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6A

International Labour Conference – 111th Session, Geneva, 2023

Date: 15 June 2023

Outcome of the Recurrent Discussion Committee on Labour Protection

Proposed resolution and conclusions submitted to the Conference
for adoption

This Record of Proceedings contains the text of the proposed resolution and conclusions submitted by the Committee to the Conference for adoption.

The Report of the Committee on its proceedings will be published in Record of Proceedings No. 6B after the closure of the session.

Resolution concerning the second recurrent discussion on labour protection

The General Conference of the International Labour Organization, meeting in Geneva at its 111th Session, 2023,

Having undertaken a second recurrent discussion on labour protection, in accordance with the ILO Declaration on Social Justice for a Fair Globalization (2008), as amended in 2022, to consider how the Organization should respond to the realities and needs of its Members, and duly taking into account the Declaration of Philadelphia (1944) and the ILO Centenary Declaration for the Future of Work (2019):

1. adopts the following conclusions;
2. invites the Governing Body of the International Labour Office to give due consideration to the conclusions and to guide the International Labour Office in giving effect to them;
3. requests the Director-General to:
 - (a) prepare a plan of action giving effect to the conclusions for consideration by the Governing Body at its 349th Session (October–November 2023);
 - (b) communicate the conclusions to relevant international and regional organizations for their attention;
 - (c) take into account the conclusions when allocating resources within the existing programme and budget, preparing future programme and budget proposals, and mobilizing extrabudgetary resources;
 - (d) keep the Governing Body informed of their implementation.

Conclusions concerning the second recurrent discussion on labour protection

I. Context, progress and challenges

Context

1. Transformative changes in the world of work bring opportunities and challenges and multiple and ongoing crises have had a profound impact on labour protection. Geopolitical tensions, the COVID-19 pandemic, the impact of climate change, and economic and financial crises affecting the cost of living have exacerbated pre-existing decent work deficits, increased poverty and widened inequalities, within and between countries.
2. It is in this context that the second recurrent discussion on labour protection reviews progress made and outstanding challenges, and charts the way forward towards more inclusive, adequate and effective labour protection for all workers.
3. Labour protection is at the heart of the mandate of the International Labour Organization (ILO) and the Decent Work Agenda and is critical to building resilience to future crises and enabling recovery. It is instrumental in achieving decent work and in contributing to social justice and social peace, in ensuring a just share of the fruits of progress and productivity growth for all, and in reducing inequalities. All workers should

enjoy inclusive, adequate and effective labour protection in accordance with the Decent Work Agenda. Sustainable enterprises, as generators of employment and promoters of innovation and decent work, contribute to labour protection, productivity increases and a well-functioning and productive economy. At the same time, labour protection, by levelling the playing field, contributes to sustainable enterprises, productivity gains and economic development.

Progress and challenges

4. Since the first recurrent discussion on labour protection held in 2015, ILO Member States have achieved progress in all dimensions of labour protection, including through positive steps taken by the social partners. However, a number of challenges have remained and new challenges have arisen. In some Member States, statutory minimum wages have been adopted by law or negotiated by the social partners, and many have put in place adjustment mechanisms for minimum wage rates that are instrumental in reducing inequalities. However, the lack of adequacy and effective implementation of minimum wages remain a challenge in many countries, and this contributes to the growing working poverty and income inequality. Moreover, workers' share of the gains from economic activity has kept declining, as wage growth has lagged behind productivity developments. Measures have also been adopted to address the non-payment of wages, including through the banking and digital systems of wage payment, and to advance the principle of equal pay for work of equal value, including through pay transparency measures. The gender pay gap has been narrowing, although at a slow pace, and remains significant at 22 per cent globally. There has also been a decreasing trend in hours of work per worker, but many workers continue to work long hours.
5. Informality remains a major obstacle and one of the root causes against achieving inclusive, adequate and effective labour protection for all workers. Two billion workers worldwide make their living in the informal economy, with limited rights and protections, if any, and informality among the self-employed has been rising. The informal economy has a negative impact on the development of sustainable enterprises, including micro, small, and medium-sized enterprises (MSMEs), public revenues, and governments' scope of action. Labour protection remains a challenge for many self-employed, including in the formal economy.
6. Risk of exclusion from labour protection or inadequate labour protection are higher for workers and groups of workers facing discrimination based on gender and other grounds, including intersecting discrimination, such as migrants and refugees, youth, persons with disabilities, racial or ethnic minorities, indigenous and tribal peoples, and for workers in specific occupational groups, sectors and work arrangements, including care workers, domestic workers, agricultural workers and homeworkers, especially where inadequate legal frameworks or weak labour market governance prevail.
7. While work arrangements, such as temporary employment, platform work and telework, may have offered new opportunities for job creation and have eased access to employment for workers facing higher barriers in entering and remaining in the labour market, they have led to new challenges for labour protection and the classification of workers. Recognizing the continued relevance of the employment relationship as the main gateway to labour protection and social security, some countries have taken steps to promote correct status in employment classification.
8. Growing information and communication technologies (ICT) connectivity has allowed for telework, which increased during the COVID-19 crisis and is likely to continue along

