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REPUBLIC OF THE PHILIPPINES
COMMISSION ON HUMAN RIGHTS

EUROPEAN UNION

Module on labour and human rights and international labour standards



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The International Labour Organization (ILO) and the Commission on Human Rights (CHR), with the support and assistance of the European Union (EU)

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Module on labour and human rights and international labour standards

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Foreword

The International Labour Organization Country Office for the Philippines (ILO CO-Manila) and the Commission on Human Rights of the Philippines (CHR) are pleased to have collaborated and joined hands together in publishing and releasing this Module on labour and human rights and international labour standards.

This module was developed by Atty Ray Paolo J. Santiago, Executive Director of the Ateneo Human Rights Center (AHRC) deemed as the Philippines' response to the concerns expressed in 2016 by the ILO's Committee on the Application of Standards (CAS) regarding the country's application of Convention No. 87 (Freedom of Association and Protection of the Right to Organise), especially with respect to cases, incidences and reports of anti-union violence, worker intimidation and harassment, and the perceived lack of action and progress in the investigations of alleged extra-judicial killings (EJKs) of trade union leaders and organizers. Likewise, the publication of this module also comes in the aftermath of the observations of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) both in 2016 and 2019 and of the Direct Contacts Mission (DCM) conducted by the ILO in 2017, respectively, a need for a greater role and involvement of the CHR in national monitoring mechanisms investigating and addressing cases and allegations of labour-related EJKs and other labour rights and Freedom of Association (FoA) violations.

This module, which began to be written under the previous EUGSP/FoACB Project from 2017 to 2019, has since led to several opportunities for stronger partnership technical cooperation and capacity-building support between the ILO and the CHR, which continues to this day under the ILO's current Trade for Decent Work Project, which is supported generously by the European Union (EU) and which also aims to promote social dialogue, improved compliance, better application of international labour standards, including freedom of association and the right to collectively bargain, and better COVID-19 response, as a country beneficiary of the EU Generalised Scheme of Preference Plus (EU GSP+) special trade arrangements.

The ILO-CHR module has also been updated to reflect the new conditions and situations brought about by the COVID-19 global pandemic. While the module was originally written for face-to-face application, it has since been updated to include opportunities and scenarios for virtual training and online workshop settings given the advent of the COVID-19 pandemic.

More importantly, this module is specifically designed to strengthen and build the knowledge, skills, expertise and capacity of the staff and personnel of the CHR to apply labour rights and FoA lens and perspective on human rights issues, by specifically training them on international labour standards, ILO core conventions, especially Convention No. 87 (Freedom of Association and Protection of the Right to Organise) and Convention No. 98 (Right to Organise and Collective Bargaining), the ILO's supervisory bodies and monitoring mechanisms, the decent work agenda and the Philippines' national laws and regulations on labour standards and workers' rights, among others.

In particular, the module contains 14 sessions:

1. expectation-setting and introduction of the training;
2. overview of human rights: concepts and standards;
3. labour rights are human rights;
4. the International Labour Organization and the decent work framework and agenda;
5. the labour movement: role of unions;
6. International Labour Standards;
7. freedom of association and the right to collective bargaining;

8. case studies: human rights challenges for labour;
9. existing mechanisms that attempt to address human violations in the exercise of labour rights;
10. labour dispute resolution;
11. international remedies;
12. business and human rights;
13. special economic zones, human rights and labour rights; and
14. CHR mandate and labour rights.

At the same time, this ILO-CHR module is a welcome and latest addition to the long list of past training manuals and modules on FoA, such as the 2013 FoA Training Guide for FoA Trainers in Philippine Economic Zones, the 2013 ILO FoA/CB Training Guide and Materials for Police, Military, and Security Forces in the Philippines, the 2019 ILO Workers' FoA Training Manual and the 2017—2022 National Action Plan on FoA/CB.

More than just training, capacitating, and developing the knowledge, skills and expertise of CHR staff and personnel, the ultimate objective of this module is to help ensure that labour rights and FoA will be fully incorporated into the human rights mandate and thrust of the CHR, as an independent constitutional office and the leading national human rights institution (NHRI) in the Philippines. Through this module, both the ILO and the CHR jointly renew their shared commitment and belief that workers rights are human rights.

Finally, it is also fitting and proper to acknowledge that this module was developed and completed during the tenure of the late CHR Chairperson Jose Luis Martin "Chito" C. Gascon, whose leadership and commitment to labour and human rights helped bring forth not only this module but also the strengthening of the partnership between the ILO and the CHR in the quest for universal peace, social justice, human rights, and workers' dignity.

Mr Khalid Hassan
Director
International Labour Organization
Country Office for the Philippines

Hon Karen S. Gomez-Dumpit
Commissioner
Commission on Human Rights

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Acronyms

AFP	Armed Forces of the Philippines
AHRC	Asian Human Rights Commission
ALU	Associated Labor Unions
AWATU	All Workers Alliance Trade Union
BE	business enterprise
CAS	Committee on the Application of Standards
CB	collective bargaining
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CFA	Committee on Freedom of Association
CFW	Confederation of Filipino Workers
CHR	Commission on Human Rights
CIU	Confederation of Independent Unions in the Public Sector
COI	Commission of Inquiry
COURAGE	Confederation for Unity Recognition and Advancement of Government Employees
CSC	Civil Service Commission
DCM	Direct Contacts Mission
DILG	Department of the Interior and Local Government
DND	Department of National Defense

DOLE	Department of Labor and Employment
DOJ	Department of Justice
ECOP	Employers Confederation of the Philippines
ED	enforced disappearances
EID	enforced or involuntary disappearance
EJK	extra-judicial killings
ELK	extra-legal killings
EU	European Union
FoA	freedom of association
FCCU	Federation of Coca-Cola Unions
FFW	Federation of Free Workers
GSP+	Generalised Scheme of Preferences Plus
ICCPR	International Covenant on Civil and Political Rights
LGBTQIA+	lesbian, gay, bisexual, transgender, queer, intersex, asexual, plus
LGU	local government unit
NACUSIP	National Congress of Unions in the Sugar Industry of the Philippines
NAPOLCOM	National Police Commission
NBI	National Bureau of Investigation
NCMB	National Conciliation and Mediation Board
NHRI	national human rights institution

NLRC	National Relations Committee
NMM	National Monitoring Mechanism
NTIPC	National Tripartite Industrial Peace Council
NTUC	National Trade Union Center of the Philippines
NUBE	National Union of Bank Employees
PALEA	Philippine Airlines Employees Association
PAPA	Presidential Adviser for Political Affairs
PAPP	Presidential Adviser on the Peace Process
PEZA	Philippine Economic Zone Authority
PGEA	Philippine Government Employees Association
PHRC	Presidential Human Rights Committee
PIPSEA	Philippine Independent Public Sector Employees Association
PLEB	People's Law Enforcement Board
PNP	Philippine National Police
PSLINK	Public Services Labor Independent Confederation
RTIPC	Regional Tripartite Industrial Peace Council
RTMB	Regional Tripartite Monitoring Body
SENTRO	Sentro ng mga Nagkakaisa at Progresibong Manggagawa
TUCP	Trade Union Congress of the Philippines

Acknowledgements

In appreciation of the contributors of this Module on labour and human rights and international labour standards, the International Labour Organization Country Office for the Philippines (ILO CO-Manila) would like to thank Atty Ray Paolo J. Santiago of the Ateneo Human Rights Center and our colleagues from the Commission of Human Rights headed by Commissioner Karen Gomez-Dumpit, Director Francis Tom F. Temprosa, Dr Jerrick Gerard C. Go, Atty Gemma Parojinog, Ms Marizen Santos, Ms Ghel Mallorca, and Ms Yammie Garay.

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Overview

The International Labour Organization's Committee on the Application of Standards (CAS), a supervisory mechanism, discussed in 2007, 2016, and 2019 the Philippines' application of Freedom of Association and Protection of the Right to Organise Convention (No. 87), highlighting concerns regarding reports of anti-union violence and lack of progress in the investigations of labour-related cases of alleged extra-judicial killings (EJKs). The Committee of Experts on the Application of Conventions and Recommendations (CEACR) in 2016 and the Direct Contacts Mission (DCM) in 2017 noted the role of the Commission on Human Rights (CHR) in mechanisms to investigate and monitor cases of labour-related EJKs, and provide relevant legal services.

This led to an opportunity to develop this Module on labour and human rights and international labour standards for the CHR to use as a framework and basis to build the capacity of its staff and personnel to apply a labour lens on human rights issues by taking into account international core conventions, particularly ILO Convention Nos 87 (Freedom of Association) and 98 (Right to Organise and Collective Bargaining), the ILO supervisory mechanisms, the national investigative and monitoring mechanisms on violations of workers human rights, and the 2012 guidelines on the conduct of the police, military, and security forces in the context of workers' rights and activities, among others.

Beyond building the capacity of CHR staff, the training framework also seeks to develop their critical thinking skills and identify opportunities to integrate the labour dimension in its human rights work. The identification of the training content was done by the ILO CO-Manila, together with experts from the Ateneo Human Rights Center (AHRC), in consultation with the CHR, the Department of Labor and Employment (DOLE), and the leaders, officers, representatives, and members of the various national trade union centers, and labour federations, including their local and industry affiliates.

The module aims to serve as an easy-to-read resource book on labour rights and standards and also serve as a critical guide in conducting labour and human rights training sessions. The module also contains key learning points, application tips, and case studies that both trainers and readers can refer to in order to further develop the suggested content and methodology per each module chapter and session.

Methodology

The module will be conducted through a combination of:

1. presentation and discussion;
2. working group sessions; and
3. case studies.

It adopts participatory formal and non-formal learning methodologies and utilizes videos, lectures, practical exercises, participant sharing, and relevant literature to create a holistic learning process.

The module recognizes that participants will have varying levels of familiarity and experience with labour rights and builds on their legal knowledge, experiences, and insights as staff of the CHR to steer the direction of the training, its delivery, and outcome of the discussions (activate prior knowledge). Sessions are organized to clarify connections between human and labour rights and moves from general concepts to more specialized issues (acquire new knowledge).

The module consists of 14 sessions and is designed to be participant-centred and will consider their experience during the training session to gauge the most effective learning process for them. Each major cluster of the sessions have integrated workshops and/or case studies to enable participants to apply the concepts learned during the lectures and discussions (application). The breakout and buzz group sessions aim to promote critical analysis of issues and systems by the participants, by using facts to analyse the concepts obtained from the lecture sessions. After each practical exercise, the participants will be asked to report back in plenary to obtain feedback from the broader group. Facilitators are encouraged to debrief the participants after each workshop session (assessment).

In the light of the COVID-19 global pandemic, flexibility has also been given to allow for both synchronous and asynchronous applications of this entire module.



Inter-Regional Knowledge Sharing on Child Labour and Working Conditions in the Artisinal and Small-Scale Gold Mining (ASGM) — Manila City. Experts and global actors from Africa, Asia, and South America gather at the Inter-Regional Knowledge Sharing on Child Labour and Working Conditions in the Artisanal and Small-Scale Gold Mining (ASGM) held in Manila, Philippines from 28 to 30 May 2019. Countries represented include Colombia, Congo, Cote d' Ivoire, France, Ghana, Guyana, Indonesia, Italy, Mali, Mongolia, Nigeria, Philippines, Thailand, Switzerland, United Kingdom and the United States. The 3-day forum provided a venue to exchange knowledge, technologies, practices and challenges to put forward concrete solutions to address child labour and poor working conditions in the ASGM sector. (ILO/G. Carreon, May 2019)

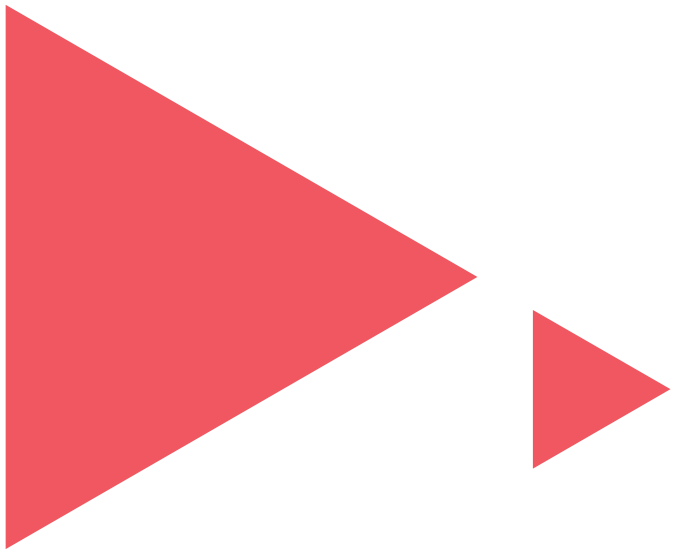
1

Expectation-setting and introduction of the training

Objectives

At the end of the session, participants should be able to:

1. provide inputs on what they expect and/or hope to learn from the training and learn those of their fellow participants;
2. gain understanding on the proposed methodology, overall format, and content of the training; and
3. note the inputs from both the co-participants and facilitators and ask questions of the same.



A. Expectation setting

Activity: Priming

Objectives

The participants shall be able to:

1. Express and identify their expectations around what they want to get from the training, what they can contribute to make the training successful and what may hinder them from participating actively during the entire training.
2. Gain understanding as to which expectations can be achieved or addressed during the training.

B. Introduction to the training course

Objectives

The participants shall be able to:

1. Acquire learning insights on the contents, methodologies, and approaches of the training; and provided guidance on the flow of the programme.
2. Raise their issues and concerns with regard to the training programme.

▶ Group Size

Seven members per group

All participants in plenary

▶ Materials

(for face-to-face workshops/set-ups)

1. Flip chart
2. Metacards
3. Masking tape
4. Board marker

▶ Methodology

Group Discussion

Via Zoom or Face to face

Duration: 45 minutes

▶ Digital Tools and Platforms

(for face-to-face workshops/set-ups)

1. Virtual workshop house rules
2. Internet access/connectivity provision
3. Laptops or PC desktops or smartphones or tablets
4. Zoom or MS Teams or Webex hosting platform for the conduct of the virtual workshop (with features for breakout Rooms or parallel sessions)
5. PowerPoint presentations
6. Jamboards or Miro (for brainstorming sessions or ideas or suggestions)
7. Doodle or Zoom polling (for live polling questions and results)

▶ Recommended Duration

Part 1 (Introduction of the training)	10 minutes
Part 2 (Sharing of expectations)	20 minutes
Part 3 (Consolidation of inputs and finalization of learning process)	15 minutes



Trade union leaders and workers groups launched a press conference in Metro Manila calling for a ban on all forms of contractualization (2019)_Photo by Defend Jobs Philippines

This session will consist of three parts and will be undertaken as follows:

Part 1 ▶ Introduction of the training

The lead facilitator will give the background and rationale for the training. They will highlight the rationale and relevance of labour rights-specific training for the participants, based on the module objectives and workshop programme. They will then ask the participants about the accuracy of such basis and elicit their general views on the topic. Another facilitator documents key words and ideas on the flip charts.

Part 2 ▶ Sharing of expectations

After synthesizing the words written on the flip chart, the lead facilitator asks the participants the following questions:

1. Why are you attending training?
2. What specific learning do you want to take home from this training? What particular areas or issues of human rights and labour rights do you wish to learn about through this training?
3. Another facilitator notes down the responses in the form of key words/phrases on the flip chart. Ideas that repeat do not need to be rewritten.

Alternatively, participants may answer the questions through buzz words that are written on the metacards which are then posted on the wall. The facilitator groups the responses based on similarities of ideas.

Part 3 ▶ Consolidation of inputs and finalization of learning process

The lead facilitator will summarize the expectations into common themes and validate these with the participants. They will then summarize the group's feedback and ask them if the training can proceed based on the common themes/responses. When the group is comfortable with the overall outcome, the training can proceed to the next session.



Mine in Bicol, Philippines — Bicol, Philippines. Man working in the mine. (ILO/J. Fortin, March 2004)

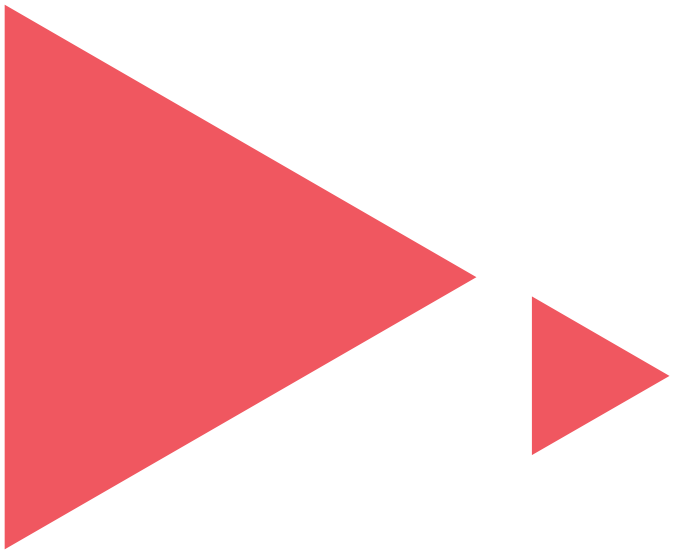
2

Overview of human rights: Concepts and standards

Objectives

At the end of the session, participants should be able to:

1. explain the concept of human rights;
2. identify the sources of international human rights standards;
3. get an overview of the international human rights system; and
4. discuss the concept of duty bearers and rights-holders and their relationship with each other.



▶ Group Size

All participants in plenary

▶ Activity

This session will discuss the concept of human rights and the sources of international human rights standards. It will give an overview of the international human rights system and its relation to the domestic implementation of human rights.

It will also discuss the concept of rights-holders and duty bearers and the role of the government with regard to those that hold the rights. The session will be led by a resource person.

▶ Digital Tools and Platforms
(for face-to-face workshops/set-ups)

1. Virtual workshop house rules
2. Internet access/connectivity provision
3. Laptops or PC desktops or smartphones or tablets
4. Zoom or MS Teams or Webex hosting platform for the conduct of the virtual workshop (with features for breakout rooms or parallel sessions)
5. PowerPoint presentations
6. Jamboards or Miro (for brainstorming sessions or ideas or suggestions)
7. Doodle or Zoom polling (for live polling questions and results)

▶ Recommended Duration

Part 1 (Introduction of the training)	120 minutes

Key learning points

1. Concept of human rights and its five principles: universality, inherent, interrelatedness, interdependent, and inalienable.
2. Core international human rights treaties.
3. International human rights system.

Lecture notes

1. Human rights are often seen as just civil and political rights due to the reporting in media and framing of human rights advocates working on civil and political rights. But human rights also encompass economic, social, and cultural rights.
2. Principles of human rights: universality, inherent, interrelated, interdependent, and inalienable.
   (a) **Universal.** It is the same everywhere in the world. The only reason why human rights do not seem universal is because States do not respect, protect, and fulfil human rights uniformly. The enjoyment of human rights is limited not because people are not entitled to them, but because the State concerned itself restricts the enjoyment of certain rights.

"The principle of universality of human rights is the cornerstone of international human rights law. This principle, as first emphasized in the Universal Declaration on Human Rights in 1948, has been reiterated in numerous international human rights conventions, declarations, and resolutions. The 1993 Vienna World Conference on Human Rights, for example, noted that it is the duty of States to promote and protect all human rights and fundamental freedoms, regardless of their political, economic, and cultural systems." [1]

(b) "**Inherent** to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination." [2]

(c) "Human rights are **inalienable**. They should not be taken away, except in specific situations and according to due process. For example, the right to liberty may be restricted if a person is found guilty of a crime by a court of law." [3]

(d) "**Interrelated and interdependent.** All human rights, whether they are civil and political rights, such as the right to life, equality before the law, and freedom of expression; economic, social, and cultural rights, such as the rights to work, social security, and education; or collective rights, such as the rights to development and self-determination, are indivisible, interrelated, and interdependent. The improvement of one right facilitates advancement of the others. Likewise, the deprivation of one right adversely affects the others." [4]

3. "Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles, and other sources of international law. International human rights law lays down obligations of governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups." [5]

4. Domestic jurisdiction principle (UN Charter): Article 2(7) – "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state x x x." Exception "x x x but this principle shall not prejudice the application of enforcement measures, under Chapter VII."

5. The main sources of international law are treaty law, international customary law, and general principles of law recognized by civilized nations.

6. The internationally wrongful act of a State:

(a) that every internationally wrongful act of a State entails its international responsibility;

(b) that an internationally wrongful act exists when conduct consisting of an act or omission is attributable to a State and constitutes a breach of an international obligation owed by that State; and

(c) that characterization of an internationally wrongful act is governed by international law and is not affected by its characterization as lawful by internal law. [6]

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1 https://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx

2 https://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx

3 https://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx

4 https://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx

5 https://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx

6 Draft Articles on Responsibility of States for Internationally Wrongful Acts, adopted by the Commission at its fifty-third session in 2001 (Final Outcome) (International Law Commission [ILC]) UN Doc A/56/10, 43, UN Doc A/RES/56/83, Annex, UN Doc A/CN.4/L.602/Rev.1, GAOR 56th Session Supp 10, 43, Pt.1 The Internationally Wrongful Act of a State, Ch.I General Principles

7. UN Charter-based mechanisms vs Treaty-based mechanisms

(a) Charter-based bodies:[7]

(i) derive their establishment from provisions contained in the Charter of the United Nations

(ii) hold broad human rights mandates

(iii) address an unlimited audience

(iv) take action based on majority voting

Charter bodies include the former Commission on Human Rights, the Human Rights Council, and Special Procedures of the Human Rights Council. The Human Rights Council, which replaced the Commission on Human Rights, held its first meeting on 19 June 2006. This intergovernmental body, which meets in Geneva, Switzerland ten weeks a year, is composed of 47 elected United Nations Member States who serve for an initial period of three years, and cannot be elected for more than two consecutive terms. The Human Rights Council is a forum empowered to prevent abuses, inequity and discrimination, protect the most vulnerable, and expose perpetrators.[8]

(b) Treaty-based bodies:[9]

(i) derive their existence from provisions contained in a specific legal instrument

(ii) hold more narrow mandates: the set of issues codified in the legal instrument

(iii) address a limited audience: only those countries that have ratified the legal instrument

(iv) base their decision-making on consensus

Nine UN human rights conventions have monitoring bodies to oversee the implementation of the treaty provisions. The treaty bodies are composed of independent experts and meet to consider State Parties reports as well as individual complaints or communications. They may also publish general comments on human rights topics related to the treaties they oversee. The treaty-based bodies tend to follow similar patterns of documentation.[10]

8. Core international human rights treaties:

(a) Universal Declaration of Human Rights

(b) International Covenant on Civil and Political Rights (ICCPR)

(c) International Covenant on Economic, Social and Cultural Rights (ICESCR)

(d) Convention on the Elimination of all Forms of Racial Discrimination

(e) Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)

(f) Convention on the Rights of the Child

(g) Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

(h) Convention on the Rights of Persons with Disabilities

(i) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

(j) International Convention for the Protection of All Persons from Enforced Disappearances

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7 http://research.un.org/en/docs/humanrights/charter

8 https://www.ohchr.org/en/hrbodies/Pages/HumanRightsBodies.aspx

9 http://research.un.org/en/docs/humanrights/treaties

10 https://www.ohchr.org/en/hrbodies/Pages/HumanRightsBodies.aspx

About six of these core UN human rights conventions and treaties are also included in the relevant EU GSP+ conventions, namely: the ICCPR; ICESR; CEDAW; Convention on the Elimination of Racial Discrimination; Convention Against Torture; and the Convention on the Rights of the Child; alongside other 21 international and UN treaties and the ILO eight core conventions (C.29 on compulsory labour; C.87 on freedom of association; C.98 on collective bargaining; C.100 on equal remuneration; C.105 on abolition of forced labour; C.111 on employment non-discrimination; C1.38 on admissible minimum age for employment; and C.182 on the elimination of worst forms of child labour).[11] Compliance with these 27 international treaties and conventions is part of the conditionality of being granted EU GSP+ preferential access and treatment to EU markets in order to help and support developing countries in achieving growth and development, eliminating poverty, and creating jobs based on international democratic, human rights, good governance, environmental and sustainable trade principles, and values.[12]

9. Three-fold obligation of the State: respect, protect and fulfil:

   (a) Respect – States have the obligation to refrain from interfering with the enjoyment of rights.

