

Committee: 3rd GA Committee: Social, Humanitarian and Cultural Committee (SOCHUM)

Committee Year: 2006

Agenda Item: Protection of workers' rights in developing countries

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Introduction

Beginning from the industrial revolution, worker's conditions have sparked as one of the most profound issues lies underneath the flourishing of capitalist societies. Early debates on minimum wages begin to derive people's attention towards the welfare of the workers and subsequently lead to the demand for enhanced treatment for all workers. Workers' rights, sometimes referred to as labor rights are a group of legal rights that regulate the relations between workers and their employers, those rights differ from state to state, but usually cover issues such as minimum wage, working hours, work safety and the right to unionize. However, as developing countries usually lack sufficient infrastructures, including but not limited to physical, economical, cultural and legal; these countries are often in trapped in vicious cycles such as corruption, illegal immigration, electricity shortage, brain-drain and so on. Whilst the absence of a fair and unbiased legal system persists, the treatment of the workers cannot be guaranteed.

Workers' rights in developing nations are usually lagging behind on many aspects. Observing minimum wage around the world, we find that many developing nations have no minimum wage (such as UAE or Somalia). Or has minimum wage laws covering only some sectors of the work force (in Yemen for example, minimum wage

is only covering the civil sector). Even when minimum wage laws exist, the minimum wage is usually very low, even as low as a few USD cents per hour in some cases. Another prominent aspect is working conditions. In many developing nations, large part of the economies is based on menial labor, such as mining or construction. Work places in those countries often lack modern technology and proper safety measures, and therefore the workers working there are exposed to various dangers, from accidents when using heavy machinery, to exposure to chemicals or other hazards. One of the reasons for those working conditions and low salaries is the high unemployment rates in many developing nations. Unemployment in most developing nations are higher than 10%, with rates reaching 20-30% in some of them. Such high unemployment rates, along with extreme poverty in those countries are forcing citizens to accept jobs wherever they can find them. It also puts the potential employees at a much weaker position to negotiate better working conditions, as they are easily replaceable.

Background Information

While there is evidence of calls, protests and sometimes even armed struggles for better working conditions initiated by workers ever since the Middle Ages, the modern concept of workers' rights is relatively new. It can be traced back to the 19th century, which saw the first rules limiting the employment of children in England and the creation of the first labor unions following the industrialization process. Working conditions at that time were difficult, there was a substantive power difference between the employers and the workers, where the employers were much stronger, and could demand long working hours from their workers with relatively low payment in return. The workers were unable to negotiate better working conditions for themselves, and their solution was to join together in order

to have more power over their employers, demanding better working conditions, sometimes threatening with strikes or other measure to sabotage production. In 1919 the International Labour Organization (ILO) was established as part of the League of Nations in order to protect and promote workers' rights and was later incorporate into the United Nations.

Major Countries and Organizations Involved

- **International Labour Organization (ILO)**

As a growing number of developing countries undergo rapid industrialization, increasing attention has been paid to working conditions and the rights of workers in the Third World. For over 65 years, labour conditions have been the concern of the International Labour Organization (ILO), which has attempted to set universal standards for the labour sector through its International Labour Code. But developing countries have reservations about the ILO Code which they feel reflects the priorities and problems faced by the industrialized countries, and fails to address their particular development needs.



Sustainable Agriculture Network (SAN)

SAN is an international network of NGOs focused on helping companies, producers and donors to move forward with their sustainability agenda in a practical and efficient way. We can be a powerful and effective



ally to achieve and monitor goals, to transform agricultural practices and to create value on the ground. SAN's vision of decent work conditions is based on the dispositions of international and local labor law, to ensure on respect for human and labor rights by encouraging work opportunities that provide fair incomes; workplace security; freedom for workers to express their concerns, organize and actively participate in the decisions that affect their lives; and equal opportunities and treatment for all women and men.

Conventions and Treaties

Workers' rights encompass a large array of human rights from the right to decent work and freedom of association to equal opportunity and protection against discrimination. Specific rights related to the workplace include health and safety in the workplace and the right to privacy at work, amongst many others. Given the relationship between workers, employers, and the state, worker's rights are where 'business' and 'human rights' most often intersect.

