

## ILO and UN Resident Coordinators Dialogue on Decent Work and Economic Growth in the context of the Future of Work in Latin America and the Caribbean

17 - 18 DE SEPTEMBER 2019

### Session 1: International Labour Standards, Social Dialogue and Tripartism

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#### Panel 1 Tripartism and social dialogue

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#### Panel 2 International Labour Standards

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### i. The ILO and its mandate: International Labour Standards

The ILO is the only agency in the UN System with a tripartite structure and has a normative mandate to adopt International Labour Standards which, once ratified by a member State, create legal obligation as part of the domestic law. This is the basis for the system of enforcement through a multi-layered supervisory structure that operates in accordance with the ILO Constitution. Within this framework, member States are required to report on the measures taken to bring their national legislation and practice in line with ratified Conventions.

The Preamble to the ILO Constitution of 1919 clearly sets out the three key driving forces that played a role in creating the ILO: first, the end of World War I when the Organization was created to address unfair working conditions in many regions of the world; second, that where working conditions were not catered for within a framework of social justice, world peace would once again be in peril; and finally, that if one nation failed to truly adopt humane working conditions, it would risk other nations doing so and would be detrimental to the situation of workers in other countries.

On the other hand, the Declaration of Philadelphia in 1944, which became part of ILO's Constitution in 1946, "was the first expression of the willingness to build, at the end of the World War II, a new international order based not on force but on law and justice<sup>1</sup>."

<sup>1</sup> Ibid, p.11.

In 1999, the ILO Director-General launched *Decent Work as a primary goal* for the ILO “to promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity<sup>2</sup>.”

This primary goal was enshrined in the ILO Declaration on Social Justice for a Fair Globalization in 2008: “In the context of accelerating change, the commitments and efforts of Members and the Organization to implement the ILO’s constitutional mandate, including through International Labour Standards, and to place full and productive employment and decent work at the centre of economic and social policies (...)”<sup>3</sup>.”

Finally, it is essential to recall that in the framework of the ILO Centenary Declaration, adopted in June 2019, ILO constituents have reaffirmed the centrality of the ILO’s normative mandate. In this regard, Part IV declares that:

“A. The setting, promotion, ratification, and supervision of international labour standards is of fundamental importance to the ILO. This requires the Organization to have and promote a clear, robust, up-to-date body of international labour standards and to further enhance transparency. International labour standards also need to respond to the changing patterns of the world of work, protect workers, and take into account the needs of sustainable enterprises, and be subject to authoritative and effective supervision. The ILO will assist its Members in the ratification and effective application of standards.”

“B. All Members should work towards the ratification and implementation of the ILO Fundamental Conventions and periodically consider, in consultation with employers’ and workers’ organizations, the ratification of other ILO standards.”

“C. It is incumbent on the ILO to strengthen the capacity of its tripartite constituents to: i) encourage the development of strong and representative social partner organizations; ii) engage in all relevant processes, including with labour market institutions, programmes and policies, within and beyond their borders; and iii) address all fundamental principles and rights at work, at all levels, as appropriate, through strengthened, influential and inclusive mechanisms of social dialogue, in the conviction that such representation and dialogue contribute to the global cohesion of societies and are matters of public interest, and that they are crucial for a productive and efficient economy.”

## — ii. Relevance of the International Labour Standards in the 2030 Agenda

When adopting the 2030 Agenda, the world’s leaders declared that “In doing so [implementing the agenda], we reaffirm our commitment to international law and emphasize that the Agenda is to be implemented in a manner that is consistent with the rights and obligations of states under international law.” Indeed, the 2030 Agenda “has a strong normative character and sets a truly human rights centred path for sustainable development. (...) that underlines the correspondingly central role of international labour standards in its realization<sup>4</sup>.”

Since 1919, the ILO has adopted 190 Conventions, 206 Recommendations, and 6 Protocols; worth highlighting are the *Fundamental Conventions and Governance Conventions*.

2 Report of the Director-General, International Labour Conference, 1999.

3 ILO Declaration on Social Justice for a Fair Globalization, 2008.

4 International Labour Organization (ILO). *The End to Poverty Initiative: The ILO and the 2030 Agenda; Director-General’s Report*. Geneva: 2016.

Constituents recognized the former at the 1998 ILO Declaration on Fundamental Principles and Rights at Work and also *have been recognized as fundamental both inside and outside the Organization by the United Nations system, among others*. On the other hand, the 2008 ILO Declaration on 2008 Declaration on Social Justice for a Fair Globalization recognized the latter as *standards that are the most significant from the viewpoint of governance*.

In addition to the explicit commitment to human rights, the preamble of the Constitution, the Centenary Declaration, the 2030 Agenda Goals and Targets contain many references to human rights. Among these goals, there are two of particular importance to the world of work: SDG target 8.8: “to protect the labour rights of all workers, including migrant workers, particularly women migrants and those in precarious employment”, and target 16.3: “to promote the rule of law at the national and international levels and ensure equal access to justice for all.”