   (b) Protect – States have the obligation to prevent violations of rights by other persons or third parties.

   (c) Fulfill – States have the obligation to take appropriate measures towards the realization of rights.

▶ Video: Story of human rights

Universal Declaration of Human Rights: **https://www.youtube.com/watch?v=m4WHZNaCAWM**



Candle lighting by trade unionists on International Human Rights Day, 2021. Photo by Mayday Multimedia.

11 Source: EU Trade Website: https://trade.ec.europa.eu/doclib/docs/2013/december/tradoc_152024.pdf

12 Source: EC Website on GSP+: https://ec.europa.eu/trade/policy/countries-and-regions/development/generalised-scheme-of-preferences/



Filipino domestic worker — Malate, Manila City. Filipino domestic worker at a demonstration (ILO/M. Rimando, October 2008)

3

Labour rights are human rights

Objectives

At the end of the session, participants should be able to:

1. enhance their knowledge and understanding of the basic concepts and principles of human rights; and their classifications/categories;
2. explain what labour rights mean and provide examples of how they relate to civil, political, economic, social, and cultural rights;
3. identify where labour rights fall under the broad framework of human rights;
4. explain and provide examples of how labour rights mean;
5. discuss its framework in the Philippine context based on the context of social justice and human rights;
6. explain the difference between labour standards and labour relations; and
7. identify the human rights that relate to either labour standards or labour relations.

▶ Workshop

Structured learning exercises to be provided by the facilitators

▶ Group Size

Part 1: Individually

Part 2: 3–4 persons per group

Part 3: All participants in plenary

▶ Materials
(for face-to-face workshops/set-ups)

1. LCD projector
2. Computer
3. Flip charts
4. Markers
5. Masking tape

▶ Digital Tools and Platforms
(for face-to-face workshops/set-ups)

1. Virtual workshop house rules
2. Internet access/connectivity provision
3. Laptops or PC desktops or smartphones or tablets
4. Zoom or MS Teams or Webex hosting platform for the conduct of the virtual workshop (with features for breakout rooms or parallel sessions)
5. PowerPoint presentations
6. Jamboards or Miro (for brainstorming sessions or ideas or suggestions)
7. Doodle or Zoom polling (for live polling questions and results)

▶ Recommended Duration

Part 1 (Group work discussion and individual reflection)	35 minutes
Part 2 (Buzz groups)	30 minutes
Part 3 (Sharing of buzz group outputs and plenary discussion)	15 minutes
Part 4 (Debriefing, synthesis, and inputs by the resource person)	30 minutes

▶ Description

Using the four As methodology and approaches.

Activities

Case study analysis are assigned to each group.

This session will consist of four parts and will be undertaken as follows:



Decent Work for Domestic Workers in the Philippines: Jocelle Espanola — Manila City. As a first-timer in Manila, Jocelle feels fortunate to have an employer who takes time to talk to her and explain her tasks and responsibilities properly, provide her adequate pay, and ensure her safety. "Importante din po na kampante ka sa amo mo, mas makakapagtrabaho ng maayos at mahinahon." Jocelle has been employed in the same household for the past two years, since she first came to Manila at age 19. (ILO/J. Aliling, March 2016)

Group work discussion (20 minutes)

Part 1 ▶ Individual reflection

Individual participants shall read the case study and answer the questions. (Which part of the study strikes you the most and why?).

Part 2 ▶ Buzz groups

Activity 1: Analysis

Note: The facilitator will process the answers of the participants and guide the discussion using the inputs from the participants which are posted on the board.

Link the discussion to the next A approach (Abstraction).

Activity 2: Workshop

Identification of human rights issues and concerns in relation to labour standards

After the individual reflection, the participants shall form groups of 3–4 persons. A rapporteur per group shall be identified. The participants shall share their answers in the groups and discuss why they think that their identified human rights issue or concern is affected. They will also discuss whether they think that the identified human rights issue or concern falls under the labour standards or labour relations categories.

Abstraction: Discussion on International Labour Standards; laws in relation to labour rights.

Application: How are the laws implemented in the Philippine Setting?

Use some checklists available or provided by the facilitators. Groups will discuss particular case studies, both at the international and national levels/contexts.

Reporting and critiquing of group output. A panel of discussants shall be present to discuss or add input to their reports.

Part 3 ▶ Sharing, discussion, debriefing, synthesis, and inputs

The rapporteur of each group shall present the outputs before the plenary. The resource person will then discuss the cases and presentations, clarifying how labour rights actually relate to human rights. The resource person shall also lead the discussion as to the difference between labour standards and labour relations under the Labor Code of the Philippines and related human rights provisions.

Note to be assigned to the groups if relevant to the session.

Based on the materials, each participant will review the following case studies.

Case study 1: Great Beverages, Inc. (Case studies are based on actual and past news articles, cases, and incidents but have been slightly altered to protect the identity of personalities and organizations).

Great Beverages workers decry union-busting amid company restructuring

Workers of beverage company giant Great Beverages decried the massive laying off of employees, saying it is an attempt by the management to bust unions.

In a statement, the Great Beverages Union of Workers said that across the country, 400 employees—12 of whom are high-ranking union officials —have been terminated by their company due to a recent organization restructuring.

However, the workers' group said that they see the mass lay-offs as specifically targeting the union, as all 12 union officials within the company have been removed. They explained that the 12 union officials were likely included in the lay-offs so as to prevent them from coming up with a united front of workers against the latest company restructuring that included downsizing without proper consultation with the workers, an act that they deem illegal as they were not given any just cause or explanation.

It added that although the company will lay-off most of their sales staff, they also got wind of management plans to replace them with more contractual workers and added that there will be more terminations in the coming days and weeks.

Recently, Great Beverages announced that it would be undergoing an organizational restructuring following an internal company review and assessment, which also included recommendations on downsizing.

However, the union noted that the decision to restructure and downsize conspicuously came after the new beverage-specific tax law took effect recently.

The labour group also said that although the official announcement from the company highlighted an internal organizational review, their union members were not consulted or included in the company assessment.

Also, despite this reason, the union claimed that they were told by management representatives that the main reason behind the restructuring and downsizing was due to the impact of the new beverage tax law.

However, union officers of the company claimed that this was not true as product sales have been steady and robust in the recent months and that there is no strong evidence of declining sales as a result of the new law. They also said that the management is just using the beverage law as a cover for their long-standing attempts to weaken unions and bust and to reduce labour costs further by resorting to contractualization in the company.

The union leaders also reiterated their claims that there was no proper consultation with the workers in



Safety and health in manufacturing — General Trias, Cavite. In the food and beverage industry, promoting safety and health of workers through their families proved to be successful. Workers and their families learn from family-centred occupational safety and health (OSH) campaigns to build a culture of prevention. Manufacturing is a sector with the highest proportion of occupational accidents involving young people. (ILO/M. Fossat, October 2015)

the company regarding the recent organizational restructuring and downsizing plan that has already led to the lay-off of 400 workers.

They expressed that this was bothersome, especially since they were still having regular meetings with the management in the past months; the restructuring and downsizing plan was never mentioned to them in any of those meetings.

The union officers said that they only got wind of the news when their members and other workers already received their notices of termination which was a clear breach and violation of the current agreement between Great Beverages and the workers and unions.

Additionally, the union said they will demand for a review and investigation of the restructuring and downsizing plans that were adversely implemented. They plan to seek the intervention of the Labour Department to help resolve the issue.

In the meantime, the members of the union are planning to hold protests in various plants of the company to demand renegotiations, withdraw the termination notices, and call for the reinstatement of those they said were unjustly laid-off.

For its part, the management of Great Beverages, Inc. said that they followed all the legal steps and actions when they implemented their restructuring and downsizing plan.

The company stressed that while they understand the grievances of the workers, but that restructuring and downsizing are needed to ensure the dynamism and growth of the company. They added this will allow the company to increase its earnings, expand its operations, and even recruit more workers in the future.

They also said that the company is paying attention to the concerns of the union and that they are finding ways to resolve these labour issues in a just and lawful manner.

Case study 1 guide questions: To guide participants in analyzing the case study and assess their understanding of the relationship between labour and human rights, ask the following guide questions:

1. Why is there a need for the lay-offs?
2. What human rights issues or concerns can you identify? Why so?

Case study 2: Complete Store, Inc. (Case studies are based on actual and past news articles, cases, and incidents but have been slightly altered to protect the identity of personalities and organizations).

Rampant contractualization in most Complete Store branches

A recent survey jointly conducted by a labour rights group and an independent investigative research and survey firm revealed the existence of a seemingly contractual workers-only hiring policy in the well-known retail giant, Complete Store, Inc.

Based on the findings of the said survey, of its 200 branches across the country, 130 engage in recruitment of contractual workers only, while 50 hire a mix of regular and contractual workers, and only 20 had a regular workforce.

According to follow-up interviews with some of the survey respondents – who requested anonymity –there is an implicit policy in Complete Store, Inc. to recruit only short-term workers since they are much cheaper and are easier to call back to work again. They said that the policy was usually more pronounced during the big holiday events or busy seasons when the company's branches are very busy. These short-term workers are then recruited back from time to time after their contract ends, when the holidays or busy seasons are up again.

When asked about this, the Complete Store, Inc. management issued a statement that neither confirmed or denied the survey results and reports.

Instead, the management simply stated that this was a common practice in the industry and said that such it not be considered as bringing down labour costs or encouraging cheap labour, since short-term or contractual workers are also paid the same daily rate as the regular workers.

They said that most companies in the industry hire temporary workers because they are only needed during holidays and busy seasons, and that there is no need to make them regular workers.

While Complete Store's hiring strategy may help save money because it reduces labour costs, it also puts workers in precarious employment due to the shortness or seasonality of their job tenure or contract. Further, the high unemployment rate resulting in reduced income and savings for many consumers may affect retailers' decision to lower the prices of their goods and products. Furthermore, competition in the wholesale retail store industry – where the market is flooded with low-priced items and cheaper imported goods – has also intensified leading companies like Complete Store to justify its temps-only hiring policy.

Case study 2 guide questions: To guide participants in analysing the case study and assess their understanding of the relationship between labour and human rights, ask the following guide questions:

1. Why does the retail industry engage the services of agency-hired or temporary workers?
2. What human rights issues or concerns can you identify? Why so?

Key learning points

1. The relationship between labour and human rights in the international and domestic context.
2. Characteristics of labour relations.
3. Key features of labour standards.
4. Rights holders, duty-bearers and corporations.
5. General comment of UN Committee on Economic, Social and Cultural Rights No. 23, which describes normative content of the right to just and favorable conditions of work.

Application

1. Discussion on how the participants will apply those learning insights they gained from the previous discussions.
2. How can the CHR integrate labour rights in their respective operations?

Action points. Policy, human rights education and promotion, protection and preventive mechanism:

1. Map out your functional tasks and examine how your groups can infuse to labour situations and conditions in the country.
2. As an institution, how can the Commission on Human Rights work on labour issues and problems with regards to its mandates?

Evaluation of learnings

Post-test

Lecture notes

The resource person will discuss the following topics relevant to human rights and labour rights. This shall be an interactive discussion.

1. **Universal Declaration of Human Rights**
   - (a) Article 20
     - (i) Everyone has the right to freedom of peaceful assembly and association.
     - (ii) No one may be compelled to belong to an association.
   - (b) Article 23
     - (i) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work, and to protection against unemployment.
     - (ii) Everyone, without any discrimination, has the right to equal pay for equal work.
     - (iii) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
     - (iv) Everyone has the right to form and to join trade unions for the protection of his interests.

(c) Article 24

(i) Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

(d) Article 25

(i) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control.

2. International Covenant on Economic, Social and Cultural Rights

(a) Article 6

(i) The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

(b) Article 7

(i) The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- Remuneration which provides all workers, as a minimum, with:
  - Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work.
  - A decent living for themselves and their families in accordance with the provisions of the present Covenant.
- Safe and healthy working conditions.
- Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence.
- Rest, leisure, and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

(c) Article 8

(i) The States Parties to the present Covenant undertake to ensure:

- The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests.
- No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others.
- The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations.
- The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others.
- The right to strike, provided that it is exercised in conformity with the laws of the particular country.

(ii) This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, or of the police, or of the administration of the State.

(iii) Nothing in this article shall authorize States Parties to the International Labour Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organise to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

3. 1987 Constitution:

(a) Article II, Section 18. The State affirms labour as a primary social economic force. It shall protect the rights of workers and promote their welfare.

(b) Article III, Section 8. The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged.

(c) Article IX-B (2)(5). The right of self-organization shall not be denied to government employees.

(d) Article XIII, Section 3. The State shall afford full protection to labour, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace.

The State shall regulate the relations between workers and employers, recognizing the right of labour to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth.

4. Labour Standards. Minimum requirements prescribed by existing laws, rules and regulations, and other issuances relating to wages, living allowances and other employee monetary, and welfare benefits, occupational health and safety, and other standards designed to improve conditions of work. The ILO sets international labour standards, which are international labour laws establishing protections and rules for the regulation of a broad range of subjects in the world of work.

International labour standards take two forms: Conventions, which are open to ratification by Member States; and Recommendations, which are not open to ratification but, instead, often accompany and complement Conventions by laying down more detailed guidelines for the regulation of the particular subject. Of the entire body of Conventions adopted by the ILO, eight are considered to be fundamental, in that they enshrine fundamental human rights in the world of work. These are:

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

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

(c) Forced Labour Convention, 1930 (No. 29)

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

(e) Minimum Age Convention, 1973 (No. 138)

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

(g) Equal Remuneration Convention, 1951 No. 100)

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

International labour standards are drafted on the basis of a two-year long discussion and negotiations among the worker, employer, and government members of the ILO. They encompass virtually all issues related to labour and employment. Once ratified, Conventions become legally binding upon States to fully apply their provisions in law and in practice. These ILO standards provide guidance in law and policy and help States to implement human rights principles and protective measures in the world of work.

In the Philippines, national legal instruments and references that provide guidance on labour standards include provisions of the Labor Code pertaining to human rights, the Civil Code of the Philippines, and other related laws, and some policy guidelines on labour-workers and industry and government agreements.



Traditional post-harvest activities — Lake Sebu, South Cotabato. Wind is used to remove small pieces of stalks from the rice grains. (ILO/A. Barredo, August 2009)

5. Labour relations/industrial relations. The individual and collective relations between workers and employers at work arising from the work situation, as well as the relations between representatives of workers and employers at the industry and national levels, and their interactions with the State.[13]

13 ILO's Glossary of Industrial Relations (https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---lab_admin/documents/publication/wcms_111330.pdf), p. 6.

6. Labour standards in the Labor Code

Just and favourable conditions of work	Working Conditions and Rest Periods Hours of Work – Normal hours of work shall not exceed 8 hours a day Meal periods – not less than 60 minutes time off for regular meals Night-shift differential – 10 p.m.–6 a.m. (at least 10%) Overtime work – at least 25% Service charges
Just and favourable conditions of work	Working Conditions for Special Groups of Employees Employment for Women: Facilities for women Maternity Leave Benefits Family Planning Services Discrimination Prohibited Unlawful Stipulation Against Marriage Employment of Minors: Minimum Employable Age – 15 Prohibition against Child Discrimination Employment of Househelpers Employment of Homeworkers Employment of Night Workers Social Security Security of Tenure Regular and casual employment Probationary Employment Termination by Employer: a. Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work; b. Gross and habitual neglect by the employee of his duties; c. Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative; d. Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representatives; and e. Other causes analogous to the foregoing. Closure of Establishment and Reduction of Personnel Disease as Ground for Termination Termination by Employee (Resignation)
Just and favourable remuneration **Right to an adequate standard of living**	Minimum wage Prohibition against Elimination or Diminution of Benefits Time of payment of wages
Right to rest and leisure	Right to weekly rest day Compensation for rest day, Sunday or Holiday Work Right to Holiday Pay – twice the regular rate Right to Service Incentive Leave – at least 5 days with pay

Right to social security	Retirement Social Security
Right to form and to join trade unions **Right to strike**	Labour Organizations: Registration and Cancellation Rights and Conditions of Membership Rights of Legitimate Labour Organizations
Right to form and to join trade unions **Right to strike**	Unfair Labour Practices – violate the constitutional right of workers and employees to self-organization, are inimical to the legitimate interests of both labour and management, including their right to bargain collectively and otherwise deal with each other in an atmosphere of freedom and mutual respect, disrupt industrial peace and hinder the promotion of healthy and stable labour-management relations.
Right to form and to join trade unions **Right to strike**	Consequently, unfair labour practices are not only violations of the civil rights of both labour and management but are also criminal offenses against the State which shall be subject to prosecution and punishment as herein provided.
Right to form and to join trade unions **Right to strike**	Collective Bargaining and Administration of Agreements Procedure in Collective Bargaining Strikes and Lockouts Article 278 (263) Strikes, Picketing, and Lockouts. **(a)** It is the policy of the State to encourage free trade unionism and free collective bargaining. **(b)** Workers shall have the right to engage in concerted activities for purposes of collective bargaining or for their mutual benefit and protection. **(c)** In cases of bargaining deadlocks, the duly certified or recognized bargaining agent may file a notice of strike or the employer may file a notice of lockout.



The Banana Boat, Philippines - This boy from the Mangyan tribe, Bangon in the mountains of Mindoro, Philippines is riding a makeshift boat close behind his father who is trading the bananas to a market distributor. The boy and the bananas have traveled kilometers of rushing rivers and several mountains. (UN4U/Alyssa Erika Louis, May 2012)



Community Emergency Employment Programme - Over 200 workers receive wages and social protection benefits as part of the Community Emergency Employment Programme (CEEP) of the ILO Japan Water and Sanitation Project. Providing decent work is highlighted in CEEP by recognizing the rights of workers, providing minimum wages, extending social protection, ensuring equal opportunity and equal pay for equal work. (ILO / F. Paslangan, Cotabato City, Philippines)

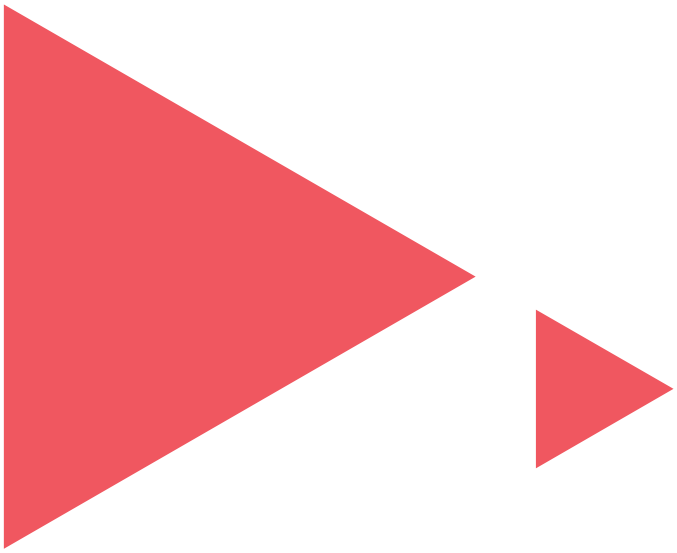
4

The International Labour Organization and decent work

Objectives

At the end of the session, participants should be able to:

1. know the development of the International Labour Organization;
2. explain the role and functions of the ILO;
3. understand what decent work means and its relevance to the dignity of a person;
4. explain the indicators that constitute decent work; and
5. understand the relationship between decent work and the Sustainable Development Goals (SDGs).



▶ Workshop

Structured learning exercises to be provided by the facilitators

▶ Group Size

Part 1: Individually

Part 2: 3–4 persons per group

Part 3: All participants in plenary

▶ Materials
(for face-to-face workshops/set-ups)

1. LCD projector
2. Computer
3. Sound system for videos

▶ Digital Tools and Platforms
(for face-to-face workshops/set-ups)

1. Virtual workshop house rules
2. Internet access/connectivity provision
3. Laptops or PC desktops or smartphones or tablets
4. Zoom or MS Teams or Webex hosting platform for the conduct of the virtual workshop (with features for breakout rooms or parallel sessions)
5. PowerPoint presentations
6. Jamboards or Miro (for brainstorming sessions or ideas or suggestions)
7. Doodle or Zoom polling (for live polling questions and results)

▶ Recommended Duration

Lecture/Discussion	120 minutes

▶ Description

Using the four As methodology and approaches

▶ Objectives

At the end of the session, the participants shall be able to:

1. Gain understanding on the core values and areas of decent work.
2. Discuss and demonstrate what a decent work is.
3. Qualify and analyse the present situation on the labour and working forces.

Activity

Video presentation (10 minutes).

Guide questions shall be given to the participants and participants will give their analysis of each scenario.

Analysis

Processing of the discussion among the participants and facilitator, deduced from the video scenes.

Abstraction

Lecture discussion on human rights, dignity, and decent work.

The session aims to help participants learn more about the International Labour Organization and recognize the relevance of decent work in achieving equitable and sustainable development, which is necessary to reduce poverty.

This session will discuss the creation of the International Labour Organization, explore why the ILO was established and look into the principles of its establishment.

It will also discuss the policy concerns that are stressed in the ILO Constitution and the rationale for such. It will further delve into how the ILO is governed, particularly the importance and notion of tripartism.

It will look into how the ILO does its work, particularly through standard-setting and technical assistance.

The session will discuss the core area of decent work and its relevance and relation to the pursuit of a person's dignity. It will further give an overview and context of the state of labour and employment in the Philippines in the context of decent work. Furthermore, the session will also discuss key indicators as to determine what constitutes decent work and how it is actually measured. As such, it will also look into the Decent Work Agenda.

Finally, the session will relate these to global efforts to improve people's lives through the Sustainable Development Goals.

The session will be led by a resource person.

Key learning points

1. The principles behind the establishment of the ILO.
2. The policy concerns of the ILO.
3. The relevance of tripartism.
4. How the ILO does its work: standard-setting and technical assistance.
5. The main bodies of the ILO.
6. Meaning and importance of decent work.
7. Four pillars of the decent work agenda:
   - (a) employment creation
   - (b) social protection
   - (c) rights at work
   - (d) social dialogue

Lecture notes

The resource person will discuss the following topics relevant to human rights and labour rights. This shall be an interactive discussion.

1. The International Labour Organization. The only tripartite UN agency. Since 1919, the ILO has brought together governments, employers, and workers of 187 Member States, to set labour standards, develop policies, and devise programmes promoting decent work for all women and men.

   The unique tripartite structure of the ILO gives an equal voice to workers, employers, and governments to ensure that the views of the social partners are closely reflected in labour standards and in shaping policies and programmes.

   The main aims of the ILO are to promote rights at work, encourage decent employment opportunities, enhance social protection, and strengthen dialogue on work-related issues.[14]

2. The ILO accomplishes its work through three main bodies which comprise governments, employers, and workers representatives:

   (a) The International Labour Conference sets the international labour standards and the broad policies of the ILO. It meets annually in Geneva. Often called an international parliament of labour, the Conference is also a forum where key social and labour questions are discussed.

   (b) The Governing Body is the executive council of the ILO. It meets three times a year in Geneva. It takes decisions on ILO policy and establishes the programme and the budget, which it then submits to the Conference for adoption.

