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Report VI

Labour protection in a transforming world of work

A recurrent discussion on the strategic objective of social protection (labour protection)



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Report VI

Labour protection in a transforming world of work

A recurrent discussion on the strategic objective of social protection (labour protection)

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Abbreviations

ACI	area of critical importance
EU	European Union
GDP	gross domestic product
ILO	International Labour Organization
ILOSTAT	central statistics database of the ILO
OECD	Organisation for Economic Co-operation and Development
OSH	occupational safety and health
SME	small and medium-sized enterprise

Introduction

1. The need to improve the conditions of labour that exist “involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled”, as stated in the Preamble to the ILO Constitution, was the underlying motivation for the ILO’s creation in 1919. Almost 90 years later, the ILO Declaration on Social Justice for a Fair Globalization, 2008, reaffirmed the importance of the constitutional objectives of the ILO and stressed the need to develop and enhance measures of labour protection, including “healthy and safe working conditions; and policies in regard to wages and earnings, hours and other conditions of work, designed to ensure a just share of the fruits of progress to all and a minimum living wage to all employed and in need of such protection”.¹ Labour protection is grounded in the ILO’s founding values that labour is not a commodity and that improving conditions of work is central to social justice, countries’ prosperity and universal and lasting peace.

2. As set out in the ILO Declaration on Social Justice for a Fair Globalization, social protection comprises two pillars: social security and labour protection. At its 100th Session (2011), the International Labour Conference held a recurrent discussion on social protection (social security); this year, the theme of the recurrent discussion will be social protection (labour protection). Labour protection and social security are complementary and together are intended to provide most of the protection that workers, and their families, need.

3. In line with the guidance provided by the Governing Body at its 320th Session (March 2014),² this year’s recurrent discussion will focus on four policy areas: wage policies; working-time arrangements; occupational safety and health (OSH); and maternity protection.³ These policy areas were at the heart of the ILO’s founding in 1919. They are central to the employment relationship and are important determinants of the competitiveness and innovativeness of enterprises. Almost a century later, they are more than ever a chief concern of ILO constituents.

4. This recurrent discussion will allow the ILO’s tripartite constituents to review the evolving realities and needs of Members as regards labour protection, as well as the related action taken by ILO member States and the Organization in recent years. The discussion is a timely occasion for assessing the relevance and effectiveness of responses, while considering options for the future, bearing in mind the outcomes of the recurrent

¹ ILO Declaration on Social Justice for a Fair Globalization, Part I(A)(ii).

² See ILO: *Minutes of the 320th Session of the Governing Body of the International Labour Office*, Governing Body, 320th Session, Geneva, March 2014, GB.320/PV, paras 427–439.

³ With regard to maternity protection, this report focuses only on measures that relate to its working time, OSH and non-discrimination aspects, as the social security aspects were addressed in ILO: *Social security for social justice and a fair globalization*, Report for the recurrent discussion on social protection (social security) under the ILO Declaration on Social Justice for a Fair Globalization, Report VI, International Labour Conference, 100th Session, Geneva, 2011.

discussions on the other strategic objectives and the forthcoming 100th anniversary of the Organization.

Chapter 1

Issues and challenges for labour protection in a transforming world of work

5. Policies and actions to improve working conditions have always been seen by the ILO as essential to achieving lasting peace, by ensuring a fair distribution of the fruits of progress and by countering a “race to the bottom” within and between countries. Labour protection is about shielding workers from exploitation, from risks of ill health or danger, from unduly low or irregular earnings, from unpredictable work schedules and from excessively long hours of work. It enhances the ability of workers and their families to pursue their material well-being in conditions of freedom and dignity, economic security and equal opportunity, and to adapt to changing work and life circumstances. While labour protection has developed primarily in respect of waged workers, it also addresses the needs of the self-employed, notably with regard to OSH.

6. Labour protection measures, such as minimum wages and working time, OSH and maternity protection standards, may have cost implications for enterprises in the short term. However, in the long term, such measures can encourage enterprises to invest in technological and organizational improvements in order to offset increased costs, which can, in turn, spur productivity growth.¹ If well designed and enforced, they can help deter anti-competitive practices. Safe and motivating working environments and mutually beneficial flexible work organization improve the competitiveness and productivity of enterprises, while affording workers a fair share in the benefits of increased productivity.²

1.1. A transforming world of work

7. In the post-Second World War period, until the early 1970s, the standard employment relationship – namely continuous, regular and full-time employment with an identifiable employer – was the norm, at least in industrialized countries, and the cornerstone of employment regulation. During these years, more than 70 ILO Conventions were adopted and countries throughout the world experienced high rates of job creation and, in many cases, full and relatively secure employment. Unions influenced labour market and economic policy-setting, and labour protection and employment-based social security expanded. Throughout the world, the post-war years

¹ See, for example, M. Piore: “Rethinking international labour standards”, in W. Milberg (ed.): *Labour and the globalization of production: Causes and consequences of industrial upgrading* (Basingstoke, United Kingdom, Palgrave Macmillan, 2004); S. Deakin and F. Wilkinson: “Minimum wage legislation”, in K. Dau-Schmidt, S. Harris and O. Lobel (eds): *Encyclopaedia of Labour Law and Economics* (Cheltenham, United Kingdom, Edward Elgar, 2008).

² See ILO: *Conclusions concerning the promotion of sustainable enterprises*, International Labour Conference, 96th Session, Geneva, 2007.

were marked by strong output and productivity growth, and a general increase in the standard of living of workers and their families.

8. Although protection through laws was, and still is, the norm, collective bargaining also played an important role during that period in regulating working conditions, by establishing minimum standards, such as minimum wages or limits on working hours, or complementing standards set by law, and by ensuring compliance with national laws.³ Indeed, working time, together with wages, is one of the most long-standing and important subject matter on which collective bargaining takes place.

9. Over the past three decades, significant transformations in the global economy have gone hand-in-hand with institutional changes in the world of work. These changes have been accompanied by – and have also helped precipitate – a decline in unionization in many parts of the world, which has weakened the influence of collective bargaining as a regulatory tool. Its influence has waned in some parts of the world as a result of unions' declining power, but also, in some countries, as a consequence of an explicit roll-back of policy support for collective bargaining and far-reaching labour law reforms. In the developing world, the regulatory influence of collective agreements remains limited, partly because trade union membership is lower, but also because of the large percentage of the labour force that is either self-employed or in informal waged employment.

10. In addition, the economic and employment effects of labour market regulation have been the subject of significant contention during the past decades, with debates on whether there is a trade-off between employment and labour protection. A growing body of evidence has shown, however, that labour protection has no, or only a limited, effect on employment.⁴ Recently, international institutions such as the World Bank have acknowledged the need for labour markets to be regulated in the interest of prosperity and equity.⁵ Moreover, the role of other institutions, including labour inspectorates and labour courts, and general legal awareness have been recognized for their important role in influencing economic and employment outcomes.⁶

11. The world of work has been reshaped by globalization. Today, much of global trade involves global buyers and suppliers,⁷ which has implications for workers' welfare.⁸ Multinational enterprises source from a network of suppliers, who, in turn, compete with one another to obtain the lead enterprise's business. The task of providing

³ See S. Hayter (ed.): *The role of collective bargaining in the global economy: Negotiating for social justice* (Cheltenham, United Kingdom, and Geneva, Edward Elgar and ILO, 2011).

⁴ See G. Betcherman, "Labor market regulations: What do we know about their impacts in developing countries?" in *World Bank Research Observer* (2015, Vol. 30, Issue 1); D. Belman and P.J. Wolfson, *What does the minimum wage do?* (Kalamazoo, Michigan, W.E. Upjohn Institute for Employment Research, 2014).

⁵ See World Bank: *World Development Report 2013: Jobs* (Washington, DC, 2012).

⁶ See S. Lee and D. McCann: "Regulatory indeterminacy and protection in contemporary labour markets: Innovation in research and policy", in D. McCann et al. (eds): *Creative Labour Regulation: Indeterminacy and protection in an uncertain world* (Basingstoke, United Kingdom, and Geneva, Palgrave Macmillan and ILO, 2014), pp. 3–32.

⁷ See, for example, World Trade Organization and Institute of Developing Economies/Japan External Trade Organization: *Trade patterns and global value chains in East Asia: From trade in goods to trade in tasks* (Geneva, 2011).

⁸ At its 319th Session (2013), the Governing Body selected the item "Decent work in global supply chains" with a view to a general discussion at the 105th Session (2016) of the International Labour Conference.

compensation is therefore left to the supplier of the product or service, who is under considerable pressure with regard to the wages and conditions they can offer workers.⁹

12. Technological advancements such as the expansion of the internet have narrowed temporal and physical distances and have accelerated changes in the organization of production and work. There has been a marked growth in the number of hours over which enterprises operate and therefore in the times when workers must be available to work. Whether it is for technological or commercial reasons, or because of management systems, globalization (including demands for products or services in other time zones), industry or occupational norms (such as those relating to the availability of medical personnel) or the pressures on workers to earn money to survive (as in the case of self-employment), the push for workers to be available to work for extended periods has grown in many sectors and occupations.

13. Since the 1980s, under the pressures of competition, enterprises have been demanding greater flexibility in production and organization. This has led to the questioning of the traditional employment relationship, which has been the foundation for labour protection measures, and a multiplicity of employment arrangements as an alternative to the standard employment contract have surfaced. Non-standard employment arrangements have become important features in labour markets across the world, and in particular economic sectors, where they did not previously exist.¹⁰ Work has become less stable, secure and predictable, and work trajectories less linear.¹¹ In parallel to the spread of non-standard jobs, new forms of activity have emerged that contest the traditional distinction between dependent employment and self-employment.¹²

14. The informal economy remains large, particularly in developing countries. Unpredictability and variability in earnings and hours of work, a low income, a lack of, or limited, protection against occupational diseases and work-related injuries, and exclusion from social security coverage are still the norm for a large share of the workforce. Despite tremendous progress in the reduction of working poverty in the past decade, some 319 million working women and men are still unable to earn enough to keep themselves and their families above the US\$1.25 a day extreme poverty line.¹³

15. Labour migration is also reshaping the world of work, creating further challenges in terms of labour protection, with the number of international migrants worldwide estimated at 232 million in 2013.¹⁴ In many countries, entire sectors are served primarily by poorly paid migrant workers.¹⁵ Labour migration is becoming increasingly temporary

⁹ D. Weil: "Fissured employment: Implications for achieving decent work", in D. McCann et al. (eds), op. cit., pp. 35–62.

¹⁰ ILO: *Report for discussion at the Meeting of Experts on Non-Standard Forms of Employment* (Geneva, 2015).

¹¹ See ILO: *Employment policies for sustainable recovery and development*, Recurrent discussion under the ILO Declaration on Social Justice for a Fair Globalization, Report VI, International Labour Conference, 103rd Session, Geneva, 2014.

¹² See G. Casale (ed.): *The employment relationship: A comparative overview* (ILO, Geneva, 2011).

¹³ ILO: *World Employment and Social Outlook – Trends 2015* database.

¹⁴ United Nations Department of Economic and Social Affairs: *Population Facts* No. 2013/5, Sep. 2013.

¹⁵ See, for example, Organisation for Economic Co-operation and Development (OECD): "International Migration and the Economic Crisis: Understanding the Links and Shaping Policy Responses", in *International Migration Outlook, SOPEMI 2009, Special Focus: Managing Labour Migration Beyond the Crisis* (OECD, 2009).

in nature and involves complex transnational processes.¹⁶ The focus of migration policies in recent years on national security rather than on labour market needs has led to a tightening of borders for all but the highly skilled. The challenge lies in ensuring that States, when regulating labour migration, put in place measures of protection that ensure equality of treatment, especially for less skilled migrant workers, and prevent the erosion of local standards of pay and conditions.

1.2. Determinants of labour protection

16. This report analyses labour protection from the standpoint of three key determinants: the coverage of labour protection measures; the level of protection; and the degree of compliance. These determinants are relevant to all dimensions of working conditions, such as wages, working time, OSH and maternity protection, even though each dimension has its own specific characteristics.

17. “Coverage” refers to whether the worker is covered by the law or another regulatory mechanism, such as collective bargaining. Historically, certain economic sectors and occupations, such as agricultural workers and domestic workers, have been excluded from the coverage of labour law. Workers in non-standard forms of employment may also experience difficulty in joining trade unions or in being covered by collective bargaining agreements.¹⁷ In some countries, recent labour law reforms have rectified gaps in coverage; in others, coverage gaps still exist. As mentioned, some countries prefer to regulate labour protection through collective bargaining rather than through laws. Where there are representative and strong associations of workers and employers, collective bargaining can be an effective form of regulating labour protection. If, however, collective bargaining ceases to function or does not function effectively, in the absence of statutory regulations workers may be left without coverage.

18. The “level of protection” refers to how much labour protection is granted by the law or other regulatory measures. Most debates on labour laws have focused on level, ignoring the other fundamental determinants of labour protection (coverage and compliance). The level of protection in some countries may be so low that the law has very little effect in practice, either for workers or for enterprises. This is the case, for example, when minimum wages are set so low that they have no impact, or when there are no provisions for paid maternity leave. Alternatively, the level of protection may be set unrealistically high, making it difficult for enterprises to comply with the law.

19. The level of labour protection can prompt dynamic enterprises into adopting new technologies or work strategies that are more productive, in order to absorb the initial cost of the new protection. Labour protection can have other direct beneficial effects, such as when maternity leave allows enterprises to retain qualified staff or when OSH standards help avert costly accidents. Enterprises whose sole competitive strategy is cheap labour may find it difficult to adhere to labour regulations and may voice opposition, but these enterprises cannot ensure economic development over the long term. Indeed, one of the original goals of wage floors was to prevent the spread of “parasitic” industries, understood as industries that paid wages that were insufficient to cover the social costs of the workers.¹⁸ Given, however, that most enterprises are neither

¹⁶ See C. Costello and M. Freedland: “Migrants at work and the division of labour law”, in C. Costello and M. Freedland (eds): *Migrants at work: Immigration and vulnerability in labour law* (Oxford University Press, 2014), pp. 1–26.

¹⁷ ILO: *Report for discussion at the Meeting of Experts on Non-Standard Forms of Employment* (Geneva, 2015).

¹⁸ See S. Webb and B. Webb: *Industrial Democracy* (London, Green and Co., 1902).

parasitic, nor technological pioneers, it is important to set labour protection at a level that can provide protection to workers without unduly burdening enterprises. Collective bargaining is a useful mechanism for achieving this balance, since employers and workers have familiarity with their industry, and are thus well positioned to find this middle ground.

20. “Compliance” concerns whether the law is observed in practice. In countries with large informal economies, compliance with the law is weak, although there is empirical evidence that formal laws sometimes influence practices in the informal economy (often with respect to minimum wages, limits on working hours and holidays).¹⁹ Compliance can be made more difficult when the respective rights and obligations of the parties concerned are not clear, or when inadequacies or gaps exist in the legislation, including with regard to the interpretation of legal provisions or their application. Confusion over responsibility may arise, for example, with respect to contractual arrangements involving multiple parties.

21. Compliance and enforcement strategies should be seen as an integral part of labour protection policies. Research and recent policy debates have emphasized the importance of awareness raising, legal literacy, persuasion, prevention and incentives, as well as of effective procedures for imposing adequate sanctions. In addition, enforcement action that is tailored to the circumstances of different countries and targeted at sectors and occupations where non-compliance is prevalent, is necessary.²⁰ Worker representation helps ensure compliance, as do coordinated strategies of different government authorities in a given country. Private initiatives can complement these efforts.²¹

¹⁹ This is commonly referred to as the “lighthouse effect”, whereby formal laws set a social norm that is adhered to, or becomes a reference for bargaining among informal waged employees and their employers. The lighthouse effect was first identified by the Brazilian economists Souza and Baltar in reference to the use of the minimum wage in wage setting among informally employed workers, but is also applicable in the case of other forms of labour protection. See P. Souza and P. Baltar: “Salário mínimo e taxa de salários no Brasil” [“Minimum wage and wage levels in Brazil”] in *Pesquisa e Planejamento Econômico* [Research and Economic Planning] (1979, Vol. 9, No. 3), pp. 629–660.

²⁰ See B. Hepple: “Equality and empowerment for decent work”, in *International Labour Review* (2001, Vol. 140, No. 1); U. Rani et al.: “Minimum wage coverage and compliance in developing countries”, in *International Labour Review* (2013, Vol. 152, No. 3–4).

²¹ See ILO: *Final report: Meeting of Experts on Labour Inspection and the Role of Private Compliance Initiatives*, Geneva, 10–12 December 2013.

Chapter 2

Trends in labour protection

22. Over the past 30 years, there have been important regulatory advances in labour protection for workers, particularly with respect to OSH and maternity protection, but also with respect to minimum wages and working time. How these regulatory changes have affected workers across the globe, however, is not easy to characterize. The outcomes reflect periods of economic growth and stagnation, as well as political and ideological shifts with respect to the different areas of labour protection and the need, or not, for tripartite mechanisms that support the regulation of the labour market.

23. Labour protection measures can take the form of legislation, or can be the outcome of collective bargaining. Indeed, within the framework established by national laws, there is often scope for employers and their organizations and workers' organizations to negotiate different aspects of labour protection. Yet the extent to which collective bargaining is used to determine working conditions depends on the characteristics of collective bargaining institutions in each country, the strength of the social partners and the coverage of collective agreements. In countries with well-developed systems of collective bargaining and strong social partners, collective bargaining at all levels can play a vital role in complementing the existing statutory standards, helping to balance employers' and workers' interests.

24. In general, there have been improvements in OSH and a long-term trend in the reduction of average hours of work, coupled with an expansion of working parents' entitlements to maternity, paternity and parental leave. Nonetheless, many of the achievements across the four dimensions of labour protection addressed in this report have been challenged by the continued shifts in the world of work, including the fragmentation of labour markets, new forms of contractual arrangements, the decline in unionization and the growth of the "24 hours a day, seven days a week" economy. Moreover, there are groups in the labour market that benefit less from labour protection as a result of being in occupations or sectors that are either excluded from coverage by legislation or because they have non-standard or informal contractual arrangements with less access to entitlements. Many of these workers are women, young people, ethnic minorities and migrant workers.

2.1. Wage policies

25. During the 1980s and 1990s, support for minimum wage policies weakened. High inflation and the shift from import-substitution industrialization to export-led growth policies in many parts of the developing world led many countries to discontinue adjustments to the minimum wage, leading to a fall in their real value. Debates on labour flexibility and the perceived role of minimum wages and other labour protection policies in contributing to unemployment and informality resulted in a decline in the standing of

the minimum wage as a mechanism of labour protection.¹ The decline in unionization and collective bargaining coverage, the pressures caused by globalization and the financial markets and the availability of new technologies weakened workers' ability to bargain for higher wages.

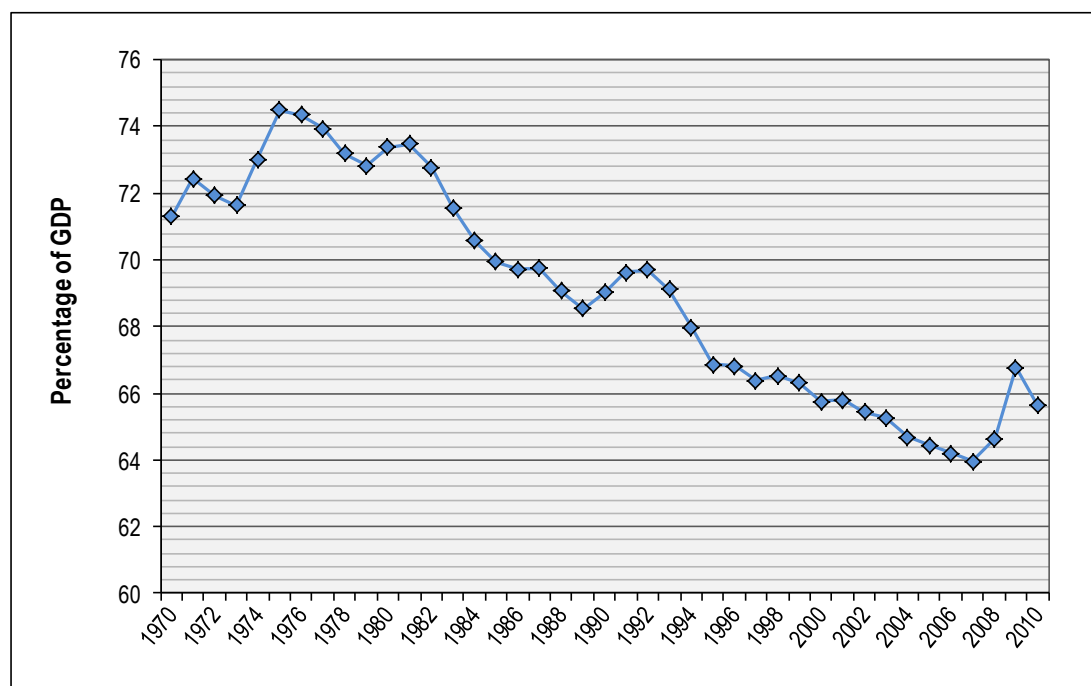
26. Figure 2.1 shows that, in a sample of 16 high-income countries of the Organisation for Economic Co-operation and Development (OECD) for which data are available (dating back to the 1970s), the share of worker compensation in gross domestic product (GDP) (the so-called labour share) declined from a peak of about 75 per cent in the mid-1970s to less than 65 per cent just before the outbreak of the global economic and financial crisis. Although there is no universal trend, studies and reports have also documented the decline in labour shares in various large emerging economies and most regions of the world.² This downward trend in the labour share is reflected in the decoupling of wage growth from productivity growth in many parts of the world, which continued into the 2000s, as illustrated in figure 2.2, showing the divergence between the growth of real average wages and average labour productivity between 1999 and 2013 in developed economies. The main causes of these trends vary from country to country, but they have been attributed to factors including labour-reducing technological changes, the intensification of global trade, pressures to maximize shareholder value, weaker labour market institutions and the reduced bargaining power of workers.³

¹ See OECD: *The OECD Jobs Study: Facts, Analysis, Strategies* (Paris, OECD, 1994); and World Bank: *World Development Report 1995: Workers in an Integrating World* (Washington, DC, World Bank, 1995).

² See M. Guerriero: *The labour share of income around the world. Evidence from a panel dataset*, Development Economics and Public Policy Working Paper No. 32/2012 (University of Manchester, 2012); C. Bai and Z. Qian: "The factor income distribution in China: 1978–2007", in *China Economic Review* (2010, Vol. 21, No. 4), pp. 650–670; ILO and International Institute for Labour Studies: *World of Work Report 2011: Making markets work for jobs* (Geneva, 2011); ILO: *Global Wage Report 2014/15: Wages and income inequality* (Geneva, 2015).

³ See L. Karabarbounis and B. Neiman: *The global decline of the labor share*, National Bureau of Economic Research Working Paper No. 19136, 2013; and M. Guerriero and K. Sen: *What determines the share of labour in national income? A cross-country analysis*, Institute for the Study of Labour (IZA) Discussion Paper No. 6643, 2012.

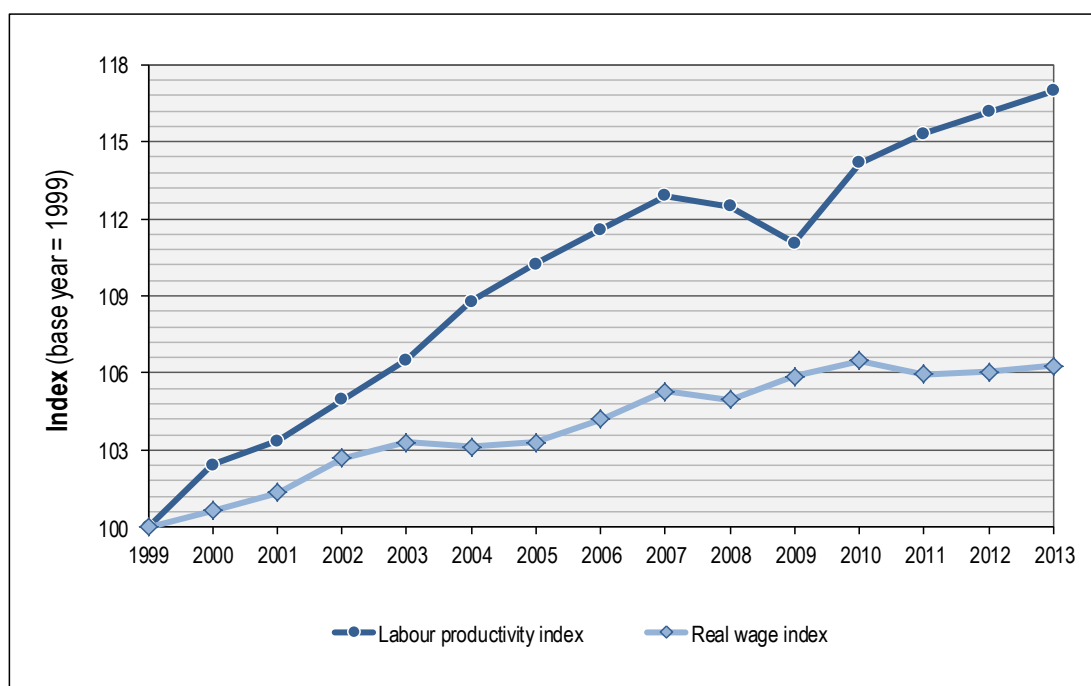
Figure 2.1. Adjusted labour income share in selected high-income countries, 1970–2011 (percentage of GDP)



Note: The adjusted labour income share is the unweighted average of 16 high-income OECD countries (Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Ireland, Italy, Japan, Netherlands, Spain, Sweden, United Kingdom and United States).

Source: ILO, based on the European Commission's Annual Macro-Economic Database).

