



# International Labour Laws

Globalization - the interlinking of national economies - has been intensifying in the last few decades and affecting almost everybody in the world. While it has provided opportunities for some regions it has also led to increased inequality within many countries and a growing gap between the world's richest and poorest nations. If this pattern continues even more poverty, social instability and conflict will develop. Consequently there is growing recognition in the international community that to ensure fair treatment and increased prosperity for everybody basic global rules are needed.

## Establishing global rules

The International Labour Organization (ILO) is the global body concerned with all matters connected to work in the world. It is a specialized agency of the United Nations. Since 1919 it has been setting rules about employment in order to ensure that social justice, prosperity and peace for all develop along with economic progress.

These rules - called ***international labour standards*** - are legal instruments which define basic minimum standards in the world of work. They are drawn up by representatives of governments, employers and workers in a tripartite fashion and so represent the work-related principles of the major actors in the global economy. As instruments of law which can be ratified by governments the standards are part of the legal framework the international community is developing as it confronts the effects of globalization. But they also serve as guide posts for organizations, companies and individuals concerned with basic principles and rights at work.

There are two kinds of international labour standards: ***conventions*** and ***recommendations***. Conventions are legally binding international treaties that may be ratified by the ILO's member states. Recommendations are non-binding guidelines which often provide detailed suggestions on how conventions could be applied. Recommendations can be autonomous, in other

words, not linked to any convention.

By the end of June 2007 the ILO had adopted 188 conventions and 199 recommendations covering a wide range of subjects. Eight of the conventions, in four subject areas, are considered "fundamental" because they are related to fundamental principles and rights at work.

### **The ILO's Fundamental Conventions**

- Freedom of association and the effective recognition of the right to collective bargaining
  - No. 87: Freedom of Association and Protection of the Right to Organize, 1948.
  - No. 98: Right to Organize and Collective Bargaining, 1949
- The elimination of all forms of forced or compulsory labour
  - No. 29: Forced Labour, 1930
  - No. 105: Abolition of Forced Labour, 1957.
- The effective abolition of child labour
  - No. 138: Minimum Age, 1973.
  - No 182: Worst Forms of Child Labour, 1999.
- The elimination of discrimination related to employment and occupation.
  - No. 100: Equal Remuneration, 1951
  - No. 111: Discrimination (Employment and Occupation), 1958

### **Freedom of association and the effective recognition of the right to collective bargaining**

The right to organise and bargaining collectively are basic rights for all working people and employers, with the only exception of armed forces and police. Yet all over the world the application of these fundamental principles continues to be challenged. In many countries certain categories of workers (such as public employees, seafarers and workers in export processing zones) are denied the right to form a union. Other countries illegally suspend or interfere with labour organizations. Some even encourage or systematically ignore the killing of unionists. Meanwhile, there are countries which deny the rights of association to employers so that effective tripartite social dialogue of all the major actors - governments, employers and workers - is inhibited.

The ILO works towards guaranteeing freedom of association, effective

collective bargaining and social dialogue. Convention No. 87 (Freedom of Association and Protection of the Right to Organize) sets forth the rights of workers and employers. These include establishing and joining organizations of their own choosing without previous authorization, organize their administration and activities, formulate their programmes, and affiliate with national or international organizations.

Convention No 98 (Right to Organize and Collective Bargaining) provides that workers will be protected against acts of anti-union discrimination, including dismissal because of union membership or participation in union activities and free from requirements that a worker not join a union or relinquish union membership for employment. It also guarantees adequate protection against any acts of interference from employers' organizations and enshrines the right to collective bargaining so workers and employers can freely negotiate wages, benefits, working conditions and other employment issues.

There are other ILO conventions relevant to freedom of association and collective bargaining. For example, Convention No. 135 (Workers' Representatives) provides facilities for workers' representatives and protection from being dismissed or otherwise punished based on their status, union membership or activities related to their unions. Convention No. 141 (Rural Workers' Organization) describes the freedom of association and bargaining rights of rural workers whether they are wage earners or self-employed. It also describes the obligation for governments to facilitate the establishment and growth of labour organizations.

