

FACT SHEET ON THE INTERNATIONAL LABOUR ORGANIZATION (ILO)

I) What are the origins of the ILO?

The ILO emerged together with the League of Nations from the Treaty of Versailles in 1919, after WWI. It gave expression to the concern for social reform that grew with the industrial revolution, and the conviction that realistic reform had to be conducted on an international plane.

In 1944, the International Labour Conference adopted the Declaration of Philadelphia, which redefined the aims and purpose of the ILO. The Declaration opens with a reaffirmation of the fundamental principles on which the ILO is based, notably that "labour is not a commodity", "freedom of expression and of association are essential to sustained progress" and "poverty anywhere constitutes a danger to prosperity everywhere". The Declaration anticipated and set a pattern for the United Nations Charter and the Universal Declaration of Human Rights. Annexed to the Constitution of the ILO, the Declaration still constitutes the Charter of the aims and objectives of the organization.

In 1946 the ILO became the first specialized agency associated with the United Nations. As of March 2002, the ILO has 175 member states.

II) What are the objectives of the ILO?

The ILO was created primarily for the purpose of adopting international standards to cope with the problem of labour conditions involving "injustice, hardship and privation". With the incorporation of the Declaration of Philadelphia into its Constitution in 1944, the organization's standard setting mandate was broadened to include more general, but related, social policy, human and civil rights matters.

Its four main **strategic objectives** are to:

- promote and realize fundamental principles and rights at work;
- create greater opportunities for women and men to secure decent employment;
- enhance the coverage and effectiveness of social protection for all;
- strengthen tripartism and social dialogue.

In order to achieve these objectives, the ILO:

- formulates international policies and programmes to promote basic human rights, improve working and living conditions and enhance employment opportunities;
- creates international labour standards which are backed by a supervisory system;
- have extensive programme of international technical cooperation; and
- train, educate, carry out research and publishes activities to help advance all these efforts.

III) What is the Tripartite Structure?

The tripartite structure of the ILO makes it unique among world organizations. **Employers'** and **workers'** representatives - the "social partners" of the economy - have an equal voice with those of **governments** in shaping its policies and programmes. The ILO encourages **tripartism within member states** as well, by promoting a "social dialogue" which involves trade unions and employers in the formulation and implementation of national policy on social and economic affairs and other issues.

This tripartite structure can be observed in action at the **What is the Tripartite Structure? International Labour Conference (ILC) International Labour Conference (ILC)** which meets annually in June (Geneva) where each member country sends representatives from **government** (two), **workers** (one) and **employers' organisations** (one), each of whom may **speak and vote independently**. The role of the ILC is to provide an international forum for discussion of world labour and social problems and sets minimum international labour standards and broad policies for the ILO.

Between ILCs, the work of the ILO is guided by the **What is the Tripartite Structure? Governing**

Body Governing Body comprising 28 government members and 14 worker and 14 employer members. This executive council meets three times a year, in March, June and November, in Geneva. Ten of the government seats are permanently held by states of chief industrial importance (Brazil, China, France, Germany, India, Italy, Japan, Russian Federation, United Kingdom, United States). Representatives of other member countries are elected by the government delegates at the Conference every three years, taking into account geographical distribution. The employers and workers elect their own representatives in separate electoral colleges.

The What is the Tripartite Structure?International Labour Office International Labour Office in Geneva is the organization's permanent secretariat, operational headquarters, research centre and publishing house. Administration and management are decentralized in regional, area and branch offices in more than 40 countries. Under the leadership of a Director-General, who is elected for a five-year renewable term, the Office employs some 2,500 officials and experts.

The work of the Governing Body and of the International Labour Office is aided by tripartite committees covering major industries, and by committees of experts on such matters as vocational training, management development, occupational safety and health, industrial relations, workers' education and special problems of women and young workers. Regional conferences of the ILO member states are held periodically to examine matters of special interest to the regions concerned.

IV) What are International Labour Standards?

Since 1919, the ILO has built up a system of international standards in all work-related matters, in the form of international labour **Conventions and Recommendations**. ILO Conventions are international treaties, subject to ratification by ILO member states. Recommendations are non-binding instruments - typically dealing with the same subjects as Conventions - which set out guidelines orienting national policy and action. Both forms are intended to have a concrete impact on working conditions and practices in every country of the world.