Figure 2.2. Trends in growth in average wages and labour productivity in developed economies (index), 1999–2013

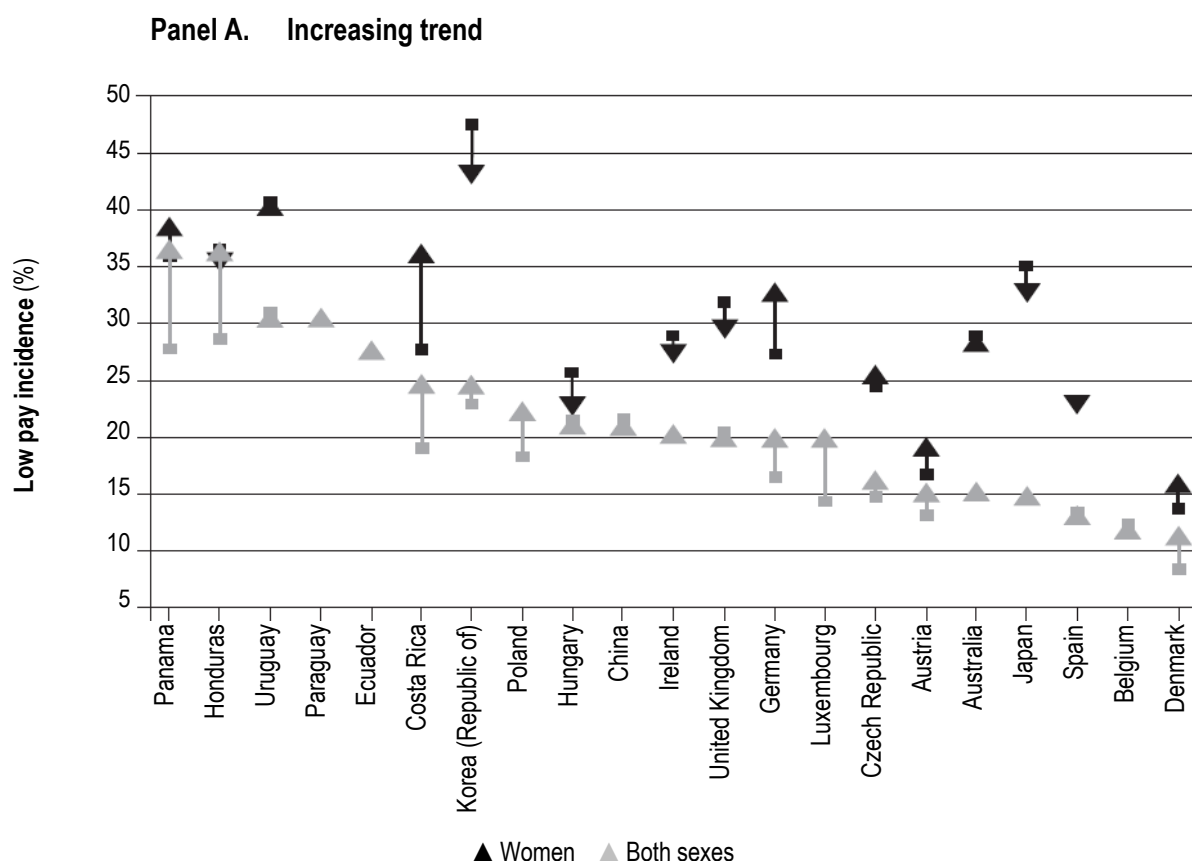


Note: Wage growth is calculated as a weighted average of year-on-year growth in average monthly real wages in 36 economies. Index is based to 1999 because of data availability.

Source: ILO: *Global Wage Report 2014/15: Wages and income inequality* (Geneva, 2015).

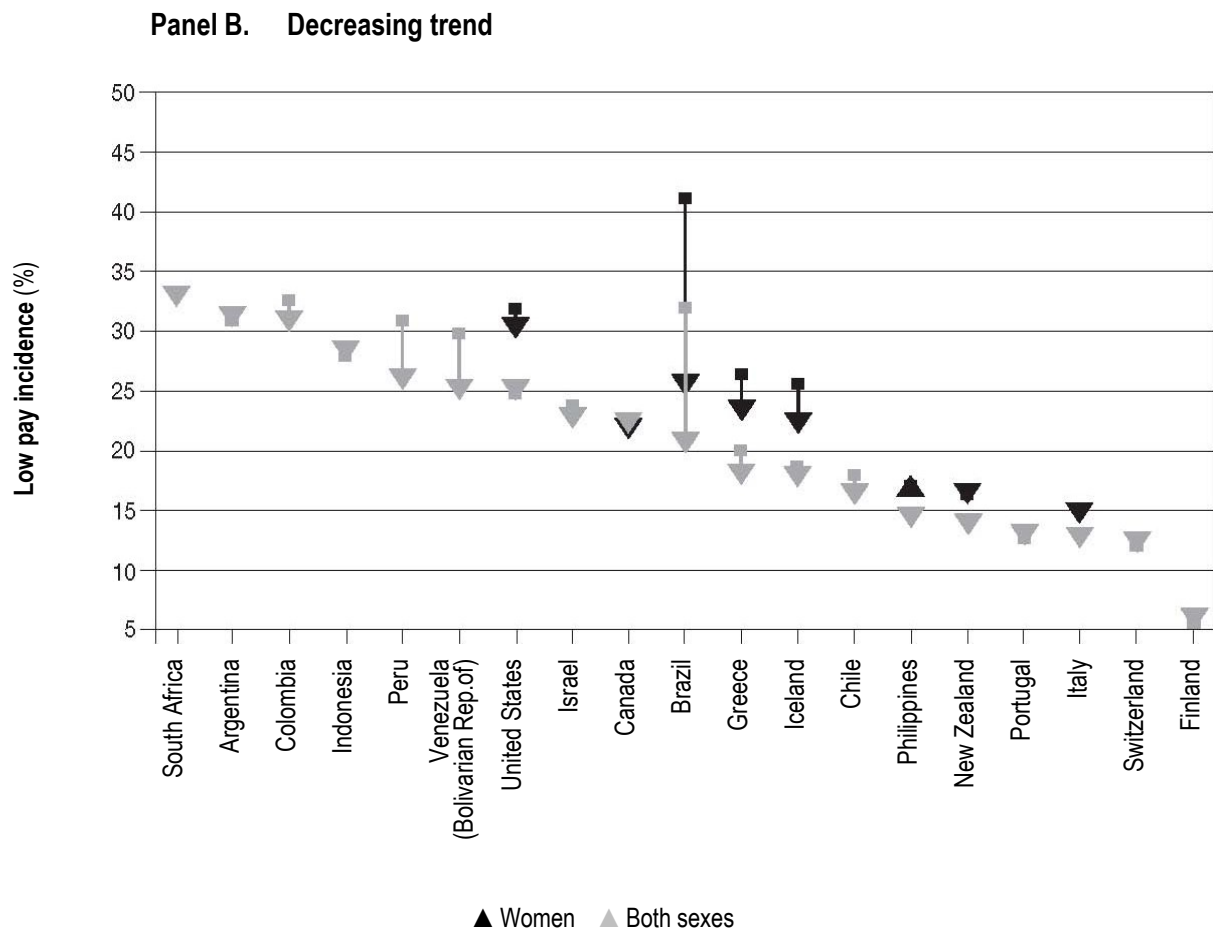
27. The decoupling of wages and productivity growth has been accompanied in recent years by an increase in wage inequality, with greater stagnation for workers at the bottom of the wage distribution, who are primarily low-skilled and in a weaker position to negotiate wage increases and thus have a greater need for mechanisms of institutional support, such as collective bargaining and minimum wages. Many countries witnessed between the mid- to late 1990s and the mid- to late 2000s an upward trend in the incidence of low pay, defined as the percentage of workers whose earnings are two-thirds below the median wage (see figure 2.3, panels A and B). The level and magnitude of change in low pay vary widely across countries, with a low incidence of around 10 per cent in Denmark and Finland, but a much higher incidence, of more than 30 per cent, in Panama and Honduras. Nonetheless, in some countries with high inequality, such as Brazil, there has been a fall in the percentage of low-paid workers, with minimum wage increases facilitating the transition to higher wage employment in the 2000s.⁴ In almost all countries, women are much more likely to be found in low-paid work. This finding is not surprising given that wage gaps – across the wage distribution – between men and women remain significant and are only partly explained by differences in experience, education, occupation and other labour market characteristics. Overall, across countries, women’s average wages are between 4 and 36 per cent lower than men’s.⁵

Figure 2.3. Trends in low pay in selected countries, 1995–2009 (percentages)



⁴ See A. Fontes, V. Pero and J. Berg: “Low-paid employment in Brazil”, in *International Labour Review* (2012, Vol. 151, No. 3).

⁵ ILO: *Global Wage Report 2014/15*, op. cit.

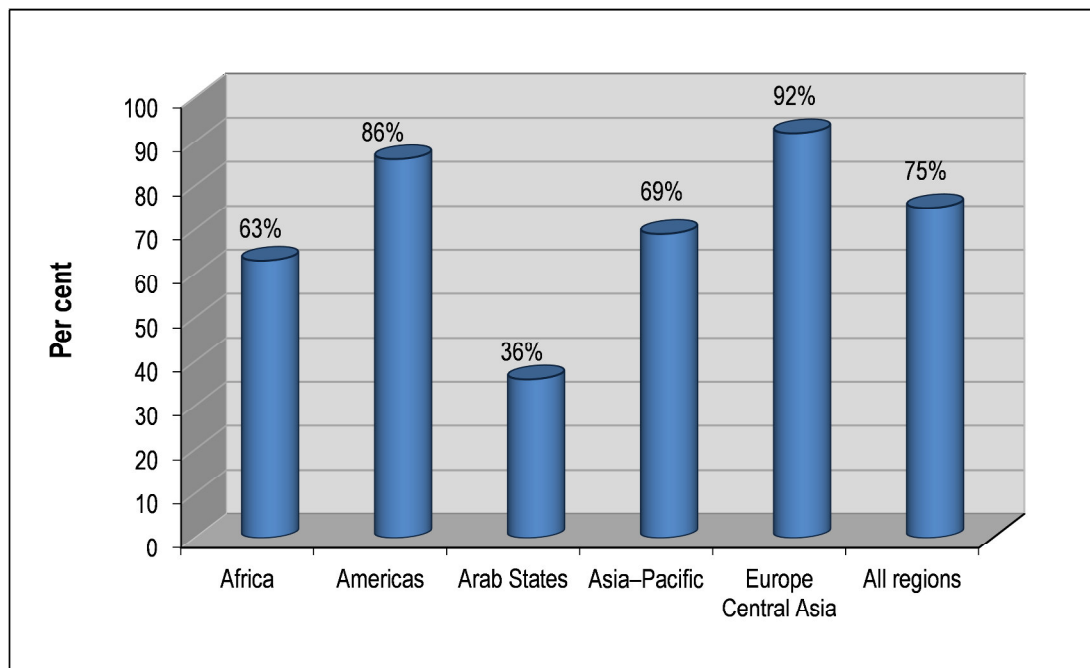


Source: S. Lee and K. Sobeck: "Low-wage work: A global perspective", in *International Labour Review* (2012, Vol. 151, No. 3).

28. To combat low-paid work and rising poverty, and as a means to increase the purchasing power of workers, more countries have turned to the minimum wage as a policy tool over the past decade. The renewed attention on the minimum wage is also partly due to the emergence of empirical evidence showing that minimum wages, when well-designed and implemented, help protect workers and have limited impact either on employment or inflation.⁶ In the past 15 years, some countries have, for the first time, passed legislation establishing a minimum wage. Among developed economies, the United Kingdom introduced a national minimum wage in 1999; Ireland followed suit in 2000; and Germany in January 2015. Among developing countries, minimum wages were adopted in Malaysia in 2013 and Cabo Verde and Fiji in 2014, also to combat low wages and reduce poverty. By 2015, about 90 per cent of ILO member States had some legislation or collective agreements that included provisions on minimum wages. Not all of these countries have broad minimum wage coverage, however, and not all of them have adjusted the rates in recent years. Nonetheless, one estimate suggests that about 75 per cent of ILO member States had minimum wages that covered more than just a handful of sectors and had also updated rates in recent years; figure 2.4 shows the percentage of such ILO member States by region.

⁶ For a recent review of studies on the employment effects of the minimum wage in the United States and other developed economies, see D. Belman and P. Wolfson: *What does the minimum wage do?* (Upjohn Institute, 2014). For a more global review, see U. Rani and P. Belser: "Minimum wages and inequality", in J. Berg (ed.): *Labour markets, institutions and inequality: Building just societies in the 21st century* (ILO and Edward Elgar, 2015).

Figure 2.4. Percentage of ILO member States with an active minimum wage system, by region, early 2010s⁷



Source: ILO.

2.2. Working time

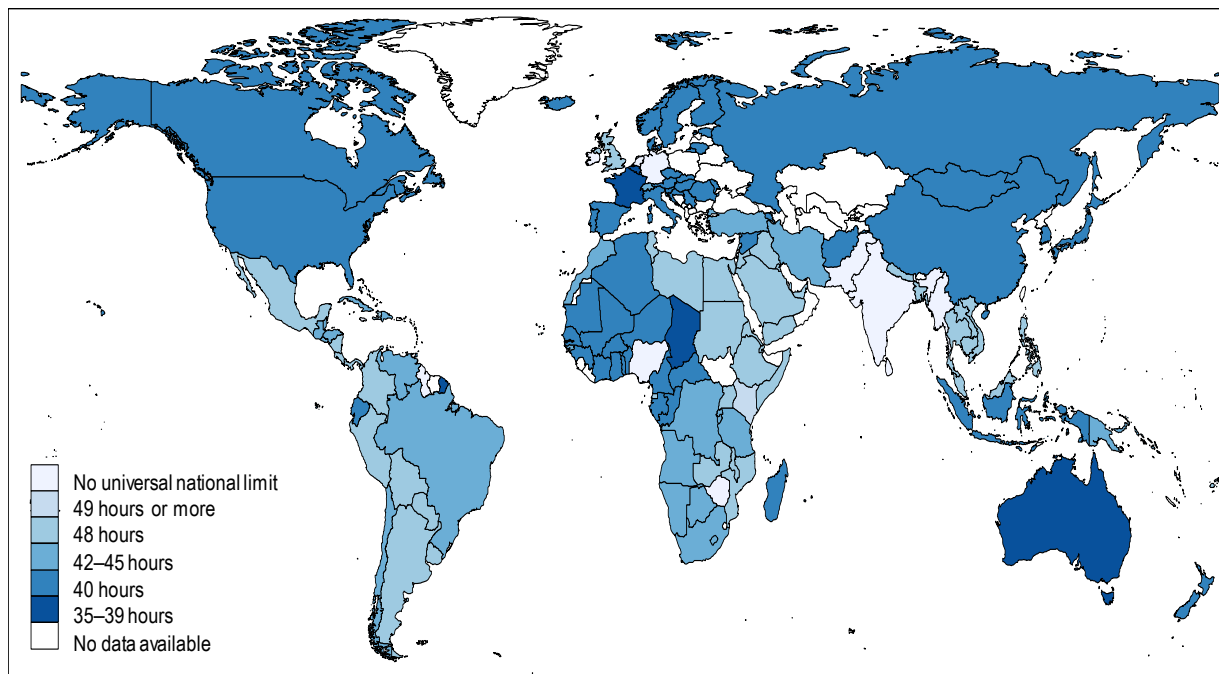
29. With respect to working time, legislative limits have continued to propel a downward trend in annual hours of work. From between 2,500 and 3,000 hours per worker per year at the beginning of the twentieth century, on average, working hours in the industrialized countries fell to below 2,000 per worker by the year 2000. In several countries, such as France, Germany and the Netherlands, average annual hours are substantially lower, closer to 1,500 hours per year, partly as a result of the growth of part-time and temporary work, as well as legislation on annual leave.⁷ Limits on working hours are an important component of workplace safety, as excessive working hours are associated with greater risk of accidents at work. The health literature has long recognized that working longer than 48 or 50 hours a week on a sustained basis can be detrimental to an individual's health.⁸ Limits on working hours are also needed to allow workers to balance work and personal responsibilities. According to a 2013 ILO review of working hours legislation around the world, almost all countries set limits on weekly hours of work, with the majority of countries (36 per cent) limiting weekly hours to 40 hours per week, 21 per cent imposing limits of 42–45 hours per week, and 31 per cent imposing a 48-hour week limit. Very few countries set their limit beneath the 40-hour limit (3 per cent) and fewer still set a higher limit than 49 hours (1 per cent) (see figure 2.5). Eight per cent of countries have no universal national limit, though some of

⁷ ILO: *Working time in the twenty-first century*, Report for discussion at the Tripartite Meeting of Experts on Working-time Arrangements, Geneva, 17–21 October 2011.

⁸ See, for example, A. Spurgeon: "Working time: Its impact on safety and health" (ILO and Korean Occupational Safety and Health Research Institute, 2013); P. Tucker and S. Folkard: *Working time, health and safety: A research synthesis paper* (Geneva, ILO, Conditions of Work and Employment Series No. 31, 2012).

these countries may regulate by sector or industry, as is the case in countries such as India and Pakistan, or through collective bargaining agreements.

Figure 2.5. Weekly hours limits by country, early 2010s



Source: ILO: Working Conditions Laws Report 2012: A global review (Geneva, 2013).

30. Legislative limits on working time are typically accompanied by provisions on overtime remuneration, which entitle the worker to compensation for the extra hours worked, but also serve as a disincentive to employers for using overtime, which can contribute to unhealthy and unsocial long hours of work. Globally, 86 per cent of countries have legislation that provides for increased remuneration for overtime hours, with 44 per cent of countries legislating that overtime premiums must be 50 per cent of hourly wages, and 10 per cent of countries extending overtime premiums to between 75 per cent and 100 per cent of the hourly wage.⁹

31. Regarding actual hours of work, average weekly hours of work range from lows of 32 hours per week in the Netherlands, 34 hours per week in Australia and 36 hours per week in Sweden, to highs of 45 hours per week in Peru, 47 hours per week in China and 49.2 hours per week in Saudi Arabia. Average weekly hours in paid work are higher for men than for women in nearly all countries, reflecting the gendered division of labour in many households. Average weekly hours of work in different sectors vary substantially across countries, but are generally highest in the hotel and food services industry and in the transportation and storage sectors, and lowest in education, public administration and defence.

32. Average working hours, however, mask substantial variations in hours among workers, with substantial proportions of workers in many countries working either long hours or short (part-time) hours. Approximately 22 per cent of the world's workforce – or slightly over 600 million workers – is estimated to be working very long hours,

⁹ In some countries, overtime can be compensated with compensatory rest in lieu of time worked either in conjunction with, or as a replacement of, overtime pay.

defined as more than 48 hours per week.¹⁰ Many of these workers are in developing countries, where working very long hours is common among waged employees, who may work overtime hours to compensate for low wages, but also among the large proportion of the labour force who is self-employed, many of whom work long hours to earn a sufficient income.

33. On the other side of the working hours distribution, the proportion of all workers working short (part-time) hours (fewer than 35 hours a week) ranges from under 5 per cent in Romania, Tunisia and Egypt to nearly 45 per cent in the Netherlands – known as the world’s first “part-time economy”.¹¹ Part-time work is more widespread among waged employees in developed countries, but is also common among many self-employed workers in developing countries, who combine part-time self-employment with care responsibilities, or work part time because there is often insufficient work (or “time-related underemployment”, as discussed in section 3.2.2). In nearly all countries, short hours in paid work are much higher among women than among men, again reflecting the gendered division of labour in many households.

34. Another area of working-time policy is paid annual leave. Paid annual leave is an important dimension in the regulation of working time as it provides workers with a period of leisure time and protects the health and well-being of workers, allowing them to be more productive. If leave is not paid, workers are unlikely to take it. Globally, all but six countries have legislation on the right to a minimum period of paid annual leave.¹² An important share of countries (43 per cent) provide 20 working days of paid annual leave or more.¹³ In recent years, many countries have lengthened the amount of paid annual leave offered.¹⁴

2.3. Occupational safety and health

35. The adoption of the Occupational Safety and Health Convention, 1981 (No. 155), which states in Articles 1(1) and 2(1) that OSH standards apply to all branches of economic activity and to all workers in these branches,¹⁵ marked an important shift from the approaches of previous decades that were directed at outlawing specific hazards in particular sectors or occupations and targeted particular concerns. Convention No. 155 became the foundation for the European Framework Directive on Safety and Health at Work, which was introduced in the European Union (EU) in 1989. One of the key

¹⁰ S. Lee, D. McCann and J. Messenger: *Working time around the world: Trends in working hours, laws and policies in a global comparative perspective* (ILO and Routledge, 2007).

¹¹ The widespread use of part-time employment in the Netherlands is the result of an explicit policy which “guarantees the right for full-time employees to work reduced hours, unless this cannot be granted on grounds of conflicting business interests” (J. Visser: “The first part-time economy in the world: A model to be followed?”, in *Journal of European Social Policy* (2002, Vol. 12, No. 23), p. 32).

¹² The six countries that do not provide paid annual leave are: Gambia, India, Kiribati, Pakistan, Sri Lanka and United States.

¹³ ILO: *Working Conditions Laws Report 2012: A global review* (Geneva, 2013).

¹⁴ ILO: *Working time in the twenty-first century*, report for discussion at the Tripartite Meeting of Experts on Working-time Arrangements, op. cit.

¹⁵ Among the 123 countries covered in the 2009 General Survey on occupational safety and health, 14 countries cover certain branches or categories of workers by special laws and regulations; in 30 other countries, the laws and regulations on OSH are subject to certain exceptions. See ILO: *General Survey concerning the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Safety and Health Recommendation, 1981 (No. 164), and the Protocol of 2002 to the Occupational Safety and Health Convention, 1981*, Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 1B), International Labour Conference, 98th Session, Geneva, 2009.

features of this regulatory framework was the introduction of a single overarching OSH law, replacing earlier laws, to cover all workers and all hazards at work. In a number of countries, however, separate regulations were retained for some highly hazardous workplaces (such as mines and oil and gas production sites), shipping and aviation. General provisions, imposing broad requirements to maintain a healthy and safe working environment, were also introduced, including with regard to the need to ensure safe installations and equipment, adequate preventive and control measures, the training of workers and safe work processes. Duty holders were required to undertake certain tasks such as risk assessments and were responsible for the management of work processes. Performance standards were established, setting a level of achievement or practice that needed to be attained through OSH management systems at the workplace level. These obligations were often applied not only to employers, but also to other parties who could affect OSH, including designers, suppliers, manufacturers, contractors and importers.

36. The new approach also entailed an increased delegation of duty to the enterprise level in terms of establishing the mechanisms for compliance with OSH regulations, and increased the powers of inspectors, including with regard to the array of remedies and the size of penalties they could impose. Another critical change was the provision giving workers a role in OSH, especially through the establishment of bipartite workplace health and safety committees (in workplaces over a minimum size) and the appointment of OSH representatives, who could participate in risk assessments and in decisions regarding changes to work processes.¹⁶ In some countries (such as Australia, the Nordic countries and Uruguay), workers' representatives have the power to issue a temporary order to halt work where the safety of workers is seriously imperilled, providing an important mechanism for implementing the right to refuse unsafe work without fear of reprisal.¹⁷ Available evidence suggests that these powers have been used judiciously and that the presence of committees and OSH representatives has improved the standard of OSH management in workplaces.¹⁸ In some countries, such as Sweden, and in some industries (such as coal mining in Australia and agriculture in the United Kingdom), roving OSH representatives can visit smaller or non-unionized workplaces, filling an important gap in the system.

37. The new framework, or at least some elements of it, forms the basis for OSH regulation in many countries (not just high-income ones). To implement the framework, inspectorates need adequate resources, including new training regimes (dealing with risk assessment and systems, for example) and more proactive prevention and enforcement strategies. As a result, increased demands have been placed on enterprises to comply and on inspectorates to ensure compliance, taking into account the wider array of hazards, risks and work settings. Overall, there have been broad differences between countries with respect to the resources assigned. In some low and middle-income countries, such as South Africa, efforts have been made to meet these challenges but, in others, changes to the inspectorate have been insufficient for the purposes of implementing new regulatory frameworks and ensuring enforcement.

¹⁶ See also ILO: *Conclusions concerning the promotion of sustainable enterprises*, International Labour Conference, 96th Session, Geneva, 2007.

¹⁷ As stated in Article 13 of Convention No. 155: "A worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences in accordance with national conditions and practice."

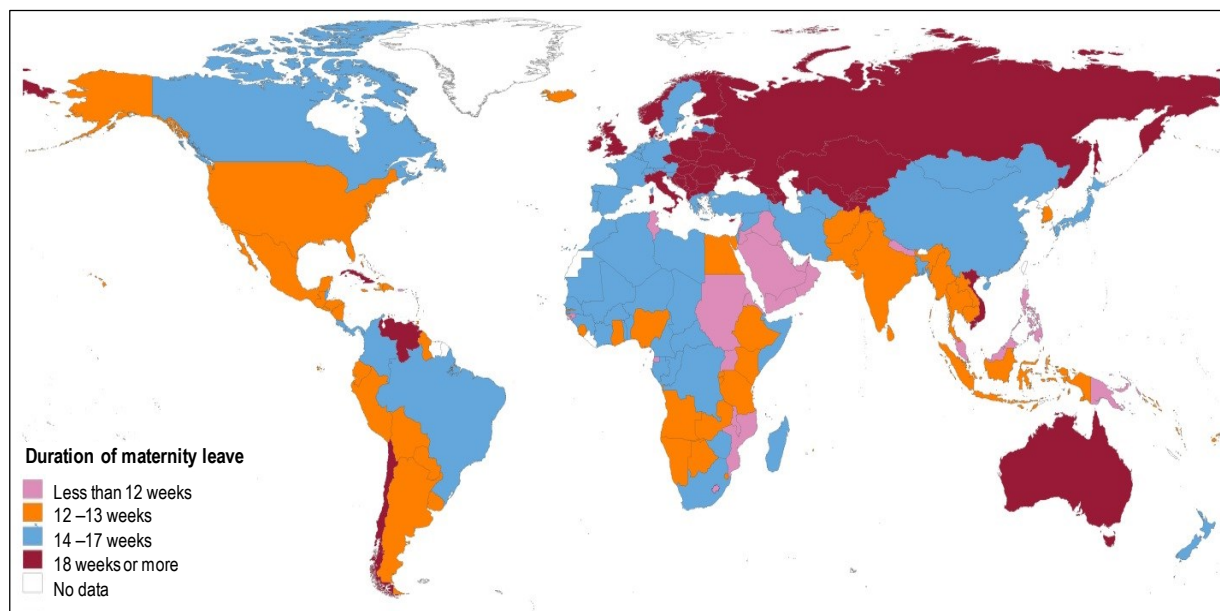
¹⁸ D. Walters et al.: *Regulating workplace risks: A comparative study of inspection regimes in times of change* (Cheltenham, United Kingdom, Edward Elgar, 2011).

38. Although it is difficult to evaluate the effectiveness of OSH regulatory regimes due to inconsistent outcome measures and a host of other intervening variables such as industry mix, economic development level and background, income and health status of workers, those countries that most embraced the more comprehensive approach to OSH and process and performance standards (notable examples include Finland and Norway), and that possessed the union membership levels and welfare state regime to bolster its effectiveness, have achieved the highest level of OSH for their workforce. Even in countries that only partly adopted the revised regulatory framework, there is evidence that proactive inspection has had a positive effect on safety.¹⁹ At the other extreme are countries where laws are not only seriously deficient but where inspection of workplaces and enforcement is almost non-existent. Unfortunately, such conditions prevail in a number of countries, though small improvements are evident in some.

2.4. Maternity protection

39. Over the past 20 years, the overall tendency has been for an increase in the duration of maternity leave. Indeed, for the subset of 139 countries for which information is available, between 1994 and 2013 no country was found to have reduced the statutory duration of maternity leave. Rather, there has been a gradual global shift towards maternity leave periods that meet or exceed the ILO standard of 14 weeks as set by the Maternity Protection Convention, 2000 (No. 183). Between 1994 and 2013, 35 of the 139 countries studied increased the duration of maternity leave and more than half provided at least 14 weeks in 2013. In addition, the proportion of countries providing between 14 and 17 weeks of leave increased from 29 to 37 per cent during that period, and the proportion providing at least 18 weeks of leave increased from 9 to 14 per cent (figure 2.6).