   (c) The International Labour Office is the permanent secretariat of the International Labour Organization. It is the focal point for the ILO's overall activities, which it prepares under the scrutiny of the Governing Body and under the leadership of the Director-General.

   The work of the Governing Body and of the Office is aided by tripartite committees covering major industries. It is also supported by Committees of Experts on such matters as vocational training, management development, occupational safety and health, industrial relations, workers' education, and special problems of women and young workers.[15]

3. Five basic principles:

   (a) Lasting peace cannot be achieved unless it is based on social justice, grounded in freedom, dignity, economic security, and equal opportunity.

   (b) Labour should not be regarded merely as a commodity or an article of commerce.

   (c) There should be freedom of association, for both workers and employers, along with freedom of expression, and the right to collective bargaining.

   (d) These principles are fully applicable to all human beings, irrespective of race, creed, or sex.

   (e) Poverty anywhere constitutes a danger to prosperity everywhere, and must be addressed through both national and international action.

14 https://www.ilo.org/global/about-the-ilo/lang--en/index.htm

15 https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/lang--en/index.htm

4. 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. It assists countries through social dialogue and technical assistance to apply the standards.

   The ILO supervises the application of Conventions and Recommendations through two kinds of mechanisms after they are adopted by the Conference and ratified by States.[16]

   (a) The regular system of supervision. Examination of periodic reports submitted by Member States on the measures they have taken to implement the provisions of the ratified Conventions.

   (b) Special procedures. A representations procedure and a complaints procedure of general application, together with a special procedure on freedom of association.

Box 1: The International Labour Organization

Created in 1919 as part of the now defunct League of Nations, and since 1942 a specialized agency of the United Nations, the International Labour Organization (ILO) is the principal authority in the international system on labour and social policy. As solemnly stated in the preamble of its founding charter, the ILO is dedicated to achieving universal and lasting peace based upon social justice through the promotion of internationally recognized labour and human rights.

Further, as the only tripartite UN agency, consisting of global representatives from governments, workers, and employers from its 187 Member States, the ILO sets basic principles, conventions, and protocols on international labour standards, and develops policies and programmes that promote decent work for all women and men. Guided by the decent work agenda, the ILO seeks to help advance the economic and working conditions that give all workers, employers and workers a stake in achieving lasting peace, progress, and prosperity.

Being a tripartite body, the ILO primarily works through social dialogue and tripartism where governments, workers, and employers have equal voices and equal representation. At the global level, the ILO primarily works through its three main bodies, namely:

- The International Labour Conference (ILC), which acts as the international parliament of labour and meets annually in Geneva to set the international labour standards and the broader policies and goals of the ILO, and where tripartite representatives also meet to discuss the pressing global social and labour issues and questions of the day;
- The Governing Body (GB), which acts as the executive council of the ILO and meets three times a year in Geneva also to make decisions on ILO policies, programmes, and budget and submits them to the ILC for adoption;
- The International Labour Office, which acts as the permanent secretariat of the ILO and serves as its focal point for all its activities under the supervision of the GB and of the ILO Director-General.

16 https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/lang--en/index.htm

In terms of governing international labour standards, the ILO oversees a unique international supervisory system that helps ensure and guide its Member States in implementing the conventions they have ratified. Through its various supervisory bodies and monitoring mechanisms, the ILO regularly assesses and reviews the application of ILO conventions and international labour standards by its Member States and assists them wherever there are gaps and problems in application through social dialogue and technical assistance.

Aside from providing guidance and supervision of the international labour standards system and governance, the ILO has also been supporting Member States through development cooperation projects and programmes. These development cooperation projects and programmes aim to help strengthen the technical, organizational, and institutional capacities of ILO constituents to implement social policies that promote sustainable development and ensure that the decent work agenda becomes a reality for all.

At present, the ILO has more than 600 projects and programmes in over 100 countries with support from 120 development partners and donor organizations across the world.

Sources:

About the ILO. https://www.ilo.org/global/about-the-ilo/lang--en/index.htm

Mission and impact of the ILO. https://www.ilo.org/global/about-the-ilo/mission-and-objectives/lang--en/index.htm

How the ILO works. https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/lang--en/index.htm

5. Ten central policy concerns are stressed in the Declaration of Philadelphia annexed to the ILO Constitution:

(a) full employment and the raising of standards of living;

(b) the employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common well-being;

(c) the provision, as a means to the attainment of this end and under adequate guarantees for all concerned of facilities for training, and the transfer of labour, including migration for employment and settlement;

(d) policies in regard to wages and earnings, hours, and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection;

(e) the effective recognition of the right of collective bargaining, the cooperation of management and labour in the continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures;

(f) the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care;

(g) adequate protection for the life and health of workers in all occupations;

(h) provision for child welfare and maternity protection;

(i) the provision of adequate nutrition, housing, and facilities for recreation and culture; and

(j) the assurance of equality of educational and vocational opportunity.

6. The ILO Constitution identifies four means of governance:

   (a) Tripartism. the representatives of workers and employers, enjoying equal status with that of governments, join with them in free discussion and democratic decision on social and economic measures, and collaborate in increasing productive efficiency.

   (b) The adoption of international Conventions and Recommendations to be submitted to national authorities for ratification or other action.

   (c) A system of inspection to ensure enforcement of the laws and regulations concerned.

   (d) Collaboration among international bodies in order to ensure that all economic and financial policies contribute to social progress and well-being.

7. The tripartite International Labour Organization is the international intergovernmental organization mandated to promote social justice, fair working conditions, and related human and labour rights. It aims to ensure that it serves the needs of working women and men by bringing together governments, employers, and workers to set labour standards, develop policies, and devise programmes. The very structure of the ILO, where workers and employers together have an equal voice with governments in its deliberations, shows social dialogue in action. It ensures that the views of the social partners are closely reflected in ILO labour standards, policies, and programmes.

8. The ILO encourages this tripartism within its constituents – employers, workers, and Member States – by promoting a social dialogue between trade unions and employers in formulating, and where appropriate, implementing national policy on social, economic, and many other issues.

9. Decent work is defined by the ILO and endorsed by the international community as productive work for women and men in conditions of freedom, equity, security, and human dignity. Decent work involves opportunities for work that: is productive and delivers a fair income; provides security in the workplace and social protection for workers and their families; offers prospects for personal development and encourages social integration; gives people the freedom to express their concerns, to organize and to participate in decisions that affect their lives; and guarantees equal opportunities and equal treatment for all.

10. Work is:

    (a) central to people's well-being; and

    (b) a source of personal dignity, family stability, peace in the community, democracies that deliver for people.

11. The term "decent work" was first coined in 2000 in order to, among other things, conveniently and effectively encapsulate the ILO mandate of social justice through improving conditions in the world of work.

12. Decent work is indispensable to efforts to reduce poverty and a means for achieving equitable, inclusive and sustainable development in all countries, developing and developed.

13. Four strategic objectives of decent work:

- **(a)** Rights. To promote and realize fundamental principles and rights (international labour standards) at work.
- **(b)** Employment. To create greater opportunities for women and men to secure decent employment and income.
- **(c)** Social protection. To enhance the coverage and effectiveness of social protection for all.
- **(d)** Social dialogue. To strengthen tripartism and social dialogue.

14. Decent work is also incorporated into the Sustainable Development Goals (SDGs) adopted by the UN in 2015 as a foundation of its 2030 Agenda for Sustainable Development, as reflected in Goal 8 on Decent Work and Economic Growth, which is about promoting sustained, inclusive, and sustainable economic growth, full, and productive employment and decent work for all. The other pillars of decent work are also covered by other SDGs.

Application

The participants will examine the indicators posted and discuss among themselves which indicators would most likely be measurable and achievable.

Group outputs shall be presented to a panelist.

Evaluation of learning

Post-test or learning journal

15. ILO means of action

- **(a)** Normative approach:
  - **(i)** adoption of international labour standards
  - **(ii)** promotion of ratification of international labour conventions
  - **(iii)** supervision of the application of international labour standards
- **(b)** Knowledge:
  - **(i)** research, analysis, and publications
  - **(ii)** conferences for information sharing
- **(c)** Advisory services:
  - **(i)** direct technical expert advisory services
  - **(ii)** development cooperation (projects)

16. International labour standards:

Legal instruments (international treaties) that express international consensus on the measures or approach to adopt with regard to specific aspects of the world of work.

(a) Conventions:

(i) if ratified, they are binding under international law

(ii) if not ratified, they influence national law and policy

(b) Recommendations:

(i) same authority as Conventions

(ii) not open to ratification

(iii) provide more detailed implementation guidelines

17. Videos:

(a) ILO at Work: https://www.youtube.com/watch?v=2blRAaLetCE

(b) Decent Work in the SDGs: https://www.youtube.com/watch?v=Du0b1brKBhg

(c) Decent Work: A Better World Starts Here: https://www.youtube.com/watch?v=YDP5j8WT2nc



Regulating for Decent Work Network: Future of Work - General view. 5th Conference of the Regulating for Decent Work Network: Future of Work. Geneva, 3 to 5 of July 2017.



Worker in a small-scale gold mine — Camarines, Norte, Bicol Region. Workers descend to dark and narrow holes in search for gold as their source of income. (ILO/M. Rimando, December 2016)

5

The labour movement: Role of unions

Objectives

At the end of the session, participants should be able to:

1. understand the labour movement's history, goals, and objectives;
2. appreciate the development and role of the international labour movement; and
3. understand the role of labour unions.

▶ Group Size

Part 1: Individually

Part 2: 3–4 persons per group

Part 3: All participants in plenary

▶ Materials
(for face-to-face workshops/set-ups)

1. LCD projector
2. Computer
3. Flip charts
4. Markers
5. Masking tape

▶ Digital Tools and Platforms
(for face-to-face workshops/set-ups)

1. Virtual workshop house rules
2. Internet access/connectivity provision
3. Laptops or PC desktops or smartphones or tablets
4. Zoom or MS Teams or Webex hosting platform for the conduct of the virtual workshop (with features for breakout rooms or parallel sessions)
5. PowerPoint presentations
6. Jamboards or Miro (for brainstorming sessions or ideas or suggestions)
7. Doodle or Zoom polling (for live polling questions and results)

▶ Recommended Duration

Part 1 (Group work discussion and individual reflection)	15 minutes
Part 2 (Buzz groups)	30 minutes
Part 3 (Sharing of buzz group outputs and plenary discussion)	15 minutes
Part 4 (Debriefing, synthesis, and inputs by the resource person)	30 minutes

Activities

This session will consist of three parts and will be undertaken as follows:

Part 1 ▶ Individual reflection

Participants will reflect on the following guide questions:

1. What is the role of trade unions?
2. Are they useful to society? Why or why not?
3. What do you think have been the contribution of trade unions to our society, if any?

Part 2 ▶ Buzz groups

After the individual reflection, the participants shall form groups of 3–4 persons. A rapporteur per group shall be identified. The participants shall share their answers in the groups and discuss their views on trade unions and how they have affected society.

Part 3 ▶ Sharing, discussion, debriefing, synthesis, and inputs

The rapporteur of each group shall present the outputs before the plenary. The resource person will synthesize the responses.

Key learnings points

1. The historical approach of joining unions is a political right.
2. The freedom to associate includes both the private and public sectors.
3. Role of trade unions.
4. Relevance of trade unions.

Lecture notes

1. Unions are permanent expressions of workers solidarity. These are organizations run by the workers to fight for their collective rights and interests.

2. **Unions in the Philippines can be classified into two types by its formal operations as: *PUBLIC* and *PRIVATE*.**

   (a) Public sector unions or public employees organization refers to any organization, union, or association of employees in the agencies of government which exist in whole or in part for the purpose of collective negotiations or mutual aid, interest, cooperation and rights protection.

   (b) Private sector unions or labour organization refers to any union or association of employees in the private sector which exist in whole or in part for the purpose of collective bargaining or mutual aid, interest, cooperation, rights protection, or other lawful purposes.

   Labour organizations are classified into two sectors: *FORMAL* and *INFORMAL*.

   (a) Formal sector refers to organizations with employee–employer relationship. Formal sector-based trade unions can be composed of Chartered Local, Affiliate, and Independent Unions.

   (b) Informal sector refers to organizations with no definite employer or no formal employee-employer relationship.[17] Nonetheless, workers in the informal sector can also have their own organizations, such as in the case of domestic workers or migrant workers who form their own unions.

17 https://blr.dole.gov.ph/wp-content/uploads/2017/10/unioncbasandrwasregistration.pdf

3. A free labour movement refers to any labour union, federation, confederation, or organization that workers are able to freely establish, join, and associate with based on their own choosing, without need for any prior authorization, and is subject to its own organizational rules, constitution, and by-laws that were set by members and officers themselves. Moreover, an independent labour union or workers' organization is one whose representatives and officials are freely elected by the members themselves and that such right should not be subject to any restriction or interference from public authorities.

4. Core principles and rights of trade unions and workers' organizations:
   - **(a)** Freedom of association
   - **(b)** Protection of the right to self-organize
   - **(c)** Principle of non-interference
   - **(d)** Principle of non-discrimination against union members
   - **(e)** Right to freely establish, form, and join unions of the workers' own choosing for their own mutual, collective benefit
   - **(f)** Right to draw up their own constitutions, by-laws, and organizational rules
   - **(g)** Right to organize their own administration and activities and formulate their own programmes
   - **(h)** Right to elect their own representatives, leaders, and officers
   - **(i)** Right to establish and join federations and confederations and the right to also affiliate with any international organization
   - **(j)** Right to collectively bargain and negotiate with employers

5. Objectives of unionism:
   - **(a)** Promote and protect workers rights
   - **(b)** Collectively bargain and negotiate with employers
   - **(c)** Ensure better employment terms and working conditions
   - **(d)** Provide mutual aid and solidarity to workers
   - **(e)** Express workers' concerns and grievances
   - **(f)** Cultivate industrial democracy

6. Role of labour unions:
   - **(a)** Voice of workers and employees in firms and enterprises
   - **(b)** Advocate for equal opportunities, non-discrimination, better wages, benefits, and working conditions
   - **(c)** Guardian of workers rights, privileges, and responsibilities in the workplace
   - **(d)** Representative of workers in cases of collective bargaining negotiations, grievance handling, and dispute settlements
   - **(e)** Advocate and represent workers' interests and perspectives in policies and legislation

7. Examples of union programmes:
   - (a) Trade union-organizing
   - (b) Union membership recruitment, rights, and obligations, training and welfare programmes
   - (c) Conduct of free and fair union elections
   - (d) Protection of workers' rights
   - (e) Labour rights education and promotion (including non-discrimination, gender sensitivity, sexual diversity, multiculturalism in the workplace)
   - (f) Legal defense and assistance to workers
   - (g) Collective bargaining negotiations and agreements
   - (h) Labour-management relations and workplace cooperation
   - (i) Political, policy, and legislative advocacy, including collective or concerted actions

8. Forms of unions:
   - (a) Local union. An enterprise-based or community-based union; independently-registered
   - (b) Alliance. composed of several local unions working for mutual support (industry-based, area-based, owner-based, issue-based)
   - (c) Federation and national union:
     - (i) General federation – composed of at least ten unions with collective bargaining agreements (CBAs)
     - (ii) National union – a federation working along a particular industry or sector
   - (d) Labour centre or confederation. Composed of different forms of unions
   - (e) Global union federation. Composed of unions around the world operating in a specific sector or industry (although national federations need not necessarily be part of it)
   - (f) Global union. A global formation of national centres, such as the International Trade Union Confederation or ITUC (membership in ITUC, however, is not mandatory).

9. Challenges to the labour movement:
   - (a) Prevention of workers' exercise of the freedom of association and their right to organize
   - (b) Barriers to organizing and other union activities
   - (c) Undue interference on workers right to collectively bargain and the protection of their right to self-organize
   - (d) Restrictions on workers right to strike and peaceably assemble
   - (e) Attempts to breach and violate existing collective bargaining agreements or derail ongoing collective bargaining negotiations
   - (f) Workplace discrimination, harassment, and dismissal of workers due to their union membership or affiliation
   - (g) Withholding of wages, benefits, and equal opportunities from union members and officers
   - (h) Non-regularization of probationary workers as a result of their being union members or mere expressions of interest to form or join a union
   - (i) Unwarranted management influence on union elections and certification
   - (j) Climate of impunity, violence, threats, and intimidations against workers and trade unionist



Handicraft factory in Laguna, Philippines — Paete, Laguna. Worker at the Angels Factory. (ILO/A. Ganal, November 2007)

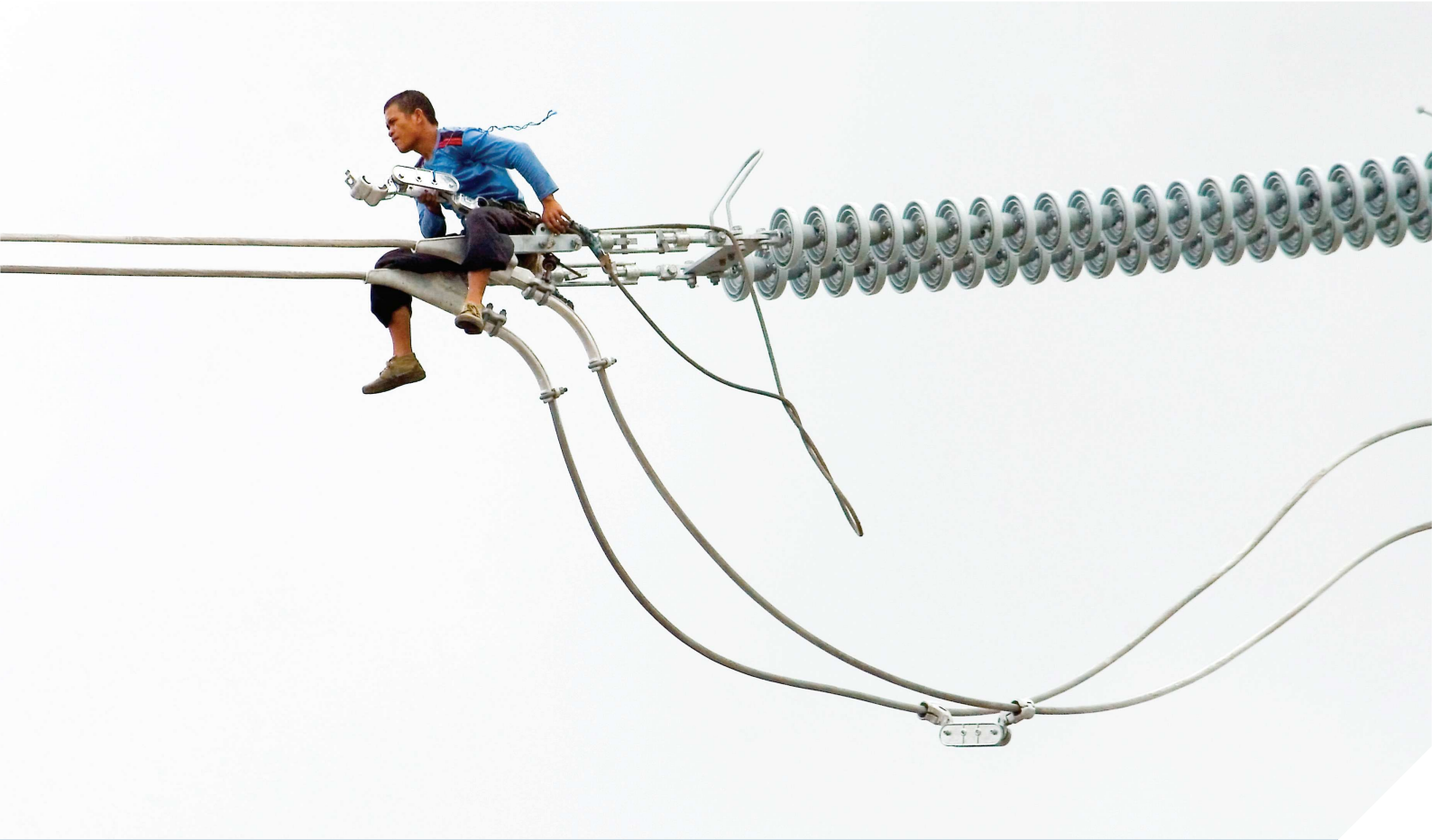
6

International Labour Standards

Objectives

At the end of the session, participants should be able to:

1. understand what international labour standards are;
2. understand the relationship between international labour standards; and
3. explain the relevance of the ILO Fundamental Conventions.



High wire work — Cavite. A walker installs a new electric cable atop a pylon. (ILO/B. Go, June 2011)

▶ Group Size

All participants in plenary

▶ Materials
(for face-to-face workshops/set-ups)

1. LCD projector
2. Computer
3. Sound system for videos

▶ Recommended Duration

Lecture/Discussion	60 minutes

▶ Digital Tools and Platforms
(for face-to-face workshops/set-ups)

1. Virtual workshop house rules
2. Internet access/connectivity provision
3. Laptops or PC desktops or smartphones or tablets
4. Zoom or MS Teams or Webex hosting platform for the conduct of the virtual workshop (with features for breakout rooms or parallel sessions)
5. PowerPoint presentations
6. Jamboards or Miro (for brainstorming sessions or ideas or suggestions)
7. Doodle or Zoom polling (for live polling questions and results)

Activities

This session will discuss the role and relevance of international labour standards. It will introduce the topics covered by the fundamental Conventions of the ILO and discuss why they are considered as such. The session will also give an overview of how international labour standards are created, used, applied, and promoted.

Key learning points

1. The role of international labour standards.
2. The relevance of international labour standards.
3. The ILO fundamental Conventions.
4. How international labour standards are created.
5. How international labour standards are used.
6. How international labour standards are applied and promoted.

Lecture notes

1. Role of international labour standards. International labour standards are international Conventions and Recommendations drawn up by representatives of governments, employers, and workers from around the world which cover all matters related to work to ensure that economic progress go hand in hand with social justice, prosperity, and peace for all.

