

# The International Labour Organization:

## A Handbook for Minorities and Indigenous Peoples

BY CHANDRA ROY AND MIKE KAYE



minority  
rights  
group  
international

## **THE INTERNATIONAL LABOUR ORGANIZATION: A HANDBOOK FOR MINORITIES AND INDIGENOUS PEOPLES**

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## **THE AUTHORS**

CHANDRA ROY is an international lawyer who helped establish the Unrepresented Nations and Peoples Organization (UNPO). She has worked at the Equality and Employment Branch of the ILO legal department and was instrumental in establishing an ILO project on Convention No. 169. Chandra currently works as an independent consultant.

MIKE KAYE is the Communications Coordinator for Anti-Slavery International.

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All orders for this Handbook should be sent to MRG.

For more information contact:

Minority Rights Group International  
379 Brixton Road  
London  
SW9 7DE  
UK

Tel: +44 (0)20 7978 9498

Fax: +44 (0)20 7738 6265

E-mail: [minority.rights@mrgmail.org](mailto:minority.rights@mrgmail.org)

Website: [www.minorityrights.org](http://www.minorityrights.org)

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For more information contact:

Anti-Slavery International  
Thomas Clarkson House  
The Stableyard  
Broomgrove Road  
London  
SW9 9TL  
UK

Tel: + 44 (0)20 7501 8920

Fax: + 44 (0)20 7738 4110

E-mail: [info@antislavery.org](mailto:info@antislavery.org)

Website: [www.antislavery.org](http://www.antislavery.org)

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**BY CHANDRA ROY AND MIKE KAYE**

# Glossary

**Committee of Experts on the Application of Conventions and Recommendations (Committee of Experts)** – The Committee is made up of 20 independent experts from different fields who review the extent to which ILO Conventions and Recommendations are being applied. Its conclusions are published in a report in March each year and are discussed at the International Labour Conference by the Committee on the Application of Standards.

**Commission of Inquiry** – This is made up of three members who are appointed by the Governing Body on the Director-General's recommendation. It is specifically established under the Article 26 complaints procedure to review a reported violation of a ratified ILO Convention.

**Conference Committee on the Application of Standards (Applications Committee)** – This is a Tripartite Committee which meets every year at the International Labour Conference. It debates issues arising from the ILO Committee of Experts' report on both the general implementation of standards and country-specific cases.

**Governing Body** – The Governing Body is the executive council of the ILO. It implements policy decisions taken at the International Labour Conference and elsewhere in the ILO system. It drafts the ILO programme and budget for discussion at the International Labour Conference and also elects the ILO's Director-General.

**Instrument** – This is another term for a document such as a Convention, Covenant, Declaration, Recommendation, Treaty, etc.

**International Labour Conference** – The International Labour Conference meets annually to discuss and set the ILO's policies and priorities. It debates and adopts new ILO Conventions and Recommendations, and monitors the implementation of existing labour standards. It also adopts the ILO's budget and elects its Governing Body from among its members.

**International Labour Office** – The International Labour Office is the permanent secretariat of the ILO,

responsible for research, publications and training. The Governing Body elects its Director-General for a renewable period of five years.

**International Labour Organization (ILO)** – This is a specialized agency of the United Nations system, which develops and promotes international labour standards. The ILO is a tripartite organization which means that representatives of trade unions, employers' organizations and governments are all represented in the ILO's decision-making process.

**ILO mechanism** – This is another term for procedure.

**Ratification** – This is a formal act in which a state agrees to be bound by a specific Convention or Treaty. The internal procedure may vary from country to country and may include the approval or endorsement by the Parliament. However, ratification is completed when a formal communication such as a letter or other document is received by the international organization in charge of that Convention, i.e. the ILO, and is registered.

**Recommendation** – This is mainly to provide guidance on how a Convention or Treaty can be implemented in a practical manner. It is non-binding, cannot be ratified and does not create any obligations.

**Standard** – This is a Convention, Covenant, Treaty or other international agreement, which lays down the minimum provisions or guidelines on a specific subject.

**State Party** – Country that is bound by a specific Convention or Treaty.

**Tripartite Committees of the Governing Body** – These are made up of three members of the Governing Body, one from each of the ILO constituent members – i.e. employers, workers and government groups. Tripartite Committees are specifically established under the Article 24 representation procedures to review a reported violation of a ratified ILO Convention.

# Preface

The International Labour Organization (ILO) was created in 1919 bringing governments, employers and trade unions together, to work for social justice and better living and working conditions. Fifty years later, in 1969, it received the Nobel Peace Prize in recognition of its commitment to the goal of equality and justice for all.

The ILO is not widely known, especially outside of labour and trade union circles. It is the lead United Nations (UN) agency specializing in labour rights, and has a mandate which encompasses a range of socio-economic issues. The ILO has been actively engaged in protecting and promoting human rights, but its work in this field has been largely overlooked and it has not been given due attention as a viable forum for issues other than labour questions. The ILO's work has centred on, but not been limited to, the working environment, and included issues such as forced labour, freedom of association, migrant workers, night work, social security, etc. But it has also been working on children, discrimination, gender, and indigenous peoples and minorities – issues that many people would not automatically associate with the working world.

The ILO's strength can be seen in the international Treaties it has adopted. They are based on general topics which are common to many countries, and can be applied all over the world. ILO Treaties identify minimum standards to help guide work at the national level, and have been used to encourage the development of domestic legislation and labour codes to improve the protection of labour rights.<sup>1</sup>

The ILO has also set up a system to monitor the application of its standards (i.e. international legal standards or instruments – to include Conventions, Treaties etc). This system includes a number of bodies and processes to assess the extent to which a country is meeting its international obligations. In this way, attention has been drawn to various human rights abuses, including child labour issues in Brazil and India, forced labour in Burma, and the position of women in Afghanistan.

In today's world of liberalized trade and the integration of economies, the impact of globalization has varied from country to country, and sector to sector. In some countries there is increased productivity and wealth, while in others inequalities have become deeply entrenched – with the poor getting even poorer. This has had the gravest impact on vulnerable groups, including minorities and indigenous peoples. It is important to try

to ensure that lowered trade barriers and greater competition are not achieved at the cost of lowered social protection.

The link between trade and labour is central in the globalization debate, and has renewed interest in the ILO's work. It is therefore useful for organizations and individuals to learn about the ILO and how it works, and to fully explore its potential in pursuing equality and justice for all.

It is for this reason that Minority Rights Group International (MRG) and Anti-Slavery International are publishing this Handbook on the ILO. Its main purpose is to provide an introduction to the ILO, and the openings it provides for defending and promoting the rights of minorities and indigenous peoples.<sup>2</sup> It gives the reader an overview of the ILO's main structures, committees and working methods, in an accessible format, and with practical advice on their use.

While the Handbook is specifically designed for minorities and indigenous peoples, and for non-governmental organizations (NGOs) – whether minority or indigenous NGOs, or NGOs working with minorities and indigenous peoples – it can be used by anyone wishing to learn more about the ILO, and human rights enforcement and protection.

The ILO's partners, in particular the workers' organizations, have taken a leading role in monitoring the application of ILO Conventions. The Handbook builds on their experiences in understanding the relevance and importance of international labour standards in improving living and working conditions. Indigenous peoples, minorities and NGOs can learn from their vast experience in gaining access to, and participation in, the ILO's procedures and processes.

It is hoped that this publication will make a small contribution towards strengthening the promotion and protection of the rights of minorities and indigenous peoples, and other vulnerable groups.

*Anti-Slavery International  
Minority Rights Group International  
May 2002*

# I. The International Labour Organization

## 1. Historical background

The ILO was created as a consequence of the industrial revolution. During this period of economic expansion, working conditions were harsh and often inhumane, and workers laboured under conditions amounting to exploitation, with no social or economic security. From this time there were calls for greater protection for workers.

In the aftermath of the First World War, these calls gathered momentum and trade unions stressed the need for social protection, and an international institution specializing in labour issues.<sup>3</sup> In April 1919, during the peace negotiations in Paris, a Labour Commission was established to look into this question and, as a result, an international organization devoted solely to labour questions was created.<sup>4</sup> In October the same year, the 1st International Labour Conference was held in Washington D.C. Six Conventions were adopted at this Conference, including one defining the eight-hour working day, which has become the accepted norm in industrialized countries.

Between the two World Wars (1919–39), the ILO functioned as an autonomous organization within the family of the League of Nations, the precursor to the UN. During this time it focused on maternity protection, social security, unemployment, working hours, and working conditions of women and young people. It was based in Geneva, Switzerland, but temporarily shifted its headquarters to Montreal, Canada, during the Second World War for security reasons.

When the UN was created in 1946, the ILO was the first specialized agency to join the UN system, with special responsibility for social and labour issues. As of November 2001, the ILO has 175 member states.

## 2. Fundamental principles

The ILO strives to be an evolving and dynamic institution. It reviews its core principles to take current developments and trends into account, and to see how best to make its work relevant and valid.

### 2.1 ILO Constitution (1919)

The founding documents of the ILO included a Charter elaborated during the Peace Treaty of Versailles based on the following principles:

- Abolition of child labour;
- Adequate wages;
- Equality of treatment;
- Equal pay;
- Inspection systems;
- Labour should not be seen merely as a commodity or an article of commerce;
- Reasonable working hours;
- Right of association.

These principles remain high on the ILO's agenda and serve to guide its work in all fields. Another key principle of the ILO is the premise that: **Universal and lasting peace can be achieved only if it is based on social justice.** This forms the pillar of the ILO's work to this day, and is the basis for its work on equality and non-discrimination, and for poverty alleviation. In 1969, on its 50th anniversary, the ILO was awarded the Nobel Peace Prize. Today, it has more than 40 offices throughout the world, and employs more than 2,500 staff.

### 2.2 Declaration of Philadelphia (1944)

During its annual conference in 1944, held in Philadelphia, United States of America (USA), the ILO adopted a key Declaration (statement of values), which expanded on the Charter of 1919. This Declaration reaffirms the fundamental principles on which the ILO is based and contains four linked principles:

- Freedom of expression and of association are essential to sustained progress;
- Labour is not a commodity;
- Poverty anywhere constitutes a danger to prosperity anywhere;
- All human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity.