Workers' rights at the international level are laid out in number of human rights conventions and treaties including the Universal Declaration on Human Rights (Articles 23 and 24, 1948) and the International Covenant on Economic, Social and Cultural Rights(1966) which provide for: the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts and the right to the enjoyment of just and favorable conditions of work, in particular remuneration which provides all workers, as a minimum, with fair wages and equal remuneration for work of equal value, and a decent living for themselves and their families;

Safe and healthy working conditions;

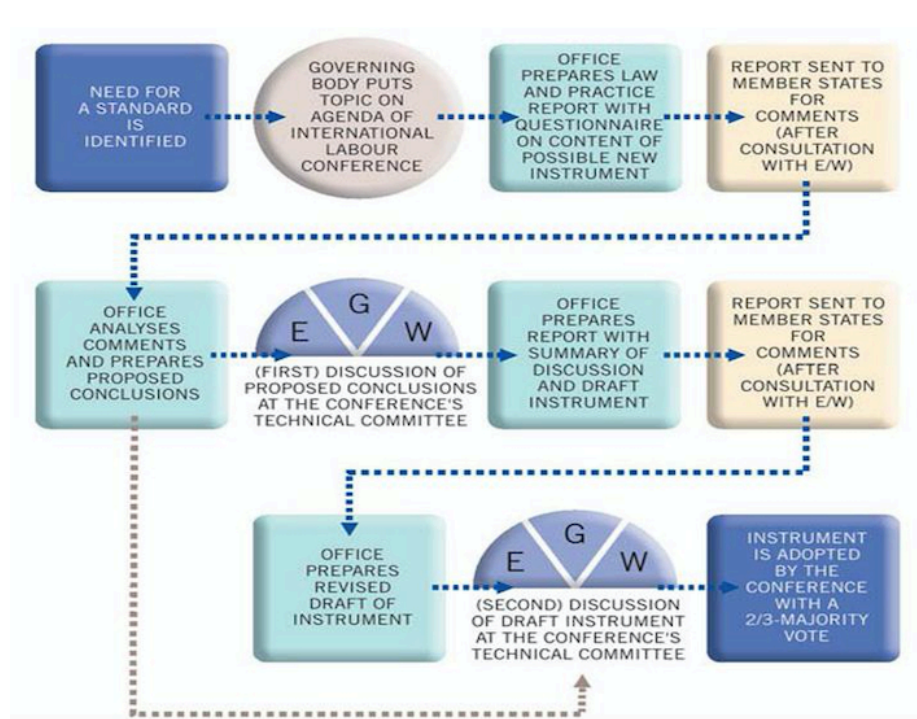
Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

and rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays;

the right of everyone to form and join the trade union of his choice and the right to strike, provided that it is exercised in conformity with the laws of the particular country.

ILO Labour Standards and the Developing Countries

ILO member states must report regularly about their implementation of ratified conventions, these reports being considered by the Committee of Experts in the Application of Conventions and Recommendations, and by the International Labour Conference, which meets annually. There is also a complaints procedure, which usually results in a Commission of Enquiry



to resolve the matter. In a constantly changing world environment it has always been difficult for the ILO to maintain an up-to-date labour code, but the emergence and membership of

sovereign states in the Third World has presented a more serious challenge to the continuing role of labour standards. In a major review of the Code during the period 1974-80, the ILO's Governing Body identified approximately half of the conventions and recommendations as 'priority instruments'. Despite these efforts, many have expressed the view that the labour code has failed to address the most pressing problems of social and economic development.

The Indian Government has recently called on the ILO to shift its emphasis away from standard setting towards other operational activities (especially in the employment and training fields), which would be a 'quicker means to achieving the aims and purposes of the ILO'. To some extent, the misgivings of ILO's developing country membership are reflected in the ratification record. Although the average number of ratifications per state was 34 at the end of 1983, 60 ratifications were recorded per Western European country, while there were only 26 per African country and 20 per country in Asia and the Pacific. But these figures conceal some interesting detail. The USA, for example, has only ratified 7 conventions, while Mexico has ratified 65, and India 34. An examination of the human-rights Conventions indicates little significant difference between the developing and the developed countries. But the developing countries clearly lag behind in ratifying important conventions on employment and working conditions. Moreover, questions remain over how effectively the developing countries implement ratified standards as compared with the developed countries.

