



Governing Body

309th Session, Geneva, November 2010

GB.309/18/2

FOR DEBATE AND GUIDANCE

EIGHTEENTH ITEM ON THE AGENDA

Report of the Director-General

Second Supplementary Report: Measuring decent work

Overview

Issues covered

This paper provides updated information on measuring progress towards the application of fundamental principles and rights at work.

Policy implications

None.

Financial implications

None.

Action required

Take note of the information contained in the paper, and discuss and provide guidance on the proposals presented in paragraph 24.

References to other Governing Body documents and ILO instruments

GB.301/17/6, GB.303/19/3, GB.306/17/5, GB.307/16/3.

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

1. Further to the discussion at the 307th Session (March 2010) of the Governing Body,¹ the following report provides additional information on measuring progress towards the application of fundamental principles and rights at work.

Background

2. The importance of monitoring progress towards decent work was recognized as far back as 2001. More recently it was strongly reaffirmed by the ILO Declaration on Social Justice for a Fair Globalization, which recommends that member States may consider “the establishment of appropriate indicators or statistics, if necessary with the assistance of the ILO, to monitor and evaluate the progress made”.²
3. Subsequent to the Tripartite Meeting of Experts on the Measurement of Decent Work in September 2008,³ the Governing Body has discussed the issue on various occasions and provided guidance regarding the main principles that should guide measurement.⁴ From the beginning, it has been emphasized that given the nature of decent work as a multifaceted concept, progress towards its achievement cannot be assessed by standard statistical indicators alone, as these by themselves cannot adequately capture the wide-ranging and inherently qualitative nature of many aspects of decent work. It was agreed that in order to attain a meaningful assessment, rights at work should be an integral part of the ILO’s framework for measuring decent work.⁵
4. Moreover, it was agreed that alongside the legal framework, particular attention should be paid to the implementation of fundamental rights at work, the principles of which all ILO member States have an obligation to respect, to promote and to realize in good faith and in accordance with the ILO Constitution.⁶ It was acknowledged that fundamental principles and rights at work should be a central element in measuring decent work and that “their absence would lead to an incomplete picture and present a major shortcoming”.⁷
5. The Governing Body requested the Office to develop indicators to assess progress towards the implementation of fundamental principles and rights at work, together with the compilation of legal framework indicators providing textual information on rights at work in the Decent Work Country Profiles.⁸ The proposal endorsed by the Tripartite Meeting of Experts and the Governing Body noted that indicators would be developed for member

¹ GB.307/16/3.

² ILO Declaration on Social Justice for a Fair Globalization, 2008, Part II(B)(ii).

³ The Governing Body approved the convening of the meeting in its 301st Session (March 2008). See also GB.301/17/6 and Tripartite Meeting of Experts on the Measurement of Decent Work: Chairperson’s report (Geneva, 8–10 September 2008). http://ilo.org/wcmsp5/groups/public/---dgreports/---integration/documents/meetingdocument/wcms_099764.pdf.

⁴ See for example GB.301/17/6; GB.303/19/3 and GB.306/17/5.

⁵ See TMEMDW/2008, pp. 6–13; GB.301/17/6, appendix; GB.303/19/3, para. 4; GB.307/16/3, para. 11.

⁶ See ILO Declaration on Fundamental Principles and Rights at Work, 1998.

⁷ GB.303/19/3, para. 17; and Tripartite Meeting of Experts on the Measurement of Decent Work: Chairperson’s report, op. cit., para. 75.

⁸ GB.303/19/3; GB.307/16/3, para. 11.

