

## Appendix D



International Labour Organization

### Fundamental International Labour Organisation (ILO) Conventions

Eight ILO Conventions have been identified by the ILO's Governing Body as being fundamental to the rights of human beings at work, irrespective of levels of development of individual member States. These rights are a precondition for all the others in that they provide for the necessary implements to strive freely for the improvement of individual and collective conditions of work.

#### Freedom of association

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- 087 Freedom of Association and Protection of the Right to Organise Convention, 1948
- 098 Right to Organize and Collective Bargaining Convention, 1949

#### The abolition of forced labour

- 029 Forced Labour Convention, 1930
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- 105 Abolition of Forced Labour Convention, 1957

#### Equality

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- 111 Discrimination (Employment and Occupation Convention), 1958
- 
- 100 Equal Remuneration Convention, 1951

#### The elimination of child labour

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- 138 Minimum Age Convention, 1973
- 182 Worst Forms of Child Labour Convention, 1999

### **Ratification of Fundamental ILO Conventions**

In May 1995, following the ILO's 75th Anniversary and the discussions in the World Summit on Social Development, a campaign for the ratification of these Conventions was launched by the Director-General of the ILO. Since then the ILO has registered over 70 ratifications and confirmations of previous obligations concerning the fundamental Conventions. In addition, many countries are currently involved in formal ratification procedures or are in the process of examining or re-examining the appropriateness of ratifying the Conventions.

The ILO has 179 member States.



Organization's seven Fundamental

## 1 - Fundamental International labour Standards on freedom of Association

*The freedom of association is the most basic of all principles underlying the work of ILO and the activities of those who toil for social justice*

In addition to recognition of the principle of freedom of association in the ILO's Constitution and its Declaration of Philadelphia, two Conventions – adopted in 1948 and 1949 – set out the essential elements of the freedom of association, the right to organize, and the importance of collective bargaining.

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

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.

#### **Summary of the provisions**

*Recognition of the right to organize:* The right to organize is to be granted to workers and employers, without distinction whatsoever (article 2 of Convention No. 87). Only the armed forces and the police may be exempted by national laws or regulations (article 9).

*Establishment of organizations:* It must be possible for organizations to be established without previous authorization (article 2).

*Free choice of organization:* Workers and employers are guaranteed the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing (article 2).

*Functioning of organizations:* Organizations shall be free from interference by the public authorities when drawing up their constitutions and rules, electing their representatives, organizing their administration and activities and formulating their programs (article 3).

*Dissolution or suspension:* Organizations shall not be liable to be dissolved or suspended by administrative authority (article 4).

*Federations and confederations:* Organizations shall have the right to establish and join federations and confederations (article 5); the guarantees provided in articles 2, 3 and 4 apply to these higher-grade organizations (article 6).

*International affiliation:* Organizations, federations and confederations shall have the right to affiliate with international organizations of workers and employers (article 5).

*Legal personality:* The acquisition of legal personality by organizations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of articles 2, 3 and 4 (article 7).

*Organizations and the law:* In exercising the rights provided for in the Convention, workers and employers and their respective organizations shall respect the law of the land; however, the law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in the Convention (article 8).

### **Right to Organize and Collective Bargaining Convention, 1949 (No. 98)**

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.

#### **Summary of the provisions**

*Anti-union discrimination:* Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment, both at the time of entering employment and during the employment relationship. Such protection shall apply more particularly in respect of acts calculated to --

- make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;
- cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours (article 1 of Convention No. 98).

*Acts of interference:* 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' organizations, shall be deemed to constitute acts of interference (article 2).

*Machinery appropriate to national conditions:* In view of the importance of the procedural aspect in ensuring the effective application of these standards, the Convention makes it an obligation to establish, where necessary, machinery appropriate to national conditions for the purpose of ensuring respect for these two facets of the right to organize (article 3).

*Collective bargaining:* While Convention No. 98 is mainly concerned with the protection of trade unions, it is also the ILO instrument setting forth its basic principles in respect of collective bargaining: The obligation to promote this practice and the voluntary nature of such bargaining. Article 4 requires measures appropriate to national conditions to be taken, where necessary, 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.

*Public sector:* Unlike Convention No. 87, which applies to workers in both the private and public sectors, without distinction, and accordingly also to public servants, Convention No. 98 does not deal with the position of public servants engaged in the administration of the State (Article 6).

So fundamental is the concept of freedom of association, that ILO member States agreed in 1950 that even non-ratifying States should be susceptible to a special system of supervision for infringement of associational rights.

## 2 - International Labour Standards on Forced Labour

*The simplicity of the concept helps make it fundamental: No one shall be forced to work.*



Countries which have ratified the Forced Labour Convention undertake "to suppress the use of forced or compulsory labour in all its forms within the shortest possible period." The Committee of Experts, noting global developments and the ascension of human rights amongst the international community's concerns, many years ago understood this obligation to require immediate prohibition and suppression in practice. Hand in hand with this, the Convention has over the years been the most widely ratified of all the Fundamental ILO Conventions. Of the 174 ILO member States 151 had ratified the instrument as of 1 February 2000. One hundred forty five member States have ratified the Abolition of Forced Labour Convention, adopted in 1957 to abolish forced labours for particular purposes. Over the years the Committee of Experts on the

Application of Conventions and Recommendations have noted hundreds of specific cases of progress in the fight against forced labour.

### **Forced Labour Convention, 1930 (No. 29)**

This Convention 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." For the purposes of the Convention, the term "forced labour" does not include such as obligations 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.

