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# Supporting recovery policies through international labour standards and respect for workers' rights: Issues and challenges for the Arab region

Thematic Paper

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international labour standards and  
respect for workers' rights:  
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Thematic Paper

Arab Employment Forum  
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## Thematic Papers Prepared for the Arab Employment Forum

This paper was prepared by Abdoullah Zouhair, Senior Labour Legislation and International Labour Standards Specialist of the ILO Regional Office for the Arab States for the Arab Employment Forum: *A Jobs Pact for Recovery and Growth*, held in Beirut from 19 to 21 October 2009. The paper has benefited from comments by many colleagues from the ILO Regional Office for the Arab States, the Sub-regional Office for North Africa and the International Labour Standards Department as well as from tripartite participants at a preparatory roundtable meeting which took place on 28 July 2009 in Beirut.

This paper is one of the six thematic papers that were prepared to inform participants and frame the discussions of the thematic sessions of the Arab Employment Forum. The titles of these thematic papers are:

1. Growth, employment and decent work in the Arab region: Key policy issues;
2. International labour migration and employment in the Arab region: Origins, consequences and the way forward;
3. Tackling the global jobs crisis through social dialogue: Issues, challenges and perspectives in the Arab region;
4. Supporting recovery policies through international labour standards and respect for workers' rights: Issues and challenges for the Arab region;
5. Building adequate social protection systems and protecting people in the Arab region; and
6. Sustainable enterprise development and employment creation in the Arab region: A review of issues.

The choice of the themes reflects the priority areas and employment challenges facing the Arab region, particularly as a result of the global financial and economic crisis. These thematic papers provide the background material for the realization of commitments made at the global and regional levels on decent work and on the implementation of the Global Jobs Pact. Moreover, these papers are complementary to ILO approaches and they build on an ongoing process to support the realization of decent work at the global level.

At the 14th Asian Regional Meeting held in Busan, Republic of Korea, in August/September 2006, the tripartite delegates launched an Asian Decent Work Decade and committed to the achievement of specific decent work outcomes. The Meeting recommended co-operation on specific initiatives at the regional level, where joint action and sharing of knowledge and expertise will contribute to the realization of decent work. Recommendations also included strengthening employment services, developing reliable regional statistics to complement decision-making, providing support services for small enterprises, establishing benchmarks and good practices on the extension of social protection and strengthening labour inspection, dispute prevention and settlement.<sup>1</sup>

At the 11th African Regional Meeting, which took place in Addis Ababa in April 2007, tripartite delegations from Arab countries in Africa committed themselves to a series of targets for the development of integrated Decent Work Country Programmes to accelerate progress towards the achievement of agreed international development goals including the Millennium Development Goals. The conclusions of the Meeting emphasized specific goals, including closure of the skills gap, social

<sup>1</sup> For further information, see <http://www.ilo.org/public/english/region/asro/bangkok/14arm/index.htm>

inclusion through job creation, tripartism as a key governance mechanism for inclusive poverty-reducing growth, a fair regional policy on migrant workers, freedom of association, the elimination of child labour, slavery and discrimination, the extension of a basic social protection package for poverty reduction, and escape from the informal economy trap. The constituents also committed themselves to the African Decent Work Decade, following up on the conclusions of the Ouagadougou Summit of 2004 and its Declaration, Plan of Action and follow-up Mechanism on Employment and Poverty Alleviation in Africa.<sup>2</sup>

The conclusions of the 35th Arab Labour Organization Conference in April 2009 called for greater regional cooperation in the areas of employment, human resources and social dialogue. The Conference conclusions placed emphasis on developing regional initiatives, including a unified Arab Labour Law, and creating regional mechanisms to tackle shared challenges, such as the establishment of an Arab Tripartite Forum and an Arab Labour Market Information System. The ALO has highlighted the need for greater regional cooperation and coordination with the ILO to address the financial and economic crisis. The ALO, in cooperation with the ILO, organized the Arab Forum on Development and Employment in November 2008 that resulted in the Doha Declaration, which identifies a shared set of regional priorities. The subsequent Arab Economic, Social and Development Summit (Kuwait, January 2009) ushered in the Arab Decade on Employment (2010-20) that established clear goals for the region, such as decreasing unemployment, halving the percentage of working poor, enhancing production, promoting worker training, supporting small and medium enterprises and continuing the ratification process in the region towards full compliance with international and Arab labour standards.

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<sup>2</sup> For further information, see <http://www.ilo.org/public/english/region/afpro/addisababa/index.htm>.

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## Introduction

1. At the end of the twentieth century, the burning debate was on globalization and its economic and social impact. Views and perceptions differed widely. Some argued that globalization had exacerbated problems of unemployment, inequality and poverty; while others contended that it had helped to reduce them. The discussions did make it clear that the new global economy intensified competition and led to downward pressure on working conditions and respect for labour standards. In some cases, violations of fundamental principles and rights at work relating in particular to freedom of association and collective bargaining and to discrimination in the workplace in an effort to attract foreign investment had made matters worse. The reduced bargaining strength of workers often resulted in being denied their rights and not getting a fair share of the gains from more open international competition and economic growth.
2. Hard on the heels of globalization, the rapid and vertiginous financial market collapse awakened the world to a bitter reality: the real peril of excessive financial liberalization and under-regulated global financial markets.
3. The crisis threatens to undermine further the rights of workers in the Arab countries and to lead to the deterioration of conditions of work, particularly in the informal economy. Fundamental rights at work are put at risk especially when redundancies and cost-cutting measures affect women and the most vulnerable first: migrant workers, minorities and the young. In the absence of collective agreements, the workers in some countries have to concede hard-won wage levels and benefits. The risk of trafficking in persons or illegal child labour as cheap alternatives persists and worsens in some countries, as does recourse to different kinds of forced or compulsory labour. Thus, the ongoing effort to achieve decent work for all meets new obstacles and hurdles.
4. The members of the International Labour Conference (ILC) Committee on Standards in June 2009<sup>3</sup> emphasized that the economic crisis and the accompanying recession were not an excuse to pay less attention to ILO Conventions and to deprive the workforce of their acquired rights at work. They stressed that measures needed to be taken to avoid a global “race to the bottom” with working conditions deteriorating, social protection weakened, workers’ rights undermined and unemployment increasing. Coherent solutions had to be found in order to address the crisis.
5. The ILC also emphasized that countries must deal with the crisis in a way that stabilizes the financial and economic systems, reduces unemployment and supports, rather than undermines, the shared aspiration of decent work for all. The economic crisis made the task of improving working conditions even more important than before. Strong political will was required to halt the negative effects of the crisis on working conditions. Failing in this would harm long-term economic and social development.
6. To face the challenges of the financial crisis, in June 2009 the International Labour Conference adopted a Global Jobs Pact which is seen as a national, regional and global initiative to help workers, families