States for a base year, with subsequent changes recorded in periodic updates of the indicators. The aim would be to provide objective information both on the compliance of national legislation with fundamental principles and rights at work and its application in practice, and also on progress made towards their full application.⁹

6. It was agreed that measurement should be based on a standard coding framework and it was suggested that the work begin with indicators on freedom of association and collective bargaining. It was noted that the Office could draw on previous work that had demonstrated the feasibility of such indicators.¹⁰

Objectives of the methodology

7. Following the request of the Governing Body, a pilot project was undertaken by the Office in 2009 to construct a methodology for measuring progress towards the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and Right to Organise and Collective Bargaining Convention, 1949 (No. 98). As proposed at the tripartite experts' and Governing Body meetings,¹¹ the methodology was based on the Office's previous work that was developed and used to measure trade union rights. This work was developed with the objective of measuring progress towards the application of fundamental principles and rights at work in general.
8. The main aim of the pilot project has been to construct a methodology – building on clear and sufficiently detailed evaluation criteria to define progress towards compliance with fundamental principles and rights at work – that is fully coherent with the ILO supervisory system and is, at the same time, reliable and reproducible.¹²
9. The methodology measures freedom of association and collective bargaining rights at the country level. It aims to further support countries in monitoring progress, identifying gaps and areas of improvement towards the application of fundamental principles and rights at work. It does not aim to provide new or different information on country compliance, but to provide in an easily accessible and concise manner a compilation of information that already exists.
10. Through the collection and provision of transparent and credible information, the methodology should enhance the knowledge base of the ILO and ensure that constituents and the Office have at their disposal all the data and analyses necessary to be able to take well-founded policy decisions and actions, and to support the provision of technical assistance to member States to achieve continued and sustained progress in the promotion and implementation of fundamental principles and rights at work.
11. The methodology and its aims are consistent with the work of the Committee of Experts on the Application of Conventions and Recommendations, which has been consulted on the approach used, and the other ILO supervisory organs. It is not a substitute for the

⁹ See TMEMDW/2008, para. 82.

¹⁰ See D. Kucera (ed.): *Qualitative indicators of labour standards: Comparative methods and applications*, Social Indicators Research Series No. 30 (Dordrecht, Springer, 2007).

¹¹ Tripartite Meeting of Experts on the Measurement of Decent Work: Chairperson's report, op. cit., para. 75, footnote 6; GB.303/19/3, para. 17, footnote 10.

¹² GB.303/19/3, para. 18; GB.306/17/5, para. 10.

established supervisory mechanism and would not lead to the duplication or the diminution of their work or to the creation of an additional supervisory instrument.

Construction of methodology and its key elements

12. As noted above, following the request of the Governing Body, a pilot project was undertaken by the Office in 2009 to construct a methodology for measuring progress towards the application of Conventions Nos 87 and 98.
13. The methodology was constructed in two main stages. The first involved the creation of a preliminary list of evaluation criteria based on examination of the relevant ILO textual sources and principles of application.¹³ To capture the detailed breakdown of issues identified by the supervisory bodies, 168 evaluation criteria were developed. The second stage included the coding of the selected ILO textual sources with the preliminary evaluation criteria and the development of general and specific coding rules guiding the actual coding.
14. The methodology thus developed consists of two main components – conceptual and practical/methodological – and builds on four basic elements: (i) the 168 evaluation criteria, providing the working definition of the rights of workers’ and employers’ organizations based on the relevant ILO sources and principles of application; (ii) the key premises, forming the foundation and the frame of the entire methodology; (iii) the general and source-specific coding rules guiding the actual coding; and (iv) the sources selected to identify violations.
15. Although the number of evaluation criteria is sizeable, pilot work has shown this to be manageable. The argument supporting the considerable number of evaluation criteria was to avoid building a system that was not transparent or capable of identifying incidences of non-compliance in a precise manner, for instance by using broad criteria embracing multiple “sub-criteria” from which exact non-compliance would be hardly identifiable.
16. The evaluation criteria assess both the rights of workers’ and employers’ organizations, and, with the aim of measuring both the compliance of national legislation and its application in practice, are split into *de jure* and *de facto*. In the context of the methodology, *de jure* non-compliance refers to national legislation that is not in conformity with the ILO freedom of association and collective bargaining standards and principles that stem from the ILO Constitution, Conventions Nos 87 and 98 and relevant ILO principles. *De facto* non-compliance refers to incidences that are committed in practice whether or not the existing national legislation is in conformity with the ILO freedom of association and collective bargaining standards and principles.
17. With regard to the key premises, in order to meet the above described objectives and the requirements of the Governing Body, it was essential to base the methodology on the following principles: (i) definitional validity, that is, whether the definitions used to construct the evaluation criteria accurately reflect the phenomena they aim to measure;

¹³ This refers to the principles embodied in (i) ILO: *Freedom of association: Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO*, fifth (revised) edition (Geneva, 2006); and (ii) ILO: *Freedom of association and collective bargaining: General Survey of the reports on the Freedom of Association and Right to Organise Convention (No. 87), 1948, and the Right to Organise and Collective Bargaining Convention (No. 98), 1949, Report III (Part 4B)*, International Labour Conference, 81st Session, Geneva, 1994.