International Labour Standards are discussed, drawn up, and adopted by the ILO Constituents (representatives of governments, workers, and employers) at the International Labour Conference. This ensures broad support for these standards from the social partners, i.e. key players in the economy. Employers and workers also play an active role in the functioning of the ILO supervisory system, and thus in the application of standards.

International Labour Standards can be used for a number of purposes, such as:

- 1) a model for domestic Labour Laws
- 2) sources of international law applied at the national level
- 3) a guidance on social policy
- 4) legislation or policy baselines for other areas

In order to promote, implement, and incorporate the standards into national legislation, the ILO has formed alliances with a number of international organisations in the areas of [child labour](#) and [forced labour](#) (Alliance 8.7), [equal pay \(EPIC\)](#), and [social protection \(SPF-I\)](#), among others. These alliances enable the Office to promote certain standards, partnering with other organizations that pursue similar objectives and provide support, for example on the rights of indigenous and tribal peoples. This is consistent with one of the objectives set out under the renewed United Nations Sustainable Development Cooperation Framework (UNSDCF) to coordinate a joint UN response to help countries address national priorities and gaps in their path towards achieving the SDGs.

Both International Labour Standards and analysing their compliance within the framework of the ILO supervisory system undoubtedly give a view of the national labour landscape, help to determine “who is left behind,” and can be an interesting source for drawing up the “Common Country Analysis” (CCA).

The indicators to be measured by ODS 8 are of course linked to compliance with International Labour Standards, which highlights the role assigned in this respect to the ILO supervisory system and its respective bodies.

### — iii. Ratification of ILO standard-setting instruments in the Americas

It is worth noting that to date, 1712 ILO Conventions have been ratified by the countries of the Americas (See Figure 1 below).

Considering the members States separately, on average each member State in the Americas has ratified 48.8 ILO Conventions, a number considerably higher than that in other regions, Africa (33.67), Asia (21.26), and the Arab member States (26.27) and only surpassed by the European member States (68.19) (See. Figure 2 below).

Practically, all of the member States in the region have ratified the Fundamental Conventions. Recently, Mexico ratified the Right to Organise and Collective Bargaining Convention (No. 98) in 2018, and the Minimum Age Convention (No. 138) in 2015. Brazil still needs to ratify Convention 87 (See Figure 3 below).

**Figure 1<sup>5</sup>. Americas. Ratifications**

Country	Fundamental Conventions	Governance Conventions (priority)	Technical Conventions	Total
Antigua and Barbuda	8	3	18	29
Argentina	8	3	70	81
Bahamas	8	2	25	35
Barbados	8	3	29	40
Belize	8	2	40	50
Bolivia, Plurinational State of	8	3	39	50
Brazil	7	3	87	97
Canada	8	3	26	37
Chile	8	2	53	63
Colombia	8	3	50	61
Costa Rica	8	4	40	52
Cuba	8	2	80	90
Dominica	8	2	16	26
Dominican Republic	8	3	29	40
Ecuador	8	3	50	61
El Salvador	8	4	18	30
United States	2	1	11	14
Grenada	8	2	24	34
Guatemala	8	4	62	74
Guyana	8	3	36	47
Haiti	8	1	16	25
Honduras	8	3	15	26
Jamaica	8	3	20	31
Mexico	8	1	71	80
Nicaragua	8	2	52	62
Panama	8	3	67	78
Paraguay	8	2	29	39
Peru	8	3	65	76
Saint Kitts and Nevis	8	1	1	10
Saint Vincent and the Grenadines	8	4	15	27
Santa Lucia	7	0	21	28

5 Source: NORMLEX. Available at : [https://www.ilo.org/dyn/normlex/es/f?p=1000:10015:4901036604670:::P10015\\_DISPLAY\\_BY:3](https://www.ilo.org/dyn/normlex/es/f?p=1000:10015:4901036604670:::P10015_DISPLAY_BY:3)

Country	Fundamental Conventions	Governance Conventions (priority)	Technical Conventions	Total
Suriname	8	3	22	33
Trinidad and Tobago	8	3	11	22
Uruguay	8	4	98	110
Venezuela, Bolivarian Republic of	8	3	43	54
<b>Total</b>				<b>1712</b>

Figure 2. Average number of ratifications of ILO Conventions by country, by region

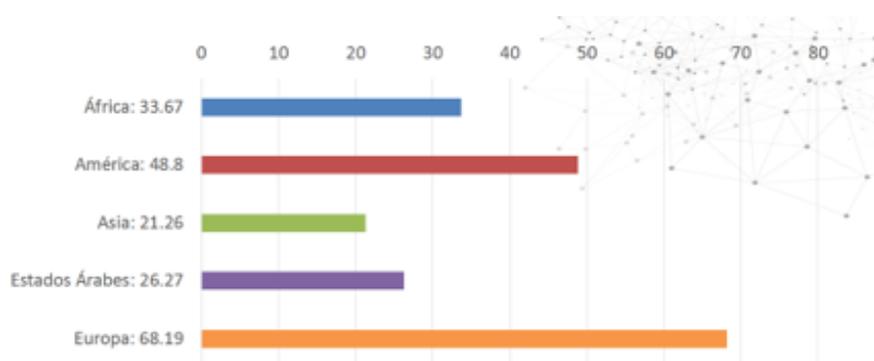


Figure 3<sup>6</sup>. Number of ratifications of ILO Fundamental Conventions by region