2. International labour standards allow:
   - **(a)** A path to decent work
   - **(b)** An international legal framework for fair and stable globalization
   - **(c)** A level playing field in the global economy
   - **(d)** A means of improving economic performance since compliance often accompanies improvements in productivity and economic performance
   - **(e)** A safety net in times of economic crisis – balances macroeconomic and employments goals, while at the same time taking social impacts into account
   - **(f)** A strategy for reducing poverty

3. ILO Fundamental Conventions. Cover 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. The eight fundamental Conventions are:
   - **(a)** Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
   - **(b)** Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
   - **(c)** Forced Labour Convention, 1930 (No. 29)
   - **(d)** Abolition of Forced Labour Convention, 1957 (No. 105)
   - **(e)** Minimum Age Convention, 1973 (No. 138)
   - **(f)** Worst Forms of Child Labour Convention, 1999 (No. 182)
   - **(g)** Equal Remuneration Convention, 1951 (No. 100)
   - **(h)** Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

4. 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 ILO Declaration on Social Justice for a Fair Globalization underlined the significance of these Conventions from a governance viewpoint. The four governance Conventions are:

   (a) Labour Inspection Convention, 1947 (No. 81)

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

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

   (d) Employment Policy Convention, 1964 (No. 122)

5. 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, ensuring safe working conditions for agricultural workers, or ensuring equal rights and fair employment benefits for lesbian, gay, bisexual, transgender, queer, intersex, asexual plus (LGBTQIA+) workers.[18] Developing international labour standards at the ILO is a unique legislative process involving representatives of governments, workers, and employers from around the world. First, 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. 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.[19]

   Standards are adopted by a two-thirds majority vote of the ILO's constituents and are therefore an expression of universally acknowledged principles. They also reflect the countries' diverse cultural and historical backgrounds, legal systems, and levels of economic development. Most standards have been formulated to be 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 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.[20]

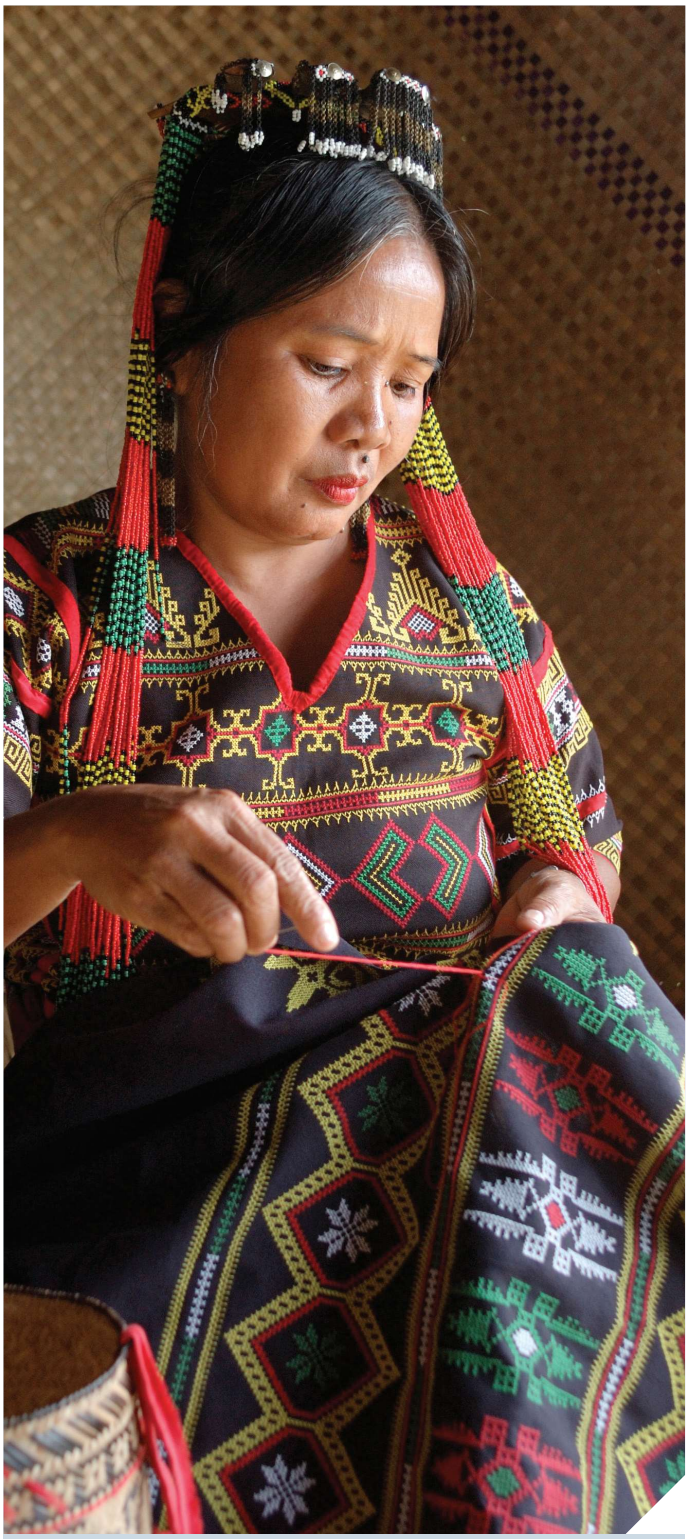
18 Source: Extracted from ILO website: https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/ilo-director-general/statements-and-speeches/WCMS_368652/lang--en/index.htm

19 Source: Extracted from ILO website: https://www.ilo.org/global/standards/introduction-to-international-labour-standards/international-labour-standards-creation/lang--en/index.htm

20 Source: Extracted from ILO website: https://www.ilo.org/global/standards/introduction-to-international-labour-standards/international-labour-standards-creation/lang--en/index.htm

6. How are international labour standards used?
   - (a) models and targets for labour law
   - (b) sources on international law applied at the national level
   - (c) guidelines for social policy

7. Subjects covered by international labour standards, include but are not limited to the following:
   - (a) freedom of association
   - (b) collective bargaining
   - (c) forced labour
   - (d) child labour
   - (e) equality of opportunity and treatment
   - (f) tripartite consultation
   - (g) labour administration
   - (h) labour inspection
   - (i) employment policy
   - (j) employment promotion
   - (k) vocational guidance and training
   - (l) employment security
   - (m) social policy
   - (n) wages
   - (o) working time
   - (p) occupational safety and health
   - (q) social security
   - (r) maternity protection
   - (s) domestic workers
   - (t) migrant workers
   - (u) seafarers
   - (v) fishers
   - (w) dock workers
   - (x) indigenous and tribal peoples
   - (y) other specific categories of workers (sectors or groups of workers, such as persons with disabilities, persons living with HIV/AIDS, LGBTQIA+ persons)



Embroider — Lake Sebu, South Cotabato. Master embroider, Elma Segundo, 44 years old. (ILO/A. Barredo, August 2009)

8. Applying and promoting international labour standards

(a) 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 three years, governments must submit reports detailing the steps they have taken in law and practice to apply any of the eight fundamental and four governance 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.[21]

(b) 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.[22]

(c) Complaints[23]

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 investigating the complaint, ascertaining all the facts of the case, and recommending measures 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.

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

21 Source: ILO, "Rules of the Game", page 106. (https://www.ilo.org/global/standards/information-resources-and-publications/publications/WCMS_672549/lang--en/index.htm)

22 Source: ILO, "Rules of the Game", page 110. (https://www.ilo.org/global/standards/information-resources-and-publications/publications/WCMS_672549/lang--en/index.htm)

23 Source: ILO, "Rules of the Game", page 112. (https://www.ilo.org/global/standards/information-resources-and-publications/publications/WCMS_672549/lang--en/index.htm)

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."

(d) Committee on Freedom of Association[24]

Freedom of association and collective bargaining are among the founding principles of the ILO. Soon after the adoption of Convention Nos 87 and 98 on freedom of association and collective bargaining, the ILO concluded that the principle of freedom of association needed a further supervisory procedure to ensure compliance 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) to examine 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.

(e) General surveys based on country reports under article 19 of the ILO Constitution

Applying Conventions when countries have not ratified them – 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 bases 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.[25] The most recent General Survey on Freedom of Association and Collective Bargaining was conducted in 1994.[26]

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24 Source: ILO, "Rules of the Game", page 114.

25 General Surveys are available in the ILO website: https://www.ilo.org/global/standards/information-resources-and-publications/WCMS_164145/lang--en/index.htm

26 The 1994 General Survey on Freedom of Association and Collective Bargaining (https://www.ilo.org/global/standards/information-resources-and-publications/WCMS_164145/lang--en/index.htm). A General Survey on public sector labour relations and collective bargaining was published in 2013.

(f) Technical assistance and training

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 to align them 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.

(g) 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 recognized 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 ratified the eight fundamental Conventions which embody these principles. In parallel, the ILO has an obligation to provide assistance to achieve these objectives.[27]

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. The Director-General also prepares a Global Report on one of the four sets of principles and rights each year to analyse 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 then 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 was not to create a parallel set of standards; rather, it was to assist Member States in fully respecting 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.[28]

(h) Declaration on Social Justice for a Fair Globalization

Amid widespread uncertainty in the world of work, ranging from financial turmoil and economic downturn to growing unemployment, informality, and insufficient social protection, the governments, workers, and employers of the ILO adopted in June 2008 a landmark Declaration

27 ILO, Rules of the Game, page 120.

28 Ibid.

designed to strengthen the ILO's capacity to promote its Decent Work Agenda and forge an effective response to the growing challenges of globalization. This was the third major statement of principles and policies adopted by the International Labour Conference since the ILO's Constitution of 1919. It built on the Declaration of Philadelphia of 1944 and the Declaration on Fundamental Principles and Rights at Work of 1998. The 2008 Declaration expresses the contemporary vision of the ILO's mandate in the era of globalization.

The Declaration expresses the universality of the Decent Work Agenda: all Members of the Organization must pursue policies based on the strategic objectives – employment, social protection, social dialogue, and rights at work. At the same time, it stresses a holistic and integrated approach by recognizing that these objectives are "inseparable, interrelated, and mutually supportive", ensuring the role of international labour standards as a useful means of achieving all of them.

The Declaration also stresses the need to promote the ILO's standard setting policy as a cornerstone of ILO activities by enhancing its relevance to the world of work, as well as ensuring the role of standards as a useful means of achieving the constitutional objectives of the Organization. The Declaration specifies that how Member States achieve the ILO's strategic objectives is a question that must be determined by each Member subject to its existing international obligations and the fundamental principles and rights at work with due regard, among others, to the principles and provisions of international labour standards. The Declaration includes a follow-up mechanism to ensure the means by which the Organization will assist the Members in their efforts to promote the Decent Work Agenda, including a review of the ILO's institutional practices and governance; regular discussion by the International Labour Conference responding to realities and needs in Member States and assessing the results of ILO activities; voluntary country reviews, technical assistance, and advisory services; and strengthening research capacities, information collection and sharing.



Safety and health at work — San Fernando, Pampanga. Welders are at increased risks of accidents and injuries. Use of personal protective equipment is important as well as preventive measures to ensure occupational safety and health. (ILO/M. Fossat, October 2015)



Social Security Systems Main Office — Quezon City. Johnny Rozales, a person with disability (PWD), submits his retirement and partial disability claims. (ILO/R. Hamahiga Dela Cruz, March 2011)

7

Freedom of Association and the Right to Collective Bargaining

Objectives

At the end of the session, participants should be able to:

1. understand the role of freedom of association and the right to organize and collective bargaining in the labour movement;
2. understand why freedom of association and collective bargaining are important to the ILO;
3. identify the main international labour standards related to freedom of association and right to collective bargaining; and
4. explain the labour and human rights dimensions of freedom of association and the right to organize and collective bargaining.

▶ Group Size

Part 1: Individually

Part 2: 3–4 persons per group

Part 3: All participants in plenary

▶ Materials
(for face-to-face workshops/set-ups)

1. LCD projector
2. Computer
3. Flip charts
4. Markers
5. Masking tape

▶ Digital Tools and Platforms
(for face-to-face workshops/set-ups)

1. Virtual workshop house rules
2. Internet access/connectivity provision
3. Laptops or PC desktops or smartphones or tablets
4. Zoom or MS Teams or Webex hosting platform for the conduct of the virtual workshop (with features for breakout rooms or parallel sessions)
5. PowerPoint presentations
6. Jamboards or Miro (for brainstorming sessions or ideas or suggestions)
7. Doodle or Zoom polling (for live polling questions and results)

▶ Recommended Duration

Part 1 (Individual reflection)	15 minutes
Part 2 (Buzz groups)	30 minutes
Part 3 (Sharing of buzz group outputs and plenary discussion)	15 minutes
Part 4 (Debriefing, synthesis, and inputs by the resource person)	30 minutes

Activities

This session will consist of three parts and will be undertaken as follows:

Part 1 ▶ Individual reflection

Participants will review the materials:

1. Freedom of Association and Protection of the Right to Organise Convention
2. Right to Organise and Collective Bargaining Convention
3. Guidelines on the Conduct of DOLE, DILG, DND, DOJ, AFP, and PNP Relative to the Exercise of Workers' Rights and Activities

Based on the materials, each participant will review the following case studies.

Case study 3: Complaint against the Government of Country A filed by Vibranium Labour Union (Case studies are based on actual and past cases but have been slightly altered to protect the identity of personalities and organizations).

The case of workers' grievances and labour disputes in Vibranium Corporation

The complainant's allegations

In a communication sent in December 2008, the Vibranium Corp. Workers' Union (VCWU), a member of the National Alliance of Vibranium Industries Workers (NAVIW), alleged that unfair labour practices – including union-busting efforts – were carried out by the management of Vibranium Corporation, and that the government of Country A failed to fulfill its obligations under ILO Convention Nos 87 (Freedom of Association) and 98 (Collective Bargaining).

Vibranium Corporation, which is controlled and owned by the Vibrant family, is a corporate entity based in the national capital of Country A. It is a conglomeration of several interconnected and integrated corporations and subsidiaries, engaged in the harvesting, processing, and production of vibranium products for imports.

According to the complaint, workers in various enterprises of the Vibranium Corps. group of companies began organizing and forming a union about five years ago to address the dire working conditions, poor occupational safety and health standards, inadequate wages, unpaid/unremitted social security contributions, and abusive use of short-term and precarious employment contracts by the company among others.

As such, the workers held a founding general assembly meeting on 10 January 2006, elected their union officials and leadership, and formally adopted their union's by-laws and statutes. Fifteen days later. On 25 January 2006, the VCWU was formally registered as a duly and formally organized union at the Ministry of Workers (MOW). The VCWU was also formally and officially associated with the NAVIW as an affiliate member union.

In their complaint, the VCWU alleged that since their founding, the management of Vibranium Corporation has responded negatively and aggressively to their union by immediately suspending and dismissing their active officials and members. The company also allegedly further intensified their union-busting actions by summarily firing 250 workers in the company who were known or suspected union members on 1 April 2006 under the pretext of company restructuring.

As a response, the VCWU filed a formal complaint alleging unfair labour practices, union-busting, and illegal dismissal and mass terminations without just cause with the MOW on 18 April 2006 . Hearings were then held by the MOW from May to July 2006. However, the three-month hearings failed to resolve the dispute, notwithstanding the union's ability to present strong evidence of bad faith exhibited by the company (which only attended one of the five hearings conducted by the MOW). More so, during one of the hearings, the representatives of Vibranium Corp reiterated that they were opposed to the reinstatement of the dismissed union officials and members and noted that all they could do is to offer them separation pay with back benefits so as not to prolong the dispute anymore. During the final hearing on 31 July 2006, the MOW officials tasked to hear the complaint sided with the company. They said that the union officials should just renounce their rights and accept the company's counter-offer of separation pay with back benefits.

Unsatisfied with the MOW's decision, the union indicated in the complaint they filed with the ILO that the MOW failed to fulfil its mandate to not only promote conciliation among disputing parties but also to secure fair, just, and speedy resolution of labour cases and disputes by totally siding with the management and not look into the merits of the complaint they filed.

As a result, on 12 August 2006, the union members voted to hold strikes to protest the MOW decision and demand their reinstatement and better working conditions in Vibranium Corp. Three days later, on 15 August, MOW officials, including a Senior Government Official of Country, urgently met with the VCWU leaders and representatives and pleaded with them to not immediately proceed with the legally-authorized strike and promised them that the government will encourage renegotiation and dialogue towards their reinstatement and resolution of other issues.

On 20 August 2006, the MOW issued a status quo order directing and enjoining the VCWU from taking any action. However, the union decided to commence its strike on 30 August when it held peaceful pickets outside the premises of the head office of Vibranium Corp.

From 4 to 5 September 2006, the MOW held another series of meetings and dialogues between the union and the company management, which all failed to achieve results due to the company's refusal to meet even halfway the demand of the union. On 12 September, MOW officials met again with the VCWU ahead of another tripartite meeting and promised to help them in their demand to reinstate their dismissed union members. The tripartite meeting failed again, as the company insisted the complainants to accept their offer of separation pay or otherwise face criminal charges. Three days later, on 15 September, the management of Vibranium Corp. instead filed a legal petition to revoke the VCWU's union registration and to declare their strike as illegal.

Dismayed at the turn of events, the VCWU continued their pickets. On 23 September, the MOW issued a temporary restraining order (TRO) requesting the union to stop its strike. To make matters worse, when the union still persisted, an MOW representative came to the picket line, accompanied by 25 police escorts, and warned the strikers that they would be arrested if they failed to end their picket. On 25 September, following the picket line incident, the management served termination notices to about 50 workers who joined the strike. The workers were terminated as a consequence of exercising their right to join a union and participate in a strike.

In response to the management's action against the striking workers, the VCWU lodged another complaint. The MOW regional office where the complaint was filed, held hearings from 29 to 30 September. However, during the hearings, Vibranium Corp. took an even harder line and threatened legal and financial claims against the unions in relation to the striking workers dismissed, who they said participated in an illegal strike in the light of the MOW's TRO for them to desist from continuing the strike.

The MOW regional office sided with the company and revoked the union's legal registration on 5 October 2006. The regional office cited that the union violated the MOW's TRO strike issuance. However, the MOW central office overruled the decision of its regional office and rejected the grounds cited for the revocation of the union's registration. In its 16 November 2006 ruling, the MOW clearly stated that the revocation of the VCWU's legal status and registration was entirely without foundation in national law and internationally-established principles of freedom of association.

Notwithstanding the favourable ruling they received from the MOW regarding the unfounded revocation of their registration status, the VCWU still complained that no meaningful and substantive action has been taken by the Country A Government.

They said that their original demands to reinstate their dismissed workers and union members, secure effective recognition of their union, and encourage collective bargaining negotiations and social dialogue have yet to be met. Even though the request for continued mediation is still pending, the VCWU pointed out that the MOW has been consistently remiss in exercising its legal authority and mandate to resolve their complaint in line with ILO C.87 and C.98.

As a result of the seeming stalling of their complaint at the MOW, the VCWU has also sought the help of the national parliament of Country A. During a special inquiry in February 2008, the parliamentary investigating committee noted that there has been a history of government inaction and passivity in the face of mounting complaints and allegations of abusive practices and workers' rights by employers in several industries across Country A, especially in the case of the Vibranium Corp. workers that has since become the best-known notorious case of workers' rights violations and industrial dispute in the country.

In their closing complaint statement, the VCWU said that although the government conducted hearings and facilitated meetings, MOW officials and representatives failed to ensure that these dialogues would bear fruitful results and outcomes. They also said that due to the passivity, inaction and inability of the MOW to reinforce its mandate, the conciliation meetings and tripartite dialogues have instead become avenues for the management of Vibranium Corp. to flex its corporate muscles and powers by threatening, pressuring, and intimidating union members and workers during these meetings while the MOW officials and representatives stood idly and did not even raise a hand to tell the management that they are exceeding their role.

The VCWU also pointed out that aside from mere passivity, the MOW officials showed their partiality to the management in concert with the national police when they attempted to halt the strike being staged by workers which intimidated many of their union members. Furthermore, up to this day, no remedy has been given to their union members who were summarily dismissed for joining their strike and are still seeking reinstatement. Moreover, the MOW regional office's initial revocation of VCWU's union registration was also presented as proof of anti-union bias. Although it was later overruled by the MOW Central Office, the VCWU pointed out that this made life for their union members very difficult for more than a month. Even to this day, many of their union members are still being harassed, threatened with dismissal, and are being denied their basic rights and treated unfairly.

The Government's reply

For its part, the Government of Country A, in a communication dated 11 May 2008, confirmed that VCWU is indeed a duly-registered union with the MOW, which has about 500 regular rank-and-file employees at the Vibranium Corp., with a total of 1,800 workers engaged in the processing of vibranium products for import.

The Country A Government also said that after it filed its registration application on 25 January 2006, the VCWU requested the management to recognize it voluntarily as the sole and exclusive bargaining agent on behalf of the workers in the company. In response, the management asked for the list of the newly-founded union's officials and members but the VCWU

provided only the names of its officers. As such, the union was not voluntarily recognized.

Hence, when the management of Vibranium Corp. filed a petition to cancel the union registration of VCWU, they grounded their complaint of misrepresentation, false statement, and fraud based on this fact. They said that the VCWU misrepresented itself as a labour organization representing the rank-and-file employees of the company. They added that the VCWU could not represent all the workers of Vibranium Corp., which is a conglomeration of several companies, affiliates, and subsidiaries, since most of the members of VCWU belong to a subsidiary company of Vibranium Corp. that is mainly engaged in the processing of vibranium products for imports while employees belonging to other companies under Vibranium Corp. are engaged in other activities, such as real estate, construction, transportation, and logistics. In this regard, they argued that the name of the union refers to a non-juridical entity.

On 5 October 2006, the MOW Regional Office issued an order granting the petition of Vibranium Corp. to cancel the registration of VCWU. However, on 16 November 2016, the MOW Central Office reversed the decision of its regional office and restored the registration status of VCWU. The MOW Central Office's decision said that the adoption of a union name bearing a non-juridical entity per se does not constitute a deliberate misrepresentation and therefore, not a ground for cancellation of registration, as provided by Country A's law governing the recognition of trade unions. It was also stressed that any mistake in the designation or appellation of the company or employer unit does not cost the labour organization its union registration, especially if the mistake is unintentional or in good faith. As such, the status of VCWU as a legitimate labour union was upheld by the MOW.

As for the conciliation and mediation proceedings, the Country A Government stated that the termination of 250 workers in Vibranium Corp. that took place on 1 April 2006 was reported to the MOW. Although the company reasoned out that the terminations were made as part of its organizational restructuring, the VCWU alleged union-busting, since most of the 250 workers fired were their newly-fledged members. In August 2006, VCWU officials and members called for a strike to protest the mass dismissals that they perceived as union harassment and intimidation. During the same month, the MOW appealed to the union to hold off their strike and engage in conciliation and mediation hearings and dialogues with the management for a possible settlement. While the union demanded voluntary recognition and reinstatement of their dismissed members, the management questioned their legitimacy, the validity of their strike, and insisted on the union to just accept their offer of separation pay.

Additionally, the Country A Government's formal reply also noted that the workers also came into conflict with the regional government of the national capital when picketing members built a makeshift comfort room just a few meters away from the main road and entrance to Vibranium Corporation. Accordingly, the construction of the makeshift toilet was a violation of the regional ordinances on protecting the right of way. As such, the Office of the Regional Administrator of the national capital issued an order requesting the workers to demolish the makeshift toilet or otherwise face charges from the regional government. However, the workers countered that the makeshift toilet was constructed on the side of the main road and that whenever cars pass through, they immediately move to the sidewalks so as not to cause traffic. Due to strong protests from the workers alleging undue interference, the Regional Government of the National Capital issued

a clarification that the order was not meant to prevent workers from picketing but only to ensure that roads would not be blocked and the right of way was still respected.

Meanwhile, the management's complaint against the union for conducting an illegal strike is still under compulsory arbitration and is still pending for resolution. As per information, the MOW is soon to release a decision on the case.

Although the VCWU said that there has been no significant progress in their case, the Country A Government indicated in its formal reply that there has been a recent dialogue between VCWU and the Vibranium Corp management last 14 April 2008.

During the said dialogue, the management proposed as a counter-offer to reinstate all their 15 high-ranking union officials who were among the 250 workers and union members dismissed in April 2006, with a two-year length of service credit and recognition.

In response, the union then said they will consider submitting a response after conferring with their lawyers. However, after careful deliberation, the union informed the MOW that they could not accept the proposal of the management and reiterated their original demand to recognize their union voluntarily and to reinstate all the dismissed workers, leading to the current deadlock between management and labour.

Further, the Country A Government also reported that the MOW has been providing assistance to all the workers who have been displaced as a result of this dispute, including their families, throughout the case proceedings and hearings.

For example, it said that in close coordination with the Regional Government of the National Capital, the MOW provided cash assistance and emergency employment to about 50 of the dismissed workers for ten working days in October 2006.

Furthermore, while the case was ongoing, the MOW assisted another batch of about 50 workers and their families in December 2006 during the Christmas season. A total of USD100,000 was released to the worker-beneficiaries during the October-December 2006 period. From January to March 2007, the MOW conducted skills retraining programmes for another 50 dismissed workers from Vibranium Corp. For the conduct of these trainings, the MOW spent about USD50,000.

Additionally, from March to April 2007, another batch of 50 workers were organized and granted USD50,000 by the MOW for a livelihood project that produced about 500 pieces of personnel protective equipment (PPE) for workers in the vibranium industry in Country A. From April to June 2007, the last batch of 50 affected workers were given livelihood kits and goods amounting to USD1,000 each, a total of USD50,000, as seed capital to start over again.