Figure 2.6. Statutory duration of maternity leave, 2013 (185 countries and territories)

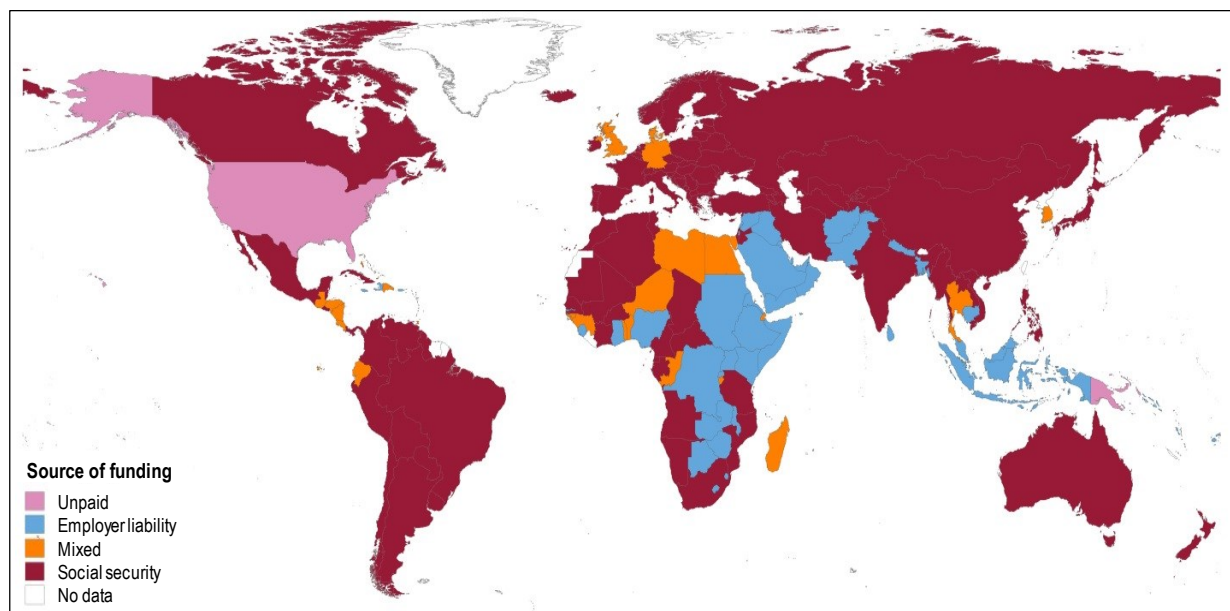


Source: ILO: Working Conditions Laws Database – Maternity protection. Available at: <http://www.ilo.org/travdatabase> [accessed 25 Mar. 2014].

¹⁹ D. Levine, M. Toffel and M. Johnson: “Randomized government safety inspections reduce worker injuries with no detectable job loss”, in *Science* (2012, Vol. 336, No. 6083), pp. 907–911.

40. Out of the 185 countries and territories with information available, all but two (Papua New Guinea and the United States) provide cash benefits to women during maternity leave; these two countries provide some form of maternity leave but have no general legal provision for cash benefits.²⁰ Between 1994 and 2013, there was notable progress in improving payment levels and a gradual shift away from reliance on employers to provide maternity leave benefits. Although the overall trends during this period were towards longer and better-paid leave, some Central and Eastern European countries reduced the level of payments as a result of austerity measures imposed in response to the economic crisis. Globally, the percentage of countries which rely on employer liability systems has declined since 1994 from 48 to 37 countries in 2013 (figure 2.7). This is an important trend, as there is a close relationship between the source of income replacement and the duration of maternity leave, with maternity leave tending to be shorter when employers are required to shoulder the full cost of maternity protection.

Figure 2.7. Source of funding of maternity leave cash benefits, 2013 (185 countries and territories)



Source: ILO Working Conditions Laws Database – Maternity protection. Available at: <http://www.ilo.org/travdatabase> [accessed 26 Mar. 2014].

41. Paternity leave is generally a short period of leave for the father immediately following the birth of a child. No ILO standard exists dealing specifically with paternity leave; however, in its 2009 conclusions concerning gender equality at the heart of decent work, the International Labour Conference recognized that work–family reconciliation measures are not just about women but also about men and thus encouraged member States to develop, together with the social partners, adequate policies allowing for a better balance of work and family responsibilities for both women and men, including paternity or parental leave as well as incentives to encourage men to take such leave.²¹

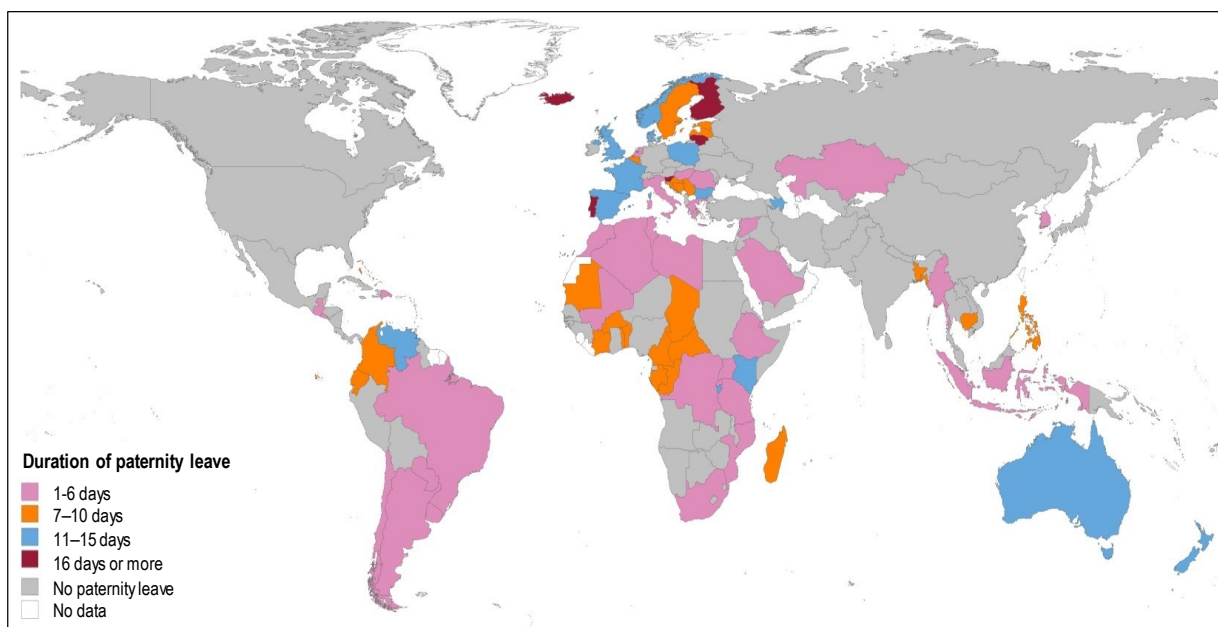
²⁰ The ILO Committee of Experts on the Application of Conventions and Recommendations has pointed out that drawing on sick leave benefits instead of maternity leave benefits is contrary to ILO standards on maternity protection, as the practice has the effect of unduly shortening the worker's right to sickness benefits in the postnatal period, when she might need them most, and leading to potential discrimination against women (ILO: *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 1A), International Labour Conference, 103rd Session, Geneva, 2014, p. 532).

²¹ ILO: *Conclusions concerning gender equality at the heart of decent work*, International Labour Conference, 98th Session, Geneva, 2009, points 6 and 42.

Research suggests that fathers who take leave, especially those taking two weeks or more immediately after the birth of a child, are more likely to be involved with their young children.²² This is likely to have positive effects for gender equality in the home, which is the foundation of gender equality at work.

42. Overall, paternity leave provisions have become more common. In 1994, statutory paternity leave provisions existed in 28 per cent, or 40, of the 141 countries for which data were available. By 2013, 47 per cent of countries, or 78, of the 167 countries for which data were available, provided paternity leave. Countries that have recently introduced or increased statutory paternity leave include Australia (2013), Bulgaria (2009), Ecuador (2009), El Salvador (2013), Denmark (2009), Finland (2013), Italy (2013), Republic of Korea (2010), Mauritius (2008), Uruguay, which extended leave to the private sector (2008), and the Bolivarian Republic of Venezuela (2007). The length of paternity leave varies among countries, from one day in Tunisia to 90 days in Finland, Iceland and Slovenia (54 working days) (figure 2.8).

Figure 2.8. Countries providing paternity leave by duration, 2013 (167 countries)



Source: ILO: Working Conditions Laws Database – Maternity protection. Available at: <http://www.ilo.org/travdatabase> [accessed 25 Mar. 2014].

²² M. Huerta et al.: “Fathers’ leave, fathers’ involvement and child development: Are they related? Evidence from Four OECD Countries”, in *OECD Social, Employment and Migration Working Papers*, No. 140 (Paris, OECD Publishing, 2013).

Chapter 3

Policy challenges and responses in respect of labour protection

43. Progress has continued in important areas of labour protection, but not all workers have benefited. As explained in Chapter 1, for the purposes of this report, there are three main determinants of labour protection in a country: the coverage of labour protection measures; the level of protection; and the degree of compliance. These three determinants are useful for establishing what challenges are faced in ensuring adequate labour protection with respect to working hours, wages, OSH and maternity protection.

44. Member States of the ILO have, in recent times, adopted policies to strengthen labour protection from the point of view of all three determinants. A common response has been to extend coverage to groups that had previously been excluded, thereby making labour protection more inclusive. In addition, some countries have increased the protection provided to workers. Other countries have focused on improving compliance with labour protection measures so that workers can benefit from the rights granted by laws or through collective bargaining.

3.1. Wage policies

3.1.1. Minimum wages

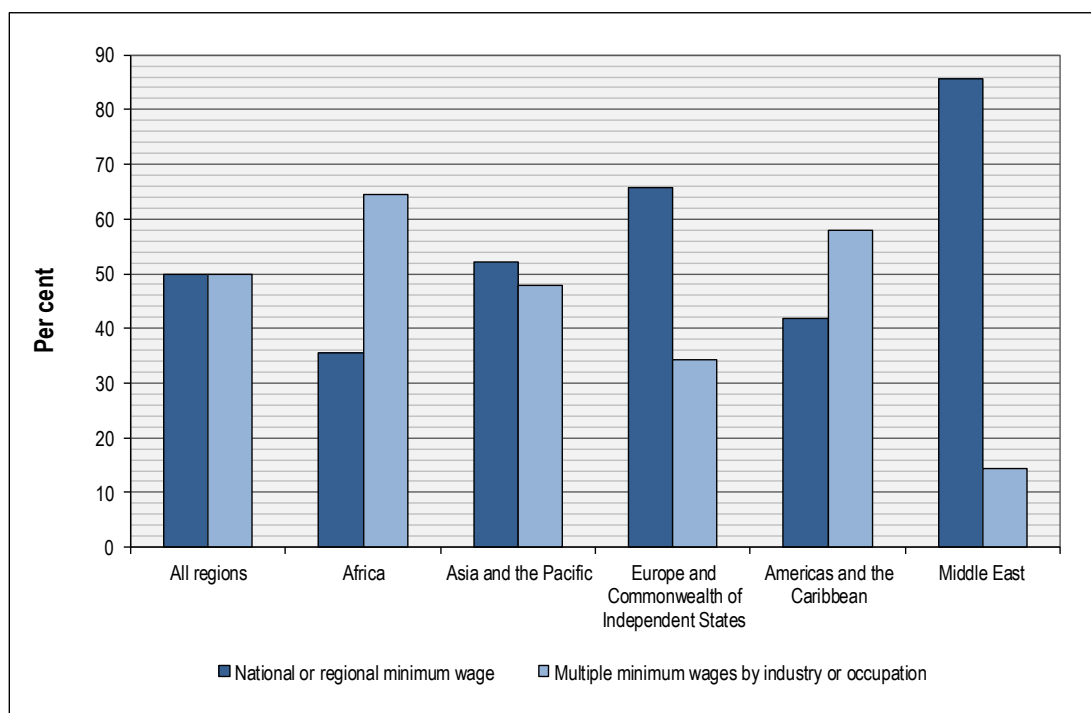
45. The concept of the minimum wage has been defined as the minimum amount of remuneration that an employer is required to pay wage earners for the work performed during a given period, which cannot be reduced by collective agreement or an individual contract.¹ With respect to minimum wages, there are challenges from the point of view of all three determinants. From the point of view of coverage (also sometimes referred to as “scope of application”), minimum wages are limited to waged employees, and thus do not cover self-employed workers, who represent a large share of workers in developing countries. Minimum wages can be fixed by statute; by decision of a competent authority; by decisions of wage boards or councils; by industrial or labour courts and tribunals; or by giving the force of law to provisions of collective agreements. In countries where collective bargaining is widespread, such as the Nordic countries, minimum wages are negotiated through collective bargaining. More commonly, however, countries rely on both collective bargaining and a statutory minimum wage. In these instances, statutory minimum wages complement collective bargaining, seeking to ensure that, in industries

¹ ILO: *Minimum wage systems: General Survey of the reports on the Minimum Wage Fixing Convention, 1970 (No. 131), and the Minimum Wage Fixing Recommendation, 1970 (No. 135)*, Report of the Committee on the Application of Conventions and Recommendations, International Labour Conference, 103rd Session, 2014, para. 68. See also: Outcome of the discussion by the Committee on the Application of Standards of the General Survey concerning minimum wage systems, International Labour Conference, 103rd Session, 2014, *Record of Proceedings* No. 13, Part One, paras 165–166.

or occupations where no arrangements exist for the regulation of wages by collective agreement, workers are also protected.

46. In practice, however, there are gaps in coverage, and groups of low-paid wage earners remain unprotected in many countries. Coverage is affected, for example, by the type of minimum wage system that is in place in a country. Some countries have a national minimum wage that applies to all waged workers in a country (with some exceptions), whereas other countries have systems that apply only to selected industries or occupations. About half of the 151 countries and territories reviewed in a recent ILO study have a minimum wage system that applies uniform coverage on a national or regional basis;² the remaining countries implement systems with multiple rates that vary by industry or occupation (figure 3.1). In general, coverage is higher when the systems provide a uniform national or regional level,³ as occupations and sectors are more likely to fall out of the scope of coverage when minimum wages are set by occupation or sector. For instance, in India, even though state governments set minimum wages for 1,679 job categories in “scheduled” industries, nearly a third of waged workers are not covered by any statutory minimum wage, and it is unclear what proportion of these workers is covered by collective agreements.⁴

Figure 3.1. Percentage of countries with national, regional or multiple minimum wage systems, by region, early 2010s



Source: U. Rani et al.: “Minimum wage coverage and compliance in developing countries”, in *International Labour Review* (2013, Vol. 152, No. 3–4), based on ILO: *Working Conditions Laws Report 2012: A global review*, op. cit.

47. Even in countries that provide a national or regional uniform rate, there are groups of workers that are sometimes excluded, such as domestic workers, family members,

² See ILO: *Working Conditions Laws Report 2012: A global review* (Geneva, 2013).

³ See U. Rani et al.: “Minimum wage coverage and compliance in developing countries”, in *International Labour Review* (2013, Vol. 152, No. 3–4).

⁴ *ibid.*

young people, apprentices, disabled workers, workers in free trade zones, agricultural workers and workers in micro- and small enterprises. For example, of the 53 million domestic workers in 2010, 43 per cent (or 22.3 million) were excluded from minimum wage coverage.⁵ Nevertheless, in recent years, many countries have taken measures to extend the coverage of minimum wages to previously excluded groups, in particular domestic workers. From 2008 to 2011, Chile gradually increased the minimum wage for domestic workers from 75 per cent to 100 per cent of the general minimum wage to eliminate wage differences, as well as to rectify inequalities in the individual pension account system.⁶ In 2011, Switzerland established a national minimum wage for domestic workers on the basis of evidence of unduly low wages in the domestic work sector. Similarly, South Africa issued a sectoral determination for domestic workers in 2002 on the basis of an assessment that the wages of domestic workers on average were unduly low, and that it was a workforce that was not in a position to bargain collectively.⁷ In 2013, the United States took measures to include all live-out home-care workers under minimum wage and overtime protections, as well as all live-in home-care workers who are employed by agencies and funded by government programmes.⁸

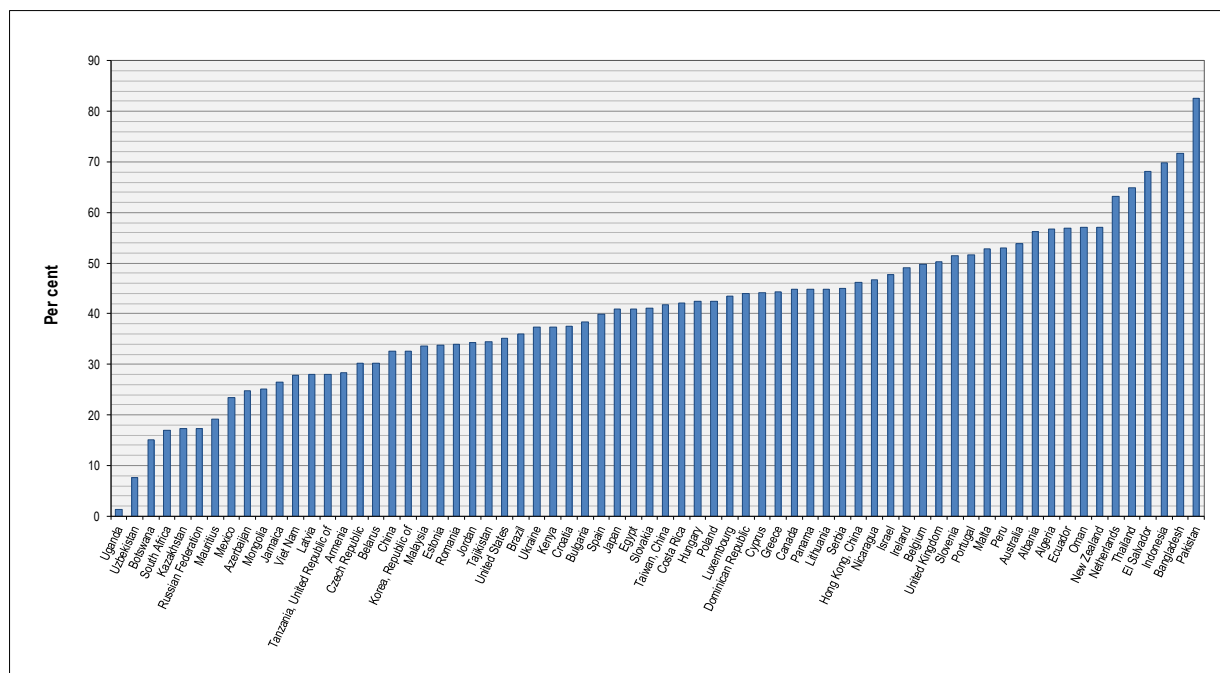
48. With regard to the level of protection, the challenge is to set minimum wages in a balanced way that takes into account a host of factors, including: the needs of workers and their families; the general level of wages in the country; the cost of living; social security benefits; the relative living standards of different social groups; and economic factors such as levels of productivity and possible adverse effects on employment if the minimum wage is set too high. Figure 3.2 shows that, of the 68 countries for which data are available for 2012 or 2013, two-thirds have a minimum wage set within a wide range of above 30 per cent and below 60 per cent of average wages. Countries in this range include Australia, Brazil, China, United Kingdom and United States. While these figures are provided with a view to showing existing realities, at the country level the minimum wage should be determined through the consultation and participation of social partners and other national actors (as emphasized in the ILO's 2014 General Survey on minimum wage systems), and set after careful country-specific analysis and accompanied by systematic monitoring.

⁵ See ILO: *Domestic workers across the world: Global and regional statistics and the extent of legal protection* (Geneva, 2013).

⁶ See M. Velásquez Pinto and M.G. Loyo Cabezas: *From exclusion to inclusion: How minimum wages for domestic workers are fixed: The case of Chile* (ILO working paper, forthcoming).

⁷ See T. Dinkleman and V. Ranchhod: "Evidence on the impact of minimum wage laws in an informal sector: Domestic workers in South Africa", in *Journal of Development Economics* (2012, Vol. 99, No. 1, Sep.), pp. 27–45; P. Strydom: *The effect of sectoral determination on the terms of employment of domestic workers in South Africa*, actuarial science research paper, University of Cape Town, 2011; M. Visser: "Sweeping changes? Organizing and bargaining for the realization of the rights of domestic workers", 2012.

⁸ According to estimates, the regulatory change will provide almost 2 million workers with minimum wage and overtime protections (United States Department of Labor, *Minimum wage, overtime protections extended to direct care workers by US Labor Department*, news release, 2013. Available at: <http://www.dol.gov/opa/media/press/whd/WHD20131922.htm> [accessed 5 Feb. 2015]).

Figure 3.2. Ratio of minimum to average wages in a selection of countries, 2012 and 2013

Source: ILO.

49. The issue of compliance deserves more attention than it has sometimes received in the past. A recent *International Labour Review* article on coverage and compliance in 11 developing countries found that one third of the 326 million wage earners who were legally covered in the 11 countries under study were paid less than the legal minimum, indicating a significant degree of non-compliance. In addition, the authors found that, in nine of the countries, the average wages of female workers earning sub-minimum wages was lower than those of male workers, such that the depth of violation was more pronounced among women. This was also true of ethnic and racial minorities and informal workers.⁹ In the United States, non-compliance has recently been estimated at 3.5 to 6.5 per cent of all covered wage workers in New York and California, leading to a total of up to \$48.8 million in weekly lost income for the workers.¹⁰

50. The reasons for non-compliance are varied. For example, when minimum wages are used to determine the wages of multiple occupational categories, the minimum wage system risks becoming too complex, inhibiting compliance. In these situations, there is the risk that employers and workers will not be familiar with the relevant minimum wage, and will therefore not apply it.¹¹ Moreover, in these situations, the minimum wage is less likely to become a reference wage for wage setting in informal arrangements. The level at which the minimum wage is set can also affect compliance. If a minimum wage is set very low, then compliance is assured, but the minimum wage does not achieve its goal of protecting workers against unduly low wages. If the minimum wage is set too

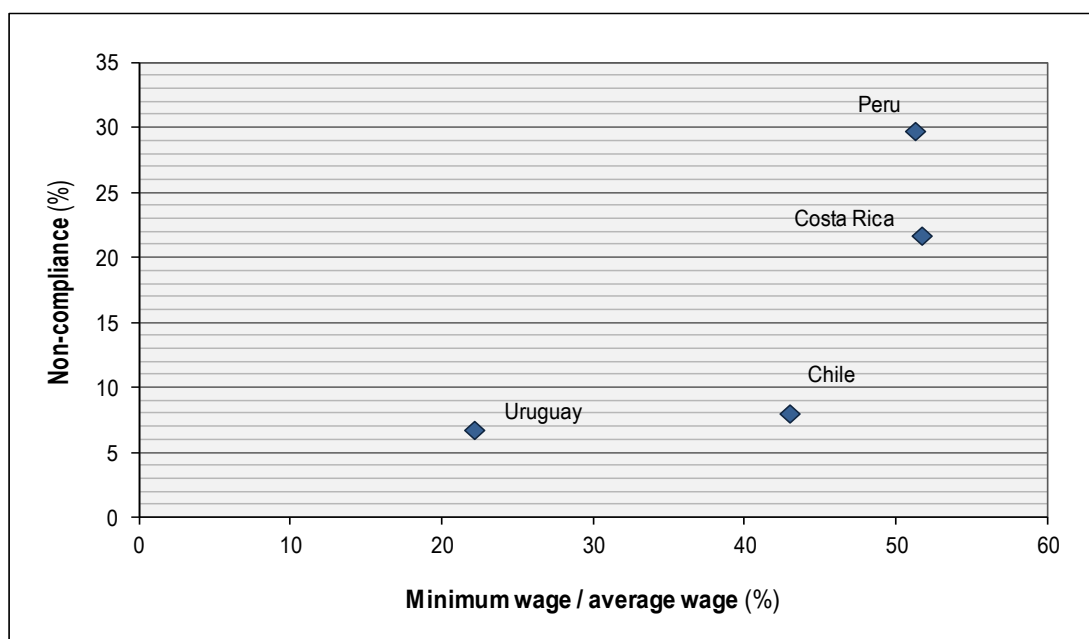
⁹ See U. Rani et al.: "Minimum wage coverage and compliance in developing countries", in *International Labour Review*, op. cit., p. 392.

¹⁰ See Eastern Research Group: *The social and economic effects of wage violations: Estimates for California and New York*, final report prepared for the United States Department of Labor, Dec. 2014.

¹¹ See ILO: *Growth, employment and social cohesion in the Dominican Republic*, ILO background paper presented at the ILO-IMF Tripartite Consultation on Job-rich and Inclusive Growth in the Dominican Republic, Santo Domingo, Dominican Republic, 30 January 2013.

high, however, it may jeopardize compliance. There are a host of country-specific factors that also determine compliance. Figure 3.3 shows that two countries (in this case, Costa Rica and Peru) can have the same minimum wage level and different rates of non-compliance, or that two countries can have similar rates of non-compliance (Uruguay and Chile) despite the minimum wage being set at different levels. In these countries, besides the level at which the minimum wage was set, supportive policies, particularly with regard to labour inspection, were instrumental for fostering compliance, and explain part of the differences in compliance rates of the countries under study.¹² For example, in Costa Rica, a national minimum wage campaign was launched in 2010 to reduce the relatively high degree of non-compliance in the country, through awareness raising, the creation of a telephone hotline for workers, and more labour inspections targeting minimum wage violations.¹³ In India, compliance with minimum wages increased considerably between 2004–05 and 2009–10, in part due to the National Rural Employment Guarantee Scheme, which provided workers with employment at minimum wage rates and acted as a binding floor for these workers, who could bargain for similar or higher wages in the labour market.¹⁴

Figure 3.3. Minimum wage in relation to average wage and non-compliance in urban areas, 2011



Note: Non-compliance is measured as the percentage of waged workers who earn below the prevailing minimum wage.

Source: Marinakis, op. cit.

¹² See A. Marinakis (ed.): *Incumplimiento con el salario mínimo en América Latina: El peso de los factores económicos e institucionales* [Non-compliance with the minimum wage in Latin America: The impact of economic and institutional factors] (Santiago, ILO, 2014).

¹³ See T.H. Gindling, N. Mossaad and J.D. Trejos: *Las consecuencias del aumento en la observancia del salario mínimo legal en Costa Rica: Una evaluación del impacto de la Campaña Nacional de Salarios Mínimos*, [The consequences of increased compliance with the legal minimum wage in Costa Rica: An evaluation of the impact of the National Minimum Wage Campaign] (University of Costa Rica, Economic Science Research Institute, 2013).

¹⁴ See J. Jeyaranjan: "Women and pro-poor policies in rural Tamil Nadu: An examination of practices and responses", in *Economic and Political Weekly* (2011, Vol. 46, No. 43, Oct.), pp. 64–74; U. Rani and P. Belser: "The effectiveness of minimum wages in developing countries: The case of India", in *International Journal of Labour Research* (2012, Vol. 4, Issue 1), pp. 45–66.

3.1.2. Protection of wages

51. Despite the existence of international and national legal standards on the protection of wages, there continue to be important challenges in ensuring that workers are paid their due wages (including overtime pay, if applicable). The late, underpayment or non-payment of wages continue to be endemic problems, particularly among low-skilled workers and migrants. In the United States, the majority of legal wage-related complaints are found in restaurants, hotels and janitorial services.¹⁵ In China, in the early 2000s, the vast majority of protests and strikes by workers were due to wage arrears, many of which affected migrant workers in industries such as construction.¹⁶ Workers who migrate from one country to another also can face difficulties with wage payments and may have more problems in collecting any owed wage amounts due to language or legal barriers.¹⁷ When wage payment problems become a feature of national governments, as a result of an economic crisis, there are multiplier effects on the economy. Wage arrears were a significant problem in the transition economies in the late 1990s, reducing aggregate consumption by between 8 and 16 per cent.¹⁸

52. The issue of how much is paid is more complicated when it involves overtime. Overtime is an issue of both payment and working hours. Because overtime may need to be paid at a higher rate than regular working hours, disagreement between employers and workers can frequently lead to formal legal complaints about payment. Government data on wage-related complaints generally, and on overtime complaints specifically, are often not collected or available. However, there are a few examples that can demonstrate the extent of overtime payment problems. In the Canadian province of Ontario, for example, overtime pay complaints were in the top five of all labour inspection complaints.¹⁹ In Singapore, overtime wage complaints consistently represent the second highest number of wage-related complaints over a ten-year period.²⁰ This information, however, is based on cases that are filed with national authorities; there is little to no research or data to indicate whether issues regarding overtime payment are more widespread in any particular industry or country.