(ii) reproducibility, that is, to what extent different evaluators are able to consistently arrive at the same results by using the methodology; and (iii) transparency.

- 18.** To ensure definitional validity, two methods were used during the construction of the system. First, the evaluation criteria were directly based on the ILO Constitution, Conventions Nos 87 and 98 and the relevant ILO principles, in terms of both the structure of the criteria and the language used to phrase them. The aim in using the same categories and terminology as the ILO sources was to facilitate the identification of instances of non-compliance in a consistent manner. Second, a document was developed to provide detailed “definitions” for each of the evaluation criteria, indicating the types of non-compliance that should be coded under the evaluation criterion. These definitions are constructed by listing matching quotations from the ILO Constitution, Conventions Nos 87 and 98 and relevant principles with each of the criteria.
- 19.** To guarantee the condition of reproducibility, whereby two evaluators working independently should consistently arrive at the same result when using the methodology, clear and comprehensive coding rules were developed to guide the actual coding work. These include (i) the general coding rules providing the rules relevant for all the sources selected for the methodology (e.g. coding frequency, codable and non-codable evidence, etc.); and (ii) the coding rules addressing the issues specific to each of the sources.
- 20.** Last, to ensure the transparency of the methodology, three tools were built into the system. The first, as noted above, is the large number of evaluation criteria: this aims at avoiding a methodology that is not capable of identifying incidences of non-compliance in a sufficiently precise manner. The second is a systematic and accurate documentation of evidence coded in the selected sources. The third is the method used for the actual coding: findings under each of the evaluation criteria are coded with letters indicating the textual sources (see below). Such coding facilitates the tracing of an observed non-compliance back to a particular textual source, as the letters listed next to the evaluation criterion clearly indicate the documents recording the evidence.
- 21.** As regards the sources selected for the methodology, the following, being considered the most authoritative and definitive, are used during the coding: (a) comments made by the Committee of Experts on the Application of Conventions and Recommendation; (b) reports of the Conference Committee on the Application of Standards; (c) country baselines under the ILO Declaration Annual Review; (d) representations under article 24 of the ILO Constitution; (e) Commissions of Inquiry appointed under article 26 of the ILO Constitution (complaints); and (f) Committee on Freedom of Association cases.¹⁴
- 22.** The coding process is based on three consecutive steps: the collection of the relevant sources; coding the incidences of non-compliance in the collected sources; and the systematic documentation of evidence found. As noted above, evaluators are guided by precise and comprehensive coding rules throughout the whole process. The actual coding is done in a coding spreadsheet, where the non-compliance is recorded with reference to the actual source. The final product of the exercise is thus a coding spreadsheet indicating extensive, specific, transparent and credible information to all parties regarding freedom of association and collective bargaining at the national level.

¹⁴ In cases where a member State has not ratified the relevant Convention, the national legislation is also examined, but only as a complementary source to the country baselines under the ILO Declaration annual review.

Current stage of the methodology

23. Based on experience gained through the pilot project, a working paper was prepared by the Office describing in detail the conceptual basis of the methodology and providing guidance on the practical aspects of the framework.¹⁵

Proposals for next steps

24. Based on the above considerations, the Office proposes to:
- (a) consult a meeting of experts, selected on a tripartite basis on the results obtained during the pilot project and the methodology presented in the working paper prepared by the Office as well as on future steps for the pilot project;
 - (b) provide a further report to a future meeting of the Governing Body.
25. The Governing Body is invited to provide guidance on the above proposals.

Geneva, 3 November 2010

Submitted for debate and guidance

¹⁵ The Working Paper is available on request and will be published online at <http://www.ilo.org/integration/lang--en/index.htm>.