By the end of 2001, the ILO had adopted 184 Conventions and 192 Recommendations covering a broad range of subjects such as the abolition of forced labour, freedom of association and collective bargaining, equality of treatment and opportunity, employment promotion and vocational training, social security, conditions of work, prevention of work-related accidents, maternity protection, protection of migrants and other categories of workers such as seafarers, nursing personnel or plantation workers.

The Governing Body decided that **eight of these Conventions should be considered fundamental** to the rights of human beings at work, implemented and ratified by all member states of the organization. These are called "Fundamental ILO Conventions".

IV A) What are the Fundamental ILO Conventions?

Convention No. 29: Forced Labour Convention (1930)
Requires the suppression of forced or compulsory labour in all its forms. Forced labour is "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." Certain exceptions are permitted, such as military service; work or service which is part of normal civic obligations; work or service exacted as a consequence of a conviction in a court of law, under certain conditions; work exacted in cases of emergencies such as wars, fires, earthquakes, etc.; and minor communal services as defined. The Convention requires "really adequate" and strictly enforced penal penalties at the national level in cases of illegal exaction of forced or compulsory labour.

Convention No. 87: Freedom of Association and Protection of the Right to Organize Convention (1948)

Establishes the right of all workers and employers to form and join organizations of their own choosing without prior authorization, and lays down a series of guarantees for the free functioning of organizations without interference by the public authorities. Only the armed forces and the police may be exempted by national laws or regulations. Organizations have the right to establish and join federations and confederations. Organizations, federations and confederations have the right to affiliate with international organizations of workers and employers.

Convention No. 98: Right to Organize and Collective Bargaining Convention (1949)

Provides for protection against anti-union discrimination, for protection of workers' and employers' organizations against acts of interference by each other, and for measures to promote and encourage collective bargaining. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment, particularly in respect of acts calculated (1) to make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership, and (2) to cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities. Workers' and employers' organizations shall be protected against interference by each other or each other's agents or members. In particular, acts which are designed to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to support workers' organizations by financial or other means, with the object of placing such organizations under the control of employers or employers' organisations, shall be deemed to constitute acts of interference. The Convention requires measures appropriate to national conditions to be taken to encourage and promote full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

Convention No. 100: Equal Remuneration Convention (1951)

Calls for equal pay for men and women for work of equal value. The Convention defines equal remuneration for work of equal value as remuneration established without discrimination based on sex. States having ratified the Convention shall promote and ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value. This principle may be applied by means of national laws or regulations, legal machinery for wage determination, collective agreements or a combination of these various means. One of the means specified for assisting in giving effect to the Convention is the objective appraisal of jobs on the basis of the work to be performed. The Convention provides that governments shall co-operate with employers and workers' organizations for the purpose of giving effect to its provisions.

Convention No. 105: Abolition of Forced Labour Convention (1957)

Prohibits the use of any form of forced or compulsory labour as a means of political coercion or education, punishment for the expression of political or ideological views, workforce mobilization for purposes of economic development, labour discipline, punishment for participation in strikes, or racial, social, national or religious discrimination.

Convention No. 111: Discrimination (Employment and Occupation) Convention (1958)

Calls for a national policy to eliminate discrimination in access to employment, training and working conditions, on grounds of race, colour, sex, religion, political opinion, national extraction or social origin, and to promote equality of opportunity and treatment. Member states having ratified this Convention undertake to repeal any statutory provisions and modify any

administrative instructions or practices which are inconsistent with this policy, and to enact legislation and promote educational programmes which favour its acceptance and implementation in co-operation with employers' and workers' organizations. This policy shall be pursued and observed in respect of employment under the direct control of a national authority, and of vocational guidance and training, and placement services under the direction of such an authority.

Convention No. 138: Minimum Age Convention (1973)

Requires ratifying states to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons. One of the principal means to be taken for this purpose is the prohibition of employment or work for children under the duly fixed minimum age. The Convention sets a number of minimum ages depending on the type of employment or work. The minimum age should not be less than the age for completing compulsory schooling and in no event less than age 15. For countries whose economic and educational facilities are insufficiently developed, the age can be set initially at 14. A higher minimum age should be set for hazardous work. This age may not be less than 18. In the case of light work, the minimum age can be set at 13 years, or 12 years where the economy and educational facilities are insufficiently developed.