More generally, the Country A Government's reply also reported that in an effort to improve the working conditions and freedom of association in the whole vibranium industry in the country, the MOW issued Ministry Directive (MD) No. 51, s. 2008 outlining new rules and regulations governing labour relations and working conditions in commercial vibranium mining and processing activities. The directive was formulated in cooperation with the tripartite partners and took effect on 5 March 2008.

Among the key features of the new directive was the explicit instruction that employment agreements or contracts should be written and presented in a language or manner understandable by the workers.

Likewise, it also made clear that if an indigenous person is to be engaged, a free, prior, and informed consent must be secured not just with the individual, but also with the community to which s/he belongs.

The new directive also strongly prohibited the involvement of child labour in any vibranium mining and processing activity.



Social Security Systems Main Office — Quezon City. Paterno Durias, a person with disability (PWD), is accompanied by a relative in applying for an SSS Identification Card. (ILO/R. Hamahiga Dela Cruz, March 2011)

If before, 15 year-old boys and girls could be engaged due to a previous loophole, the new directive has explicitly set the minimum age of employment in the vibranium industry at 18 years old.

Moreover, MD No. 51 has now mandated the regular conduct of gender sensitivity, sexual diversity, and occupational safety and health (OSH) trainings and the provision of health services support to workers suffering unintended accidents, including at least 50 per cent health coverage.

MD No. 51 also mandates the creation of grievance machineries and mechanisms in all vibranium companies while also encouraging companies to respect workers' right to form unions and associations. The MOW also made it clear that while grievance machineries are now required, this should not preclude or prevent workers from forming or joining unions.

Finally, in their formal reply to the ILO, the Country A Government gave assurances that while they are conducting these programmes assisting the dismissed workers, they are still looking into the case filed by the VCWU and promised a fair, just, speedy, and final resolution of the case.

Case study 3 guide questions: To guide participants in analysing the case study and assess their understanding of elements of freedom of association and right to collective bargaining, ask the following guide questions:

1. What are the freedom of association and right to collective bargaining issues and concerns based on the facts?
2. What are the factors that contributed to the worsening of the dispute and conflict between workers and management?
3. Identify the actions undertaken by the government which may amount to a violation of the freedom to associate and/or right to bargain collectively.

Case study 4: Teachers' unions protest (Case studies are based on actual and past cases but have been slightly altered to protect the identity of personalities and organizations).

1,000 teachers rally to demand benefits, other labour issues; 500 of them charged and dismissed

Members and supporters of the Educators Forum (EF) and the United Teachers Group (UTG) resolved to hold mass actions, after dialogues with the heads of budget officials and lawmakers were stalled. Among other things, the teachers asked for the immediate payment of due chalk, clothing allowances, 13th month pay, the recall of an order directing the oversizing of classes, and overloading of teachers to cut costs, the hiring of 100,000 new teachers to ease the overload of existing teachers, and other equally important demands.

On 5 June, about 1,000 teachers held a whole day rally at the city hall as a last call for officials to negotiate their demands. When no response came, the leaders began to protest mass actions on 9 October, which meant that some participating teachers did not hold classes on that day. Two representatives of the group were allowed to see the Education Minister who told them that they would lose their jobs for going on illegal and unauthorized mass leave. The representatives were then told to direct protesting teachers to return to work within 24 hours or face dismissal, and were given a memorandum directing education officials to begin dismissal proceedings against those who did not comply and to hire their replacements. Despite this, the mass actions continued, with more teachers joining in the days that followed.

The Education Minister filed administrative complaints against the teachers who had taken part in the mass actions and issued the return-to-work order on assorted charges like grave misconduct, gross neglect of duty, absence without official leave, and so on, and placed them under a 60-day preventive suspension. The leaders were served copies of the charge sheets and given seven days to answer. Respondent teachers were found guilty of the charges. As of 15 November, 500 teachers were dismissed, 15 were suspended for one year; 200 for six months; and the rest were exonerated.

Case study 4 guide questions: To guide participants in analysing the case study and assess their understanding of elements of freedom of association and right to collective bargaining, ask the following guide questions:

1. What are the freedom of association and right to collective bargaining issues and concerns based on the facts?
2. Does it matter whether the employees concerned are from the private or public sector? Why or why not?
3. Identify the actions which could be undertaken by the government which may amount to a violation of the freedom to associate and/or right to bargain collectively.

Part 2 ▶ Buzz groups

After the individual reflection, the participants shall form groups of 3–4 persons. A rapporteur per group shall be identified. The participants shall share their answers in the groups.

Part 3 ▶ Sharing, discussion, debriefing, synthesis, and inputs

The rapporteur of each group shall present the outputs before the plenary. The resource person will synthesize the responses.

Activity

This session will identify issues related to freedom of association and the right to collectively bargain given the case study. The participants, with the help of the facilitator/resource person, shall relate this to the ILO Conventions applicable and discern why these principles are considered as fundamental in the operations of the ILO, and how these labour rights are considered as human rights.

Key learning points

1. Principle of freedom of association and the right to collectively bargain.
2. Why freedom of association and the right to collectively bargain are essential to the operation of the ILO.
3. Essence of the Freedom of Association and Protection of the Right to Organise Convention.
4. Essence of the Right to Organise and Collective Bargaining Convention.

Lecture notes

1. 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).

2. The principle of freedom of association is essential to the operation of the ILO. A representative voice of employers and workers simply does not exist where they do not have the right to form organizations of their own choosing. If organizations do exist, then in the absence of full freedom of association, such organizations are not independent of each other or of government. Thus, on becoming a member of the ILO and accepting the ILO's constitution and tripartite composition, the Member State must respect the principle of freedom of association. The ultimate responsibility for ensuring respect for the principles of freedom of association lies with the government.

3. The tripartite Committee on Freedom of Association (CFA) was set up by the ILO in 1951 and exists today as a primary body engaged in tripartite supervision of the application of the ILO's freedom of association principles.

4. In 1998, the International Labour Conference adopted a declaration which made clear that "all [ILO] Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization, to respect, to promote, and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions". Those fundamental rights include freedom of association and the effective recognition of the right to collective bargaining.

5. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). This fundamental Convention sets forth the right of 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.[29]

Highlights include:

- **(a)** right to set up and join organizations (Article 2) (absence of distinction among those entitled to the right to association, without prior authorization, freedom of choice with regard to membership)
- **(b)** rights of employers' and workers' organization to decide their internal matters (Article 3)
- **(c)** right to form federations and confederations (Articles 5, 6)
- **(d)** right to affiliate with international organizations of employers and workers (Article 5)
- **(e)** no dissolution or suspension by administrative measures (Article 4)

6. 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 and obliges its promotion.[30]

Highlights include:

- **(a)** protection of workers against acts of anti-union discrimination from employers
- **(b)** protection of workers' and employers' organizations against acts of interference by each other
- **(c)** promotion of collective bargaining

29 ILO website: https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/freedom-of-association/lang--en/index.htm

30 Ibid.

7. ILO Convention Nos 87 and 98 are "fundamental" insofar as the principles they contain are the subject of the ILO's 1998 Declaration on Fundamental Principles and Rights at Work. Thus, all Member States of the ILO are bound to respect those principles, and countries that have ratified these Conventions – like the Philippines – are obliged under international law to apply their provisions in domestic law and practice.

8. Civil liberties essential to the normal exercise of trade union rights:

(a) the right to life and personal safety

(b) the right to freedom and security of person from arbitrary arrest and detention

(c) freedom of opinion and expression

(d) freedom of assembly (before or at the time of meetings)

(e) the right to a fair trial by an independent and impartial tribunal

(f) the right to protection of the property of trade union organization

9. Universal Declaration of Human Rights

(a) Article 20

(i) Everyone has the right to freedom of peaceful assembly and association.

(ii) No one may be compelled to belong to an association.

(b) Article 23

(i) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work, and to protection against unemployment.

(ii) Everyone, without any discrimination, has the right to equal pay for equal work.

(iii) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(iv) Everyone has the right to form and to join trade unions for the protection of his interests.

(c) Article 24

(i) Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

(d) Article 25

(i) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control.

There is a critically important relationship between the rights of basic civil liberties – the right to free expression, to assemble, to due process of law, to be free to move, and so on – and freedom of association involving the representation of occupational and economic interests. The 2012 Guidelines on Workers' Rights recognize this explicitly as a matter of general policy.

10. International Covenant on Economic, Social and Cultural Rights

Article 8, paragraph 1 of the Covenant says, "The States Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others.

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade union organizations.

(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others.

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

11. Obligations under ILO principles and standards on freedom of association

The ultimate responsibility for ensuring respect for the principles of freedom of association lies with the government. The police and the military are instrumentalities of the State and thus have a primary responsibility to respect the principles themselves, to protect individuals and groups from their infringement and to fulfil through positive action these rights in practice.

There are two essential contexts for establishing the obligation under ILO principles and standards on freedom of association: In cases of ratification and in cases of non-ratification of the relevant ILO Conventions.

Where a country has ratified the relevant Conventions – as has the Philippines – the State must:

(a) take steps to apply the Conventions both in law and in practice; and

(b) report to the ILO periodically about the steps it is taking to apply the Conventions.

The "respect, protect, and fulfil" paradigm is used to describe from a human rights perspective the duty of the State. This applies also to ratified ILO Conventions.

"International human rights law lays down obligations which States are bound to respect. By becoming parties to international treaties, States assume obligations and duties under international law to respect, to protect, and to fulfil human rights.

(a) The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights.

(b) The obligation to protect requires States to protect individuals and groups against human rights abuses.

(c) The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights.

Through ratification of international human rights treaties, governments undertake to put into place domestic measures and legislation compatible with their treaty obligations and duties. Where domestic legal proceedings fail to address human rights abuses, mechanisms, and procedures for individual complaints or communications are available at the regional and international levels to help ensure that international human rights standards are indeed respected, implemented, and enforced at the local level.

Where an ILO Member State has not ratified the relevant Conventions, it is their obligation to "respect, promote, and realize" the principles concerning the fundamental rights of freedom of association and effective recognition of the right to collective bargaining. This is according to the 1998 Declaration. Since ILO Member States are not obliged to ratify ILO Conventions, and because the principles of freedom of association are critically important, the 1998 Declaration emphasizes that all Member States must respect these principles and, implicitly if they are not fully respected, strive constantly to do so.

In both cases, an ILO Member State is subject to the special supervisory mechanism mentioned above, involving the Committee on Freedom of Association.

12. Workers' rights relative to the exercise of freedom of association shall be respected and protected at all times, and that they include:

(a) the right to establish and join organizations without discrimination to include the right of trade unions/workers' organizations or their leaders or members not to be prejudiced by reason of their actual or potential membership in a political party that is in opposition to a political party in power;

(b) the right to life and personal safety shall include the right of trade unions and workers' associations to carry out their activities in full freedom in accordance with labour and other related laws and to be protected from threats of or actual violence committed by persons or organizations opposed to their trade union activities;

(c) the right to freedom and security from arbitrary arrest and detention shall include the right of persons and properties of trade unions and workers' associations to be secured from unreasonable and unlawful searches and seizures and to due process of law;

(d) the right to freedom of opinion and expression shall include the right of every worker/trade unionist to freely and publicly express his/her personal opinions, orally, or in writing, on matters affecting his/her rights; and

(e) the right to freedom of assembly shall include the right of workers and trade unions to engage in peaceful concerted actions in accordance with law and the international labour standards.

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

Article 1.1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

Article 1.2. Such protection shall apply more particularly in respect of acts calculated to:

(a) make the employment of a worker subject to the condition that s/he shall not join a union or shall relinquish trade union membership;

(b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours, or with the consent of the employer, within working hours.

14. Article 2.1. Workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning, or administration.

Article 2.2. In particular, acts which are designed to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to support workers' organizations by financial, or other means, with the object of placing such organizations under the control of employers or employers' organizations, shall be deemed to constitute acts of interference within the meaning of this Article".

"Acts of interference are deemed to include acts which are designed to promote the establishment of workers' organizations under the domination of an employer or an employers' organization, or to support workers' organizations by financial, or other means, with the object of placing such organizations under the control of employers or employers' organizations".

15. 1987 Philippine Constitution:

(a) Article II, Section 18. The State affirms labour as a primary social economic force. It shall protect the rights of workers and promote their welfare.

(b) Article III, Section 8. The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged.

(c) Article IX-B (2)(5). The right of self-organization shall not be denied to government employees.

(d) Article XIII, Section 3. The State shall afford full protection to labour, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace.

The State shall regulate the relations between workers and employers, recognizing the right of labour to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth.

16. Freedom of association and collective bargaining:

(a) are not just fundamental human right BUT also a development policy

(b) are not just about workers' rights but are also instruments of State policy to achieve objectives of social justice and for promoting sustainable economic growth

Role in economic development. Promotes sharing in growth, improves workers purchasing powers, and thereby widens domestic markets and demand. Putting money in workers pockets helps domestic growth.



Safety and Health in Manufacturing, Calamba Laguna - Workers wear personal protective equipment in manufacturing probiotic health drinks. Manufacturing is a sector with the highest proportion of occupational accidents involving young people. (ILO/M. Fossat, October 2015)

8

Case studies: Human rights challenges for labour

Objectives

At the end of the session, participants should be able to:

1. understand how human rights are violated in the exercise of labour rights;
2. identify when human rights are violated in labour rights; and
3. understand the difference in approach on rights of government employees.

▶ Group Size

Part 1: 3–4 persons per group

Part 2: All participants in plenary

▶ Materials
(for face-to-face workshops/set-ups)

1. LCD projector
2. Computer
3. Flip charts
4. Markers
5. Masking tape

▶ Digital Tools and Platforms
(for face-to-face workshops/set-ups)

1. Virtual workshop house rules
2. Internet access/connectivity provision
3. Laptops or PC desktops or smartphones or tablets
4. Zoom or MS Teams or Webex hosting platform for the conduct of the virtual workshop (with features for breakout rooms or parallel sessions)
5. PowerPoint presentations
6. Jamboards or Miro (for brainstorming sessions or ideas or suggestions)
7. Doodle or Zoom polling (for live polling questions and results)

▶ Recommended Duration

Part 1 (Case study group)	15 minutes
Part 2 (Plenary discussion)	60 minutes
Part 3 (Debriefing, synthesis, and inputs by the resource person)	30 minutes

Activities

This session will consist of three parts and will be undertaken as follows:

Part 1 ▶ Case study groups

The participants shall form groups of 3-4 persons. A rapporteur per group shall be identified.

Part 2 ▶ Sharing and discussion

The participants shall share their case study and analysis with the other groups in plenary.

Part 3 ▶ Debriefing, synthesis, and inputs

The resource person will synthesize.

This session will be an application of skills analysis based on the cases given to the different groups.

Key learning point

1. Skill analysis application to cases.

Based on the materials, each participant will review the following case studies.

Case study 5: Violence against Industrious Corp. workers (Case studies are based on actual and past news articles but have been slightly altered to protect the identity of personalities and organizations).

Violent dispersal of Industrious Corp. workers draws wide condemnation

Groups and individuals were outraged by the violent dispersal of Industrious Corp. workers and their supporters who went on strike due to the clothes manufacturers' refusal to regularize workers on Monday.

According to an alert from rights and labour groups, around 300 Industrious Corp. workers and their supporters were violently dispersed by the company's security personnel and police forces after a vigil was held outside the company's factory in San Pedro.

"Dozens were injured, while many others remain missing," the groups said.

Industrious Corp., however, issued a statement also on Monday, saying violence began around 4:30 p.m. when someone "fired a shot" and "started to hurl rocks" from the side of the 200 workers of Elegant Fashions Inc. on strike with their supporters.

Industrious Corp. added that protesters violated a court injunction issued last Thursday ordering the independent workers' union not to obstruct entry and exit ways of the company's plant in San Pedro.

At least 35 Industrious Corp. workers and supporters were also arrested, according to reports.

The violence against Industrious Corp. workers received wide condemnation.

Sectoral Rep. Mr A said that the Industrious Corp. management and the police personnel who participated in the violent dispersal should be held accountable.

Sectoral Rep. Ms B. denounced "police violence and brutality" and demanded the release of those who were arrested.

"We condemn the continuing violence against the workers of Industrious Corp. who have been on strike due to the management's refusal to implement a Ministry of Work order for the regularization of contractual workers," Sectoral Group for Workers said.

It also called on the administration to "implement restrictions on the illegal practice of contractualization, instead of siding with management and harming the workers in their legitimate protest."

The Government said in May that a complete ban on contractual labour could only be done through Congress.

A media group also denounced the attack, claiming that two journalists were assaulted and threatened by Industrious Corp. security guards and local police.

"The assault on and the possible apprehension of our colleagues is a clear attack on press freedom and highlights the increasing dangers that journalists face," it said.

The previous month, Industrious Corp. workers protesting "unjust" termination and years of unfair labour practices were also violently dispersed.

To respond to the growing unrest of the situation, the Ministry of Work ordered the company to regularize 100 workers.

In a compliance order issued by the Ministry Regional Chief in February, Elegant Fashions Inc. and its three contractors—ABC Cooperative, XYZ Cooperative, and PQR Enterprises—were directed to regularize 500 of their workers.

The order came after the Ministry found that Elegant Fashions Inc. and its contractors were violating labour laws and general labour standards, and engaging in labour-only contracting activities.

Case study 5 guide question: To guide participants in deepening their understanding and appreciation of how human rights can be violated in terms of transgressing workers rights, ask the following guide questions:

1. How are workers human rights violated in their exercise of their freedom of association violated in this case?

Case study 6: Killing of labour leader in broad daylight (Case studies are based on actual and past news articles but have been slightly altered to protect the identity of personalities and organizations).

Woman labour organizer shot dead in San Pietro during meeting with workers

A labour union organizer was killed on Saturday morning while conducting a meeting with workers in San Pietro, a workers' advocacy group said.

According to the group, Ms S, Vice Chairperson of San Pietro Workers' United, was shot dead by an unidentified gunman who fled on a motorcycle. Ms S was rushed to the hospital for treatment but doctors failed to revive her.

The victim was a union organizer and a nominee of the San Pietro Workers United in the recent union elections in their manufacturing company.

For its part, the union urged the authorities to duly investigate the killing of Ms S in broad daylight. The group also hinted that Ms S's killing could have been connected to the recent union elections in her company, which has been very chaotic due to efforts by management to discourage union members and workers from participating.

According to San Pietro Workers United, Ms S has been very critical of the company's union-busting efforts and the constant interference and intimidating presence of the heavily-armed security personnel inside the company premises.

"We call on the police to act with urgency and arrest the perpetrators of the crime. Ms S is a community leader and had no personal enemies. We believe that this is an extrajudicial killing for her work as a labour organizer," the union statement read.

San Pietro Workers United also noted that Ms S has been their second union member and leader to be killed. Two years ago, the group said that their former Senior Vice-President for workers' activities, Mr J, was also gunned down by two men on a motorcycle while on his way home from work.

As such, the group called on the parliament to conduct a special inquiry into the increasing incidences and cases of what they believed to be extrajudicial killings against labour leaders.

Case study 6 guide questions: To guide participants in deepening their understanding and appreciation of how human rights can be violated in terms of transgressing workers rights, ask the following guide questions:

1. What basic human rights principles have been clearly violated in the case?
2. How is this case a clear example of a workers rights violation being a serious case of grave human rights violations?

Case study 7: Human Rights Ministry reminds milk tea chain to uphold workers rights
(Case studies are based on actual and past news articles but have been slightly altered to protect the identity of personalities and organizations).

MANIOLOS CITY — The workers of a milk tea chain are within their rights to protest alleged contractualization and oppressive labour practices at the company, the Human Rights Ministry (HRM) said, as it urged businesses to always uphold the dignity and rights of labourers.

Ms G, HRM spokesperson, made the statement after workers of Milk Tea Corp. went on strike to protest the company's illegal labour-only contracting and unfair labour practices. "When business thrives while the workers that made it grow are deprived of the security of permanent employment, it is clear that the welfare and rights of the labourers are not protected," Ms G said.

"Unlawful contractualization denies workers secure, gainful, and lasting employment. It also enables employers to neglect its duties and obligation toward it employees," she added.

"The ministry acknowledges the need to find the tricky sweet spot where inclusive economic growth is encouraged and where businesses can thrive. However, this should never be used as an opportunity to take advantage of working Filipinos with unfair labour practices that trap them in substandard working conditions and drag them into economic uncertainty or poverty," the HRM also said.

"The State and businesses alike must always uphold the dignity and rights of workers who drive the economy that sustains us all," it said.

On Labour Day, a Presidential Issuance was declared, which prohibited labour contracting that circumvents workers security of tenure and their right to self-organization, collective bargaining, freedom of association, and peaceful assembly.

However, some labour groups were not satisfied with the order, saying that the present labour laws and regulations already cover the issuance's provisions on labour-only contracting.

Meanwhile, the city mayor of Maniolos appealed to the management of Milk Tea Corp. to respect the rights of workers who went on strike. In a post on social media, he said he visited the picket line because of reports of violence against striking workers. "Workers would not have been compelled to strike if their rights were respected. Some have been with the company for over 15 years, but remain contractual," he said.

"The strike could have been avoided had there been proper negotiations. Follow the law, respect the rights of your workers," he added.

An international union organization recently listed the country as one of the most challenging countries for workers for the fourth year in a row.

The organization also gave the country a rating of five, which means that "while the legislation may spell out certain rights, workers have effectively no access to these rights and are therefore exposed to autocratic regimes and unfair labour practice."

Case study 7 guide questions: To guide participants in deepening their understanding and appreciation of how human rights can be violated in terms of transgressing workers rights, ask the following guide questions:

1. How and when do labour standards violations and exploitative working conditions become serious cases of human rights violations?
2. What labour standards and human rights of workers have been transgressed in this case?

Case study 8: Teachers to organize "sit-in" protests (Case studies are based on actual and past news articles but have been slightly altered to protect the identity of personalities and organizations).

CAMINO CITY — Members of the Progressive Union of Teachers (PUT) will organize a sit-in protest to call today for a salary increase for public school teachers nationwide.

The PUT said the regular flow of classes would be interrupted during the strike, with teacher-protesters expected to inform students about social issues instead of the usual lessons.

"As educators, we have a responsibility to deepen the students', parents', and the public's understanding of everyone's right to live a decent life and have decent work," the group said.

Government education officials said it would monitor the activities, noting that protest actions should not result in disruption of classes.

"They are supposed to know the law, they are supposed to know civil service regulations. As the Education Ministry, we teach our learners to obey the law, rules and regulations," a Ministry of Education

spokesperson said, adding that any efforts of teachers to teach any unapproved topics outside of the curriculum are prohibited.

"The Ministry has allowed teachers to express their positions through other legal actions," she said.

"The requirement is that any expression cannot disrupt classes. We have people observing on the ground in schools where teachers plan to protest," she added.

The PUT is calling for the adjustment of teacher salaries, particularly to align the entry-level salary of a Teacher 1 – which is currently at 18,000 pesetas per month – to a Police Officer 1 receiving 28,000 pesetas per month.

The group also raised concerns over other policies, including the restructuring of their loans under the government insurance body and the implementation of the K-12 system.

Case study 8 guide questions: To guide participants in deepening their understanding and appreciation of how human rights can be violated in terms of transgressing workers rights, ask the following guide questions:

1. How should government approach the right of its employees to freedom of association and self-organization?
2. How can the constitutional or statutory limitations on the rights of a public sector employee (for example teacher, doctor) be not used to violate and disregard labour and human rights?

Case study 9: Government employees stage protest vs alleged red-tagging (Case studies are based on actual and past news articles but have been slightly altered to protect the identity of personalities and organizations).