Protection of Workers' Rights in Agriculture

Agriculture is the second largest source of employment worldwide; around

948 million people that represent almost one-third of the global labor force, and two-thirds of the world's poor. It is an important source of employment and income, particularly in developing countries. Nevertheless, agricultural workers regularly receiving low wages and incomes for tasks that are performed in poor and even hazardous conditions.

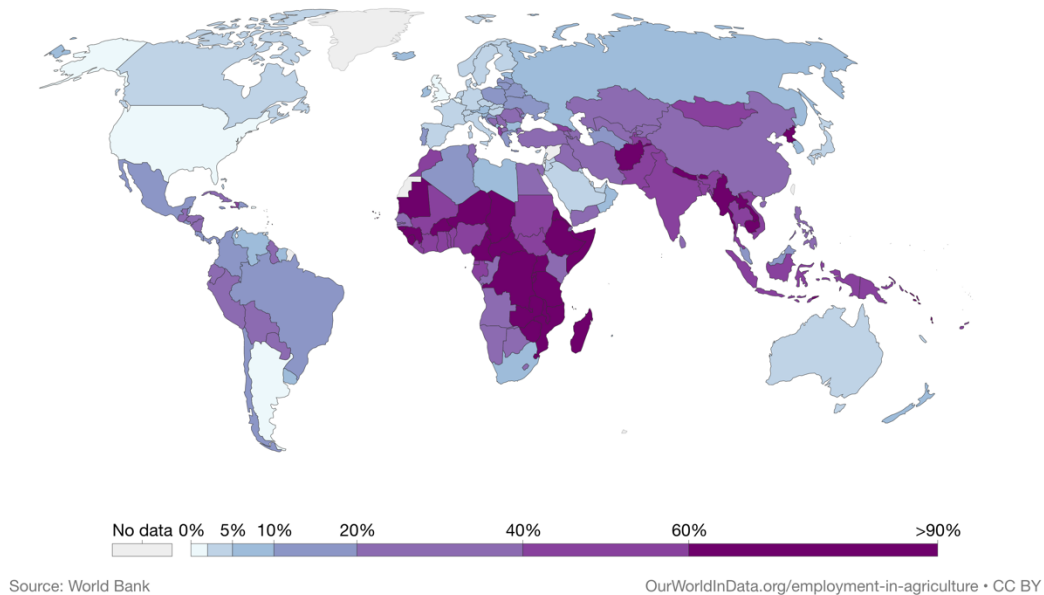
According to the International Labour Organization, approximately 50% of the total of annual fatal workplace accidents globally correspond to agricultural workers, who have very few resources for protection in terms of access to health care, wages, insurance and other benefits.

Creating optimum employment opportunities within agriculture is an essential driver for rural development, reduction of poverty and sustainable development.

SAN offers a set of practical requirements and recommendations that guide the agricultural sector towards the creation of decent work conditions and the eradication of forced, compulsory and slave labor; discrimination and harassment at the work place; the worst forms of child labor, and the use of any arrangements or mechanisms designed to eliminate or reduce pay and benefits due to workers.

Share of the labor force employed in agriculture, 2006

Share of persons of working age who were engaged in any activity to produce goods or provide services for pay or profit in the agriculture sector (agriculture, hunting, forestry and fishing).



SAN's approach encourages:

- **The regulation and supervision of young workers' conditions.**
- **The respect for the workers' freedom of association.**
- **The regulation of working hours, rest periods and vacation benefits according international and local standards.**

The payment of at least the legal minimum wage or the wage negotiated collectively.

In addition, SAN offers an approach towards managing occupational health and safety (OHS) in agricultural and livestock operations that:

- **Actively addresses occupational health and safety risks to prevent and minimize accidents and health problems.**
- **Focuses workers' training on how to conduct their tasks in a safe**

manner, and promotes safe equipment and infrastructure.