Convention No. 182: Worst Form of Child Labour Convention (1999)

Applies to all persons under the age of 18 and calls for "immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency." The Convention defines the worst forms of child labour as: all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage, serfdom and forced or compulsory labour; forced or compulsory recruitment of children for use in armed conflict; use of a child for prostitution, production of pornography or pornographic performances; use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs; work which is likely to harm the health, safety or morals of children. The Convention requires ratifying states to "design and implement programmes of action" to eliminate the worst forms of child labour as a priority and "establish or designate appropriate mechanisms" for monitoring implementation of the Convention, in consultation with employers' and workers' organizations. Furthermore, ratifying states should "provide support for the removal of children from the worst forms of child labour and their rehabilitation; ensure access to free basic education or vocational training for all children removed from the worst forms of child labour; identify children at special risk; and take into account the special situation of girls."

IV B) What is the ILO Declaration on Fundamental Principles and Rights at Work?

In 1998, the International Labour Conference adopted the **ILO Declaration on Fundamental Principles and Rights at Work (the Declaration)**. This reaffirmed the commitment of the international community to "respect, to promote and to realize in good faith" the principles concerning the rights of workers and employers to freedom of association. It also reaffirmed the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the abolition of child labour and the elimination of discrimination in respect of employment and occupation. The Declaration underlines that **all member countries, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the ILO to respect the fundamental principles involved.**

The ILC established ways of measuring the implementation of the Declaration through:

a) an annual review, composed of reports from governments describing the efforts made to respect the principles and rights relating to all unratified fundamental ILO Conventions, and comments from worker and employer organizations. These reports provide a baseline against which countries can measure their own progress and

b) a global report to be produced annually by the ILO Director-General on one of the four categories of fundamental rights - to be examined in turn, and to cover the situation in both - countries which have ratified the Conventions relating to these rights and those which have not.

V) What are the ILO supervisory mechanisms?

V A) Regular supervisory system

The regular system of supervision is set up to oversee the application of ILO Conventions. Some 6,500 ratifications have been registered, resulting in nearly 1,500 reports each year. The two key elements of regular ILO supervision are **the submission of government reports** and their **examination**.

V B) Government reports

Each member country is obliged to present a report on the measures taken to apply, in law and practice each of the Conventions it has **ratified**. At the same time, it must submit copies to employers' and workers' organizations who also have a right to submit information.

Conventions dealing with basic human rights are requested every other year (and not every year as was originally stipulated) due to the number of ratifications steadily increasing, thus placing an increasingly heavy burden on both governments and the ILO. The examination of governments' reports is first carried out by the Committee of Experts on the Application of Conventions and Recommendations,(1) who can receive information from non-governmental sources. (2)

If the Committee of Experts on the Application of Conventions and Recommendations finds that a government is not fully complying with the requirements of a ratified Convention, or with its constitutional obligations regarding Conventions and Recommendations, it addresses a "comment" to that government, drawing attention to the shortcomings and requesting that steps be taken to eliminate them. The Committee's comment may take the form of "observations"; or "direct requests."

V C) Conference Committee on the Application of Conventions and Recommendations

The report of the Committee of Experts is submitted to each annual session of the ILC, where it is examined and discussed by a **tripartite Conference Committee on the Application of Conventions and Recommendations** (the Committee).(3)

Each year the Committee begins its work with a general discussion, in which it reviews a number of broad issues relating to the ratification and application of ILO standards and the compliance by member States in general with their obligation under the ILO Constitution with regard to these standards. After its general discussion, the Committee turns to an examination of individual cases. Governments which have been mentioned in the Committee of Experts' report as not fully applying a ratified Convention, may be invited to make a statement to the Conference Committee. Some circulate written statements; in many cases their representative appears personally before the Committee. If the Committee is not satisfied with a written reply, it gives governments an opportunity to supply fuller information orally. The discussions on individual cases are summarised in the annexes to the report which the committee submits to the Conference. In addition, in the Committee's general report the attention of the Conference is specially drawn to the most serious cases in which governments have failed to comply with their obligation to implement ratified Conventions fully. Where explanations were given on the difficulties encountered by the governments concerned, those explanations are also briefly mentioned in the general report. The Committee's report is submitted to the Conference Committee, which discusses it in one or more plenary sittings. This discussion provides delegates from all the three groups with an opportunity to draw further attention to particular aspects of the Committee's work. Once adopted by the Conference, the report of the Conference Committee is dispatched to governments, their special attention being drawn to points which they should take into account in the preparation of their next reports to the ILO.