The right to form unions and bargain collectively is not only a question of workers' rights. It is also related to the sustainable development of countries. It has been recognized that countries with highly coordinated collective bargaining systems tend to have less inequality in wages, lower and less persistent unemployment, and fewer and shorter strikes than countries where collective bargaining is less established.

## **Forced Labour**

The ILO estimates that currently at least 12.3 million women, men and children across the world are victims of forced labour. They are trapped in exploitative work which they are unable to leave and are suffering at the hands of unscrupulous employers, labour contractors or agents. They may be victims of trafficking into commercial sexual exploitation but, more often, they are working in economic sectors like agriculture, construction or informal manufacturing, frequently labouring under the burden of a debt which they can never repay. Many, especially women and girls, are trapped in forced domestic

service in private households, well beyond the reach of the protections afforded by labour law. Irregular migrant workers are highly vulnerable to forced labour exploitation, living and working in constant fear of being turned over to the authorities in their host country. Indigenous peoples are also among the most vulnerable, for whom forced labour is another facet of the discrimination they face in all aspects of their lives. A minority – but still a significant number of people – suffer forced labour imposed directly by the state or by its representatives. Everywhere, in rich and poor countries alike, forced labour affects the poorest and the most socially marginalized groups in the population.

Forced labour, wherever it occurs, represents a brake on social and economic development and a violation of human rights. The ILO's clear message is that it can be and must be stopped. The numbers of people affected are large, but not so large that abolition appears an unattainable goal.

The Forced Labour Convention (No. 29) demands suppression of the use of forced or compulsory labour in all its forms within the shortest possible period. Forced labour is defined as any work or service which is exacted from any person under the menace of any penalty and for which the person has not offered him or herself voluntarily. However, work or services exacted in virtue of compulsory military service laws, as a consequence of a conviction in a court of law<sup>1</sup>, in cases of emergency, which forms part of normal civic obligations, and minor community services are not considered forced labour. The Abolition of Forced Labour Convention, 1957 (No. 105), that supplements Convention No 29, asks to suppress and not to make use of any form of forced or compulsory labour as a means of political coercion, education or punishment. It also prohibits using forced labour as a method of mobilising and using labour for purposes of economic development, as a means of labour discipline, or as a penalty for having participated in strikes, or still as a means of racial, social, national, or religious discrimination.

Forced or compulsory labour is also covered by the ILO's Convention on the worst forms of child labour, 1999 (No. 182).

## **Child Labour**

According to ILO estimates<sup>2</sup> there are some 317.4 million children aged 5 to 17 engaged in some form of economic activity in the world (2004), including 190.7 million in the age group from 5 to 14 years. “Economic activity”

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<sup>1</sup> Provided that the said person is convicted in a court of law, that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations.

<sup>2</sup> *Global child labour trends 2000 to 2004* (Geneva, ILO), April 2006.

encompasses most productive activities of children: it includes both work that is permissible under the ILO Child Labour Conventions and work that is not permissible. “Child labour”, however, is a narrower concept: it excludes the activities of children 12 years and older who are working only a few hours a week in permitted light work and those of children 15 years and above whose work is not classified as “hazardous”. ILO action targets the elimination of child labour as defined in the ILO Minimum Age Convention, 1973 (No. 138) and the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) and not all economic activities of children. The ILO research mentioned above also identified an estimated 217.7 million children in child labour aged 5 to 17 years (of which 165.8 million were below the age of 15), 107.6 million below the age of 12, and 126.3 million child labourers working in hazardous situations or conditions (of which 74.3 million children were below 15 years of age).

Child labour is a violation of fundamental human rights. It has been shown to perpetuate poverty across generations as children grow up without access to education or decent health care.