53. Wage protection is facilitated when there are social actors and legal institutions to support workers. Trade unions play a vital role in guaranteeing that workers are paid in full and in a timely manner. In Australia, the trade unions have had a regulatory function supported by the legal framework of the federal conciliation and arbitration system, which includes monitoring and ensuring compliance with agreed legal payments determined by social partners and authorities for both trade union members and non-

¹⁵ United States Department of Labor, Wage and Hour Division: 2013 data. Of the 13,754 cases filed with the Wage and Hour Division, 44 per cent were in the restaurant industry. See <http://www.dol.gov/whd/statistics/> [accessed 5 Feb. 2015].

¹⁶ See China Labour Bulletin: *A Decade of Change: The Workers' Movement in China 2000–2010* (Hong Kong, Mar. 2012); “Unpaid wages in China: Can’t pay, won’t pay: Companies’ cash is drying up, with dire consequences for their workers”, in *The Economist*, 29 Oct. 2011: <http://www.economist.com/node/21534838> [accessed 5 Feb. 2015].

¹⁷ See J. Wells and B. Fernz: *Improving employment standards in construction in Qatar: Final Report*, Engineers Against Poverty, July 2014.

¹⁸ See D. Boyarchuk, L. Maliar and S. Maliar: “The consumption and welfare implications of wage arrears in transition economies”, in *Journal of Comparative Economics* (2005, Vol. 33, Issue 3), pp. 540–564.

¹⁹ Ontario Ministry of Labour, Investigations and Inspection Statistics, revised July 2014: <http://www.labour.gov.on.ca/english/es/pubs/enforcement/investigations.php> [accessed 5 Feb. 2015].

²⁰ Singapore Ministry of Manpower statistics: <http://www.mom.gov.sg/statistics-publications/others/statistics/Pages/default.aspx> [accessed 5 Feb. 2015].

members of the relevant industry or occupation.²¹ Labour inspectorates and labour arbitration or courts are also critical when violations of wage protection provisions take place. However, it is important that these institutions are adequately resourced to properly enforce legal wage protection measures. In many developing countries, this can be exceptionally problematic and may lead to wage payment problems that negatively affect workers, their families and the local economy.²² In the context of limited resources, the strategic enforcement of wage violations becomes critical. Research suggests that this should involve: prioritization of industries; enhancing deterrence; integrating complaint and investigation activities; and developing policies that enhance the sustainability of enforcement.²³

54. It is also possible that other institutional measures can be taken to improve wage protection. For example, in the United Kingdom, Her Majesty's Revenue and Customs is a non-ministerial department of the Government, responsible for the collection of taxes and for enforcing wage protection. The department is legally obliged to work with the Department for Business, Innovation and Skills to coordinate actions on minimum wages and minimum wage violations.²⁴ In this case, Her Majesty's Revenue and Customs acts as an enforcer with the ability to investigate claims in the same way a labour inspection service would conduct its investigations and sanction infringements. This allows investigations of wage complaints to be executed by investigators with the training and skills to examine financial records. It also allows a sharing of resources on what can be difficult and time-consuming cases.

3.2. Working hours

55. Long working hours not only have profound consequences on workers who have little influence over their jobs or work environment (such as domestic workers), but they also affect workers who have more discretion and who receive higher compensation (such as bankers and lawyers). For others, often the problem is not that they have too many hours, but rather that they have too few, affecting their income security, or hours that are so varied that it is difficult for them to organize their personal and family responsibilities.

3.2.1. Long working hours

56. Long working hours prompted the first regulations on working time; today most countries have national limits on working time, overtime, overtime pay and annual leave. Nevertheless, many workers do not benefit from these protections either because they are self-employed and thus excluded from the scope of labour laws, because they are in an occupational category that is sometimes exempted from the law, or because they work in informal or formal employment arrangements where the law is not complied with.

²¹ See T. Hardy and J. Howe: "Partners in Enforcement? The New Balance between Government and Trade Union Enforcement of Employment Standards in Australia", in *The Australian Journal of Labour Law* (2009, Vol. 23, No. 3), pp. 306–336.

²² N. Ghosheh: *Wage protection legislation in Africa* (Geneva, ILO, Conditions of Work and Employment Series No. 38, 2012).

²³ D. Weil: "A strategic approach to labour inspection", in *International Labour Review* (2008, Vol. 147, No. 4), pp. 349–375.

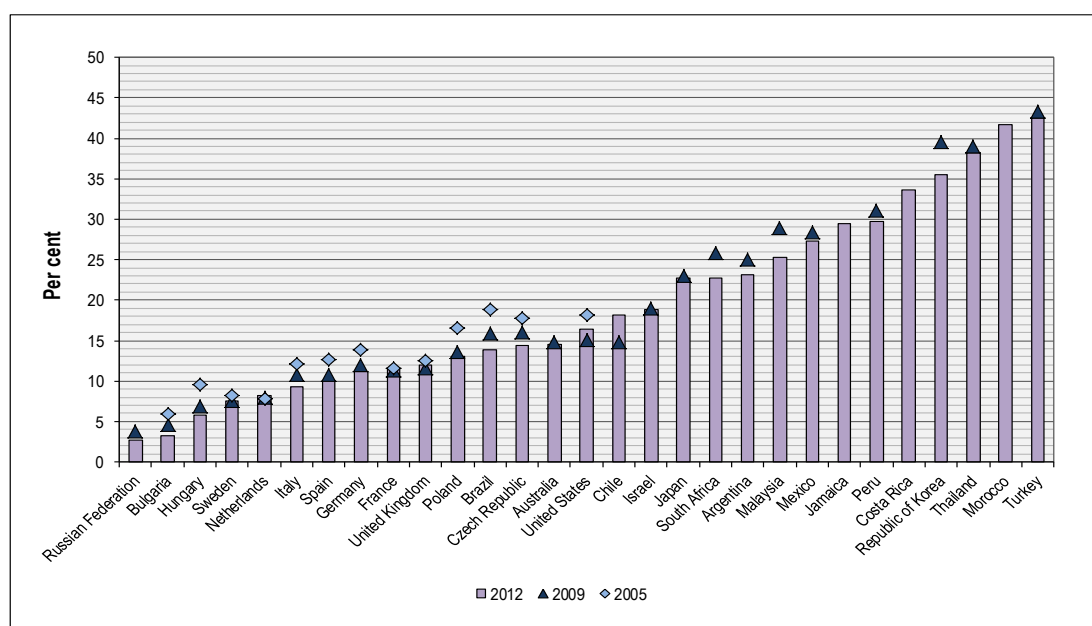
²⁴ See UK Government Department for Business, Innovation and Skills website at: <http://www.businesslink.gov.uk/bdotg/action/layer?r.l1=1073858787&r.l2=1081657912&r.s=tl&topicId=1096714534>; and Her Majesty's Revenue and Customs website at: <http://www.hmrc.gov.uk/pay/payroll/day-to-day/nmw.htm> [accessed on 5 Feb. 2015].

Common coverage exceptions include family workers (such as in Bangladesh and the Philippines), intermittent workers (such as in the Plurinational State of Bolivia, Honduras, Malaysia and Singapore), agricultural workers (such as in Argentina, the Republic of Korea and Thailand), and domestic workers. Indeed, a 2013 ILO study on the legal protection of domestic workers found that 29.7 million domestic workers (almost 57 per cent of the total) did not benefit from a limitation on normal weekly hours of work and an additional 1.9 million (3.6 per cent) had limitations on working hours that were on less favourable terms than those of other workers. As a result, the average actual hours worked of domestic workers are often substantially higher than the average for their countries.²⁵

57. Another occupational category often excluded from legislation limiting working time is “employees with managerial responsibilities”, although some countries also specify income thresholds for this exception in an attempt to prevent employers from classifying workers with routine supervisory tasks as falling into this category. Countries with managerial exceptions include: Argentina, Canada, Costa Rica, France, Japan, Philippines, Singapore, South Africa, Sri Lanka, Sweden and United States.

58. As a result of the many “coverage gaps” that exist with respect to working hours, but also as a result of lax compliance, it is not surprising that, in practice, substantial proportions of employees work very long hours (defined as being more than 48 hours per week). This is the case for over 40 per cent of workers in Mauritius and Turkey, over 30 per cent in Peru and the Republic of Korea, and over 20 per cent in Argentina, Japan, Malaysia and Mexico (figure 3.4). The incidence of very long hours is also quite high among the self-employed (figure 3.5). In Europe, although the proportion of employees working long hours is low, in some countries, such as France and Sweden, the self-employed are six times more likely to work very long hours than employees.

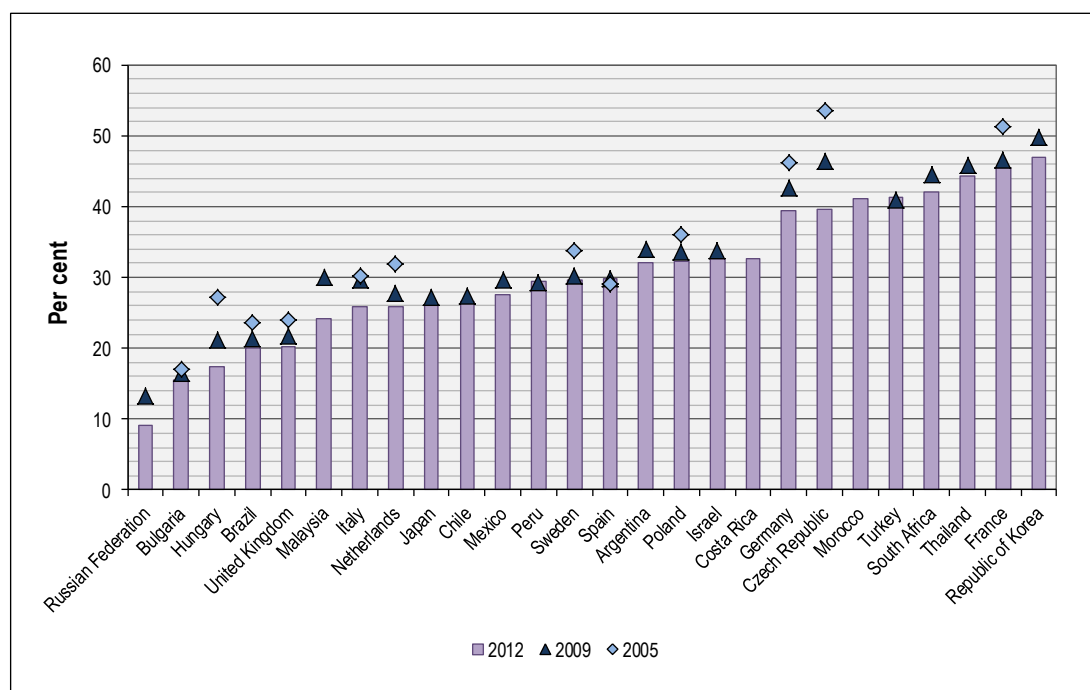
Figure 3.4. Persons working more than 48 hours per week as a share of total employees in 2012, 2009 and 2005 (percentage)



Source: National labour force surveys, European Union Labour Force Survey, ILOSTAT and OECD.

²⁵ ILO: *Domestic workers across the world: Global and regional statistics and the extent of legal protection*, op. cit.

Figure 3.5. Self-employed persons working more than 48 hours per week as a share of total self-employment in 2012, 2009 and 2005 (percentage)



Source: National labour force surveys, European Union Labour Force Survey, ILOSTAT and OECD.

59. In response to these challenges, countries have reduced their normal workweeks and established limits on overtime work; some countries have also broadened the coverage of their legislation on working-hour limits to include previously excluded groups, such as domestic workers. In addition, some countries have introduced legislation to promote better quality part-time work and to strengthen the influence of workers over their work schedules.

60. Recently, some countries, recognizing the negative consequences of working very long hours, notably for health, have taken measures to limit the length of the workweek. In Japan, nearly a third of employed men work more than 48 hours per week, far surpassing the trends of most industrialized countries. An unsettling consequence of this work culture was identified in the early 1970s: death from overwork (*karoshi*). In 2014, the Japanese Parliament introduced, in response to concerns and the campaigns of family members of the deceased, legislation to promote measures to prevent *karoshi*. It mandates that the Government conduct research on *karoshi*; establish a committee for the promotion of measures to prevent it; and sets out the principle that the relevant parties (the State, local government and enterprises) should closely collaborate to prevent such deaths. The legislation also provides for November to be a *karoshi* awareness month, and the Government set up a hotline in September 2014 for employers and employees to consult about working conditions and, in particular, excessive or unpaid overtime and health impairments caused by excessive overtime work.²⁶

²⁶ Workers not covered by Japan's Labour Standards Act, mainly employees in micro-enterprises, remain excluded. See S. North and R. Morioka: "Japan tackles the *karoshi* taboo", in *Asia Times Online*, 5 May 2014, at <http://www.atimes.com/atimes/Japan/JAP-02-050514.html>; and ILO: "Case study: *Karoshi*: Death from overwork", 23 Apr. 2013, at http://www.ilo.org/safework/info/publications/WCMS_211571/lang--en/index.htm [accessed 5 Feb. 2015].

61. The Republic of Korea, due in part to worries about death from overwork (*kwarosa*), but also to promote increased leisure time, reduced the normal legal workweek from 44 to 40 hours over a seven-year period; by 2011, all workers covered by the Labour Standards Act were subject to the 40-hour limit.²⁷ These legislative changes have reduced working hours, with the greatest reductions occurring among workers who had especially long working hours.

62. Domestic workers have commonly been excluded from working-time provisions. This is especially true of live-in domestic workers, who have often been expected to be available around the clock. The work done in the run-up to the Domestic Workers Convention, 2011 (No. 189), and its passage in June 2011, prompted some countries to reform their working-time laws to impose limits on daily and weekly hours, and to provide for paid annual leave for domestic workers. For example, Viet Nam, as part of a far-reaching reform to extend protection to domestic workers, mandated the right to 24 hours of consecutive rest per week or four days off per month, and eight hours rest per 24-hour period, of which six must be consecutive. In Thailand, a new ministerial regulation ensures the right to at least one day off each week, no less than 13 standard traditional holidays per year and, after a year of continuous service, six days of paid annual leave. Domestic workers now also enjoy holiday pay rates for holidays during which they are required to work; and the right to sick leave and payment of unused leave days in the event that their contract is terminated. The regulatory initiative has positive implications for more than 250,000 domestic workers in Thailand. In other countries, where domestic workers already enjoyed a certain level of protection, measures were taken to ensure protection equal to that enjoyed by workers generally. For instance, Argentina issued a new law defining domestic workers' labour rights, including overtime pay, sick leave and maternity leave, maximum working hours of 48 hours per week, a weekly rest period and paid annual holidays. In Brazil, a constitutional amendment was made to ensure that domestic workers enjoyed the same level of protection as all other workers, which in practice meant the enactment of working-hour limits (44 hours per week) and overtime provisions, which previously did not exist.

3.2.2. Short hours

63. While excessively long hours can be problematic, working short hours is not always voluntary and may be the result of having limited hours of work available, leading to income insecurity for workers. In some cases, too few hours may be the result of regulations establishing thresholds for social security and other benefits, thereby providing incentives to enterprises to limit the number of hours offered to workers.²⁸ In the absence of "minimum hour provisions", employers may be under no obligation to provide a minimum or specific number of hours of work.

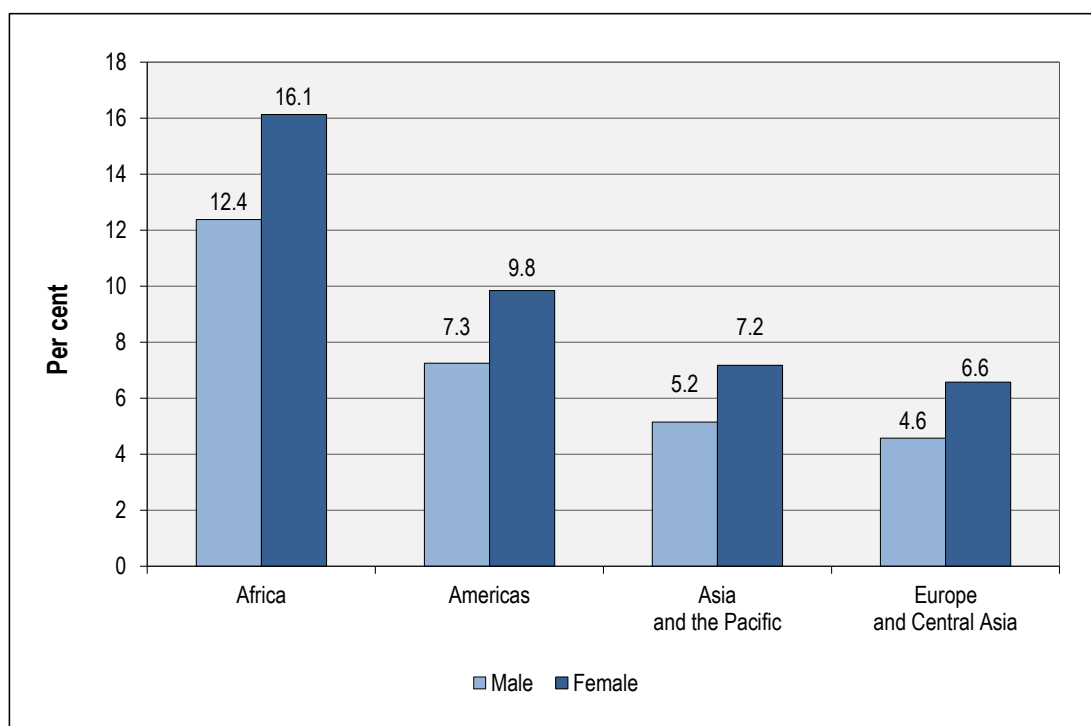
64. The statistical concept of "time-related underemployment", includes persons: (a) willing to work additional hours; (b) available to work additional hours; and (c) having worked less than a threshold relating to working time (chosen according to national circumstances). The worldwide evidence on underemployment is summarized in figure 3.6. It shows that the time-related underemployment rate, as a percentage of total employment, ranges from around 5 per cent in Europe to around 15 per cent in Africa. It

²⁷ See Yonhap News Agency: "Overwork culture proves hard to dismiss", 25 Apr. 2013, at http://english.yonhapnews.co.kr/n_feature/2013/04/24/61/4901000000AEN20130424009700315F.HTML [accessed 5 Feb. 2015].

²⁸ See S.E. Gleason (ed.): *The shadow workforce: Perspectives on contingent work in the United States, Japan and Europe* (Kalamazoo, Michigan, Upjohn Institute for Employment Research, 2006).

is considerably higher among women than men in all regions. Time-related underemployment is quite high in a number of developing countries, such as Bangladesh (20.3 per cent), Costa Rica (13.8 per cent) and Indonesia (14.1 per cent), and has been rising since the crisis in several developed countries, most notably Spain (from 7.3 to 10.2 per cent) and the United Kingdom (from 3.5 to nearly 8 per cent). In the United States, 27 per cent of part-time workers in August 2014 were involuntarily part time.²⁹ Nonetheless, the country which has the highest proportion of all workers in both short and very short part-time hours, the Netherlands, has extremely low time-related unemployment (only 1.6 per cent), suggesting that nearly all of the part-time work in that country is freely chosen.

Figure 3.6. Incidence of time-related underemployment as a percentage of total employment, 2010



Note: Coverage: 87 countries, grouped by ILO region, unweighted average; data for Arab States are unavailable.
Source: ILOSTAT.

3.2.3. Promoting good quality part-time work

65. Part-time work can be beneficial for integrating in the labour market workers who otherwise may not have worked, as well as for retaining workers who are unable to work full time. To avoid unfair treatment of part-time workers, countries have taken measures to promote good quality part-time work by passing equal treatment legislation and legislation that allows workers to switch from part time to full time and vice versa.³⁰ Under equal treatment legislation, part-time workers have the same rights and benefits as full-time workers in comparable positions, though on a pro rata basis. In the Netherlands,

²⁹ United States Department of Labor, Bureau of Labor Statistics: Economic News Release, <http://www.bls.gov/news.release/empst.t08.htm> [accessed 5 Feb. 2015].

³⁰ The principle of equal treatment is a central component of the Part-Time Work Convention, 1994 (No. 175), as well as of Council Directive 97/81/EC of 15 Dec. 1997 concerning the Framework Agreement on part-time work. See also C. Fagan et al.: *In search of good quality part-time employment* (Geneva, ILO, Conditions of Work and Employment Series No. 43, 2013).

the 1996 Equal Treatment (Working Hours) Act prohibits differences in treatment on the basis of the number of hours worked for many aspects of the employment relationship.³¹ The other major Dutch law applicable to part-time work is the 2000 Adjustment of Working Hours Act, which allows employees under certain conditions to change their working-time arrangements with their current employer. The legislation aims also to encourage men to opt for part-time work, should they want it, and is thus important for promoting gender equality.³²

66. Another major policy for promoting the reform of part-time work is to strengthen workers' rights to request changes in their working hours, and especially to be able to move back from part-time to full-time work after having moved from full time to part time – the so-called “reversibility” issue. This policy eases the reinsertion of parents returning from maternity and parental leave into the paid labour force and helps to avoid the “part-time trap”. France, Germany, the Netherlands and Poland have such a right of “reversion to full time” enshrined in their national laws for employees who have moved from full-time to part-time work within the same enterprise.

67. A new policy development on part-time work is the establishment of minimum thresholds for working hours. In June 2013, France adopted the Job Security Act, substantially modifying its regulation of part-time work by establishing, in principle, a minimum of 24 working hours per week. The law mandates that negotiations over the organization of part-time work be initiated when at least one third of the workforce in the sector concerned is employed part time. Exceptions are allowed under strict conditions, either at the employee's request or through a collective agreement.

3.2.4. Improving working-time arrangements (work schedules)

68. Two other important challenges in working time are variable and unpredictable hours, especially on-call work, and the growing encroachment of work into personal time as a result of information technologies.³³ On-call work is characterized by short advance notice of schedules, large fluctuations in work hours and little or no input by workers into the timing of work. In the retail sector, the growth of unpredictable schedules is due in part to the development of sophisticated software used to track the flow of customers, allowing managers to assign just enough employees to handle the anticipated demand. In the United States, where legal provisions on advance notice of working hours exist only in a few localities, retail stores and restaurants feed information on weather forecasts, sales patterns and other data into the software to determine “optimum staffing”. When sales are slower than foreseen, managers may send employees home before the end of a scheduled shift or even cancel shifts at the last minute.³⁴ Indeed, a survey of 200 retail workers in New York City working in stores with more than 100 employees found that only 40 per cent of the workers surveyed had a specified minimum number of hours per week.³⁵ Similarly, a survey of early-career

³¹ J. Visser et al.: “The Netherlands: From atypicality to typicality”, in S. Sciarra, P. Davies and M. Freedland (eds): *Employment Policy and the Regulation of Part-Time Work in the European Union: A Comparative Analysis* (Cambridge, United Kingdom, Cambridge University Press, 2004).

³² *ibid.*

³³ On-call work is to be differentiated from on-call hours as part of a working contract that otherwise specifies working hours and which is common, for example, in the medical profession.

³⁴ See “A Part-Time Life, as Hours Shrink and Shift”, in *The New York Times*, 28 Oct. 2012. See also “Working Anything but 9 to 5, Scheduling Technology Leaves Low-Income Parents with Hours of Chaos”, in *The New York Times*, 13 Aug. 2014.

³⁵ S. Luce, S. Hammad and D. Sipe: “Short-shifted”, Retail Action Project, 2014.

adults (26–32 years old) in the food service sector found that 90 per cent had experienced work-hour fluctuations in the prior month, varying by an average of 68 per cent of their usual hours; half of the workers knew their work schedule one week or less in advance.³⁶

69. In other countries, unpredictable hours can take the form of “zero-hours” contracts in the United Kingdom, “work on demand” (*Arbeit auf Abruf*) in Germany, and some forms of “casual employment” in Australia. Zero-hours contracts have garnered considerable media attention in the United Kingdom and were the subject of a national consultation, launched in December 2013. In the absence of an official definition, zero-hours contracts are described as arrangements in which “people agree to be available for work as and when required, but have no guaranteed hours or times of work”. The contracts “provide employers with a pool of people who are ‘on call’ and can be used when the need arises”.³⁷ Even when workers are under no contractual obligation to accept any shift proposed, pressure may be high to accept such offers through fear of a subsequent cut in working hours. In April 2014, the number of “active” zero-hour contracts was estimated at 1.4 million,³⁸ mainly in the accommodation and food sectors, administrative and support services, and health and social work.³⁹ The percentage of workplaces that had some employees on zero-hour contracts doubled between 2004 and 2011, from 4 per cent to 8 per cent.⁴⁰

70. Highly variable and unpredictable work schedules, such as those resulting from on-call work, create obstacles to work–life balance and income security. Following a broad consultation launched in response to controversies surrounding the widespread use of zero-hours contracts, the UK Government decided in June 2014 to ban the use of exclusivity clauses in contracts that do not guarantee any hours and expressed its willingness to improve information available to workers on zero-hours contracts and employers, and to encourage the social partners to develop sector-specific codes of practice on its fair use.⁴¹ In the United States, in order to mitigate the negative impacts of “just-in-time” scheduling, which is common in the retail industry, eight states and the District of Columbia have introduced “reporting-time pay” laws requiring employers to pay a minimum amount to employees who report to work for a scheduled shift, even if work is not provided to them.⁴²

³⁶ S.J. Lambert, P.J. Fugiel and J.R. Henly: *Precarious Work Schedules among Early-Career Employees in the US: A National Snapshot* (University of Chicago, 2014).

³⁷ Advisory Conciliation and Arbitration Service (ACAS): “The rise of the zero-hours contract”, at <http://www.acas.org.uk/index.aspx?articleid=3886> [accessed 5 Feb. 2015].

³⁸ More precisely, a survey of employers published in April 2014 by the UK Office for National Statistics estimated at 1.4 million the number of “employee contracts that do not guarantee a minimum number of hours” under which some work was provided during a two-week period between late January and early February 2014, and there were approximately 1.3 million further contracts under which no work was provided during the same period.

³⁹ UK Office for National Statistics: *Analysis of employee contracts that do not guarantee a minimum number of hours*, available at: <http://www.ons.gov.uk/ons/rel/lmac/contracts-with-no-guaranteed-hours/zero-hours-contracts/art-zero-hours.html> [accessed 5 Feb. 2015].

⁴⁰ UK Department for Business, Innovation and Skills: *The 2011 Workplace Employment Relations Study – First findings*, last updated 28 July 2014, available at: <https://www.gov.uk/government/publications/the-2011-workplace-employment-relations-study-wers> [accessed 5 Feb. 2015].

⁴¹ UK Department for Business, Innovation and Skills: *Zero Hours Employment Contracts – Banning Exclusivity Clauses: Tackling Avoidance*, Aug. 2014, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/347034/bis-14-992-zero-hours-employment-contracts-exclusivity-clause-ban-avoidance.pdf [accessed 5 Feb. 2015].