CONVIVENCIA CITY — Government employees and other workers yesterday staged a rally in front of the Ministry of Workers' Headquarters to protest the alleged attempt of the military to link trade unions to communist rebels.

Mr F, President of United Workers (UW), said they have received information that some of their leaders and members have been identified by intelligence officers as communist fronts and members.

"This tactic of military and intelligence groups has long been a practice to silence legitimate dissent. Since the administration cannot and will not address the genuine problems of injustice and inequity, it will use deceit and repression to silence the workers," Mr F said.

He noted that a board member of the Social Welfare Ministry Employees Group was one of those listed in the intelligence report as a communist party member.

He added that recently there have been three arrests of union organizers and several incidents of surveillance and profiling of union leaders in different government agencies.

"The Central Intelligence Office has been conducting orientation meetings with government agencies as part of efforts to end the communist insurgency," one sectoral group said.

According to the group, intelligence agencies are branding legitimate organizations as communist fronts or communist-terrorist organizations to discourage workers from joining or forming unions.

"Our member unions are law-abiding organizations who are raising awareness of legitimate struggles and grievances. Unionism is not terrorism," the group said in a statement.

They urged labour officials to protect workers right to form unions and uphold the freedom of association.

"The terrorist-tagging campaign has led to human rights violations such as illegal arrest and detention, harassment, and serious threats to the security of our members and their families," a group representative noted.

The representative said the group has documented cases of members who were forced to resign from their posts in their unions and revoke their membership.

The sectoral group is filing complaints of red-tagging and terrorist-tagging in violation of workers' rights provided in the Constitution and the ILO Convention No.87 before the Human Rights Agency and the International Labour Organization.

"Hopefully the plight of aggrieved workers will be included in the International Labour Conference and the government will be called," the representative said, adding that the international community should be made aware of the problem affecting the domestic labour sector.

Case study 9 guide questions: To guide participants in deepening their understanding and appreciation of how human rights can be violated in terms of transgressing workers rights, ask the following guide questions:

1. What labour and human rights of government employees have been violated in the case?
2. What are national security, human rights, and labour rights issues in the case? How can these complex, different concerns be addressed, so as not to infringe on basic human rights principles and international labour standards?



Abaca plant processing — Lake Sebu, South Cotabato. Abaca plant harvester and stripper Jaime Dawang.
(ILO/A. Barredo, August 2009)



Women lead an oath to protect women migrant workers — Manila City. A group of women leads the Migrants/Women Workers Oath ("Panata") to protect, promote and defend their rights as women, as workers, and as migrants. They held placards to highlight the core rights and principles in their oath. (ILO/Moist Communications, April 2019)

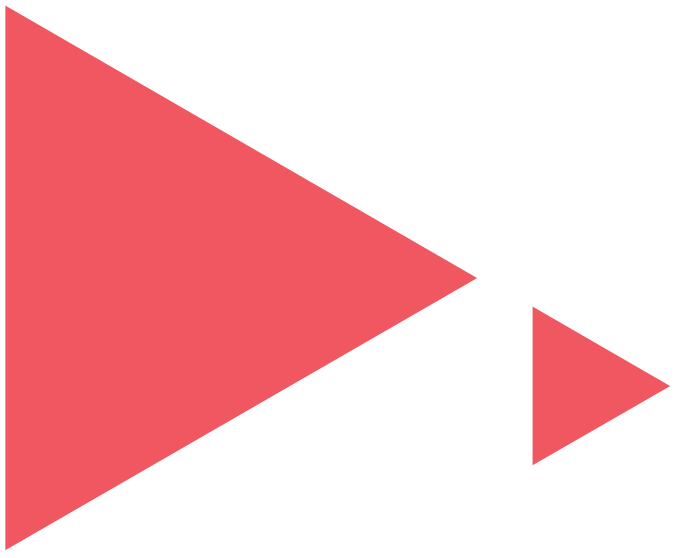
9

Existing mechanisms that attempt to address human rights violations in the exercise of labour rights

Objectives

At the end of the session, participants should be able to:

1. identify the existing mechanisms that can address human rights violations in the exercise of labour rights;
2. understand the scope and mandate of the mechanisms that can address human rights violations in the exercise of labour rights; and
3. discuss the limitations of the mechanisms that can address human rights violations in the exercise of labour rights.



▶ Group Size

All participants in plenary

▶ Materials
(for face-to-face workshops/set-ups)

1. LCD projector
2. Computer
3. Sound system for videos

▶ Recommended Duration

Lecture/Discussion 120 minutes

▶ Digital Tools and Platforms
(for face-to-face workshops/set-ups)

1. Virtual workshop house rules
2. Internet access/connectivity provision
3. Laptops or PC desktops or smartphones or tablets
4. Zoom or MS Teams or Webex hosting platform for the conduct of the virtual workshop (with features for breakout rooms or parallel sessions)
5. PowerPoint presentations
6. Jamboards or Miro (for brainstorming sessions or ideas or suggestions)
7. Doodle or Zoom polling (for live polling questions and results)

Activities

This session will be a lecture or panel discussion on the following mechanisms:

1. Administrative Order No. 35 (A.O. 35)
2. National Monitoring Mechanism (NMM) on Human Rights
3. Regional Tripartite Monitoring Body
4. Guidelines on the Conduct of DOLE, DILG, DND, DOJ, AFP, and PNP Relative to the Exercise of Workers Rights and Activities.

Key learning points

1. Scope of A.O. 35
2. Definitions of EJK and other human rights violations
3. Objectives and key features of mechanisms tasked with monitoring violations of human rights and workers rights

Lecture notes

The resource person will discuss the following topics relevant to human rights and labour rights. This shall be an interactive discussion.

Administrative Order No. 35 mechanism

1. Administrative Order No. 35 (series of 2012) created an Inter-Agency Committee on Extra-Legal Killings, Enforced Disappearances, Torture, and Other Grave Violations of the Right to Life, Liberty, and Security of Persons. It is composed of the following:
   - **(a)** Chairperson, Secretary, Department of Justice (DOJ)
   - **(b)** Chairperson, Presidential Human Rights Committee (PHRC)
   - **(c)** Secretary, Department of the Interior and Local Government (DILG)
   - **(d)** Secretary, Department of National Defense (DND)
   - **(e)** Presidential Adviser on the Peace Process (PAPP)
   - **(f)** Presidential Adviser for Political Affairs (PAPA)
   - **(g)** Chief of Staff, Armed Forces of the Philippines (AFP)
   - **(h)** Director General, Philippine National Police (PNP)
   - **(i)** Director, National Bureau of investigation (NBI)

2. Functions of the Committee:
   - **(a)** inventory of cases
   - **(b)** investigation of unsolved cases
   - **(c)** monitoring and reporting to the Committee of cases under investigation, preliminary investigation, and trial
   - **(d)** investigation and prosecution of new cases
   - **(e)** action upon the cases
   - **(f)** submission of report to the President

3. Extra-legal killings (ELK) or extra-judicial killings (EJK) – For purposes of operationalization and implementation of A.O. No. 35, ELK/EJK will refer to killings wherein:
   - **(a)** The victim was:
     - **(i)** a member of, or affiliated with an organization, to include political, environmental, agrarian, labour, or similar causes;
     - **(ii)** an advocate of above-named causes;
     - **(iii)** a media practitioner;
     - **(iv)** person(s) apparently mistaken or identified to be so.
   - **(b)** The victim was targeted and killed because of the actual or perceived membership, advocacy, or profession.
   - **(c)** The person/s responsible for the killing is a state agent or non-state agent.
   - **(d)** The method and circumstances of attack reveal a deliberate intent to kill.

For purposes of the focused mandate of A.O. No. 35, killings related to common criminals and/or the perpetration of their crimes shall be addressed by other appropriate mechanisms within the justice system.

4. State agent – is a person who, by direct provision of law, popular election, or appointment by competent authority, takes part in the performance of public functions in the government, or who performs in the government or in any of its branches, public duties as an employee, agent, or subordinate official, of any rank or class.

5. Enforced or involuntary disappearance (EID) – refers to the arrest, detention, abduction, or any other form of deprivation of liberty committed by the agents of the State or by persons or groups of persons acting with the authorization, support, or acquiescence of the State, followed by the refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such person outside the protection of the law.

6. Torture - refers to an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession; punishing him/her for an act he/she or a third person has committed; or is suspected of having committed; or intimidating or coercing him/her or a third person; or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of; or with the consent or acquiescence of a person in authority or agent of a person in authority. It does not include pain or suffering arising only from, inherent in, or incidental to lawful sanctions.

7. Other grave human rights violations – refer to acts that grossly violate an individual's right to life, liberty, and security of persons and/or their physical or mental integrity and dignity.

8. A.O. 35 cases – refer to cases of extra-legal killings, enforced or involuntary disappearances, torture, and other grave human rights violation cases, involving right to life, liberty, and security of persons.

National monitoring mechanism on human rights

1. The National Monitoring Mechanism (NMM) monitors progress on the resolution of human rights violations and/or cases. It prioritizes EJKs, EDs, and torture, as well as violations of economic, social, and cultural rights which are related to and may be causes of these cases. It aims to ensure compliance with the international human rights treaties obligations of the Philippine government.

   The NMM also coordinates among its members to immediately provide services, including legal services, to promote, protect, and address the rights of the victims and/or members of their families.

2. Objectives:

   (a) effectively monitor human rights violations, primarily those involving ELKs, EDs, and torture, in line with the Philippine government's commitment to its ratified international human rights treaties;

   (b) address human rights violations, especially ELKs, EDs, and torture, by immediately providing legal and non-legal services to human rights victims and/or their families that will promote and protect human rights and ensure the resolution of their cases;

   (c) develop an effective monitoring and coordination mechanism that will ensure that justice is served to human rights victims and/or their families, particularly those of ELKs, EDs, and torture;

(d) strengthen institutional mandates, capabilities and engagements in effectively resolving human rights violations, especially cases of ELKs, EDs, and torture;

(e) provide a venue at the national and local levels where victims or their relatives can report cases of ELKs, EDs, and torture; request immediate investigation or protection seek psychosocial services and other assistance; and

(f) raise public awareness and understanding of cases involving EJKs, EDs, and torture to deter, minimize and prevent future incidents.

3. Composition:

(a) The Commission on Human Rights

(b) Government Agencies:

(i) Presidential Human Rights Committee – Secretariat

(ii) Department of Justice

(iii) Department of Interior and Local Government

(iv) Department of National Defense

(v) Armed Forces of the Philippines

(vi) Philippine National Police

(vii) Department of Labor and Employment

(viii) Department of Social Welfare and Development

(ix) National Commission on Indigenous Peoples

(x) Office of the Presidential Adviser on the Peace Process

(xi) Bureau of Jail Management and Penology

(c) Civil Society Organizations:

(i) Asian Federation Against Involuntary Disappearances

(ii) Alternative Law Groups

(iii) Ateneo Human Rights Center

(iv) Balay Rehabilitation Center, Inc.

(v) Families of Victims of Involuntary Disappearance

(vi) Medical Action Group

(vii) Philippine Alliance of Human Rights Advocates

4. Programmes:

(a) referral and monitoring

(b) case conferences

(c) provision of services

(d) information dissemination

(e) capacity building



ILO100 Walking Experience—Makati City. The elevated walkway in the central district of Makati brings the ILO Centenary global campaign to the people. The walkway, which is the longest in the Philippines, features an ILO100 walking experience, while providing safer access and encouraging people to walk and to save on gas. Over 4,000 workers, employers, government officials, students, residents, and visitors use the walkway daily. (ILO/M. Rimando, September 2019)

Regional Tripartite Monitoring Body

1. Guiding principle – ensure that workers and employers are able to freely exercise the right to establish and join organizations of their own choosing for the furtherance of their interests.

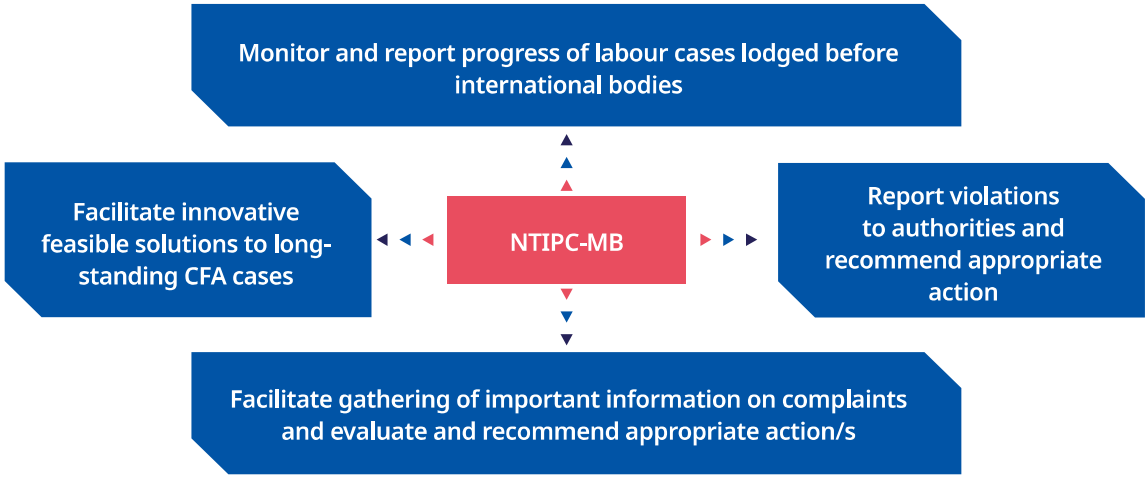
2. Coverage:
   - (a) pending cases before the ILO
   - (b) labour-related extrajudicial killings
   - (c) violations/interference to the exercise of freedom of association (namely: harassment and abduction)
   - (d) violation of the AFP and PNP guidelines

3. Sources of information:
   - (a) International Labour Organization
   - (b) trade unions
   - (c) employers' organizations
   - (d) media
   - (e) other stakeholders

4. The National Tripartite Industrial Peace Council (NTIPC) was constituted as the High Level Tripartite Monitoring Body through TIPC Resolution No. 1, s. 2010, and institutionalized pursuant to Republic Act No. 10395 or the Tripartism Law.

5. Composition of NTIPC Monitoring Body
   - (a) chaired by the Secretary of Labor and Employment with Undersecretary for Labor Relations as alternate chairperson
   - (b) same composition as the NTIPC
   - (c) agencies that may be invited: NCMB, NLRC, AFP, PNP, CHR, DOJ, CSC, DILG, and other relevant agencies

6. Functions of the NTIPC Monitoring Body:



7. Regional Tripartite Monitoring Body (RTMB) – created through A.O. 263-11 and institutionalized pursuant to Republic Act No. 10395, are counterparts of the NTIPC-MB at the regional level, with the primary function of ensuring the application and implementation of International Labour Standards, particularly C.87, in the regions.

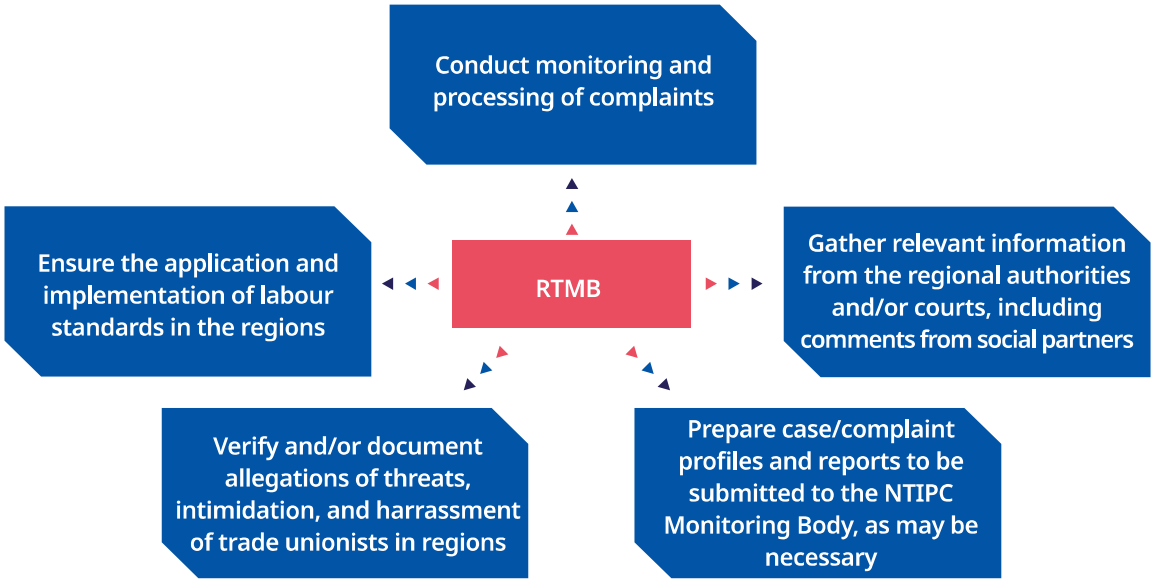
8. Composition:

(a) chaired by the Regional Director

(b) equal number of representatives from the workers and employers sector, to be determined by the Regional Tripartite Industrial Peace Council (RTIPC)

(c) agencies that may be invited: NCMB, NLRC, AFP, PNP, CHR, DOJ, CSC, DILG, and other relevant agencies

9. Functions of the Regional Tripartite Monitoring Body (RTMB):



Guidelines on the conduct of DOLE, DILG, DND, DOJ, AFP, and PNP relative to the exercise of workers' rights and activities

1. Labour dispute. Any controversy of matter concerning: (a) terms and conditions of employment, or (b) the association or representation of persons in negotiating, fixing, maintaining, changing, or arranging the terms and conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employer.

2. Labour disputes shall be under the primary and sole jurisdiction of the DOLE. The role of other government agencies and instrumentalities are governed by various policies, primarily, the Guidelines on the Conduct of the DOLE, DILG, DND, DOJ, AFP, and PNP Relative to the Exercise of Workers Rights and Activities (2012).

Therefore:

- **(a)** The Department of Justice must secure clearance from the DOLE and/or the Office of the President before taking cognizance of complaints for preliminary investigation and the filing in court of corresponding information of cases arising out of or related to labour dispute.
- **(b)** The Commission on Human Rights can conduct investigative monitoring of incidents and/or conditions which violate civil, political, economic, social, and cultural rights.
- **(c)** Local chief executives or their authorized representatives may assist in settling any labour dispute in their respective local government units but shall always coordinate with DOLE and/or its Regional Offices. Any request for PNP or AFP assistance made by the LGU shall be coursed through the DOLE Regional Offices in writing and specify the acts to be performed.
- **(d)** Members of the AFP, PNP, and other law enforcement agencies, including the barangay tanod/public safety officer and company security personnel/security guards shall not intervene in labour disputes.
- **(e)** DOLE shall remain in the vicinity of the strike/picket/lockout area to ensure the observance of the Guidelines, until such time that a peaceful situation is ensured with the parties' agreement.
- **(f)** The service of lawful order/writ issued by the DOLE is the primary concern of the DOLE's duly authorized representatives and/or sheriff. Before service of the order/writ, the DOLE representative and/or sheriff shall:
  - **(i)** coordinate and dialogue with the leaders of the workers and the representatives of management and explain the nature and content of the order/writ to be enforced including possible consequences of any defiance thereto; and
  - **(ii)** coordinate with PNP when violence is imminent.

3. AFP and PNP may only intervene when:
   - **(a)** expressly requested in writing either through mail, email, fax, or any similar means by the DOLE, through its Regional Offices; or
   - **(b)** a criminal act has been committed, is being committed, or is about to be committed through overt acts in accordance with Rule 113 of the Revised Criminal Procedures whether or not it arises out of the labour dispute; or
   - **(c)** in cases of actual violence arising out of the labour dispute.

4. The involvement of PNP personnel during picketing, strikes, lockouts, and labour disputes in general shall be limited to:

   (a) maintenance of peace and order;

   (b) enforcement of laws; and

   (c) implementation of legal orders of the duly constituted authorities.

In particular, they should:

   (a) observe courtesy and strict neutrality, bearing in mind that the parties to the labour dispute are not their adversaries but their partners in the quest for industrial peace and human dignity;

   (b) not deliberately inflict any physical harm upon strikers and/or picketers or any person involved in the strike/lockout;

   (c) not fraternize with any of the parties involved in the controversy, nor accept any invitation from the management personnel or union officials/personnel involved in the controversy; and

   (d) respect the Constitutional guarantee on the right of the people to be secured form unreasonable searches and seizures, and illegal arrests and detention.

5. A PNP peacekeeping team or civil disturbance unit shall be assigned in a picket/strike/lockout area when requested in writing by the DOLE or PEZA, and subject to the following conditions:

   (a) The peacekeeping team shall stay at least 50 meters radius (strike-bound area) away from the picket/strike/lock-out area. In case the 50-meter radius includes a public thoroughfare, traffic police shall ensure the free flow of traffic.

   (b) In the exercise of their peacekeeping functions, members of the team shall at all times be in proper uniform (battle dress uniform or patrol uniform) and with properly displayed nameplate. They shall:

      (i) exercise maximum tolerance and when called for by the situation or when all other peaceful and non-violent means have been exhausted, may employ as a last resort only such means as may be necessary and reasonable to prevent or repeal an aggression; and

      (ii) ensure that the strike-bound area is free of guns and other deadly weapons and is an explosive-free zone.

6. Request for AFP personnel/units presence in a workplace where strike, picketing, or lockout has been declared and in progress should be based on a security situation, and only for the purpose of extending support to the PNP, or in the extreme situation when no other law enforcement agency in the area is available to perform the following:

   (a) maintain peace and order within the community/general vicinity of the labour-dispute area;

   (b) provide security for both workers and management;

   (c) prevent violence or escalation of ongoing violence;

   (d) prevent the commission of other crimes, the nature of which are not related to the labour dispute on hand; and

   (e) provide emergency assistance during post-incident situations.

7. The AFP personnel/units shall stay away from the strike-bound area, except when:
   - (a) a criminal act has been committed, is being committed, or is about to be committed through overt acts in accordance with Rule 113 of the Revised Criminal Procedures whether or not it arises out of the labour dispute; or
   - (b) in cases of actual violence arising out of the labour dispute.

8. Economic Zone Police or PEZA Security Guards shall:
   - (a) act as agents of persons in authority in the enforcement of the Labor Code inside the zones during strikes, lockouts, or labour disputes in the economic zone;
   - (b) request for police assistance, when needed, in writing, coursed through DOLE, PEZA, or the economic zone office; and
   - (c) in case of actual violence, the PNP or PEZA can respond during strike, lockout, or labour disputes even without the written request from DOLE.

9. What if there are violations? What are the remedies available?
   - (a) for PNP personnel: PNP-Internal Affairs Service, Office of the Ombudsman, NAPOLCOM, Chief of Police, PNP Regional Directors, PNP Provincial Directors, Mayors, Human Rights Desks in all police stations, and the People's Law Enforcement Board (PLEB).
   - (b) for AFP personnel: Court martial, if service-connected, or civil courts.
   - (c) for elected or appointed officials or employees in the LGUs: Local Government Code.
   - (d) for DOLE personnel: DOLE Manual on the Disposition of Administrative Cases and the Uniform Rules on Administrative Cases in the Civil Service.
   - (e) for economic zone police/personnel: PEZA Law and Civil Service Rules.
   - (f) for private security personnel: 2003 IRR of RA No. 5487 and PNP MC No. 2008-01.
   - (g) Other independent investigations:
     - (i) The Commission on Human Rights can conduct investigative monitoring of incidents and/or conditions which violate civil, political, economic, social, and cultural rights.
     - (ii) The Tripartite Monitoring Body on the Freedom of Association and Protection of the Right to Organise.



