



International
Labour
Office

RULES OF THE GAME

A brief introduction
to International
Labour Standards

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International Labour Standards

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Building a global economy with social justice
What are international labour standards?
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How are international labour standards used?

1

INTERNATIONAL LABOUR STANDARDS: RULES OF THE GAME FOR THE GLOBAL ECONOMY

“The rules of the global economy should be aimed at improving the rights, livelihoods, security, and opportunities of people, families and communities around the world.” – World Commission on the Social Dimension of Globalization, 2004¹

Since 1919, the International Labour Organization has maintained and developed a system of ***international labour standards*** aimed at promoting opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and dignity. In today’s globalized economy, international labour standards are an essential component in the international framework for ensuring that the growth of the global economy provides benefits to all.

BUILDING A GLOBAL ECONOMY WITH SOCIAL JUSTICE

The global economy today has grown to a scale unprecedented in history. Aided by new technologies, people, capital and goods are moving between countries with an ease and at a speed that have created an inter-dependent global economic network affecting virtually every person on the planet.

Globalization has created opportunities and benefits for many, yet at the same time millions of workers and employers worldwide have had to face new challenges. The globalized economy has displaced workers and enterprises to new locations, resulted in the sudden accumulation or flight of capital, and caused financial instability in certain regions. Despite initial optimism, globalization has not ushered in an era of prosperity for all. In 2001 it was estimated that virtually half of the world's population survived on US\$2 or less per day, while some 1.1 billion people, or 21% of the world's population, were living on US\$1 or less per day.² No nation is immune: in 20 industrialized countries, for example, over 10% of the population on average was living below the poverty line in the mid-1990s.³

Inequality within many countries and between the world's richest and poorest nations has also grown exponentially over the last few decades. In 1960 the income gap between the wealthiest and the poorest fifth of the world's population was 30 to 1. By 1999, it had increased to 74 to 1. In 1995, average GDP per capita in the richest 20 countries was 37 times the average in the poorest 20 – a gap that doubled in 40 years.⁴

The continued development of the global economy in this direction is neither sustainable nor desirable. Inequality not only leads to a decline in productivity but also breeds poverty, social instability and even conflict. In view of this, the international community has recognized the need to establish some basic rules of the game to ensure that globalization offers a fair chance at prosperity for everyone.

The role of international labour standards

In 1919, the signatory nations to the Treaty of Versailles created the **International Labour Organization (ILO)** in recognition of the fact that *“conditions of labour 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.”* To tackle this problem, the newly founded organization established a system of inter-



national labour standards – international conventions and recommendations drawn up by representatives of governments, employers and workers from around the world – covering all matters related to work. What the ILO's founders recognized in 1919 was that the global economy needed clear rules in order to ensure that economic progress would go hand in hand with social justice, prosperity and peace for all.

Today, the ILO has developed a comprehensive ***Decent Work Agenda*** which takes up many of the same challenges that the organization faced at its inception. The Decent Work Agenda aims to achieve decent work for all by promoting social dialogue, social protection and employment creation, as well as respect for international labour standards. These standards have grown into a comprehensive system of instruments on work and social policy, backed by a supervisory system designed to address all sorts of problems in their application at the national level. They are the legal component in the ILO's strategy for governing globalization, promoting sustainable development, eradicating poverty, and ensuring that people can work in dignity and safety.

The challenges of globalization have made international labour standards more relevant than ever. What benefits do they provide today?

A path to decent work

International labour standards are first and foremost about the development of people as human beings. In the ILO's Declaration of Philadelphia of 1944, the international community recognized that "*labour is not a commodity*". Indeed, labour is not like an apple or a television set, an inanimate product that can be negotiated for the highest profit or the lowest price. Work is part of everyone's daily life and is crucial to a person's dignity, well-being and development as a human being. Economic development should include the creation of jobs and working conditions in which people can work in freedom, safety and dignity. In short, economic development is not undertaken for its own sake but to improve the lives of human beings; international labour standards are there to ensure that it remains focused on improving human life and dignity.

An international legal framework for fair and stable globalization

Achieving the goal of decent work in the globalized economy requires action at the international level. The world community is responding to this challenge in part by developing international legal instruments on trade, finance, environment, human rights and labour. The ILO contributes to this legal framework by elaborating and promoting international labour standards aimed at making sure that economic growth and development go along with the creation of decent work. The ILO's unique tripartite structure ensures that these standards are backed by governments, employers, and workers alike. International labour standards therefore lay down the basic minimum social standards agreed upon by all players in the global economy.

A level playing field

An international legal framework on social standards ensures a level playing field in the global economy. It helps governments and employers to avoid the temptation of lowering labour standards in the belief that this could give them a greater comparative advantage in international trade. In the long run such practices do not benefit anyone. Lowering labour standards can encourage the spread of low-wage, low-skill, and high-turnover industries and prevent a country from developing more stable high-skilled employment, while at the same time making it more difficult for trading partners to develop their economies upwards. Because international labour standards are minimum standards adopted by governments and the social partners, it is in everyone's interest to see these rules applied across the board, so that those who do not put them into practice do not undermine the efforts of those who do.

A means of improving economic performance

International labour standards are sometimes perceived as entailing significant costs and thus hindering economic development. A growing body of research indicates, however, that compliance with international labour standards often accompanies improvements in productivity and economic performance. Higher wage and working time standards and respect for equality can translate into better and more satisfied workers and lower turnover of staff. Investment in vocational training can result in a better-

trained workforce and higher employment levels. Safety standards can reduce costly accidents and health care fees. Employment protection can encourage workers to take risks and to innovate. Social protection such as unemployment schemes and active labour market policies can facilitate labour market flexibility; they make economic liberalization and privatization sustainable and more acceptable to the public. Freedom of association and collective bargaining can lead to better labour–management consultation and cooperation, thereby reducing the number of costly labour conflicts and enhancing social stability.⁵

The beneficial effects of labour standards do not go unnoticed by foreign investors. Studies have shown that in their criteria for choosing countries in which to invest, foreign investors rank workforce quality and political and social stability above low labour costs. At the same time, there is little evidence that countries which do not respect labour standards are more competitive in the global economy.⁶

A safety net in times of economic crisis

Even fast-growing economies with high-skilled workers can experience unforeseen economic downturns. The Asian financial crisis of 1997 showed how decades of economic growth could be undone by dramatic currency devaluations and falling market prices. Unemployment doubled in many of the countries affected. The disastrous effects of the crisis on workers were compounded by the fact that in many of these countries social protection systems (notably unemployment and health insurance), active labour market policies and social dialogue were seriously wanting. After examining the social impact of the crisis, an ILO study concluded that strengthening social dialogue, freedom of association, and social protection systems in the region would provide better safeguards against such economic downturns.⁷

A strategy for reducing poverty

Economic development has always depended on the acceptance of rules. Legislation and functioning legal institutions ensure property rights, the enforcement of contracts, respect for procedure, and protection from crime – all legal elements of good governance without which no economy can operate. A market governed by a fair set of rules and institutions

is more efficient and brings benefit to everyone. The labour market is no different. Fair labour practices set out in international labour standards and applied through a national legal system ensure an efficient and stable labour market for workers and employers alike.

Of course, in many developing and transition economies a large part of the workforce is active in the informal economy. Moreover, such countries often lack the capacity to provide effective social justice. Yet international labour standards can be effective tools in these situations as well. Most standards apply to all workers, not just those working under formal work arrangements; some standards, such as those dealing with homeworkers, migrant and rural workers, and indigenous and tribal peoples, actually deal specifically with areas of the informal economy. The extension of freedom of association, social protection, occupational safety and health, vocational training, and other measures required by international labour standards have proved to be effective strategies in reducing poverty and bringing workers into the formal economy. Furthermore, international labour standards call for the creation of institutions and mechanisms which can enforce labour rights. In combination with a set of defined rights and rules, functioning legal institutions can help formalize the economy and create a climate of trust and order which is essential for economic growth and development.⁸

The sum of international experience and knowledge

International labour standards are the result of discussions among governments, employers and workers, in consultation with experts from around the world. They represent the international consensus on how a particular labour problem could be tackled at the global level and reflect knowledge and experience from all corners of the world. Governments, employers' and workers' organizations, international institutions, multinational companies and non-governmental organizations can benefit from this knowledge by incorporating the standards in their policies, operational objectives and day-to-day action. The standards' legal character allows them to be used in the legal system and administration at the national level, and as part of the corpus of international law which can bring about greater integration of the international community.

About the ILO

The International Labour Organization was founded in 1919 and became a specialized agency of the United Nations in 1946. It currently has 178 member states. The ILO has a unique “tripartite” structure, which brings together representatives of governments, employers, and workers on an equal footing to address issues related to labour and social policy. The ILO’s broad policies are set by the **International Labour Conference**, which meets once a year and brings together its constituents. The Conference also adopts new international labour standards and the ILO’s work plan and budget.

Between the sessions of the Conference, the ILO is guided by the **Governing Body**, which is composed of 28 government members as well as 14 employer members and 14 worker members. The ILO’s Secretariat, the **International Labour Office**, has its headquarters in Geneva, Switzerland, and maintains field offices in more than 40 countries. On its 50th anniversary in 1969, the ILO was awarded the Nobel Peace Prize. The current Director-General of the ILO is Juan Somavia.

WHAT ARE INTERNATIONAL LABOUR STANDARDS?

International labour standards are legal instruments drawn up by the ILO's constituents (governments, employers and workers) setting out basic principles and rights at work. They are either **conventions**, which are legally binding international treaties that may be ratified by member states, or **recommendations**, which serve as non-binding guidelines. In many cases, a convention lays down the basic principles to be implemented by ratifying countries, while a related recommendation supplements the convention by providing more detailed guidelines on how it could be applied. Recommendations can also be autonomous, i.e. not linked to any convention.

Conventions and recommendations are drawn up by representatives of governments, employers and workers and are adopted at the ILO's annual International Labour Conference. Once a standard is adopted, member states are required under the ILO Constitution to **submit** them to their competent authority (normally the parliament) for consideration. In the case of conventions, this means consideration for **ratification**. If it is ratified, a convention generally comes into force for that country one year after the date of ratification. Ratifying countries commit themselves to applying the convention in national law and practice and to reporting on its application at regular intervals. Technical assistance is provided by the ILO if necessary. In addition, representation and complaint procedures can be initiated against countries for violations of a convention they have ratified (see section 3).

Fundamental conventions

The ILO's Governing Body has identified eight conventions as "fundamental", covering subjects that are considered as fundamental principles and rights at work: 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. These principles are also covered in the ILO's **Declaration on Fundamental Principles and Rights at Work** (1998) (see section 3). In 1995, the ILO launched a campaign to achieve universal ratification of these eight conventions. There are currently over 1,200 ratifications of these conventions, representing 86% of the possible number of ratifications.

The eight fundamental conventions are:

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- Forced Labour Convention, 1930 (No. 29)
- Abolition of Forced Labour Convention, 1957 (No. 105)
- Minimum Age Convention, 1973 (No. 138)
- Worst Forms of Child Labour Convention, 1999 (No. 182)
- Equal Remuneration Convention, 1951 (No. 100)
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)


Priority conventions

The ILO's Governing Body has also designated another four conventions as “priority” instruments, thereby encouraging member states to ratify them because of their importance to the functioning of the international labour standards system.

The four priority conventions are:

- Labour Inspection Convention, 1947 (No. 81)
- Labour Inspection (Agriculture) Convention, 1969 (No. 129)
- Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)
- Employment Policy Convention, 1964 (No. 122)

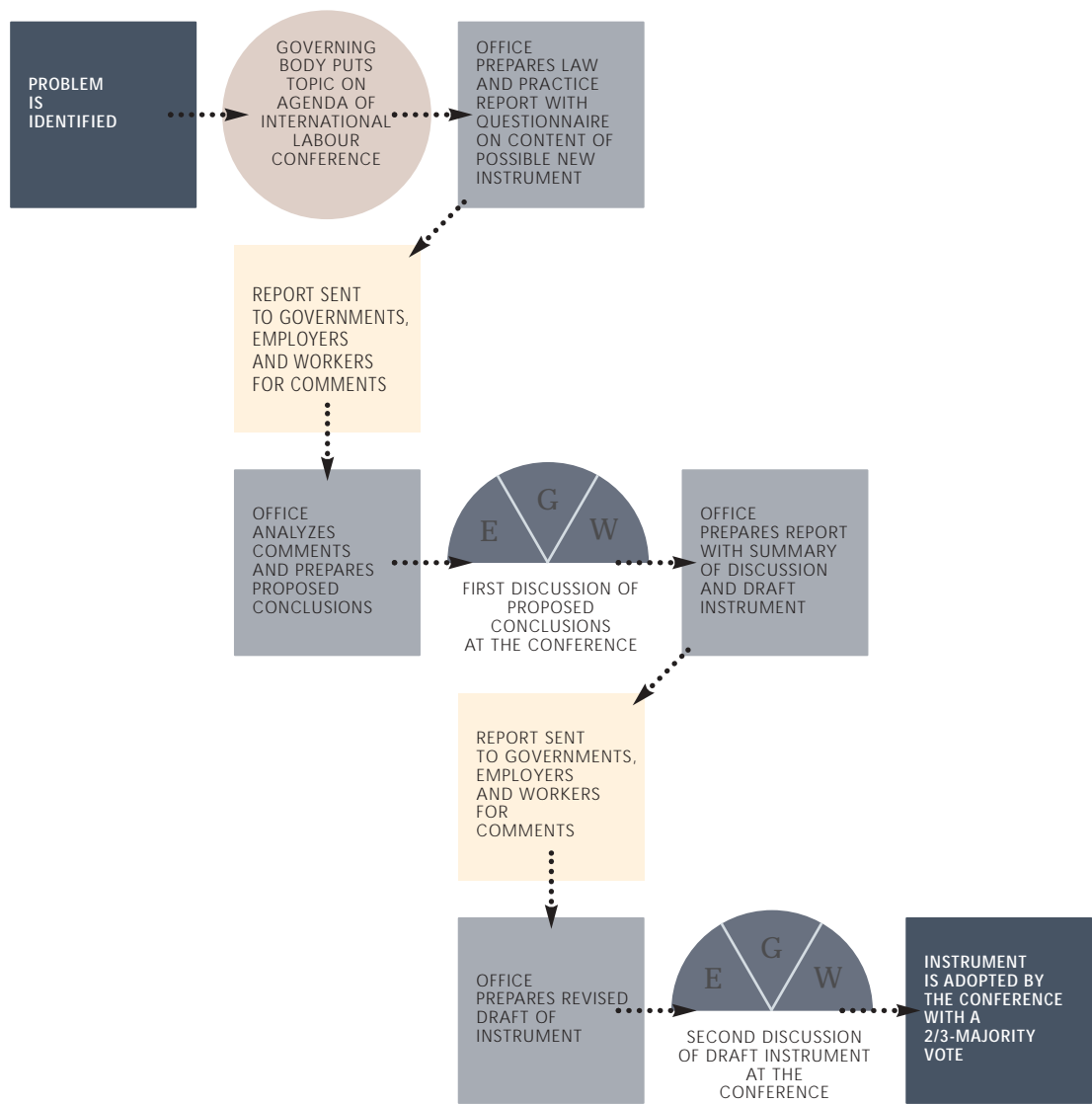
HOW ARE INTERNATIONAL LABOUR STANDARDS CREATED?