The Declaration was annexed to the Constitution in 1946 and forms an integral part of the ILO's work.

### 2.3 The principle of tripartism

The ILO is the only international organization which operates on a 'tripartite' basis. Since its inception, workers' and

employers' organizations have worked side by side with governments, in a three-way or 'tripartite' basis. Governments, employers and workers are known as the ILO's constituent members.

Governments, employers and workers work and vote independently of each other. Each ILO member state has four votes, which are divided so that workers' organizations have one vote, employers' organizations have one vote and the government has two votes

Generally, at ILO meetings, government delegates sit in the middle of the room, with the workers' organizations on their left and employers' organizations on their right. These three groups take an active role in all ILO events including in its committees and conferences, and in the adoption and monitoring of ILO standards (see later for details).

### 3. ILO structure

The ILO has three main bodies:

- The International Labour Conference;
- The Governing Body;
- The International Labour Office.

#### 3.1 The International Labour Conference

The International Labour Conference is the ILO's general assembly when all its members – governments, employers and workers – come together as a body. It meets once a year, in June, for three weeks and is attended by over 2,000 delegates.

The Conference's responsibilities include:

- The adoption of the ILO budget, which is financed by contributions from member states (every two years);
- The adoption of international labour standards and the supervision of their application;
- The admission of any new members;
- The election of the Governing Body (every three years);
- The provision of a global forum for discussion on social and labour issues;
- The provision of guidelines for the ILO's general policy and future activities, through Resolutions.

In addition, in exceptional circumstances, the Conference can adopt Declarations on policy and action on issues relevant to the ILO. For example, in 1964, it adopted a Declaration on apartheid in South Africa – this was annulled in 1994 as being no longer valid. And in 1998 it adopted a Declaration on Fundamental Principles and Rights at Work (see ch. III).

Generally, it is up to a government to decide who will form part of the official delegation to the Conference 'in

agreement with the industrial organizations ... which are the most representative of employers or work people ... in their respective countries' (Article 3.5 of the ILO Constitution). Questions can be raised at the Conference as to whether a particular employers' or workers' organization is representative or not. In addition to the official delegates at the Conference, each delegation usually has a number of advisers. Therefore each delegation to the Conference can be quite large.

At the Conference, the employers' and workers' representatives form the employers' and workers' groups – elected by the employers' and workers' electoral college every three years – and they, along with the governments, elect the members of the Governing Body.

To facilitate its work, the Conference has a number of committees working on specific issues; for example, the Conference Committee on the Application of Standards (Applications Committee), which plays a key role in drawing attention to problems in the practical application of ILO Conventions in specific countries (see later for details).

There is a lively debate during the Conference, with all the delegates taking part on issues relevant to the ILO, including child labour and globalization, etc. As a result, the annual International Labour Conference has become a global forum for policy discussions on social and labour issues.

#### 3.2 The Governing Body

The Governing Body serves as the ILO's executive council. Its main functions include:

- Directing the work of the organization;
- Electing the Director-General;
- Preparing the draft programme and budget of the ILO;
- Taking decisions on how to implement ILO policy.

The Governing Body is composed of 56 members: with 28 government representatives, 14 workers' representatives and 14 employers' representatives. Governing Body members are elected by the International Labour Conference for a three-year term, and they nominate their representatives to the different ILO bodies, such as the Applications Committee, Inquiry Commissions etc.

Ten of the government seats are permanently held by what are termed 'states of chief industrial importance' (Brazil, China, France, Germany, India, Italy, Japan, Russian Federation, United Kingdom and the USA). The remaining 18 government representatives are elected by the International Labour Conference with reference to geographical distribution. The workers and employers separately elect their own representatives.

The Governing Body meets three times a year, in March, June and November, at the ILO headquarters in Geneva.

### 3.3 The International Labour Office

The International Labour Office (the Office) is the permanent secretariat of the ILO and is based in Geneva. A Director-General, who is elected by the Governing Body for a renewable period of five years, heads the Office. In March 1999, Juan Somavia of Chile was elected as the Director-General.

The main functions of the Office include, but are not limited to:

- Compiling information and statistics;
- Conducting research on issues of relevance to the ILO;

- Facilitating technical cooperation and training programmes;
- Organizing conferences and meetings;
- Preparing background documents and reports for the ILC and other meetings;
- Providing assistance to constituents;
- Publishing materials on social and labour issues;
- Servicing the ILO bodies including the ILC and Governing Body.

One fact which is often overlooked – by scholars and researchers among others – is the Office's function as a documentation centre. It has built up a vast collection of information and documents including books, governmental reports, historical studies and other materials. These are available for consultation at the ILO's headquarters in Geneva.

#### List of ILO member states

Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, the Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, the Central African Republic, Chad, Chile, China, Colombia, the Comoros, the Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, the Czech Republic, the Democratic Republic of the Congo, Denmark, Djibouti, Dominica, the Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, the Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kiribati, the Republic of Korea, Kuwait, Kyrgyzstan, the Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, the Libyan Arab Jamahiriya, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mauritius, Mexico, the Republic of Moldova, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, the Netherlands, New Zealand, Nicaragua, the Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, the Philippines, Poland, Portugal, Qatar, Romania, the Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, the Sudan, Suriname, Swaziland, Sweden, Switzerland, the Syrian Arab Republic, Tajikistan, the United Republic of Tanzania, Thailand, the former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, the United Arab Emirates, the United Kingdom, the United States, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia, Zimbabwe

(As at: 4 November 2001. Source: ILO)

# II. International labour standards

## 1. Introduction

To put its aims and objectives into practice, the ILO formulates and adopts different standards (international agreements such as Conventions), resulting from a process of consensus among its members on a specific issue. The main form used by the ILO has always been Conventions and Recommendations, but can also include informal agreements, such as Declarations and Resolutions.

Since its creation, the ILO has been active in adopting, implementing and monitoring international standards which are concerned with basic rights and fundamental freedoms, including: freedom of association, safety at work, working conditions, etc. Their impact and influence is considerable.

All ILO member states are (or should be) committed to achieving the ILO's goals and objectives, and international labour standards are used as guidelines for national authorities to implement labour and social policy at the national level. There are two categories of international labour standards:

- **Conventions** – These are international Treaties, which are binding on member states once they have been ratified.
- **Recommendations** – These are non-binding and are intended to orient law, policy and action. They are often adopted in conjunction with a Convention, and expand on its provisions. They provide the guidelines for the application of a Convention and often also contain explanatory provisions, which can be useful in implementing the Convention. They may be adopted independently of a Convention. Recommendations cannot be ratified.

### 1.1 Ratification

The following is a brief explanation of ratification:

- **Ratification** – This is an agreement by a state that it will be legally bound by a specific Convention. Ratification is a formal obligation taken by a state to abide by, in both law and practice, the provisions of the relevant Convention or Treaty. It is a voluntary act and undertaken after its implications have been fully considered.
- **Process of ratification** – A Convention is generally ratified after the necessary national procedures are

completed. These vary from country to country and generally include approval by the Parliament. Once the internal procedures have been completed and the decision to ratify a specific Convention is agreed, then the member state – generally through its foreign ministry – sends a formal communication to the ILO's Director-General. By this letter they inform the ILO of the state's decision to adhere to the Convention's provisions.<sup>5</sup>

- **Effect of ratification** – When a member state ratifies a Convention, it agrees to two obligations: (i) to implement the provisions of the Convention in law and practice; and (ii) to submit to the ILO's supervision regarding how it is implementing the Convention. Note: There is a one-year period before a Convention comes into effect for the country. The purpose is to give the government time to bring national law and practice into greater conformity with the Convention.
- **No reservations** – A unique feature of ILO Conventions is that reservations are not accepted. All ILO Conventions must be ratified and accepted in their entirety – this is unlike UN practice, whereby a country can enter reservations to specific provisions of Treaties and Conventions.<sup>6</sup> Thus, a government has to apply all the provisions of a ratified Convention and cannot exempt itself from certain provisions. Note: It can however specify specific exclusions or options if these are allowed within the provisions of the ratified Convention; for example, additional grounds for discrimination can be identified under Convention No. 111 (see later in ch. III on human rights).
- **Denunciation** – This is the procedure whereby a state declares that it no longer wishes to be bound by a Convention's provisions. All ILO Conventions contain a clause indicating how and when they may be denounced, and also when the denunciation comes into effect – generally one year after it is registered. Note: There are also special provisions for Conventions which revise earlier ones, i.e. when ratification of the more recent Convention amounts to an automatic denunciation of the earlier one; for example, if a country which has ratified Convention No. 107 later ratifies Convention No. 169.<sup>7</sup>

## 2. Influence of international labour standards

International Conventions and Recommendations – International labour standards – have influenced the development of international human rights law. Their impact on government policy and national legislation, even in countries where the relevant Convention has not been ratified, is significant.

This can be attributed, to some extent, to tripartism as all ILO members actively participate in the adoption process of a Convention or Recommendation, from its introduction, through drafting and discussions, to the final discussion and adoption at the International Labour Conference. The ILO has a strict timetable for the adoption of its standards and this normally takes about two years.<sup>8</sup> Once a Convention has been adopted, the ILO members aim to ensure its effective application at the national level. Workers' and employers' organizations are also engaged in this effort, and play a key role in monitoring the practical impact of ILO Conventions. Therefore, developing and fostering good relations with these organizations should be a major focus for indigenous peoples, minorities and NGOs – whether indigenous or minority NGOs, or NGOs working with indigenous peoples and minorities.

International labour standards (also called 'instruments') are used as points of reference not only by member states but also by national, international and regional bodies to guide policy and action. They form an important body of international law and are of relevance in the drafting of new legal documents. This is due to the general principle that any new instrument should not fall below the standards set by existing ones.

ILO standards set minimum guarantees on a range of issues. They have an important role in international standard-setting, not only at the ILO, but also for other international and UN bodies. For example, ILO instruments were taken into consideration when drafting the Universal Declaration of Human Rights (1948); the two UN Covenants on civil and political rights, and on economic, social and cultural rights; and the UN treaties on women and slavery. Convention No. 169 on Indigenous and Tribal Peoples (1989) has become a point of reference in indigenous rights, and this is of particular importance during the current drafting process of the UN Declaration on the Rights of Indigenous Peoples. It has also been used by state aid agencies such as the Danish Government's International Development Assistance (DANIDA), by Germany and the Netherlands, and by international financial institutions, such as the Asian Development Bank and the World Bank, to orient their development policies.