⁴² S. Luce, S. Hammad and D. Sipe: “Short-shifted”, op. cit.

71. A number of countries have introduced laws to provide workers with the right to request flexible work schedules or other types of flexible working arrangements, such as teleworking, including Argentina, Belgium, France, Germany, Netherlands and United Kingdom. In 2013, Australia amended the Fair Work Act by extending the right of requesting flexible working arrangements, including the reduction of their working hours, to additional workers. In the United Kingdom, as of June 2014, all employees with 26 weeks or more of service with an enterprise are allowed to request flexible working arrangements, and employers are required to consider such requests in a reasonable manner.⁴³ Flexible working is a variation of an employee's normal working pattern, and includes part-time work, flexitime, job-sharing, and working from home (telework). Innovative working-time arrangements such as flexitime and compressed workweeks, if properly structured, can be mutually advantageous for both workers and enterprises.⁴⁴ This win-win approach takes into account both workers' and employers' preferences, as recommended in the Reduction of Hours of Work Recommendation, 1962 (No. 116).

72. New information and communication technologies increasingly permit employees to work at any time and from anywhere. Yet work-related telephone calls and email contacts outside of regular business hours can have negative effects on workers' mental health and work-life balance. Cross-country analyses show that such practices lead to a chronic lack of recovery and an increase in sickness absences.⁴⁵ These effects are intensified if there are no strategies in place for managing the boundaries between paid work and personal life.⁴⁶ In response to the growing concerns over work-related stress, some companies and governments have taken measures to sharpen these boundaries.

73. In 2011, Volkswagen and its works council reached an agreement to stop company computer servers from routing emails 30 minutes after the end of employees' shifts, until 30 minutes before their following shift. This agreement applies to employees in Germany working under contracts negotiated with their trade union.⁴⁷ BMW adopted a more flexible approach, allowing employees – in consultation with their bosses – to carry out tasks outside of the workplace and beyond normal working hours, which opens the possibility of overtime compensation for the time spent answering emails after the end of the employee's shift. Daimler introduced a new software allowing the automatic deletion of all incoming emails when an employee is on holiday. Simultaneously, a message is sent to inform the sender of the mail and to invite him or her to contact another employee.⁴⁸

74. In 2013, the German Federal Ministry of Labour and Social Affairs introduced a minimum leisure-time policy whereby managers can contact employees outside of their

⁴³ It should be emphasized that this is a right to *request* such flexible work arrangements, but not an absolute right to receive them, and employers can reject employees' requests if they provide clear business reasons for such a rejection. See ACAS guide, available at: <http://www.acas.org.uk/media/pdf/1/a/The-right-to-request-flexible-working-the-Acas-guide.pdf> [accessed 5 Feb. 2015].

⁴⁴ L. Golden: *The effects of working time on productivity and firm performance: A research synthesis paper* (Geneva, ILO, Conditions of Work and Employment Series No. 33, 2012).

⁴⁵ See A. Arlinghaus and F. Nachreiner: "When Work Calls – Associations Between Being Contacted Outside of Regular Working Hours for Work-Related Matters and Health", in *Chronobiology International* (2013, Vol. 30, No. 9), pp. 1197–1202.

⁴⁶ See G.H. Fenner and R.W. Renn: "Technology-assisted supplemental work and work-to-family conflict: The role of instrumentality beliefs, organizational expectations and time management", in *Human Relations* (2010, Vol. 63, No. 1), pp. 63–82.

⁴⁷ "Volkswagen turns off Blackberry email after work hours", BBC News, 23 Dec. 2011, available at: <http://www.bbc.com/news/technology-16314901> [accessed 5 Feb. 2015].

⁴⁸ "Auf wiedersehen, post – Daimler staff get break from holiday email", in *Financial Times*, 13 Aug. 2014.

working hours only to deal with exceptional situations requiring action that cannot be postponed until the start of the next working period. Furthermore, employees should not be put at a disadvantage for turning off their mobile phone or not picking up messages outside of working hours. In addition, the number of people who are accessible should be kept to a minimum and managers are required to take personal and family situations into consideration.⁴⁹

75. In France, a collective agreement applicable to the technology and consultancy sector was amended in 2014 to impose an obligation of disconnection from remote communication tools to ensure compliance with minimum rest-time provisions. In Brazil, labour legislation was amended in 2011 to specify that computerized means of supervision are to be considered as equivalent – with respect to legal subordination – to personal and direct supervision by the employer.⁵⁰ This provision may lead to employees claiming overtime pay for the time spent answering emails outside of their normal hours of work.

3.3. Occupational safety and health

76. According to estimates by the ILO, occupational accidents and work-related diseases annually cause over 2.3 million fatalities, of which over 350,000 are fatal occupational accidents and over 2 million are the result of work-related diseases. In addition, there were over 313 million non-fatal occupational accidents giving rise to at least four days absence in 2010.⁵¹ Achieving safe and healthy workplaces continues to be a challenge as, in practice, ensuring that workers are effectively covered by OSH protection is difficult. Many traditional workplace risks persist and are particularly acute in the informal economy, or in small and medium-sized enterprises (SMEs), whose approach towards OSH tends to be reactive, rather than preventive.⁵² In addition, new risks have emerged as a result of new types of working arrangements, work processes and materials.

77. Unlike the other policy areas covered in this report, all workers are, in principle, covered by OSH legislation, at a level of coverage corresponding to that which ensures the safety and health of the worker.⁵³ The principal difficulty with respect to OSH

⁴⁹ Spiegel Online: “Living Offline: Minister Halts After-Hours Contact for Staff”, 30 Aug. 2013, available at: <http://www.spiegel.de/international/germany/no-contact-for-german-labor-ministry-employees-after-work-new-guidelines-a-919463.html> [accessed 5 Feb. 2015].

⁵⁰ Act No. 12.551 of 15 Dec. 2011.

⁵¹ See ILO: *Safety and health at work: A vision for sustainable prevention*, report for the XX World Congress on Safety and Health at Work, 24–27 August 2014. The calculations are based on 2010 occupational injury data from selected ILO member States and from World Health Organization global burden of disease data for 2011. See also http://www.ilo.org/brussels/meetings-and-events/WCMS_183012/lang--en/index.htm [accessed 5 Feb. 2015].

⁵² See R. Croucher et al.: “Can better working conditions improve the performance of SMEs? An international literature review” (Geneva, ILO, 2013).

⁵³ Although Convention No. 155 applies “to all branches of economic activity” (Article 1) and “to all workers in the branches of economic activity covered” (Article 2), the Convention includes some flexibility clauses, subject to specific requirements. The 2009 General Survey on occupational safety and health summarizes some of the exclusions that exist, including with respect to the size of the firm and with respect to domestic workers, self-employed workers and workers in the informal economy. Nonetheless, Articles 1(3) and 2(3) of Convention No. 155 contain a mandatory requirement that the member State is required to report subsequently on progress made towards a wider application. Also, Convention No. 187 states that national OSH systems should “support mechanisms for a progressive improvement of occupational safety and health conditions in micro-enterprises, in small and medium-sized enterprises and in the informal economy” (Article 4(3)(h)).

relates to putting its principles into practice and thus ensuring that workers are effectively covered.

78. Governments, employers and workers at both the national and international levels are increasingly recognizing the need to improve coverage and compliance on OSH. ILO member States have continued to ratify the three key OSH standards: the Occupational Safety and Health Convention, 1981 (No. 155) (63 ratifications); the Occupational Health Services Convention, 1985 (No. 161) (31 ratifications); and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (32 ratifications). The Seoul Declaration on Safety and Health at Work adopted at the XVIII World Congress on Safety and Health at Work represents a renewed commitment to OSH by global leaders representing governments, employers' and workers' organizations, international organizations and other key stakeholders.⁵⁴ The adoption of the Istanbul Declaration on Safety and Health at Work by 33 ministers at the Summit of Ministers of Labour for a Preventative Culture in September 2011 was another important milestone in recognizing the importance of the active involvement of employers and workers in achieving prevention and compliance. Concerns about safety and health at work have also gained attention in the G20: in September 2014, the G20 Ministers of Employment and Labour issued a joint declaration calling on G20 leaders to ensure healthy and safe working conditions for all workers.

79. In June 2014, following consultations with social partners, a new EU Strategic Framework on Health and Safety at Work 2014–20 was adopted by the European Commission. The implementation of this strategic framework will run in parallel to the review of the entire EU acquis on occupational health and safety, which is being carried out in accordance with Directive 89/391/EEC and its 23 related directives, is included in the Commission's regulatory fitness and performance programme (REFIT), and will include specific consultations with social partners. Conclusions are expected by the end of 2015. Countries with a long tradition of OSH are updating their legislation; for example, Australia is working to ensure that OSH legislation is harmonized across its states, in order to ensure a consistent approach to prevention, compliance and enforcement.

80. Over the past decade, many developing countries have taken steps to review, expand and modernize their legislation on OSH, with emphasis on preventive measures and shifting away from solely prescribing protection measures, in line with three framework ILO Conventions on OSH.⁵⁵ Countries that have made significant advances in adopting new OSH legislation include Barbados, Kenya, Mongolia, Nicaragua, Thailand, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Turkey and Zambia.

3.3.1. Responding to risks

81. Despite these important steps forward, there remain substantial differences in the scope and coverage of OSH legislation and practices between countries. Yet common to all countries are concerns over the effective regulation of a large and growing array of

⁵⁴ In addition to the original signatories, the Seoul Declaration has the support of many more national institutions, social partners and enterprises.

⁵⁵ Nonetheless, several ILO standards require that certain OSH matters be regulated through legislation, and not through other means. See, for example, Article 4(1) of the Benzene Convention, 1971 (No. 136); Article 4(1) of the Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148); Article 3(1) of the Asbestos Convention, 1986 (No. 162); and Article 4(1) of the Safety and Health in Mines Convention, 1995 (No. 176).

hazardous chemicals, new and potentially hazardous materials derived from nanotechnologies and new work processes.⁵⁶ It is expected that, by 2020, approximately 20 per cent of all goods manufactured around the world will be based to some extent on the use of nanotechnology, which has wide applications in manufacturing, agriculture and construction. Yet little is known about the impact of nanotechnology on health. In addition, out of the 110,000 synthetic chemicals that are produced in industrial quantities, adequate hazard assessment data are available for around 6,000 and occupational exposure limits have been set for only 500–600 hazardous chemicals.⁵⁷ In general, there is a considerable delay between the emergence of evidence and formal recognition that a particular substance harms health (the carcinogenic properties of diesel being a case in point). Inadequate surveillance of exposure to harmful substances at work compounds the problem.⁵⁸

82. In response to emerging risks in chemicals and materials, the EU has approved a series of directives and regulations providing protection against ionizing radiation, electromagnetic fields, exposure to asbestos at work and plant protection products; on the classification, labelling and packaging of substances and mixtures; and on the inland transport of dangerous goods. Emerging risks from the use of rapidly developing nanotechnologies have also been the subject of consultation. In 2011, the European Commission issued a recommendation on the definition of nanomaterial⁵⁹ and, in 2012, it launched a regulatory review on nanomaterials and created a nano subgroup of the chemicals working party set up under the Advisory Committee on Safety and Health at Work in order to draft an opinion on risk assessment and management of nanomaterials in the workplace. It is expected that this will lead to a final assessment on a review of OSH legislation⁶⁰ and that legal developments with regard to nanomaterials, including OSH aspects, are likely to occur soon in the EU.

83. Another challenge relates to the rapid changes in work organization that have occurred globally over the past several decades, including the growing use of temporary contracts, the rise of disguised self-employment and the widespread use of contractual arrangements involving multiple parties. Subcontracting in hazardous work environments has contributed to workplace disasters such as the explosion at the AZF chemical factory in France in 2001, the sinking of the Brazilian Petrobras 36 oil platform

⁵⁶ Nanotechnology concerns the manipulation of substances at the scale of 1 to 100 nanometres, influencing the mechanical properties of materials, such as their stiffness and elasticity.

⁵⁷ American Conference of Governmental Industrial Hygienists: *Threshold Limit Values*, 2007 edition, cited in ILO: *General Survey concerning the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Safety and Health Recommendation, 1981 (No. 164), and the Protocol of 2002 to the Occupational Safety and Health Convention, 1981*, op. cit.

⁵⁸ D. Walters et al.: *Regulating Workplace Risks: A comparative study of inspection regimes in times of change*, (Cheltenham, United Kingdom, Edward Elgar, 2011).

⁵⁹ See http://ec.europa.eu/research/industrial_technologies/pdf/policy/commission-recommendation-on-the-definition-of-nanomater-18102011_en.pdf [accessed 5 Feb. 2015].

⁶⁰ Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee: Second Regulatory Review on Nanomaterials, at http://eur-lex.europa.eu/legal-content/EN/ALL/;ELX_SESSIONID=JP55JpLPXXT5G6xJ22p1SRTTxBRpKjw8mgJWPXjf54PvPQcnSvmk!343125306?uri=CELEX:52012DC0572 [accessed 5 Feb. 2015].

that same year,⁶¹ the explosion on the British Petroleum (BP) oil rig in the Gulf of Mexico in 2010 (see box 3.1), and the mine disaster in Soma, Turkey, in May 2014.⁶²

Box 3.1

The BP Gulf of Mexico oil disaster and subcontracting

Following the April 2010 explosion on the oil rig working on the Macondo exploration well in the Gulf of Mexico, which caused the death of 11 workers on the rig and led to the release of more than 4 million barrels of oil into the Gulf, the US Government set up a national commission to investigate the causes of the disaster and make specific recommendations for regulatory reform.

The Chief Counsel's team concluded that the "Macondo disaster was not inevitable", and attributed responsibility to an "overarching failure of management" stating that "better management of personnel, risk, and communications by BP and its contractors would almost certainly have prevented the blowout". The report expressly addresses the question of subcontracting in connection with disaster and states that "[w]hen the well blew out on April 20, only a handful of the 126 people on the rig worked for BP. The rest worked for one of the dozens of contractors and subcontractors associated with the project. It is not necessarily problematic to use contractors to drill wells. ... But while the operator-contractor-subcontractor relationship can be beneficial in many ways, it also creates the potential for miscommunication and misunderstanding. BP and its various subcontractors appear to have lost sight of that danger, compartmentalizing information that would have been useful to other companies carrying out their respective tasks. The onus fell on BP to ensure that its contractors were providing all of [the] relevant information to the respective decision makers".

The same national commission concluded that "neither the industry's nor the federal government's approaches to managing and overseeing the leasing and development of offshore resources have kept pace with rapid changes in the technology, practices, and risks ... Nor do these approaches reflect the significant changes that have occurred in the structure of the oil and gas industry itself – especially the rise of specialized service contractors and the general trend toward outsourcing multiple functions. When the operator directly regulated by the government does not itself perform many of the activities critical to well safety, regulators face additional challenges due to the separation of these functions. However, MMS [Department of the Interior's Minerals Management Service] did not change its regulatory oversight to respond to these industry changes by making the service companies more accountable. In other countries, operators of drilling are required to demonstrate to the regulators their own fitness and risk management systems".

Source: National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling: *Macondo: The Gulf Oil Disaster*, Chief Counsel's Report 2011; and *Deep Water: The Gulf Oil Disaster and the Future of Offshore Drilling*, Report to the President, January 2011.

84. Although psychosocial hazards are not new, evidence suggests that they are becoming a more pervasive feature of work environments.⁶³ While further research is necessary to fully understand their implications, increased insecurity of work, work intensification, bullying and mobbing can have a significant impact on workers' health,

⁶¹ See A. Thébaud-Mony and F. Lafforgue: "Industrial crimes and the criminal justice system: Experiences from continental Europe" in *Policy and Practice in Health and Safety* (2013, Vol. 11, Issue 2, pp. 81–89).

⁶² In an October 2014 tripartite meeting on improving OSH in Turkish mines, following the Soma mine disaster, it was agreed that research on subcontracting and OSH in Turkey would be undertaken. See http://www.ilo.org/public/english/region/eurpro/ankara/areas/roadmap_on_occupational_safety_and_health_in_mines.htm [accessed 5 Feb. 2015].

⁶³ European Agency for Safety and Health at Work: *New and Emerging Risks in Occupational Safety and Health*, European Risk Observatory, Luxembourg European Agency for Safety and Health at Work, 2009.

absenteeism and performance.⁶⁴ In the longer term, psychosocial risks and work-related stress can also contribute to musculoskeletal disorders and other forms of ill health, such as hypertension, peptic ulcers and cardiovascular diseases. Work-related stress can further contribute to an inability to cope with work. While many countries have now included reference to psychosocial hazards in their OSH legislation (for example, Colombia and the Bolivarian Republic of Venezuela) these provisions are often narrow in scope (for example, they focus on bullying and harassment), deal with symptoms rather than underlying causes and lack adequate inspectorate and enforcement procedures. Other risks include poor ergonomic conditions at work, electromagnetic radiation and musculoskeletal disorders. The European Commission reports that musculoskeletal disorders account for the highest number of work absences (49.9 per cent of all absences of more than three days) and cases of permanent incapacity for work (60 per cent).⁶⁵

85. Thus, an important step in ensuring safety and healthy workplaces is to identify new risks and take preventive action to ensure that these risks do not impair the health and well-being of workers. There are numerous examples of countries across the regions that have taken such a step.⁶⁶ In Latin America, for example, the Ministry of Justice and Labour of Paraguay issued a resolution in 2012 requiring preventive measures against mobbing and harassment to be implemented at the workplace. In 2010, El Salvador adopted a general act on risk prevention at the workplace. In 2012, Chile approved a standard on the identification and assessment of risk factors for work-related musculoskeletal disorders. In 2008, the Ministry of Labour and Employment Promotion of Peru issued a similar standard, and, in 2012, it adopted a new law on safety and health at work, which updated its legal framework on OSH. In 2012, Colombia approved legislation modifying the system of occupational risks and establishing additional provisions on occupational health. It also issued a resolution in 2008 on the identification, evaluation, prevention, intervention and permanent monitoring of the exposure to psychosocial risk factors at the workplace and for determining the origin of occupational diseases caused by such risks.

86. The updating of OSH legislation and the incorporation of emerging hazards and risks can also be observed in African countries. In 2011, Burkina Faso adopted a decree on general occupational safety and hygiene measures, including provisions to prevent ergonomic hazards. Moreover, its Labour Code of 2008 requires the employer to include workers' mental health in prevention initiatives. In 2012, Comoros introduced legislation making it the responsibility of employers to prevent the mental fatigue of workers and explicitly prohibiting sexual and moral harassment. Also in 2012, Niger approved its new Labour Code, which recognizes work-related stress, smoking, alcoholism, drug addiction and HIV/AIDS as emerging health risks in the workplace and requires employers to raise awareness of these risks among workers and to provide psychosocial assistance. The Labour Code also prohibits sexual harassment, which is a subject that is addressed in Uganda by the Employment (Sexual Harassment) Regulations of 2012.

⁶⁴ European Agency for Safety and Health at Work, 2009, op cit; J. Benach et al.: *Employment, Work and Health Inequalities: A Global Perspective* (Barcelona, Spain, Icaria Editorial, SA, 2013); P. Bohle, M. Quinlan and C. Mayhew: "The health and safety effects of job insecurity: An evaluation of the evidence", in *The Economic and Labour Relations Review* (2001, Vol. 12, No. 1), pp. 32–60.

⁶⁵ European Commission: Second stage of consultation of the social partners on work-related musculoskeletal disorders, available at: <http://ec.europa.eu/social/BlobServlet?docId=2183&langId=en> [accessed 5 Feb. 2015].

⁶⁶ Further information on the examples mentioned below, and on other national OSH legislation, can be found on the ILO's database of national labour, social security and related human rights legislation (NATLEX), at http://www.ilo.org/dyn/natlex/natlex_browse.home.

87. In Asia, China approved, in 2011, an amendment to the Law of the People's Republic of China on the Prevention and Control of Occupational Diseases. It also instituted, in 2012, Special Rules on the Labour Protection of Female Employees, which require employers to take measures to prevent the sexual harassment of female workers at the workplace. In 2011, Thailand included in its Safety, Occupational Hygiene and Workplace Environment Act a legal definition of occupational safety, health and environment which covers both physical and psychological health. In 2013, India adopted the Sexual Harassment of Women at Workplace Act.

3.3.2. Inadequate resources

88. A long-standing obstacle to the effective coverage of OSH is a lack of resources devoted to national OSH systems, including resources for enforcement. In most countries, resources – both human and financial – for OSH programmes and inspectorates are inadequate, with resourcing keeping pace neither with the growth in the workforce, nor with the challenges brought about by new forms of work organization and emerging hazards. While traditional hazard and risk prevention and control tools are still effective when applied correctly, they need to be complemented by prevention strategies designed to anticipate, identify, evaluate and control hazards arising from a constantly evolving world of work.

89. The problem is particularly acute in rapidly industrializing countries in Asia and elsewhere. However, inspectorate resources have stagnated or have even been cut back in high-income countries such as Australia, Sweden and the United Kingdom over the past decade. The consequences of this deficiency are magnified by the ever-broader range of hazards that OSH systems must address and inspectors must oversee. For instance, the adoption of more flexible working-time arrangements poses a challenge for inspectors, especially in the context of a growth of multiple job-holding in some countries and the phenomenon of sickness and long-hour presenteeism, the existence and health-damaging effects of which have been identified in both high-income countries such as Norway and middle-income countries such as China.⁶⁷ Conventional occupational health surveillance regimes are not configured to monitor these risks and indeed the rapid turnover of workers created by more flexible labour markets compounds difficulties in monitoring exposure to chemicals and psychosocial hazards. The growing use of temporary foreign workers in industries such as construction, agricultural harvesting, hospitality and manufacturing exacerbates surveillance and regulatory oversight issues. Many migrant workers are either unaware of their rights or unwilling to raise OSH concerns for fear it will jeopardize their employment.⁶⁸ Moreover, new types of work arrangements, particularly multi-tiered subcontracting, are sometimes ambiguous or logistically difficult for inspectorates to address.⁶⁹ The growth of non-standard work arrangements has also weakened the coverage and effectiveness of

⁶⁷ See, for example, M. Tayolan et al.: “Sickness Presenteeism Predicts Suboptimal Self-Rated Health and Sickness Absence: A Nationally Representative Study of the Swedish Working Population” (PLoS ONE, 2012).

⁶⁸ See K. Lippel and A.-M. Laflamme: “*Les droits et responsabilités des employeurs et des travailleurs dans un contexte de sous-traitance: enjeux pour la prévention, l’indemnisation et le retour au travail*” [Rights and responsibilities of employers and workers in subcontracting: Challenges for prevention, compensation and return to work] in: *Service de la formation continue du Barreau du Québec* [Quebec Bar Association Continuous Professional Development Department] (ed.): *Développements récents en droit de la santé et sécurité au travail* [Recent developments in occupational safety and health legislation] (Cowansville, Éditions Yvon Blais, 2011), pp. 267–360.

⁶⁹ See S. Bernstein, K. Lippel and L. Lamarche: “Women and homework: The Canadian legislative framework” (Ottawa, Status of Women Canada, 2001); D. Weil: *The fissured workplace: Why work became so bad for so many and what can be done to improve it* (Cambridge, Harvard University Press, 2014).

workers' compensation regimes.⁷⁰ Deficiencies in regulatory oversight mean that many workplaces (often the vast majority) are never visited by an inspector, denying managers the opportunity to improve their OSH outcomes through interaction with inspectors and forestalling the development of a culture of compliance.

90. The issue of inadequate resources stems partly from the lack of consistent and comparable information on occupational accidents and diseases, which results in official figures underestimating their extent and fewer resources being allocated to preventive work, which in turn has a negative impact on workers' safety and welfare and industry productivity. At present, data are gathered from a wide variety of different sources (including social security and insurance institutions, labour inspectorates, occupational health services and other authorities and bodies) with official national reporting requirements guided by diverse criteria which change over time. Unfortunately, the available data frequently do not cover all categories of workers (with obvious gaps for workers in the informal economy). Yet even countries with well-established reporting practices often face problems of under-reporting, particularly of non-fatal injuries or occupational diseases. Many developing countries have not yet created social security systems that would cover workplace injuries and illness and, where such systems do exist, they often do not cover self-employed workers or SMEs, despite these being the main sources of employment. OSH reporting and recording is often poor for SMEs.

3.3.3. Trends in economic growth and in the quantity and quality of employment

91. Worker representatives play an important role in ensuring workplace health and safety. In Sweden, businesses employing more than five workers are required to designate at least one employee who has the power to demand that the employer adopt the necessary measures for ensuring a safe working environment and the ability to turn to the work environment authorities in the event of a negative or delayed response. If there is an imminent danger, the worker can order a work stoppage until the authorities adopt a decision. In Slovenia, the safety delegate can request an inspection and participate in it; the employer is also obliged to keep the safety delegate informed of the results of the inspection. In Spain, the National Institute of Workplace Safety and Hygiene (INSHT) reports that, of the firms that have not applied preventive measures, 76.2 per cent do not have health and safety representatives.

92. In the United States, the Occupational Safety and Health Administration introduced a voluntary protection programme to recognize employers and workers who have implemented effective safety and health management systems and who are maintaining injury and illness rates below national Bureau of Labor Statistics averages for their respective industries. Under the programme, management, workers and the Occupational Safety and Health Administration work cooperatively and proactively to prevent fatalities, injuries and illnesses through a system focused on hazard prevention and control, worksite analysis, training, management commitment and worker involvement. Participants in the programme are exempt from scheduled inspections by the Occupational Safety and Health Administration while they maintain their status as participants, allowing the Government to allocate resources to inspecting other workplaces. Participants are re-evaluated every three to five years to remain in the programme. As of April 2014, a total of 2,295 industrial sites were participating in the programme.

⁷⁰ See K. Lippel: "Preserving workers' dignity in workers' compensation systems: An international perspective", in *American Journal of Industrial Medicine* (2012, Vol. 55, No. 6), pp. 519–536.

93. Studies highlight the positive role of union presence and density on safety and on the psychosocial work environment.⁷¹ Unions and collective bargaining can help facilitate critical logistical support (such as resources, training and protection) for worker health and safety representatives and committees established by OSH legislation, as well as raise OSH issues with inspectorates. Collective bargaining can also extend protections by addressing other dimensions of work, such as work schedules (including call-back times between shifts), as well as by facilitating the raising of health and safety concerns by workers through conventional industrial relations mechanisms.

94. Many collective bargaining agreements include provisions on safety and health at the workplace. For instance, a review of the non-economic provisions of collective bargaining agreements in the Philippines found that 54 per cent of such agreements stipulated the conduct of health and safety awareness seminars.⁷² A study of collective bargaining agreements in Ghana found that more than 90 per cent of the agreements reviewed contained provisions on occupational safety, health and environment, setting out general safety requirements and requirements relating to the first-aid equipment and protective clothing that must be available, as well as provisions relating to preventing the abuse of alcohol and drugs by workers while on duty. The provisions exceed the provisions on OSH contained in the Labour Act.⁷³ Although Canada has extensive legislation on OSH, collective bargaining agreements in the mining sector⁷⁴ go beyond the scope of the laws and regulations by setting out the rules and procedures to be followed in the establishment and the functioning of joint occupational health, safety and environment committees.