with “hybrid” work arrangements. It has facilitated greater flexibility in the organization of work and work-life balance, preserved jobs and labour protection in many countries during the pandemic, but can also create significant stress for workers if not ensuring and respecting limits on working time and protection for workers' disconnection according to national regulation and agreement between the parties. Challenges also include the protection of workers' personal data and their right to privacy, the impact of automated decisions on labour rights, employment and work assignments as well as the prevention of mental health and psychosocial risks.

9. There has been a declining trend in the rate of work-related deaths or diseases, although the numbers remain significant and increasing. In 2022, a safe and healthy working environment was included in the ILO's framework of fundamental principles and rights at work. At the same time, climate change exacerbates and presents new health and safety concerns, including heat stress.
10. New regulations have been put in place to tackle violence and harassment in the world of work, including through the ratification and implementation of the Violence and Harassment Convention, 2019 (No. 190).
11. Gender inequalities and discrimination persist, including in terms of women's access to labour markets, career progression, skills and earnings, violence and harassment and women's disproportionate share of unpaid care work and family responsibilities. There have been important legal advances in relation to maternity protection, including paid maternity leave, as well as paternity and parental leave, but the implementation and compliance need to be further improved. Moreover, the average length of paternity leave still remains short in many countries, and there is a need for a more equal sharing of parental leave between men and women. In recent years, some progress has been made on health protection at the workplace for pregnant and nursing women, however that protection remains low, including as regards hazardous work.
12. In many countries, migrant workers fill labour shortages and contribute to sustainable development. Yet many face continued discrimination as well as barriers in access to labour protection. Some countries have developed legal and institutional frameworks that protect migrant workers' entitlements, ensuring social protection coverage and safe and orderly migration.
13. Employment protection measures, including rules against unfair dismissal and restrictions on misuse of fixed-term contracts, have been adopted in some countries. Open-ended employment contracts have been promoted, which provide workers with increased labour protection while enhancing productivity and business adaptability, including by incentivizing investment in employees' skills and competencies. Workers engaged in temporary employment contracts have also been protected, including through the introduction of adequate regulation on the limitations on the use of temporary contracts in a number of countries. As part of a State's duty to protect and the corporate responsibility to respect human rights, important measures have been taken by enterprises and States to advance human rights, including the fundamental principles and rights at work, and promote responsible business conduct, including in supply chains, in line with the United Nations Guiding Principles on Business and Human Rights and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration). Measures such as the support of international partnerships like the Global Alliance to Eradicate Forced Labour, Modern Slavery, Human Trafficking and Child Labour (Alliance 8.7) are important to support further efforts in this area and promote decent work, including in supply chains.

14. Some countries have adjusted their compliance mechanisms to changing circumstances to increase the effectiveness of labour protection. However, human, technological and financial resources for labour inspectorate systems and other relevant authorities are often inadequate, which results in higher informality levels and constrains sustained improvements in law enforcement. Cooperation between labour inspectorates and other relevant and competent authorities, as well as resources, need to be enhanced in order to improve compliance, including in the informal economy.
15. During the COVID-19 crisis, the engagement of the social partners, through bipartite and tripartite social dialogue, at all levels, has proven essential to protect workers' health and for preserving jobs and workers' income, while ensuring business continuity.