International labour standards evolve from a growing international concern that action needs to be taken on a particular issue, for example providing working women with maternity protection, or ensuring safe working conditions for agricultural workers. Developing international labour standards at the ILO is a unique legislative process involving representatives of governments, workers and employers from around the world. As a first step, the Governing Body agrees to put an issue on the agenda of a future International Labour Conference. The International Labour Office prepares a report that analyses the laws and practices of member states with regard to the issue at stake. The report is circulated to member states and to workers' and employers' organizations for comments and is discussed at the International Labour Conference. A second report is then prepared by the Office with a draft instrument for comments and is submitted for discussion at the following Conference, where the draft is amended as necessary and proposed for adoption. This "double discussion" gives Conference participants sufficient time to examine the draft instrument and make comments on it. A two-thirds majority of votes is required for a standard to be adopted.

The International Labour Conference recently started using an "integrated approach" with the aim of improving the coherence, relevance and impact of standards-related activities and developing a plan of action that embodies a coherent package of tools to address a specific subject. These tools may include conventions, recommendations and other types of instruments, promotional measures, technical assistance, research and dissemination of knowledge, and inter-agency cooperation. First used in 2003 for the purpose of developing a global strategy to improve occupational safety and health worldwide, this approach was used in 2004 to examine the issue of migrant workers and will be applied to several further topics (such as youth employment) at future International Labour Conferences.

How an international labour standard is adopted



Who adopts international labour standards?

The International Labour Conference brings together delegations from all ILO member states. Each delegation comprises:

2 government delegates

1 employer delegate

1 worker delegate

Government, employer and worker delegates each have one vote in plenary.

Ratification

ILO member states are required to submit any convention adopted at the International Labour Conference to their national competent authority for the enactment of relevant legislation or other action, including ratification. An adopted convention normally comes into force 12 months after being ratified by two member states. Ratification is a formal procedure whereby a state accepts the convention as a legally binding instrument. Once it has ratified a convention, a country is subject to the ILO's regular supervisory system responsible for ensuring that the convention is applied. For more on the ILO's supervisory system, see section 3 of this booklet.

Universality and flexibility

Standards are adopted by a two-thirds majority vote of the ILO's constituents and are therefore an expression of universally acknowledged principles. At the same time, they reflect the fact that countries have diverse cultural and historical backgrounds, legal systems, and levels of economic development. Indeed, most standards have been formulated in a manner that makes them flexible enough to be translated into national law and practice with due consideration of these differences. For example, standards on minimum wages do not require member states to set a specific minimum wage but to establish a system and the machinery to fix minimum wage rates appropriate to their economic development. Other standards have so-called "flexibility clauses" allowing states to lay down temporary standards that are lower than those normally prescribed, to exclude certain categories of workers from the application of a convention, or to apply only certain parts of the instrument. Ratifying countries are usually required to make a declaration to the Director-General of the ILO if they exercise any of the flexibility options, and to make use of such clauses only in consultation with the social partners. Reservations to ILO conventions, however, are not permitted.

Updating international labour standards

At present there are 185 conventions and 195 recommendations, some dating back as far as 1919. As can be expected, some of these instruments no longer correspond to today's needs. To address this problem, the ILO adopts *revising conventions* that replace older ones, or *protocols* which add new provisions to older conventions. The International Labour Conference may approve the *withdrawal* of recommendations or conventions which have not entered into force. Between 1995 and 2002 the Governing Body reviewed all ILO standards adopted before 1985, with the exception of the fundamental and priority conventions, to see if they needed to be revised. As a result of that review, 71 conventions – including the fundamental conventions and those adopted after 1985 – were designated as being “up-to-date” and recommended for active promotion. As for the remaining standards, the Governing Body decided that some needed to be revised, some had an interim status, some were outdated, and for some others further information and study were required. No conclusion was reached regarding two instruments.* A further two conventions were designated for promotion following the discussion of migrant workers at the International Labour Conference in 2004. Furthermore, in 1997 the International Labour Conference adopted an amendment to the ILO Constitution which would allow for the *abrogation* of a convention in force but recognized as obsolete if two-thirds of Conference delegates voted for such a measure. This amendment has been ratified by more than 80 states but still falls short of the requirements necessary for it to come into force.

*Termination of Employment Convention (No.158) and Recommendation (No. 166), 1982.

HOW ARE INTERNATIONAL LABOUR STANDARDS USED?

Models and targets for labour law

International labour standards are primarily tools for governments which, in consultation with employers and workers, are seeking to draft and implement labour law and social policy in conformity with internationally accepted standards. For many states this process begins with a decision to consider ratifying an ILO convention. Countries often go through a period of examining and, if necessary, revising their legislation and policies in order to achieve compliance with the instrument they wish to ratify. International labour standards thus serve as targets for harmonizing national law and practice in a particular field; the actual ratification might come further along the path of implementing the standard. Some countries decide not to ratify a convention but bring their legislation into line with it anyway; such countries use ILO standards as models for drafting their law and policy. Still others ratify ILO conventions fairly quickly and then work to bring their national law and practice into line; the comments of the ILO's supervisory bodies and technical assistance (see section 3) can guide them in this process. For such countries, ratification is the first step on the path to implementing a standard.



Sources of international law applied at the national level

In numerous countries ratified international treaties apply automatically at the national level. Their courts are thus able to use international labour standards to decide cases on which national law is inadequate or silent, or to draw on definitions set out in the standards, such as “forced labour” or “discrimination”.

Guidelines for social policy

In addition to shaping law, international labour standards can provide guidance for developing national and local policies, such as employment and work and family policies. They can also be used to improve various administrative structures such as labour administration, labour inspection, social security administration, employment services, and so on. Standards can also serve as a source of good industrial relations applied by labour dispute resolution bodies, and as models for collective agreements.

Other areas of influence

While the main users of international labour standards are the ILO’s constituents, other actors have found them to be useful tools as well. Increasing consumer interest in the ethical dimensions of products has led multinational enterprises to adopt voluntary codes of conduct to govern labour conditions in their production sites and those in their supply chains. The majority of top 500 companies in the United States and the United Kingdom have adopted some sort of code of conduct, many of them referring to ILO standards. One British department store, for example, has developed a supplier code of conduct based on 15 ILO conventions and recommendations. While these codes are no substitute for binding international instruments, they play an important role in spreading the principles contained in international labour standards. Similarly, international labour standards have been used in various international collective agreements, for instance in the garment and textile industries.⁹

International labour standards also have a direct impact on such globalized industries as the maritime shipping sector. They are used not only to shape the national maritime legislation of member states, but are taken as the basis for port state ship inspections and have a direct impact on the regulations and codes of other international organizations, such as the International Maritime Organization.

Other international institutions regularly use international labour standards in their activities. Reports on the application of international labour standards are regularly submitted to the United Nations human rights bodies and other international entities. International financial institutions such as the World Bank and the Asian Development Bank have integrated certain aspects of labour standards into some of their activities, including the World Bank's Poverty Reduction Strategy Paper process.

Advocacy groups and non-governmental organizations draw on international labour standards to call for changes in policy, law or practice. Finally, a number of countries and regional organizations have incorporated respect for international labour standards into their bilateral, multilateral and regional trade agreements, such as the Common Market for the South (MERCOSUR) and the Caribbean Community (CARICOM).¹⁰

The role of employers' and workers' organizations

Representative employers' and workers' organizations play an essential role in the international labour standards system: they participate in choosing subjects for new ILO standards and in drafting the texts and their votes determine whether or not the International Labour Conference adopts a newly drafted standard. If a convention is adopted, employers and workers can encourage a government to ratify it. As discussed later in this booklet, if the convention is ratified, governments are required to periodically report to the ILO on how they are applying it in law and practice. Government reports must also be submitted to representative employers' and workers' organizations, which may comment on them. Employers' and workers' organizations can also supply relevant information directly to the ILO. They can initiate representations for violations of ILO conventions in accordance with procedures under article 24 of the ILO Constitution. Employer and worker delegates to the International Labour Conference can also file complaints against member states under article 26 of the Constitution.

If a member state has ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), as more than 110 countries have done to date, it is obliged to hold national tripartite consultations on proposed new instruments to be discussed at the Conference, on submissions of instruments to the competent authorities, on reports concerning ratified conventions, on measures related to unratified conventions and recommendations, and on proposals regarding the denunciation of conventions.



Freedom of association
Collective bargaining
Forced labour
Child labour
Equality of opportunity and treatment
Tripartite consultation
Labour administration
Labour inspection
Employment policy
Employment promotion
Vocational guidance and training
Employment security
Social policy
Wages
Working time
Occupational safety and health
Social security
Maternity protection
Migrant workers
Seafarers
Fishers
Dockworkers
Indigenous and tribal peoples
Other specific categories of workers

SUBJECTS COVERED BY INTERNATIONAL LABOUR STANDARDS

“Ensuring the freedom of association and collective bargaining can go a long way toward promoting labour market efficiency and better economic performance. And there are obvious economic and social reasons for banning slavery and all forms of forced labour.” – World Bank, 2004¹¹

International labour standards respond to a growing number of needs and challenges faced by workers and employers in the global economy. This section presents the subjects covered by international labour standards and introduces a selection of relevant conventions and recommendations. It also explains what problems exist in a particular field today and how international labour standards are helping to provide solutions. Finally, some case examples are highlighted where the application of international labour standards or of the principles they embody has made a positive contribution in a particular situation.

Note:

This section summarizes a selection of relevant ILO conventions and recommendations. The summaries are intended for information purposes and do not replace consultation of the authoritative text. Numerous other conventions and recommendations have not been summarized, even though many are relevant and in force. The complete list of ILO standards by subject and status may be consulted at the ILO website www.ilo.org/normes or on the ILSE CD-ROM. The case examples were selected for illustrative purposes and are not intended to single out a specific country or situation.

FREEDOM OF ASSOCIATION

The principle of freedom of association is at the core of the ILO's values: it is enshrined in the ILO Constitution (1919), the ILO Declaration of Philadelphia (1944), and the ILO Declaration on Fundamental Principles and Rights at Work (1998). It is also a right proclaimed in the Universal Declaration of Human Rights (1948). The right to organize and form employers' and workers' organizations is the prerequisite for sound collective bargaining and social dialogue. Nevertheless, there continue to be challenges in applying these principles: in some countries certain categories of workers (for example public servants, seafarers, workers in export processing zones) are denied the right of association, workers' and employers' organizations are illegally suspended or interfered with, and in some extreme cases trade unionists are arrested or killed. ILO standards, in conjunction with the work of the Committee on Freedom of Association and other supervisory mechanisms (see section 3), pave the way for resolving these difficulties and ensuring that this fundamental human right is respected the world over.

Relevant ILO instruments

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

This fundamental convention sets forth the right for workers and employers to establish and join organizations of their own choosing without previous authorization. Workers' and employers' organizations shall organize freely and not be liable to be dissolved or suspended by administrative authority, and they shall have the right to establish and join federations and confederations, which may in turn affiliate with international organizations of workers and employers.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

This fundamental convention provides that workers shall enjoy adequate protection against acts of anti-union discrimination, including requirements that a worker not join a union or relinquish trade union membership for employment, or dismissal of a worker because of union membership or participation in union activities. Workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other, in particular the establishment of workers' organizations under the domination of employers or employers' organizations, or the support of workers' organizations by financial or other means, with the object of placing such organizations under the control of employers or employers' organizations. The convention also enshrines the right to collective bargaining. (see also under collective bargaining)

Workers’ Representatives Convention, 1971 (No. 135)

Workers' representatives in an undertaking shall enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements or other jointly agreed arrangements. Facilities in the undertaking shall be afforded to workers' representatives as may be appropriate in order to enable them to carry out their functions promptly and efficiently.

Rural Workers’ Organisations Convention, 1975 (No. 141)

All categories of rural workers, whether they are wage earners or self-employed, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations, of their own choosing without previous authorization. The principles of freedom of association shall be fully respected; rural workers' organizations shall be independent and voluntary in character and shall remain free from all interference, coercion or repression. National policy shall facilitate the establishment and growth, on a voluntary basis, of strong and independent organizations of rural workers as an effective means of ensuring the participation of these workers in economic and social development.

Labour Relations (Public Service) Convention, 1978 (No.151)

Public employees as defined by the convention shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment, and their organizations shall enjoy complete independence from public authorities as well as adequate protection against any acts of interference by a public authority in their establishment, functioning or administration.

Freedom of association under fire
Although freedom of association is recognized as a fundamental right at work, the International Confederation of Free Trade Unions (ICFTU) estimates that in 2003, for example, some 300,000 workers in Asia and 6,566 in Africa were dismissed because of their trade union activities. The majority of the 50 million workers in export processing zones do not enjoy the right to join unions. The ICFTU also reported that 129 trade unionists were murdered in 2003 due to their trade union activities, and that more than 200 were killed in 2002 for the same reasons. ¹² Freedom of association is not just an issue for workers. Employers have also lodged complaints with the ILO's Committee on Freedom of Association regarding illegal interference with the activities of their organizations.

COLLECTIVE BARGAINING

Freedom of association ensures that workers and employers can associate to efficiently negotiate work relations. Combined with strong freedom of association, sound collective bargaining practices ensure that employers and workers have an equal voice in negotiations and that the outcome will be fair and equitable. Collective bargaining allows both sides to negotiate a fair employment relationship and prevents costly labour disputes. Indeed, some research has indicated that countries with highly coordinated collective bargaining tend to have less inequality in wages, lower and less persistent unemployment, and fewer and shorter strikes than countries where collective bargaining is less established.¹³ Established collective bargaining practices were an element that allowed the Republic of Korea to weather the Asian financial crisis and enabled South Africa to make a relatively peaceful transition into the post-apartheid era.¹⁴ ILO standards promote collective bargaining and help to ensure that good labour relations benefit everyone.

Relevant ILO instruments

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

This fundamental convention provides that measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements. (see also under freedom of association)

Labour Relations (Public Service) Convention, 1978 (No. 151)

The convention promotes collective bargaining for public employees, as well as other methods allowing public employees' representatives to participate in the determination of their conditions of employment. It also provides that disputes shall be settled through negotiation between the parties or through independent and impartial machinery, such as mediation, conciliation and arbitration.



Collective Bargaining Convention, 1981 (No. 154)

Defines collective bargaining and calls for its promotion in all branches of economic activity, including public service.

