

Recurrent Discussion Committee on Labour Protection

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► Draft conclusions concerning the second recurrent discussion on labour protection

I. Context, progress and challenges

Context

1. Transformative changes in the world of work bring opportunities and challenges and multiple and ongoing crises have had a profound impact on labour protection. Geopolitical tensions, the COVID-19 pandemic, the impact of climate change and a cost-of-living crisis have exacerbated pre-existing decent work deficits, increased poverty and widened inequalities, within and between countries.
2. It is in this context that the second recurrent discussion on labour protection reviews progress made and outstanding challenges, and charts the way forward towards more inclusive, adequate and effective labour protection for all workers.
3. Labour protection is at the heart of the mandate of the International Labour Organization (ILO) and the Decent Work Agenda and is critical to building resilience to future crises and enabling recovery. It is instrumental in achieving decent work and in contributing to social justice and social peace, in ensuring a just share of the fruits of progress to all, and in reducing inequalities. All workers should enjoy adequate and effective labour protection in accordance with the Decent Work Agenda. Sustainable enterprises, as generators of employment and promoters of innovation and decent work, contribute to labour protection, productivity increases and a well-functioning and productive economy. At the same time, labour protection, by levelling the playing field, contributes to sustainable enterprises, productivity gains and economic development.

Progress and challenges

4. Since the first recurrent discussion on labour protection held in 2015, ILO Member States have achieved progress in all dimensions of labour protection, including through positive steps taken by the social partners. In some Member States statutory minimum wages have been adopted by law or negotiated by the social partners, and many have put in place adjustment mechanisms for minimum wage rates that are instrumental in reducing inequalities. [However, the lack of adequacy and effective implementation of minimum wages remain a challenge in many countries, and this contributes to the growing working poverty and income

inequality. Moreover, workers' share of the gains from economic activity has kept declining, as wage growth has lagged behind productivity developments. / However, the global slowdown in labour productivity as well as the reallocation of labour to low productivity economic sectors are lowering the workers' share of the fruits of progress from economic activity.] Measures have also been adopted to address the non-payment of wages and to advance the principle of equal pay for work of equal value, including through digital payment of wages or pay transparency measures. The gender pay gap has been narrowing, although at a slow pace, and remains significant at 22 per cent globally. There has also been a decreasing trend in hours of work per worker, but many workers continue to work long hours.

5. [Informality remains a major obstacle to achieving inclusive, adequate and effective labour protection for all workers. Two billion workers worldwide make their living in the informal economy, with limited rights and protections, if any, and informality among the self-employed has been rising. Labour protection remains an elusive goal for the self-employed, including for many in the formal economy.]
6. Risk of exclusion from labour protection or inadequate labour protection are higher for workers and groups of workers facing discrimination based on gender and other grounds, including intersecting discrimination, such as migrants and refugees, youth, persons with disabilities, members of marginalized ethnic groups, indigenous and tribal peoples, and for workers in specific occupational groups, sectors and work arrangements, including care workers, domestic workers, agricultural workers and homeworkers, especially where inadequate legal frameworks or weak labour market governance prevail.
7. [While the diversification of work arrangements, such as temporary employment, platform work and telework, may have eased access to employment for workers facing higher barriers in entering and remaining in the labour market, it has led to new challenges for labour protection and the classification of workers. Recognizing the continued relevance of the employment relationship as the main gateway to labour protection and social security, some countries have taken steps to promote correct status in employment classification.]
8. Growing information and communication technologies (ICT) connectivity has allowed for telework, which increased during the COVID-19 crisis and is likely to continue along with "hybrid" work arrangements. It has facilitated greater flexibility in the organization of work and work-life balance, preserved jobs and labour protection in many countries during the pandemic, but can also create significant stress for workers if not ensuring and respecting limits on working time and protection for workers' disconnection according to national regulation and agreement between the parties. [Challenges also include the protection of workers' personal data and their right to privacy, the potential for biased automated decisions affecting employment and work assignments, as well as [the prevention of / addressing] [mental health risks / psychosocial disorders].]
9. There has been a declining trend in the rate of work-related deaths or diseases, although the numbers remain significant and increasing. In 2022, a safe and healthy working environment was included in the ILO's framework of fundamental principles and rights at work [and the Occupational Safety and Health Convention, 1981 (No. 155) and Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) were framed as fundamental conventions.] New regulations have been put in place to tackle violence and harassment in the world of work, including through the ratification and implementation of the Violence and Harassment Convention, 2019 (No. 190). At the same time, climate change exacerbates and presents new health and safety concerns, including heat stress.

