

DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK

Adopted in 1998, the ILO Declaration on Fundamental Principles and Rights at Work is an expression of commitment by governments, employers' and workers' organizations to uphold basic human values - values that are vital to our social and economic lives. These principles and rights are:

- 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;
- the elimination of discrimination in respect of employment and occupation.

A further recognition of the importance of these principles and rights has been their incorporation into the Global Compact, an initiative of the United Nations Secretary General. Like the ILO Declaration, the Global Compact is a platform designed to promote learning and good practices of businesses, based on universal principles.

The following information sheets seek to outline each of the four principles and rights. They are neither an interpretation of the Declaration, nor are they a comprehensive list of the many different ways by which organizations and individuals can contribute to their respect, promotion and realization. These information sheets seek to relate the essence of the subject matter and provide a useful point of departure.

The Fundamental Principles and Rights at Work are derived from the ILO Constitution and are expressed in policy decisions of the Organization, such as Conventions and Recommendations.

FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING

All workers and all employers have the right to freely form and join groups for the support and advancement of their occupational interests. This basic human right goes together with freedom of expression and is the basis of democratic representation and governance. People need to be able to exercise their right to influence work-related matters that directly concern them. In other words, their voice needs to be heard and taken into account.

Freedom of association means that workers and employers can set up, join and run their own organisations without interference from the State or one another. Along with this right is the responsibility of people to respect the law of the land. However, the law of the land, in turn, must respect the principle of freedom of association. These principles cannot be ignored or prohibited for any sector of activity or group of workers.

The right freely to run their own activities means that workers' and employers' organizations can independently determine how they best wish to promote and defend their occupational interests. This covers both long-term strategies and action in specific circumstances, including recourse to strike and lock out. They can independently affiliate with international organizations and cooperate within them in pursuit of their mutual interests.

If the collective bargaining system does not produce an acceptable result and strike action is taken, certain limited categories of workers can be excluded from such action to ensure the basic safety of the population and essential functioning of the State.

Voluntary collective bargaining is a process through which employers - or their organizations - and trade unions or, in their absence, representatives freely designated by the workers discuss and negotiate their relations, in particular terms and conditions of work. Such bargaining in good faith aims at reaching mutually acceptable collective agreements.

The collective bargaining process also covers the phase before actual negotiations - information sharing, consultation, joint assessments - as well as the implementation of collective agreements. Where agreement is not reached, dispute settlement procedures ranging from conciliation through mediation to arbitration may be used.

To realize the principle of freedom of association and the right to collective bargaining in practice requires, among other things:

- a legal basis which guarantees that these rights are enforced;
- an enabling institutional framework, which can be tripartite, between the employers' and workers' organizations, or combinations of both;
- the absence of discrimination against individuals who wish to exercise their rights to have their voice heard, and;
- acceptance by employers' and workers' organizations as partners for solving joint problems and dealing with mutual challenges.

ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR

Forced labour occurs where work or service is exacted by the State or individuals who have the will and power to threaten workers with severe deprivations, such as withholding food or land or wages, physical violence or sexual abuse, restricting peoples' movements or locking them up.

For example, a domestic worker is in a forced labour situation where the head of a household takes away identity papers, forbids the worker to go outside and threatens him or her with, for instance, beatings or non-payment of salary in case of disobedience. The domestic may also work for an unbearably low wage, but that is another matter. If he or she were free to leave, this would not amount to forced labour but to exploitation.

Another example of forced labour arises where villagers, whether they want to or not, have to provide substantial help in the construction of roads, the digging of irrigation channels, etc., and where government administrators, police officers or traditional chiefs brandish a credible menace if the requisitioned men, women or children do not turn up.

Bonding workers through debts is, in fact, a widespread form of forced labour in a number of developing countries. Sometimes it originates with a poor and illiterate peasant pledging labour services to an intermediary or a landowner to work off a debt over a period of time. Sometimes the obligation is passed on from one family member to another, even down to children, and from generation to another. The labour service is rarely defined or limited in duration, and it tends to be manipulated in such a way that it does not pay off the debt. The worker becomes dependent on the intermediary or on the landowner and labours in slave-like conditions. The threat and, indeed, the occurrence of violence or other penalties for failing to work turns an economic relationship - one-sided as it is to start with - into a forced labour situation.

Labour trafficking can give rise to forced labour. One way in which traffickers tend to put themselves into a threatening position is to confiscate the identity papers of the person they move for employment purposes. Another is to trap people through indebtedness by cash advances or loans. Traffickers may also resort to kidnapping, notably of children. At any rate, traffickers, the persons linked to them or the employers at the point of destination, give their victims no choice as to what work to perform and under which conditions. Intimidation can range from revealing the victim's illegal status to the police, to physical assault and sexual abuse.