País	Casos de Libertad Sindical		Trabajo forzoso		Discriminación		Trabajo infantil	
	C087	C098	C029	C105	C100	C111	C138	C182
<b>Total: 187</b>	<b>155</b>	<b>167</b>	<b>178</b>	<b>175</b>	<b>173</b>	<b>175</b>	<b>172</b>	<b>186</b>
África (54)	49	54	54	54	52	54	52	54
América (35)	33	34	34	35	34	34	33	35
Asia y el Pacífico (35)	18	22	28	24	29	26	25	35
Estados árabes (11)	4	6	11	11	7	10	11	11
Europa (51)	51	51	51	51	51	51	51	51

#### iv. The impact of the ILO Supervisory System/Mechanism on the application of international labour standards in the members States of the Americas: Cases of Progress and Technical Assistance handled by the Office

International Labour Standards are backed by a supervisory system that helps to ensure that States implement ratified Conventions. The ILO Constitution provides for two kinds of supervisory mechanisms: 1) *periodic and regular* supervision by the Committee of Experts on the Application of Conventions and Recommendations and the Committee on the Application of Standards, a body of the International Labour Conference; and 2) *special procedures* that include the possibility of submitting

6 Source: NORMLEX. Available at: [https://www.ilo.org/dyn/normlex/es/?p=1000:10011::NO:10011:P10011\\_DISPLAY\\_BY:P10011\\_CONVENTION\\_TYPE\\_CODE:3,F](https://www.ilo.org/dyn/normlex/es/?p=1000:10011::NO:10011:P10011_DISPLAY_BY:P10011_CONVENTION_TYPE_CODE:3,F)

complaints or grievances for not complying with ratified Conventions. It is also important to highlight the Special procedure for complaints regarding freedom of association carried out by the Committee on Freedom of Association (CFA) of the ILO Governing Body. The CFA examines complaints of violations of freedom of association, whether or not the country concerned has ratified the relevant Conventions. For more information, see the International Labour Standards Department website:

<https://www.ilo.org/global/standards/>

The work of the ILO supervisory bodies has had a major impact in the region. It is worth highlighting the impact of their recommendations and observations on the drafting of Labour Codes and other legislative texts. The International Labour Standards and the observations of supervisory bodies greatly influence the many judgments rendered by the region's labour courts and even the constitutional courts. We should not forget the crucial role that the work of the supervisory bodies has played in guaranteeing the rule of law and strengthening democracy in several countries of the Americas (specifically, the impact of the work of the supervisory bodies has had, see the specific publications of the Standards Department in this regard).

It should be noted that, in general, the governments of the region comply with their constitutional obligations by sending information to the supervisory bodies on a regular basis, while submitting responses requested of them within the scope of the special procedures. The regional workers' and employers' organizations actively participate in the procedures.

Finally, it is important to note that the work of the supervisory bodies is often backed by technical assistance provided by the International Labour Office. Such assistance has taken the form of technical comments to bills, training of constituents, facilitation of dialogue, etc.

## — v. ILO Initiatives on Strengthening Labour Dispute Prevention and Resolution at the national level

For several years, the ILO has been promoting national tripartite mechanisms for labour dispute prevention and resolution under the international labour standards in Latin America. The ILO supervisory bodies have taken note of the use of these mechanisms and have supported their use, encouraging the Office to continue to promote their appropriate development. These mechanisms have proved very useful in preventing and resolving a large number of disputes in the area of freedom of association and have sometimes served as a framework for the conclusion of collective agreements. Several commissions with different characteristics have been established in a number of countries. Colombia, Panama, Dominican Republic, Guatemala, Honduras, Paraguay, and Argentina. The Office provides technical assistance to constituents in this context, when deemed necessary.

It should also be noted that under the Standards Initiative, the Governing Body approved, at its 334th Session (November 2018), a number of measures concerning complaints procedure under article 24 of the Constitution (documents GB.332/INS/5 (Rev.), GB.334/INS/5 and GB.334/INS/5, paragraph 21, as amended by the Governing Body)<sup>7</sup>. These measures provide for the approval of arrangements to allow for ***optional voluntary conciliation or other measures at the national level***, leading to the temporary suspension for a maximum period of six months of the examination of a complaint by the *ad hoc* Committee to be appointed by the Governing Body. This is, of course, a voluntary measure that requires the agreement of the complainant and the government. If such measure is not accepted, the cases will follow the regular procedure.

<sup>7</sup> Available at [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_646919.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_646919.pdf)