<sup>3</sup> ILO: Provisional Record No. 16 (1st part), Report of the Committee on the Application of Standards - Third item on the agenda: Information and reports on the application of Conventions and Recommendations (International Labour Conference (ILC), June 2009, Geneva).



and enterprises through this first systemic crisis of globalization and build the foundations of a path to recovery and sustainable growth.<sup>4</sup> The central objective of the Global Jobs Pact is to place employment and labour market issues, together with social protection and respect for workers' rights, at the heart of stimulus packages and other national policies adopted to confront the crisis. The elements of this Global Jobs Pact are guided by the ILO's international labour standards (ILS) and the resolutions and policy instruments adopted by its governing organs. The use of social dialogue to define and implement policies is considered as a key consensus-building tool.

7. It is in this context that the Arab Employment Forum (the Forum) takes place, to discuss and propose a series of policy measures to guide the regional implementation of the Global Jobs Pact which will place employment and labour market issues, together with social protection and respect for workers' rights, at the heart of regional responses to the financial and economic crisis.
8. This paper addresses the ILS dimension of the financial and economic crisis and provides a platform to identify and support recovery policies through respect for international labour standards and workers' rights. It is aimed at serving as a background for the discussion in a thematic session to be dedicated to strengthening respect for these standards and rights.

## I. The role of ILS and workers' rights in the context of the current global economic and financial crisis

9. The primary goal of the ILO today is to promote, in the framework of its 2008 Declaration on Social Justice for a Fair Globalization, opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity. This is both a personal goal for individuals and a development goal for countries. Decent work is the converging focus of all four of the Declaration's strategic objectives: the promotion of rights at work; employment; social protection;

and social dialogue. In adopting the Declaration, the ILO's constituents have committed themselves to making social justice and fair globalization the key drivers for the future.

10. In times of economic crises, the ILO has always had an important role to play, both to provide assistance to the most vulnerable constituents and to maintain its system of international labour standards. Each country is responsible for protecting its workers from abuse by implementing and enforcing labour laws and regulations. Corporate social responsibility is an additional tool and complements the responsibilities of governments under ILO Conventions.
11. As emphasized in the Director-General's Report to the Conference in June 2009,<sup>5</sup> the different elements of the way forward are to be found in the international labour standards adopted, promoted and supervised by the ILO. They cover fundamental aspects of decent work, such as full, productive and freely-chosen employment; tripartite consultations; the rights of employers and workers; the means of settling disputes between them freely through their representatives; the basic rights to non-discrimination and freedom from forced and child labour; and social protection.
12. To underpin these measures, increased efforts are required to facilitate social dialogue at regional, national and sectoral levels and in public and private workplaces, as well as greater vigilance with respect to fundamental principles and rights at work during the recession and improved monitoring of labour markets and policy impacts.
13. The Conference Committee on Standards in June 2009 underlined the important role of international labour standards in dealing with the current crisis. The Committee emphasized that the crisis must not be used as an excuse for lowering standards. It recalled that treaty obligations, voluntarily undertaken, were to be fully respected and that ensuring respect for fundamental principles and rights at work results in undeniable benefits to the development of human capital and economic growth in general and, more particularly, to global economic recovery. It underlined that international labour standards provide essential tools and useful guidance in developing effective policies for sustainable economic growth and recovery. The aim of international labour standards is to reflect a carefully

4 ILO: Recovering from the crisis: A Global Jobs Pact (ILC, June 2009, Geneva).

5 ILO: Report I(A) - Report of the Director-General: Tackling the global jobs crisis: Recovery through decent work policies (ILC, June 2009, Geneva).

balanced framework, bearing in mind workers' and employers' concerns, so as to ensure relevance to changing circumstances while underlining the importance of implementing labour standards.

14. The Committee also emphasized that the crisis has had an impact upon both workers and employers, as well as on their organizations and on the informal economy. Labour standards, productivity and job growth are essential to sustainable economies and to the protection of those who are most vulnerable. Beyond the fundamental rights at work, standards related to wage protection, employment promotion and social safety nets also serve as indispensable baselines for the protection of all workers. The ILO Declaration on Social Justice for a Fair Globalization reinforces the role of international labour standards in the world of work and for a fair economic and social development.
15. While the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, the Strategic Policy Framework 2010-15<sup>6</sup> and the Programme and Budget proposals for 2010-11<sup>7</sup> have dealt extensively with ways to support constituents in accordance with the ILO Decent Work Agenda, this Forum is a concrete measure to assist the countries in ways adapted to their specific circumstances.
16. The conclusions to be adopted by the Arab Employment Forum should be oriented towards creating and maintaining employment that is consistent with the Decent Work Agenda and with the conclusions in the Global Jobs Pact. They should rely on an effective and efficient promotion and realization of standards and fundamental principles and rights at work as one of the four pillars of ILO action. Guidance from the ILO supervisory bodies constitutes a key resource in monitoring and promoting a rights-based approach to development in a globalized labour market currently affected by economic crisis. Therefore, there is a particular need to focus efforts on national capacity-building on ILS with a view to improving Arab countries' ability to fulfil their obligations with respect to international labour standards. There is an equally urgent need

to review how international labour standards not yet ratified by individual countries can contribute to constructing the foundation for a solid recovery and a sustainable economy for the future.