A principal characteristic of international labour standards is that they are applied in a flexible manner. This is reflected in their provisions, which often include language stating that the provisions are to be applied in a flexible manner – i.e. to the extent possible taking into account national conditions, etc. This is in order to respond to the need to make a Convention or Recommendation relevant worldwide. However, it has also led to criticism of the ILO as such wordings provide opportunities for governments to make as few concessions as possible when applying the provisions of international standards.

International standards also provide guarantees against the adoption of national laws and regulations which are contrary to the ILO standards, as once a Convention is ratified, the government is bound by its provisions and has the responsibility to take action to implement them.

Conventions also carry some moral force, as public condemnation of a sovereign state for its failure to live up to its international legal obligations is often seen as embarrassing to a government, and most governments are sensitive to public censure.

ILO standards provide the legal and institutional framework to address issues of concern to its members. They also provide practical solutions regarding economic development; fair distribution of income; improved living and working conditions for all sectors; job creation; the promotion and protection of socially vulnerable groups (children, migrant workers, minorities and indigenous peoples, and women); and vocational training. They can also contribute to development, for the expansion of social protection to all sectors of the economy contributes significantly to development and social progress. As stated in the ILO Constitution:

*'The failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries.'*

Since its inception in 1919, the ILO has adopted 183 Conventions and 194 Recommendations (as at September 2001). All deal with issues which are relevant to achieving the ILO's aims and objectives, and cover a range of subjects concerned with the working world and also basic human rights.

The ILO regularly reviews its standards to ensure its Conventions and Recommendations are relevant. If they are deemed out of date or otherwise unnecessary, standards are abrogated or revised. For example, the 1957

standard on indigenous and tribal peoples was revised and a new one was adopted in 1989.

It is the responsibility of governments to ensure that ILO standards are applied in both law and practice; employers and workers play a key role in this process, as do NGOs. However, the main responsibility for fulfilling international obligations rests with the government concerned.

### **3. Classification of international labour standards**

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ILO Conventions and Recommendations can be divided into a number of categories, and these are set out below:

- Conditions of work;
- Employment (in general);
- Employment of children;
- Employment of women;
- Fundamental human rights (including those of minorities);
- Indigenous and tribal peoples;
- Industrial relations;
- Labour administration;
- Migrant workers;
- Older workers;
- Other special categories of workers (dockworkers, hotel and catering staff, fishers, inland navigation, plantation workers, seafarers, tenants and share-croppers);<sup>9</sup>
- Social policy;
- Social security.

This Handbook focuses on the fundamental ILO Conventions, and the Conventions relating to indigenous and tribal peoples as being the most relevant to minorities and indigenous peoples. However, it is important to note that international labour standards are inter-related and complement one another.

# III. Human rights

## 1. Introduction

As of September 2001, the ILO had adopted 183 Conventions. Subjects covered by the Conventions range from night work, to seafarers and miners, to gender issues.

In 1995, the ILO decided to identify issues of priority concern as a way of channelling the energy and resources of both the ILO and its member states. The following issues were chosen as being of fundamental importance to the ILO:

- Abolition of forced labour;
- Elimination of child labour;
- Elimination of discrimination in employment and occupation;
- Freedom of association and protection of the right to collective bargaining.

The four issues fall within the framework of the following Conventions:<sup>10</sup>

- Convention No. 29 – Forced Labour Convention (1930)
- Convention No. 105 – Abolition of Forced Labour Convention (1957)
- Convention No. 138 – Minimum Age Convention (1973)
- Convention No. 182 – Worst Forms of Child Labour Convention (1999)
- Convention No. 100 – Equal Remuneration Convention (1951)
- Convention No. 111 – Discrimination (Employment and Occupation) Convention (1958)
- Convention No. 87 – Freedom of Association and Protection of the Right to Organize Convention (1948)
- Convention No. 98 – Right to Organize and Collective Bargaining Convention (1949)

The identification of these eight Conventions as fundamental human rights Conventions was not meant to detract from the importance and relevance of other ILO Conventions. The main purpose was to indicate to the member states the need for an increased commitment in

upholding these core values of the ILO.

The ILO launched a campaign to promote the ratification and implementation<sup>11</sup> of these issues, which received an added impetus with the adoption of the Declaration on Fundamental Principles and Rights at Work (1998) (see later). The ILO ratification campaign is in progress; complemented by technical assistance programmes to help in their ratification and/or implementation.

As key issues of concern for the ILO, these four categories of rights provide minority and indigenous peoples' organizations, and other concerned NGOs, with an entry point in making effective use of the ILO and its mechanisms.

They can all be used to promote and protect the rights of minorities and indigenous peoples, either directly or indirectly, with the help of friendly workers' organizations.

## 2. Discrimination

The Conventions on discrimination are the most important for minorities and indigenous peoples, and the organizations working with and for them. These Conventions generally concern women and minorities, and to some extent indigenous peoples. The protection of vulnerable groups – such as children, minorities and indigenous peoples, and women – has been one of the ILO's fundamental pillars since its creation.

Two of the Conventions adopted by the first ILO Conference in 1919 relate to women: namely night work for women<sup>12</sup> (Convention No. 4) and maternity protection (Convention No. 5). The ILO has played an important role in enhancing the position of women in the workplace. Convention No. 100 and 111 relate to gender discrimination, while Convention No. 111 also covers minorities and other categories.

### 2.1 Equal Remuneration Convention (1951) (No. 100)

Convention No. 100 specifically addresses the issue of differences in pay for male and female workers. Women have long been paid less than their male counterparts at work. ILO Convention No. 100 provides the means to address this issue, supplemented by its Recommendation (No. 90).

The main characteristics of Convention No. 100 are:

### *Aim of the Convention*

- Application of the principle of ‘equal pay for work of equal value’;
- To eliminate differences in rates of remuneration received by male and female workers.

### *Scope*

- Applies to all workers.

### *Elements*

- Implies comparison between jobs which may be different but which have similar characteristics;
- Remuneration includes basic wages as well as any benefits in cash or in kind, such as cash bonuses, family allowances, paid vacations, pensions, etc.

### *Tools*

- Collective agreements, e.g. national, industry-wide or enterprise-based;
- National laws and regulations, e.g. minimum wage law;
- Wage determination mechanisms, e.g. public service wage scales;
- A combination of the above.

### *Strategies*

- Avoid stereotyping in job classification, i.e. skills and tasks considered to be traditionally ‘feminine’, e.g. caring, cleaning, secretarial;
- Conduct labour inspections;
- Develop and conduct objective job appraisals and evaluations;
- Develop appropriate wage determination methods.

### *Action required by governments*

- To ensure application of the principle of equal pay for work of equal value where possible, for example in public services;
- To promote this principle where there is no direct control over wage fixing, such as in the private sector.

Convention No. 100 is concerned with a specific aspect of gender discrimination – differences in the wages men and women receive. Often this can be attributed to no objective reason other than that the workers belong to different sexes. While steps have been taken to address the issue, and to diminish wage differentials, much remains to be done.

Although Convention No. 100 is not specifically targeting discrimination based on ‘race’ or ‘ethnicity’, it is relevant, as minority and indigenous women are often

discriminated against in the workplace, because of their sex or ethnicity, or both, and this impacts on their wage earning potential.

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

Convention No. 111 on discrimination in employment and occupation is the main ILO instrument that can be used to address the issue of work-related discrimination against minorities and indigenous peoples.

Convention No. 111 promotes policies in favour of equal opportunity. Although it concerns the workplace, this can have far-reaching consequences and encompasses a range of issues one would not automatically link to this theme.

### *Aim of the Convention*

- To promote equality in employment and occupation.

### *Scope*

- All sectors and situations where people are employed or work, including self-employment;
- Everyone, including workers who are nationals as well as non-national workers, e.g. foreign workers.

### *Definition of discrimination*

- Any distinction, exclusion or preference based on one or more of the prohibited grounds: colour; national extraction; political opinion; ‘race’; religion; sex; social origin; or other grounds determined by national legislation, e.g. age, civil status, disability, or sexual orientation; which nullifies or impairs equality of opportunity or treatment in employment or occupation.

### *Exceptions*

- A distinction, exclusion or preference for a particular job based on the inherent requirements of the job. For example, language proficiency if the job includes interaction with the public, a certain level of visual acuity for airline pilots, being a member of a specific religious group if the job requires performing religious services (e.g. a priest);
- Special measures for people requiring special protection or assistance for reasons such as age, disability, family responsibilities, sex, or social or cultural status. Special measures can be applied to affirmative action programmes, e.g. for ethnic minorities in the public sector.

### *Application*

- Equal access to employment and occupation, e.g. par-

- ticular jobs, recruitment and hiring;
- Equal access to vocational training;
- Equal terms and conditions of employment, e.g. access to professional training, opportunities for advancement, other benefits, remuneration in all its forms, etc.

#### **Action required by governments**

- Adoption of laws and creation of educational programmes on equal opportunity;
- Adoption of national policy on equal opportunity;
- Full cooperation with employers' and workers' organizations;
- Possible establishment of a national agency on equal opportunity;
- Repeal of inconsistent laws and practices.

Convention No. 111 identifies seven prohibited grounds of discrimination (see under 'Definition of discrimination'). It includes an option for member states to identify additional grounds of discrimination. Some countries have included age, disability and sexual orientation as additional grounds for discrimination.

In examining the application of this Convention, gender discrimination in employment and occupation is the issue which has been most frequently raised. The ILO supervisory bodies have examined this problem in practically all of the states which have ratified this Convention, including: Afghanistan, Austria, Bangladesh, Bolivia, Guatemala, Egypt, Finland, Iran, Spain, Sudan, to name a few.