- Requires the use of practices, mechanisms, tools and equipment to protect workers' health and minimize the risks to their health and safety, and promotes the use of personal protective equipment (PPE), especially when hazardous substances are used.
- Best practices recommendations to protect women's health, including those that are pregnant, nursing or have recently given birth.

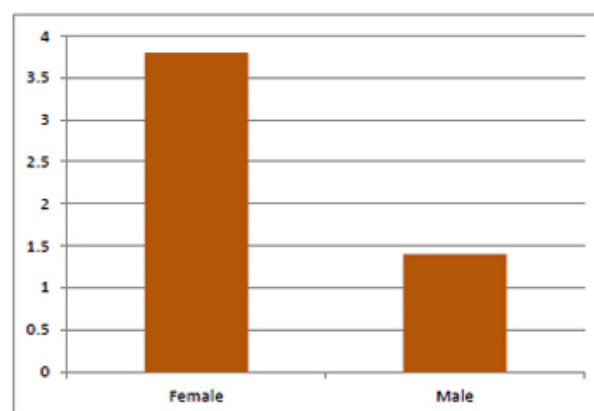
Combating Discrimination in the Workplace

Discrimination at work can occur in many different settings, from high-rise office buildings to rural villages, and in a variety of forms. It can affect men or women on the basis of their sex, or because their race or skin colour, national extraction or social origin, religion, or political opinions differ from those of others. Often countries decide to ban distinctions or exclusions and forbid discrimination

on other grounds as well, such as disability, HIV status or age. Discrimination at work denies opportunities for individuals and robs societies of what those people can and could contribute.

Eliminating discrimination starts with dismantling barriers and ensuring equality in access to training, education as well as the ability to own and use resources such as land and credit. It continues with fixing conditions for setting up and running enterprises of all types and sizes, and the

Total domestic workers in Africa by sex (million)



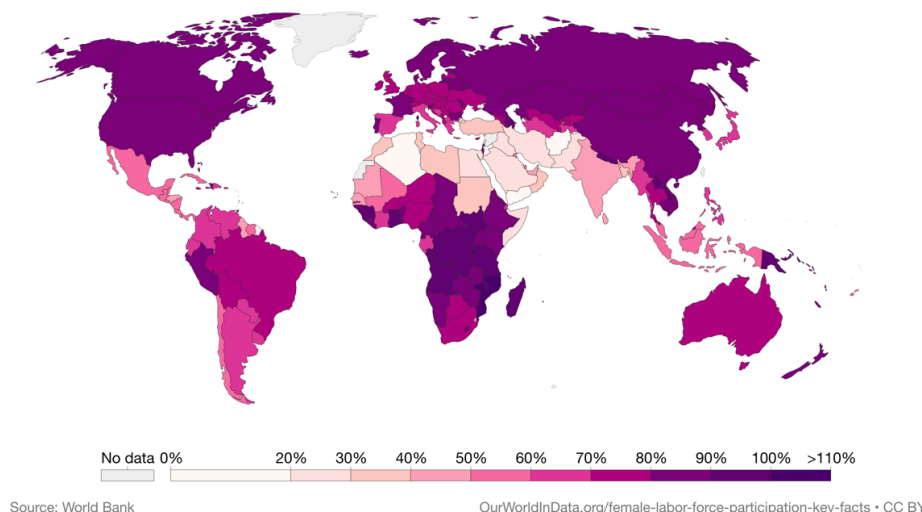
Source: ILO 2013. Domestic workers across the world: Global and regional statistics and the extent of legal protection. International Labour Office: Geneva

policies and practices related to hiring, assignment of tasks, working conditions, pay, benefits, promotions, lay-offs and termination of employment. Merit and the ability to do a job, not irrelevant characteristics, should be the guide. Discrimination in employment or occupation may be direct or indirect. Direct discrimination exists when laws, rules or practices explicitly cite a particular ground, such as sex, race, etc. to deny equal opportunities. For instance, if a wife, but not a husband, must obtain the spouse's consent to apply for a loan or a passport needed to engage in an occupation, this would be direct discrimination on the basis of sex.