Social dialogue in practice

Trinidad Cement Limited (TCL) is an international company operating in Trinidad and Tobago, Barbados, and Jamaica. Throughout much of its history, TCL was plagued by poor labour-management relations. Between 1984 and 1995 the company averaged two work stoppages a year and had no fewer than 47 unresolved grievances and disputes. Plant availability and efficiency were below 70%. After 1995 TCL's management adopted a new strategy which put a premium on sound relations with workers and included the establishment of a tripartite committee and negotiation strategies. As a result of this new approach, negotiations were completed rapidly and without any work stoppages, plant availability and efficiency increased, as did overall cement productivity and employee job satisfaction, while absenteeism went down. In 2002, management and workers together were able to fend off a foreign takeover bid for TCL, helped by the enhanced competitiveness and sound labour relations they had created. Good labour relations thus paid off for both workers and employers.¹⁵

FORCED LABOUR



Although forced labour is universally condemned, millions of people around the world are still subjected to it. Traditional slavery is still found in some parts of Africa, while forced labour in the form of coercive recruitment is present in many countries of Latin America, in parts of the Caribbean and elsewhere. In numerous countries, domestic workers are trapped in situations of forced labour, and in many cases they are restrained from leaving the employers' home through threats or violence. Bonded labour persists in South Asia where millions of men, women, and children are tied to their work through a vicious cycle of debt. In Europe and North America, an increasing number of women and children are victims of traffickers who sell them into forced prostitution or sweatshops. Finally, forced labour is sometimes still imposed as a punishment for expressing one's political views.

For many governments around the world the elimination of forced labour remains an important challenge for the 21st century. Not only is forced labour a serious violation of a fundamental human right, it is a leading cause of poverty and a hindrance to economic development. ILO standards on forced labour, in combination with targeted technical assistance, are the primary international tools for combating this scourge.

Relevant ILO instruments

Forced Labour Convention, 1930 (No. 29)

This fundamental convention prohibits all forms of forced or compulsory labour, which is defined as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” Exceptions are provided for work required by compulsory military service, normal civic obligations, as a consequence of a conviction in a court of law (provided that the work or service in question is carried out under the supervision and control of a public authority and that the person carrying it out is not hired to or placed at the disposal of private individuals, companies or associations), in cases of emergency, and for minor communal services performed by the members of a community in the direct interest of the community. The convention also requires that the illegal extraction of forced or compulsory labour be punishable as a penal offence, and that ratifying states ensure that the relevant penalties imposed by law are adequate and strictly enforced.

Abolition of Forced Labour Convention, 1957 (No. 105)

This fundamental convention prohibits forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; as a method of mobilizing and using labour for purposes of economic development; as a means of labour discipline; as a punishment for having participated in strikes; and as a means of racial, social, national or religious discrimination.

Additionally, forced or compulsory labour is considered as one of the worst forms of child labour in the Worst Forms of Child Labour Convention, 1999 (No. 182).

Working towards an international labour standard: combating forced labour in Nepal
The ILO's Committee of Experts on the Application of Conventions and Recommendations (see section 3) has noted over 60 cases of progress in the struggle against forced labour in the last ten years. In many developing countries, however, ancient social traditions pose difficult problems. One country that has risen to this challenge is Nepal. Although the Constitution of Nepal prohibits forced labour in any form, in the early 1990s approximately 1.2 million Nepalese were subjected to slave-like practices under a debt-bondage system known as <i>kamaiya</i> . Under this system, the disadvantaged, mostly from the <i>Tharu</i> ethnic group in western Nepal, were forced to do agricultural work, while being bound by debt to work for landlords. <i>Kamaiyas</i> were often bonded over generations. In the late 1990s, the Nepalese government decided to tackle this problem with a view to ratifying the Forced Labour Convention, 1930 (No. 29). It requested international assistance and, with the technical assistance of the ILO, in 2002 Nepal passed the Bonded Labour (Prohibition) Act which explicitly forbids forced and bonded labour. The ILO continued to play a major role in the eradication of the <i>kamaiya</i> system by helping to build up organizational and bargaining skills as both workers and landowners adjusted to the conditions of free labour. As a result of these continuous collaborative efforts, Nepal ratified Convention No. 29 in 2002. ¹⁶

CHILD LABOUR

Child labour is a violation of fundamental human rights and has been shown to hinder children's development, potentially leading to lifelong physical or psychological damage. Evidence points to a strong link between household poverty and child labour, and child labour perpetuates poverty across generations by keeping the children of the poor out of school and limiting their prospects for upward social mobility. This lowering of human capital has been linked to slow economic growth and social development. A recent ILO study has shown that eliminating child labour in transition and developing economies could generate economic benefits nearly seven times greater than the costs, mostly associated with investment in better schooling and social services.¹⁷ ILO standards on child labour are primary international legal tools for fighting this problem.

Relevant ILO instruments

Minimum Age Convention, 1973 (No. 138)

This fundamental convention sets the general minimum age for admission to employment or work at 15 years (13 for light work) and the minimum age for hazardous work at 18 (16 under certain strict conditions). It provides for the possibility of initially setting the general minimum age at 14 (12 for light work) where the economy and educational facilities are insufficiently developed.

Worst Forms of Child Labour Convention, 1999 (No. 182)

This fundamental convention defines as a "child" a person under 18 years of age. It requires ratifying states to eliminate the worst forms of child labour, including all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; child prostitution and pornography; using children for illicit activities, in particular for the production and trafficking of drugs; and work which is likely to harm the health, safety or morals of children. The convention requires ratifying states to provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. It also requires states to ensure access to free basic education and, wherever possible and appropriate, vocational training for children removed from the worst forms of child labour.

To date, more than 130 countries have ratified at least one of the above two conventions.



Child labour in numbers

The ILO estimates that more than 186 million children between the ages of 5 and 14, and 59 million children aged 15 to 17, are engaged in child labour.

An estimated 8.4 million children are trapped in one or more of the worst forms of child labour:
5.7 million are in forced or bonded labour
1.8 million are used for prostitution and pornography
1.2 million are trafficked
300,000 are forcibly recruited for armed conflict ¹⁸



Child labour standards in practice: fighting child labour in Brazil

For over a dozen years, international labour standards have been used by trade unions in Brazil in the fight against child labour. In 1991 the Central Única dos Trabalhadores (CUT) created the National Commission for the Defence of the Child and Adolescents' Rights, whose main efforts have focused on enforcing the Statute of Children and Adolescents and promoting the ratification of the ILO Minimum Age Convention, 1973 (No. 138). Through partnerships with the ILO's International Programme on the Elimination of Child Labour, non-governmental organizations, research centres, social institutions and national and international trade unions, CUT led successful efforts to include clauses on children's rights and labour in collective bargaining agreements, conducted studies and surveys to evaluate the reality of child labour exploitation in Brazil, and produced radio programmes, booklets and posters as part of awareness-raising activities. These efforts have borne fruit, as Brazil recently ratified both Convention Nos. 138 and 182, thereby committing itself to eliminate child labour within an international legal framework.¹⁹

EQUALITY OF OPPORTUNITY AND TREATMENT

Millions of women and men around the world are denied access to jobs and training, receive low wages, or are restricted to certain occupations simply on the basis of their sex, skin colour, ethnicity or beliefs, without regard to their capabilities and skills. In a number of developed countries, for example, women workers earn up to 25% less than male colleagues performing equal work.²⁰ Freedom from discrimination is a fundamental human right and is essential for workers to choose their employment freely, to develop their potential to the full and to reap economic rewards on the basis of merit. Bringing equality to the workplace has significant economic benefits, too. Employers who practise equality have access to a larger and more diverse workforce. Workers who enjoy equality have greater access to training, often receive higher wages, and improve the overall quality of the workforce. The profits of a globalized economy are more fairly distributed in a society with equality, leading to greater social stability and broader public support for further economic development.²¹ ILO standards on equality provide tools to eliminate discrimination in all aspects of the workplace and in society as a whole. They also provide the basis upon which gender mainstreaming strategies can be applied in the field of labour.

Relevant ILO instruments

Equal Remuneration Convention, 1951 (No. 100)

This fundamental convention requires ratifying countries to ensure the application of the principle of equal remuneration for men and women workers for work of equal value. The term “remuneration” is broadly defined to include the ordinary, basic or minimum wage or salary and any additional emoluments payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker’s employment.



Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

This fundamental convention defines discrimination as any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. It requires ratifying states to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in these fields. This includes discrimination in relation to access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

Workers with Family Responsibilities Convention, 1981 (No. 156)

With the aim of creating effective equality of opportunity and treatment for men and women workers, the convention requires ratifying states to make it a goal of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities. The convention also requires governments to take account of the needs of workers with family responsibilities in community planning and to develop or promote community services, public or private, such as childcare and family services and facilities.

In addition to these standards, numerous other ILO standards include provisions on equality in relation to the specific topic they cover.

TRIPARTITE CONSULTATION

The ILO is based on the principle of tripartism – dialogue and cooperation between governments, employers, and workers – in the formulation of standards and policies dealing with labour matters. International labour standards are created and supervised through a tripartite structure that makes the ILO unique in the United Nations system. The tripartite approach to adopting standards ensures that they have broad support from all ILO constituents.

Tripartism with regard to ILO standards is also important at the national level. Through regular tripartite consultations, governments can ensure that ILO standards are formulated, applied and supervised with the participation of employers and workers. ILO standards on tripartite consultation set forth the framework for effective national tripartite consultations. Such consultations can ensure greater cooperation among the social partners and stronger awareness and participation in matters relating to international labour standards, and can lead to better governance and a greater culture of social dialogue on wider social and economic issues.

Because of the importance of tripartism, the ILO has made the ratification and implementation of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) a priority.



Relevant ILO instruments

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)

This priority convention sets forth the meaning of “representative organizations” of employers and workers and requires ratifying states to operate procedures that ensure effective consultations between representatives of the government, of employers and of workers on matters regarding items on the agenda of the International Labour Conference, submissions to competent national authorities of newly adopted ILO standards, re-examination of unratified conventions and recommendations, reports on ratified conventions, and proposals for denunciations of ratified conventions. Employers and workers shall be represented on an equal footing on any bodies through which consultations are undertaken, and consultations shall take place at least once every year.

ILO standards in practice: social dialogue in Malawi
In conformity with Convention No. 144, which it ratified in 1986, Malawi set up a Tripartite Committee on Ratification of ILO Conventions which subsequently led to the ratification of six fundamental conventions. This institutional framework has also given rise to wider social dialogue on social and economic issues. Furthermore, the law creating the country's consultation mechanisms provides that at least one woman must be appointed to represent each of the social partners. In Malawi, the promotion of tripartism helped to bring about greater adherence to ILO principles and gender equality in national policy-making. ²²

LABOUR ADMINISTRATION

International labour standards are usually applied through national law and policy. It is therefore vital that each country maintain a viable and active labour administration system responsible for all aspects of national labour policy formulation and implementation. Besides promoting labour administration systems in a variety of forms, ILO standards at the same time promote the collection of labour statistics, which are invaluable in identifying needs and formulating labour policy, at both the national and international level. While labour administrations exist in most countries around the world, many of them face financial and material difficulties. Adequate financing of labour administration systems is therefore necessary in order to maintain and strengthen this important tool for development.



Relevant ILO instruments

Labour Administration Convention, 1978 (No. 150)

Ratifying countries are required to ensure, in a manner appropriate to national conditions, the organization and effective operation in their territory of a system of labour administration, the functions and responsibilities of which are properly coordinated. The labour administration system shall be responsible for the formulation, implementation and supervision of national labour standards; employment and human resources development; studies, research and statistics on labour; and shall provide support for labour relations. Participation by workers and employers and their respective organizations in relation to national labour policy shall be ensured as well. Labour administration staff shall have the status, the material means and the financial resources necessary for the effective performance of their duties.

Labour Statistics Convention, 1985 (No. 160)

Ratifying countries are required to regularly collect, compile and publish basic labour statistics, which shall be progressively expanded in accordance with their resources, on the economically active population, employment, unemployment, and where possible visible underemployment; structure and distribution of the economically active population, average earnings and hours of work (hours actually worked or hours paid for) and, where appropriate, time rates of wages and normal hours of work; wage structure and distribution; labour cost; consumer price indices; household expenditure or, where appropriate, family expenditure and, where possible, household income or, where appropriate, family income; occupational injuries and, as far as possible, occupational diseases; and industrial disputes.

LABOUR INSPECTION

Proper application of labour legislation depends on an effective labour inspectorate. Labour inspectors examine how national labour standards are applied in the workplace and advise employers and workers on how to improve the application of national law in such matters as working time, wages, occupational safety and health, and child labour. In addition, labour inspectors bring to the notice of national authorities loopholes and defects in national law. They play an important role in ensuring that labour law is applied equally to all employers and workers. Because the international community recognizes the importance of labour inspection, the ILO has made the promotion of the ratification of two labour inspection conventions (Nos. 81 and 129) a priority. To date, more than 130 countries (over 70% of ILO member states) have ratified the Labour Inspection Convention, 1947 (No. 81), and more than 40 have ratified Convention No. 129.

Nevertheless, challenges remain in countries where labour inspection systems are underfunded and understaffed, and consequently unable to do their job. Some estimates indicate that in some developing countries less than 1% of the national budget is allocated to labour administration, of which labour inspection systems receive only a small fraction. Other studies show that the costs resulting from occupational accidents and illnesses, absenteeism, abuse of workers and labour conflict can be much higher. Labour inspection can help prevent these problems and thereby enhance productivity and economic development.²³



Relevant ILO instruments

Labour Inspection Convention, 1947 (No. 81)

This priority convention requires ratifying states to maintain a system of labour inspection for workplaces in industry and commerce; states can make exceptions with regard to mining and transport. It sets out a series of principles respecting the determination of the fields of legislation covered by labour inspection, the functions and organizations of the system of inspection, recruitment criteria, the status and terms and conditions of service of labour inspectors, and their powers and obligations.

Protocol of 1995 to the Labour Inspection Convention, 1947 (No. 81)

Each state that ratifies this protocol shall extend the application of the provisions of the Labour Inspection Convention, 1947 (No. 81) to workplaces considered as non-commercial, which means neither industrial nor commercial in the sense of the convention. It also allows ratifying states to make special arrangements for the inspection of enumerated public services.

Labour Inspection (Agriculture) Convention, 1969 (No. 129)

This priority convention, similar in content to Convention No. 81, requires ratifying states to establish and maintain a system of labour inspection in agriculture. Labour inspection coverage may also be extended to tenants who do not engage outside help, sharecroppers and similar categories of agricultural workers; persons participating in a collective economic enterprise, such as members of a cooperative; or members of the family of the operator of the agricultural undertaking, as defined by national laws or regulations.

EMPLOYMENT POLICY



For most people, the key to escaping poverty means having a job. Recognizing that developing labour standards without addressing employment would be senseless, the ILO dedicates a large part of its programme to creating greater opportunities for women and men to secure decent employment and income. To reach this goal, it promotes international standards on employment policy which, together with technical cooperation programmes, are aimed at achieving full, productive and freely chosen employment. No single policy can be prescribed to attain this objective. Every country, whether developing, developed, or in transition, needs to devise its own policies to bring about full employment. ILO standards on employment policy provide a framework for designing and implementing such policies, thereby ensuring maximum access to jobs needed to enjoy decent work.