Military officials secure quarantine checkpoints, Manila — Muntinlupa City, Philippines. Military officials secure quarantine checkpoints and public places to contain the spread of COVID-19 during the lockdown in the Philippines. (ILO/M. Rimando, May 2020)



Decent Work for Domestic Workers in the Philippines: Genelyn Petelo. Genelyn has worked as a kasambahay for the past 34 years. She was 12 years old when she first started working at a household. She says things are very different now compared to when she started. She is happy that there are contracts that specify tasks and benefits. Although she did not experience any form of maltreatment during her years of tenure, the improvement in the employer-employee relationship is a great thing for all kasambahays. Genelyn is currently a proud member of the Social Security System, as well as PhilHealth and the Pag-IBIG Fund. (ILO/J. Aliling, January 2016)

10

Labour dispute resolution

Objectives

At the end of the session, participants should be able to:

1. understand how labour disputes are resolved; and
2. understand the remedial mechanisms under the Department of Labor and Employment.

▶ Group Size

Part 1: All participants in plenary

Part 2: Participants in breakout group

Part 3: All participants in plenary

▶ Materials
(for face-to-face workshops/set-ups)

1. LCD projector
2. Computer
3. Flip charts
4. Markers
5. Masking tape

▶ Digital Tools and Platforms
(for face-to-face workshops/set-ups)

1. Virtual workshop house rules
2. Internet access/connectivity provision
3. Laptops or PC desktops or smartphones or tablets
4. Zoom or MS Teams or Webex hosting platform for the conduct of the virtual workshop (with features for breakout rooms or parallel sessions)
5. PowerPoint presentations
6. Jamboards or Miro (for brainstorming sessions or ideas or suggestions)
7. Doodle or Zoom polling (for live polling questions and results)

▶ Recommended Duration

Part 1 (Plenary lecture)	120 minutes
Part 2 (Breakout groups/case studies)	60 minutes
Part 3 (Debriefing, synthesis, and inputs by the resource person)	30 minutes

Activities

This session will consist of three parts and will be undertaken as follows:

Part 1 ▶ Plenary lecture

A resource person will lecture on labour law procedures.

Part 2 ▶ Breakout group/case studies

The participants shall discuss the case studies and identify which government agencies would have jurisdiction over the cases given to them. They will also identify whether the cases involve human rights violations that should be under the jurisdiction of the Commission on Human Rights.

Part 3 ▶ Debriefing, synthesis, and inputs

The resource person will synthesize.

Key learning point

1. Application of labour laws in relation to the human rights jurisdiction of the Commission on Human Rights.

Lecture notes

The resource person will discuss the following topics relevant to human rights and labour rights. This shall be an interactive discussion.

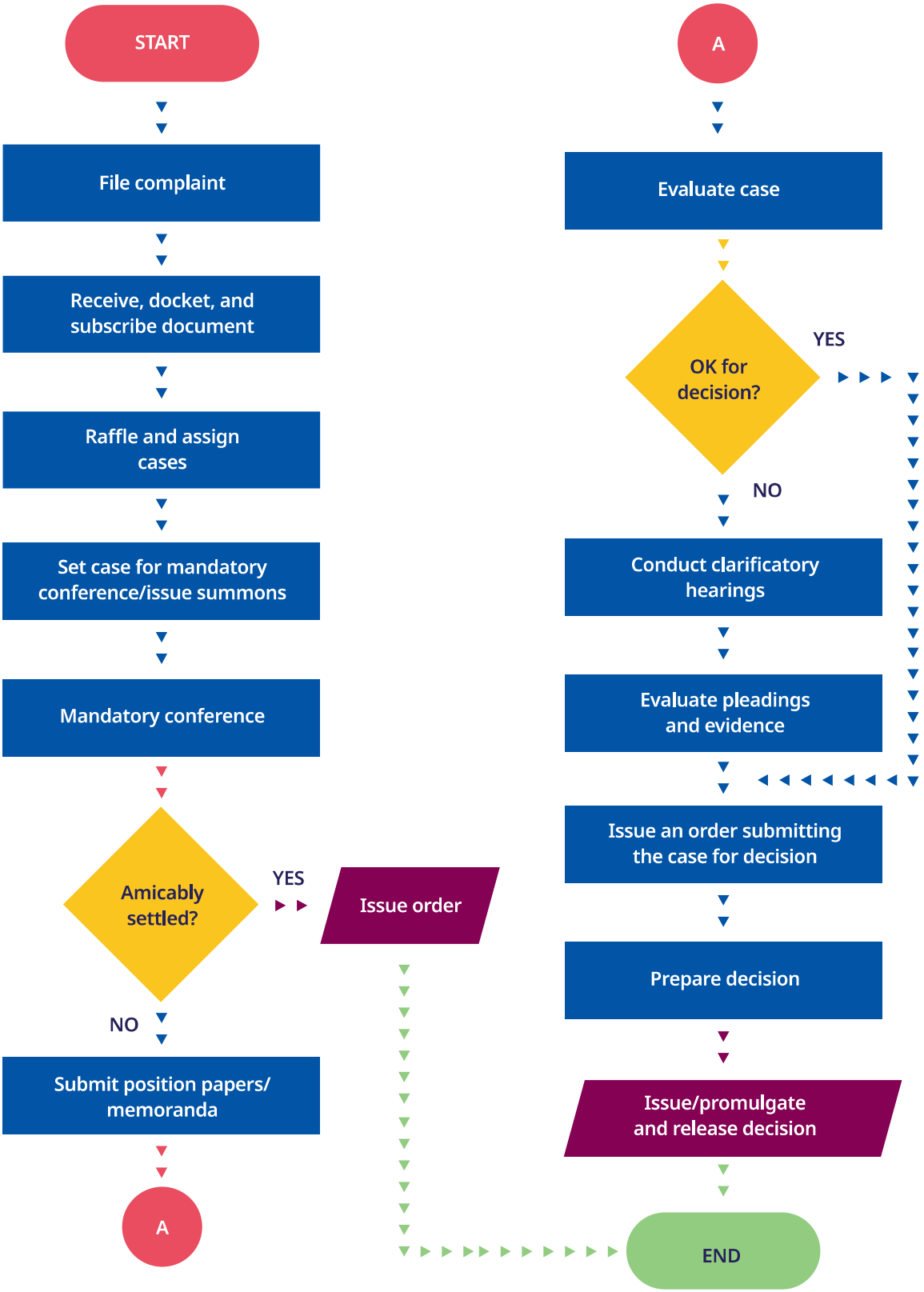
1. Constitutional guarantees in general:
   - **(a)** Art. XIII, Sec. 3 (1987 Constitution). The State shall afford full protection to labour.
   - **(b)** Art. 3 (Declaration of Basic Policy) Labor Code. The State shall afford full protection to labour.
2. Basic workers rights under the 1987 Constitution:
   - **(a)** to work under human conditions
   - **(b)** to receive a living wage
   - **(c)** to participate in policy and decision-making process affecting their rights and benefits
   - **(d)** to enjoy security of tenure
   - **(e)** to organize
   - **(f)** to conduct collective bargaining or negotiation with management
   - **(g)** to engage in peaceful concerted activities, including strike in accordance with law
3. Labor Code. All doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved in favour of labour. (Article 4, Labor Code).
4. Management prerogative. An employer is free to regulate, according to his own judgment and discretion, all aspects of employment.
5. Employment relationship; four-fold test:
   - **(a)** the selection and engagement of the employee;
   - **(b)** the payment of wages;
   - **(c)** the power of dismissal; and
   - **(d)** the power to control the employee's conduct, or the so-called "Control Test".
6. Two-tiered test (in relation to the economic dependency test):
   - **(a)** the putative employer's power to control; and
   - **(b)** the underlying economic realities of the activity or relationship.

The proper standard of economic dependence is whether the worker is dependent on the alleged employer for his continued employment in that line of business.

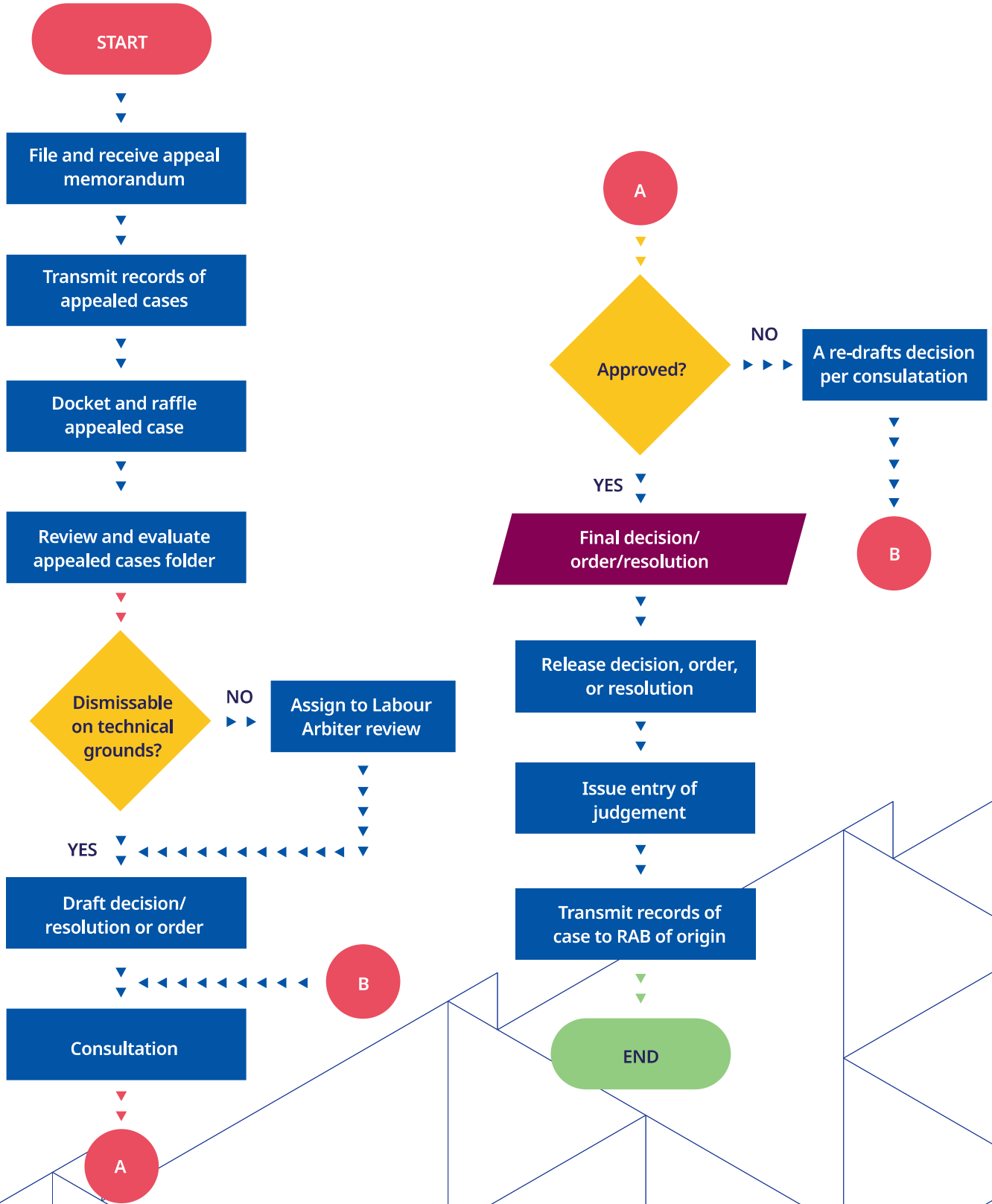
7. Labour complaint (illegal termination and money claims):



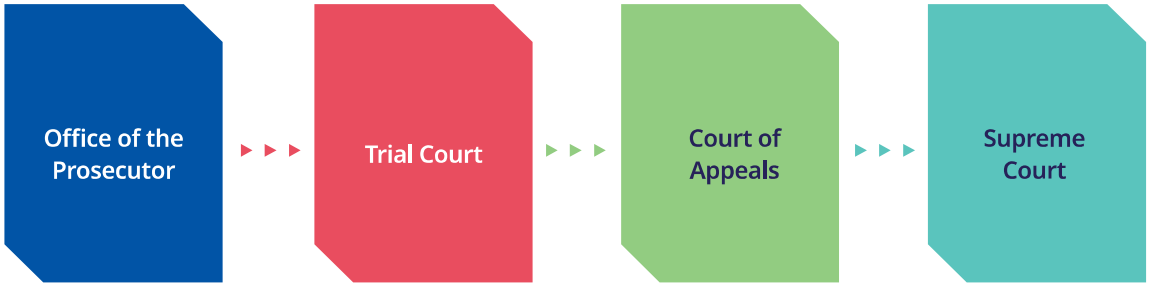
8. Case flow at the Regional Arbitration Branch level:



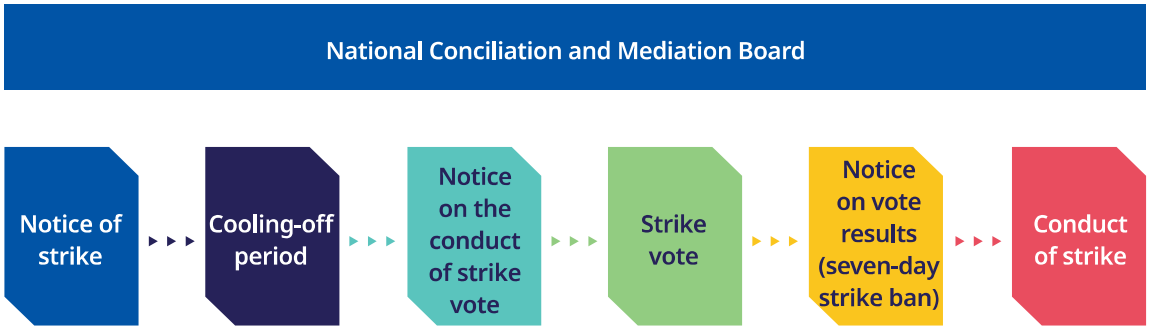
9. Case flow at the Appellate (Commission Proper) level:



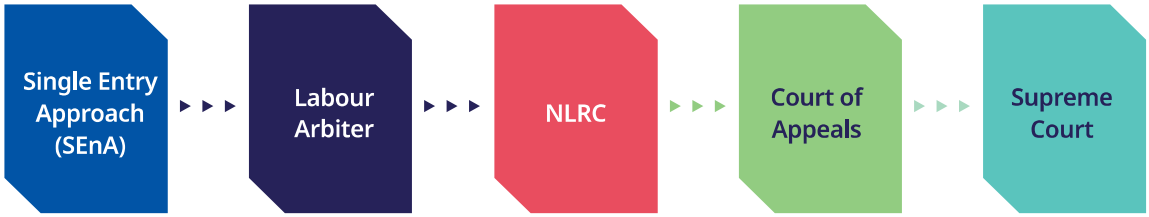
10. Criminal complaint (withholding of wages):



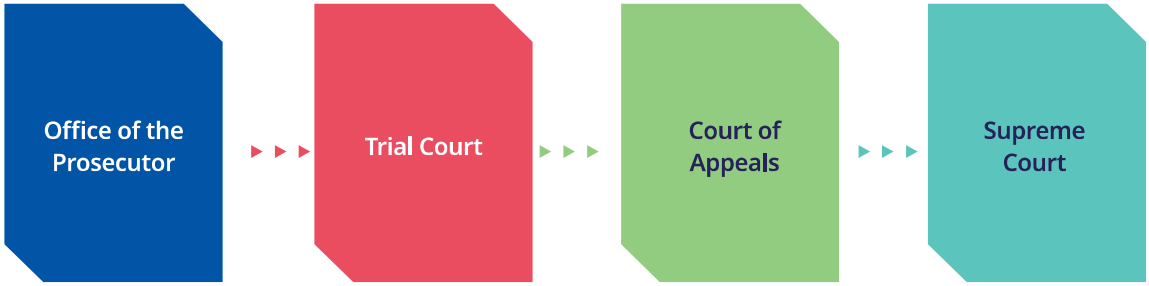
11. Strike (Unfair labour practice and union busting):



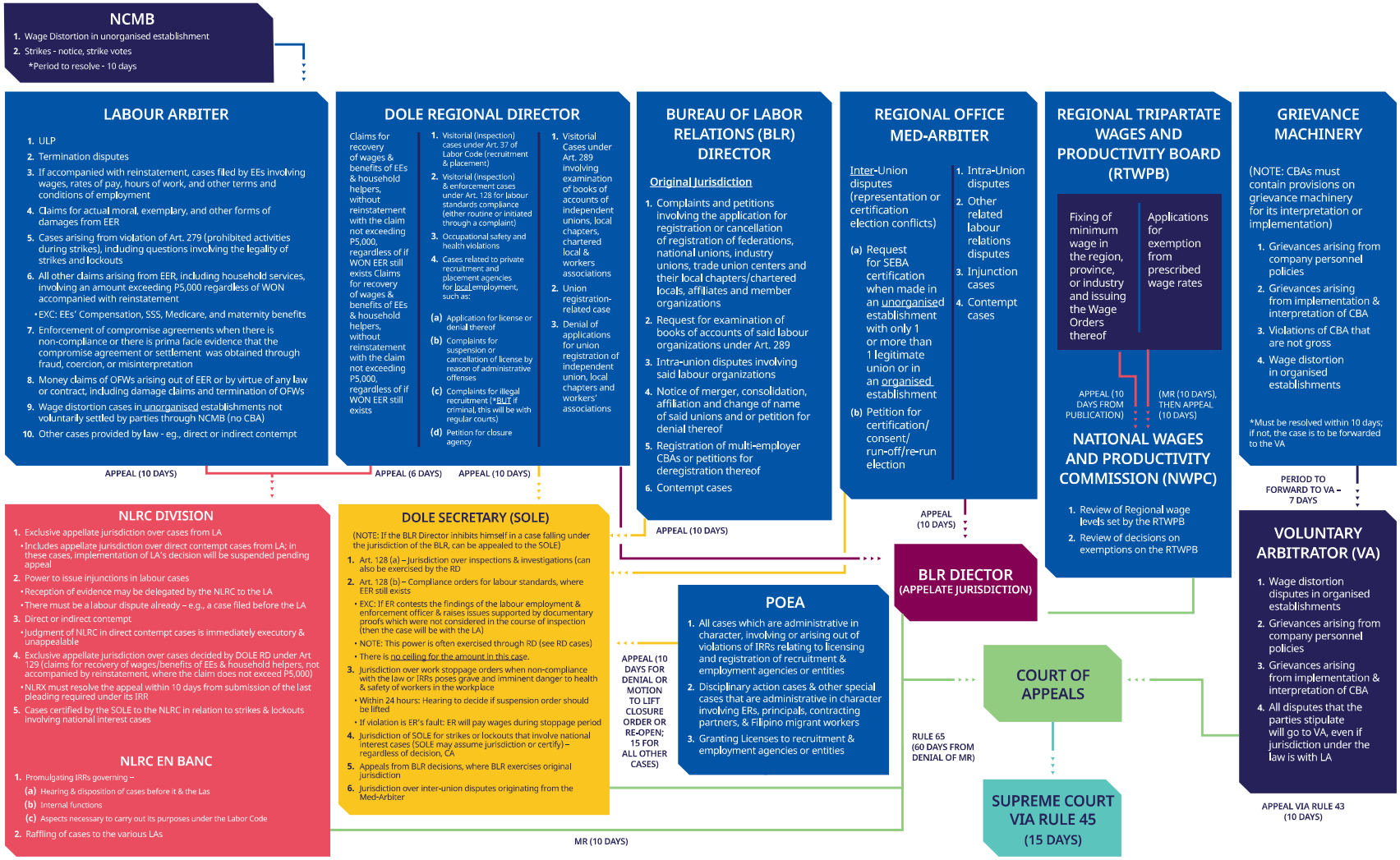
12. Labour complaint (illegal termination and unfair labour practice):



13. Criminal complaint (unfair labour practice):



14. Overall jurisdiction framework:



15. Settlement of Grievance in the Public Sector. Memorandum Circular No. 2, series of 2001 (Revised Policies on the Settlement of Grievances in the Public Sector):

   (a) First step. Present grievance (verbally or in writing) to immediate supervisor. Action must be taken within three working days.

   (b) Second step. Appeal to Higher Supervisor. Action must be taken within five working days.

   (c) Third step. Appeal to the Grievance Committee. May investigate for ten working days and should act within five working days thereafter.

   (d) Fourth step. Appeal to Top Management. Must act with five working days.

   (e) Fifth step. Appeal to the Civil Service Commission Regional Office.

Case studies (Case studies are based on actual and past cases but have been slightly altered to protect the identity of personalities and organizations).

Based on the materials, each participant will review the following case studies.

Case study 10: Maria vs Sweet Delights

Maria works in Sweet Delights Corp. (Delights) in San Pedro every Monday to Saturday for ten hours a day. She receives 500 pesos a day as total compensation.

Under Delights Corp.'s policies, workers may eat candies within the premises of the company but may not bring them home.

One day, Maria inadvertently pocketed one piece of candy. On her way out, the company's security guard caught her. She was terminated immediately and her final pay withheld or forfeited.

Maria desires to file a complaint for illegal dismissal and money claims.

Case study 11: United Bolt Workers vs Lightning Bolt

United Bolt Workers (UBW) is the exclusive bargaining representative for all rank and file employees in the San Roque manufacturing plant of Lightning Bolt Electronics Company (Bolt).

In two months' time, the management and the union will commence negotiations for a new collective bargaining agreement.

Due to supposed credible information that certain employees are stealing from Bolt, the company terminated them all.

Incidentally, all employees who were terminated are union officers of UBW.

UBW is aggrieved.

Case studies 10 and 11 guide questions: To guide participants in deepening their understanding and appreciation of how workers rights were violated and to which government agencies should workers file complaints in the two cases, ask the following guide questions:

1. Were the actions such as termination, withholding of final pay taken by management justifiable?
2. What remedies can the workers take to address their grievances? Where can they report and/or file their complaints and charges?
3. Do the two cases constitute serious and grave forms of human rights violations?



Traditional brass making — Lake Sebu, South Cotabato. Once the clay mold is broken, the brass casting can be processed. Individual bells are hammered out of the "brass tree". (ILO/A. Barredo, August 2009)



ILC 2017 World of Work Summit: A better future for women at work - ILC 2017 World of Work Summit: A better future for women at work. Panel Discussion moderated by Nozipho Mbanjwa, CNBC, South Africa.106th Session of the International Labour Conference, Geneva, 15 June 2017. (Crozet/Pouteau, June 2017)

11

International remedies

Objectives

At the end of the session, participants should be able to:

1. understand how labour disputes are resolved;
2. understand the remedial mechanisms under the Department of Labor and Employment; and
3. explain which international mechanism will be relevant in addressing violations of labour rights.

▶ Group Size

Part 1: All participants in plenary

Part 2: Participants in breakout group

Part 3: All participants in plenary

▶ Materials
(for face-to-face workshops/set-ups)

1. LCD projector
2. Computer
3. Flip charts
4. Markers
5. Masking tape

▶ Digital Tools and Platforms
(for face-to-face workshops/set-ups)

1. Virtual workshop house rules
2. Internet access/connectivity provision
3. Laptops or PC desktops or smartphones or tablets
4. Zoom or MS Teams or Webex hosting platform for the conduct of the virtual workshop (with features for breakout rooms or parallel sessions)
5. PowerPoint presentations
6. Jamboards or Miro (for brainstorming sessions or ideas or suggestions)
7. Doodle or Zoom polling (for live polling questions and results)

▶ Recommended Duration

Part 1 (Plenary lecture)	120 minutes
Part 2 (Breakout groups/case studies)	60 minutes
Part 3 (Debriefing, synthesis, and inputs by the resource person)	30 minutes

Activities

This session will consist of three parts and will be undertaken as follows:

Part 1 ▶ Plenary lecture

The session will be a lecture or panel discussion and will discuss the role of international mechanisms (labour and human rights) as well as the remedies they provide.