VI) What are the ILO complaints procedures?

In parallel with these regular supervisory mechanisms, employers' and workers' organizations can initiate **contentious proceedings**, called representations, against a member state. Moreover, any member country can lodge a complaint with the International Labour Office against another member

country. Finally, in the field of freedom of association governments as well as employers' and workers' organizations can submit complaints against a member state even if it has not ratified the relevant Conventions.

VI A) Representations under Article 24 of the ILO Constitution

Article 24 of the ILO Constitution allows any national or international workers' or employers' organization to make a so-called "representation" claiming that a given member state has failed to apply an ILO Convention it has ratified.

The ILC acknowledges receipt, informs the government concerned, and brings the matter before the Officers of the Governing Body.

When all the information from both the parties has been received, or if no reply is received within the time limits set, the committee presents a report with its recommendations to the Governing Body. The Governing Body then considers the report of the committee (in private) and a representative from the government is invited. The Governing Body decides whether or not it accepts the government's explanations, if any, of the allegations. It may decide to publish the representation and the statement made in reply to it. The International Labour Office notifies the decisions of the Governing Body to the government concerned and to the association which made the representation. The Governing Body may also at any time decide that a case should subsequently be handled under the "complaints" procedure under Article 26 of the ILO Constitution.

Whether or not the Governing Body decides that it is satisfied with the government's explanations, the questions raised in the representation are normally followed up by the ILO's regular supervisory machinery, the Committee of Experts and the Conference Committee on the Application of Conventions and Recommendations. Even if the Governing Body is satisfied, these committees may raise questions that they feel require further examination.

VI B) Complaints under Article 26 of the ILO Constitution

A complaint under article 26 of the ILO Constitution can be made against an ILO member State that has not satisfactorily securing the effective application of an ILO Convention which it has ratified. Such a complaint can be brought by another ILO member State which has ratified the same Convention, any delegate of the ILC, or the Governing Body on its own motion. The complaints procedure has not been used often and in practice, Article 26 procedures often lead to settlement of the dispute.

When a complaint has been received, the Governing Body may appoint a **commission of inquiry** to examine the case and their proceedings are considered to be quasi-judicial in nature. The ILO Constitution provides that if a commission of inquiry is set up all member States, whether directly concerned in the complaint or not, should contribute to the inquiry by providing any information which it may have. After fully considering the complaint, the commission of inquiry is required to prepare a report on its findings and make recommendations such as changes in national legislation or other practical measures to give effect to a convention's provisions.

A government that does not accept the recommendations is entitled to refer the complaint to the International Court of Justice. Although this has never occurred, it remains a legal possibility. The Court can then affirm, vary or reserve the commission's findings or recommendations, and its decision on the matter is final.

The special complaints procedure and the regular supervisory procedure is linked if and when the commissions of inquiry (in addition to their final recommendations) requests the governments to provide indications in their regular reports to the ILO on the steps they have taken to give effect to the recommendations in question. The Committee of Experts and the Conference Committee on the Application of Conventions and Recommendations can then examine at regular intervals the measures taken and the progress made by governments.

VII) What sort of procedures exist within the ILO for complaints concerning freedom of association?

The most widely used ILO petition procedure is the special procedure that has been established for complaints concerning violations of freedom of association. These procedures are not specifically provided for by the ILO Constitution, but were established in the early 1950s by agreement between the ILO and ECOSOC. The need for special machinery stemmed from the fact that if a state did not ratify the ILO Conventions dealing with freedom of association there would be no means of supervising their application.

