. Providing training to employers, workers, and other stakeholders on preventing and addressing violence and harassment.
4. Establishing mechanisms for reporting and investigating incidents of violence and harassment.
5. Providing support and assistance to victims of violence and harassment.

Mexico ratified the Convention on July 6, 2022, and it came into effect on July 6, 2023. The Federal Labour Law (Law) in Article 3 Bis defines violence and harassment as “Harassment, the exercise of power in a real relationship of subordination of the victim to the aggressor in the workplace, expressed in verbal, physical, or both behaviors.” It defines sexual harassment as “a form of violence in which, although there is no subordination, there is an abusive exercise of power that leads to a state of helplessness and risk for the victim, regardless of whether it occurs in one or more events.”

The Law also establishes a series of measures that employers must take to prevent violence and harassment in the workplace, such as:

1. Prohibiting violence and harassment in the workplace.
2. Establishing policies and procedures to prevent and address violence and harassment.
3. Providing training to employees on violence and harassment.
4. Investigating all reports of violence and harassment.
5. Taking appropriate disciplinary action against perpetrators of violence and harassment.

Article 994, section VI of the Law imposes fines, equivalent to “250 to 5000 Units of Measurement and Updating, (UMA) on employers who engage in or ensure that these actions are not taken, including any discriminatory acts in the workplace, acts of sexual harassment, or tolerance of acts of harassment or sexual harassment against their workers.” Mexico has issued NOM-035-STPS-2018, which is a regulation on the prevention of psychosocial risks in the workplace. NOM035 includes several relevant provisions regarding violence and harassment, such as


1. Identifying and evaluating psychosocial risks in the workplace.
2. Taking measures to prevent and control psychosocial risks.
3. Providing information and training to employees about psychosocial risks
4. Providing support to employees who have experienced psychosocial risks.

NOM035 serves as a tool to establish best practices within companies. The Convention, together with the Law and NOM035, are measures that will help create a safer and more respectful environment for all workers. NOM035 and the Convention share certain similarities:

1. Both instruments define violence and harassment in the workplace similarly.
2. Both instruments require employers to take measures to prevent violence and harassment in the workplace
3. Both instruments require employers to provide training to employees on violence and harassment.
4. Both instruments require employers to investigate reports of violence and harassment.
5. Both instruments require employers to take disciplinary action against perpetrators of violence and harassment.

NOM035 includes some provisions not explicitly mentioned in the Convention, such as:

1. The requirement to identify and evaluate psychosocial risks in the workplace.

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2. The requirement to provide information and training to employees about psychosocial risks.
  3. The requirement to support employees who have experienced psychosocial risks.

These provisions in NOM035 address and prevent violence and harassment in the workplace more effectively. Therefore, the Convention, the Law, and NOM035 are significant steps in eliminating violence and harassment in the workplace, creating a safe and respectful environment for workers in Mexico.

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