## II. Supporting recovery policies through respect for ILS and workers' rights

17. The ILO was created primarily for the purpose of adopting international labour standards to cope with the problem of labour conditions involving injustice, hardship and privation. With the incorporation of the Declaration of Philadelphia into its Constitution in 1946, the Organization's standard-setting mandate was broadened to include more general, but related, social policy and human rights questions. International labour standards are an expression of international tripartite commitments to these ILO values.
18. In order to attain its objective to "Promote and realize standards, fundamental principles and rights at work" the ILO assists member States as well as employers' and workers' organizations in ratifying ILO Conventions and implementing international labour standards. Since 1994, the ILO has engaged in a process of modernizing and strengthening its labour standards system. The supervision of these international labour standards is entrusted mainly to the Committee of Experts on the Application of Conventions and Recommendations, the Conference Committee on the Application of Standards, and the Committee on Freedom of Association. A representation or complaint may also be lodged against a member State that does not observe a Convention it has ratified.
19. Emerging global markets and a growing global economy requires increasing harmonization with international standards. There are four fundamental human rights principles embedded in the ILO Constitution: freedom of association and collective bargaining; the elimination of forced or compulsory labour; the elimination of child labour; and the elimination of discrimination in respect to employment and occupation. These are detailed in the ILO Declaration on Fundamental Principles and Rights at Work,<sup>8</sup> a pledge by all countries to

<sup>6</sup> The Strategic Policy Framework established 19 outcomes for the six-year period 2010-15. These outcomes form the backbone of the Strategic Policy Framework and the Programme and Budget. They are based on the four strategic objectives of the Decent Work Agenda and respond to the criteria of the ILO Declaration on Social Justice for a Fair Globalization on the inseparable, interrelated and mutually supportive nature of the four strategic objectives.

<sup>7</sup> The Programme and Budget for 2010-11 was approved by the International Labour Conference at its 98th Session, June 2009. The full text is available at: [http://www.ilo.org/global/What\\_we\\_do/Officialmeetings/ilc/ILCSessions/98thSession/ReportsubmittedtotheConference/lang--en/docName--WCMS\\_105120/index.htm](http://www.ilo.org/global/What_we_do/Officialmeetings/ilc/ILCSessions/98thSession/ReportsubmittedtotheConference/lang--en/docName--WCMS_105120/index.htm).

<sup>8</sup> Adopted by the ILC, 86th Session, June 1998 (Geneva), the ILO Declaration on Fundamental Principles and Rights at Work is an expression of commitment by governments, employers' and workers' organizations to uphold

- respect, promote and realize these rights. The adoption of the Declaration in 1998 was a decisive step towards universal respect for these rights, even by countries which have not ratified the relevant Conventions. It has two basic elements:
- it recognizes that all ILO Members (who are also, with very few exceptions, members of the other organizations of the United Nations system) have by their very acceptance of the ILO Constitution an obligation to respect, realize and promote these rights; and
  - it provides for follow-up procedures designed to monitor and encourage countries' efforts to fulfil this obligation.
20. These initiatives to promote the observance of fundamental rights and principles at work have an important contribution to make in eliminating some of the negative impacts of globalization.
- They will hasten the elimination of the worst labour practices such as forced labour and the worst forms of child labour, and provide the enabling conditions for eliminating discrimination in the labour market – including gender discrimination – as well as discrimination on other grounds such as race, religion and political opinion.
  - By guaranteeing freedom of association and the right to bargain collectively, they will create the negotiating power necessary for workers to obtain a better share of the benefits of growth both in export industries and in other sectors of the economy.
  - They can contribute to the attainment of wider objectives, such as greater democracy, greater transparency and efficiency in public policies, and better social protection.
21. In all these ways, they can contribute to defusing the potential backlash against globalization, and eliminate an important source of friction that could disrupt further moves to open world markets.
22. To ensure that social progress is not undermined in the current crisis, the 1998 Declaration on Fundamental Principles and Rights at Work and its follow-up (1998) should be respected, and social dialogue and the practice of tripartism between governments and the representative organizations of workers and employers promoted as a relevant tool to achieving solutions and to building social cohesion within the Arab countries as part of an integrated Decent Work Agenda.
23. It was not a failure of labour markets that caused the economic crisis; however, a speedy recovery depends upon their functioning well. Observance of fundamental Conventions can lead to improved efficiency in this area, and several Conventions focus on the capacity of governments to improve the functioning of labour markets.
24. Ensuring respect for workers' rights and the rule of law is both socially desirable and economically efficient, since it results not only in the protection of workers but also in securing the viability of enterprises. Avoiding wage deflation and providing a proper anchor, in the form of effective minimum wages, will support global demand and reduce trade tensions. Engaging the social partners in the design and implementation of policies to realize the objectives of the Global Jobs Pact will increase the likelihood of success.
25. Respect for international labour standards helps support confidence and hence economic activity. These standards seek to ensure equitable outcomes, including in cases of enterprise adjustment and closures, thus enhancing popular support for recovery packages. An effective application of international labour standards is premised on strong social dialogue, which is particularly necessary during difficult economic times. The ILO has a full complement of instruments developed over time and fully relevant to addressing crisis situations and supporting sustainable enterprises.
26. It is worth recalling that in the discussion held at the ILO European Regional Meeting in Lisbon in February 2009<sup>9</sup> on the means of responding to the crisis, it was stressed that "The Conventions and Recommendations of the ILO constitute a rich reference of international labour standards many of which articulate principles of particular relevance during periods of economic difficulty. International cooperation to counteract the crisis is greatly facilitated by the large measure of mutual understanding and common practice in the region regarding the application of ILO standards." This approach recognized that ILO Conventions were modern and relevant for managing the consequences of the crisis.

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basic human values which are vital for human social and economic lives.

<sup>9</sup> The 8th European Regional Meeting of the ILO called for an integrated approach to halt the spiralling economic slowdown and build a new, stronger, cleaner and fairer economy for the future (Lisbon, 10 February 2009).