Indirect discrimination occurs where rules or practices appear on the surface to be neutral but in practice lead to exclusions. Requiring applicants to be a certain height could disproportionately exclude women and members of some ethnic groups, for example. Unless the specified height is absolutely necessary to perform the particular job, this would illustrate indirect discrimination.

Ratio of female to male labor force participation rates (%), 2006

The female-to-male ratio of labor force participation rates is calculated by dividing the labor force participation rate among women, by the corresponding rate for men. The labor force participation rate is defined as the proportion of the population ages 15+ that is economically active. All figures correspond to 'modeled ILO estimates' (see source for details).



Equality at work means that all individuals should be accorded equal opportunities to develop fully the knowledge, skills and competencies that are relevant to the economic activities they wish to pursue. Measures to promote equality need to bear in mind diversity in culture, language, family circumstances, and the ability to read and to deal with numbers. For peasants and owners of small or family enterprises, especially the women and ethnic groups, equal access to land (including by inheritance), training, technology and capital is key. In the case of both employees and self-employed or (own-account) workers, non-discrimination at work depends on equal access to quality education prior to entering the labour market. This is of chief importance for girls and disadvantaged groups. A more equal division of work and family responsibilities in the household would also permit more women to improve their work opportunities.

Working Conditions

Working conditions are at the core of paid work and employment relationships. Generally speaking, working conditions cover a broad range of topics and issues, from working time (hours of work, rest periods, and work schedules) to remuneration, as well as the physical conditions and mental demands that exist in the workplace.

Health and Safety at Work

Economically active people spend on an average about one third of their time at the workplace. Employment and working conditions have powerful effects on health equity. Good working conditions can provide social protection and status, personal development opportunities, and protection from physical and psychosocial hazards. They can also improve social relations and self-esteem of employees and lead to positive health effects.

The health of workers is an essential prerequisite for household income, productivity and economic development. Therefore, restoring and maintaining working capacity is an important function of the health services.

Health risks at the workplace, such as heat, noise, dust, hazardous chemicals, unsafe machines and psychological stress, cause occupational diseases and can aggravate other health problems. Conditions of employment, occupation and the position in the workplace hierarchy also affect health. People working under stress or with precarious employment conditions are likely to smoke more, exercise less and have an unhealthy diet. In addition to general health care, all workers – and particularly those in high-risk occupations – need health services to assess and reduce exposure to occupational risks, as well as medical surveillance for early detection of occupational and work-related diseases and injuries.

Chronic respiratory diseases, musculoskeletal disorders, noise-induced hearing loss and skin problems are the most common occupational diseases. Yet only one third of countries have programmes in place to address these issues.

Work-related noncommunicable diseases (NCDs) as well as cardiovascular diseases and depression caused by occupational stress result in increasing rates of long-term illness and absence from work. Occupational NCDs include occupational cancer, chronic bronchitis and asthma caused by air pollution in the workplace and radiation.

Despite these diseases, in the majority of countries physicians and nurses are not adequately trained to address work-related health problems and many countries do not offer postgraduate education in occupational health.

Implementing Wage Policies

Wages are among the most important conditions of work and a major subject of collective bargaining. The ILO is committed to promoting policies on wages and incomes that ensure a just share of the fruits of progress to all and a minimum living wage for all employed in need of such protection. In order to do so it undertakes research and provides evidence-based policy advice on minimum wages, public sector pay, wage bargaining and gender pay gaps.

