

# BALI DECLARATION POLICY BRIEF NO. 9 | 2018 UPDATE

## FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK AND CORE LABOUR STANDARDS: TOWARDS COMMITMENT AND ACTION

### BALI DECLARATION PRIORITY:

Realizing fundamental principles and rights at work and increasing the ratification rate as well as the application of fundamental labour standards, particularly the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), including a policy environment that enables the realization of these rights

The Bali Declaration was adopted at the 16th Asia and Pacific Regional Meeting of the ILO on 9 December 2016. The Declaration serves as a call to action for governments, workers' and employers' organizations in the region to do more to promote inclusive growth, social justice and decent work. This series of Policy Briefs aim to focus attention on the priorities for policies and actions at national level and by the ILO as defined in the Declaration.

**Ratification of ILO core Conventions in Asia and the Pacific have contributed to improvements in the implementation of fundamental principles and rights at work. Yet not all countries in the region have ratified all eight fundamental Conventions, and those that have continue to face implementation gaps.**

Among the extensive body of rights at work set by ILO standards, freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour and the elimination of discrimination in respect of employment and occupation are recognized by the ILO and the international community as fundamental principles and rights at work. These principles and rights have been expressed and developed in eight ILO Conventions recognized as fundamental. The ILO Declaration on Fundamental Principles and Rights at Work and its follow-up was adopted in 1998 by the International Labour Conference. The 1998 Declaration makes clear that all members have an obligation arising from the very fact of membership of the ILO to respect, promote and realize, in good faith and in accordance with the ILO Constitution, the principles concerning the fundamental principles and rights which are the subject of the fundamental Conventions, whether or not these member States have ratified the said Conventions. It equally recognizes the obligation on the ILO to assist member States to do so.

## DEFINING THE CHALLENGE

Across the region, there are widespread and systemic barriers to the realization of fundamental principles and rights at work (freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour and the elimination of discrimination in respect of employment and occupation) – both in law and in practice.

Still, today, in the Asia-Pacific region:

- 7.4 per cent of children are labourers, and of this group nearly half are trapped in one of the worst forms of child labour, often employed in hazardous work (ILO, 2017a);
- two-thirds of the estimated 25 million people in forced labour globally are located here (ILO, 2017b);
- labour legislation in some countries imposes considerable constraints on the rights of workers to organize, bargain collectively or strike;
- millions of people suffer from discrimination in the world of work because of their gender, colour of their skin, their ethnicity or social origin, their religion or political beliefs, their age, gender, sexual identity or orientation, disability or because of their HIV status.

Decent work deficits are reflected in the region's poor ratification record with respect to the ILO's fundamental Conventions, although there has been some recent progress. Only 12 of 36 Asia and the Pacific member States have ratified all eight core conventions and less than half of the region's countries have ratified both C87 and C98. In fact, a clear majority of the world's countries that have not yet ratified the two Conventions are located in the region. Likewise, the region's ratification record on the core equality Conventions, Equal Remuneration Convention, 1951 (No. 100) and Discrimination (Employment and Occupation) Convention, 1958 (No. 111), is also among the lowest in the world. While the Forced labour Conventions (C29 and C105) have been almost universally ratified in other regions of the world,

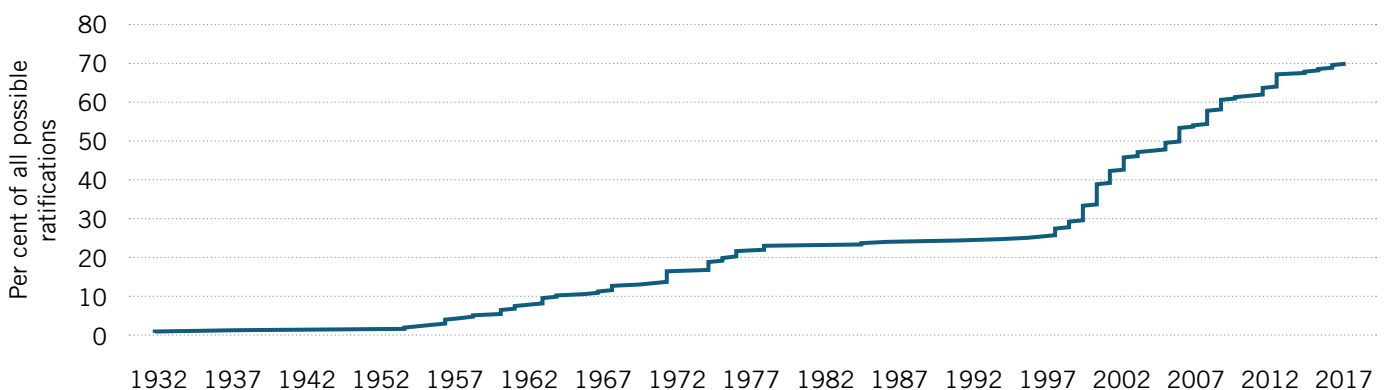
ratification rates are only at 78 and 67 per cent, respectively, in the Asia-Pacific region. The same applies to the Child labour Conventions (C138 and C182) with ratification rates in the Asia-Pacific region of only 67 and 89 per cent, respectively.