95. A review of worker representation and OSH in small enterprises in Europe provides some examples of the compliance-reinforcing effect of collective bargaining agreements in respect of small enterprises where there are typically gaps in enforcement.⁷⁵ In Italy, collective agreements have been signed in sectors such as construction and commercial services and for artisans, to apply the provisions for territorial safety representatives introduced under legislation implementing the EU Framework Directive on Safety and Health at Work. In France, trade unions have, by collective agreements, established regional observatories for health and safety and pilot schemes for health and safety advisers at the regional level to provide health and safety information, advice and support for trade union members within small workplaces.

⁷¹ See, for example, A. Morantz: “Coal Mine Safety: Do Unions Make a Difference?”, in *Industrial and Labor Relations Review* (2013, Vol. 66, No. 88); M.F. Dollard and D.Y. Naser: “Worker health is good for the economy: Union density and psychosocial safety climate as determinants of country differences in worker health and productivity in 31 European countries”, in *Social Science & Medicine* (2013, Vol. 92), pp. 114–123.

⁷² Philippines Statistics Authority: “Non-economic provisions of collective bargaining agreements in 2012”, in *Labstat Updates* (2014, Vol. 18, No. 22).

⁷³ K.N. Otoo, C. Osei-Boateng and P. Asafu-Adjaye: “Our bargains: Analysis of outcomes of collective bargaining in Ghana”, report for the Labour Research and Policy Institute, 2009, <http://www.lrs.org.za/docs/Ghana%20Collective%20Bargaining%20Review%202010.pdf> [accessed 5 Feb. 2015].

⁷⁴ Such as the collective bargaining agreement between the Iron Ore Company of Canada and the United Steelworkers, 2007–12. A full list of Canada’s collective bargaining agreements can be found at: <http://www.gov.nl.ca/lra/collective/index.html> [accessed 5 Feb. 2015].

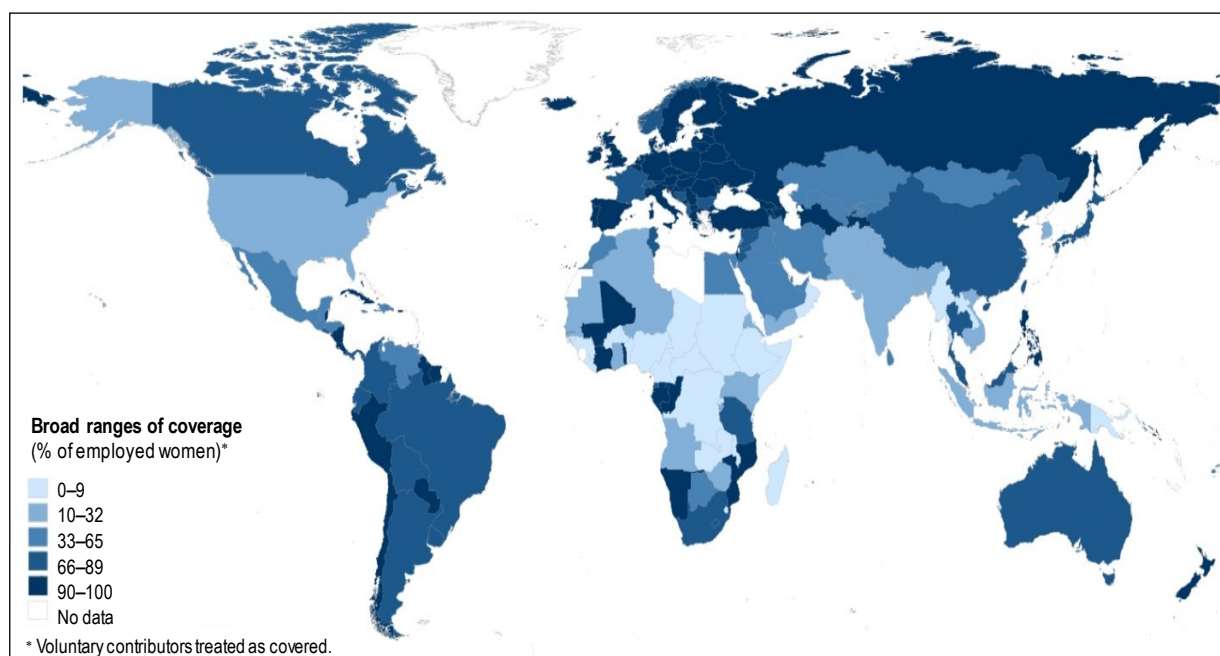
⁷⁵ D. Walters: “Worker representation and health and safety in small enterprises in Europe”, in *Industrial Relations Journal* (2004, Vol. 35, No. 2).

3.4. Maternity protection

96. Maternity protection has been strengthened across the world, yet approximately 830 million women workers are still not adequately protected. Almost 80 per cent of these workers are in Africa and Asia.⁷⁶ This shortfall is a result of gaps in legal coverage, as many forms of legal protection exclude self-employed, domestic and agricultural workers, or include them only on a voluntary basis. Thus, countries with a large share of self-employed workers have low levels of legal coverage.

97. In addition to the gaps in legal coverage, many workers do not receive the benefits to which they are entitled as a result of a lack of awareness of their entitlements, inadequate enforcement of legal provisions, insufficient contributory capacity, discriminatory practices and informality. In fact, just over one quarter (28.4 per cent) of employed women worldwide are effectively protected through contributory or non-contributory cash benefits in the event of maternity. This means that globally only around 330 million women workers, regardless of their employment status, would receive income support in the event of childbirth, almost 38 per cent of whom are workers in the developed economies. In Africa and Asia, only a minority of women in employment (less than 15 per cent) are effectively protected with maternity leave cash benefits. These are the regions where employer liability schemes are more prevalent, informal work is predominant and maternal and child mortality ratios are still very high. Close to full coverage, of more than 90 per cent of employed women, is reached only in 21 countries, largely in Europe (figure 3.7).

Figure 3.7. Coverage in law – Maternity leave cash benefits: Percentage of women workers entitled to maternity leave cash benefits, including workers entitled to voluntary coverage, 2010 (172 countries)



Source: ILO: *Maternity and paternity at work: Law and practice across the world* (Geneva, 2014).

98. As mentioned, in many countries, specific categories of workers are explicitly excluded from, or not listed among, the workers covered by the scope of their labour or

⁷⁶ ILO: *Maternity and paternity at work: Law and practice across the world* (Geneva, 2014).

social security legislation regulating cash maternity benefits. Frequently excluded groups include domestic workers, members of the employer's family or women working in family undertakings, self-employed workers, casual or temporary workers, home workers, agricultural workers, managers or business executives, workers whose earnings exceed a certain ceiling, and apprentices. In some countries, women who work for SMEs are also excluded from maternity protection laws. The ILO estimates that, globally, around 15.6 million women domestic workers (36 per cent of the total) are not legally entitled to maternity leave, while this right is guaranteed to other categories of workers.⁷⁷

99. The exclusion of workers with non-standard contracts (such as part-time, casual and temporary workers) also affects many women, as a large proportion of them, even in the formal economy, may not be full-time, regular workers. In 2007, one third of all Japanese workers were non-regular workers, with two-thirds of them defined as part time; however, Japanese law explicitly excludes part-time workers from access to maternity benefits under the social security system.⁷⁸ In Italy, 25 per cent of women aged 15–34 were in temporary employment, but just 9 per cent of women on compulsory maternity benefits were temporary workers.⁷⁹ In the United States, nearly a quarter of mothers who took family leave for the birth of a child in 2012 returned to work after less than ten days, since they could not afford to take more time off work.⁸⁰ Currently, only 12 per cent of private sector workers have access to paid family leave. This figure is even lower for low-wage earners, only 5 per cent of whom have access to this entitlement.⁸¹

100. The protection of women engaged in agriculture and women homeworkers remains particularly inadequate. The explicit legal exclusion of workers in agriculture has been identified in at least 27 countries, including the Plurinational State of Bolivia, Egypt, Rwanda, Sudan and Thailand. An ILO survey in two rural areas of Senegal shows that 26 per cent of women farmers work until the day of childbirth.⁸² This practice, which is found also in Asian countries such as Nepal, can pose significant health risks to women's health and to the health of the unborn child.⁸³

101. Nonetheless, there have been some notable improvements in some countries and regions with regard to extending coverage to previously excluded groups. In at least

⁷⁷ ILO: *Domestic workers across the world: Global and regional statistics and the extent of legal protection*, op. cit.

⁷⁸ OECD: *Economic survey of Japan 2008: Reforming the labour market to cope with increasing dualism and population ageing*. Available at: <http://www.oecd.org/japan/economicsurveyofjapan2008reformingthelabourmarkettocopewithincreasingdualismandpopulationageing.htm> [accessed 3 Feb. 2015].

⁷⁹ F. Bettio, H. Conley and A.M. Ballester-Pastor: "Women, men and the financial crisis: Seven lessons from Europe", in *European Gender Equality Law Review* (2012, No. 2), pp. 4–13; F. Bettio et al.: *The impact of the economic crisis on the situation of women and men and on gender equality policies: Synthesis report* (Brussels, European Commission, 2013).

⁸⁰ J.A. Klerman, K. Daley and A. Pozniak: *Family and medical leave in 2012*, technical report prepared for the United States Department of Labor (Washington, DC, 2013). Available at: <http://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf> [accessed 3 Feb. 2015].

⁸¹ United States Department of Labor, Bureau of Labor Statistics: *Employee Benefits Survey*, March 2013. Available at: <http://www.bls.gov/ncs/ebs/benefits/2013/ownership/private/table21a.htm> [accessed 3 Feb. 2015].

⁸² ILO: *Etude sur les conditions de travail dans le secteur agricole au Sénégal* [Study on working conditions in the agricultural sector in Senegal] (Dakar, ILO, 2010), unpublished.

⁸³ See S. Narang: "Seven months pregnant and working in the fields", at <http://www.bbc.co.uk/news/magazine-26154092> [accessed 3 Feb. 2015].

54 countries, domestic workers are covered by maternity leave legislation on the same terms as other workers, in line with Article 14 of Convention No. 189. In South Africa, legislation in 2002 extended unemployment insurance to domestic workers; by 2008, 633,000 domestic workers had been registered. Among other benefits, the scheme allows domestic workers to take at least four consecutive months of paid maternity leave.⁸⁴ In Mauritius, apprentices and part-time workers with 12 months of continuous employment are included in maternity protection legislation; in Viet Nam, temporary and casual workers are explicitly covered; and in Belarus, Madagascar and the Russian Federation, even students are covered. In India, the Unorganised Workers' Social Security Act of 2008 was passed to create schemes to extend social security to informal workers, such as artisans, weavers, construction workers, cigar rollers and persons working in fisheries. In Thailand, a new voluntary social security system for informal sector workers was initiated in 2011. The scheme is based on contributions from workers and the Government to finance old-age, disability, survivors', sickness and maternity benefits.

102. Several Latin American countries have undertaken initiatives to extend maternity leave benefits to domestic workers (Argentina, Brazil, El Salvador and Uruguay), to informal economy workers (Argentina) and to micro-entrepreneurs (Brazil).⁸⁵ China has progressed rapidly in extending coverage for maternity insurance, from 65 million people in 2006 to nearly 139 million in 2011.⁸⁶

103. In some countries, employer policies or collective bargaining agreements have increased the number of women covered or the amount of benefits paid. In Australia, collective bargaining improved women's access to paid maternity leave⁸⁷ and, by 2010 (just as Australia was first introducing statutory maternity leave), 14 per cent of all collective bargaining agreements included maternity leave provisions.⁸⁸ In California, in the United States, unionized employees were more than three-and-a-half times more likely to have access to maternity leave benefits.⁸⁹

⁸⁴ ILO: *Domestic workers across the world: Global and regional statistics and the extent of legal protection*, op. cit., and M. Samson: *Good practice review: Extending social security coverage in Africa*, Working Paper No. 2 of the International Social Security Association (Geneva, 2009).

⁸⁵ See ILO: *Transitioning from the informal to the formal economy*, Report V(1), International Labour Conference, 103rd Session, Geneva, 2014.

⁸⁶ International Social Security Association: *Social security coverage extension in the BRICS* (Geneva, 2013).

⁸⁷ M. Baird and A. Litwin: "Re-thinking work and family policy: The making and taking of parental leave in Australia", in *International Review of Psychiatry* (2005, Vol. 17, No. 5), pp. 385–400.

⁸⁸ M. Baird and J. Murray: *An analysis of collective bargaining for paid parental leave – Sector and context effects* (Sydney, University of Sydney Business School, Discipline of Work and Organisational Studies, 2012).

⁸⁹ R. Milkman and E. Appelbaum: "Paid family leave in California: New research findings", in *The State of California Labor 2004* (Berkeley, University of California Press, 2004).

Chapter 4

ILO responses to improve people's working life

104. This chapter presents the actions taken by the Office to enable national constituents to improve labour protection measures in respect of the coverage of measures, the level of protection and the degree of compliance. ILO responses have been geared towards action at two interconnected levels: first, in respect of national policy and legislative frameworks; and, second, at the enterprise and workplace level. Although laws and policies determine the obligations of a State in respect of worker protection and lay the ground rules for enterprises, employers and workers, alone they have limited effectiveness. Employers' and workers' knowledge, perceptions and attitudes, their respective bargaining power, the economic capacity of the enterprise or employer, and social norms and structures are factors that mediate the effects of regulations. This is why enterprise and workplace policies and programmes and other non-regulatory measures are also required to protect workers effectively.

105. The normative corpus of the ILO provides the benchmark for national policies and regulations concerning OSH, wage protection, working time and the extension of labour protection without discrimination. It guides ILO actions, the sequence and configuration of which depend on the demands and needs of constituents and on national constraints and opportunities. ILO responses may consist of one or a combination of actions in six areas: (i) technical support for the Organization's standard-setting function, and for the ratification and implementation of relevant international labour standards; (ii) national capacity building, which may include advisory services, training and the development of systems and tools; (iii) guidance for legal and policy reforms, if necessary; (iv) the strengthening of workers' and employers' organizations; (v) awareness raising, advocacy and social dialogue; and (vi) knowledge development, including research and the production of policy resources.

4.1. Regulating and extending labour protection

4.1.1. Making work safe: Improving national OSH coverage

106. The Organization has adopted more than 40 standards that directly or indirectly deal with OSH issues.¹ The conclusions adopted by the International Labour Conference at its 91st Session (2003) outlined a global strategy on occupational safety and health, which underscores the need for tripartite national commitment and national action in

¹ The ILO global strategy on OSH lists 21 OSH-related Conventions and the ILO website lists 19. Annex 5 of the ILO report *Independent evaluation of the ILO's strategy on occupational safety and health: Workers and enterprises benefit from improved safety and health conditions at work* (Geneva, ILO, Sep. 2013) identifies 34 Conventions that contain OSH provisions.

fostering a preventive approach and a safety culture, and calls for integrated action that better connects the ILO standards with other means of action. In March 2010, the ILO Governing Body adopted a Plan of Action (2010–16) as a follow-up to the conclusions of the Conference Committee on the Application of Conventions and Recommendations of the 98th Session (2009) of the Conference. Implemented jointly by the International Labour Standards Department and the Programme on Safety and Health at Work and the Environment (SafeWork), the plan has five areas of action: (i) promote and support the development of a preventive safety and health culture; (ii) promote and support the ratification and implementation of key OSH instruments, notably the Occupational Safety and Health Convention, 1981 (No. 155), its 2002 Protocol, and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), taking into account the context of each country and the particular needs of its constituents; (iii) reduce the implementation gap in respect of ratified Conventions; (iv) improve OSH conditions in SMEs and in the informal economy; and (v) other action to support the impact of OSH measures. The *ILO guidelines on occupational safety and health management systems* of 2001 have provided a reference for ILO constituents in crafting OSH programmes. They recognize that it is not feasible to draw a distinction between a person's health at the workplace and his or her health outside of work, as these are interlinked and affect one another. Thus, managing OSH requires an integrated approach that involves not only institutions and measures within the confines of the world of work, but also those concerned with public health and safety.

107. The implementation of the Plan of Action since August 2010 has contributed to a number of ratifications of Convention No. 155, its 2002 Protocol, and Convention No. 187, and to the adoption of national OSH policies, legislation and programmes (see also Chapter 3). In some countries, recent national OSH measures have followed a systematic, strategic approach which anchors the design of national policies and programmes on a situational analysis (OSH profiles) and seeks to consolidate national systems and incorporate OSH in the political agenda and national development plans. Viet Nam provides an example of this systematic approach (see box 4.1).

Box 4.1 **Viet Nam promotes OSH**

Under its first national OSH programme (2006–10), with ILO technical assistance, Viet Nam has strengthened OSH policy and legislative frameworks and extended OSH protection measures to small enterprises and the informal and rural sectors. Special programmes for hazardous sectors such as construction and mining are in progress. Based on lessons from the first programme, Viet Nam launched its second national OSH programme (2011–15), under the supervision of a tripartite committee, which focuses on improving the capacity and efficiency of national OSH governance, preventing occupational accidents in hazardous sectors, improving working conditions in SMEs and the agricultural sector, preventing occupational diseases, providing adequate health care for workers, raising awareness of the OSH responsibilities of employers and workers, and promoting the application of new technology to improve OSH. A significant reduction in OSH non-compliance was observed, for example, in the factories participating in the ILO's Better Work programme. Government officials and representatives of workers' and employers' organizations have been trained by the Office to improve OSH in small businesses and construction sites using the ILO's Work Improvement in Small Enterprises (WISE) and Work Improvement in Small Construction Sites (WISCON) tools. In 2014, Viet Nam ratified Convention No. 187, already having ratified Convention No. 155. The Ministry of Labour and the National Assembly, with social partners, are currently shaping the first OSH law to be aligned with ratified instruments.

108. During two programme bienniums (2010–13), the Office enabled national constituents in several countries to produce national OSH profiles (for example, it helped Botswana, Jamaica, Kenya, Malawi, Namibia, Seychelles and Zambia set up national OSH profiles in 2012–13). Also during that period, it contributed to the establishment in several countries of national tripartite OSH mechanisms that sought to involve a wide range of OSH stakeholders. For instance, in 2010–11, it helped establish a labour conditions and OSH commission in Albania, a national coordinating unit for OSH committees in Niger, a national tripartite OSH committee in Thailand and a tripartite-plus national OSH advisory committee in Zambia; and in 2012–13, it helped establish a tripartite OSH council in Azerbaijan, a national health committee for workers in Honduras, a national OSH council in Peru and a tripartite working group in Tajikistan.² With ILO technical assistance, Albania passed Act No. 10237 on occupational safety and health in 2010; Bangladesh adopted its first OSH policy in 2013, which reflected principles of Conventions Nos 155 and 187; Mauritius aligned its national law with Convention No. 187, which it ratified in 2012; and, in Mexico, the national OSH advisory committee implemented a national plan of action, and the federal Government adopted new OSH regulations and new standards for labour inspectors. Furthermore, Peru adopted a national OSH policy in 2013 and Thailand enacted the Occupational Safety, Health and Environment Act in 2011.³

109. The Office has also provided technical assistance to countries to help them adopt an OSH management systems approach at the enterprise level and to craft guidelines, including to enable social partners to identify OSH risks and improvements. For example, it provided such assistance to enterprises in the oil and gas sectors in Kazakhstan in 2010–11 and to companies at risk of exposure to silica in Chile in 2013. In Armenia and Georgia, employers' organizations and trade unions piloted national guidelines using their OSH centres and networks. Trade unions in Indonesia, Lao People's Democratic Republic and the Philippines developed their own OSH trainers. The ILO tools, Work Improvement in Small Enterprises (WISE) and Work Improvement in Neighbourhood Development (WIND), encourage and guide efforts by small enterprises and small-scale farms, respectively, to improve safety, health, working conditions and productivity through low-cost, easy-to-apply measures that are identified through a participatory process.⁴

110. The ILO is the only United Nations agency to have performed the role, through a tripartite international committee, of developing, adopting and updating the International List of Occupational Diseases, which provides guidance to member States in developing and updating their own lists and has allowed for the recognition of the occupational origin of diseases. The ILO adopted a revised List of Occupational Diseases in March 2010, updating that which is annexed to the List of Occupational Diseases Recommendation, 2002 (No. 194).⁵ The Office provides information and guidance on

² For OSH country-level results in 2010–11, see <http://www.ilo.org/public/english/bureau/program/download/pdf/10-11/iroutcome6.pdf>; for results in 2012–13, see <http://www.ilo.org/public/english/bureau/program/download/pdf/12-13/iroutcome6.pdf> [accessed 5 Feb. 2015].

³ *ibid.*

⁴ For WISE-related materials, see: http://www.ilo.org/travail/whatwedo/projects/WCMS_119287/lang-en/index.htm. For WIND-related materials, see: http://www.ilo.org/travail/whatwedo/projects/WCMS_122334/lang-en/index.htm [accessed 5 Feb. 2015]. WISE and WIND have been used in more than 20 countries and adapted in multiple languages. WISE has also been adapted to the construction (WISCON) and health (HealthWISE) sectors.

⁵ The new list reflects the latest developments in the identification and recognition of occupational diseases; for the first time, it includes mental and behavioural disorders.

emerging OSH risks, such as asbestos-related diseases, silicosis and work-related stress.⁶ It has established a global database on OSH legislation (LEGOSH), which allows for the monitoring and comparison of changes in national OSH law. Up to 2013, the International Occupational Safety and Health Information Centre (CIS) processed and disseminated knowledge through its worldwide safety and health information network.⁷

111. HIV presents OSH risks, and certain sectors and working conditions expose workers to higher risks of HIV infection and related transmissible diseases such as tuberculosis. The HIV and AIDS Recommendation, 2010 (No. 200), calls for safe and healthy working environments in order to prevent the transmission of HIV in the workplace. In view of sector-specific risks, the Office has adopted a sectoral approach to designing, and building capacities with regard to, gender-responsive workplace programmes. It has produced guidelines for the mining, postal, tourism, construction and education sectors; training toolkits in the road transport and railway sectors; and a work improvement in health services toolkit (“HealthWISE”) and guidelines for health workers prepared jointly by the ILO, the World Health Organization and the Joint United Nations Programme on HIV/AIDS.⁸ In Cambodia, in 2014, the labour ministry, with a tripartite group on HIV, adopted a national OSH regulation for entertainment workers. In Thailand, an ILO project led to the adoption of a workplace policy for the entertainment sector and increased the uptake of HIV-prevention services by workers. In China, where the Office has worked with the labour and health ministries using HealthWISE, the first OSH policy for health workers, covering HIV and AIDS issues, has been drafted.

112. The ILO has provided technical assistance to revise and develop other HIV-related workplace policies. For example, in July 2012, South Africa adopted a code of good practice on HIV and AIDS and the world of work and technical assistance guidelines to take account of Recommendation No. 200 and to codify jurisprudence, citing the Recommendation as a source of law for the protection of workers from unfair dismissal. In Ghana, the Ministry of Education adopted a national strategic plan on HIV/AIDS for 2011–15, and a national HIV/AIDS policy for the world of work was adopted in Zimbabwe.

113. The Office has responded to high-profile industrial accidents in the garment and footwear industry in Pakistan and Bangladesh. These accidents were rooted not only in the lack of OSH standards, but in systemic weaknesses in labour market governance and a generally poor level of labour protection. They therefore required an integrated response from the Office, and not one based solely on OSH (see section 4.3.3.).

114. An independent evaluation of the overall performance of the Office during the period 2008–12 with regard to the implementation of the global strategy on OSH, while acknowledging the impact of ILO work, identified some areas that could be strengthened, namely: (i) the operational strategy needed a more strategic focus in order to respond to constituents’ needs to ratify, implement and enforce the application of relevant OSH Conventions; (ii) an advocacy and partnering strategy should be developed; (iii) country-level measurement and monitoring mechanisms should be supported; (iv) there should be more systematic gender mainstreaming in designing and targeting programming

⁶ For resources and toolkits on asbestos-related diseases, see: http://www.ilo.org/safework/areasofwork/occupational-health/WCMS_108554/lang--en/index.htm [accessed 5 Feb. 2015].

⁷ The Centre celebrated its 50th anniversary in 2009; at the time, it had contacts with over 150 national and regional focal points.

⁸ These sectoral toolkits and guides can be consulted at: http://www.ilo.org/aids/Publications/WCMS_126714/lang--en/index.htm [accessed on 5 Feb. 2015].

initiatives and priorities; and (v) there should be closer collaboration between ILO headquarters, field staff and tripartite constituents.⁹

4.1.2. Making work pay: Extending minimum wage protection

115. The Minimum Wage Fixing Convention, 1970 (No. 131), does not prescribe a particular model of minimum wage system or the level at which a minimum wage should be fixed; rather, it offers member States some flexibility in the implementation of its principles and leaves decisions to national authorities, in consultation with the social partners. Designing the appropriate minimum wage policy involves a number of policy challenges. The 2014 General Survey on minimum wage systems¹⁰ highlighted some of the policy issues that were likely to pose difficulties for national constituents, including: (i) the definition of the concept of wages and the identification of the elements of remuneration to be included in the minimum wage, particularly in relation to benefits in kind (such as housing and food), for example in the case of domestic workers; (ii) the exclusion of specific categories of workers from the application of the Convention, notably when frequently applied to categories such as domestic workers, agricultural workers, young workers or other groups that may need protection from unduly low wages; (iii) the application of the principle of equal pay for work of equal value, especially when minimum wages differ by sector or occupation, or differ on the basis of age, disability or the migrant status of the workers concerned; (iv) compliance with the requirement that employers' and workers' organizations should be fully consulted at all stages of the development and implementation of the system; (v) the joint consideration of the needs of workers and their families and of economic factors; and (vi) the establishment of dissuasive sanctions and the allocation of adequate resources for labour inspection services. A major part of the Office's work has involved building a knowledge base to understand and respond to these policy issues, and using this knowledge base to inform global and national policy agendas on wage policies and to tailor ILO technical services to country demands.

116. Constituents' requests for technical advice on wage policies, and in particular on minimum wage fixing, have been growing in recent years, with a majority of requests coming from developing and emerging economies. The ILO has provided technical assistance in a relatively large number of countries and territories in recent years with a view to translating research and knowledge into practical policy advice at the national level (see table 4.1). The most frequent demand from constituents is for specialized knowledge on good practices in wage setting based on country experiences, and assistance in minimum wage fixing. The Office has shared knowledge on good practices across countries through training, including tailor-made courses at the national level upon the request of constituents, and global and regional training activities. In most instances, training activities are targeted directly at tripartite constituents engaged in the process of minimum wage fixing in their countries (such as minimum wage commissions). Since 2008, through the International Training Centre of the ILO in Turin (Turin Centre), 400 constituents from 44 member States have participated in training on wage policies. Training materials have been translated into French, Spanish, Arabic and Russian.

⁹ ILO: *Independent evaluation of the ILO's strategy on occupational safety and health: Workers and enterprises benefit from improved safety and health conditions at work* (Geneva, 2013).

¹⁰ ILO: *Minimum wage systems: General Survey of the reports on the Minimum Wage Fixing Convention, 1970 (No. 131), and the Minimum Wage Fixing Recommendation, 1970 (No. 135)*, report of the Committee on the Application of Conventions and Recommendations, International Labour Conference, 103rd Session, Geneva, 2014.

117. ILO country-level assistance has addressed a range of policy demands, including: (i) setting up a minimum wage for the first time, as in Cabo Verde (2010–11), where the Office conducted a study on possible parameters of minimum wage setting and technical sessions with the tripartite advisory body; (ii) changing the method and criteria for adjusting existing minimum wages, as in Costa Rica (2009–10), where the Office undertook a study that provided the empirical foundations for constructive social dialogue, which led to a new tripartite agreement in 2011; and (iii) improving the collection of wage data and setting up systems to monitor the effects of minimum wages, which are necessary for wage policy formulation and coordination, as in China (2012–13), where the Office's suggestions to the Ministry of Human Resources and Social Security as regards the design of a compensation survey for enterprises and an information release system were taken into account.