There are two bodies that may consider complaints in this area. The Governing Body's Committee on Freedom of Association (CFA) receives complaints directly from workers' and employers' organizations. The Fact-Finding and Conciliation Commission on Freedom of Association (FFCC) may deal with complaints that are referred to it by the Governing Body on the recommendation of the CFA or by the state concerned. The FFCC may also examine complaints against non-member states of the ILO which are referred to it by the ECOSOC.

VII A) The Committee on Freedom of Association (CFA)

The special complaint procedures were created for the protection of trade union rights, which have been codified in the International Labour Conference in Conventions dealing with freedom of association. These include the Freedom of Association and Protection of the Rights to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98). A complaint can be filed against a State that is not party to the Conventions.

The CFA is a tripartite committee of the Governing Body, composed of nine regular members representing in equal proportion the government, employer and worker groups of the Governing Body. It meets three times a year and has examined since its establishment nearly 2,000 cases. Complaints may be submitted either by governments or by organizations of employers or workers.

Once the complaint is received it is communicated to the government concerned, which is asked to comment on the substance of the allegations. It is normally on the basis of the documentation received from both parties that the CFA makes its decisions. However, the CFA also makes use of oral representations by governments and complainants, contacts with governments during the annual Conference, and on-site visits to gather evidence by representatives of the Director-General of the ILO.

The CFA then submits a report with its conclusions and recommendations to the Governing Body.

VII B) Fact-Finding and Conciliation Commission (FFCC)

The terms of reference of the FFCC are to examine complaints of infringement of trade union rights and cases may be referred to it:

- *by the Governing Body on the recommendation of the CFA;*
- *by the Governing Body on the recommendation of the ILC;*
- *at the request of the government concerned;*
- *by the ECOSOC.*

It is composed of nine independent persons who are appointed by the Governing Body. Essentially it is a fact-finding body, but it is also authorised to discuss "situations" referred to it for investigation.

The procedure followed by the FFCC is similar to that followed by a Commission of Inquiry. FFCCs are free to work out their own procedures, but all have based themselves on documentary evidence furnished by the parties, have heard witnesses, and have visited the countries concerned. Representatives of the complainant organizations and the governments against which complaints are made are allowed to be represented in the proceedings before the FFCC.

The mandate of a commission is to ascertain the facts and to discuss the situation with the governments concerned with a view to securing the adjustment of the difficulties by agreement or friendly settlement. In its dual role of investigator and conciliator, therefore, it makes a thorough examination of the facts and formulates recommendations designed to provide a common ground for the resolution of a dispute. Once a decision is reached, it is published in a special report on the case.

A commission's recommendations have no legal force, and it has no specific enforcement measures available to ensure that its recommendations are implemented. Since a commission is convened to examine a particular case, it is not even able systematically to monitor the effect, if any, of its recommendations. However, compliance with FFCC's recommendations may be monitored by other ILO bodies, such as the CFA. If the country concerned has ratified one of the ILO Conventions on freedom of association, the regular supervisory bodies continue to examine the effect given to FFCC recommendations and may refer to the FFCC's conclusions in subsequent comments on the application of the Convention in question. The situation may also be followed by the Conference Committee on the Application of Conventions and Recommendations, by the International Labour Conference in plenary session, and by the Governing Body.

If you are interested in receiving a more detailed overviews of the ILO mechanisms and procedure, please let us know in the International Organizations Team, LIOP.

(1) The Committee consists of 20 independent experts on labour law and social problems. Members of the Committee are drawn from all parts of the world. They are appointed by the Governing Body of the ILO on the proposals of the Director-General, in their personal capacity, for a period of three years, their term of office being renewable for successive periods of three years. They meet each year in November/December in Geneva.

(2) Information on a country's legislation can usually be found in official gazettes and similar publications where laws and regulations are printed. Other documentation available to the Committee may include the texts of collective agreements or court decisions, the conclusions of other ILO bodies such as commissions of inquiry and the Governing Body Committee on Freedom of Association, and comments made by employers' or workers' organizations.

(3) The Committee usually comprises well over 150 members from the three groups of delegates and advisers (governments, employers, workers); usually there is not an equal number of government, employers' and workers' representatives on the Committee, and votes are therefore weighted so as to ensure equality of voting strength for the three groups. However, voting is rarely necessary as the Committee almost always adopts its conclusion by consensus.