ILO standards on child labour are primary international tools for addressing the problem. The Minimum Age Convention, 1973 (No. 138) sets a general minimum age for admission to employment or work that shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years, 13 years for light labour. For hazardous work the minimum age is 18 (or 16 under strict conditions). The Worst Forms of Child Labour Convention (No. 182) was adopted by the ILO in 1999, and supplements Convention No. 138. It requires member states of the ILO to eliminate all forms of slavery or practices similar to slavery (such as the sale and trafficking of children, debt bondage and serfdom, forced or compulsory labour, and the forced or compulsory recruitment of children for use in armed conflict); the use, procuring or offering of children for prostitution and pornography; the use, procuring or offering of children for illicit activities such as the production and trafficking of drugs; and work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

The convention requires ratifying states to provide the means to remove children from the worst forms of child labour and for their rehabilitation and social integration. It also requires states to ensure access to free basic education and, wherever possible or appropriate, provide vocational training for children removed from the worst forms of child labour.

## **Equality of opportunity and treatment**

Millions of men and women around the world are denied access to jobs and training, receive low wages, or are restricted to certain occupations simply on the basis of their sex, skin colour, ethnicity or beliefs without regard for their skills and capabilities.

Freedom from discrimination is a fundamental human right which is essential for workers and job seekers to choose their employment freely, to develop their potential to the full, and reap economic rewards on the basis of merit.

One of the ILO's fundamental conventions is No. 100 on Equal Remuneration between men and women. The convention requires countries that have ratified it to ensure the application of the principle of equal remuneration for men and women workers for work of equal value. The term "remuneration" is broadly defined to include the ordinary, basic or minimum wage or salary and any other compensation payable directly or indirectly, whether in cash or kind, by the employer to the worker and arising out of the workers' employment. The term equal value means that men and women who have different positions should be paid equally if the content of their job is objectively of equal value. According to this concept, Convention No. 100 requires member states to evaluate the respective value of different jobs in order to end the under evaluation of jobs mostly performed by women.

The second fundamental convention related to equality is No. 111: Discrimination (Employment and Occupation). It defines discrimination as any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. The convention requires countries which ratify it to implement policies designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in employment and occupation with a view to eliminating any discrimination in this area. As a first step, the state is expected to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy. It is important to notice that prohibition of discrimination should cover not only the conditions of employment but also recruitment and access to vocational training and guidance.

A related convention is No. 156: Workers with Family Responsibilities. This convention requires states to make it a national goal to enable people with family responsibilities who are engaged, or wish to engage, in employment to exercise their right without discrimination.

## **Other ILO Conventions**

The eight conventions discussed above have been declared as fundamental. In addition to these conventions four others have been declared as priority:

- No. 81: Labour Inspection, 1947
- No. 129: Labour Inspection (Agricultural), 1969
- No. 144: Tripartite Consultation (International Labour Standards), 1976
- No. 122: Employment Policy

Of course there are many other conventions. For example, there are conventions on:

- Employment policy
- Employment promotion
- Vocational training
- Employment security
- Social policy
- Wages
- Working time
- Occupational health and safety
- Social security
- Maternity protection
- Migrant workers
- Seafarers
- Fishers
- Dockworkers
- Indigenous and tribal peoples

## **Submission of Conventions and Recommendations**

Within a period not exceeding 18 months, member states of the ILO are required to submit any convention or recommendation which has been adopted at the organization's annual International Labour Conference to their national "competent authority" (the national legislative body). This is in order to create a national debate on the newly adopted standard and to give the national authority the possibility to consider the enactment of relevant legislation or other action, including ratification (in the case of conventions).

## **Ratification of conventions**

Ratification is a formal procedure whereby a state accepts the convention as a legally binding instrument. Once it has ratified a convention, a country is subject to the ILO's supervisory system which is responsible for ensuring that the convention is applied.

Countries often go through a period of examining and, if necessary, revising their existing legislation and policies in order to achieve compliance with a convention they want to ratify in the future. Some countries decide not to ratify a convention but bring their legislation into line with it anyway. Still others ratify ILO conventions fairly quickly and then work to bring their national law and practice into compliance. In many ways, even if conventions are not immediately ratified, they serve as targets for national law and practice in a particular subject area. For example, non ratified conventions as well as recommendations are used and referred to during the negotiation of collective agreements.