Table 4.1. ILO technical assistance on minimum wages and wage policies

Asia	Bangladesh, Cambodia, China, Indonesia, Malaysia, Mongolia, Myanmar, Pakistan, Philippines, Viet Nam
Africa and Middle East	Botswana, Burundi, Cabo Verde, Egypt, Kenya, Lebanon, Lesotho, Liberia, Mauritius, Namibia, Occupied Palestinian Territory, Rwanda, Saudi Arabia, South Africa, Zambia
Latin America and the Caribbean	Costa Rica, Dominican Republic, El Salvador, Haiti, Honduras, Mexico, Panama, Paraguay
Europe	Albania, Armenia, Bulgaria, Russian Federation, the former Yugoslav Republic of Macedonia

118. Country-level activities are supported and complemented by global knowledge products. The *Global Wage Report*, a peer-reviewed ILO flagship report published every two years since 2008, is a major vehicle through which the Office has contributed to wage policy debates and agendas. Since its first edition in 2008, the report has received wide interest from across the world.¹¹ It draws on data from the ILOSTAT database,¹² specifically data contained in a global wage dataset, which has been progressively revamped in collaboration with the ILO's Department of Statistics and with the participation of national statistical offices around the world. The database includes data on average wages and minimum wages for a large number of countries and is disseminated online, complementing the ILO's Working Conditions Laws Database, which supplies information on legal aspects of minimum wages for 140 countries.¹³ Joint policy research has also been undertaken by the ILO and the European Commission, resulting in a number of high-level publications.¹⁴ These have contributed to the European Commission's *Industrial Relations in Europe* report, which influences the EU agenda and enhances policy coherence between the ILO and the European Commission. Furthermore, a set of policy resources on minimum wage fixing is

¹¹ The *Global Wage Report* is translated into several languages (including Arabic, Chinese, French, Japanese, Portuguese, Russian and Spanish) and has a wide dissemination.

¹² Global wage data can be accessed in the ILOSTAT database, at: www.ilo.org/ilostat/GWR [accessed on 5 Feb. 2015].

¹³ Working Conditions Laws Database, at: <http://www.ilo.org/dyn/travail/travmain.home> [accessed on 5 Feb. 2015].

¹⁴ See D. Vaughan-Whitehead: *The European social model in times of economic crisis and austerity policies* (Geneva, ILO, 2014); D. Vaughan-Whitehead: *Public sector shock: The impact of policy retrenchment in Europe* (Geneva, ILO, 2013); D. Vaughan-Whitehead: *Work inequalities in the crisis. Evidence from Europe* (Geneva, ILO, 2011); D. Vaughan-Whitehead: *The minimum wage revisited in the enlarged EU* (Geneva, ILO, 2008).

currently being developed on issues related to coverage, levels, adjustment, compliance, and the impact of minimum wages, as well as on issues related to minimum wage setting mechanisms and social dialogue. The Office has also developed tools on non-discrimination in minimum wage fixing and in designing wage policies (see section 4.1.3) and is planning to strengthen efforts to assist constituents in applying pay equity. Another area in which the Office has started to increase its capacity is in identifying effective ways of enforcing a minimum wage.¹⁵

4.1.3. Making work pay for women as well as for men

119. The principle of equal pay for men and women for work of equal value, as set out in the Equal Remuneration Convention, 1951 (No. 100), is perhaps one of the least understood concepts in the field of action to combat discrimination. In some countries, laws and regulations refer only to equal pay for “identical” or “similar” work rather than for work “of equal value”. The lack of reliable sex-disaggregated data on wages in many countries conceals the existence of a gender pay gap, thus making it difficult to monitor trends in the size and underlying causes of the gender pay gap. Underlying gender biases in wage structures and remuneration practices could lead to the undervaluation of women’s jobs.

120. The ILO guide, *Equal pay: An introductory guide*, which reviews Convention No. 100 and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), provides practical guidance on applying the principle of equal pay for work of equal value in national law and practice.¹⁶ It is designed to assist national equality bodies, wage-fixing institutions and social partners when negotiating equal pay provisions in collective agreements or in developing workplace policies, including job evaluation methods. The guide *Promoting equity. Gender-neutral job evaluation for equal pay: A step-by-step guide* focuses on job evaluation, which helps establish the relative value of jobs that differ in content but may have the same value.¹⁷ This guide has been used in various training sessions on equal remuneration at the national level, including in national tripartite workshops (in Togo and Morocco in 2013 and Cameroon and Mauritania in 2010). A job evaluation project in Portugal, financed by the European Commission with ILO technical assistance, informed the ILO job evaluation guide and demonstrates the utility and impact of this tool to advancing pay equity (see box 4.2).

¹⁵ See A. Marinakis (ed.): *Incumplimiento con el salario mínimo en América Latina: El peso de los factores económicos e institucionales* [Non-compliance with the minimum wage in Latin America: The impact of economic and institutional factors] (Santiago, ILO, 2014). This study analyses the impact of economic and institutional factors on compliance with the minimum wage in Latin America in general, and, in greater depth, in Chile, Costa Rica, Peru and Uruguay. The study traces differences in compliance levels, regardless of relative minimum wage levels, to the institutional enforcement structure (such as the number of labour inspectors, the probability of being inspected, the amount of fines, the effective application of fines and the length of the whole process), and concludes that stronger labour inspectorates, together with sanctions and information campaigns, are crucial for a more effective enforcement of minimum wages.

¹⁶ M. Oelz, S. Olney and M. Tomei: *Equal Pay – An introductory guide* (Geneva, ILO, 2013). Available in five languages.

¹⁷ M.-T. Chicha: *Promoting equity. Gender-neutral job evaluation for equal pay: A step-by-step guide* (Geneva, ILO, 2008). Available in Albanian, Arabic, Chinese, English, French, Portuguese, Spanish and Ukrainian.

Box 4.2
Pay equity and job evaluation in practice

In Portugal, a 2005–08 project financed by the European Commission with ILO technical assistance sought to redress the undervaluation of female-dominated professions in the restaurant and beverage sectors through job evaluation methods that are free from gender bias. Catering services in Portugal were dominated by small enterprises and characterized by low earnings, low productivity, high turnover and high levels of absenteeism, and were attracting young, mainly irregular, migrant women from Brazil and Portuguese-speaking African countries. The involvement of the social partners was key to ensuring that the concerns and priorities of both parties were taken into account and the outcomes accepted by all. The project's experience and tools served as models for the inclusion of a 25-hour training course on equal pay in the national catalogue of public training available to different sectors, and the production by a Portuguese trade union federation in the footwear sector of a training guide on equal pay for union members involved in industry-wide collective bargaining.

121. The *Global Wage Report 2014/15* contributes to the understanding of wage inequality through an empirical analysis of wage gaps affecting women, migrants and informal workers – groups that often experience discrimination and disadvantages in the labour market.¹⁸ Its findings show that, on average for the countries studied, pay gaps would narrow, disappear or reverse and women and migrants would receive higher wages if only observable differences in labour market characteristics (such as experience, education and occupational category) were taken into account. These groups of workers sometimes suffer “wage penalties” for multiple and complex reasons that differ from one country to another and the penalties occur at different places in the overall wage distribution.

122. The domestic work sector, where women account for 83 per cent of the workers globally and are among the lowest paid in any labour market, illustrates the challenges in extending equal minimum wage protection to workers who are mostly excluded from legal coverage and in informal employment.¹⁹ ILO analysis of wages in the Philippines, South Africa and Uruguay reveals that domestic workers earn much less than other employees with the same labour market characteristics.²⁰ The Domestic Workers Convention, 2011 (No. 189), recognizes this, and provides that: “Each Member shall take measures to ensure that domestic workers enjoy minimum wage coverage, where such coverage exists, and that remuneration is established without discrimination based on sex” (Article 11). In response to related country demands, the Office has been working in countries such as Cabo Verde, Costa Rica, India, Namibia, Philippines and Zambia. Drawing on these and other experiences, policy resource packages are being produced to inform further country-level assistance.²¹ The Office has also promoted pay

¹⁸ ILO: *Global Wage Report 2014/15: Wages and income inequality* (Geneva, 2015).

¹⁹ ILO: *Domestic workers across the world: Global and regional statistics and the extent of legal protection* (Geneva, 2013).

²⁰ For figures on South Africa and Uruguay, see D. Budlender: *Measuring the economic and social value of domestic work: Conceptual and methodological framework* (Geneva, ILO, Conditions of Work and Employment Series No. 30, 2011), pp. 22–26. For figures on the Philippines, see *Domestic workers in the Philippines: Profile and working conditions*, Fact sheet, ILO, 2011, http://www.ilo.org/travail/whatwedo/publications/WCMS_167021/lang--en/index.htm [accessed 5 Feb. 2015].

²¹ M. Oelz: *Remuneration in domestic work*, Domestic Work Policy Brief No. 1 (Geneva, ILO, 2011); ILO: *Effective protection for domestic workers: A guide to designing labour laws* (Geneva, ILO, 2012); country studies on minimum wage fixing in domestic work in Chile, Portugal, South Africa, Switzerland and United States (ILO, forthcoming).

equity within the framework of national wage policy reforms, through training activities at a national level (involving, for example, members of national tripartite equality commissions in Argentina, Brazil, Chile, Paraguay and Uruguay) or at the Turin Centre. But, as the evaluation of Jordan's Decent Work Country Programme revealed, reducing gender pay gaps requires comprehensive measures: "... the end results in gender equality are beyond the ability of the ILO to completely influence. There's a cultural and mindset barrier that represents a huge societal challenge, and will require a collaborative effort and time to create the necessary change. Public awareness around gender discrimination issues in the workplace remains weak, especially among NGOs [non-governmental organizations] and social partners with a limited ability to advocate for policy change. In Jordan, there is a general lack of supporting services for women in the workforce, such as childcare and transportation".²²

4.1.4. Regulating working time: Balancing workers' and enterprises' needs

123. Working time does not only relate to the quality and terms of the employment relationship; it has a direct and crucial impact on the protection of the health and well-being of workers, on the quest for balance between work and personal life, and on the protection of wages, including fair remuneration for overtime.

124. In follow-up to the 2011 Tripartite Meeting of Experts on Working-time Arrangements, the Office has been focusing on strengthening the ILO's capacity to provide guidance to constituents regarding how to develop working-time arrangements that effectively balance workers' needs with enterprises' performance requirements.

125. In 2012–13, the Office produced substantive policy research including a policy brief on the distribution of hours of work in developed and developing countries,²³ which analyses the major factors underlying the divergence in the distribution of hours of work between developed and developing countries; a paper on part-time employment,²⁴ which reviews the barriers to and employment conditions of part-time work and proposes a number of measures to improve its quality; an "action research" project in Indonesia with selected enterprises participating in the Sustaining Competitive and Responsible Enterprises (SCORE) programme; and research into the organization of working time and its effects on workers' well-being, including work–life balance, and organizational performance in the health services sector.²⁵ The research on part-time employment has already provided an important input into an initiative by the Government of the Republic of Korea to promote good quality part-time employment. In the current biennium, the Office is undertaking policy research and developing policy tools in other fields, for example with regard to: the working hours of selected categories of workers (such as domestic workers and nursing personnel) who are excluded from the scope of the main ILO Conventions on hours of work; the effects of new information and communication technologies on hours of work, the organization of working time,

²² Al Jidara: *Decent Work Country Program Mid-Term Review*, Final report, submitted to the ILO Regional Office for the Arab States, 11 Aug. 2014, p. 24.

²³ J.C. Messenger and N. Ray: *The distribution of hours of work in developed and developing countries: What are the main differences and why?* TRAVAIL Policy Brief No. 5, 2013.

²⁴ C. Fagan et al.: *In search of good quality part-time employment* (Geneva, ILO, Conditions of Work and Employment Series No. 43, 2014). This working paper was translated into Korean by the Korea Labor Foundation and discussed at a tripartite national seminar.

²⁵ J.C. Messenger and P. Vidal: *The organization of working time and its effects in the health services sector: A comparative analysis of Brazil, South Africa and the Republic of Korea* (Geneva, ILO, Conditions of Work and Employment Series No. 56, 2015).

and work–life balance; the situation of workers with highly variable and sometimes unpredictable work schedules (such as workers with zero-hours contracts and on-call workers); and national laws and practices regarding rest periods.

126. In the aftermath of the 2008–09 crisis, working-time adjustments offered an important tool for limiting or preventing job losses and sustaining enterprises until demand recovered. Research on work-sharing programmes and working-time related crisis response measures was conducted for nine countries.²⁶ In addition, policy advice and technical assistance regarding the design and implementation of work-sharing programmes during the crisis were provided to ILO constituents in Bulgaria, Chile, Croatia, Czech Republic, Hungary, Serbia, Turkey and United States.

127. At the country level, the ILO’s work focuses on assessing, developing and testing innovative working-time arrangements (such as flexitime arrangements and compressed workweeks) that can effectively balance workers’ needs with enterprises’ business requirements.²⁷ This work includes tripartite technical workshops and policy advice, most recently in the former Yugoslav Republic of Macedonia, Republic of Moldova and Hong Kong, China. Demands for ILO assistance on working time at the country level have been growing in recent years, particularly in middle-income and higher-income countries.

4.2. Making labour protection inclusive

4.2.1. Enabling working parents and other workers to balance work and personal life

128. Work–life balance policies are meant to ensure that workers’ family and other personal responsibilities do not compromise their economic and employment security and subject them to undue discrimination.

129. Providing workers with the flexibility to adapt their work schedules based on individual needs is one way of helping them achieve work–life balance. A recent ILO publication has synthesized existing research to show the link between different aspects of working time and outcomes in terms of work–life balance and examined the extent to which various types of working-time arrangements may have positive effects in this regard and also promote gender equality.²⁸ Maternity protection is an indispensable part of comprehensive work–life policies and measures.

130. To promote a coherent approach to work–life reconciliation and maternity protection, the Office has created knowledge and increased understanding of the benefits (to women and men workers, enterprises and the economy) of work–life and maternity protection measures, the implications and cost of applying these in diverse national contexts, and ways by which these could be applied in practice. The ILO report *Maternity and paternity at work: Law and practice across the world* reviews national law and practice on maternity and paternity at work in 185 countries and territories

²⁶ J.C. Messenger and N. Ghosheh: *Work sharing during the Great Recession: New developments and beyond* (Cheltenham, United Kingdom, Edward Elgar, 2013); A. Kümmerling and S. Lehnendorff: *The use of working time-related crisis response measures during the Great Recession* (Geneva, ILO, Conditions of Work and Employment Series No. 44, 2014).

²⁷ L. Golden: *The effects of working time on productivity and firm performance: A research synthesis paper* (Geneva, ILO, Conditions of Work and Employment Series No. 33, 2012).

²⁸ C. Fagan et al.: *The influence of working time arrangements on work–life integration or “balance”: A review of the international evidence* (Geneva, ILO, Conditions of Work and Employment Series No. 32, 2012).

including with regard to leave, employment protection, health protection, breastfeeding arrangements and childcare;²⁹ the working paper *Good practices and challenges on the Maternity Protection Convention, 2000 (No. 183), and the Workers with Family Responsibilities Convention, 1981 (No. 156): A comparative study*, identifies successful strategies for promoting maternity protection and supporting workers with family responsibilities from ten country studies;³⁰ and the report *Maternity protection in SMEs: An international review* addresses the questions of how, to what extent and under what conditions maternity protection can protect working mothers, while also generating positive outcomes for SMEs and the broader society.³¹

131. Some features of work and workplaces (such as biological, chemical or physical hazards, stress and poor hygiene) can pose particular risks to the safety and health of women during pregnancy and breastfeeding. To help and encourage employers and workers to assess these OSH risks, the Office developed a training tool called *Healthy beginnings: Guidance on safe maternity at work*, which sets out the practical steps involved in protecting the woman worker and her child where the worker: (a) is working during pregnancy; (b) has recently given birth; (c) is returning to work after pregnancy; or (d) is breastfeeding, or seeking to breastfeed, when she returns to work.³²

132. At the country level, the Office has enhanced the capacities of national partners to assess their national situations and to design and implement legislative reforms and other measures, regardless of whether they have ratified the Maternity Protection Convention, 2000 (No. 183), and the Workers with Family Responsibilities Convention, 1981 (No. 156). In Costa Rica, in 2010, a study on workers with family responsibilities informed tripartite workshops, a national campaign and initiatives that emphasized the importance of paternity leave and highlighted the benefits of maternity protection measures.³³ These contributed to the conclusion of a collective bargaining agreement in April 2013, covering teachers in the education sector, which included the provision of a one-month period of paternity leave. In Chile, the Office provided legal drafting support to the national commission responsible for the Maternity Leave Bill; in 2011, the country extended maternity leave from 18 to 30 weeks and allowed for the mother to share up to six weeks of paid leave with the father. To promote the ratification and implementation of Conventions Nos 156 and 183, awareness-raising campaigns have been carried out in many member States, sometimes with ILO direct support. In Senegal and Zambia, the labour ministry and the social partners adopted tripartite action plans for the ratification of Convention No. 183 in 2013 and, in the Russian Federation, the Federation of Independent Trade Unions of Russia (FNPR) waged a campaign to promote the ratification of Convention No. 183.

133. The Office has promoted enterprise-level actions to address workers' work–family needs. In the Republic of Moldova, which ratified Convention No. 183 in 2006, the Office helped the National Confederation of Employers to train about 61 representatives

²⁹ L. Addati, N. Cassirer and K. Gilchrist: *Maternity and paternity at work: Law and practice across the world* (Geneva, ILO, 2014).

³⁰ A. Cruz: *Good practices and challenges on the Maternity Protection Convention, 2000 (No. 183), and the Workers with Family Responsibilities Convention, 1981 (No. 156): A comparative study* (Geneva, ILO, Working Paper No. 2, 2012).

³¹ S. Lewis et al.: *Maternity protection in SMEs: An international review* (Geneva, ILO, 2014).

³² J. Paul: *Healthy beginnings: Guidance on safe maternity at work* (Geneva, ILO, 2004).

³³ ILO: *Costa Rica: Trabajo decente y corresponsabilidad social en el cuidado: Retos en el camino hacia la igualdad* [Costa Rica: Decent work and joint social responsibility in care: Challenges on the road to equality] (San José, ILO, 2011).

of employers' organizations, enterprises, local authorities, labour inspection authorities, and trade unions in October 2012. Post-training evaluation indicated improved knowledge of the issues and of possible solutions, such as improved working-time arrangements, and employers showed understanding and willingness to address employees' work–family needs more effectively.

4.2.2. Promoting safe and desirable workplaces for persons with disabilities

134. Workers with physical, sensorial, intellectual or psychosocial disabilities are disproportionately vulnerable to inadequate worker protection and poor quality working conditions. The disability-specific ILO standards and the United Nations Convention on the Rights of Persons with Disabilities of 2006 lay out the responsibilities of States and of the social partners in promoting equal opportunities for persons with disabilities.

135. The Office has provided a range of support services to constituents to enable them to meet these responsibilities. Disability audits of legislation have been commissioned in several countries in Africa and Asia. A disability equality training course for employers, workers and other partners has been developed to create understanding of the barriers and attitudes that women and men with disabilities experience in the workplace and to identify ways in which the workplace can become a safer and more inclusive place for them. Training sessions have been conducted in many countries and enterprises, and with trade union representatives, employers and non-governmental organizations assisting persons with disabilities.

136. The ILO Global Business and Disability Network – a global network of multinational enterprises, employers' organizations and business networks on disability issues – was formed to promote an inclusive approach to disability in the workplace and assist companies in implementing their related strategic business plans through knowledge-sharing, business-to-business dialogue, capacity building and the development of tools and guides for employers. It influences SMEs through employer organization members and seeks support from representative disabled persons and expert disability organizations with an international reach. Its impact is felt at the national level, for example, through the linkage created between the network's members, employers' organizations and ILO activities (for example, company personnel are mentoring young people with disabilities in Uganda and sponsored job fairs for persons with disabilities have been held in Sri Lanka). Furthermore, network members and the ILO are facilitating the development of national business and disability networks, for example in Brazil, Chile and Saudi Arabia.

137. Trade unions, when trained to understand the needs of disabled workers and the obligations that employers might have under national legislation, can develop practical ways to effectively promote an inclusive approach to disability in the workplace. In Thailand, disability equality training was provided to 15 trade union members of the Labour Congress of Thailand, the National Congress of Private Industrial Employees, the State Enterprises Workers' Relations Confederation and the Thai Trade Union Congress, after which trade unions created a small group of disability focal points to support inclusive approaches to disability within workplace. In 2010, trade union members submitted proposals to promote issues of relevance to persons with disabilities, including a survey on the concerns and needs of disabled persons, the training of labour union committee members on national disability laws and a disability awareness-raising campaign among members, with a particular focus on physical barriers and non-discrimination in the workplace. The Thai Trade Union Congress and the State Enterprises Workers' Relations Confederation supported accessibility audits of selected

companies by the Network of Music and Arts of Persons with Disabilities, including audits of the Thai Nylon Company, the Port Authority of Thailand and the Bangkok Mass Transit Authority.

4.2.3. Extending protection to migrant workers

138. Migrant workers, especially if they are women and young people, or belong to ethnic or racial minorities, may be exposed to abuse, exploitation and discrimination, particularly if they are employed in jobs regarded as being low-skilled (such as construction work, domestic work or agricultural work) or are in irregular situations.³⁴ They are likely to have limited access to information and support services and to face poor or unsafe working and living conditions, to be unorganized and to wield little bargaining power to negotiate with their employers for fair conditions of employment.

139. Globalized labour markets require new forms of international governance, based on the principle of equality of treatment. The application of this principle depends on the existence of effective enforcement of non-discriminatory labour law as well as on a model of industrial relations that enables migrant workers to know and exercise their labour rights and seek redress and justice within and across borders. The absence of equal protection for migrant workers would expose them to unfair treatment and abuse, and possibly create a dual labour market with a downward spiral of labour conditions for national and migrant workers alike.

140. The ILO has a constitutional mandate to protect women and men migrant workers. In 2013, the Tripartite Technical Meeting on Labour Migration called on the Office to “continue to advance its rights-based approach to labour migration, while taking into account labour market needs”.³⁵ In recent years, the Office’s work in this area has gained renewed emphasis. Demands for ILO assistance have multiplied over the past few years and range from legislative and policy reform to the establishment of migrant resource centres (more than 20 in Asia), building the capacities of labour ministries, labour inspectors, labour attachés and the social partners, and the development of skill recognition mechanisms.

141. One of the issues raised by constituents is that of high recruitment costs, which may push migrant workers into accepting irregular employment and poor working conditions to pay back debts. In response, under the thematic working group on low-skilled labour migration of the World Bank-led Global Knowledge Partnership on Migration and Development (KNOMAD), which is co-chaired by the ILO, the Office has developed a project with a twofold objective: to identify strategies to reduce migration costs, including recruitment costs, for migrant workers; and to identify elements in bilateral and multilateral agreements that maximize positive outcomes for workers, employers and countries of origin and destination alike. Since 2013, work has been under way to create datasets on migration costs and to develop a standard measure of migration costs that is comparable across countries. One priority for future action is to address the situations (such as high visa costs) that raise average costs, for example, through inter-State cooperation.

³⁴ For empirical data on pay inequality, see *Global Wage Report 2014/15: Wages and income inequality*, op. cit., p. 51. See also ILO: *Labour migration and development: Setting a course for the future*, 2013, www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_222912.pdf [accessed 5 Feb. 2015].

³⁵ ILO: *Report of the discussion*, Tripartite Technical Meeting on Labour Migration (Geneva, 4–8 November 2013), Conclusions, para. 4.

142. Preliminary findings from the study of 151 bilateral agreements and memoranda of understanding show the potential of certain good practices in bilateral agreements to reduce migration costs and, in some cases, improve the economic and social protection of migrants. The comprehensiveness of prevailing national legislation, the existence of decent work safeguards and strong labour legislation in signatory countries improve the quality of agreements. The second phase of the KNOMAD project will examine how bilateral agreements are implemented on the ground and their impact, and benchmark good practice indicators.

143. The ILO has also taken steps towards launching a fair recruitment initiative in partnership with the International Trade Union Confederation, the International Organisation of Employers and the International Confederation of Private Employment Agencies. This initiative adopts a four-pronged approach, aimed at enhancing global knowledge about national and international recruitment practices, strengthening laws, policies and enforcement mechanisms, promoting fair business standards and practices and fostering social dialogue and partnerships.

144. Sectors where vulnerable categories of migrant workers are concentrated and face high risks of labour exploitation and trafficking call for special attention. Most notable in this regard is the work of the Office concerning international migrant domestic workers, who face multiple layers of disadvantage compared to other migrant workers, namely: an isolated workplace; low social status; low valuation of the occupation; exclusion from or unequal protection under labour and migration laws of the host country; weak governance of recruitment processes; and cultural constraints. The Office's work concerning international migrant domestic workers has intensified since 2011 in line with the ILO global strategy on domestic work, integrating actions across policy areas (for example, labour migration, trafficking, working conditions, forced labour and social security). Much of the Office's work has been focused on the Middle East and Asia, where the major destination and origin countries of such workers are, although some work has been undertaken too in Latin America, Europe and Africa. Principal actions in these regions have been awareness raising and advocacy on migrant workers' rights, policy dialogues, knowledge-sharing on alternative measures and good practices of labour protection and the strengthening of migrant workers' organizations and their alliances.

145. Recently, the Office has examined the features of different migration corridors (in other words, the routes between origin and destination countries, such as those between Zimbabwe and South Africa; Paraguay and Argentina; Nicaragua and the Dominican Republic; Indonesia and Malaysia; Nepal and Lebanon; and Ukraine and Poland) to help develop inter-country strategies and frameworks for cooperation. This approach has not always been easy, due to policy differences and tensions between some origin and destination countries, but there are initial positive results. For example, with regard to the corridor between Nicaragua and the Dominican Republic, the Office provided inputs to the process of legislative reform on migration policy in both countries. With regard to the corridor between Paraguay and Argentina, the two countries' tripartite commissions signed a cooperation agreement in 2013 concerning training, skills recognition and social security (including pension portability rights). Trade unions from both countries signed a bi-national agreement to undertake an action plan, which includes an Internet-based trade union network, a communication strategy to promote the rights of domestic and migrant workers, and measures to strengthen the unions of domestic and allied workers, in coordination with the Trade Union Confederation of the Americas and the International Domestic Workers Federation.

146. Practical advisory services and guidance need to be accompanied by sound research and data generation. The absence of reliable statistics on the number of international migrant domestic workers is a major gap. The Office has developed a methodology for estimating the number of migrant domestic workers, and will soon produce global and regional estimates. Qualitative research activities are under way or have been completed on profiles of employers of domestic workers and employment practices (Malaysia in 2014, planned in Lebanon), returning international migrant domestic workers (Ethiopia and Indonesia), and trajectories of migration and integration in host labour markets (Belgium, France, Italy and Spain).