### **Abolition of Forced Labour Convention, 1957 (No. 105)**

This Convention prohibits the use of any form of forced or compulsory labour as a means of:

- political coercion or education, or 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.

International labour standards on forced labour promise to remain at the forefront of ILO standards, invoked time and again in the international effort to effectively secure basic human rights in all corners of the globe.

### **3 - ILO Equality Conventions, Nos. 100 and 111**

#### **ILO Equality Conventions Nos. 100 and 110**

*In 1944, the ILO's Constitution and mandate was refreshed by the Declaration of Philadelphia. Among other things, it affirmed that "all human beings, irrespective of race, creed or sex, have the right to pursue their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity"*

From the very first, the question of the observance of equality of opportunity and treatment has been one of the fundamental objectives of the ILO. The Constitution, as rendered in 1919, said that this principle is among those that are "of special and urgent importance" that should guide the policy of the ILO, and prescribed that "the standards set by law in each country with respect to the conditions of labour should have due regard to the equitable economic treatment of all workers..." Since then, many international labour standards have been imbued with elements aimed at equality of opportunity, naming a variety of reasons for which distinctions should not be made between people in their work, livelihood, education and training. The Governing Body recognized recently again the continuing essentiality of these principles, in two Fundamental ILO Conventions.

#### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)**

This Convention 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.

The Convention assigns to each State which ratifies it the fundamental aim of promoting equality of opportunity and treatment by declaring and pursuing a national policy aimed at eliminating all forms of discrimination in respect of employment and occupation.

Discrimination is defined as any distinction, exclusion or preference based on race, colour, sex, religion, political opinion, national extraction or social origin (or any other motive determined by the State concerned) which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. The scope of the Convention covers access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

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.

### **Equal Remuneration Convention, 1951 (No. 100)**

This Convention calls for equal pay for men and women for work of equal value.

States having ratified the Convention shall promote and, in so far as is consistent with the methods in operation for determining rates of remuneration, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.

The Convention shall apply to basic wages or salaries and to any additional emoluments whatsoever, payable directly or indirectly, in cash or in kind, by the employer to the worker and arising out of his or her employment. The Convention defines equal remuneration for work of equal value as remuneration established without discrimination based on sex.

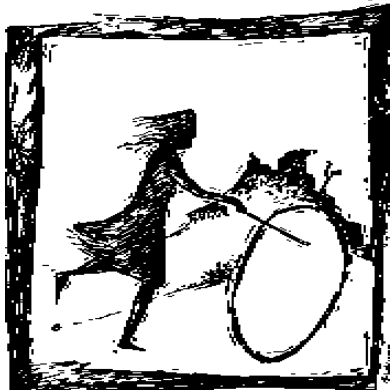
This principle may be applied by means of national laws or regulations, legal machinery for wage determination, collective agreements or a combination of these various means. One of the means specified for assisting in giving effect to the Convention is the objective appraisal of jobs on the basis of 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.

In its supervision of these instruments, the Committee of Experts on the Application of Conventions and Recommendations has recognized that the achievement of favourable conditions for equality of opportunity and treatment in employment and occupation is a continuing endeavour. In their own terms, these two instruments comprehend this. Nevertheless, the road to equality has over the years been punctuated by stark examples of the need for international action against the infringement at the national level of the basic right to equality. Here, the ILO's standards have been of paramount importance as a rallying point.

## 4 - Effective abolition of child labour: Conventions Nos. 138 and 182

### Effective abolition of child labour: Conventions Nos. 138 and 182



*International labour standards have for 80 years been at the forefront of the fight against child labour. The Convention with the broadest scope has been found to be Fundamental*

The ILO adopted its first Convention on child labour in 1919, the year of its foundation. Since then, nine sectoral Conventions on the minimum age of admission to employment were adopted. Convention No. 138 is the most comprehensive of the ILO Conventions on child labour, has also been included in the Fundamental ILO Standards.

### Minimum Age Convention, 1973 (No. 138)

The States that ratify this Convention undertake 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 first principle is that 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.

The second principle is that a higher minimum age should be set for hazardous work. This age may not be less than 18. The Convention provides that the types of employment or work deemed to be hazardous shall be determined by national laws or regulations or by the competent authority, leaving it to the individual countries to determine the content of these activities.

Finally, 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.

The Convention is supplemented by Recommendation No. 146.

Convention No. 138 was not intended as a static instrument prescribing a fixed minimum standard but as a dynamic one aimed at encouraging the progressive improvement of standards and of promoting sustained action to attain the objectives. The number of ratifications of this Convention has been growing since the beginning in May 1995 of the Director-General's

initiative to achieve universal ratification of the ILO's fundamental Conventions, although it is still fewer than other fundamental Conventions.

### **Worst forms of child labour**

The ILO member States took a decisive step towards liberating scores of millions of children from slavery and debt bondage, prostitution and pornography, dangerous work and forcible recruitment for armed conflict with the unanimous adoption of the Worst Forms of Child Labour Convention, 1999 (No. 182).

The Convention 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." It 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; and,
- work which is likely to harm the health, safety or morals of children.

The Convention requires ratifying States to "design and implement programs 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. It also says 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."

An accompanying Recommendation defines "hazardous work" as "work which exposes children to physical, psychological or sexual abuse; work underground, under water, at dangerous heights or in confined spaces; work with dangerous machinery or tools, or which involves heavy loads; work in unhealthy environments which may expose children to hazardous substances, temperatures, noise or vibrations; and work under particularly difficult conditions such as long hours, during the night or where a child is confined to the premises of the employers." The Recommendation urges ratifying States to declare the worst forms of child labour criminal offences and impose penal sanctions on those who would perpetrate them.