To give an indication of the range and complexity of this issue: in 2001, before the fall of the Taliban regime in Afghanistan, the Committee of Experts on the Application of Conventions and Recommendations (Committee of Experts) – the main body responsible for examining member states' compliance with Conventions – expressed deep concern at the continuing grave abuses of human rights of women in Afghanistan, and in particular at the severe restrictions on their education and employment; while in Finland, the government acknowledges that 'gender inequalities persist, primarily with regard to employment opportunities, the nature of employment relationships, and pay'.<sup>13</sup>

The situation of minority and indigenous women has also been examined in the context of Convention No. 111. For example, the Committee of Experts, when looking into the action to eliminate gender discrimination in Australia, expressed its concern about the position of Aboriginal and Torres Strait Islander women and of migrant women, whose situation was further compounded by an apparent rise in racism and xenophobia.<sup>14</sup> The Committee has also raised the problem of high unemployment among Maori women in New Zealand.

The over-representation of women in lower-level occupations and their under-representation in higher-level positions, has also been raised on a number of occasions, as have laws and regulations which hinder equal opportunities. While there has been tangible progress in some countries, the problem of inequality between men and women persists in most states, and there is much room for improvement.

The Committee has also raised the issue of discrimination on the basis of political opinion in some countries including in Angola, Cuba and the Czech Republic. For religious minorities, the issue of discrimination has been raised, for example, in the context of the Baha'is in Iran and the Ahmedis, Quadiani and Lahori group members in Pakistan.

It is important to remember that Convention No. 111 also covers access to, and opportunities for, employment and occupation. Thus, educational institutes, self-employment initiatives, and training programmes all come under the scope of this Convention, as does the recruitment process from the initial advertisement in a newspaper, through to the interview and job offer, to the terms and conditions of employment. As clarified by the Committee of Experts:

*'The application of the principle of equality of opportunity and treatment for all persons in respect of access to employment of their own choice does not confer upon every person a right to obtain a particular post regardless of his or her qualifications or other conditions, but means that every person has the right to have his or her application for appointment to the post of his or her choice considered equitably, without discrimination based on any of the grounds referred to in the Convention.'*<sup>15</sup>

It is in studying the links between discrimination – on the grounds of colour, national extraction, 'race' and social origin – and high unemployment and low education rates, that the ILO has raised the issue of minorities and indigenous peoples.<sup>16</sup> Returning to Australia, for example, the Committee of Experts has expressed its concern over the continued high unemployment rate for the indigenous peoples in Australia (23 per cent compared with 9 per cent for the total population). It also commented on the removal of the post of the Social Justice Commissioner of the Aboriginal and Torres Strait Islander Commission (ATSIC) and asked the government 'to evaluate the impact this decision might have on the employment and occupational opportunities of indigenous Australians'.<sup>17</sup>

The Committee of Experts has also commented on the discrimination faced by scheduled castes and tribes in

India in gaining access to jobs, especially higher-level posts. It has also looked into the influence of 'racial' criteria in accessing jobs and promotions in Peru, where many indigenous peoples are illiterate and hindered by language barriers. It has also highlighted problems faced by minorities in accessing educational and training facilities in Bulgaria (Turks), Czech Republic (Roma), Romania (Roma, Russians, Turks, etc.), to name a few.

For more information on discrimination issues, please contact:  
 Equality and Employment Branch (EGALITE)  
 Standards Department  
 ILO  
 CH-1211 Geneva 22  
 Switzerland  
 tel: +41 22 799 7115  
 fax: +41 22 799 6344  
 e-mail: egalite@ilo.org

### 3. Forced labour

Although slavery and the slave trade were deemed illegal in the 1800s, the practice continued in many parts of the world. The conditions may have changed, but people were still working in conditions similar to those of slavery. This practice was common in colonial countries, especially among what were called 'native populations' – i.e. including people who may belong to indigenous or minority communities today.

In 1926, the League of Nations (precursor to the UN), adopted the UN Convention on Slavery, Servitude, Forced Labour and Similar Institutions and Practices (Slavery Convention) to prohibit all aspects of the slave trade. However, realizing that the problem was a complex and multi-faceted one, and that one standard alone was insufficient to deal with the whole range of problems and situations the practice gave rise to, the League of Nations asked the ILO to complement its work.

In 1930, the ILO adopted the Forced Labour Convention (No. 29), and this Convention, supplemented by a second ILO Convention on forced labour, adopted in 1957, provides important tools in the struggle to eradicate this unjust practice.

#### 3.1 Forced Labour Convention (1930) (No. 29)

The following is a brief description of the main points of Convention No. 29:

#### *Aim of the Convention*

- To suppress the use of forced or compulsory labour in all its forms within the shortest possible time.

#### *Definition*

- All work or service which is not voluntary and is exacted through coercion or under the menace of a penalty.

#### *Elements*

- It is carried out due to fear or duress or threat of a fine or other punishment;
- It is not voluntary, i.e. not done freely and willingly;
- Includes work or service.

#### *Action required by governments*

- Carry out regular inspections of labour conditions;
- Ensure punishments are both adequate and effective;
- Make forced or compulsory labour a penal offence.

#### *Exceptions (i.e. not deemed to be forced labour)*

- Emergencies, e.g. earthquakes, epidemics, floods;
- Military service, for purely military activities;
- Minor community service;
- Normal civic obligations, e.g. voting;
- Prison labour (although restrictions are placed on its use).

All other exceptions have to be removed from national law and practice. Thus, if a country has laws or regulations requiring its citizens to perform any work or service which does not fall within the scope of the five above exemptions, then these must be annulled.

In many countries, minorities and indigenous peoples are among those affected. The ILO Global Report, *Stopping Forced Labour*, points out:

*'The coincidence of traditional forms of slavery with ethnic divisions suggests a linkage between eliminating forced labour and eliminating discrimination in societies.'*<sup>18</sup>

To cite a few examples: in Sudan where an ethnic conflict continues to rage, prisoners captured during the fighting are enslaved according to age-old tradition; in Congo Brazzaville, there are reports of Pygmies (Twa) working for Bantus under forced labour conditions;<sup>19</sup> and in Indonesia, there are reports of Dayaks in East Kalimantan working under conditions of debt bondage.<sup>20</sup> The gravity of the problem of bonded labour in India, despite national legislation making it illegal in 1976, has also been a continuing cause of concern for the ILO supervisory bodies. The Indian Government has appeared before

the Applications Committee<sup>21</sup> on a number of occasions, including in June 2000 and in June 2001, to discuss the problem, and seek workable and effective solutions. Many of these bonded labourers are Dalits or come from indigenous communities.

There are also reports of forced labour of indigenous communities in Latin America. For example, in Mexico, under the coercive recruitment practice of '*enganche*', indigenous workers are provided with subsistence means through advance payments that have to be paid off by goods and services; and in Peru, the World Confederation of Labour has reported slavery and debt bondage of indigenous peoples, especially in the Atalaya and Ucayali regions. There are also reports of forced labour of indigenous peoples in Bolivia, Brazil and Guatemala.<sup>22</sup>

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

Between 1930 and 1950, many people were placed in camps and forced to carry out work under slave-like conditions. They were imprisoned for their political and ideological beliefs. The ILO realized that this new phenomenon had to be dealt with and, in 1957, adopted the Convention on the Abolition of Forced Labour (No. 105). Convention No. 105 supplements the earlier Convention No. 29 on forced labour.

The main elements of the Convention are:

#### *Aim of the Convention*

- To suppress forced labour.

#### *Scope (five prohibited categories)*

- Forced labour as a means of economic development;
- As punishment for having participated in strikes;
- As a means of labour discipline;
- As a means of political coercion;
- Discrimination on the grounds of 'race', social origin, nationality or religion.

#### *Action required by governments*

- Effective measures for immediate and complete abolition of forced or compulsory labour.

When looking into the question of how this Convention is applied in law and practice, the ILO supervisory bodies have raised the issue of compulsory labour from public servants as a form of disciplinary measure, e.g. in Pakistan, and Trinidad and Tobago; as political coercion (Afghanistan and Turkey), and the persecution of members of religious minority groups in Pakistan, e.g. Ahmadis, Lahori group and Quadianis.

For more information, contact:

Social Protection and Labour Conditions  
Branch (APPL)  
Standards Department  
ILO  
CH 1211 Geneva 22  
Switzerland  
tel: +41 22 799 7126  
fax: +41 22 799 6926  
e-mail: appl@ilo.org

You can also contact Anti-Slavery International:

Thomas Clarkson House  
The Stableyard  
Broomgrove Road  
London SW9 9TL  
UK  
tel: +44 207 501 8920  
fax: +44 207 738 4110  
e-mail: info@antislavery.org

## 4. Freedom of association

Freedom of association has been a central issue for the ILO since it was created, and continues to be so. The 1919 Preamble of the ILO identifies 'the recognition of the principle of freedom of association' as one of the ILO's objectives and this was reaffirmed by the Declaration of Philadelphia in 1944: '... freedom of expression and of association are essential to sustained progress ...'.

The following is a brief description of the main elements of the two Conventions dealing with this issue. Although it is not specifically mentioned, by implication freedom of association includes the right to strike.

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

The main principle of this Convention is to protect the right of workers and employers to be members of a trade union or employers' organization, and the free exercise of this right without state interference.

#### *Aim of the Convention*

- To protect the right of workers and employers to form their own organizations.

#### *Main elements*

- The right to choose a trade union or association freely, without restriction or hindrance, discrimination, or approval or authorization from state authorities;

- The right to establish or join a union or association;
- The right to work at all levels including at the international level, e.g. international organization membership/affiliation.

#### *Action required by governments*

- To ensure national law and regulations are in conformity with the Convention;
- To protect the right to freely organize.

#### *Exception*

- Armed forces and the police (special rules and regulations may apply).

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

Convention No. 98 supplements the provisions of Convention No. 87:

#### *Aim of the Convention*

- To protect the right to bargain collectively as a group/union;
- To protect the right of workers and employers to organize.

#### *Elements*

- Adequate protection of the right to join trade unions and to be able to bargain collectively;
- Protection from employment being made conditional on non-membership of a trade union or participation therein;
- Protection from losing employment due to trade union membership;
- Without interference from agents or members of other workers' or employers' organizations.

#### *Action required by governments*

- Establish machinery to ensure respect for the right to organize;
- Introduce measures to encourage and promote the development and use of collective bargaining to negotiate terms and conditions of employment.

#### *Exceptions (as determined by national law)*

- Armed forces and the police;
- Public servants.