An up-to-date list of the conventions which have been ratified by countries is available on the ILO website at: [www.ilo.org/ilolex/](http://www.ilo.org/ilolex/)

## **The ILO's Supervisory System**

Once a country has ratified an ILO convention it is obliged to report regularly on the measures it has taken to implement it. Every two years governments must submit reports detailing the steps they have taken in law and practice to apply any of the eight fundamental and four priority conventions that they have ratified. For all other conventions reports must be submitted every five years. Governments are required to submit copies of their reports to employers' and workers' organizations. These organizations may comment on the governments' reports. They may also send comments on the applications of conventions directly to the ILO. If Convention 144 (Tripartite consultation) has been ratified the government is obliged to consult with workers' and employers organizations.

To monitor the application of ratified conventions the ILO has established a Committee of Experts which consists of 20 eminent jurists appointed by the organization's Governing Body (after being proposed by the



ILO's Director General). The Committee's role is to provide an impartial and technical evaluation of the state of application of international labour standards. The Committee can address individual comments to the member states, either by written observations or direct requests. The reports of the Committee of Experts are submitted to the ILO's annual International Labour Conference where a special tripartite committee reviews them and discusses them with representatives of the governments involved. In many cases the process has resulted in governments improving their application of particular conventions.

Workers' and employers' organizations can also participate in the monitoring system through other means of action. Firstly, they can present what is called a "representation" to the ILO's Governing Body against any member state which they consider "has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party" (articles 24 and 25 of the ILO Constitution). A three-member tripartite committee of the Governing Body may be set up to examine the representation, assess the case with the involved government and the complaining organization and issue some recommendations.. If the committee is not satisfied with the government's response the Governing Body may publish the representation and the response.

Representations concerning the application of Conventions dealing with freedom of association and collective bargaining are usually referred to the Committee on Freedom of Association (CFA). The CFA was established by the ILO to examine complaints about violations of freedom of association and collective bargaining principles whether or not the country concerned had ratified the relevant conventions. The CFA is a creation of the ILO Governing Body composed of three workers representatives, three employers representatives and three government representatives. It is chaired by an independent president. To be officially received by the Committee on Freedom of Association complaints must :

- Be filed in writing, signed and accompanied by evidence
- Be filed by workers' (national or international), employers' organizations or governments.
- Deal with freedom of association and collective bargaining issues

If the Committee finds that there has been a violation of freedom of association standards or principles it issues a report endorsed by the Governing Body in which it makes recommendations on how the situation can be remedied. In cases where the country has ratified the relevant convention the Governing Body may ask the Committee of Experts to follow-up the legislative aspects of the case.

A complaint may be filed against a country for not complying with a

ratified convention by another member state of the ILO, a delegate to the ILO's annual convention, or the organization's Governing Body (articles 26 to 29 and 31 to 34 of the ILO Constitution). The Governing Body may then appoint a Commission of Inquiry, which is the organization's highest level investigative procedure. A Commission of Inquiry is generally set up when a member state is accused of committing persistent and serious violations and has repeatedly refused to address them. The Commission of Inquiry, composed of three high-level independent members, determines whether there is a violation of the Convention and issues recommendations to the country. In case the country does not implement these recommendations, The Governing Body may recommend to the International Labour Conference to take such action it deems necessary to secure compliance.

### **Discussion questions**

1. What can unions do to support the acceptance of more international labour standards in their countries and globally?
2. How can labour organizations be encouraged to participate more actively in the monitoring of the application of international labour standards?

# Resources

This document has provided an informal overview of international labour standards. For more precise information about these legal instruments the following resource material should be consulted.

Access to the material listed below can be found by consulting the ILO website ([www.ilo.org](http://www.ilo.org)), regional ILO offices, the Bureau for Workers' Activities in Geneva ([www.ilo.org/actrav](http://www.ilo.org/actrav)) or the ILO's International Training Centre in Turin, Italy ([www.itcilo.org](http://www.itcilo.org)).