4.2.4. Extending protection to domestic workers

147. Many more domestic workers are employed in their home country, but there too, they tend to be excluded, de jure or de facto, from labour protection. This explains, to a large extent, the high incidence of informal employment, low wages and poor working conditions, and vulnerability to extreme forms of abuse in the domestic work sector. Although the Office began addressing the issues of domestic workers in the early 2000s (such as by providing advisory support to Uruguay in drafting a law on domestic work, which was subsequently passed in 2006), ILO work in this area has expanded since 2012 in response to the International Labour Conference resolution calling on the Office to promote the implementation of Convention No. 189 and the Domestic Workers Recommendation, 2011 (No. 201). The Office has implemented an integrated, comprehensive strategy for action towards making decent work a reality for domestic workers worldwide, which is a unifying framework for ILO actions carried out by various technical departments and field offices.³⁶ During 2012–13, the Office used different means of action to assist some 36 countries, both aiming to ratify Convention No. 189 and not envisaging ratification.³⁷ Since 2014, some of the ILO's efforts are linked to actions under the areas of critical importance on the formalization of the informal economy (ACI 6) and protection of workers from unacceptable forms of work (ACI 8).

148. Many countries seeking ILO assistance have expressed concern about how to address the exclusion – partial or total – of domestic workers from protection and about how to formalize employment relationships; others have expressed concern about specific gaps, for example with regard to minimum wage and working-time regulation, or about particular groups of domestic workers, such as migrant domestic workers (see section 4.2.3), child domestic workers and those in forced labour conditions. For example, in Brazil, the Office facilitated dialogue among constituents and other stakeholders, which contributed to the enactment in March 2013 of a constitutional reform establishing equal labour rights for domestic workers. In the Philippines, the Office supported the multi-stakeholder consultative processes, research and policy advice leading to the ratification of Convention No. 189 and the enactment of a comprehensive Domestic Workers' Act, and is currently helping national partners enhance their capacities and mechanisms to implement the law and promote compliance. In Zambia, the ILO is supporting a review of national standards on domestic work and consultations over a national action plan with the aim of enhancing the effective protection of domestic workers. In most countries, the Office has helped strengthen

³⁶ See http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/genericdocument/wcms_210412.pdf [accessed 5 Feb. 2015].

³⁷ See ILO: *Follow-up to the resolution concerning efforts to make decent work a reality for domestic workers worldwide: Progress report*, Governing Body, 319th Session, Geneva, Oct. 2013, GB.319/POL/1; and ILO: *Snapshot: ILO in action, Domestic workers*, ILO, 2013.

autonomous organizations of domestic workers (such as the Federation of Asian Domestic Workers' Unions (FADWU) in Hong Kong, China; the Conservation, Hotels, Domestic and Allied Workers' Union (CHODAWU) in the United Republic of Tanzania; and the National Federation of Bolivian Household Workers (FENATRAHOB) in the Plurinational State of Bolivia) and autonomous organizations of employers of domestic workers (such as the Housewives' League of Uruguay).

149. Although there has been momentum for change in most regions, and despite the considerable strides that have been made by the Office and constituents in reducing inequalities in the treatment of domestic workers, many challenges remain with regard to increasing labour protection and formalizing employment. Once regulatory reforms are in place, the tougher, longer process of introducing changes in institutions, employment relationships and working lives, lies ahead, requiring sustained actions. Knowledge development and the sharing of practices and experiences among countries have been necessary to support these changes, because domestic work is still a relatively new area for regulation. Constituents have raised questions on the “hows” of extending protection to domestic workers. In 2012–13, the Office organized regional tripartite knowledge-sharing forums in the Americas, Africa, Asia, the Arab States and Europe.³⁸ It has started work on a series of policy resources (such as guides, manuals and policy briefs) for use by national constituents, partners and ILO staff at the country level. The themes covered by existing policy resources include: the extension of legal protection; enforcement and compliance; working time; remuneration; organizing domestic workers; methodologies for estimating and measuring the size of domestic work sector; and assessing working conditions.³⁹ Policy resources on the extension of social security, on innovative models of collective action and collective bargaining, and on the measurement of the effects of legal reforms on informal employment and working conditions, are currently being developed.

4.3. Enterprise performance and labour protection: A sustainable and integrated approach

150. The majority of workers in the formal economy are employed in SMEs, where productivity and wages are usually low, and there is little capacity to improve OSH. Labour protection is predominantly viewed as being costly and rigid, and, to small enterprises and firms at the lower end of value chains and in competitive export markets, it might seem that labour protection measures could threaten enterprise performance and survival. For the ILO, the relationship between enterprise productivity and labour protection could be a virtuous one, and the Office has worked to examine and develop the modalities of this link. Research shows that the causal relations between productivity and working conditions, including wages, are not one-way but two-way in nature.

4.3.1. Improving compliance with standards

151. The Better Work programme, which has so far focused on the garment sector, is based on the logic that compliance with fundamental rights at work and with national legislation concerning working conditions is compatible with, if not a contributing factor

³⁸ See http://www.ilo.org/travail/areasofwork/domestic-workers/WCMS_190451/lang--en/index.htm [accessed 5 Feb. 2015].

³⁹ A catalogue of ILO resources on domestic work can be found at: http://www.ilo.org/wcmsp5/groups/public/@ed_protect/@protrav/@travail/documents/publication/wcms_248947.pdf [accessed 5 Feb. 2015].

to, productivity and export growth. An independent final evaluation of a 2000–07 project to ensure that working conditions in the textile and apparel sector in Cambodia complied with internationally recognized core labour standards and Cambodian labour law (later renamed the Better Factories Cambodia programme) noted that there had been measurable improvements in working conditions and industry standards, and that remarkable attention was paid to the particular needs of women and gender equality.⁴⁰ An independent mid-term evaluation of the Better Factories Cambodia programme carried out in 2012–13 also noted enhanced working conditions in garment factories.⁴¹ Further independent research conducted in Cambodia has suggested that compliance with labour standards did not reduce the prospect of enterprise survival during the recent global recession.⁴² However, as pointed out in independent evaluations, the involvement and support of international brands is critical to raising productivity and exports, improving compliance with labour standards and enhancing working conditions. Regulations and enforcement alone are not sufficient; incentives and rewards are equally necessary.

152. Since its inception in 2007, Better Work has established programmes in seven countries (Cambodia, Haiti, Indonesia, Jordan, Lesotho, Nicaragua and Viet Nam) and is planning new initiatives in Morocco and Bangladesh.⁴³ The mid-term evaluation of the global programme noted the continuing relevance of the programme's approach, as evidenced by the willingness of international brands and factories to pay for services to assess labour law compliance and by the fact that some governments had mandated participation in the programme. In spite of these achievements, the Better Work programme is facing challenges, notably with regard to scaling up the currently labour-intensive model of compliance assessment and advisory services in large markets such as Bangladesh, Indonesia and Viet Nam and devising a new service delivery model, and allocating more resources to building the capacities of local institutions and social partners, particularly local employer and worker representatives, to ensure their effective involvement in the process.⁴⁴

4.3.2. Creating a virtuous cycle between productivity and working conditions

153. Under the area of critical importance on productivity and working conditions in SMEs (ACI 4), the Office is working with tripartite constituents in Indonesia and Kenya to develop wage and industrial relations policies that will facilitate the creation of a virtuous cycle between productivity and working conditions. The working-time demonstration project in Jakarta was designed to show how changes in working-time schedules in SMEs could be structured to improve firms' productivity and performance, as well as workers' satisfaction and work–life balance.⁴⁵ An independent assessment of

⁴⁰ ILO: *Ensuring that working conditions in the textile and apparel sector in Cambodia comply with internationally recognized core labour standards and the Cambodian labour law project*, Evaluation summary, Oct. 2007.

⁴¹ ILO: *ILO Better Factories Cambodia Programme: Mid-term evaluation*, Evaluation summary, Dec. 2012–Mar. 2013.

⁴² ILO: *Better Work Global – Stage II Evaluation*, Evaluation summary, Apr. 2012.

⁴³ More information on Better Work can be found at: <http://www.ilo.org/washington/areas/better-work/lang-en/index.htm> [accessed 5 Feb. 2015].

⁴⁴ ILO: *Better Work Global – Stage II Evaluation*, op. cit.

⁴⁵ The pilot project built on the foundations of the ILO's Sustaining Competitive and Responsible Enterprises (SCORE) programme, particularly regarding worker–management cooperation.

this pilot project, carried out in 2014, revealed that employers and workers had become more optimistic about the potential positive effects of changes in working-time arrangements on business and workers. Based on this pilot project, the Office is developing a package of practical tools for SMEs regarding enhanced working-time arrangements and effective industrial relations policies and practices for the sustainable improvement of working conditions and productivity in SMEs.

154. Under ACI 4, the Office is helping SMEs in Mexico to implement the new labour law that provides for the establishment of tripartite and bipartite committees for workplace dialogue on productivity, training, OSH, gain-sharing and environmental performance. This work builds on the lessons learned from the System for Integrated Measurement and Improvement of Productivity (SIMAPRO) that was developed with ILO support in several Latin American countries.⁴⁶ Its central tenet is connecting organizational objectives to learning, through communication and knowledge sharing, social dialogue and the commitment of workers and management to continuous improvements in production and in safety and health. Positive results on OSH, remuneration, training, social dialogue and productivity demonstrated the viability of the approach.⁴⁷ Impacts, however, required time to materialize and demanded substantial capacity building and organizational discipline.

4.3.3. Governance, workers' representation and labour protection

155. As mentioned above, the industrial accidents in the garment and footwear industries in Pakistan and Bangladesh revealed root causes that went deeper than the absence of OSH standards; rather these were traced to weak labour market governance and a lack of workers' collective representation.⁴⁸ At the time of the Rana Plaza accident, the Bangladesh garment industry – consisting of over 4 million workers and 3,500 factories – shared just 53 labour inspectors with the rest of the economy. Building controls and other systems to ensure the structural integrity and safety of factories were ambiguous, unevenly applied and open to corruption. These tragedies could have been avoided if the workers had had the power and the organization or mechanism through which to voice their concerns. ILO responses to the disasters in Pakistan and Bangladesh have therefore addressed not only the shortcomings in OSH standards, but more fundamentally, the need to overcome the weaknesses in the regulatory framework and in governance through labour law reform, and through the strengthening of the inspectorate, social dialogue and trade union representation (see box 4.3).

⁴⁶ In Cuba, Chile and the Dominican Republic. Details on SIMAPRO can be found at: <http://www.oitcinterfor.org/en/productividad/simapro> [accessed 5 Feb. 2015]; see also ILO: *Skills for improved productivity, employment growth and development*, Report V, International Labour Conference, 97th Session, Geneva, 2008. A pilot project that began in one sugar mill in Mexico in 1995 extended to other enterprises in the sugar industry in Mexico, and to other countries and sectors in Latin America.

⁴⁷ L. Mertens: *Evaluación del impacto de SIMAPRO en América Latina* [Evaluation of the impact of SIMAPRO in Latin America], ILO, 2007; J. Lasida: *Modernización laboral de la industria azucarera en México* [Labour modernization in the sugar industry in Mexico], Summary of independent evaluation, ILO, 2011.

⁴⁸ In September and November 2012, 374 people died and more than 800 were injured in three separate fires in Karachi and Lahore in Pakistan, and in Dhaka, Bangladesh. In April 2013, the collapse of the Rana Plaza building caused 1,136 deaths and injured more than 2,500 workers.

Box 4.3
ILO responses to the Rana Plaza factory accident

In May 2013, at the conclusion of an ILO high-level mission to Dhaka, the tripartite partners agreed on priorities for reform. These included the reform of labour law, a scaling-up of the capacity of the State to enforce the law, urgent safety inspections of all garment factories, rehabilitation and support to victims of the disasters, and measurable improvements in working conditions and workplace safety.

The ILO developed a \$24 million technical assistance programme to support the implementation of a tripartite national action plan. The Bangladesh Labour Act was amended in July 2013, strengthening OSH measures. It marginally eased the trade union registration process, and as a result the number of new factory-level trade unions has dramatically increased. Over 2,100 factories were inspected for structural, fire and electrical safety by the end of October 2014. Initiatives are under way to upgrade the labour inspectorate and relevant agencies, to enhance the workers' and employers' capacity to engage in meaningful labour relations and to establish a mechanism to protect labour rights and prevent and settle disputes. Much remains to be done and the ILO hopes to support further reform of the labour law, including in the export processing zones.

156. Violations of fundamental principles and rights at work are often associated with deplorable working conditions. ILO experience on the ground, including work under ACI 8, has shown that actions aimed at promoting and protecting these rights are more effective when complemented by initiatives that address the material conditions that render workers powerless and vulnerable, such as low wages or the late payment, underpayment or non-payment of wages, ill health due to OSH hazards, poor skills and poor education. A good example is in the Thai fishing sector, where ILO work combined actions aimed at improving the governance of labour migration with interventions geared towards enhancing both the respect of the fundamental principles and the working conditions of fishers (mainly migrants in irregular status). An ILO survey in the industry in 2013 painted a dreadful picture: 17 per cent of workers were working against their will and could not leave, primarily because their wages had not been paid; many workers were facing threats of violence and denunciation to the authorities (many were irregular migrant workers); a third of workers worked 17–24 hours per day without sufficient rest; unfair deductions were being made from wages; a fifth of workers had suffered on-the-job accidents requiring medical attention; and there was a lack of written employment contracts. This situation was compounded by limited monitoring by the labour inspectorate or other government bodies, and by the lack of any representative workers' group. The ILO's response has been comprehensive and integrated, focusing on the regulatory frameworks, including migration policies, enterprise policies and practices, and workers' organization and empowerment. It contributed to the adoption of a ministerial regulation at the end of 2014 that provides for a number of additional measures of protection, including a raise in the minimum age of employment to 18 years, the introduction of rest hours in line with the Work in Fishing Convention, 2007 (No. 188), the introduction of a requirement for a written employment contract and the removal of restrictions to expand coverage of the regulation to all commercial vessels. The Office is also helping the Governments of Thailand, the Republic of the Union of Myanmar and Cambodia to develop more effective procedures to allow migrant fishers to enter Thailand in a safe and legal manner.

Chapter 5

Conclusions and the way forward

157. In the past several decades, the world of work has become more complex and unpredictable. The emergence of a multiplicity of employment arrangements and work relations, which has accompanied the dispersion and acceleration of production processes, has redesigned the landscape of labour markets across the world. Standard employment relationships cohabit with more flexible work arrangements and informal work situations, albeit to different degrees. The prevalence of one or the other type of work relations depends on a country's socio-economic context and regulatory environment.

158. Nonetheless, legal trends in labour protection reveal the continuing commitment of policy-makers worldwide to establishing and implementing working standards in respect of the introduction or extension of a legally mandated minimum wage to previously excluded categories of workers; weekly hourly limits; OSH; and the duration and funding of maternity leave.

159. Minimum wage policies have been employed by many governments as a useful tool to address poverty and inequality and to counter an increase in low-paid work in both industrialized and developing countries. The renaissance of minimum wage policies has, in part, been a policy response to the need to protect low-paid workers against poverty. Some countries have extended or adapted collective bargaining so as to increase the inclusiveness of labour protection, including through agreements on work sharing negotiated by the social partners to save jobs during the current economic crisis. In yet other cases, new approaches to collective bargaining are being tested to provide protection to groups that traditionally have not been covered. Innovative efforts aimed at greater inclusiveness have also occurred along the supply chain.

160. In respect of working time, the average number of hours of work has continued to decline worldwide. Nonetheless, too many workers – whether workers with little control over their jobs or workers with higher skills and remuneration – continue to toil very long hours with problems of chronic fatigue, disruptions to their family life and health and safety problems. In some instances, people work long hours because they are engaged in low-productivity activities; in others, long hours stem from the expectation that workers should be available at all hours, rendered possible by the new information and communication technologies. This report has shown how some enterprises and governments have taken steps to limit hours of work, for instance by limiting communication outside of normal hours of work or allowing claims for overtime payments. On the other hand, too many people work fewer hours than they would like or are confronted with irregular and unpredictable working hours. As sluggish growth may be one reason for insufficient hours, policies geared toward job creation and the promotion of sustainable enterprises continue to be needed. Short or unpredictable hours, sometimes with no compensation for the hours of work lost, shifts excessive economic

risk onto workers. In some instances, short hours are the outcome of a strategy to circumvent social security-related obligations associated with a given hours or income threshold. The response by several governments has been either to guarantee a minimum number of hours of work or provide employees with some compensation for hours not worked. Demands for greater flexibility by both workers and enterprises have been accommodated in some countries in a way that has resulted in win-win outcomes. Equality of treatment with other employees, on a pro rata basis, and the possibility of shifting between different work schedules or working time, depending on workers' needs, are key ingredients for the creation of good quality part-time employment as well as for higher labour force participation rates.

161. OSH is one policy area that has been marked by some progress in terms of both legislation and heightened awareness of the huge cost that inaction entails for the individual worker, the enterprise, health systems and society at large, and yet tragic industrial accidents continue to make headlines. Legislation has been reformed in many countries, including in recent years in emerging economies, to embrace a more encompassing approach to OSH, with emphasis on prevention and management system approaches and with attention paid to all groups of workers or all work-related risks and hazards. The actual level of coverage and enforcement of OSH legislation remains a challenge, however, in the majority of countries, especially for workers in the informal economy and in non-standard forms of employment. Deficiencies in regulatory oversight, due, among other reasons, to the inability of inspectorate resources to keep pace with the growth and fragmentation of the workforce and increasingly complex organizational arrangements have contributed to catastrophic workplace accidents. This confirms the need for compliance strategies that combine better equipped workplace inspectors and judicial institutions with complementary approaches, such as joint OSH committees of employers and trade unions, compulsory workplace accident insurance and interaction with local government, civil society and expert bodies. Enforcement initiatives, including well-designed information and awareness-campaigns and targeted approaches, have been successful in a number of countries; buyer-supplier responsibility agreements along supply chains have also made positive contributions. There have been some important developments across regions in respect of maternity protection, including extensions of the average duration of maternity leave and shifts from employer-funded schemes to general taxation or social security to finance maternity benefits. A social, pooled approach can also have the side benefit of defusing potential employer resistance to the hiring of women. Coverage and enforcement remain, nonetheless, stubborn problems. Denial either de jure or de facto of maternity protection is an issue, especially for those women who are most in need of protection.

162. This report has shown that one of the major challenges today is enhancing the inclusiveness of labour protection measures. Whole swathes of the increasingly variegated workforce worldwide suffer from serious labour protection deficits. This includes workers in industries where regulatory oversight and union presence have traditionally been weak, as well as workers employed in some of the non-standard work arrangements. Many of these workers are women, young people, ethnic minorities and migrant workers.

163. The ILO Meeting of Experts on Non-Standard Forms of Employment, held in February 2015, concluded that, when well-designed and used, non-standard forms of employment can help both workers and enterprises adapt to their changing needs and circumstances, and may also facilitate the access of disadvantaged groups to the labour market. However, workers in non-standard forms of employment lack protection in law or in practice more frequently than other workers. Workers in these arrangements are

less able than other workers to exercise their fundamental rights, including the right to freedom of association and to bargain collectively with the relevant employer(s) and, for these and other reasons, face higher decent work deficits with regard to wage differentials, access to social security, conditions of work and occupational safety and health. The Meeting of Experts also underlined that, if left unchecked, these decent work deficits could increase insecurity and inequality, and that measures to address potential deficits were needed if all workers were to be protected. Measures should include: promoting equality and non-discrimination for all workers, irrespective of their contractual arrangement; ensuring, through social dialogue and innovative approaches, that workers in non-standard forms of employment are able to exercise freedom of association and enjoy the protections afforded under applicable collective agreements; designing and adapting national social security systems in ways that provide workers in non-standard forms of employment with conditions equivalent to those of workers in standard employment, including during transitions in the labour market; promoting safe and healthy working environments for all; preventing and eliminating forms of non-standard work that do not respect the fundamental rights at work and are inconsistent with elements of the Decent Work Agenda, including with regard to ensuring an adequate income from work and the security of social protection; supporting workers' transitions across jobs through the creation of quality employment and suitable labour market policies; and developing strategic approaches to labour inspection, including by targeting sectors and occupations that exhibit a growth in non-standard forms of employment and a high-incidence of non-compliance.¹ The importance of appropriate regulatory frameworks – whether national or international – for positive outcomes for workers, enterprises and society at large, was also underlined.

164. The *raison d'être* of the ILO and its mandate since its founding in 1919 – to protect workers from unacceptable conditions of work and improve the overall standard of living – is as relevant as ever. Yet more erratic work trajectories and more blurred boundaries in the employment relationship have made protecting workers more difficult. There is a need to broaden approaches to labour regulation to include workers engaged in non-standard forms of employment as well as to ensure the transition of informally employed workers into formal employment arrangements. Doing so requires strengthening and extending existing forms of labour protection, improving their application notably through better compliance with laws and regulations, and developing new forms of protection. More comprehensive forms of protection, open to the diversity of stages in the life trajectories of workers and the lifecycles of business, should not compromise, however, on the principle that labour is not a commodity or on the responsibility of governments to ensure fairness at work. To give practical effect to these principles, it is essential that freedom of association and the effective recognition of the right to collective bargaining and non-discrimination and equality at work are promoted and fully realized.

5.1. The ILO's current response

165. In addition to its long-standing activities to improve workers' protection, the ILO has recently embarked on a number of new initiatives to respond to these challenges, notably:

- (a) *Its work under ACI 6 on the formalization of the informal economy and the ongoing negotiations in the International Labour Conference with a view to the*

¹ ILO: *Report of the Meeting of Experts on Non-Standard Forms of Employment*, Geneva, 16–19 February 2015.

adoption of a possible Recommendation on the transition from the informal to the formal economy in 2015. If adopted, and subject to the outcome of negotiations, the Recommendation would provide a comprehensive framework for addressing informal work and guide national action on principles and policies to facilitate transitions to the formal economy.

- (b) *Its work under ACI 8 on the protection of workers from unacceptable forms of work.* This ACI seeks to complement and enhance the impact of the ILO's action to promote respect for the fundamental principles and rights at work by eliminating egregious labour practices and changing the conditions that produce and perpetuate such practices. These are often the outcome of failures in multiple and related policy areas that include OSH, working time and wages, in addition to the fundamental principles and rights at work, and which occur both in formal and informal work settings.
- (c) *Its work under ACI 7 on strengthening workplace compliance through labour inspection to integrate OSH into comprehensive strategies for national and workplace compliance.* This initiative combines the application of labour laws, with effective labour administration and inspection systems to achieve improvements in OSH and other working conditions.

5.2. Moving forwards: Towards a more comprehensive and inclusive approach to labour protection

166. The world of work and the ILO face a fundamental challenge: how to ensure effective labour protection to all workers, including those facing decent work deficits because of inadequate laws, poor law enforcement or the misuse of non-standard contractual arrangements. Building on the conclusions of the Meeting of Experts on this subject matter and on its current response, the ILO should promote a revamped approach to labour protection. This approach would be inclusive of all workers and would be comprehensive in terms of the key and interdependent elements that would need to be considered together to improve the protection of workers. Adopting such an integrated approach does not mean acting on all components at the same time; it means being aware of the interdependence among them and the effects of these inter-relationships on workers' well-being and safety. This revamped approach to labour protection would be part of the ILO's broader response to combating poverty and inequality, in the context of the end-to-poverty centenary initiative and as part of the ILO contribution to the post-2015 development agenda, and could include:

- (a) the establishment of the necessary levels of labour protection and coverage for all workers, irrespective of their employment relationship status and for whom they work;
- (b) greater complementarity between labour protection and social protection;
- (c) consideration of whether additional measures, including new standards, might be needed to afford workers in non-standard forms of employment adequate protection;
- (d) greater vigilance by and responsiveness of labour market actors and institutions to changes in the world of work through enhanced knowledge and capacity building.

167. Such an integrated approach would ensure that all workers enjoy the necessary levels of protection. The realization of the fundamental principles and rights at work, together with the adoption and effective implementation of adequate laws and policies in

the areas of working time, OSH and wages, are essential pillars for the provision of comprehensive labour protection. Effective universal coverage would have the advantage of lessening the burden on social protection floors by preventing workers from falling into poverty or from becoming unable to work, and the consequent strains on social protection funds. Indeed, the implementation of universal labour protection, together with the extension of social protection floors, would be a powerful contribution to the goal of ending poverty and to the realization of the post-2015 sustainable development agenda. At the same time, the need for and desirability of new forms of protection that are better adapted to the changing realities of the world of work would be assessed, and innovations in collective bargaining and social dialogue would be promoted, bearing in mind the concerns and needs of both employers and workers.

168. To move forward towards a more inclusive approach to labour protection, the International Labour Conference may wish to consider innovative approaches to tackling the present and anticipated future challenges with respect to labour protection. Some or all of the following could be considered:

- ❑ *Supporting more equitable, inclusive and sustainable growth.* Initiating a discussion on how to extend the necessary levels of protection to all workers in the areas of OSH, wages, working time and maternity protection would contribute to the ILO's engagement to the post-2015 sustainable development agenda and efforts to end poverty.
- ❑ *The ratification and better use of international labour standards of relevance to wages, working time, OSH and maternity protection, and effective coverage of workers in non-standard forms of employment.* An assessment could be carried out into whether these international labour standards provide a sufficient framework for labour protection for all workers, including those with temporary contracts and in other forms of non-standard work, or whether there are deficits that require additional guidance and standards.
- ❑ *Knowledge-building.* The existing ILO databases on wages, working time, maternity protection and OSH provide valuable, up-to-date information on legal trends across a large number of countries in all regions. The ILO's work would further benefit if these databases could be complemented with: a more systematic review of new national policy measures in these policy areas; the documentation of trends in and analyses of the effects of non-standard forms of employment on workers, enterprises, public services, labour markets and economic performance; good practices and regulatory and other initiatives to help close representational gaps of workers in non-standard forms of employment; and better data collection and estimations of occupational accidents and diseases. The Conference may wish to discuss whether it would be desirable to develop an observatory of worker protection, which would build upon existing databases and ongoing analytic work. Ties with the academic sector, including through the Regulating for Decent Work Network, have helped broaden and disseminate the ILO's knowledge base, while providing better support to ILO constituents, and should be further strengthened as part of a cost-effective implementation strategy.
- ❑ *Technical cooperation and fund-raising.* Country-level interventions could be scaled up and adapted to the different circumstances of constituents worldwide, including in middle-income countries where demand for the ILO's assistance in this domain is growing. This would require more innovative funding strategies, combining regular budget with extra-budgetary technical cooperation support and South–South cooperation.

5.3. Suggested points for discussion

169. In the light of the analysis provided in this report of the trends in labour protection, the related policy challenges and responses by the ILO's constituency and ILO responses to improve people's working life, the following may be considered as starting points for the discussion of the Conference Committee:

- (a) What have been the implications and challenges of trends with regard to the four areas of labour protection (wage policies, working-time arrangements, OSH and maternity protection) discussed in this report for workers' well-being and security and enterprise performance? What policy reforms, including regulatory measures, have member States introduced to address these challenges?
- (b) What are in law or in practice the obstacles hindering universal labour protection? What are measures that can improve coverage, levels of protection and compliance so that all workers, irrespective of whom they work for or their contractual status, enjoy adequate protection?
- (c) In which ways have the ILO's policies and technical assistance helped constituents to address these challenges?
- (d) What action does the ILO need to undertake in order to better fulfil its constitutional mandate and the terms of the ILO Declaration on Social Justice for a Fair Globalization with respect to social protection (labour protection), in view of the transforming world of work and the need to ensure universal labour protection? Do existing international labour standards provide a sufficient framework for labour protection or are there deficits that require additional guidance and standards?

170. In discussing these questions, the Conference Committee may provide guidance on how the Organization and the Office can respond more effectively and efficiently when addressing the needs of constituents in each of these areas.