The ILO has been closely following the application of these two Conventions as they are fundamental to the ILO's operations, which function on the basis of tripartism, i.e. between governments, workers and employers.

In this regard, the ILO's attention has focused on a

number of issues including, but not limited to: national laws restricting or infringing the right to strike or take other industrial action (Nicaragua, Norway, United Kingdom and Venezuela); the effectiveness of fines for anti-union discrimination (Belize); restrictive legislation and denial of trade union registration (South Korea); and the exercise of the right of association in export processing zones (Bangladesh and Pakistan).

For more information on freedom of association issues, contact:

Freedom of Association Branch (LIBSYND)  
Standards Department  
ILO  
CH 1211 Geneva 22  
Switzerland  
tel: +41 22 799 7122  
fax: +41 22 799 7670  
e-mail: libsynd@ilo.org

## **5. Child labour**

Child labour has been a major issue for the ILO since it began its work, and it has elaborated a number of standards aimed at protecting children. The principal aim of the ILO in this regard is to eliminate child labour completely. If this is not immediately possible, then maximum safeguards should be provided for children who are forced to work for various reasons – including poverty.

- The ILO estimates there are approximately 250 million children between the ages of 5 and 14 who work;
- About 120 million children work full-time;
- 41 per cent of all children work in sub-Saharan Africa
- 21 per cent of all children work in Asia and Latin America;
- Of the world total of child labourers: 61 per cent are in Asia, 32 per cent in Africa and 7 per cent in Latin America.

(Source: IPEC, ILO, Geneva, 2001)

Many children work to support themselves and their families. In some areas up to 20 per cent of economically active children are under the age of 10.<sup>23</sup> Children are engaged in a variety of occupations and environments, including: working in brick kilns, the carpet industry, domestic work, factories, on farms, mines, etc. They are also involved in drug trafficking and in child prostitution. There are reports of children from minority and indigenous communities working in domestic service in

Benin, for example, and on plantations in Benin, Côte d'Ivoire and Togo.<sup>24</sup>

The ILO has adopted two instruments to guide its work in this area: the Minimum Age Convention (1973) (No. 138) and the Worst Forms of Child Labour (1999) (No. 182), which came into force in 2000. In 1992 the International Programme on the Elimination of Child Labour (IPEC) was launched to complement ILO standards on the subject, and to implement programmes to progressively eliminate child labour.

### **5.1 The Minimum Age Convention (1973) (No. 138)**

The Minimum Age Convention consolidates and revises earlier Conventions relating to the minimum age in different sectors such as agriculture, fishing, industry, seafaring, non-industrial employment and underground work.

Convention No. 138 provides the only comprehensive set of guidelines relating to the appropriate age at which young children can enter the workforce.

The main elements are:

#### *Aim of the Convention*

- To abolish child labour.

#### *Tools*

- National policy to abolish child labour;
- To progressively increase the minimum age for children to enter the workforce to 18 years.

#### *Prohibited areas of child labour (cannot be excepted)*

- Construction;
- Electricity, gas and water;
- Manufacturing;
- Mining and quarrying;
- Plantations and farms (with the exception of family holdings);
- Sanitary services;
- Transport, storage and communications.

#### *National exceptions (after consultation with employers' and workers' organizations)*

- Artistic performances;
- Light work which does not prevent school attendance and is not harmful to the health and development of children;
- Limited categories of employment or work in which there may be problems in applying the Convention;
- Vocational training and apprenticeships.

#### *Compulsory coverage (cannot be excluded)*

- Any employment or work which by its very nature and the circumstances in which it is carried out may jeopardize the health, safety and morals of young people.

#### *Action required by governments*

- The minimum age limit for work cannot be below 14–15 years;
- List occupations which are to be included as 'national exceptions';
- To specify a minimum age limit for children to enter the workforce.

Convention No. 138 prohibits work by children in a number of areas and aims at the progressive elimination of child labour. However, it takes into consideration the conditions prevailing in different countries and provides a flexible approach to tackling this problem. Although states may make exceptions to the general rule, the goal remains the same: the total abolition of child labour.

### **5.2 The Worst Forms of Child Labour Convention (1999) (No. 182)**

The ILO realized that there was a need for a Convention which focused on the most harmful forms of child labour. In 1998 a global march against child labour arrived at the ILO's Geneva headquarters, urging the ILO to adopt stringent measures to address this issue. In June 1999, the ILO adopted the Convention on the Worst Forms of Child Labour (No. 182).

Convention No. 182 complements Convention No. 138 and takes into account the provisions of relevant instruments such as the Forced Labour Convention (1930) and the UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956). It is designed to stimulate action-oriented programmes to prevent children from working in what are undoubtedly the worst kinds of work or activities for anyone – especially young children.

Convention No. 182 entered into force on 19 November 2000. All ILO Conventions come into force a year after the date that the second ratification is deposited with the ILO, in this instance by Malawi on 19 November 1999. As of January 2002, 113 countries have ratified Convention No. 182. It has the distinction of being the ILO Convention with the fastest rate of ratifications, an indication of the worldwide commitment to ban this practice.

The main elements of Convention No. 182 are:

**Aim of the Convention**

- Prohibit and eliminate the worst forms of child labour.

**Elements**

- Absolute ban on children being involved or engaged in these activities;
- Immediate and effective action.

**Definition of a child**

- Everyone under the age of 18.

**Worst forms of child labour**

- All forms of slavery or similar practices such as the sale and trafficking of children, debt bondage and serfdom, forced or compulsory labour including recruitment of children in armed conflict;
- Child prostitution and pornography;
- Illicit activities, in particular drug trafficking;
- Work which is likely to harm the health, safety or morals of children (to be identified by national laws and regulations).

**Tools**

- Action programmes to remove children from these forms of labour;
- Attention to children at special risk and girls;
- Direct assistance for rehabilitation and social integration of removed children;
- Educational programmes including access to free basic education and vocational training;
- Monitoring mechanisms.

**Required action by governments**

- Designation of competent authority to implement the Convention;
- Enforcement of penal sanctions;
- List types of work which are to be banned (to be reviewed and revised as required).

Convention No. 182 also has an accompanying recommendation – Recommendation No. 190. The Recommendation serves as a guide for national action on child labour, and on how to implement Convention No. 182 and is thus noteworthy. The main elements of Recommendation No. 190 are that governments should:

- Consider the views, not just of employers' and workers' organizations, but also of other concerned groups, including children, young people and their families;
- To identify specific examples of what is meant by work which harms the health, safety or morals of chil-

dren as required by Convention No. 182 (see above under 'Worst forms of child labour').

Juan Somavia, Director-General of the ILO, has summed up the issue as follows:

*'Child labour is not jobs for kids. It is neither valuable work experience nor apprenticeship combined with schooling that enhances a child's present and future prospects. Child labour – in its worst forms – is abuse of power. It is adults exploiting the young, naïve, innocent, weak, vulnerable and insecure for personal profit; although so many valuable efforts are going on, we have not yet enough courage and imagination to really go beyond chipping at the margins and actually stop it ... creating and ratifying this Convention is the easy part. The tougher part is finding ladders for [children] to climb out of the pits of violence and discrimination they live in.'*<sup>25</sup>

For more information on child labour, please contact:

International Programme on the Elimination of  
Child Labour (IPEC)  
ILO  
CH 1211 Geneva 22  
Switzerland  
tel: +41 22 799 8181  
fax: +41 22 799 8771  
e-mail: [ipecc@ilo.org](mailto:ipecc@ilo.org)

You can also contact:

Anti-Slavery International  
Thomas Clarkson House  
The Stableyard, Broomgrove Road  
London SW9 9TL  
UK  
tel: +44 207 501 8920  
fax: +44 207 738 4110  
e-mail: [info@antislavery.org](mailto:info@antislavery.org)

## 6. Declaration on Fundamental Principles and Rights at Work (1998)

In 1998, the ILO adopted a Declaration to reaffirm the commitment of the ILO's 175 member states to respect the ILO's core principles, which are essential for the realization of the ILO's goals and objectives.

The ILO Declaration on Fundamental Principles and Rights at Work calls on all member states, to promote and realize the universal application of the four funda-

mental human rights principles, namely: (i) abolition of forced labour; (ii) freedom of association and right to collective bargaining; (iii) elimination of child labour; and (iv) equality in employment and occupation. The Declaration stresses the obligation of all member states to respect these four core principles, irrespective of whether they have ratified the relevant Conventions.

The ILO has devised a two-pronged strategy to assess the impact of the Declaration and to draw attention to the extent to which member states are respecting these core principles:

- An **Annual Review** of countries which have not yet ratified one or more of the core Conventions. This identifies areas where member states are encountering problems, and where the ILO can offer its assistance.
- A **Global Report** on one of the four fundamental human rights principles, as listed in the Declaration on the Fundamental Principles and Rights at Work. This report describes the situations in all member states, both those that have ratified and those that have not, to provide an overview of the fundamental rights, and an assessment of the assistance provided by the ILO as a way of determining future priorities for action. Each year the report covers one of the four categories.<sup>26</sup>

In June 2000, the Organization for Economic Cooperation and Development (OECD) used the Declaration as the basis for revising the guidelines for multinational enterprises, indicating the important links between core labour standards and international trade.

Although it is not legally binding, the Declaration carries a moral and persuasive influence as member states are expected to adhere to its principles. The publication of the Annual Review and the Global Report are also important elements in drawing attention to the four core principles, and related issues, and may be useful to minority and indigenous organizations, and concerned NGOs.

For more information, contact:

In Focus Programme on Promoting the Declaration (DECLARATION)

ILO

CH 1211 Geneva 22

Switzerland

tel: +41 22 799 6329

fax: +41 22 799 6561

e-mail: [declaration@ilo.org](mailto:declaration@ilo.org)

# IV. Indigenous peoples

## 1. Historical background

The ILO began its work on indigenous peoples in the 1930s when its attention was drawn to what were then termed ‘native workers’. The issue concerned plantations and farms in former colonies where the local populations provided the bulk of the labour, often in exploitative conditions. The prevalence of this problem in different parts of the world led to the ILO adopting the Forced Labour Convention (No. 29) in 1930. It was while following the implementation of this Convention, that the ILO realized that indigenous peoples’ issues had to be addressed in a different way.