Relevant ILO instruments

Employment Policy Convention, 1964 (No. 122)

This priority convention requires ratifying states to declare and pursue an active policy designed to promote full, productive and freely chosen employment. Such a policy shall aim to ensure that there is work for all who are available for and are seeking work; that such work is as productive as possible; and that there is freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use his or her skills and endowments in, a job for which he or she is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin. This policy shall take due account of the stage and level of economic development and the mutual relationships between employment objectives and other economic and social objectives, and shall be pursued by methods that are appropriate to national conditions and practices. The convention also requires member states to take measures to apply an employment policy in consultation with workers' and employers' representatives.

Employment in numbers
The ILO estimates that in 2004 unemployment worldwide stood at 184.7 million, young people and women being those most affected. ²⁴
The United Nations has set out the goal of halving extreme poverty by 2015. To achieve it, at least one billion new jobs would be needed in order to absorb new entrants into the labour market and reduce working poverty and unemployment during the coming decade.
As many as 500 million young people are expected to enter the world's workforce over the next decade. ²⁵

Global Employment Agenda

In 2003 the ILO’s Governing Body adopted the Global Employment Agenda, which sets forth ten core elements for developing a global strategy to boost employment. These include such economic strategies as promoting trade and investment for productive employment and market access for developing countries, sustainable development for sustainable livelihoods, and policy integration on macroeconomic policy. Other core elements comprise strategies supported by international labour standards, such as the promotion of cooperatives and small and medium enterprises, training and education, social protection and occupational safety and health, and equality and collective bargaining. The Global Employment Agenda recognizes that “fundamental rights, such as freedom of association and the right to collective bargaining, freedom from discrimination or freedom from forced labour or child labour, are of moral worth, but lead also to more productive job matches and higher productivity in the aggregate; social protection responds to people’s need for security, but in doing so can improve labour market functioning in the aggregate; social dialogue expresses workers’ and employers’ right to freedom of association and participation in decision-making through collective bargaining, but can also find more durable solutions to problems, increase commitment and transparency, and speed adjustment to change.”²⁶

EMPLOYMENT PROMOTION

Convention No. 122 sets out the goal of full, productive and freely chosen employment; other ILO instruments put forward strategies for attaining this aim. Employment services (public and private), the employment of disabled persons, small and medium enterprises and cooperatives all play a part in creating employment. ILO standards in these fields provide guidance on using these means effectively in order to create jobs.

Relevant ILO instruments

Employment Service Convention, 1948 (No. 88)

Requires ratifying states to establish and operate an employment service accessible to everyone, free of charge both to workers and employers.

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)

Sets forth the principles of national policy for the vocational rehabilitation and employment of persons with disabilities and provides for the setting up and evaluation of vocational guidance, vocational training, placement and unemployment services for persons with disabilities.

Private Employment Agencies Convention, 1997 (No. 181)

Requires ratifying states to ensure that private employment agencies respect principles on non-discrimination. Provides for cooperation between private and public employment services, general principles to protect jobseekers against unethical or inappropriate practices, and protection of workers under subcontracting arrangements and workers recruited from abroad. Also applies to temporary work agencies.

Older Workers Recommendation, 1980 (No. 162)

Recommends that older workers should, without discrimination on the grounds of their age, enjoy equality of opportunity and treatment in employment.



Job Creation in Small and Medium-Sized Enterprises

Recommendation, 1998 (No. 189)

Suggests that member states should adopt measures which are appropriate to national conditions and consistent with national practice in order to promote small and medium-sized enterprises, in regard to their importance in promoting employment and sustainable economic growth.

Promotion of Cooperatives Recommendation, 2002 (No. 193)

Aims to promote cooperatives, in particular in relation to their role in job creation, mobilizing resources, and generating investment.

Securing equal access to employment for disabled workers
In 2000, the Committee of Experts noted that substantial progress had been made in Latin America and Eastern Europe in enabling persons with disabilities to participate more fully in the labour market, particularly in light of the limited resources available. Through pooling of information and some resources, the Latin American Group for Professional Rehabilitation (GLARP) has helped numerous countries in the region to develop innovative programmes for rehabilitation and integration into the labour market. European Union assistance and sharing of information, too, has contributed substantially to improvements in several Eastern European countries. The Committee of Experts noted these intergovernmental cooperative efforts with interest and encouraged other member states to explore ways to share ideas and resources. ²⁷

VOCATIONAL GUIDANCE AND TRAINING

Education and training are the key to making people employable, thereby allowing them to gain access to decent work and to escape poverty. To compete in today's global economy, workers and employers need to be especially well trained in information and communication technology, new forms of business organization, and the workings of the international market. Societies aiming to attain full employment and sustained economic growth therefore need to invest in education and human resources development. By providing basic education, core work skills, and lifelong learning opportunities for their entire working population, countries can help ensure that workers can maintain and improve their employability, resulting in a more skilled and productive workforce. Nevertheless, gaps in education and access to information technology persist between countries and within countries. ILO standards encourage countries to develop sound human resources practices and training policies which are beneficial to all the social partners. Because of the current importance of this topic, in 2004 the International Labour Conference adopted an updated Recommendation concerning Human Resources Development: Education, Training and Lifelong Learning (No. 195).

Relevant ILO instruments

Paid Educational Leave Convention, 1974 (No. 140)

Requires ratifying states to formulate and apply a policy designed to promote, by methods appropriate to national conditions and practice and by stages as necessary, the granting of paid educational leave for the purpose of training at any level, general, social and civic education, and trade union education.

Human Resources Development Convention, 1975 (No. 142)

Requires ratifying states to develop policies and programmes of vocational guidance and vocational training, closely linked with employment, in particular through public employment services. For this purpose, states are further required to develop complementary systems of general, technical and vocational education, educational and vocational guidance and vocational training, and to extend them gradually to young persons and adults, including appropriate programmes for the disabled.

Education and training in practice

By investing in human resources, enterprises can improve productivity and compete more successfully in world markets. One study has found that in Denmark, for instance, enterprises which combined production innovations with targeted training were more likely to report growth in output, jobs and labour productivity than companies that did not pursue such strategies. Studies on Germany, Italy, Japan, and the United States reached similar conclusions. Training benefits not only the individual worker, but by increasing her or his productivity and skill level, the employer reaps the rewards as well.²⁸

The widening skills gap

The ILO's 2001 World Employment Report found that 5% of the world's population uses the Internet; 88% of the users are in industrialized countries. Within countries, Internet access is often concentrated in urban, high-income areas, and users are predominantly male. The report found that digital illiteracy was just as much a barrier to using information and communication technologies as a lacking infrastructure.²⁹

EMPLOYMENT SECURITY



The termination of an employment relationship is likely to be a traumatic experience for a worker and the loss of income has a direct impact on her or his family's well-being. As more countries seek employment flexibility and globalization destabilizes traditional employment patterns, more workers are likely to face involuntary termination of employment at some point in their professional lifetime. At the same time, the flexibility to reduce staff and to dismiss unsatisfactory workers is a necessary measure for employers to keep enterprises productive. ILO standards on termination of employment seek to find a balance between maintaining the employer's right to dismiss workers for valid reasons and ensuring that such dismissals are fair and are used as a last resort, and that they do not have a disproportionate negative impact on the worker.

Relevant ILO instruments

Termination of Employment Convention, 1982 (No. 158)

The instrument sets forth the principle that the employment of a worker should not be terminated unless there is a valid reason for such termination connected with the worker's capacity or conduct or based on the operational requirements of the undertaking, establishment or service. Reasons for dismissal which shall not be considered valid include those based on union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, or absence from work during maternity leave. If an individual worker is dismissed, he or she shall have the right to defend him or herself against any allegations. In cases of collective dismissals, governments should aim at encouraging employers to consult workers' representatives and to develop alternatives to mass lay-offs (such a hiring freezes or working time reductions). The convention also covers matters related to severance pay, period of notice, appeal procedures against dismissal, and unemployment insurance, and advance warning to be given to authorities in cases of mass dismissals.

The ILO Constitution, in the Declaration of Philadelphia, states that “*all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity*” and that the fulfilment of this objective “*must constitute the central aim of national and international policy*”. Social policy formulated through dialogue between the social partners has the best chance of achieving the aims agreed upon by the international community. Relevant ILO standards provide a framework for creating social policies which ensure that economic development benefits all those who participate in it.

Relevant ILO instruments

Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)

The convention sets forth the general principle that all policies shall be primarily directed to the well-being and development of the population and to the promotion of its desire for social progress. Furthermore, the improvement of standards of living shall be regarded as the principal objective in the planning of economic development. It also provides additional requirements concerning migrant workers, agricultural producers, independent producers and wage earners, minimum wage-fixing and payment of wages, non-discrimination, and education and vocational training.



WAGES

Most people work in order to earn money. Yet in many parts of the world, access to adequate and regular wages is not guaranteed. In numerous countries, non-payment of wages has led to huge wage arrears, and wages are sometimes paid in bonds, manufactured goods, or even alcohol. Large wage arrears have been linked to debt bondage and slavery. In other countries, workers face loss of wages when their employer goes bankrupt. ILO standards on wages address these problems by providing for regular payment of wages, the fixing of minimum wage levels, and the settlement of unpaid wages in case of employer insolvency.

Relevant ILO instruments

Labour Clauses (Public Contracts) Convention, 1949 (No. 94)

Aims at ensuring respect for minimum labour standards in the execution of public contracts.

Protection of Wages Convention, 1949 (No. 95)

Wages shall be paid in legal tender at regular intervals; in cases where partial payment of wages is in kind, the value of such allowances should be fair and reasonable. Workers shall be free to dispose of their wages as they choose. In cases of employer insolvency, wages shall enjoy a priority in the distribution of liquidated assets.

Minimum Wage Fixing Convention, 1970 (No. 131)

Requires ratifying states to establish a minimum wage fixing machinery capable of determining and periodically reviewing and adjusting minimum wage rates having the force of law.

Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173)

Provides for the protection of wage claims in insolvency and bankruptcy proceedings, by means of a privilege or through a guarantee institution.



Also relevant:

Equal Remuneration Convention, 1951 (No. 100)

Lays down the principle of equal remuneration for men and women workers for work of equal value.

Wages: a pattern of decline
The ILO's <i>Key Indicators of the Labour Market 2001-2002</i> report found that the globalized economy has not meant wage increases for everyone. Both in some industrialized and in developing countries, real wages declined during the 1990s. Real wages for women continue to be lower than for men, due to persistent patterns of occupational segregation and discrimination. In some countries, however, women's wages have risen faster than men's. ILO standards on wages can help ensure that wages remain equitable in time of economic change. Moreover, minimum wage schemes have been shown to be an effective tool in the fight against poverty without having a negative effect on employment. ³⁰

WORKING TIME

The regulation of working time is one of the oldest concerns of labour legislation. Already in the early 19th century it was recognized that working excessive hours posed a danger to workers' health and to their families. The very first ILO Convention, adopted in 1919 (see below), limited hours of work and provided for adequate rest periods for workers. Today, ILO standards on working time provide the framework for regulated hours of work, daily and weekly rest periods, and annual holidays. These instruments ensure high productivity while safeguarding workers' physical and mental health. Standards on part-time work have become increasingly important instruments for addressing such issues as job creation and promoting equality between men and women.

Relevant ILO instruments

Hours of Work (Industry) Convention, 1919 (No. 1)

Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)

These two conventions set the general standard at 48 regular hours of work per week, with a maximum of 8 hours per day.

Forty-Hour Week Convention, 1935 (No. 47)

Reduction of Hours of Work Recommendation, 1962 (No. 116)

Set out the principle of the 40-hour workweek.

Weekly Rest (Industry) Convention, 1921 (No. 14)

Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)

Set the general standard that workers shall enjoy a rest period of at least 24 consecutive hours every 7 days.



Holidays with Pay Convention (Revised), 1970 (No. 132)

Every person to whom the convention applies shall enjoy at least three working weeks of annual paid holiday for one year of service.

Night Work Convention, 1990 (No. 171)

Requires ratifying states to take measures required by the nature of night work for the protection of night workers. Night work is defined as work performed during a period of not less than seven consecutive hours, including the interval from midnight to 5 a.m. Also requires alternatives to night work to be offered to women for specified periods during and after pregnancy.

Part-Time Work Convention, 1994 (No. 175)

Requires ratifying states to ensure that part-time workers receive the same protection, basic wage and social security, as well as employment conditions equivalent to those accorded to comparable full-time workers.

Working time in practice
According to ILO statistics, the estimated average number of hours worked per year per worker ranges from 2,400 (in Asia) to 1,400 hours (in Northern Europe). ³¹ Most countries today have statutory limits of weekly working hours of 48 hours or less, and the hours actually worked per week in most countries are less than the 48-hour standard set forth by ILO conventions. ³² While ILO standards on weekly working time have become widespread practice around the world, new forms of working time, including compressed workweeks, staggered working time arrangements, annualized working hours, flexitime, and on-call work, are bound to pose new challenges for policy makers in the future.

OCCUPATIONAL SAFETY AND HEALTH

The ILO Constitution sets forth the principle that workers should be protected from sickness, disease and injury arising from their employment. Yet for millions of workers the reality is very different. Some two million people die every year from work-related accidents and diseases. An estimated 160 million people suffer from work-related diseases, and there are an estimated 270 million fatal and non-fatal work-related accidents per year. The suffering caused by such accidents and illnesses to workers and their families is incalculable. In economic terms, the ILO has estimated that 4% of the world's annual GDP is lost as a consequence of occupational diseases and accidents. Employers face costly early retirements, loss of skilled staff, absenteeism, and high insurance premiums due to work-related accidents and diseases. Yet many of these tragedies are preventable through the implementation of sound prevention, reporting and inspection practices. ILO standards on occupational safety and health provide essential tools for governments, employers, and workers to establish such practices and to provide for maximum safety at work. In 2003 the ILO adopted an action plan for occupational safety and health which included the introduction of a preventive safety and health culture, the promotion and development of relevant instruments, and technical assistance.

Relevant ILO instruments

The ILO has adopted more than 40 standards specifically dealing with occupational safety and health, as well as over 40 Codes of Practice. Nearly half of ILO instruments deal directly or indirectly with occupational safety and health issues.

Fundamental principles of occupational safety and health

Occupational Safety and Health Convention, 1981 (No. 155) and its Protocol of 2002

The convention provides for the adoption of a coherent national occupational safety and health policy, as well as action to be taken by governments and within enterprises to promote occupational safety and health and to improve working conditions. This policy shall be developed by taking into consideration national conditions and practice. The Protocol calls for the establishment and the periodic review of requirements and procedures for the recording and notification of occupational accidents and diseases, and for the publication of related annual statistics.



Occupational Health Services Convention, 1985 (No. 161)

This convention provides for the establishment of enterprise-level occupational health services which are entrusted with essentially preventive functions and which are responsible for advising the employer, the workers and their representatives in the enterprise on maintaining a safe and healthy working environment.