## Contacts

Bureau for Workers Activities (ACTRAV). Geneva.

Email: [actrav@ilo.org](mailto:actrav@ilo.org)

Workers' Activities Programme (ACTRAV),

ILO International Training Centre, Turin.

Email: [actrav@itcilo.org](mailto:actrav@itcilo.org)

ILO International Labour Standards Department, Geneva\*

Email: [norms@ilo.org](mailto:norms@ilo.org)

Standards and Fundamental Principles and Rights at Work Programme,

ILO International Training Centre, Turin.

Email: [normesturin@itcilo.org](mailto:normesturin@itcilo.org)

\* If correspondence is sent to the Standard Department in Geneva or the Standards Programme in Turin it should be copied to the Bureau for Workers' Activities in Geneva.

## ILO website

Introduction to ILS

<http://www.ilo.org/public/english/standards/norm/introduction/index.htm>

ILS Information Resource web page:

<http://www.ilo.org/public/english/standards/norm/information/publications.htm>

Guide to ILS, 2006

<http://www.ilo.org/public/english/standards/norm/download/resources/ilsguide.pdf>

International Labour Standards - A global approach, ILO Geneva, 2002  
<http://www.ilo.org/public/english/standards/norm/download/resource/s/globale.pdf>

Rules of the Game: a brief introduction to International Labour Standards  
[http://www.ilo.org/global/What\\_we\\_do/Publications/lang--en/docName--WCMS\\_084165/index.htm](http://www.ilo.org/global/What_we_do/Publications/lang--en/docName--WCMS_084165/index.htm)

Handbook of procedures relating to international labour Conventions and Recommendations  
[http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---normes/documents/publication/wcms\\_087791.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_087791.pdf)

E. Gravel and C. Charbonneau-Jobin, The Committee of Experts on the Application of Conventions and Recommendations: Its dynamic and impact, ILO, 2003  
<http://www.ilo.org/public/english/standards/norm/download/resource/s/ceacrimpact.pdf>

### **Discussion papers**

Bob Hepple, Rights at work. International Institute for Labour Studies Geneva  
<http://www.ilo.ch/public/english/bureau/inst/download/dp14703.pdf>

Martin Godfrey, Employment dimensions of Decent Work: Trade-offs and complementarities, INTERNATIONAL INSTITUTE FOR LABOUR STUDIES  
<http://www.ilo.ch/public/english/bureau/inst/download/dp14803.pdf>

### **Publications**

Rules of the Game A brief introduction to international labour standards. Published by the International Labour Organization, 2005. 96 pages. An introduction to the field designed for non-experts.

Guide to International Labour Standards. Published by the International Labour Standards Department of the International Labour Organization, (second Revised Edition) 2006. 283 pages. A detailed guide to the ILO Conventions and Recommendations

International Labour Standards: A Trade Union Training Guide.

Published by the International Training Centre of the ILO in Turin. 1998 (under revision). 540 pages. Includes basic information on international labour standards and teaching guides designed especially for labour educators. Also available as a CD-ROM.

## CD-ROMS

International Labour Standards: A Trade Union Training Guide.  
Second Edition 1999 (under revision).

International Labour Standards E-library. Published annually.  
Contains numerous publications.

International Labour Standards Electronic Library - ILSE 2007  
CD-ROM 2007  
<http://www.ilo.org/public/english/support/publ/textle.htm#bilse>

## Online Databases

ILOLEX - Database on International Labour Standards.  
[www.ilo.org/ilolex/](http://www.ilo.org/ilolex/)

NATLEX - Bibliographic database of national laws on labour, social security and related human rights. Includes numerous laws in full text. Records and texts in NATLEX are in either English, French or Spanish. Access at: [www.ilo.org](http://www.ilo.org) Click on Labour Standards. Then click on NATLEX

APPLIS - Database containing information on ratifications, comments of the Committee of Experts and reporting obligations. Access at: [www.ilo.org](http://www.ilo.org) Click on Labour Standards. Then click on APPLIS

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