### III. The relevant ILO instruments for recovery

27. In the Declaration on Fundamental Principles and Rights at Work, the Conference underlined that to promote its constitutional objectives, the Organization must promote the ILO's standard-setting policy as **a cornerstone of ILO activities by enhancing its relevance to the world of work**, and ensure the role of standards as **a useful means of achieving the constitutional objectives of the Organization**. It added that respecting, promoting and realizing the fundamental principles and rights at work **are of particular significance, as both rights and enabling conditions that are necessary for the full realization of all of the strategic objectives**. The Conference also declared that the commitments and efforts of Members and the Organization to implement the ILO's constitutional mandate, including through international labour standards ... **should be based on the four equally important strategic objectives of the ILO, through which the Decent Work Agenda is expressed**. This importance of the ILS is also expressed by the Declaration through the linkage between the four strategic objectives seen as **inseparable, interrelated and mutually supportive**. **The failure to promote any one of them would harm progress towards the others. To optimize their impact, efforts to promote them should be part of an ILO global and integrated strategy for decent work**.
28. The Global Jobs Pact, the Report of the Standards Committee and the Director-General's Report to the Conference in 2009 all emphasized the role of international standards in emerging from the crisis. The Global Jobs Pact included "promoting core labour standards and other international labour standards that support the economic and jobs recovery and reduce gender inequality" as being among the most important principles for the recovery. Particular stress was laid on certain instruments in paragraph 14 of the Pact:
29. International labour standards create a basis for and support rights at work and contribute to building a culture of social dialogue particularly useful in times of crisis. In order to prevent a downward spiral in labour conditions and build the recovery, it is especially important to recognize that:
30. (1) Respect for fundamental principles and rights at work is critical for human dignity. It is also critical for recovery and development. Consequently, increase:
31. (i) vigilance to achieve the elimination and prevention of an increase in forms of forced labour, child labour and discrimination at work; and
32. (ii) respect for freedom of association, the right to organize and the effective recognition of the right to collective bargaining as enabling mechanisms to productive social dialogue in times of increased social tension, in both the formal and informal economies.
33. (2) A number of international labour Conventions and Recommendations, in addition to the fundamental Conventions, are relevant. These include ILO instruments concerning employment policy, wages, social security, the employment relationship, the termination of employment, labour administration and inspection, migrant workers, labour conditions on public contracts, occupational safety and health, working hours and social dialogue mechanisms.
34. The eight fundamental Conventions can contribute to economic recovery by providing an overarching framework for international action and for enhancing social protection. These are:
- Forced Labour Convention, 1930 (No. 29);
  - Abolition of Forced Labour Convention, 1957 (No. 105);
  - Equal Remuneration Convention, 1951 (No. 100);
  - Discrimination (Employment and Occupation) Convention, 1958 (No. 111);
  - Minimum Age Convention, 1973 (No. 138);
  - Worst Forms of Child Labour Convention, 1999 (No. 182);
  - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
  - Right to Organise and Collective Bargaining Convention, 1949 (No. 98).
35. In addition to the fundamental rights instruments, as indicated in the Global Jobs Pact a number of other instruments are relevant. As stated in the 2008 Declaration on Social Justice for a Fair Globalization, alongside the core labour standards attention must be paid to those instruments that can be described as "governance" standards, which are further described in paragraph 14(2) of the Global Jobs Pact quoted above. These



instruments serve not only to provide adequate support to victims of the crisis, but can also favour a timely demand stimulus paving the way for recovery and a more sustainable economy. They can also provide member States with a baseline and a defence against pressures that may be encountered to adopt economic approaches which are unsustainable in the longer term, even though they may appear to provide short-term solutions, as they ultimately will undermine advances that had been made in social and labour conditions. The state of ratification in the region of a number of instruments that fall within the description of governance standards is listed in the appendix to this paper. The present situation with regard to their selection – for which there are particular challenges in the Arab region – are developed here.

36. Overall, the Employment Policy Convention, 1964 (No. 122), one of the ILO's "priority" Conventions, is based on policies for full, productive and freely-chosen employment, and the importance of creating and maintaining employment for the attainment of decent work and sustainable economies is emphasized in the Global Jobs Pact. In situations such as the present economic crisis in which employment may be threatened, the Termination of Employment Convention (No. 158) and Recommendation (No. 166), 1982, shed light on how any terminations that may be necessary can take place in a fair and balanced manner. The Employment Relationship Recommendation, 2006 (No. 198), provides guidance on how to protect the employment security of workers in atypical employment situations.
37. The Protection of Wages Convention, 1949 (No. 95), and the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173), along with their accompanying Recommendations, lay out constructive measures for protecting workers' wages and for proceeding fairly in the event of an employer's insolvency. These instruments spell out an essential means of avoiding wage deflation and opening the way to recovery from the crisis. The provisions of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy are particularly useful in managing the effects of the crisis along global supply chains.
38. Instruments concerning migrant workers (the Migration for Employment Convention (Revised), 1949 (No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)), are also highly relevant, given that migrant workers are particularly vulnerable in the context

of the downturn in labour markets, and because of the heavy reliance on migrant labour in the region, both for countries of origin and for countries of destination. These instruments, together with the "Conclusions on a fair deal for migrant workers in a global economy" adopted by the International Labour Conference in 2004<sup>10</sup> and the "ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration" approved by the Governing Body in March 2006, provide important guidance on what should constitute the basic components of a comprehensive migration policy in the context of the financial crisis and the persistence of poverty and inequality worldwide.

39. The Labour Clauses (Public Contracts) Convention, 1949 (No. 94), can help ensure that investments financed by public stimulus packages generate jobs with decent pay and working conditions that do not undercut acceptable conditions of work.
40. Social dialogue mechanisms and processes, as outlined in the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and the Tripartite Consultation (Activities of the International Labour Organization) Recommendation, 1976 (No. 152), as well as in the Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113), and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, need to be part of the strategy.
41. The Social Security (Minimum Standards) Convention, 1952 (No. 102), contains measures to strengthen social security systems and provides income support. There is a serious lack of social safety nets in the Arab region, and the lessons from the Asian financial crisis (1997-98) included conclusions by the ILO that the crisis would have been less profound and shorter in duration had such safety nets been in place. The particular relevance of this Convention and other related instruments must be highlighted in the light of the upcoming discussion in the 2011 Session of the International Labour Conference on social security as the first of the recurring reports in the area of social protection under the 2008 Declaration on Social Justice for a Fair Globalization.