Health and safety in particular branches of economic activity

Hygiene (Commerce and Offices) Convention, 1964 (No. 120)

This instrument has the objective of preserving the health and welfare of workers employed in trading establishments, and establishments, institutions and administrative services in which workers are mainly engaged in office work and other related services through elementary hygiene measures responding to the requirements of welfare at the workplace.

Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)

See under dockworkers.

Safety and Health in Construction Convention, 1988 (No. 167)

The convention provides for detailed technical preventive and protective measures having due regard for the specific requirements of this sector. These measures relate to safety of workplaces, machines and equipment used, work at heights and work executed in compressed air.

Safety and Health in Mines Convention, 1995 (No. 176)

This instrument regulates the various aspects of safety and health characteristic for work in mines, including inspection, special working devices, and special protective equipment of workers. It also prescribes requirements relating to mine rescue.

Safety and Health in Agriculture Convention, 2001 (No. 184)

The convention has the objective of preventing accidents and injury to health arising out of, linked with, or occurring in the course of agricultural and forestry work. To this end, the convention includes measures relating to machinery safety and ergonomics, handling and transport of materials, sound management of chemicals, animal handling, protection against biological risks, and welfare and accommodation facilities.

Protection against specific risks

Radiation Protection Convention, 1960 (No. 115)

The objective of the Convention is to set out basic requirements with a view to protect workers against the risks associated with exposure to ionising radiations. Protective measures to be taken include the limitation of workers' exposure to ionising radiations to the lowest practicable level following the technical knowledge available at the time, avoiding any unnecessary exposure, as well as the monitoring of the workplace and of the workers' health. The Convention further refers to requirements with regard to emergency situations that may arise.

Occupational Cancer Convention, 1974 (No. 139)

This instrument aims at the establishment of a mechanism for the creation of a policy to prevent the risks of occupational cancer caused by exposure, generally over a prolonged period, to chemical and physical agents of various types present in the workplace. For this purpose, states are obliged to determine periodically carcinogenic substances and agents to which occupational exposure shall be prohibited or regulated, to make every effort to replace these substances and agents by non- or less carcinogenic ones, to prescribe protective and supervisory measures as well as to prescribe the necessary medical examinations of workers exposed.

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)

The convention provides that, as far as possible, the working environment shall be kept free from any hazards due to air pollution, noise or vibration. To achieve this, technical measures shall be applied to enterprises or processes, and where this is not possible, supplementary measures regarding the organization of work shall be taken instead.

Asbestos Convention, 1986 (No. 162)

Aims at preventing the harmful effects of exposure to asbestos on the health of workers by indicating reasonable and practicable methods and techniques of reducing occupational exposure to asbestos to a minimum. With a view to achieving this objective, the convention enumerates various detailed measures, which are based essentially on the prevention and control of health hazards due to occupational exposure to asbestos, and the protection of workers against these hazards.

Chemicals Convention, 1990 (No. 170)

The Convention provides for the adoption and implementation of a coherent policy on safety in the use of chemicals at work, which includes the production, the handling, the storage, and the transport of chemicals as well as the disposal and treatment of waste chemicals, the release of chemicals resulting from work activities, and the maintenance, repair and cleaning of equipment and containers of chemicals. In addition, it allocates specific responsibilities to suppliers and exporting states.

Occupational safety and health in numbers
Each day, an average of 5,000 people die due to work-related accidents or illness.
Depending on the type of the job, as many as 2000 non-fatal injuries take place for each fatality.
Workers suffer approximately 270 million occupational accidents each year, and there are some 160 million incidents of occupational diseases.
Each year 12,000 children are killed on the job.
Hazardous substances kill 340,000 workers annually.
Work-related cancer and heart disease account for over half of occupational fatalities.
Asbestos alone claims about 100,000 lives annually. ³³

Codes of Practice

ILO Codes of Practice set out practical guidelines for public authorities, employers, workers, enterprises, and specialized occupational safety and health protection bodies (such as enterprise safety committees). They are not legally binding instruments and are not intended to replace the provisions of national laws or regulations, or accepted standards. Codes of Practice provide guidance on safety and health at work in certain economic sectors (e.g. construction, opencast mines, coal mines, iron and steel industries, non-ferrous metals industries, agriculture, shipbuilding and ship repairing, forestry), on protecting workers against certain hazards (e.g. radiation, lasers, visual display units, chemicals, asbestos, airborne substances), and on certain safety and health measures (e.g. occupational safety and health management systems; ethical guidelines for workers' health surveillance; recording and notification of occupational accidents and diseases; protection of workers' personal data; safety, health and working conditions in the transfer of technology to developing countries).

SOCIAL SECURITY



A society that provides security for its citizens protects them not only from war and disease, but also from the insecurities related to making a living through work. Social security systems provide for basic income in cases of unemployment, illness and injury, old age and retirement, invalidity family responsibilities such as pregnancy and childcare, and loss of the family breadwinner. Such benefits are important not only for individual workers and their families but also for their communities as a whole. By providing health care, income security and social services, social security enhances productivity and contributes to the dignity and full realization of the individual. Social security systems also promote gender equality through the adoption of measures to ensure that women who have children enjoy equal opportunities in the labour market. For employers and enterprises, social security helps maintain a stable workforce adaptable to change. Finally, by providing a safety net in case of economic crisis, social security serves as a fundamental element of social cohesion, thereby helping to ensure social peace and a positive engagement with globalization and economic development. Despite these advantages, only 20% of the world's population have adequate social security coverage, while more than half lack any kind of social security coverage at all.

ILO standards on social security provide for different types of social security coverage under different economic systems and stages of development. Social security conventions offer a wide range of options and flexibility clauses which allow the goal of universal coverage to be reached gradually. In a globalizing world, where people are increasingly exposed to global economic risks, there is growing consciousness of the fact that a broad-based national social protection policy can provide a strong buffer against many of the negative social effects of crises. For these reasons, in a resolution of the International Labour Conference in 2001, governments, employers and workers called on the ILO to improve social security coverage and extend it to all those in need of such protection.³⁴

Relevant ILO instruments

Social Security (Minimum Standards) Convention, 1952 (No. 102)

Lays down the minimum standard for the level of social security benefits and the conditions under which they are granted. It covers the nine principal branches of social security, namely medical care, sickness, unem-

ployment, old age, employment injury, family, maternity, invalidity and survivors' benefits. To ensure that it could be applied in all national circumstances, the convention offers states the possibility of ratification by accepting at least three of its nine branches and of subsequently accepting obligations under other branches, thereby allowing them to progressively attain all the objectives set out in the convention. The level of minimum benefits can be determined with reference to the level of wages in the country concerned. Temporary exceptions may also be envisaged for countries whose economy and medical facilities are insufficiently developed, thereby enabling them to restrict the scope of the convention and the coverage of the benefits granted.

Equality of Treatment (Social Security) Convention, 1962 (No. 118)
Maintenance of Social Security Rights Convention, 1982 (No. 157)

These instruments provide for certain social security rights and benefits for migrant workers, who face the problem of losing entitlements to social security benefits which they enjoyed in their country of origin.

Further social security instruments

A later generation of conventions expands the scope of protection provided by Convention No. 102. While offering a higher level of protection in terms of scope and level of benefits to be guaranteed, these instruments authorize certain exceptions which ensure flexibility.

The benefits provided under Convention No. 102 and under later conventions are outlined below. This information does not include provisions on the duration and conditions of entitlement to benefits, derogations allowed under these instruments, or higher levels of benefits provided by relevant recommendations.³⁵

Medical care

- Convention No. 102: provides for preventive care, general practitioner care, including home visits, specialist care, essential pharmaceutical supplies as prescribed, prenatal, confinement and postnatal care by medical practitioners or qualified midwives, and hospitalization where necessary.
- Convention No. 130: provides the same benefits as Convention No. 102, plus dental care and medical rehabilitation.

Sickness benefit

- Convention No. 102: periodical payments, corresponding to at least 45% of the reference wage.
- Convention No. 130: periodical payments, corresponding to at least 60% of the reference wage. Also provides for funeral expenses in case of death of the beneficiary.

Unemployment benefit

- Convention No. 102: periodical payments, corresponding to at least 45% of the reference wage.
- Convention No. 168: periodical payments, corresponding to at least 50% of the reference wage. Beyond the initial period, possibility of applying special rules of calculation. Nevertheless, the total benefits to which the unemployed may be entitled must guarantee them healthy and reasonable living conditions in accordance with national standards.

Old-age benefit

- Convention No. 102: periodical payments, corresponding to at least 40% of the reference wage. The rates of relevant benefits must be revised following substantial changes in the general level of earnings and /or the cost of living.
- Convention No. 128: periodical payments, corresponding to at least 45% of the reference wage. Same conditions as Convention No. 102 relating to the revision of rates.

Employment injury benefit

- Convention No. 102: medical care, periodical payments corresponding to at least 50% of the reference wage in cases of incapacity for work or invalidity. Benefits for widow and dependent children in case of death of breadwinner with periodical payments corresponding to at least 40% of the reference wage. Possibility of converting periodical payments into lump sums under certain conditions. Except in the case of incapacity for work, obligation to revise the rates of periodical payments following substantial changes in the cost of living.
- Convention No. 121: same as Convention No. 102, plus certain types of care at the place of work. Periodical payments, corresponding to at least 60% of the reference wage in cases of incapacity for work or invalidity, benefits for widow, the disabled and dependent widower, and dependent children in case of death of breadwinner, with periodical payments corresponding to at least 50% of the reference wage. Obligation to prescribe minimum amount for these payments, possibility of converting payments into a lump sum under certain conditions, and supplementary benefits for disabled persons requiring the constant help of a third person.

Family benefit

- Convention No. 102: provides either periodical payments or the provision of food, clothing, housing, holidays or domestic help, or a combination of these.
- No new convention exists on this topic.

Maternity benefit

- Convention No. 102: medical care including at least prenatal, confinement and postnatal care either by medical practitioners or by qualified midwives and hospitalization where necessary; periodical payments, corresponding to at least 45% of the reference wage.
- Convention No. 183: medical benefits including prenatal, childbirth and postnatal care, as well as hospitalization care when necessary; cash benefits to ensure that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living. At least two-thirds of previous earnings or comparable amount.

Invalidity benefit

- Convention No. 102: periodical payments, corresponding to at least 40% of the reference wage; the rates of relevant benefits must be revised following substantial changes in the general level of earnings and/or in the cost of living.
- Convention No. 128: periodical payments corresponding to at least 50% of the reference wage; the rates of relevant benefits must be revised following substantial changes in the general level of earnings and/or in the cost of living. Obligation to provide rehabilitation services and to take measures to further the placement of disabled persons in suitable employment.

Survivors' benefit

- Convention No. 102: periodical payments, corresponding to at least 40% of the reference wage; the rates of relevant benefits must be revised following substantial changes in the general level of earnings and/or in the cost of living.
- Convention No. 128: periodical payments corresponding to at least 45% of the reference wage; the rates of relevant benefits must be revised following substantial changes in the general level of earnings and/or in the cost of living.

MATERNITY PROTECTION

Raising a family is a cherished goal for many working people. Yet pregnancy and maternity are an especially vulnerable time for working women and their families. Expectant and nursing mothers require special protection to prevent harm to their or their infants' health, and they need adequate time to give birth, to recover, and to nurse their children. At the same time, they also require protection to ensure that they will not lose their job simply because of pregnancy or maternity leave. Such protection not only ensures a woman's equal access to employment, it also ensures the continuation of often vital income which is necessary for the well-being of her entire family. Safeguarding the health of expectant and nursing mothers and protecting them from job discrimination is a precondition for achieving genuine equality of opportunity and treatment for men and women at work and enabling workers to raise families in conditions of security.

Relevant ILO instruments

Maternity Protection Convention, 2000 (No. 183)

This convention is the most up-to-date international labour standard on maternity protection, although the earlier relevant instruments – the Maternity Protection Convention, 1919 (No. 3), and the Maternity Protection Convention (Revised), 1952 (No. 103) – are still in force in certain countries.



Convention No. 183 provides for 14 weeks of maternity benefit to women to whom the instrument applies. Women who are absent from work on maternity leave shall be entitled to a cash benefit which ensures that they can maintain themselves and their child in proper conditions of health and with a suitable standard of living and which shall be no less than two-thirds of her previous earnings or a comparable amount. The convention also requires ratifying states to take measures to ensure that a pregnant woman or nursing mother is not obliged to perform work which has been determined to be harmful to her health or that of her child, and provides for protection from discrimination based on maternity. The standard also prohibits employers to terminate the employment of a woman during pregnancy or absence on maternity leave, or during a period following her return to work, except on grounds unrelated to pregnancy, childbirth and its consequences, or nursing. Women returning to work must be returned to the same position or an equivalent position paid at the same rate. Also provides a woman the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.

Women in the workforce

Except in a few regions, women comprise at least one-third of the world's workforce. In more than 90 countries over 50% of women are economically active. More women than before are in the workforce throughout their child-bearing years, as many families are dependent on income from both parents. Yet, despite the importance of women to national economies and to the incomes of their families, social protection is often inadequate for working women and their families during pregnancy and maternity. A 1998 ILO study found that just over 100 countries provide for maternity leave of 12 weeks or more, although in many cases such leave is not remunerated. Only around 60 countries provide for maternity benefit of 14 weeks or more, as set forth in Convention No. 183.³⁶

MIGRANT WORKERS



The growing pace of economic globalization has created more migrant workers than ever before. Unemployment and increasing poverty have prompted many workers in developing countries to seek work elsewhere, while developed countries have increased their demand for labour, especially unskilled labour. As a result, millions of workers and their families travel to countries other than their own to find work. At present there are approximately 175 million migrants around the world, roughly half of them workers (of these, around 15% are estimated to have an irregular status). Women make up almost half of migrants. Migrant workers contribute to the economies of their host countries, and the remittances they send home help to boost the economies of their countries of origin. Yet at the same time migrant workers often enjoy little social protection and are vulnerable to exploitation and human trafficking. Skilled migrant workers are less vulnerable to exploitation, but their departure has deprived some developing countries of valuable labour needed for their own economies. ILO standards on migration provide tools for both migrant sending and receiving countries to manage migration flows and ensure adequate protection for this vulnerable category of workers.³⁷ Because of the importance of well-managed migration, the 2004 International Labour Conference called for the implementation of an action plan for migrant workers, which includes a non-binding multilateral framework for migrant workers in the global economy, the wider application of relevant standards, capacity building, and a global knowledge base on the issue.

Relevant ILO instruments

Migration for Employment Convention (Revised), 1949 (No. 97)

Requires ratifying states to facilitate international migration for employment by establishing and maintaining a free assistance and information service for migrant workers and taking measures against misleading propaganda relating to emigration and immigration. Includes provisions on appropriate medical services for migrant workers and the transfer of earnings and savings. States have to apply treatment no less favourable than that which applies to their own nationals in respect to a number of matters, including conditions of employment, freedom of association and social security.

Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

Provides for measures to combat clandestine and illegal migration while at the same time setting forth the general obligation to respect the basic human rights of all migrant workers. It also extends the scope of equality between legally resident migrant workers and national workers beyond the provisions of the 1949 Convention to ensure equality of opportunity and treatment in respect of employment and occupation, social security, trade union and cultural rights, and individual and collective freedoms for persons who as migrant workers or as members of their families are lawfully within a ratifying state's territory. Calls upon ratifying states to facilitate the reunification of families of migrant workers legally residing in their territory.

Migrant worker policy in practice

In 1998, the ILO's Committee of Experts undertook a General Survey of law and practice regarding migrant workers in ILO member states, whether or not they had ratified the relevant conventions. In the course of the survey the Committee noted with interest some of the varied and innovative policies pursued by some countries with a view to applying the principles of international migrant workers standards. In Belarus and Israel, for example, it is obligatory for employers or recruiters to furnish migrants with employment contracts in either their mother tongue or a language which they can understand, while in Antigua and Barbuda, Bulgaria, Croatia and the United Republic of Tanzania (Zanzibar), migrants' contracts must be drawn up in accordance with a prescribed model. This is intended to ensure that migrants who may be unfamiliar with the standards and terms of employment in the host country are guaranteed basic protection from abuse and exploitation. The Committee also noted that in Switzerland the public employment service is free for regular-entry migrant workers who already have permission to work in the country, and that Germany provides reintegration assistance to migrants returning to their country of origin. It was further interested in a special service set up by the Philippines to inform prospective female migrants of the conditions of work and life facing them in the host country and also to attempt to dissuade them from accepting work in which they are likely to be exposed to abuse and exploitation. By highlighting these various innovative practices, the Committee of Experts enables countries to learn from the experiences of others.³⁸

SEAFARERS

An estimated 90% of world trade makes use of maritime or river transport, depending on seafarers to operate ships.³⁹ Many seafarers ply waters distant from their home ports and call at many ports of different countries. Seafarers and shipowners are often of different nationalities, and ships often operate under a flag different from their origin or ownership. Only standards observed by all seafaring nations can guarantee adequate protection for such workers detached from national boundaries. Seafarers are also frequently exposed to difficult working conditions. The ship is both their home and workplace for prolonged periods of time; working and living conditions are therefore of primary importance. Moreover, seafarers are exposed to many unique occupational risks. They face exposure to extreme weather conditions and the possibility of wrecking and sinking. Ships pose many physical hazards, from moving cargo and equipment to toxic materials and chemicals. Working far from home, seafarers are vulnerable to social exploitation and abuse, non-payment of wages, non-compliance with contracts, and exposure to poor diet and living conditions. Some seafarers have been abandoned without wages in foreign ports.

Relevant ILO instruments

To protect the world's seafarers and their contribution to international trade, the ILO has adopted over 60 conventions and recommendations through special maritime sessions of the International Labour Conference. The ILO's maritime standards deal with almost all aspects of work in relation to seafaring (protection of children and young persons, vocational guidance and training, safety and health, security of employment, social security, and so on) but they also cover specific subjects related to the particular employment situation of workers in the maritime industry, such as articles of agreement, wages, hours of work and manning, recruitment and placement, certification of qualification, and identity documents.

The **Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)** and its **Protocol of 1996** provide general standards for the protection of seafarers. These instruments require a ratifying state to draw up laws or regulations governing safety standards, including standards of competency and hours of work and manning, appropriate social security measures, and shipboard conditions of employment and shipboard living arrangements for seagoing ships registered in its territory. States must



also ensure that provisions of laws and regulations are substantially equivalent to conventions enumerated in the appendix to the Convention (covering freedom of association and collective bargaining, minimum age, social security, safety, health and welfare, certificates of competency, and repatriation of seafarers), in cases where they have not ratified the corresponding instruments.

Other relevant instruments include:

- Seafarers’ Identity Documents Convention (Revised), 2003 (No. 185)
- Seafarers’ Hours of Work and the Manning of Ships Convention, 1997 (No. 180)
- Recruitment and Placement of Seafarers Convention, 1996 (No. 179)
- Labour Inspection (Seafarers) Convention, 1996 (No. 178)
- Repatriation of Seafarers Convention (Revised), 1987 (No. 166)
- Social Security (Seafarers) Convention (Revised), 1987 (No. 165)
- Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)
- Seafarers’ Welfare Convention, 1987 (No. 163)
- Seafarers’ Annual Leave with Pay Convention, 1976 (No. 146)
- Continuity of Employment (Seafarers) Convention, 1976 (No. 145)

Consolidation of ILO maritime standards

The ILO is currently in the process of drawing up a consolidated maritime labour convention which aims at embodying all up-to-date maritime standards as well as the fundamental principles set out in other international labour standards, in particular the fundamental conventions. The new instrument will place greater emphasis on compliance and enforcement measures in order to ensure equitable conditions for all countries and shipowners that are concerned with providing decent conditions of work for seafarers. It will also contain a simplified amendment procedure allowing the technical details of the convention to be rapidly updated.

FISHERS

Fishing is one of the world's earliest industries and today provides a livelihood for millions of families around the globe. Approximately 36 million people are engaged in capture fishing and aquaculture worldwide. Of these, an estimated 27 million work in capture fishing alone. Like seafarers, fishers are exposed to significant hazards, including rough weather at sea, crushing waves, powerful and dangerous machinery, hooks and shark bites. An estimated 24,000 persons working in the fish industry die from work-related causes every year. Fishing is also a very diverse industry, ranging from highly organized commercial deep-sea fishing operations to the more common small-scale and artisan fishing. The majority of fishers still belong to the informal sector. An estimated 45% of the total world catch is taken by small-scale fishers. The wage payment system is normally based on a share in the value of the catch. Many fishers are employed in fishing only on a part-time and temporary basis and earn the rest of their income through additional occupations, agricultural or other. To respond to the specific needs of workers engaged in fishing, the ILO has developed standards specifically aimed at providing protection for the men and women who work in this sector.⁴⁰ In view of the importance of the fishing industry and the developments that have taken place since the adoption of fishing standards in 1959 and 1966 respectively, the ILO is drafting a new, comprehensive standard on conditions of work in the fishing sector, set to be adopted in 2005.



Relevant ILO instruments

Medical Examination (Fishermen) Convention, 1959 (No. 113)

Provides that no person shall be employed in any capacity on a vessel if he or she is not fit enough to be employed at sea. Requires ratifying states to provide prior medical examination and time-limited certification by an approved medical practitioner.

Fishermen's Articles of Agreement Convention, 1959 (No. 114)

Provides that articles of agreement (contracts) shall be signed both by the owner of the vessel or his authorized representative and by the fisher. The agreement shall clearly state the respective rights and obligations of each of the parties and shall, among other things, specify the voyage or voyages to be undertaken, the capacity in which the fisher is to be employed, the amount of his or her wages, and the termination of the agreement.

Fishermen's Competency Certificates Convention, 1966 (No. 125)

Requires ratifying states to establish standards of qualification for certificates of competency for the skipper, mate or engineer on board a fishing vessel, and to organize and supervise the examination of candidates to ensure that they have the necessary qualifications. Sets forth the minimum age and minimum professional experience necessary for each profession, and competences necessary for specific categories and grades of certificates for which candidates have to prove their qualification.

Accommodation of Crews (Fishermen) Convention, 1966 (No. 126)

Sets forth requirements on crew accommodation with respect to bulkheads, sleeping rooms, ventilation, heating, lighting, floor space, mess rooms, sanitary facilities, galleys and medical facilities.

DOCKWORKERS



For many countries, the dock industry is today an important link in the transport network that requires constant upgrading in order to respond to the demands of international trade. The growing transport volume, the increasing sophistication of infrastructure, the widespread use of containers, and the intensity of capital investment required for the development of dock activities have led to profound reforms in the sector. Once relying on mostly occasional and low-skilled labour, dock work now requires more highly skilled workers who are increasingly registered workers. At the same time, there are growing demands on dockworkers to be more productive and to work in shifts, while the overall dock workforce has been reduced. Developing countries are finding it difficult to finance the development of increasingly sophisticated ports. ILO standards help address these challenges by dealing with two peculiarities of dock work: the need for specific protection due to safety and health hazards to which dockworkers are exposed during their work, and the impact of technological progress and international trade on their employment and the organization of work in ports.

Relevant ILO instruments

Dock Work Convention, 1973 (No. 137)

This convention deals with new methods of work in docks and their impact on employment and the organization of the profession. It has two main objectives: first, to afford protection to dockworkers in their professional life through measures relating to the conditions of their access to and performance of work; and second, to foresee and manage in the best possible manner, through appropriate measures, fluctuations in the work and the workforce required for it.

Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)

This convention requires ratifying states to take measures with a view to providing and maintaining workplaces, equipment and methods of work that are safe and without risk of injury to health; providing and maintaining safe means of access to any workplace; providing information, training and supervision necessary to ensure protection of workers against risks of accident or injury to health at work; providing workers with personal protective equipment and clothing and any life-saving appliances reasonably required; providing and maintaining suitable and adequate first-aid and rescue facilities; and developing and establishing proper procedures for emergency situations which may arise.

INDIGENOUS AND TRIBAL PEOPLES

Indigenous and tribal peoples have their own cultures, ways of life, traditions and customary laws. Unfortunately, throughout history, lack of respect for tribal and indigenous cultures has led to numerous instances of social conflict and bloodshed. Today, the international community has accepted the principle that the cultures, ways of life, traditions and customary laws of indigenous and tribal peoples are valuable and need to be respected and protected, and that indigenous and tribal peoples should participate in decision-making processes in the country in which they live. The most recent ILO standards on this subject set out these principles and provide a framework for governments, organizations of indigenous and tribal peoples, and non-governmental organizations to ensure the development of the peoples concerned, with full respect for their needs and desires.

Relevant ILO instruments

The **Indigenous and Tribal Peoples Convention, 1989 (No. 169)** and the older **Indigenous and Tribal Populations Convention, 1957 (No. 107)** are to date the only international treaties dealing exclusively with the rights of indigenous and tribal peoples. Convention No. 169, which is considered an up-to-date instrument and which revised Convention No. 107, provides for consultation and participation of indigenous and tribal peoples with regard to policies and programmes that may affect them. It provides for enjoyment of fundamental rights and establishes general policies regarding indigenous and tribal peoples' customs and traditions, land rights, the use of natural resources found on traditional lands, employment, vocational training, handicrafts and rural industries, social security and health, education, and cross-border contacts and communication.



Indigenous and tribal peoples’ rights in practice

Over the years, many countries have adopted or amended legislation putting Convention No. 169 into practice. A number of Latin American countries, including Bolivia, Colombia, Mexico, and Peru have recognized in their constitutions the multi-ethnic and multi-cultural character of their respective populations. Some countries have also recognized customary law as a source of law. Paraguay’s 1992 Constitution, for example, provides for the right to observe customary practices as long as they do not violate the fundamental rights contained in the Constitution. Some countries have also taken steps to ensure self-governance, participation and consultation. For example, in 1987 Norway set up the *Sameting*, a Parliament for the *Sami* people with consultative and limited administrative authority. Denmark, for its part, has set up Greenland Home Rule authorities so that many local matters may be governed by and for the *Inuit* peoples of Greenland.

The Guatemalan peace process and Convention No. 169
In 1987, the Government of Guatemala and the four insurgent groups comprising the Unidad Revolucionaria Nacional Guatemalteca (URNG) began lengthy peace negotiations, which resulted in the conclusion in 1994 of a global agreement on human rights. At the same time it was also agreed that separate agreements would be negotiated on several other issues, including the identity and rights of indigenous peoples. On 31 March 1995, after six months of negotiations in which the ILO took part, the Government and the URNG signed the Agreement on the Identity and the Rights of Indigenous Peoples. The Agreement covered a broad range of issues including education, language, gender, cultures, traditional knowledge, land rights and customary law. It was also aimed at facilitating the process of ratification of Convention No. 169. After several technical assistance projects carried out by the ILO, Guatemala ratified the convention in 1996. The instrument continues to play an important role in ensuring the peaceful existence of indigenous and tribal peoples in the region. ⁴¹

OTHER SPECIFIC CATEGORIES OF WORKERS

International labour standards in most cases have universal value and apply to all workers and all enterprises. Some standards mentioned earlier cover specific industries, such as seafaring. Finally there are a number of standards dealing with work-related issues in very specific sectors of economic activity (plantations, hotels, restaurants) or concerning specific groups of workers (nursing personnel, homeworkers).

Relevant ILO instruments

Plantations Convention, 1958 (No. 110) and its Protocol of 1982

Plantations still constitute an important economic factor in many developing countries. These instruments cover the recruitment and engagement of migrant workers and afford protection to plantation workers in respect of employment contracts, wages, working time, medical care, maternity protection, employment accident compensation, freedom of association, labour inspection, and housing.

Nursing Personnel Convention, 1977 (No. 149)

Due to growing health services, many countries lack sufficiently qualified nursing personnel. Many nurses are migrant workers who face particular challenges. This convention requires each ratifying state to adopt measures appropriate to national conditions to provide nursing personnel with education and training and with working conditions, including career prospects and remuneration, which are likely to attract persons to the profession and retain them in it. Nurses shall enjoy conditions at least equivalent to those of other workers in the country with regard to hours of work, weekly rest, paid annual holidays, educational leave, maternity leave, sick leave, and social security.

Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172)

The hotel, travel and leisure industry currently employs 3% of the total global labour force.⁴² However, these workers, mainly women and young people, are often paid wages that are at least 20% lower than those in other sectors. With the objective of improving the working conditions of workers in hotels and restaurants and bringing them closer to those prevailing in other sectors, this convention provides for reasonable hours of work, overtime provisions, rest periods, and annual leave. It also stipulates that the sale and purchase of employment in hotels and restaurants be prohibited.



Home Work Convention, 1996 (No. 177)

Homeworkers, the majority of whom are women, constitute a particularly vulnerable category of workers on account of their often informal status and lack of legal protection, their isolation and their weak bargaining position. The objective of the convention is to promote equality of treatment between homeworkers and other wage earners, in particular in relation to freedom of association, protection against discrimination, occupational safety and health, remuneration, social security, access to training, minimum age for admission to work, and maternity protection.

Regular supervisory system

Representations

Complaints

Freedom of association

Applying conventions when countries have not ratified them

Technical assistance and training

ILO Declaration on Fundamental Principles and Rights at Work

APPLYING AND PROMOTING INTERNATIONAL LABOUR STANDARDS

“Normative action is an indispensable tool
to make decent work a reality” – Juan Somavia, ILO Director-General, 2001⁴³

International labour standards are backed by a supervisory system that is unique at the international level and that helps to ensure that countries implement the conventions they ratify. The ILO regularly examines the application of standards in member states and points out areas where they could be better applied. If there are any problems in the application of standards, the ILO seeks to assist countries through social dialogue and technical assistance.