While many countries have taken measures to strengthen their legal frameworks to bring national laws in line with international labour standards (even when not ratifying core Conventions), these efforts continue to be undermined by weak enforcement. The consequence has been hazardous working conditions and recurring catastrophes that have, for example, resulted in the deaths of migrant construction workers in Gulf States countries, garment factory workers in Bangladesh, Pakistan and the Philippines, chemical warehouse workers in China and abuses of workers in situations of labour exploitation in the fishing and seafood industry in Indonesia and Thailand. These are only the most visible incidents; poor working conditions and countless accidents and illnesses go unreported (ILO, 2016).

### ILO FUNDAMENTAL CONVENTIONS

<b>C087</b>	1. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
<b>C098</b>	2. Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
<b>C029</b>	3. Forced Labour Convention, 1930 (No. 29)
<b>C105</b>	4. Abolition of Forced Labour Convention, 1957 (No. 105)
<b>C138</b>	5. Minimum Age Convention, 1973 (No. 138)
<b>C182</b>	6. Worst Forms of Child Labour Convention, 1999 (No. 182)
<b>C100</b>	7. Equal Remuneration Convention, 1951 (No. 100)
<b>C111</b>	8. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

### RATIFICATION OF CORE ILO CONVENTIONS IN THE ASIA-PACIFIC REGION, 1932-2018



Note: The total number of possible ratifications is 288 (36 member states in Asia and the Pacific, 8 core ILO conventions). The chart shows the number of actual ratifications, as a percentage of the total number of possible ratifications.

Source: ILO NORMLEX [Accessed 3 December 2018]

## RATIFICATION OF ILO FUNDAMENTAL CONVENTIONS, BY SUB-REGION, 2018

Sub region (number of countries)	Freedom of association		Forced labour		Discrimination		Child labour	
	C087	C098	C029	C105	C100	C111	C138	C182
East Asia (4)	2	2	2	1	4	3	4	4
South-East Asia (11)	5	6	10	4	9	7	9	11
Pacific Island countries (13)	7	8	9	9	8	8	5	9
South Asia (8)	4	5	7	8	8	8	6	8

Note: Count includes countries which currently have the respective convention in force.

Source: ILO NORMLEX [Accessed 3 December 2018]

## AREAS OF ACTION AND LESSONS LEARNED

A critical priority for the region is therefore to promote and support the full realization of fundamental rights at work, in particular by ratifying and fully applying the eight ILO fundamental Conventions. Adherence to these standards is the starting point for ensuring effective social dialogue and improved conditions of work, as well as for increasing enterprise productivity and consumer demand.

The most recent ratifications of the core Conventions include:

- In June 2017, India ratified both fundamental ILO Conventions on Child Labour (C138 and C182). India's "commitment to a child labour free society" means that almost all children in the world are now covered by C182, while coverage of C138 jumps from 60 per cent of the world's children to 80 per cent.
- The Government of Thailand committed itself to promoting and realizing equal opportunity by eliminating all forms of discrimination in employment and occupation with the ratification of C111 (Discrimination (Employment and Occupation) Convention) on 13 June 2017. The convention is set to come into force one year later.
- Additionally, on 4 June 2018, the Government of Thailand was the first in Asia to ratify the ILO Forced Labour Protocol (P029). The Protocol of 2014 enhances the original convention of 1930 by accounting for changing conditions and new problems which arise over time.

While ratification remains a challenge in the region, there has been significant progress in the development of labour laws and regulations, as well as in establishing the government infrastructure and personnel needed to support implementation and enforcement of labour laws. The ILO continues to offer assistance to countries **on labour law reforms that improve alignment of existing legislation to the principles in ILO Conventions**, for example with Thailand on proposed changes to the Labour Relations Act, part of an effort by the government toward ratification of C98.

Labour standards only work if **effectively enforced**. Where legislation gives effect to ILO principles, there are often substantial gaps in compliance in practice. The lack of efficient

and effective inspection and enforcement is highlighted as a common weakness of labour market governance across the region. Combined with low levels of sanctions and penalties, and often poorly functioning or overburdened court systems, the result is that workers and employers do not have proper access to labour justice. There is a tendency in the region towards weak labour inspectorates. These are often understaffed and under-equipped, and their officers undertrained and underpaid. Labour inspectorates also need to expand their activities in the informal economy, in line with Recommendation No. 204, by broadening the scope of legal coverage and policy action. Certain good practices in strengthening the capacity of labour inspectorates in the region, especially in relation to female migrant workers, are listed in ILO and UN Women (2015), and numerous tools for capacity building are provided on the website [www.ilo.org/labadmin](http://www.ilo.org/labadmin), including good practices in labour inspection in export processing zones.

In addition, in order to increase enforcement and to complement the work of labour administrations and labour inspectorates, there is a need to **increase the capacities of national and local governments, workers' and employers' organisations and other partners** to develop, coordinate and implement national programmes of action, and to monitor situations of child labour, forced labour, discrimination at work and situations of abuses to the right to freedom of association and collective bargaining.