Part 2 ▶ Breakout group/case studies

The participants shall discuss case studies and identify to which mechanisms the case can be referred to and when.

Part 3 ▶ Debriefing, synthesis, and inputs

The resource person will synthesize.

Key learning points

1. Application of labour laws in relation to the human rights jurisdiction of the Commission on Human Rights.
2. Application of international remedies to domestic cases.

Lecture notes

The resource person will discuss the following topics relevant to human rights and labour rights. This shall be an interactive discussion.

International Human Rights Mechanisms

1. Entry points:
   (a) reporting under international human rights treaties;
   (b) reporting under the Universal Periodic Review of the Human Rights Council;
   (c) submission of individual complaints and requesting inquiries under the human rights treaties; and
   (d) use of Special Procedures of the UN Human Rights Council (special rapporteurs and working groups).
2. Under international human rights treaties as "employment issues":
   (a) reporting under the International Covenant on Economic, Social and Cultural Rights: right to work (Art. 6); favourable conditions of work (Art. 7) and; form and join trade unions (Art. 8);
   (b) reporting under Convention on the Elimination of All Forms of Discrimination against Women: women and employment (Art. 11); possibility of individual complaints and inquiries; and
   (c) reporting under Convention on the Rights of the Child: economic exploitation (Art. 32).
3. Under international human rights treaties as "discrimination":
   (a) reporting under Convention on the Elimination of Racism: indigenous peoples, employment (Art. 5);
   (b) reporting under Convention on Migrant Workers: conditions of work (Art. 25); trade unions (Art. 26); and
   (c) reporting under the Convention on the Rights of Persons with Disabilities: work and employment (Art. 27).
4. Under international human rights treaties as "treatment" against individuals:
   (a) reporting under International Covenant on Civil and Political Rights and the Convention Against Torture.
5. UN Special Procedures Mechanisms[31]:
   (a) communication with special rapporteurs: assembly and association; freedom of opinion and expression; torture; human rights defenders; extra-judicial killings; violence against women; disabilities; health; trafficking; migrants; slavery; indigenous peoples; and so on;
   (b) communication with independent experts: persons with albinism; human rights of older persons; human rights and solidarity; protection against violence and discrimination based on sexual orientation and gender identity; and so on; and

31 Source: Extracted from UN OHCHR website: https://spinternet.ohchr.org/ViewAllCountryMandates.aspx?Type=TM&lang=en

(c) communication with working groups: arbitrary detention; disappearances; business and human rights; discrimination against women in law and practice. Special Representative of the Secretary-General on "reprisals": reprisals for cooperation with the United Nations.

6. All procedures can receive communications and submissions from the State, national human rights institutions, civil society organizations, grassroot organizations and other "groups" of actors/individuals.

Through complaint procedures under ICCPR and CEDAW, the Special Procedures (special rapporteurs and working groups) and the Special Representative of the Secretary-General on "reprisals" also "individuals" themselves can communicate with the mechanisms.

7. Outcome or result:

(a) not judicial processes;

(b) letters and public statements, recommendations, views and opinions on cases, and request for actions, redress, and compensation;

(c) support and provide further arguments and strengths in national judicial procedures/court cases/efforts;

(d) support to and encouragement for victims;

(e) valuable advocacy tools for continued work; and

(f) however, impact will depend on the State's political will to act upon the outcomes from the various international human rights mechanisms.

ILO mechanisms

1. Fundamental Principles and Rights at Work:

(a) Eight Conventions express fundamental human rights at work (Declaration on Fundamental Principles and Rights at Work, 1998).

(b) Convention Nos 87 and 98. Freedom of Association and Protection of Right to Organise and Right to Organise and Collective Bargaining.

(c) Convention Nos 29 and 105. Elimination of Forced Labour and Abolition of Forced Labour.

(d) Convention Nos 138 and 182. Minimum Age Convention and Worst Forms of Child Labour.

(e) Convention Nos 100 and 111. Equal Renumeration and Discrimination (Employment and Occupation).

2. Governance Conventions:

(a) Four Conventions are considered priority, or governance Conventions.

(b) While not themselves expressing fundamental human rights, they concern subjects that are essential to the sound governance of the labour market (in the areas of employment, inspection, and dialogue).

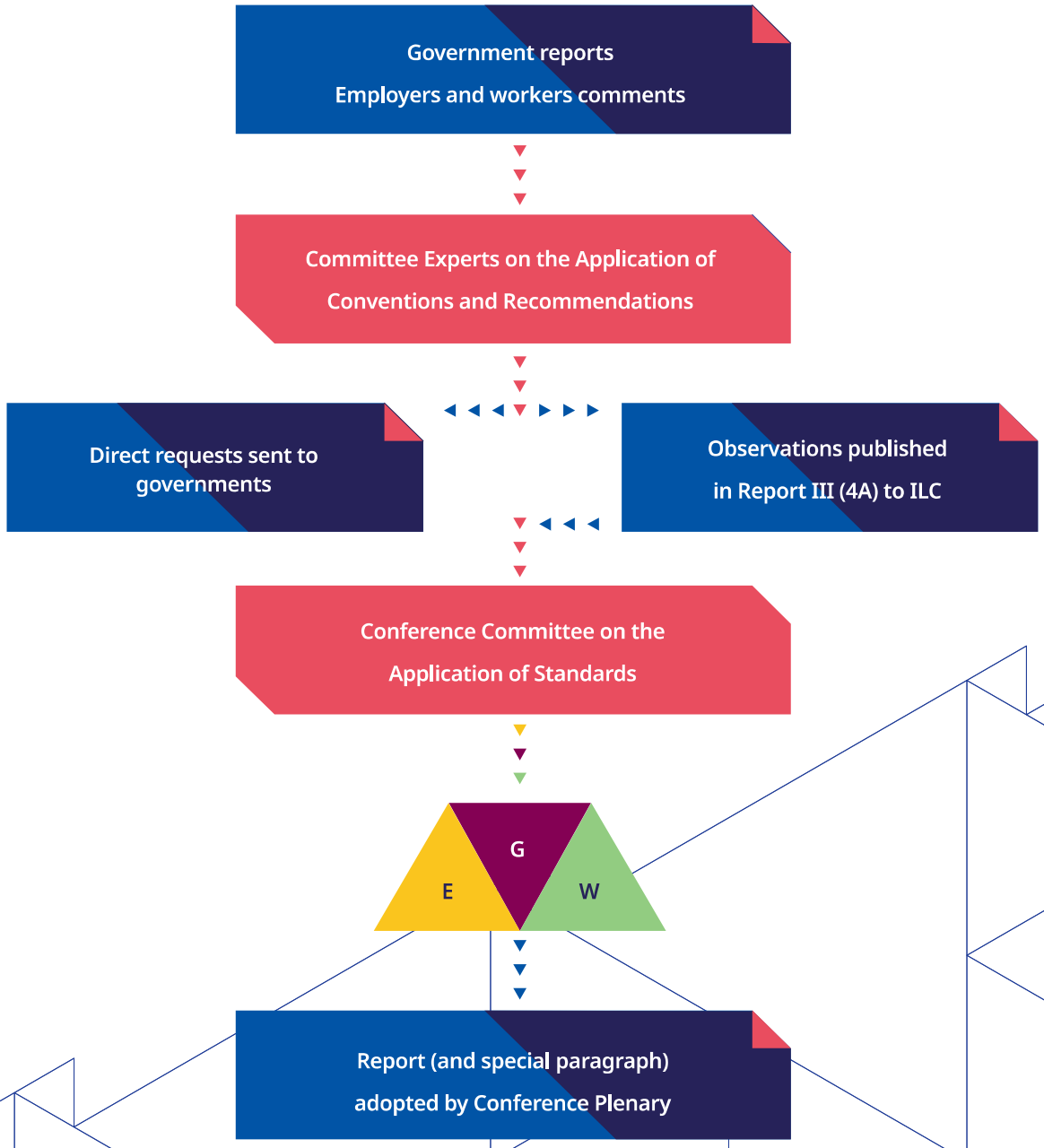
(i) Convention Nos 81 and 129 – Labour Inspection and Labour Inspection (Agriculture)

(ii) Convention No 122 – Employment Policy

(iii) Convention No 144 – Tripartite Consultation

3. Regular supervision:
   - (a) By ratifying a Convention, a Member State assumes the obligation, under international law, to not only apply the Convention in good faith, but also to accept supervision from the ILO of the manner in which it is doing so.
   - (b) Responsibility for supervision of the manner in which ratified Conventions are being implemented lies with the Committee of Experts on the Application of Conventions and Recommendations (CEACR).
   - (c) Based on article 22 of the Constitution.
   - (d) Periodic reports:
     - (i) Every three years for fundamental and governance Conventions
     - (ii) Every six years for all others (technical Conventions)
   - (e) Reports requested in any given year must reach the Office between 1 June–1 September.
   - (f) Employers' and workers' organizations may submit their own comments or may accompany the report submitted by the government.
   - (g) Complementary role played by International Labour Conference Committee on the Application of Standards (CAS).
4. Committee of Experts on the Application of Conventions and Recommendations (CEACR):
   - (a) An independent body of 20 members, each one a recognized legal expert at the international and national levels.
   - (b) Members hail from all regions of the world
   - (c) Appointments made in a personal capacity from among persons of competence and impartial standing.
   - (d) Meet once a year (November–December) to examine submitted reports and produce comments on them, intended to serve as guidance to Member States in the application of Conventions; 3000+ comments on individual countries in latest reports.
5. International Labour Conference Committee on the Application of Standards (CAS):
   - (a) created in 1926
   - (b) standing Committee of the International Labour Conference, so tripartite
   - (c) mandate is to discuss various issues:
     - (i) cases of serious failure to respect reporting obligations and the obligation to submit international labour standards to the national competent authority;
     - (ii) CEACR General Survey; and
     - (iii) over 20 individual cases relating to the application of ratified Conventions and coming from CEACR observations.

6. Supervisory machinery:



7. Special supervisory procedures

(a) Representations

(i) can be filed by national or international organizations of workers or employers, alleging non-observance, by a Member State, of a ratified Convention;

(ii) examination by a tripartite committee reporting to the Governing Body on the basis of written information;

(iii) examination by a tripartite committee (three members), reporting to the Governing Body:

- Committee may hear complainant
- Government may request, hearing, or direct contacts mission

(iv) Governing Body decides on whether to publish the report and the reply in an Official Bulletin; and

(v) the Office notifies complainant and Government of Governing Body's decision.

(b) Complaints

(i) Can be filed by:

- another ratifying Member State
- a delegate to the Conference, representing workers or employers
- the Governing Body

(ii) Examination by Commission of Inquiry (COI)

- members are appointed by the Governing Body in their personal capacity (not necessarily tripartite)
- establishes its own procedures (evidence-gathering, hearings, local visits)
- publishes a report, with recommendations
- government has three months to accept recommendations, reject them, or refer complaint to the International Court of Justice

(iii) In case recommendations are rejected, the Governing Body may recommend any measures it deems appropriate to secure compliance.

(c) Committee on Freedom of Association

(i) Tripartite Governing Body Committee established in 1951 to receive complaints alleging violations of freedom of association

- nine members, meeting three times a year

(ii) Examines documentary evidence (reports) from the complaints, and replies of the Governments.



ILO100 Walking Experience — Makati City. The elevated walkway in the central district of Makati brings the ILO Centenary global campaign to the people. The walkway, which is the longest in the Philippines, features an ILO100 walking experience, while providing safer access and encouraging people to walk and to save on gas. Over 4,000 workers, employers, government officials, students, residents, and visitors use the walkway daily. (ILO/M. Rimando, September 2019)

12

Business and human rights

Objectives

At the end of the session, participants should be able to:

1. understand the role of the private sector on human rights promotion and protection with regard to labour;
2. explain the Respect, Protect, and Remedy Framework of the UN Guiding Principles on Business and Human Rights; and
3. explain how a private act can be considered as a human rights violation.

▶ Group Size

All participants in plenary

▶ Materials
(for face-to-face workshops/set-ups)

1. LCD projector
2. Computer
3. Sound system for videos

▶ Recommended Duration

Lecture/Discussion	60 minutes

▶ Digital Tools and Platforms
(for face-to-face workshops/set-ups)

1. Virtual workshop house rules
2. Internet access/connectivity provision
3. Laptops or PC desktops or smartphones or tablets
4. Zoom or MS Teams or Webex hosting platform for the conduct of the virtual workshop (with features for breakout rooms or parallel sessions)
5. PowerPoint presentations
6. Jamboards or Miro (for brainstorming sessions or ideas or suggestions)
7. Doodle or Zoom polling (for live polling questions and results)

Activity

This session will be a lecture on the UN Guiding Principles on Business and Human Rights with regard to the responsibility of employers/businesses for human rights violations and the role of the State in business and human rights.

Key learning point

1. Obligation of private sector to promote and protect human and labour rights.

Lecture notes

1. The Preamble of the Universal Declaration of Human Rights states that the protection and promotion of human rights belong to every individual and every organ of society. Traditionally, this has belonged to the State.
2. With globalization, companies have become so influential that they sometimes have wider reach than governments, including in the protection and promotion of human rights. The international community, particularly the United Nations, started to take notice of the role of businesses in the protection and promotion of human rights.

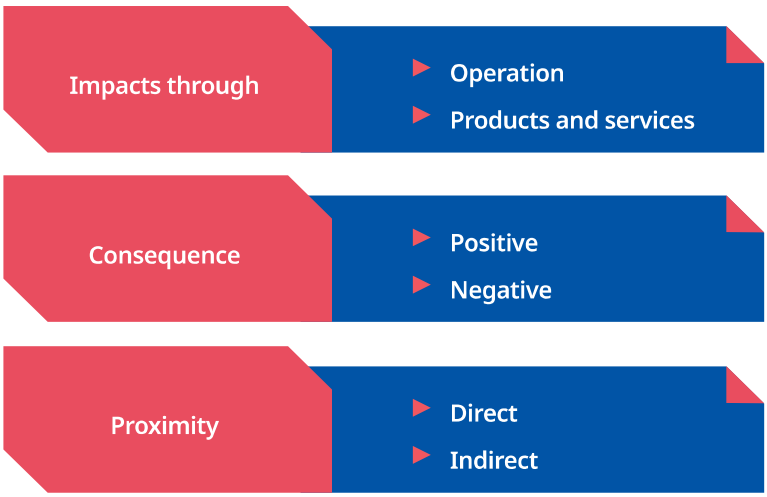
3. Development of Human Rights in Business:
   (a) 1999: UN Global Compact established (Principle on Corruption added in 2004).
   (b) 2003: Draft Norms on Responsibilities of Transnational Corporations and other Business Enterprises passed.
   (c) 2005: Prof John Ruggie appointed as Special Representative on Human Rights and Transnational Corporations.
   (d) 2008: "Protect, Respect, and Remedy" Framework welcomed by Human Rights Council; mandate extended.
   (e) 2011: UN Guiding Principles on Business and Human Rights endorsed by Human Rights Council.

4. The UN Guiding Principles on Business and Human Rights:
   (a) is non-binding and voluntary
   (b) applies to business enterprises regardless of size, sector, location, ownership, and structure
   (c) creates no new obligation on the part of states and business enterprises

5. Three pillars:
   (a) state duty to protect
   (b) corporate responsibility to respect
   (c) access to remedy

6. State duty to protect:
   (a) Foundational Principles
      (i) must protect against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises
      (ii) set expectation that business enterprises should respect human rights throughout their operations
   (b) General State Regulatory and Policy Functions
      (i) enforce and regularly assess laws that has the objective requiring business to respect human rights
      (ii) laws and policies on the creation and operation of business enterprises – do not constrain, but enable respect for human rights
      (iii) provide guidance to business enterprises
      (iv) encourage/require business enterprises to communicate their human rights impacts

7. Corporate responsibility to respect:



8. What is required from business enterprises?

(a) Business activities:

(i) avoid causing or contributing to adverse human rights impacts

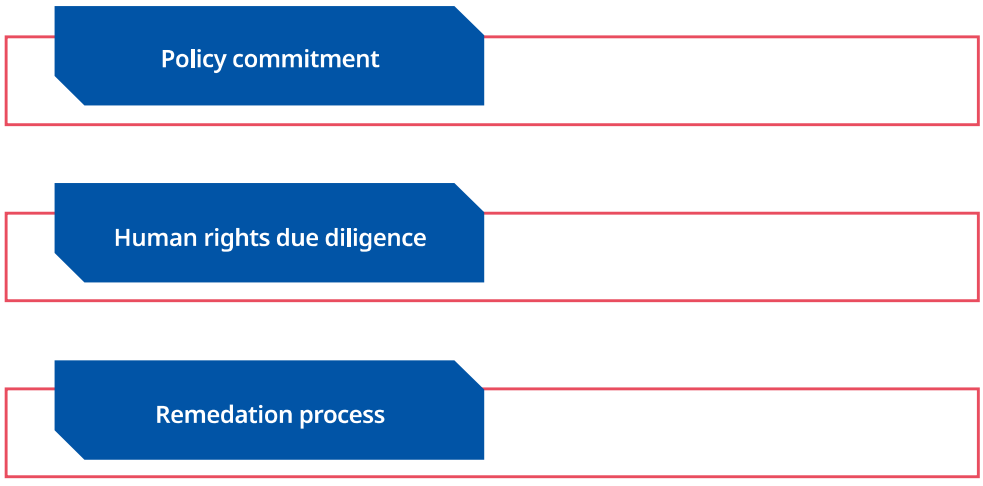
(ii) address impacts when they occur

(b) Business relationships:

(i) prevent or mitigate adverse human rights impacts arising from their business relationships

(ii) include business partners, suppliers, and all others in their supply chains

9. Operationalizing "respect"



10. Access to remedy

- **(a)** State:
  - **(i)** State-based vs non-State-based
  - **(ii)** Judicial vs non-judicial
- **(b)** Business enterprises:
  - **(i)** Provide grievance mechanisms at their level

11. Non-Judicial grievance mechanisms:

- **(a)** legitimate
- **(b)** accessible
- **(c)** predictable
- **(d)** equitable
- **(e)** transparent
- **(f)** rights-compatible
- **(g)** source of continuous learning
- **(h)** based on engagement



Safety and health in manufacturing — Philippines: General Trias, Cavite. In the food and beverage industry, promoting safety and health of workers through their families proved to be successful. Workers and their families learn from family-centred occupational safety and health (OSH) campaigns to build a culture of prevention. Manufacturing is a sector with the highest proportion of occupational accidents involving young people. (ILO/M. Fossat, October 2015)



Tyre factory in Philippines. Laila V. Enriquez, a comfort and safety controller, works on the Final Test machine. (ILO/R. Hamahiga Dela Cruz, March 2011)

13

Special economic zones, human rights, and labour rights

Objectives

At the end of the session, participants should be able to:

1. understand the concept of special economic zones; and
2. identify challenges to labour rights and human rights in special economic zones.

▶ Group Size

Part 1: All participants in plenary

Part 2: Participants in breakout group

Part 3: All participants in plenary

▶ Materials
(for face-to-face workshops/set-ups)

1. LCD projector
2. Computer
3. Flip charts
4. Markers
5. Masking tape

▶ Digital Tools and Platforms
(for face-to-face workshops/set-ups)

1. Virtual workshop house rules
2. Internet access/connectivity provision
3. Laptops or PC desktops or smartphones or tablets
4. Zoom or MS Teams or Webex hosting platform for the conduct of the virtual workshop (with features for breakout rooms or parallel sessions)
5. PowerPoint presentations
6. Jamboards or Miro (for brainstorming sessions or ideas or suggestions)
7. Doodle or Zoom polling (for live polling questions and results)

▶ Recommended Duration

Part 1 (Plenary lecture)	60 minutes
Part 2 (Breakout groups/case studies)	30 minutes
Part 3 (Debriefing, synthesis, and inputs by the resource person)	30 minutes

Activities

This session will consist of three parts and will be undertaken as follows:

Part 1 ▶ Plenary lecture

A resource person will discuss the law on special economic zones and the relevant provision that affects labour.

Part 2 ▶ Breakout group/case studies

The participants shall discuss case studies and identify issues and challenges affecting labour. The participants will also discuss the mechanisms that they can access for the issues identified.

Part 3 ▶ Debriefing, synthesis, and inputs

The resource person will synthesize.

Key learning points

1. Challenges in special economic zones.
2. Remedies for labour rights and/or human rights violations involving special economic zones.



Leather factory—Muntinlupa City. This factory specializes in leather products. This area of the factory cuts leather in order to make baseball gloves. (ILO/B. Go, March 2011)



The Commission on Human Rights (CHR) logo. (https://chr.gov.ph/)

14

Workshop on CHR mandate and labour rights

Objectives

At the end of the session, participants should be able to:

1. understand the mandate of the Commission on Human Rights on labour rights violations;
2. discuss and understand the internal structure of the CHR; and
3. identify courses of action that the CHR can take.

▶ Group Size

Part 1: All participants in plenary

Part 2: Participants in breakout group

Part 3: All participants in plenary

▶ Materials
(for face-to-face workshops/set-ups)

1. LCD projector
2. Computer
3. Flip charts
4. Markers
5. Masking tape

▶ Digital Tools and Platforms
(for face-to-face workshops/set-ups)

1. Virtual workshop house rules
2. Internet access/connectivity provision
3. Laptops or PC desktops or smartphones or tablets
4. Zoom or MS Teams or Webex hosting platform for the conduct of the virtual workshop (with features for breakout rooms or parallel sessions)
5. PowerPoint presentations
6. Jamboards or Miro (for brainstorming sessions or ideas or suggestions)
7. Doodle or Zoom polling (for live polling questions and results)

▶ Recommended Duration

Part 1 (Case study group)	30 minutes
Part 2 (Plenary discussion)	30 minutes
Part 3 (Debriefing, synthesis, and inputs by the resource person)	30 minutes

Activities

This session will consist of three parts and will be undertaken as follows:

Part 1 ▶ Case study groups

The participants shall form groups of 3–4 persons. A rapporteur per group shall be identified.

Part 2 ▶ Group presentation

The participants shall share their case study and analysis with the other groups in plenary.

Part 3 ▶ Debriefing, synthesis, and inputs

The resource person will synthesize.

This session will be an application of skills analysis based on the cases given to the different groups and application of the CHR mandate.

Key learning point

1. Skill analysis application to cases.



Decent Work for Domestic Workers in the Philippines: Vilma Gallenero — Philippines. At 61 years old, Vilma Gallenero proudly poses with her Senior Citizen Card. She is single, almost has no other family, and has served as a kasambahay for one household for the last 22 years. She considers her employers and their household her family. Since she started working in her late 30's, she did not feel the need to finish her education. She has, however, been given the opportunity to learn new skills such as sewing and gardening. At present, Aling Vilma is happy and fulfilled in servicing he 'family' and in seeing the grow up before her eyes. (ILO/J. Aliling, March 2016)

Module on labour and human rights and international labour standards

The ILO-CHR Module on labour and human rights and international labour standards was developed to strengthen the labour rights dimensions of the mandate of the Commission on Human Rights (CHR) to promote and uphold human rights, especially those of Filipino workers and trade unionists.

By focusing on the better application of ILO Convention No. 87 (Freedom of Association) and Convention No. 98 (Right to Organise and Collective Bargaining), this module also seeks to deepen the capacity of CHR personnel and units to address Freedom of Association/Collective Bargaining cases and enhance CHR's institutional coordination mechanisms with other monitoring bodies such as DOLE, DOJ AO35, and so on in not only resolving issues but also in achieving social justice, human rights, and workers dignity.

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