REGULAR SUPERVISORY SYSTEM

Once a country has ratified an ILO convention, it is obliged to report regularly on measures it has taken to implement it. Every two years governments must submit reports detailing the steps they have taken in law and practice to apply any of the eight fundamental and four priority conventions they may have ratified; for all other conventions, reports must be submitted every five years, except for conventions that have been “shelved” (no longer supervised on a regular basis). Reports on the application of conventions may be requested at shorter intervals. Governments are required to submit copies of their reports to employers’ and workers’ organizations. These organizations may comment on the governments’ reports; they may also send comments on the application of conventions directly to the ILO.

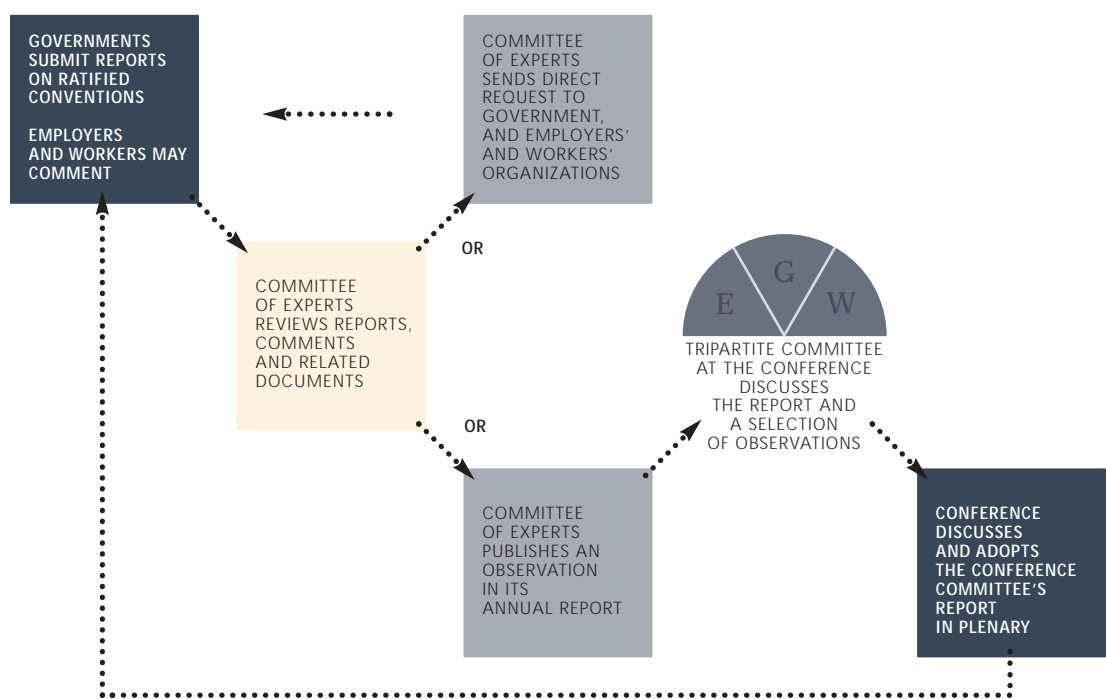
The Committee of Experts on the Application of Conventions and Recommendations

The Committee of Experts was set up in 1926 to examine the growing number of government reports on ratified conventions. Today it is composed of 20 eminent jurists appointed by the Governing Body for three-year terms. The Experts come from different geographic regions, legal systems and cultures. The Committee’s role is to provide an impartial and technical evaluation of the state of application of international labour standards.

When examining the application of international labour standards, the Committee of Experts makes two kinds of comments: **observations** and **direct requests**. Observations contain comments on fundamental questions raised by the application of a particular convention by a state. These observations are published in the Committee’s annual report. Direct requests relate to more technical questions or requests for further information. They are not published in the report but are communicated directly to the governments concerned.

The Committee’s annual report consists of three parts. Part I contains a General Report, which includes comments about member states’ respect for their Constitutional obligations; Part II contains the observations on the application of international labour standards, while Part III is a General Survey (see below).

The regular supervisory process



The Conference Committee on the Application of Standards

The annual report of the Committee of Experts, usually adopted in December, is submitted to the International Labour Conference the following June, where it is examined by the Conference Committee on the Application of Standards. A standing committee of the Conference, the Conference Committee is made up of government, employer, and worker delegates. It examines the report in a tripartite setting and selects from it a number of observations for discussion. The governments referred to in these comments are invited to respond before the Conference Committee and to provide information on the situation in question. In many cases the Conference Committee draws up conclusions recommending that governments take specific steps to remedy a problem or to invite ILO missions or technical assistance. The discussions and conclusions of the situations examined by the Conference Committee are published in its report. Situations of special concern are highlighted in special paragraphs of its General Report.

The impact of the regular supervisory system

Since 1964, the Committee of Experts has kept track of the number of *cases of progress* in which it noted changes in law and practice which improved the application of a ratified convention. To date, over 2,300 cases of progress have been noted.

In recent years, in response to comments it has made, the Committee noted such changes as the following:

- Ecuador adopted a new Political Constitution providing that “the State shall promote the incorporation of women into the paid labour force under conditions of equal rights and opportunities, guaranteeing women equal remuneration for work of equal value”. The Constitution further provides for the promotion of women’s employment and reproductive rights in order to improve working conditions for women and ensure their access to social security systems. Particular reference is made to expectant and nursing mothers, working women, women active in the informal and handicrafts sectors, women heads of households, and widows.
- The United Republic of Tanzania repealed its Human Resources Deployment Act, 1983, under which compulsory labour could be imposed by administrative authority on the basis of a general obligation to work and for purposes of economic development and which was in contravention of forced labour standards.
- El Salvador adopted a new Penal Code repealing provisions under which sentences involving compulsory labour could be imposed for activities related to the expression of political opinions or opposition to the established political order.
- Israel amended its Youth Labour Act to authorize the employment of a child between 14 and 15 years of age only as an exceptional measure and solely for light work that is not likely to be harmful to the child’s health or development and only during official school holidays, bringing its legislation into conformity with standards on child labour.
- The Netherlands repealed a Decree under which workers were legally required to obtain the approval of the District Employment Office for the termination of their employment, which contravened standards on forced labour.⁴⁴
- Egypt’s new Labour Code, promulgated by Law No. 12 of 2003, provides for an obligatory compensatory rest period for work performed on a weekly rest day, regardless of any monetary remuneration.

The impact of the regular supervisory system is not just limited to cases of progress. The Committee of Experts each year examines whether member states have fulfilled their obligation to submit adopted instruments to their legislative bodies for consideration. Even if a country decides not to ratify a convention, it may choose to bring its legislation into conformity with it. Member states regularly review the Committee's comments on the application of a convention in other countries and may amend their own legislation and practice so as to avoid similar problems in the application of a standard, or in order to emulate good practices. Where a convention has been ratified, the Committee often makes unpublished direct requests to governments, pointing to apparent problems in the application of a standard and giving the countries concerned time to respond and tackle these issues before any comments are published. The Committee's interventions facilitate social dialogue, requiring governments to review the application of a standard and to share this information with the social partners, who may also provide information. The ensuing social dialogue can lead to further problem-solving and prevention.

The reports of both the Committee of Experts and the Conference Committee are available on the Internet to millions of users. Governments and the social partners thus have an even greater incentive to solve problems in the application of standards in order to avoid critical comments by these bodies. Upon request by member states, the International Labour Office provides substantial technical assistance in drafting and revising national legislation to ensure that it is in conformity with international labour standards. In these ways, the supervisory bodies play an important role in preventing problems in the application of standards from arising in the first place.

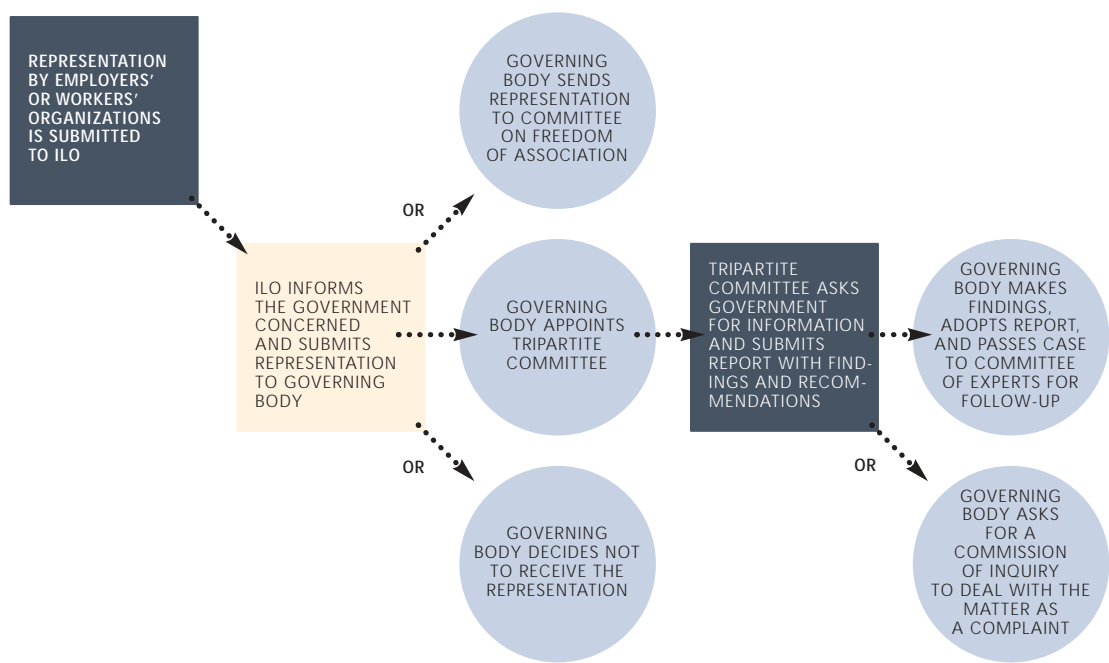
REPRESENTATIONS

The representation procedure is governed by articles 24 and 25 of the ILO Constitution. It grants an industrial association of employers or of workers the right to present to the ILO Governing Body a representation against any member state which, in its view, “has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party”. A three-member tripartite committee of the Governing Body may be set up to examine the representation and the government’s response. The report that the committee submits to the Governing Body states the legal and practical aspects of the case, examines the information submitted, and concludes with recommendations. Where the government’s response is not considered satisfactory, the Governing Body is entitled to publish the representation and the response. Representations concerning the application of Conventions Nos. 87 and 98 are usually referred for examination to the Committee on Freedom of Association.

Who can make a representation?
Representations under article 24 of the ILO Constitution may be made by national and international employers’ and workers’ associations. Individuals <i>cannot</i> make representations directly to the ILO but can pass on relevant information to their workers’ or employers’ organization, as applicable.




The Representations procedure



Article 24 representations in practice

Greece ratified the Labour Inspection Convention, 1947 (No. 81) in 1955. In 1994 it passed a law which decentralized the labour inspectorate and placed it under the responsibility of the autonomous prefectural administrations. The Federation of the Associations of the Public Servants of the Ministry of Labour of Greece (FAMIT) subsequently made a representation to the ILO claiming that the law contravened the principle of Convention No. 81 that labour inspection should be placed under the supervision and control of a central authority. The tripartite committee set up to examine this representation agreed and urged the Greek government to amend its legislation to comply with the convention. In 1998, the Greek government adopted new laws, bringing the labour inspectorate under a central authority once again. The same year, the Committee of Experts commended the Greek government for its “diligence and close attention” to the recommendations made by the tripartite committee.

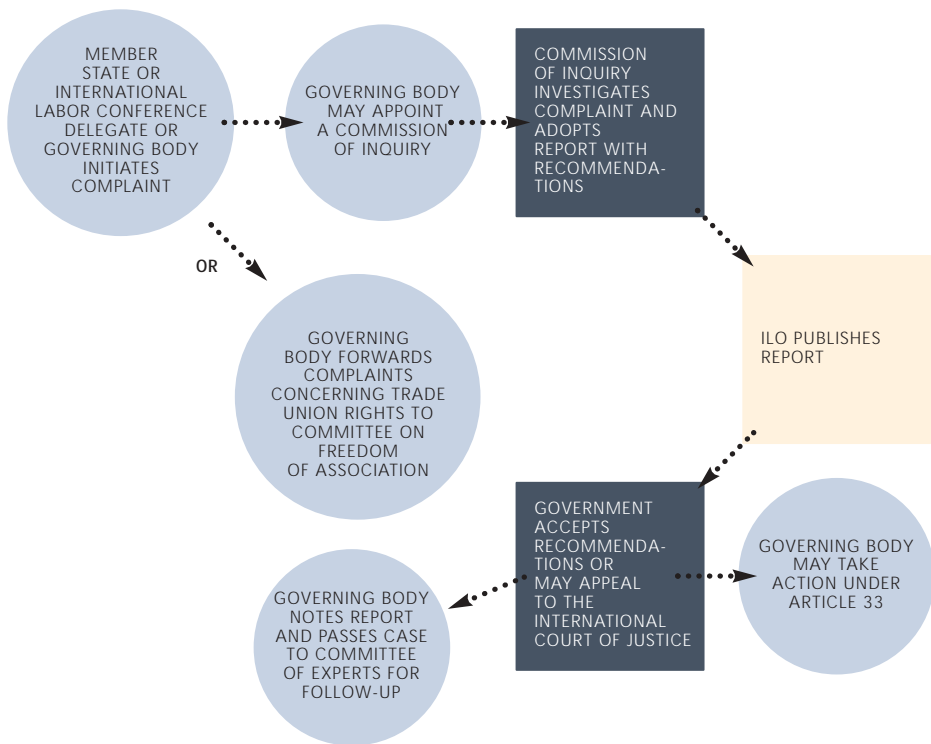
COMPLAINTS



The complaint procedure is governed by articles 26 to 34 of the ILO Constitution. Under these provisions a complaint may be filed against a member state for not complying with a ratified convention by another member state which ratified the same convention, a delegate to the International Labour Conference, or the Governing Body in its own capacity. Upon receipt of a complaint, the Governing Body may form a Commission of Inquiry, consisting of three independent members, which is responsible for carrying out a full investigation of the complaint, ascertaining all the facts of the case and making recommendations on measures to be taken to address the problems raised by the complaint. A Commission of Inquiry is the ILO's highest-level investigative procedure; it is generally set up when a member state is accused of committing persistent and serious violations and has repeatedly refused to address them. To date, 11 Commissions of Inquiry have been established.

When a country refuses to fulfil the recommendations of a Commission of Inquiry, the Governing Body can take action under article 33 of the ILO Constitution. This provision states that “[i]n the event of any Member failing to carry out within the time specified the recommendations, if any, contained in the report of the Commission of Inquiry, or in the decision of the International Court of Justice, as the case may be, the Governing Body may recommend to the Conference such action as it may deem wise and expedient to secure compliance therewith.” Article 33 was invoked for the first time in ILO history in 2000, when the Governing Body asked the International Labour Conference to take measures to lead Myanmar to end the use of forced labour. An article 26 complaint had been filed against Myanmar in 1996 for violations of the Forced Labour Convention (No. 29), 1930, and the resulting Commission of Inquiry had found “widespread and systematic use” of forced labour in the country.