10. [Gender inequalities and discrimination persist, including in terms of women's access to labour markets, skills and earnings, violence and harassment and women's disproportionate share of unpaid care work. However, there have been important legal advances in relation to maternity protection, including paid maternity leave, as well as paternity and parental leave.]
11. In many countries, migrant workers fill labour shortages and contribute to sustainable development. Yet many face continued discrimination as well as barriers in access to labour protection. Some countries have developed legal and institutional frameworks that protect migrant workers' entitlements, ensuring social protection coverage and safe and orderly migration.
12. Employment protection measures, including rules against unfair dismissal and restrictions on misuse of fixed-term contracts, have been adopted in some countries. Open ended employment contracts have been promoted, which provide workers with increased labour protection while enhancing productivity and business adaptability, including by incentivizing investment in employees' skills and competencies. Workers engaged in temporary employment contracts have also been protected, including through the introduction of adequate regulation on the limitations on the use of temporary contracts in a number of countries. As part of a State's duty to protect and the corporate responsibility to respect human rights, important measures have been taken by enterprises and States to advance human rights, including the fundamental principles and rights at work, and promote responsible business conduct, including in supply chains, in line with the United Nations Guiding Principles on Business and Human Rights and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration). Measures such as the support of international partnerships like the Global Alliance to Eradicate Forced Labour, Modern Slavery, Human Trafficking and Child Labour (Alliance 8.7) are important to support further efforts in this area and promote decent work including in supply chains.
13. Some countries have adjusted their compliance mechanisms to changing circumstances to increase the effectiveness of labour protection. However, human, technological and financial resources for labour inspectorate systems are often inadequate, which results in higher informality levels and constrains sustained improvements in law enforcement. Cooperation between labour inspectorates and competent authorities, as well as resources, need to be enhanced in order to improve compliance, including in the informal economy.
14. [During the COVID-19 crisis, the engagement of the social partners, through bipartite and tripartite social dialogue, at all levels, has proven essential to protect workers' health and for preserving jobs and workers' income, while ensuring business continuity.]

II. Framework for action

15. Inclusive, adequate and effective labour protection needs to be grounded in the fundamental principles and rights at work, and in particular freedom of association and the effective recognition of the right to collective bargaining. Social dialogue, supported by free, independent, strong and representative employers' and workers' organizations, should be placed at the centre of the design and implementation of labour protection measures.
16. International labour standards on matters such as wages, working time, maternity protection, employment protection, labour inspection and occupational safety and health (OSH), and the right of everyone to be free from violence and harassment in the world of work, provide a clear guiding framework for the development of inclusive, adequate and effective labour protection

[for all workers] and should foster a conducive environment for sustainable and inclusive social and economic development.

17. [Labour protection encompasses different dimensions that are interconnected and mutually reinforcing. Achieving labour protection for all workers requires an integrated policy approach and a coherent framework that is gender transformative.]
18. Labour protection and social security are the two complementary dimensions of the strategic objective of social protection. Together, they protect workers and contribute to the productivity and sustainability of enterprises. Promoting synergies with the other three strategic objectives of the Decent Work Agenda is necessary for labour protection to be sustained, while contributing to the progress of this Agenda.
19. [For sustainable enterprises to thrive, while promoting labour protection, enabling macroeconomic policies and regulatory frameworks that take account of the needs and circumstances of enterprises, particularly micro, small and medium-sized enterprises (MSMEs), are needed.]
20. [Recognizing the diversity of workers and enterprises, and of national circumstances and priorities, is a condition for the design and implementation of well-tailored and inclusive labour protection strategies in a broad range of contexts.]

III. Achieving inclusive, adequate and effective labour protection for all workers

21. To achieve inclusive, adequate and effective labour protection for all, based on social dialogue, [including collective bargaining,] Members, with the support of the Organization and taking into account national circumstances and priorities, should:
 - (a) [Foster an enabling legal and institutional environment to promote effective social dialogue and voluntary collective bargaining at all appropriate levels.]
 - (b) Address the root causes of exclusion from labour protection, in particular informality and poor governance, including by accelerating efforts to support transitions to formality in accordance with the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), and foster the effectiveness, accountability, and transparency of public institutions.
 - (c) [Extend labour protection to those most at risk of inadequate or no protection, including people facing discrimination or in specific occupations, sectors and work arrangements or workers in MSMEs, while considering the heterogeneity of models and levels of protection.]
 - (d) Tackle discrimination of workers and groups of workers in vulnerable situations to achieve inclusive, adequate and effective labour protection for all workers.
 - (e) Develop coherent policy responses that promote an enabling environment for sustainable enterprises to generate productive, quality jobs and decent work.
 - (f) [Promote appropriate classification of workers, in line with the Employment Relationship Recommendation, 2006 (No. 198).]