<sup>10</sup> ILO: Report of the Committee on Migrant Workers (ILC, 92nd Session, 2004, Geneva).

42. Labour administration is an indispensable tool for managing the workforce and the world of work. The Labour Inspection Convention, 1947 (No. 81), and its Protocol adopted in 1995, and the Labour Inspection (Agriculture) Convention, 1969 (No. 129), are among the ILO's "priority" Conventions. Their implementation is essential for ensuring that the laws and regulations which give effect to national and international labour standards and fundamental principles and rights at work are implemented in practice. Labour inspectorates usually also exercise functions that go well beyond law enforcement and provide technical help, training and monitoring of safety and health. Convention No. 129 in particular is key to efforts to tackle the informal economy and poverty through the establishment and functioning of a labour inspection system for agricultural workers and their families. These two Conventions and their accompanying Recommendations are essential parts of a good labour administration system, which is outlined in the Labour Administration Convention, 1978 (No. 150). Unfortunately, none of these instruments is well ratified in the Arab region, and the management of labour administration is generally weak in countries in the region.
43. These examples should guide this Forum in selecting the instruments to be focused on in Arab countries, in the light of the specific situation of each country and its priorities. Together they correspond to the commitments made by the ILO's constituents when adopting the 2008 Declaration.
44. Technical assistance constitutes an important tool to enable the countries to fulfil their obligations under the Constitution and labour standards. The Standards Committee in the 2009 Session of the International Labour Conference stressed the importance of the technical assistance provided by the ILO, in relation to the application of international labour standards at the national level. This Committee gave a new impetus in 2005 to combining the supervisory bodies' work and the Office's technical assistance as regards both the submission of reports and the application of ratified Conventions. The 2008 Social Justice Declaration has reiterated that the ILO should effectively assist its Members in their efforts to make progress on a tripartite basis towards all the strategic objectives. It has been in the framework of this technical cooperation and assistance that some progress has been made with regard to respect for the ILS and workers' rights.

## IV. Arab countries' commitments to international labour standards and workers' rights

### A. Arab countries' commitments through dialogue with the ILO supervisory bodies

45. The Arab countries' commitments to international labour standards are reflected in their ratifications of Conventions and the dialogue between them and the ILO in the framework of the supervisory system and the follow-up to the 1998 Declaration on Fundamental Principles and Rights at Work. The rate of ratifications of many of these instruments remains low compared with other regions (see below), particularly those related to trade union rights. However, in a number of cases work is being carried out to implement the principles of instruments pending a later ratification.
- i) Equality and non-discrimination**
46. The ILO supervisory bodies continue to raise concerns over the lack of legislation and enforcement in a number of countries to put in place effective measures to ensure that no individual is subject to discrimination or unequal treatment on the basis of race, colour, sex, political opinion, religion, ethnic origin or national extraction. In several countries in the region the Committee of Experts has been expressing concern for some years over the absence of legislative provisions to protect against discrimination on various grounds, and the lack of effective remedies.
47. In that respect, the Government of Kuwait expressed before the Conference Committee on Standards in June 2009 its commitment to ensuring the full application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), in law and practice, including revising legislation to bring it into conformity to the international labour standards, and requested ILO technical assistance in that respect.
48. During a high-level mission visit to Saudi Arabia,<sup>11</sup> the national authorities acknowledged that there was no national equality policy, and requested ILO assistance to develop such a policy in order

<sup>11</sup> This mission was undertaken in September 2006 in the framework of the follow-up to the conclusions of the ILC Committee of Standards with regard to the implementation of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

- to promote equality of opportunity and treatment in employment and occupation, with a view to the elimination of any discrimination on the grounds of race, colour, sex, religion, political opinion, national extraction or social origin as required by Convention No. 111.
49. The Committee of Experts has remarked on the lack of access by women to jobs in several countries, in spite of formal protection against discrimination being in place in most of them. It has also regretted the lack of information on measures taken and on their effect.
50. The most frequently encountered gap is in relation to protection against discrimination on the basis of race, colour and national origin, which often results in an absence of protection for migrant workers in this regard. The Committee of Experts has stressed the importance of taking action on this matter, particularly in the light of the high number of foreign nationals from different ethnic and racial backgrounds working in some countries. The Committee urged the governments of these countries to take practical measures to prevent discrimination against all workers on the basis of race, colour and national extraction in regard to employment and occupation. More general considerations concerning migrant workers are raised below.
51. With respect to the Equal Remuneration Convention, 1951 (No. 100), the main issue raised in the region is the absence of legislation giving full expression to the principle of equal remuneration for men and women for work of equal value. For example, in the United Arab Emirates, the federal legislation states that “a woman’s remuneration shall be equal to that of a man if she performs the same work”, which the Committee has pointed out is narrower than the principle laid down in the Convention, since it does not include the key concept of “work of equal value”. In Saudi Arabia an order refers to treating “men and women employees on equal terms as regards remuneration when the conditions and circumstances of the work are the same”. Similarly in Jordan, the Constitution provides that all workers shall receive wages appropriate to the quantity and quality of the work achieved. The Committee of Experts has urged governments to take the necessary steps to amend legislation to provide not only for equal remuneration for equal, the same or similar work, but also in situations where men and women perform different work that is nevertheless of equal value.
52. Along with the national governments, the ILO has supported national pay equity assessments in Jordan and Egypt. A joint policy round table has been scheduled to discuss gender pay equity issues in Jordan with a view to conducting gender-neutral job evaluations to ensure equal remuneration for work of equal value in selected sectors through social dialogue. In Egypt, a plan of action along with recommendations has been adopted to address equal remuneration in line with Convention No. 100.
- ii) Freedom of association and collective bargaining**
53. Ratification of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the right to Organise and Collective Bargaining Convention, 1949 (No. 98), remains weak in this region, and falls well below the ratification of the other core Conventions. The ILO supervisory bodies, including the Committee on Freedom of Association, have commented on serious breaches of the right to freedom of association and collective bargaining in some Arab countries, and on the absence of the right of the public servants other than those engaged in the administration of the State to enjoy the rights and guarantees of the relevant ILO standards and principles in other Arab countries. The Committee of Experts and the Committee on Freedom of Association have urged the governments concerned to take the necessary measures to make it possible for trade union rights and the right to collective bargaining to be exercised normally and in observance of fundamental rights.
54. The Regional Office for the Arab States has recently received a letter from a national employers’ organization, alleging that the Government did not respect their right to elect representatives in full freedom and to organize activities and internal management structures independently. Similar allegations were received from other constituents on the infringement of the basic principles of independence of employers’ organizations.
55. In some Arab countries where there have not previously been trade unions, new legislation has been adopted recently, in the framework of the follow-up to the ILO Declaration of 1998 and the campaign for the ratification of the core Conventions. The labour legislation of Bahrain, for example, now provides for the rights of workers, including migrant workers, to form and join trade unions as well as