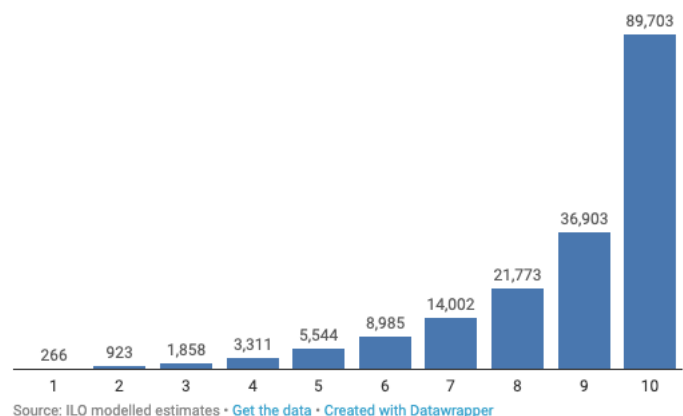
Effective wage-setting institutions help ensure a just and equitable share of the fruits of progress to all. Minimum wages are used by governments

and social partners to provide protection for wage earners against unduly low wages and as one element in a policy designed to overcome poverty.

For this protection to be meaningful, minimum wages have to be set at a level that covers the needs of workers and their families, while taking into account economic factors, in accordance with the Minimum Wage Fixing Convention, 1970 (No. 131), Article 3(a) and (b). They should afford adequate protection to all workers in an employment relationship, including women, youth and migrant workers, regardless of their contractual arrangements. Sound wage-setting institutions should also address rising inequalities, including those between men and women, by

Labour income by decile, PPP\$

Labour income per worker according to decile. A worker in the poorest 10% earns 266 dollars per year, whereas one worker in the richest 10% gets 89'703.

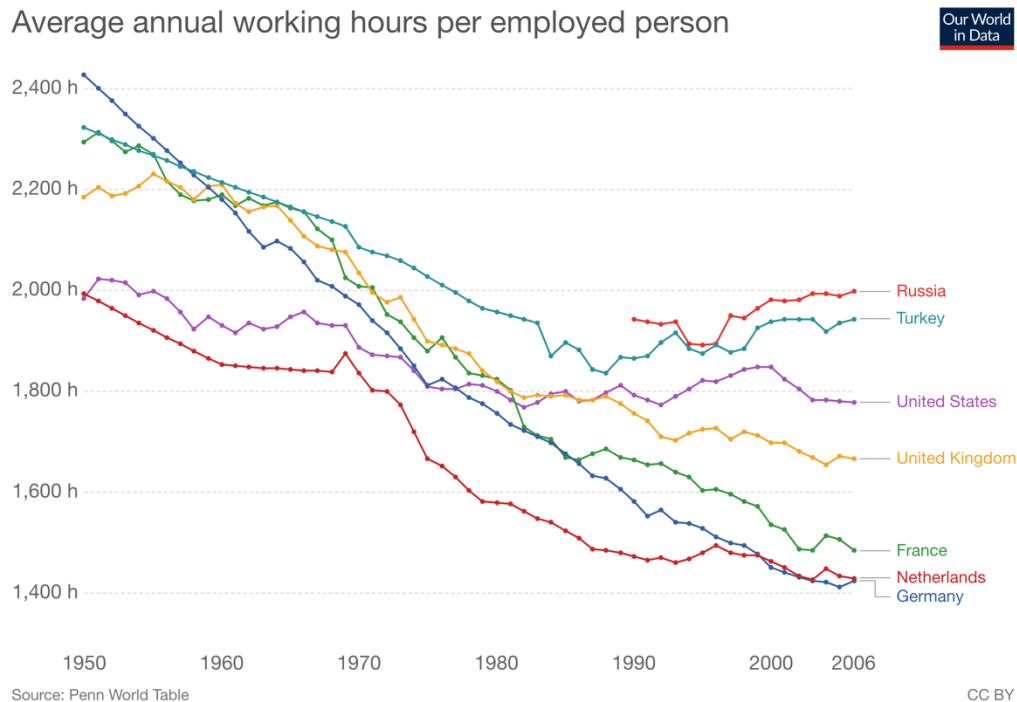


promoting the right to equal remuneration for work of equal value. The direct participation of representatives of organizations of employers and workers in the operation of minimum wage-fixing bodies is essential to set the level of minimum wages in line with the situation in each country, taking into consideration both social and economic factors. Minimum wage rates should be adjusted at regular intervals to take account of changes in the cost of living and other economic conditions. This mechanism has been used in many countries to progressively adjust wage levels. Effective labour protection also requires that all workers are paid their wages regularly, in full and without any unlawful deductions. Measures to achieve this include the documentation of wage payments by employers and effective remedies for workers to recover unpaid wages. Labour inspectors and workers' organizations play an important role in promoting and monitoring compliance with minimum wage regulations, collective agreements and employment contracts. Enforcement measures are essential to preclude anticompetitive practices, which have detrimental effects for responsible businesses, workers and society at large.