- (g) [Design and implement policies and strategies to limit working hours and overtime and preserve work-life balance, including through the promotion of flexible work arrangements and protection for workers' disconnection.]
- (h) Step up efforts to reduce gender inequality in the world of work, including by addressing structural barriers to women's access to quality jobs, and equal remuneration for work of equal value.
- (i) Adopt policies, regulations and other measures, among others those that help reskilling and upskilling, which facilitate job transitions benefiting from inclusive, adequate and effective labour protection.
- (j) [Promote OSH strategies for zero work-related deaths and severe work-related injuries or illnesses, including access to relevant social security benefits, and develop effective OSH management systems.]
- (k) Promote the application of the Guidelines on general principles on Labour Inspection, 2022, and strengthen and constantly adapt labour inspectorates to adequately address emerging and existing labour issues, including through the reinforcement of the number, skills and resources of labour inspectors, including their mandate to conduct effective monitoring and inspection in the informal economy.
- (l) Protect migrant workers' rights at national level and engage in bilateral and regional cooperation between countries of origin, transit and destination to guarantee migrant workers' rights, wage protection, [OSH,] social protection [and cross-border portability of benefits,] access to justice, access to effective remedies, and dispute settlement; to address discrimination; and to implement fair recruitment policies and practices.
- (m) Equip the ILO with a clear, robust and up-to-date body of standards, supported by an effective supervisory system, which responds to the evolution of the world of work, protects workers and [takes into account the needs of / supports] sustainable enterprises.

IV. Mobilizing ILO means of action

- 22. The Organization should strengthen its support to governments, employers' and workers' organizations by:
 - (a) [Promoting the ratification and implementation of all fundamental Conventions and international labour standards on wages, working time, OSH, maternity and employment protection, and other areas of labour protection.]
 - (b) [Providing technical assistance and guidance on workers' classification and on developing and strengthening effective labour protection institutions, including public labour inspectorates.]
 - (c) [Supporting the improvement of wage systems, including statutory or negotiated minimum wages.]
 - (d) Providing technical assistance and supporting knowledge development and sharing on innovative approaches to address informality and scale up the transition to formality.
 - (e) Providing tools and advice on ways to harness digital technologies for improving working conditions, enhancing workers' OSH and enabling compliance, in particular for MSMEs.

- (f) Providing guidance on labour protection for workers engaged in specific forms of employment and work arrangements such as temporary employment, platform work and telework and “hybrid” forms of work.
- (g) [Enhancing their capacity to respond to psychosocial risks resulting from new forms of work organization, including in workplaces with high use of ICT and in the platform economy.]
- (h) Elaborating a strategy giving effect to the transformative agenda for gender equality that ensures equality of treatment and opportunity for all women, particularly for those of intersectional identities, a balanced sharing of family responsibilities and an increased investment in the care economy; and tackles violence and harassment in the world of work.
- (i) Continuing engagement in the Equal Pay International Coalition to achieve the objective of equal remuneration for work of equal value.
- (j) [Developing for submission to the Governing Body a proposal for the convening of a tripartite meeting of experts on the organization and scheduling of working time.]
- (k) Playing a leadership role in the multilateral system and reinforcing international cooperation, including the South-South Cooperation projects, and policy coherence and partnerships on labour protection, including with the World Trade Organization, with international financial institutions [, by leading the Global Coalition for Social Justice and in the context of efforts to implement the Sustainable Development Goals 5, 8 and 10].

23. The Organization should intensify knowledge development and capacity-building activities, particularly in the following areas:

- (a) Disaggregated data collection and analytical research on protecting people and groups more at risk of exclusion and on the components of labour protection.
- (b) The interdependence between labour protection and sustainable enterprises, notably MSMEs, as well as between labour protection and the other strategic objectives of the Decent Work Agenda [notably the development of the entities of the social and solidarity economy].
- (c) [The manner in which freedom of association and collective bargaining have fostered labour protection in different socio-economic contexts, including through the flagship social dialogue reports.]
- (d) [Ways to address the misclassification of workers, and the effectiveness of strategies to formalize the economy and to ensure labour protection for workers in diverse work arrangements.]
- (e) [Impact assessment and awareness of the challenges of digitalization, including artificial intelligence and algorithmic management, for labour protection, including emerging OSH risks.]
- (f) [Means for providing labour protection to workers engaged in diverse work arrangements such as temporary employment, platform work and telework and “hybrid” forms of work.]
- (g) [Ways to strengthen labour protection in supply chains, in the framework of the MNE Declaration, and to enforce labour provisions in trade and investment agreements and in public procurement.]

- (h) [Peer-reviewed research on concepts and estimations of living wages, in line with the 2022 Resolution concerning the third recurrent discussion on employment.]
- (i) Updating the ILO Working Conditions Laws Database and putting in place a repository of policies and regulations on labour protection and analyses of what works.