for the right to organize and bargain collectively (with the exception of public service workers – see above). The Government of Oman appears to have officially recognized workers' rights to form unions and a general federation and allowed collective bargaining on the terms and conditions of employment.

56. In the framework of the follow-up to the 1998 ILO Declaration, the commitment of several Arab governments to giving effect to the ILO Constitutional principles and rights related to the freedom of association and to ratify Convention No. 87 has not been translated into significant normative reform and there is a need to embark on vigorous follow-up action in this area. Technical cooperation has been provided under the Declaration to Bahrain, Jordan, Morocco and Oman on the realization of freedom of association and collective bargaining.

### iii) Forced labour

57. The 2009 Global Report under the 1998 Declaration on Fundamental Principles and Rights at Work noted that there has been a steady growth of reporting on matters relating to human trafficking in the region, and on groups of employees who are of particular concern in this regard including domestic workers and migrant workers. It noted particularly that the level of awareness of the forced labour problem in the Gulf region is low among the general public and many government officials, and that there is some reluctance to accept that there are abuses which may constitute forced labour and trafficking. It also stressed that there is a need for many governments to take proactive measures to address the root causes of the problems. The Committee of Experts, in turn, has repeatedly expressed concerns over prohibitions on various categories of workers in the public service from leaving their jobs.
58. Concerns relating to migrant workers have elicited comments from the Committee of Experts under the Forced Labour Convention, 1930 (No. 29), in the absence of ratification of the ILO's migrant workers instruments.

### iv) Migrant workers<sup>12</sup>

59. Generally speaking, governance systems which provide protection to migrant workers are weak in the region, though there have been some advances in recent years in national legislation and in bilateral agreements between countries of origin and countries of destination. Nevertheless, the Committee of Experts and others have raised a number of concerns related to migrant workers. These centre around the disproportionate dependency of the worker on the employer created under the sponsorship ("kafeel") system, which is prevalent in the region, and which enhances workers' vulnerability to abuse and exploitation and contributes to the reluctance to report abusive working conditions. Other concerns relate to discrimination on grounds of race, national origin and sex which make migrant workers particularly vulnerable.
60. In Bahrain, the Government has recently reviewed its labour legislation to enable migrant workers to change employer without the prior approval of the original sponsor. Measures have also been taken for this purpose in Oman; while in the United Arab Emirates further measures are being examined to reinforce the impact of legislation that forbids the retention of migrant workers' passports by their employers.
61. In a report communicated to the Committee of Experts under Convention No. 111, the Government of Qatar indicated that the National Human Rights Committee (NHRC) has received several complaints from domestic workers, who are mainly women, alleging excessive hours of work without weekly rest, prohibitions on leaving the house, and inhumane and severe mistreatment. In its report of 2006 the NHRC expressed concern about the working conditions and rights of migrant workers in the construction, digging and concrete-making industries, and of domestic workers. The NHRC is particularly concerned about the abuses against and mistreatment of migrant workers, as well as instances of human trafficking, resulting from the sponsorship system currently in place. According to the NHRC, the system prevents workers from changing their working conditions and has led to

<sup>12</sup> Note that there are a number of references in this section and elsewhere in this paper to the situation of domestic workers. A first discussion with a view to international standards on this subject will take place at the 99th Session of the International Labour Conference (June 2010, Geneva). See Report IV(1): Decent Work for domestic workers on the ILO web site. Not all domestic workers are migrant workers, of course, though the questions raised in this paper concentrate on migrant domestic workers, and improvements in their situation should not await the outcome of future Conference discussions.



arbitrary practices by sponsors, including the non-payment of wages, withholding workers' passports, lack of adequate accommodation, shortage of food, involuntary long hours of work, battering, lashing, detention and sometimes sexual harassment or rape. The Committee of Experts has welcomed the increased attention being given to the situation of migrant workers, and has requested that further action be taken for their protection.

62. The Government of Lebanon indicated in its reports to the ILO that the authorities are endeavouring to stop or prohibit the illegal exaction of forced labour which may be encountered by migrant workers who enter the country illegally, that measures were adopted for the protection of migrant workers including women working as domestic workers, particularly as regards payment of wages and other conditions of work and that the draft amendments to the Labour Code would criminalize various forms of forced or compulsory labour, including slavery and slavery-like practices, debt bondage and trafficking in human beings.

63. The Government of Jordan indicated that it has responded to allegations of poor treatment of migrant workers by, inter alia, increasing the number of labour inspectors and appointing staff to provide them with logistical support. Recently the Labour Code was amended in consultation with the social partners in the manner that its scope is extended to the migrant workers, domestic workers, and all categories of agricultural workers. The ILO has been informed of a normative initiative undertaken by the Government of Jordan to reform some aspects of the recruitment process for domestic workers, including a new operational framework regulating the placement procedures of private employment agencies. A more comprehensive reform of the law for migrant workers is expected to be discussed by parliament in future sessions.

#### v) Labour inspection and labour administration

64. The Committee of Experts has commented on weaknesses in the labour inspectorates of several countries in the region. It has urged some countries to take measures to establish a labour inspection system in industrial and commercial enterprises that is consistent with the principles laid down in the Convention and the guidance provided in the corresponding Recommendation (No. 81), and has noted efforts to increase the number and powers of inspectors in some countries.

65. It has also recalled in several cases that governments could request the Office's technical assistance on these matters. In several cases, such assistance has been provided and some progress achieved.