Managing Working Time

The regulation of the hours of work, including the establishment of a maximum working day and week, for all workers regardless of the type of employment relationship, is a principle enshrined in the ILO's Constitution and remains an important objective. The reduction of long working hours can improve workers' health, workplace safety, work-life balance, and, ultimately, sustainable enterprise productivity. Regulatory measures are essential in this regard. Working-time arrangements and reductions in long hours can also be advanced through collective bargaining at all levels and through workplace initiatives. Flexible

working-time arrangements can be mutually beneficial when they meet the legitimate needs of enterprises and workers. One example is part-time work that is productive and freely chosen, consistent with the Part-Time Work Convention, 1994.



Policies should be designed to ensure that the principle of equal treatment for part-time workers with comparable full-time workers is given full effect with respect to labour protection in line with this Convention. Policies, collective bargaining, social dialogue and workplace initiatives can be used to enable part-time workers to have sufficient hours of work to meet their needs. Beside the number of hours worked, how working hours are arranged can affect workers' well-being and enterprise performance. For example, highly variable and unpredictable work schedules can impact on work-life balance, income security and health, in particular mental health. Measures such as advance shift notification and guaranteed minimum paid hours can help accommodate the needs of individual workers, while

meeting enterprises' requirements for flexibility.

Labour Administration and Inspection

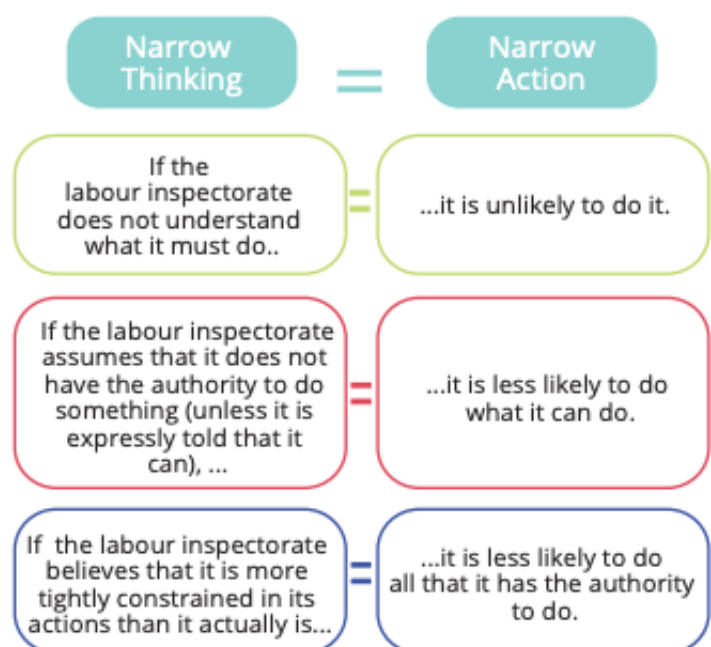
Labour inspection is a key element of any labour administration system for enduring the implementation of labour policies, providing feedback and allowing for a readjustment of these policies as necessary. In recent years, the importance of labour inspection in promoting decent work has been widely recognized. Yet in many countries, the changing world of work with its new employment patterns has been accompanied by reduced government interventions in the workplace.