Increasing efforts to **build a strong evidence base of the productive gains** that follow from ratification and implementation of ILO core conventions could promote support among social partners and lead to further ratifications.



**Universal ratification is within reach: as of today, only six member States remain to ratify [C182]. This reflects the overwhelming global consensus, as re-affirmed by the adoption of the Sustainable Development Goals, and more particularly Goal 8 target 8.7.**

– Guy Ryder, ILO Director-General

## WHERE DO WE GO FROM HERE?

As means of action and support for constituents, the ILO will continue to focus on promoting ratification and application of the fundamental Conventions, which is an intrinsic part of the ILO's work on labour standards. Notably, Pacific island countries account for five out of six ILO member States worldwide that have not ratified C182. In this regard, an important outcome from a recent Alliance 8.7 (see Policy Brief No. 4) workshop in Fiji was an expression of commitment from these five Member states to ratify C182 by 2019. Accordingly, the ILO has made these ratifications a priority.

The ILO continues to support countries in strengthening labour market institutions, with a particular focus on labour inspectorates. Recently, the ILO participated in the 7th ASEAN Labour Inspection Conference, where ASEAN member States adopted (i) a set of recommendations for strengthening the capacity of national labour inspection systems, and (ii) a separate set of recommendations for actions labour inspectorates should prioritize and implement to enhance labour law compliance, including in global supply chains.

Other areas of actions taken to address some of the issues of social justice and decent work embraced in the core Conventions are addressed in other Policy Briefs, including 01 (gender equality), 04 (child labour and forced labour), 06 (fair migration), 10 (inequality and wages) and 11 (social dialogue and tripartism), and are therefore not repeated here.

### *Partnerships and projects*

The ILO is a key partner in Alliance 8.7, a global partnership to eradicate forced labour, modern slavery, human trafficking and child labour with a focus on four areas: to accelerate timelines, better coordinate research and knowledge sharing, drive innovation and increase and leverage resources. In August and September 2016, the SDG Alliance 8.7 organized sub-regional consultation workshops on achieving SDG Target 8.7 in Bhutan and in Bangkok, Thailand. An Alliance 8.7 workshop also took place in Nadi, Fiji in October 2017, and more recently in June 2018, a technical consultation on Alliance 8.7 was held in Nepal. The aim was to strengthen commitments and engage in discussions centered on making it operational in Nepal.

In 2017, ILO partnered with UN Women, OECD and other key stakeholders, and launched the Equal Pay International Coalition (EPIC). EPIC is an initiative committed to reduce the gender pay gap and make equal pay for work of equal value a reality across all countries and sectors. The Coalition engages with governments, employers, workers and their organizations, the private sector, civil society and academia to take concrete steps to accelerate the closing of the gender pay gap and the achievement of pay equity. In February 2018, EPIC was launched in the Asia-Pacific region at a Regional Conference on Women and the Future of Work in Asia and the Pacific (see also Bali Declaration Policy Brief No. 1). Countries such as Australia and the Republic of Korea have already joined EPIC. In September 2018, at an EPIC event in New York, the governments of Australia and the Philippines publicly pledged to take concrete action in their countries to promote gender equality and reduce the gender pay gap.

**Building the Capacity of the Philippines Labour Inspectorate (January 2015–August 2019):** This project, supported by the US Department of Labour, aims to strengthen the capacity of the Department of Labor and Employment (DOLE) of the Philippines in its ability to enforce a Labour Law Compliance System (LLCS) that is consistent with relevant international standards.

**Sustaining strengthened national capacities to improve ILS compliance and reporting in relevant EU trading partners (April 2018–March 2020):** In partnership with the European Union, this project is aimed at assisting ILO's tripartite constituents in Pakistan to strengthen their efforts towards better compliance and reporting on the 27 UN conventions including ILO's fundamental conventions.

**From Protocol to Practice: A Bridge to Global Action on Forced Labour (June 2017–September 2019):** This project is aimed at working with representatives of the Malaysian Government, workers and employers to increase knowledge, awareness, and ratification of the ILO Protocols within the country. The goal is to improve compliance with international labour standards with regards to forced and child labour and to increase efforts to collect and share reliable data in order to carry out research across various national institutions.

### **Useful references:**

ILO. 1998. *Declaration on Fundamental Principles and Rights at Work and its Follow-up*, adopted by the International Labour Conference, 86th Session, Geneva.

–. 2017a. *Global estimates on child labour: Results and trends, 2012–2016* (Geneva).

–. 2017b. *Global estimates on modern slavery: Forced labour and forced marriage* (Geneva).

–. 2017c. Report VI. *Fundamental Principles and Rights at Work: From Challenges to Opportunities*, International Labour Conference, 106<sup>th</sup> session, 2017 (Geneva).

–; UN Women. 2015. *Labour inspection: Women migrant workers in ASEAN*, Women's Labour Migration in ASEAN Policy Brief Series (Bangkok).