#### vi) Employment

66. The Committee of Experts on the Application of Conventions and Recommendations (CEACR) invites the governments in some Arab countries that ratified the Employment Policy Convention, 1964 (No. 122), to implement an active employment policy with the participation of the social partners and to give priority in their plans and programmes to the objectives of full employment and to take the necessary measures to ensure that employment, as a key factor in poverty reduction, is at the heart of macroeconomic and social policies.

67. In Lebanon, the Government is developing a national plan for the employment and placement of young persons. In Jordan, the Government adopted programmes aimed at adapting the labour force to the needs of the labour market, including a project to train rural women and a national training and employment project. Also, the Government established an Economic and Social Council and a tripartite consultative committee. Decent Work Country Programmes are being implemented in Jordan, the Syrian Arab Republic and Yemen. They provide an opportunity to strengthen the implementation of the provisions of Convention No. 102 and to promote its ratification in the countries where it is not yet ratified. Already, some governments expressed, in their replies to the questionnaire<sup>13</sup> on employment, their intention to examine the possibility of ratification of the relevant Conventions. The Government of the United Arab Emirates, for example, indicated in its reply to the questionnaire that it is undertaking a comprehensive review of the labour legislation guided by ILO Conventions and Recommendations, and intended to examine the possibility of ratification of the relevant Conventions.

<sup>13</sup> The ILO Governing Body selected the instruments related to employment to be the subject of the report of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) on the non-ratified Convention (article 19 of the ILO Constitution) and, at the same time, the first report to be discussed under the follow-up to the Declaration on Social Justice for a Fair Globalization, 2008.

## vii) Social protection

68. The Social Security (Minimum Standards) Convention, 1952 (No. 102), is ratified by only two Arab countries (Libyan Arab Jamahiriya and Mauritania). The CEACR has been commenting for several years on the implementation, by the Government of Libyan Arab Jamahiriya, of this Convention particularly with regard to the issues related to the Unemployment benefit, Family benefit, Medical care, Maternity benefit and the financial situation of the Social Security Fund. The Government asked the ILO for technical assistance to formulate and introduce the legislation in conformity with ILO social security Conventions. The Government of Mauritania is also requesting the technical support of the ILO in the context of the application of the Convention.
69. In the framework of the DWCP, some Arab countries are examining the possibility of ratification of Convention No. 102. That should be an opportunity to address the social security issues related to the crisis recovery. As indicated above, social protection will be the recurrent item to be examined by the ILC in 2011 with focus on social security<sup>14</sup>. It is an opportunity for the Arab countries to give particular attention to this matter to overcome, with ILO assistance and support, any difficulties which they face in this matter and to promote the ratification of this Convention and its full application, among others, for the crisis recovery.

## B. Expressions of commitment through statements before the ILC

70. The representatives of various countries from the region expressed their commitment to international labour standards during the discussion of the economic crisis during the International Labour Conference Session of June 2009. The Gulf Cooperation Council representative stated before the Application of Standards Committee that the GCC Countries have made progress in applying international labour standards to ensure the highest level of protection to all workers in their countries. Seeking to uphold the principles enshrined in the Constitution of the ILO and the Declaration of Philadelphia, they strive to promote those values and rights which guarantee human dignity and social and health protection. Their aim is to create an enabling environment for the creation of decent work. He also stated that they endeavour to open up job opportunities for women, so that they may

participate in the labour market and share in economic prosperity. He added that the GCC have taken measures to protect migrant workers through cooperation between them and labour-sending countries, in accordance with the principles enshrined in the Abu Dhabi Declaration. He finally stressed that they also have adopted new strategies to reform their labour markets and labour inspection systems, by strengthening capacity-building and enhancing workers' skills.

71. The Minister of Labour of Tunisia expressed his Government's conviction of the importance and the need for social dialogue in order to deal with the current and future challenges in the economic and social spheres, and to consolidate decent work. He indicated that in 2008 Tunisia launched a seventh round of collective bargaining in the public and private sectors which had led to improvements in working conditions and the adoption of a new programme for increasing wages.
72. The Government representative of Morocco indicated his country's commitment to international labour standards and human rights. In that respect his country has organized a tripartite social dialogue in order to examine the causes of the crisis and find solutions to them adopting decent work as one of the strategic elements of the Millennium Development Goals.
73. Referring to the Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, the representative of the Government of Lebanon stressed that measures should be adopted with a view to promoting gender equality in the workplace, integrating the principle of non-discrimination and equality within the national decent work programme, adopting better laws accompanied by better means for better application and providing the social partners with the necessary and adequate tools for effective social dialogue.

14 GB.304/2/2, 304th Session, March 2010.

## V. Status of ratification of these Conventions in Arab countries

74. The rate of ratification of these Conventions goes from four to 12 ratifications by country. The fundamental Conventions are widely ratified except for those on freedom of association and collective bargaining. Regarding the Conventions identified as being particularly relevant to governance, Convention No. 81 on labour inspection has received 13 ratifications in the region, but all the others have received few ratifications. Those on migrant workers have received almost no ratifications, in spite of the importance of migrant labour in the Arab States, both for countries of origin and for countries of destination. The Social Security (Minimum Standards) Convention, 1952 (No. 102), which could help provide the kind of social safety net needed to weather economic crisis, has been ratified by only two countries in the region. The ratifications of most of the other Conventions concerned with governance remains very low compared to other regions.
75. In addition, serious gaps in the implementation of most of these instruments, or the principles underlying them, have been signalled here. More efforts should be made to give full effect in law and in practice to the Conventions that have been ratified, and to examine the possibility of ratifying the other Conventions. Particular attention should be given to the Conventions on freedom of association and collective bargaining, or at a minimum to apply the principles these instruments embody if there are obstacles to ratification in the short term. In some countries, new labour legislation has recently been adopted, or is in the process of adoption, which may lead to new ratifications and greater conformity with these Conventions.
76. The Forum may wish to call upon all Arab countries to make the ratification and implementation of these Conventions an integral part of efforts for crisis recovery, with the assistance of the Office where necessary. Respect for these Conventions is not only a key social goal, but also creates the conditions for balanced economic development, which is in turn conducive to greater prosperity in the long run. Concerns that greater respect for workers' rights will slow down economic growth and recovery from the crisis are not well-founded. A rights-based approach to the crisis can thus anchor the discussion

of policy options, in order to enhance social justice in the immediate and longer term. Failure to ensure these rights and principles at such a critical time would represent not only a failure to uphold universally recognized rights, but also a failure of economic policy to ensure growth and recovery.