	Traditional enforcement model	Strategic compliance model
Aim	Enforcement	Enforcement and compliance
Approach	Reactive (often complaint-driven) and routine	Proactive, targeted (labour inspectorate - driven) and tailored, based on diagnosis of causes of non-compliance
Interventions	Enforcement Education Communication	Enforcement Education Communication Political Systemic
Stakeholders	Workers and their organizations Employers and their organizations	Workers and their organizations Employers and their organizations Government entities Non-governmental entities Media Wild card (any and all others who can influence compliance)
Implementers	Labour Inspectorate	Labour Inspectorate + stakeholders
Performance measures	Effective and efficient enforcement	Effective and efficient enforcement and sustained compliance

Even where there is a general agreement on the benefits of labour inspection, the real impact of labour inspectors has often been limited, especially among vulnerable or hard-to-reach groups and in the large informal economy. The ILO is working to strengthen labour inspection systems with a view to ensuring labour law compliance through the promotion of relevant international labour standards, and technical advisory services and projects.

In today's world of work, the traditional enforcement model – reactive and routine inspections – is no longer sufficient to achieve effective and efficient enforcement and sustained compliance with national and international labour norms. The number of workplaces subject to inspection dwarfs the resources available to inspect them (ILO, 2006), leading to a situation in which workers are unprotected, violators operate with impunity, and unfair competition for compliant businesses pervades.

The growth of non-standard forms of employment, global supply chains, and the introduction of new technologies, which enable new business models and give rise to new work-related hazards, outpace the evolution of the legal authority and enforcement tools available to the labour inspectorate; as a



consequence, its enforcement levers are mismatched to the influences driving non-compliance. Where limited or declining union membership and affiliation weaken trade unions' counterbalance to employers in relation to working conditions, greater responsibility is placed on the labour inspectorate to promote the demand for compliance, as well as to achieve it. The emerging strategic compliance model – proactive, targeted, and tailored interventions engaging multiple stakeholders – provides the labour inspectorate with a new methodology to achieve compliance outcomes in light of limited resources, mismatched powers and a need to shoulder greater responsibility for promoting compliance in the ever-evolving world of work.

Timeline of Events and Relevant UN Treaties / Events

Year	Description of event
1802	First Landmark of Modern Labour Law: British Health and Morals of Apprentices Act
1909	Passage of the British Trade Boards Act (U.K.)
1919	Creation of the International Labour Organisation (ILO)
1930	Forced Labour Convention
1935	Achieving trade unionism and collective bargaining: the National Labour Relations Act (U.S.)
1944	Declaration Concerning the Aims and Purposes of the International Labour Organisation (ILO), (Declaration of Philadelphia)
1946	ILO became the first specialized agency within the United Nations
1948	Adoption of the Universal Declaration of Human Rights

1949	Right to Organise and Collective Bargaining Convention
1951	Equal Remuneration Convention
1958	Discrimination (Employment and Occupation) Convention
1966	Adoption of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and adoption of the International Covenant on Civil and Political Rights (ICCPR)
1979	Adoption of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
1998	ILO Declaration on Fundamental Principles and Rights at Work
2003	Working Time Directive (2003/88/EC)
2006	Establishment of the Global Compact Human Rights Working Group

Matters at Hand

- 1. Are workers' rights integral parts of Human Rights? Are they universal, or does each nation can define workers' rights according to their views and needs?**
- 2. Are the current conventions enough to protect workers' rights? How can we get more member states to sign and ratify them?**
- 3. How can a developing nation best protect the rights of its workers without hurting future growth?**
- 4. On what aspects of workers' rights should developing countries focus? How will that affect other aspects of workers' rights?**
- 5. What is the responsibility of developed nations in ensuring better working conditions for workers in developed nations creating consumer products?**

Conclusion

While most people believe improving workers' rights will help those workers and help combat poverty, it is not always the case:

On the micro level, a major argument against improvement of workers' rights through legislation and against the will of the employers is increase in unemployment rates. By increasing the workers' rights the operation expenses of many companies will also increase, and in turn, in order to push down expenses, those companies will have to compensate by firing some of their workers.

On the macro level, the problem intensifies, a country providing cheap labour will attract more investors who will create more jobs, pay taxes and help improve and advance that country's economy. Legislation improving workers' rights might scare off potential investors, and therefore hurt the economy. We therefore find ourselves in a situation where improving workers' rights in order to help those worker's might actually work against them and understand that improving rights is somewhat a trade-off. The more radical the change, the more dangerous it is, which means those developing nations who have relatively few workers' rights need to find the balance that best fits them.

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