II. Framework for action

16. Labour protection and social security are the two complementary dimensions of the strategic objective of social protection. Together, they protect workers and contribute to the productivity and sustainability of enterprises. Promoting synergies with the other three strategic objectives of the Decent Work Agenda is necessary for labour protection to be sustained, while contributing to the progress of this Agenda.
17. Inclusive, adequate and effective labour protection needs to be grounded in the fundamental principles and rights at work, and in particular freedom of association and the effective recognition of the right to collective bargaining. Social dialogue, supported by free, independent, strong and representative employers' and workers' organizations, should be placed at the centre of the design and implementation of labour protection measures.
18. International labour standards on matters such as wages, working time, maternity protection, employment protection, labour inspection and occupational safety and health (OSH), and the right of everyone to be free from violence and harassment in the world of work, provide a clear guiding framework for the development of inclusive, adequate and effective labour protection for all workers and should foster a conducive environment for sustainable and inclusive social and economic development.
19. Labour protection encompasses different dimensions that are interconnected and mutually reinforcing. The progressive achievement of inclusive, adequate and effective labour protection for all workers requires an integrated policy approach and a coherent framework that supports the transformative agenda for gender equality. It should take into account, through social dialogue, the legitimate needs of both workers and employers.
20. For sustainable enterprises to thrive, while promoting labour protection, enabling macroeconomic policies and regulatory frameworks that take account of the needs and circumstances of enterprises, particularly MSMEs, are needed.
21. Recognizing the need to address the transition from informal to formal economy and from insecure to secure work that is decent, the diversity of enterprises and of national circumstances, is a condition for the design and implementation of well-tailored and inclusive labour protection strategies for all workers.

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

22. To achieve inclusive, adequate and effective labour protection for all, based on social dialogue, Members, with the support of the Organization and taking into account national circumstances, should:
- (a) foster an enabling legal and institutional environment to promote effective social dialogue, including collective bargaining, at all appropriate levels;
 - (b) address the root causes of exclusion from labour protection, in particular informality and poor governance, including by accelerating efforts to support transitions to formality in accordance with the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), and foster the effectiveness, accountability and transparency of public institutions;
 - (c) extend access to labour protection and social security to all workers, especially to those most at risk of inadequate or no protection, including workers in specific occupations, sectors and work arrangements or workers in MSMEs;
 - (d) tackle discrimination of workers and groups of workers in vulnerable situations to achieve inclusive, adequate and effective labour protection for all workers;
 - (e) develop coherent policy responses that promote an enabling environment for sustainable enterprises to generate productive, quality jobs and decent work;
 - (f) ensure correct classification of employment relationships;
 - (g) design and implement policies and strategies to limit working hours and overtime and preserve work-life balance, including through the promotion of flexible work arrangements and protection for workers' disconnection;
 - (h) step up efforts to reduce gender inequality in the world of work, including by addressing structural barriers to women's access to quality jobs, and equal remuneration for work of equal value;
 - (i) adopt policies, regulations and other measures, among others those that help reskilling and upskilling, which facilitate job transitions benefiting from inclusive, adequate and effective labour protection;
 - (j) promote OSH strategies that aim at zero work-related deaths and the prevention of work-related injuries and illnesses, as well as access to relevant social security benefits, and develop effective OSH policies and management systems, including those that take into account new and existing OSH risks;
 - (k) ensure adequate minimum wages, statutory or negotiated, that are regularly updated;
 - (l) promote the application of the Guidelines on general principles of Labour Inspection, 2022, and strengthen and constantly adapt labour inspectorates to adequately address emerging and existing labour issues, including through the reinforcement of the number, skills and resources of labour inspectors, including their mandate to conduct effective monitoring and inspection in the informal economy;
 - (m) ensure respect for labour rights through a coordinated and holistic approach at national, regional and global levels;
 - (n) protect migrant workers' rights at national level and engage in bilateral and regional cooperation between countries of origin, transit and destination to

guarantee migrant workers' rights, wage protection, OSH protection, social security and cross-border portability of benefits, access to labour protection information, access to justice, access to effective remedies, and dispute settlement; to address discrimination; and to implement fair recruitment policies and practices;

- (o) equip the ILO with a clear, robust and up-to-date body of standards, supported by an effective supervisory system, which responds to the evolution of the world of work, protects workers and takes into account the needs of sustainable enterprises and promotes decent work.