In 1936, the ILO adopted the first international instrument specific to indigenous peoples. This concerned recruitment for economic development schemes (Convention No. 50 on Recruiting of Indigenous Workers) (1936), oriented from an employers’ perspective.

The ILO also adopted several Conventions relating to penal sanctions and contracts of employment for indigenous workers in dependent territories. Many of these have since been denounced or fallen into disuse, as they are no longer relevant or appropriate.

In the 1950s, the ILO undertook the following:

- The creation of an Expert Committee on Indigenous Labour (1951–4);<sup>27</sup>
- The implementation of the Andean Indian Programme (Argentina, Bolivia, Chile, Colombia, Ecuador, Peru and Venezuela) between 1954 and 1973. The ILO led this multi-agency effort to assist indigenous peoples in the region;
- The publication in 1953 of *Indigenous peoples: Living and working conditions of aboriginal populations in independent countries*.<sup>28</sup>

These steps laid the foundation for the ILO’s work with indigenous peoples and on indigenous rights.<sup>29</sup> The ILO’s current activities in this field include: research, standard-setting and technical assistance.

## 2. ILO Conventions on indigenous peoples

To date, the ILO is the only body to have adopted international Conventions which are exclusive to indigenous peoples:

- Convention No. 107 on Indigenous and Tribal Populations (1957);

- Convention No. 169 on Indigenous and Tribal Peoples (1989).

The ILO has taken a flexible approach when considering indigenous questions, and has often worked directly with NGOs and indigenous organizations, as well as with trade unions. In supervising the application of relevant Conventions (see later for details), this has offered an opportunity for indigenous organizations and concerned NGOs to work more closely with the ILO in promoting and protecting indigenous rights.

### 2.1. Convention No. 107 on Indigenous and Tribal Populations (1957)

The ILO Expert Committee on Indigenous Labour recommended to the International Labour Conference that it consider ‘the social problems of indigenous populations in independent countries’. As a result, in 1957 Convention No. 107 on Indigenous and Tribal Populations was adopted. At the time of its adoption the approach towards indigenous peoples was paternalistic, with integration being a major aim:

*‘The Convention proceeds from the basic assumption that integration into the dominant society should be the objective of all programmes affecting indigenous and tribal peoples.’<sup>30</sup>*

The ILO no longer takes this approach, and integration is not an issue of concern or of interest to the supervisory bodies.

The following is a summary of the Convention:<sup>31</sup>

#### *Aim of the Convention*

- Progressive integration into national life (without forced assimilation);
- Protection of the peoples<sup>32</sup> concerned.

#### *Scope*<sup>33</sup>

- Indigenous populations;
- Tribal or semi-tribal peoples.

#### *Elements*

- Equality and non-discrimination in employment and occupation;

- First language instruction for children;
- Freedom of association;
- Improvement of living and working conditions;
- Promotion and protection of the social, economic and cultural rights of indigenous and tribal peoples;
- Protection from forced dislocation;
- Provision of health and social services;
- Recognition of cultural and religious values, and customary laws;
- Recognition of traditional land rights (collective and individual aspects);
- Special educational programmes.

#### **Action required by governments**

- Coordinated action, e.g. a national agency to implement the provisions of the Convention and monitor compliance;
- Special measures to protect these peoples – taking into account their cultural characteristics.

When looking into the application of Convention No. 107, the Committee of Experts has drawn attention to the situation of indigenous peoples in most of the countries it has examined, including: Argentina, Bangladesh, Brazil, Colombia, Ecuador, India, Iraq and Pakistan.<sup>34</sup> The issues have included: forced labour, health, human rights abuses and land rights.

The Committee of Experts urges all of the governments concerned to take the necessary measures to ensure conformity with the provisions of the Convention, and to persist in addressing problems faced by indigenous peoples until they are satisfactorily resolved. This contributes to the Committee's efforts in trying to ensure that the living and working conditions of indigenous peoples are improved. For example:

- Brazil:
  - In 1993, the Committee recalled: *'that the situation of the Yanomami has been the subject of comments by the Committee for a number of years now, since their lands were invaded by thousands of independent gold miners (garimpeiros), bringing disease, environmental destruction and other problems into these previously isolated areas ... The Committee urges the Government to take urgent measures to correct this situation, and to report in detail on the measures it has taken ... In addition, the Committee is disturbed by persistent reports that forced labour is being imposed on Indians in connection with the presence of garimpeiros in these areas.'*<sup>35</sup>
  - In 1996, the Government of Brazil appeared before the Applications Committee. In its 1997 report,

referring to this discussion, the Committee of Experts:

*'deplore[d] the fact that the invasion of indigenous lands, and particularly the lands of the Yanomami, continues year after year, with the serious consequences that such invasions have on the health and survival of these peoples'*.<sup>36</sup>

- In this respect, the Committee of Experts drew the attention of the Government to the impact of Decree No. 1775 of January 1996 on the lands of indigenous peoples.
- In 1999, the Committee of Experts commented on the information provided by the Government on the above issues among others, and asked the Government 'to keep it informed of the progress and effects of programmes to expel the *garimpeiros* from Yanomami territory in the future'. It also regretted the falling growth rate of the Yanomami and other indigenous populations (Ye'kuana Maiongong), and commented on the continuing exploitation of indigenous labour.<sup>37</sup>
- The Committee of Experts continues to monitor the Government's application of the Convention.

Convention No. 107 provides a valuable tool for protecting and promoting indigenous rights and should not be overlooked. Although criticized for its integrationist and out-dated approach, it contains many provisions which provide strong safeguards for indigenous peoples regarding education, health, human rights and land rights. It can therefore provide persuasive arguments for strengthening these rights in countries which have ratified this Convention.

Convention No. 107 is in force in the following countries: Angola, Bangladesh, Belgium, Brazil, Cuba, Dominican Republic, Egypt, El Salvador, Ghana, Guinea-Bissau, Haiti, India, Iraq, Malawi, Pakistan, Panama, Portugal, Syrian Arab Republic and Tunisia.

Convention No. 107 has been automatically denounced as a result of ratification of Convention No. 169 by: Argentina, Bolivia, Colombia, Costa Rica, Ecuador, Mexico, Paraguay and Peru.

As Convention No. 107 was revised in 1989 by Convention No. 169, it is not open for ratification. However, it remains valid and binding for those countries which have ratified it. For all other countries it is Convention No. 169 which is open for ratification.

Reports on the implementation of Convention No. 107 were due from governments in 2000. The next reports will be due in 2005, 2010, 2015, etc., with the exception

of those countries asked to supply reports earlier by the Committee of Experts, or if other circumstances activate the ILO's supervisory process – e.g. comments from employers' or workers' organizations.

Note: Conventions Nos. 107 and 169 are not identified as priority Conventions for the ILO; therefore their reporting cycle is five years.

## 2.2 Convention No. 169 on Indigenous and Tribal Peoples (1989)

Between 1957, when Convention No. 107 was adopted, and 1989, various developments led the ILO to consider revising Convention No. 107. These included:

- The increasing awareness and mobilization of indigenous peoples and NGOs, who considered that Convention No. 107 fell far short of their needs and concerns, and that it was 'seriously flawed'.<sup>38</sup>
- A landmark UN *Study on the problem of discrimination against indigenous populations* by José R. Martínez Cobo, Special Rapporteur of the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities<sup>39</sup> (1971–86).<sup>40</sup>
- A UN Working Group on Indigenous Populations was established in 1982 and began drafting a standard on indigenous rights in 1984.<sup>41</sup>

In September 1986, the ILO convened a meeting of experts to discuss the advisability of revising Convention No. 107. This meeting is historic in being the first time NGOs – Survival International and the World Council of Indigenous Peoples – were formally invited to be part of an official ILO meeting.<sup>42</sup> Following this meeting, the ILO put the subject on the agenda of the International Labour Conference.

After two years of intense, and often acrimonious, debate in June 1989 the ILO adopted the Convention on Indigenous and Tribal Peoples (No. 169). One of the most polemic issues during the adoption process was the use of the term 'peoples' as some participants, mainly governments, believed that to use the term 'peoples' would give indigenous peoples the right to self-determination and, as an extension, the right to secession. For indigenous peoples, the only correct and acceptable term was 'peoples'.

In an effort to break the deadlock, a compromise was proposed: to use the term 'peoples' but to include a qualifying clause which states:

*'The use of the term "peoples" in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law.'* (Article 1[3])

Indigenous peoples attending the meeting were against this option; however, the Convention was adopted using this wording. As a result, indigenous peoples have criticized the inclusion of this Article in the Convention because it falls short of their expectations and sets a dangerous precedent. The ILO's position is that the meaning and implication of the term 'peoples' is an issue for the UN to decide, and that the use of this phrase in the Convention clarifies that this matter is outside the ILO's jurisdiction.

Another issue during the adoption process that led to much debate was the question of indigenous peoples' participation. Indigenous peoples could, and did, contribute to the meetings as representatives of (i) governments, employers' and workers' delegations, (ii) NGOs, e.g. Anti-Slavery International and the International Work Group for Indigenous Affairs, and (iii) indigenous organizations, e.g. the Four Directions Council, the Saami Council and the World Council of Indigenous Peoples. However, indigenous participation at the ILO during the adoption of Convention No. 169 was limited. Despite these shortcomings, the Convention has become a benchmark for indigenous issues, and remains the most comprehensive and detailed instrument on the subject.

The following is a brief overview of the key issues of Convention No. 169:<sup>43</sup>

### *Aim of the Convention*

- Recognition of the right of indigenous and tribal peoples to exist as distinct peoples.

### *Orientation*

- Consultation and participation as fundamental for all action;
- Respect for the traditions, cultures and ways of life of indigenous and tribal peoples;
- Towards self-management – to provide the resources and opportunities for indigenous and tribal peoples to decide their own future.

### *Scope*

- Indigenous and tribal peoples, without differentiating or defining these peoples.

### *Basic principles*

- Right to self-identification as a fundamental criterion;
- Right of consultation and participation;
- Right to decide their own priorities for development.

### *Main issues*

- Cross-border contacts (indigenous peoples separated by national borders);
- Education including first-language instruction;

- Employment and work;
- Land rights, including natural resources and the environment;
- Social security and health, including traditional health practices;
- Vocational training and traditional activities.