The Complaints procedure



Article 26 complaints in practice

Poland ratified both 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) in 1957. When martial law was declared in the country in 1981, the government suspended the activities of the Solidarność trade union and detained or dismissed many of its leaders and members. After the case had been examined by the Committee on Freedom of Association, delegates at the 1982 International Labour Conference filed a complaint under article 26 against Poland. The resulting Commission of Inquiry found grave violations of both conventions. Based on the Commission’s conclusions, the ILO and numerous countries and organizations put pressure on Poland to redress the situation, and in 1989 the Polish government gave Solidarność legal status. Lech Walesa, Solidarność leader and later President of Poland, noted that “the Commission of Inquiry created by the ILO after the imposition of martial law in my country made significant contributions to the changes which brought democracy to Poland.”⁴⁵

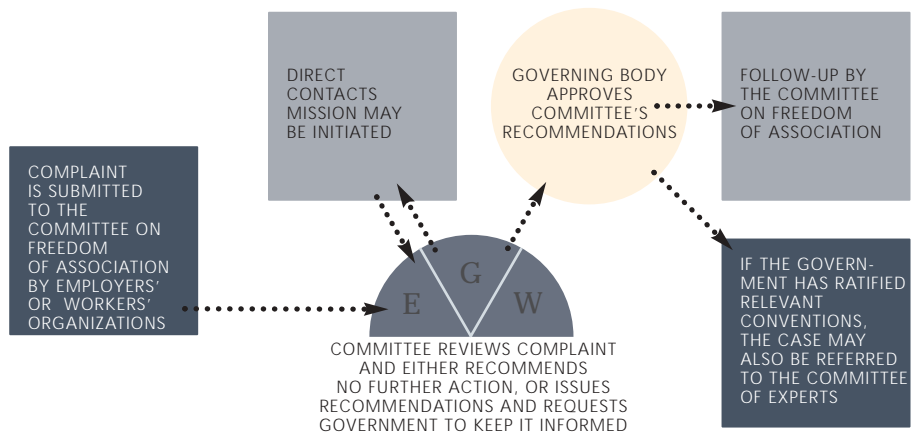
FREEDOM OF ASSOCIATION

The Committee on Freedom of Association

Freedom of association and collective bargaining are among the founding principles of the ILO. Soon after the adoption of Conventions Nos. 87 and 98 on freedom of association and collective bargaining, the ILO came to the conclusion that the principle of freedom of association needed a further supervisory procedure to ensure compliance with it in countries that had not ratified the relevant conventions. As a result, in 1951 the ILO set up the Committee on Freedom of Association (CFA) for the purpose of examining complaints about violations of freedom of association, whether or not the country concerned had ratified the relevant conventions. Complaints may be brought against a member state by employers' and workers' organizations. The CFA is a Governing Body committee, and is composed of an independent chairperson and three representatives each of governments, employers, and workers. If it decides to receive the case, it establishes the facts in dialogue with the government concerned. If it finds that there has been a violation of freedom of association standards or principles, it issues a report through the Governing Body and makes recommendations on how the situation could be remedied. Governments are subsequently requested to report on the implementation of its recommendations. In cases where the country has ratified the relevant instruments, legislative aspects of the case may be referred to the Committee of Experts. The CFA may also choose to propose a "direct contacts" mission to the government concerned to address the problem directly with government officials and the social partners through a process of dialogue. In over 50 years of work, the CFA has examined over 2,300 cases. More than 60 countries on five continents have acted on its recommendations and have informed it of positive developments with regard to freedom of association during the past 25 years.⁴⁶



The Freedom of Association procedure



The Committee on Freedom of Association in action

In 1996, the International Confederation of Free Trade Unions (ICFTU) filed a complaint against the Government of Indonesia for violations of trade union rights, including the denial of the workers' right to establish organizations of their own choosing, the persistent interference by government authorities, the military and employers in trade union activities, ongoing restrictions in collective bargaining and strike action, as well as very serious allegations concerning the arrest and harassment of trade union leaders, together with the disappearance and assassination of workers and unionists. Among the numerous trade union leaders detained during this period were Dita Indah Sari, labour activist of the Democratic Peoples Party and chairwoman of the Centre for Indonesian Workers Struggle, and Muchtar Pakpahan, chairman of the Indonesian Prosperity Trade Union (SBSI). Through the CFA, the international community kept up the pressure on Indonesia for the release of trade union leaders detained because of their trade union activity. Muchtar Pakpahan was released in 1998, followed by Dita Sari one year later, whereupon she was unanimously elected Chairperson of the National Front for Indonesian Workers struggle, the FNPBI. Indonesia's engagement with the ILO marked a turning point for labour rights in the country. In the years since then Indonesia has taken significant steps to improve protection of trade union rights, and has ratified all eight fundamental conventions, making it one of the few nations in the Asia-Pacific region to have done so.⁴⁷ The case of Dita Sari is not unique. In the last decade alone, more than 2,000 trade unionists worldwide were released from prison after this ILO committee examined their cases.

APPLYING CONVENTIONS WHEN COUNTRIES HAVE NOT RATIFIED THEM

General Survey (article 19)

International labour standards are universal instruments adopted by the international community and reflecting common values and principles on work-related issues. While member states can choose whether or not to ratify any conventions, the ILO considers it important to keep track of developments in all countries, whether or not they have ratified them. Under article 19 of the ILO Constitution, member states are required to report at regular intervals, at the request of the Governing Body, on measures they have taken to give effect to any provision of certain conventions or recommendations, and to indicate any obstacles which have prevented or delayed the ratification of a particular convention.

On the basis of article 19, the Committee of Experts publishes an in-depth annual **General Survey** on member states' national law and practice, on a subject chosen by the Governing Body. These surveys are established mainly on the basis of reports received from member states and information transmitted by employers' and workers' organizations. They allow the Committee of Experts to examine the impact of conventions and recommendations, to analyse the difficulties indicated by governments in their application, and to identify means of overcoming these obstacles.

Recent General Surveys include:

- Equal Remuneration (1986); Equality in Employment and Occupation (1988, 1996)
- Freedom of Association and Collective Bargaining (1994)
- Migrant Workers (1999)
- Tripartite Consultation (2000)
- Night Work of Women in Industry (2001)
- Dock Work (2002)
- Protection of Wages (2003)
- Employment Policy (2004)
- Hours of Work (2005)
- Labour Inspection (forthcoming in 2006)

The ILO does not just supervise the application of ratified conventions. It also provides different forms of technical assistance whereby ILO officials or other experts help countries address problems in legislation and practice in order to bring them into line with the obligations under ratified instruments. Forms of technical assistance include advisory and direct contacts missions, during which ILO officials meet government officials to discuss problems in the application of standards with the aim of finding solutions; and promotional activities, including seminars and national workshops, with the purpose of raising awareness of standards, developing national actors' capacity to use them, and providing technical advice on how to apply them to the benefit of all. The ILO also provides assistance in drafting national legislation in line with its standards.



A worldwide network of international labour standards specialists

Many of these technical assistance activities are carried out by the ILO's international labour standards specialists who are assigned to ILO offices located around the world. Standards specialists meet government officials, employers' and workers' organizations to provide assistance with new ratifications of conventions and reporting obligations, to discuss solutions to problems raised by the supervisory bodies, and to review draft legislation to ensure that it conforms with international labour standards. International labour standards specialists are stationed in:

Africa: Addis Ababa, Cairo, Dakar, Harare, Yaoundé

Americas: Lima, San José, Santiago

Caribbean: Port of Spain

Arab States: Beirut

East Asia: Bangkok, Manila

South Asia: New Delhi

Eastern Europe and Central Asia: Moscow

ILO International Training Centre

The International Training Centre in Turin, Italy, offers training on international labour standards for government officials, employers, workers, lawyers, judges and legal educators, as well as specialized courses on labour standards, productivity improvement and enterprise development, international labour standards and globalization, and the rights of women workers.

ILO DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK AND ITS FOLLOW-UP

In 1998 the ILO created a special promotional measure to strengthen the application of the four principles and associated rights that are considered fundamental for social justice. By adopting the Declaration on Fundamental Principles and Rights at Work and its Follow-up, ILO member states recognize that they have an obligation to work towards realizing certain basic values that are inherent in ILO membership, namely 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. This obligation exists even if they have not yet been able to ratify the eight fundamental conventions which embody these principles. At the same time the ILO itself has an obligation to provide assistance needed to achieve these objectives.

A follow-up to the Declaration was adopted at the same time to help determine the needs of states to improve their application of the above principles and rights. Member states are required to submit annual reports on all the fundamental rights for which they have not ratified the corresponding ILO conventions. The reports are examined by the Governing Body with the help of a panel of independent experts, whose comments are published in the Introduction to the Annual Review of reports. In addition, the Director-General prepares a Global Report on one of the four sets of principles and rights each year to analyze the situation around the world, both for ratifying and non-ratifying countries, and to suggest new avenues for ILO technical assistance. The International Labour Conference examines this report, and the Governing Body consequently sets out a plan of action for technical cooperation for the following four-year period. The Declaration and its follow-up are designed to promote the principles and rights it embodies and to facilitate the ratification of the fundamental conventions through dialogue and technical assistance. The purpose of the Declaration and its follow-up is not to create a parallel set of standards; rather, it is to assist member states to achieve full respect for the fundamental principles and rights at work, including ultimate ratification of all the fundamental conventions. Once this is achieved, all member states will have been brought under the regular ILO supervisory system with respect to these instruments.

Key ILO bodies and documents
References

4

RESOURCES

“We cannot develop at the expense of social justice.
We cannot compete without a floor of basic human standards.
If this is true inside our own society, it is true for the world as a whole.”

– Nelson Mandela, President of the African National Congress, 1994⁴⁸

As this booklet has tried to show, international labour standards are important tools for ensuring that the global economy provides benefits and opportunities to all. From freedom of association to social security, from combating child labour to promoting vocational training, international labour standards provide for dignified and decent working conditions and related economic benefits at the national and at the enterprise level as well. The supervisory system ensures that countries respect their obligations under the conventions they have ratified and, more generally, their obligations under the ILO Constitution.

The international labour standards system continues to grow and develop to respond to current world needs. There have been many cases of progress to which the international labour standards system has contributed. But there is much work left to do. While the international labour standards system is primarily a tool to be used by national governments and employers’ and workers’ organizations, the wider public can play a role as well. Individuals, non-governmental organizations, enterprises and activists can raise awareness of the system, encourage their governments to ratify conventions, and work with the appropriate employers’ and workers’ organizations to identify problems in the application of standards. It is hoped that this brief introduction to international labour standards will not only empower ILO constituents but allow society as a whole to make use of these powerful tools for development.

The following pages provide an overview of some of the most important international labour standards documents and sources of further information.

KEY ILO BODIES AND DOCUMENTS

- **Conventions and Recommendations**
- **ILO Constitution**
- **Report of the Committee of Experts on the Application of Conventions and Recommendations**

Annual report containing:

General Report: comments on member states' compliance with reporting obligations, cases of progress, and the relationship between international labour standards and the multilateral system (Report III (Part 1A))

Observations: comments on the application of conventions in ratifying states (Report III (Part 1A))

General Survey: examination of law and practice in a particular subject area, in member states that have or have not ratified relevant conventions (Report III (Part 1B))

Information document on ratifications and standards-related activities (Report III (Part 2)).

- **Report of the Conference Committee on the Application of Standards**

Report containing:

General Report

Examination of individual cases

Available in the *Provisional Record* of the International Labour Conference and published in the *Record of Proceedings* of the International Labour Conference.

- **Report of Committee on Freedom of Association**

Published three times a year as a Governing Body document and in the ILO's *Official Bulletin*.

- **Reports of Committees established to examine representations (art. 24)**

Published in Governing Body documents.

- **Reports of Commissions of Inquiry (art. 26)**

Published in Governing Body documents and in the *Official Bulletin*.

All of the above are available in the ILOLEX database at:
<http://www.ilo.org/ilolex/english/index.htm>

- **Governing Body documents**, including documents of the Committee on Legal Issues and International Labour Standards
Available at:
<http://www.ilo.org/public/english/standards/reim/gb/index.htm>
- **International Labour Conference documents**, including preparatory reports for the adoption of conventions and recommendations
Available at:
<http://www.ilo.org/public/english/standards/reim/ilc/index.htm>
- **Documents under the Follow-up to the Declaration on Fundamental Principles and Rights at Work**
Available at:
<http://www.ilo.org/dyn/declaris/DECLARATIONWEB.INDEXPAGE>

ILO documents are also available through ILO offices and depository libraries.

Selected publications

Fundamental rights at work and international labour standards (Geneva, ILO, International Labour Standards Department, 2003).*

Guide to international labour standards (Geneva, ILO, International Labour Standards Department, 2003).*

International labour standards: A global approach, preliminary edition (Geneva, ILO, International Labour Standards Department, 2001).*

Employers' handbook on ILO standards-related activities, by A. Wisskirchen, C. Hess (Geneva, ILO, Bureau for Employers' Activities, 2001).

Handbook on procedures relating to international labour Conventions and Recommendations, Rev. 2/1998 (Geneva, ILO, International Labour Standards Department, 1998).*

International labour standards. A workers' education manual, fourth (revised) edition (Geneva, ILO, Bureau for Workers' Activities, 1998).

Freedom of Association: Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO, fourth (revised) edition, (Geneva, ILO, International Labour Standards Department, 1996).*

International Labour Standards E-library (ILSE CD-ROM), published annually. This CD contains the above publications marked with *.

For further information on these publications, please contact the International Labour Standards Department at: infonorm@ilo.org.

Internet resources

APPLIS: Database containing information on ratifications, comments of the Committee of Experts, and reporting obligations.

ILOLEX: Full-text database of ILO conventions and recommendations, ratification information, comments of the Committee of Experts and the Committee on Freedom of Association, discussions of the Conference Committee, representations, complaints, General Surveys, and numerous related documents. Also available as a CD-ROM.

LIBSYND: Database of freedom of association cases.

NATLEX: Bibliographic database of national laws on labour, social security, and related human rights. Includes numerous laws in full text. Records and texts in NATLEX are either in English, French, or Spanish.

These databases are available at the International Labour Standards website at: www.ilo.org/normes

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The International Labour Organization's conventions and recommendations establish the international legal framework for ensuring social justice in today's global economy. Adopted by representatives of governments, employers and workers, international labour standards cover a wide range of subjects, including freedom of association and collective bargaining, forced labour, child labour, equality of opportunity and treatment, tripartite consultation, labour administration and inspection, employment policy and promotion, vocational guidance and training, employment security, social policy, wages, working time, occupational safety and health, social security, maternity protection, migrant workers, seafarers, fishers, dockworkers, indigenous and tribal peoples, and other specific categories of workers. The ILO disposes of a number of unique supervisory and complaint mechanisms which ensure that international labour standards are applied.

Aimed at a non-specialist audience, this booklet provides an introduction to international labour standards and discusses their importance in today's global economy, the subjects they cover, how they are applied and supervised, and where further information can be sought.

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