IV. Mobilizing ILO means of action

- 23. The Organization should strengthen its support to governments, employers' and workers' organizations by:
 - (a) promoting the ratification and effective implementation of all fundamental Conventions and international labour standards on wages, working time, OSH, maternity and employment protection, and other areas of labour protection;
 - (b) providing technical assistance and guidance on workers' classification and on developing and strengthening effective labour protection institutions, including public labour inspectorates;
 - (c) supporting wage adequacy and the improvement of wage-setting systems, including statutory or negotiated adequate minimum wages;
 - (d) providing technical assistance and supporting knowledge development and sharing on innovative approaches to address informality and scale up the transition to formality;
 - (e) providing tools and advice on ways to harness digital technologies for improving working conditions, enhancing workers' OSH and enabling compliance, in particular for MSMEs;
 - (f) providing guidance on labour protection for workers, including in temporary employment, platform work and telework;
 - (g) enhancing their capacity to respond to any psychosocial risks and work-related stress that may result from new forms of work organization, including in workplaces with high use of ICT;
 - (h) elaborating a strategy giving effect to the transformative agenda for gender equality that ensures equality of treatment and opportunity for all women, particularly for those of intersectional identities, a balanced sharing of family responsibilities and an increased investment in the care economy; and tackles violence and harassment in the world of work;
 - (i) continuing engagement in the Equal Pay International Coalition to achieve the objective of equal remuneration for work of equal value;
 - (j) developing for submission to the Governing Body a proposal for the convening of a tripartite meeting of experts on the organization and scheduling of working time;
 - (k) playing a leadership role in the multilateral system and reinforcing international cooperation, including the South-South Cooperation projects, and policy coherence and partnerships on labour protection, including with the World Trade Organization and international financial institutions, by leading the Global Coalition

for Social Justice and in the context of efforts to implement the Sustainable Development Goals 5, 8 and 10.

- 24.** The Organization should intensify knowledge development and capacity-building activities, particularly in relation to:
- (a) disaggregated data collection and analytical research on protecting workers and groups more at risk of exclusion and on the components of labour protection;
 - (b) the impact of labour protection measures on employment, as well as the complementarities between labour protection and employment, social security, fiscal and macroeconomic policies;
 - (c) the interdependence between labour protection and sustainable enterprises, notably MSMEs, as well as labour protection and the development of the entities of the social and solidarity economy, and the interdependence between labour protection and the other strategic objectives of the Decent Work Agenda;
 - (d) the manner in which freedom of association and collective bargaining have fostered labour protection in different socio-economic contexts, including through the flagship social dialogue reports;
 - (e) the role of tools such as workplace cooperation to help ensure safe and productive workplaces in such a way that it respects collective bargaining and its outcomes and does not undermine the role of trade unions;
 - (f) ways to ensure the correct classification of employment relationships, and the effectiveness of strategies to facilitate the successful transition from the informal to formal economy and from insecure to secure work that is decent and provides access to social security and labour protection to all;
 - (g) impact assessment and awareness of the challenges and opportunities of digitalization, including artificial intelligence and algorithmic management, for labour protection, including emerging OSH risks, to support policy responses that ensure fairness, transparency and non-discriminatory decisions. Examination of the issue of artificial intelligence and algorithmic management by the Governing Body and evaluation of the need for a further discussion on the topic;
 - (h) means for providing access to labour protection and social security to workers, including in temporary employment, platform work and telework;
 - (i) ways to strengthen labour protection and the respect, promotion and realization of fundamental principles and rights at work in supply chains, in the framework of the MNE Declaration, and to help enforce labour provisions in trade and investment agreements and in public procurement;
 - (j) peer-reviewed research on concepts and estimations of living wages, as well as technical assistance to Member States, upon request, in line with the 2022 Resolution concerning the third recurrent discussion on employment, and on that basis a proposal to the Governing Body, for its consideration, for a tripartite follow-up discussion on wage policies, including living wages;
 - (k) the updating of the ILO Working Conditions Laws Database and the establishment of a repository of policies and regulations on labour protection and analyses of what works;

- (l) undertaking research on how public procurement rules can foster adherence to labour rights and support increased labour protection, taking into account the Labour Clauses (Public Contracts) Convention, 1949 (No. 94).