#### *Action required by governments*

- To develop coordinated and systematic action to protect these peoples and respect their integrity;
- To provide the resources for their development.

Convention No. 169 is one of the most comprehensive instruments in the field of international law, touching on all aspects of indigenous peoples' lives such as bilingual education, customary law, the environment, land rights, spiritual values, etc. It is also significant as it conceptualizes or sets out, for the first time, the right to self-identification, and the right to consultation and participation. This has helped these issues gain recognition as key elements in international law relating to indigenous peoples.

Consultation and participation, including in the field of development, are fundamental precepts of the Convention. Convention No. 169 stipulates that indigenous peoples should be involved in every step of any development process which may impact upon them, and that they should control and manage their own processes of development. Further, **prior** impact assessment studies must be conducted to guide development interventions in indigenous areas (Article 7). Convention No. 169 also reiterates that indigenous peoples should participate in the use, management and control of the environment and natural resources in indigenous lands (Article 15).

In the event of the displacement of indigenous peoples the Convention lays down clear procedural guidelines for their relocation, to include the holding of public inquiries. This is foreseen as an emergency measure (e.g. earthquakes, floods, etc.), and is to be carried out **only** with their free and informed consent. However, as many development projects take place on the lands of indigenous peoples, this provision (Article 16) has been criticized as being liable to be used to facilitate the dislocation of indigenous peoples from their traditional lands. Convention No. 169 goes on to clarify that where such relocation is necessary, the peoples affected must be compensated for their loss, and where restitution is not possible, then the indigenous peoples should be provided with lands which are equal in quality and in status to those which have been lost.

Convention No. 169 has been ratified (as at January 2002) by: Argentina, Bolivia, Colombia, Costa Rica, Denmark, Ecuador, Fiji, Guatemala, Honduras, Mexico, Netherlands, Norway, Paraguay and Peru.

The Convention is a valuable negotiating tool for indigenous peoples and organizations working on their behalf. Its impact and influence goes beyond the countries which have ratified it and it has been used to develop guidelines for indigenous peoples – for example in Cambodia, where the Government is in the final stages of adopting guidelines for highland peoples' development.<sup>44</sup>

#### **Supervision and impact**

The ILO supervisory bodies, namely the Committee of Experts, have been monitoring the application of Convention No. 169 in ratifying countries. Land rights have taken precedence over all other issues, and the Committee of Experts' comments on the Convention have nearly always focused on this topic.

In addition, a number of complaints<sup>45</sup> have been brought by trade unions on behalf of indigenous peoples, regarding violations of Convention No. 169. Although they have also included complaints regarding non-observance of key concepts of the Convention, such as consultation and participation, as with Colombia (see below), they have all focused on the non-implementation of the Convention's land rights provisions (Articles 13–19) including: Bolivia, Colombia, Denmark, Ecuador, Mexico and Peru. For example, regarding Colombia, the Committee of Experts noted in its 2001 report:

*'With reference to the situation of the Emberá Katio community in the Alto Sinú region faced with the construction of a hydroelectric dam (the Urrá project), the Committee notes that several questions regarding this situation, particularly in respect of the alleged failure to consult with the populations concerned, and the irremediable damage caused to their environment, are being examined in the context of two representations made under article 24 of the Constitution, which are deemed receivable by the Governing Body.'*<sup>46</sup>

Again, with reference to Costa Rica, Paraguay and Peru, the Committee of Experts' comments for 2001 centred on the land rights provisions. Regarding Peru, the Committee observed that the Central Confederation of Workers of Peru (CUT) had submitted comments alleging non-observance of the Convention by the Peruvian government:

*'CUT indicates that the Government of Peru has issued Supreme Decree No. 17-99-AG, of 3 June 1999, which expropriates 111,656 hectares of the ancestral lands belong[ing] to the Country Community of Santo Domingo de Olmos ("the Community"), an indigenous community ... The Committee requests the Government to supply information on the efforts made to demarcate the ancestral lands of the Community, including the 111,656 hectares ...'*<sup>47</sup>

Convention No. 169 has been used to further dialogue during conflicts on a number of occasions. During the peace negotiations between the Government of Guatemala and the Guatemalan National Revolutionary Union (URNG), which began in 1987 and culminated in the peace accords including the Agreement on the Identity and Rights of Indigenous Peoples agreed under UN auspices in 1994, Convention No. 169 provided a basis for discussions. Guatemala ratified the Convention in 1996 as a pre-condition of the accords.

In another example, on 16 February 1996, the Government of Mexico and the Zapatista Army of National Liberation (EZLN) signed a peace accord in San Andrés regarding Chiapas using the Convention in the negotiations.<sup>48</sup> Mexico was the second country to ratify the Convention in September 1990.

Convention No. 169 can also help to orient development assistance for industrialized countries, e.g. Germany and Switzerland. The Netherlands ratified the Convention for this purpose. It has also been used in policy making for indigenous peoples by international financial institutions such as the Asian Development Bank, the European Union, and the World Bank in its current revision of its operational guidelines. As the only comprehensive international Convention on indigenous peoples, it has become a reference point for indigenous rights and an important standard-setting Convention in this regard.<sup>49</sup>

However, it is important to bear in mind that this Convention provides the starting point for indigenous peoples' rights. NGOs and indigenous peoples should be aware that it serves as a unit of measurement and delineates minimum standards; there is nothing preventing governments from going beyond the parameters of Convention No. 169.

For more information on Convention No. 169, contact:

Equality and Employment Branch (EGALITE)  
Standards Department  
ILO  
CH-1211 Geneva 22  
Switzerland  
tel: +41 22 799 7115  
fax: +41 22 799 6344  
e-mail: [egalite@ilo.org](mailto:egalite@ilo.org)

According to the regular reporting cycle, reports are due under Convention No. 169 in 2003. Then reports are due in 2008, 2013, etc., unless requested earlier.

#### Technical assistance

The ILO has two technical cooperation programmes specifically designed for indigenous peoples:

- The INDISCO Programme (Inter-Regional Programme to Support Self-reliance of Indigenous and Tribal Communities through Cooperatives and Self-Help Organizations), which works through cooperatives, revolving loans and other such mechanisms to help indigenous peoples becoming more financially self-sufficient. It has projects in Africa, Asia and Latin America;
- The Project to Promote ILO Policy on Indigenous and Tribal Peoples. This was established in 1996 within the framework of Denmark's ratification of Convention No. 169 (with funding from the Danish development assistance programme DANIDA). Its main aim is to increase awareness and the application of Convention No. 169, and where applicable Convention No. 107. It operates mainly in Africa and Asia, and to some extent in Latin America.

Both these programmes work closely with indigenous organizations and NGOs, as well as with governments.

For more information contact:

Project to Promote ILO Policy on Indigenous and Tribal Peoples  
Equality and Employment Branch (EGALITE)  
Standards Department  
ILO  
Geneva  
Switzerland  
tel: +41 22 799 7115  
fax: +41 22 799 6344  
e-mail: [egalite@ilo.org](mailto:egalite@ilo.org) and

INDISCO Programme  
Cooperatives Department (COOP)  
ILO  
Geneva  
Switzerland  
tel: +41 22 799 7445  
fax: +41 22 799 8572  
e-mail: [coop@ilo.org](mailto:coop@ilo.org)

# V. Mechanisms to ensure compliance with ILO standards

## 1. Supervisory system

The ILO has a large number of Conventions and Recommendations on international socio-economic and work-related matters. However, the standards cannot operate in a vacuum, and need a supervisory system to assess their effectiveness. This section provides an overview of the ILO supervisory system.

### 1.1 Regular reports (for States Parties)

Article 22 of the ILO Constitution requires member states to submit reports to the ILO on steps they have taken to implement the Conventions to which they are a party (i.e. they are a State Party if they have ratified a Convention).

The reporting process is as follows:

- Once a member state ratifies a particular Convention, this Convention will enter into force for that country exactly one year later.
- A member state which has ratified a Convention is required to send a detailed first report to the ILO once the Convention enters into force for that country, and a second detailed report two years later. These two reports have to include information on all administrative provisions, judicial decisions, laws, regulations, etc., which may have a bearing on the extent to which national law and practice meets the provisions of the Convention.
- Based on the information in the government's report, and other supplementary information from reliable sources (UN committees, reports from trade unions, NGOs etc.), the ILO carries out a comprehensive assessment of the law and practice in that state within the framework of the relevant Convention. It is important to note that this provides the basis for future ILO work in this field. Minorities and indigenous peoples' NGOs should try and ensure their concerns are taken into account during this initial reporting period by submitting information through a friendly trade union.
- Thereafter, reports have to be made on a regular basis to the ILO supervisory bodies.

Here is an explanation of the reporting system:

- January 1993: the Czech Republic ratifies ILO Convention No. 111 on Discrimination (Employment and Occupation) (1958);

- January 1994: Convention No. 111 enters into force for the Czech Republic;
- September 1994: 1st report is due for submission to the ILO;
- September 1996: 2nd report is due for submission;
- 1997: Regular reports every two years as Convention No. 111 is one of the 12 fundamental Conventions (see below).

### Reporting cycle

In previous years, member states had to submit reports every year on all of the Conventions to which they were bound. However, this was criticized as being burdensome, especially for those countries with limited resources, taking into consideration the large number of Conventions and the increasing number of ratifications by member states. In 1995, the reporting requirements were revised, and the current reporting period varies from one to five years, depending on the Convention and the situation in the country.

The general rule is that reports have to be submitted every five years with two exceptions:

- Reports for the 12 fundamental and priority Conventions. As explained earlier, these are grouped under four categories – child labour, discrimination, freedom of association, and forced labour – and reports are due for each category every year, with the Conventions in each category alternating. For example, the Czech Republic has to provide a report on Convention No. 111 one year, and for Convention No. 100 the following year, these being the two fundamental Conventions relating to discrimination, (also see under ch. II). The other four priority Conventions are Nos 81, 122, 129 and 144.
- Additional reports outside the regular reporting cycle can also be requested by the Committee of Experts, which is the principal ILO body examining how a Convention is applied in law and practice. This can happen if:
  - There are complaints regarding gross human rights abuses<sup>50</sup> indicating that the situation in a given country is serious and merits closer examination. For example, the Committee of Experts may want to keep a close watch on developments in a particular country as a way of pressurizing the government to take steps to resolve the problem (see later for more details);

- An employers' or workers' organization makes a 'comment' alleging that a State Party is not complying with its obligations under a specific Convention. This can come from a local, national or international organization and in practice takes the form of a written communication to the ILO;
- A request from the Applications Committee, or a committee established under special constitutional procedures, asking the Committee of Experts to follow up on the implementation of recommendations contained in these committees' reports (see later under 2.2 for more details).