77. In preparing pointers for action, in that respect, the Forum should take into consideration the strategy that the International Labour Standards Department elaborated for more effective implementation of labour standards through technical cooperation, which was approved by the ILO Governing Body in November 2007.<sup>15</sup> This strategy aims at mainstreaming labour standards throughout the technical cooperation activities of the ILO and beyond (through the CCA/UNDAFs, PRSPs, etc.), as well as through a number of strategic interventions. Another crucial element of this strategy is to ensure enhanced access to and broader visibility of the ILO standards system through information resources that will enable the constituents to have a clearer and complete picture of compliance with labour standards at the country level. The strategy has already been integrated in the Strategic Policy Framework (SPF) 2010-15 and the Programme and Budget for 2010-11 adopted by the International Labour Conference in June 2009.

15 GB.300/LILS/6, 300th Session, November 2007. According to this strategy, in the context of ILO standards-related activities, technical cooperation activities should be provided, as appropriate, to assist member States through the different phases leading to the full implementation of standards: at the promotional stage, in the ratification phase and through the implementation and application of Conventions, taking into account the comments of the supervisory bodies.

## VI. Questions for discussion and debate

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1. How can the economic recovery in Arab countries, in particular the promotion of employment consistent with the Decent Work Agenda, be assisted by compliance with and adherence to the relevant ILO Conventions and other instruments referred to in this paper?
2. How can the Strategic objective related to Social Dialogue be promoted, particularly by enhancing reliance on freedom of association and collective bargaining, tripartite consultation and related methods?
3. What measures can be taken by ILO Members in the region, where appropriate with assistance from the International Labour Office, to enhance the protection of migrant workers in ways that are consistent with ILO standards and the ILO Multilateral Framework on labour migration?
4. The ILO Declaration of 2008 called on the ILO to provide effective assistance to its Members in their efforts to make progress on a tripartite basis towards all the strategic objectives. What kind of assistance related to international standards would be most useful, and how can Arab States Members make best use of this assistance?

## Annex 1. Table of ratifications

### Arab States - Selected list of ratified Conventions (as of 30 August 2009)<sup>16</sup>

Countries	Core Conventions										Labour Administration and Inspection		Employment Policy and Promotion		Tripartite consultation		Wages		Migrant Workers		Other Conventions			
	C29	C87	C98	C100	C105	C111	C138	C182	C81	C129	C122	C144	C95	C173	C97	C143	C94	C102	C150	C158				
Algeria	R	R	R	R	R	R	R	R	R	R	R	R	R		R		R		R					
Bahrain	R				R	R	R	R	R															
Comoros	R	R	R	R	R	R	R	R	R	R			R											
Djibouti	R	R	R	R	R	R	R	R	R	R	R	R	R				R							
Egypt	R	R	R	R	R	R	R	R	R		R	R	R				R		R					
Iraq	R		R	R	R	R	R	R	R	R	R	R	R				R		R					
Jordan	R		R	R	R	R	R	R	R	R	R	R												
Kuwait	R	R	R	R	R	R	R	R	R		R	R												
Lebanon	R		R	R	R	R	R	R	R	R	R		R											
Libya	R	R	R	R	R	R	R	R	R	R			R				R							
Mauritania	R	R	R	R	R	R	R	R	R	R			R				R	R						
Morocco	R		R	R	R	R	R	R	R	R							R		R		R			
Oman	R				R		R																	
Qatar	R				R	R	R	R	R															
Saudi Arabia	R			R	R	R	R	R	R															
Somalia	R				R								R											
Sudan	R		R	R	R	R	R	R	R	R			R											
Syria	R	R	R	R	R	R	R	R	R		R		R											
Tunisia	R	R	R	R	R	R	R	R	R	R			R						R					
UAE	R			R	R	R	R	R	R															
Yemen	R	R	R	R	R	R	R	R	R	R	R	R	R				R				R			
<b>Total</b>	<b>21</b>	<b>10</b>	<b>15</b>	<b>16</b>	<b>21</b>	<b>20</b>	<b>18</b>	<b>20</b>	<b>19</b>	<b>3</b>	<b>12</b>	<b>8</b>	<b>13</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>9</b>	<b>2</b>	<b>7</b>	<b>2</b>	<b>2</b>			

<sup>16</sup> Source : ILO Natlex

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## List of relevant Conventions

### Core Conventions

- C29** Forced Labour Convention, (1930)
- C87** Freedom of Association and Protection of the Right to Organize Convention, (1948)
- C98** Right to Organize and Collective Bargaining Convention, (1949)
- C100** Equal Remuneration Convention, (1951)
- C105** Abolition of Forced Labour Convention, (1957)
- C111** Discrimination (Employment and Occupation) Convention, (1958)
- C138** Minimum Age Convention, (1973)
- C182** Worst Forms of Child Labour Convention, (1999)

### Labour Administration and Inspection

- C81** Labour Inspection Convention, (1947)
- C129** Labour Inspection in Agriculture Convention, (1969)

### Employment Policy and Promotion

- C122** Employment Policy Convention, (1964)

### Tripartite Consultation

- C144** Tripartite Consultation (International Labour Standards) Convention, (1976)

### Wages

- C95** Protection of Wages Convention, (1949)
- C173** Protection of Workers' Claims (Employer's Insolvency) Convention, (1992)

### Migrant Workers

- C97** Migration for Employment Convention, (1949)
- C143** Migrant Workers (Supplementary Provisions) Convention, (1975)

### Other Conventions

- C94** Labour Clauses (Public Contracts) Convention, (1949)
- C102** Social Security (Minimum Standards) Convention, (1952)
- C150** Labour administration Convention, (1978)
- C158** Termination of Employment Convention, (1982)