EFFECTIVE ABOLITION OF CHILD LABOUR

Children enjoy the same human rights accorded to all people. But, lacking the knowledge, experience or physical development of adults and the power to defend their own interests in an adult world, children also have distinct rights to protection by virtue of their age. One of these is protection from economic exploitation and from work that is dangerous to the health and morals of children or hampers the child's development.

The principle of the effective abolition of child labour means ensuring that every girl and boy has the opportunity to develop physically and mentally to her or his full potential. Its aim is to stop all work by children that jeopardizes their education and development. This does not mean stopping all work performed by children. International labour standards allow the distinction to be made between what constitutes acceptable and unacceptable forms of work for children at different ages and stages of development.

The principle extends from formal employment to the informal economy where the bulk of the unacceptable forms of child labour are found. It covers family-based enterprises, agricultural activities, domestic service and unpaid work carried out under various customary arrangements such as children working in return for their keep.

To achieve the effective abolition of child labour, governments should fix and enforce a minimum age or ages at which children can enter into different types of work. Within limits, these ages may vary according to national social and economic circumstances. However, the general minimum age for admission to employment should not be less than the age of completion of compulsory schooling and never be less than 15 years. In some instances, developing countries may make exceptions to this, and a minimum age of 14 years may be applied where the economy and educational facilities are insufficiently developed.

Certain types of work categorized as "the worst forms of child labour" are totally unacceptable for all children under the age of 18 years, and their abolition is a matter for urgent and immediate action. These forms include such inhumane practices as slavery, trafficking, debt bondage and other forms of forced labour; prostitution and pornography; forced recruitment of children for military purposes; and the use of children for illicit activities such as the trafficking of drugs. Dangerous work that can harm the health, safety or morals of children are subject to assessment by governments in consultation with workers' and employers' organizations.

A key characteristic of any effective strategy to abolish child labour is the provision of relevant and accessible basic education. However, education must be integral part of a wide range of measures that combat many factors, such as poverty, lack of awareness of children's rights and inadequate systems of social protection, that give rise to child labour and allow it to persist.

ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION

Discrimination at work can occur in many different settings, from high-rise office buildings to rural villages, and in a variety of forms. It can affect men or women on the basis of their sex, or because their race or skin colour, national extraction or social origin, religion, or political opinions differ from those of others. Often countries decide to ban distinctions or exclusions and forbid discrimination on other grounds as well, such as disability, HIV status or age. Discrimination at work denies opportunities to individuals and deprives society of what those people can and could contribute.

Eliminating discrimination starts with dismantling barriers and ensuring equality in access to training, education as well as the ability to own and use resources such as land and credit. It continues with fixing conditions for setting up and running enterprises of all types and sizes, and the policies and practices related to hiring, assignment of tasks, working conditions, pay, benefits, promotions, lay-offs and termination of employment. Merit and the ability to do a job, not irrelevant characteristics, should be the guide.

Discrimination in employment or occupation may be direct or indirect. Direct discrimination exists when laws, rules or practices explicitly cite a particular ground, such as sex, race, etc. to deny equal opportunities. For instance, if a wife, but not a husband, must obtain the spouse's consent to apply for a loan or a passport to participate in an occupation, this would be direct discrimination on the basis of sex.

Indirect discrimination occurs where rules or practices appear on the surface to be neutral but in practice lead to exclusions. Requiring applicants to be a certain height could disproportionately exclude women and members of some ethnic groups, for example. Unless the specified height is absolutely necessary to perform the particular job, this would illustrate indirect discrimination.

Equality at work means that all individuals should be accorded equal opportunities to develop fully the knowledge, skills and competencies that are relevant to the economic activities they wish to pursue. Measures to promote equality need to bear in mind diversity in culture, language, family circumstances, and the ability to read and to deal with numbers. For peasants and owners of small or family enterprises, especially the women and ethnic groups, equal access to land (including by inheritance), training, technology and capital is key.

In the case of both employees and self-employed or (own-account) workers, non-discrimination at work depends on equal access to quality education prior to entering the labour market. This is of chief importance for girls and disadvantaged groups. A more equal division of work and family responsibilities in the household would also permit more women to improve their work opportunities.

Effective mechanisms are needed to address the obstacles of discrimination when they occur. A common example involves claims for the non-discriminatory payment of wages, which should be set using objective criteria that takes into account the value of the work performed. ILO principles fix minimum thresholds while national laws and practices may well take a broader approach and include more comprehensive means in eliminating discrimination at work.