The above exceptions provide an opportunity to highlight issues outside of the regular reporting cycle, and are of particular importance in relation to those Conventions with a five-year reporting cycle – e.g. the Conventions relating to indigenous peoples – Convention Nos 107 and 169.

Minority and indigenous organizations, and concerned NGOs wishing to work with the ILO to protect indigenous and minority rights, should consider these options as a way of influencing the work of the Committee of Experts. They can send information directly to the ILO, or through a friendly employers' or workers' organization, although trade unions are often more receptive. If it contains data, hard facts, laws and administrative provisions, reports of cases etc., the Committee can take it into account in its supervisory work.

Information can be sent via any workers', or for that matter employers', organization; it does not have to be from the relevant country. As the information comes from a constituent member, i.e. a workers' or employers' organization, the ILO has to take it into account.

### **Employers' and workers' organizations**

Another element of the reporting process is the requirement included in all ILO Conventions that reports have to be sent to the employers' and workers' organizations, and these organizations have the right to provide their own comments. Ideally the reports should be prepared in consultation with these organizations, but the extent to which this is followed varies from country to country.

This could be another avenue for minority and indigenous organizations and concerned NGOs to work closely with employers' and workers' organizations in securing greater compliance with ILO Conventions.

## **1.2 Reports on non-ratified Conventions (General Surveys)**

Article 19 of the ILO Constitution requires member states to provide reports to the ILO supervisory bodies on the position in law and practice with regard to particular Conventions or Recommendations. Thus, ILO member states are also asked to include information on the reasons delaying or preventing ratification.

The ILO Governing Body decides which issues should be looked into, and highlights the relevant Convention, or group of Conventions and Recommendations dealing with that subject matter. The selection is based on the ILO's current concerns. Recently the subjects have ranged from equality of opportunity and treatment in 1996, to migrant workers in 1999, tripartite consultation in 2000 and women's night working in industry in 2001.

Once the Governing Body decides on the topic, questionnaires are sent out to the member states. The responses of the member states are analyzed and compiled in a report known as a General Survey. These surveys produce in-depth reports to enable the ILO to consider whether particular standards are operating effectively. They also serve to draw attention to those governments which have not ratified or implemented a particular Convention, thereby increasing the pressure on them to do so. Finally, they are used to determine whether the relevant Conventions and Recommendations are up to date, or need to be revised.

## **2. Supervisory bodies**

A number of bodies and mechanisms supervise how ILO Conventions and Recommendations are being applied. Here is an overview of the system:

### **2.1 Committee of Experts on the Application of Conventions and Recommendations**

The Committee of Experts on the Application of Conventions and Recommendations (Committee of Experts) is the main body responsible for examining the reports from member states.

The Committee of Experts was created in 1926 by the International Labour Conference to analyze the following:

- Annual reports submitted under Article 22 of the Constitution;
- Information and reports on un-ratified Conventions and Recommendations (Article 19);
- Information and reports on the application of Conventions to non-metropolitan territories<sup>51</sup> – trust territories or overseas territories (Article 35).

The Committee of Experts is composed of 20 independent experts. Its fundamental principles are impartiality, independence and objectivity. Experts are appointed in their personal capacity, and come from different legal, economic and social systems so as to ensure a broad geographical and technical balance. They are appointed by the Governing Body on the suggestion of the Director-General for a period of three years, which is usually renewed. In this way, both continuity and impartiality are strengthened.

The Committee of Experts is in annual session from November to December for approximately three weeks. The sessions, however, are closed to the public, so there is no access for NGOs or other organizations and individuals. This is a basis for criticism of the ILO system as it is lacking in transparency and accessibility. Under such circumstances, the alternative is for minority and indigenous organizations and other concerned NGOs to provide information to the ILO for submission to the Committee of Experts. This should be done well in advance of their meeting. (For more details see under ch. VIII.)

A full list of the current members of the ILO Committee of Experts is included in the Committee's Annual Report, and is also available from the ILO.

### Working methods

The Committee of Experts has the following working methods:

- Each expert is responsible for a group of Conventions or subjects.
- In assessing the situation in a given country in relation to the provisions of the relevant Convention or Conventions, the expert can include the following documents in his or her analysis:
  - Comments submitted by employers' and workers' organizations;
  - Information and documents supplied by the government;
  - Reports from other international bodies, e.g. Inter-American Commission on Human Rights, Organization for Security and Cooperation in Europe, the World Bank;
  - UN documents, e.g. the UN Committee on the Elimination of Racial Discrimination, the UN Commission on Human Rights;
  - Any other information which can be verifiable and is based on concrete evidence such as laws, regulations, judicial decisions, etc. This can include information from indigenous and minority organizations and concerned NGOs. For example, information provided by Amnesty International, Anti-Slavery International and Survival International has been used by the ILO supervisory bodies.
- There are no rules regarding the acceptability of any

information. It is taken on its merits, and is at the discretion of the relevant body. However, verifiable information which can be corroborated by other sources, e.g. human rights organizations, newspapers, UN reports, is generally deemed acceptable, as are all kinds of official documentation such as copies of court proceedings, decrees, laws, legislative texts, etc.

- The individual expert then draws up draft conclusions for discussion by the full Committee of Experts.
- The Committee of Experts always operates as a body and although each expert is responsible for reporting on a certain number or group of Conventions, it operates on the principle of unanimity and consensus.
- The Committee of Experts makes its comments as Observations.

### Observations

- These are on a country-by-country basis, and are published in an Annual Report, which is organized according to the number of the Convention.
- Observations are used to indicate long-standing problems or serious failures to implement ILO Conventions, and are generally the Committee of Experts' way of asking a government to take action to ensure the full implementation of a Convention. They may also be used to welcome progress achieved in response to the Committee's previous comments.
- The Committee of Experts may include a footnote at the end of the Observation to ask the government to provide its next report ahead of schedule (i.e. outside of the regular reporting cycle) or to appear before the International Labour Conference.
- Observations are effective in exercising a degree of moral pressure and serving to publicize specific situations. Governments are generally very sensitive about the situation in their countries being publicized. Thus, Observations have a real value.
- If there are serious developments, and the government has not taken the necessary measures to resolve the situation, the Committee of Experts may invite the government to discuss the issue at the Conference (see below for more details).

### Direct Requests

In addition to Observations, the Committee of Experts also makes requests for information on areas which need clarification, or comment, and on technical questions. They often supplement Observations, but can also stand on their own.

- Like Observations, Direct Requests can ask for a detailed report to be submitted.
- Direct Requests are not published in the Committee of Experts' report<sup>52</sup> but are sent directly to the government

concerned.

- The Committee of Experts' analysis and findings are published as Annual Reports.

### Annual Reports

These are published as *Application: International Labour Conventions*, (Report III [Part 1A]). The Annual Report has two parts:

- A General Report in which the Committee of Experts reviews questions relating to international labour standards and their implementation.
- A second section with Observations on individual countries arranged by Convention (according to date of adoption).<sup>53</sup>

### General Surveys

These are published in Report III (Part 1B), which is a summary of the reports received on un-ratified Conventions and Recommendations, and are an analysis of how these standards have been put into practice by states which have ratified and those that have not.

The Committee of Experts report is adopted at the end of its November to December session, and is published in the following March in time for the spring Governing Body meeting.<sup>54</sup>

- The annual ILO Conference considers the report at its session in June, and its discussions on the Committee of Experts' report are included in its own Conference report.
- The ILO sends out requests for periodic reports to member states in February, together with any Observations or Direct Requests from the Committee of Experts.

Copies of the Committee of Experts' report should also be sent to representative national employer and trade union organizations by the government of the country concerned. As mentioned earlier, the level of compliance with this requirement varies depending on a government's position and the level of cooperation with employers' and workers' organizations. However, the purpose is to provide these organizations with an opportunity to challenge a government's assessment, and to place additional information before the Committee of Experts, to help the Committee to fully assess the practical implications of international labour standards.

### Comments of employers' and workers' organizations

Employers' and workers' organizations can submit reports on the application of an ILO Convention at any time, irrespective of when a report on that Convention is due, or whether they are based in the country concerned.

These are known as 'comments'. They must be made in writing, refer to a ratified Convention and indicate, as accurately as possible, how it has been contravened. All comments must be submitted directly to the ILO.

The ILO forwards a copy of any comments it has received from employers' and workers' organizations to the government concerned so it can respond to the issues raised in the comments.

It should be stressed that only ILO traditional partners, e.g. employers' and trade union organizations, can submit these comments. All comments are given to the Committee of Experts. In its 2001 Annual Report, the Committee emphasized the vital role of employers' and workers' organizations in the application of standards:

*'At each session, the Committee draws the attention of governments to the role that employers' and workers' organizations are called upon to play in the application of Conventions and Recommendations and to the fact that numerous Conventions require consultation with employers' and workers' organizations, or their collaboration in a variety of measures ... In accordance with established practice, in April 2000 the Office sent to the representative organizations of employers and workers a letter outlining the various opportunities open to them of contributing to the implementation of Conventions and Recommendations, accompanied by relevant documentary material, and a list of the reports due from their respective governments and copies of the Committee's comments to which the governments were invited to reply in their reports.'*<sup>55</sup>

The ILO wishes to strengthen the role of employers' and workers' organizations in its supervisory work and therefore welcomes their interaction in this process.

Minority and indigenous organizations and other concerned NGOs can take advantage of this opening and send information on contraventions of ILO Conventions to a friendly employers' organization or to a trade union with a request to forward this documentation to the ILO.

Although comments can be provided at any time, to make sure they are considered by the Committee of Experts at its next session (November to December), they should be submitted by the end of September, if not earlier.

This is a good example of how to bring a specific issue to the attention of the ILO supervisory bodies, and has been used to good effect by minority and indigenous organizations and other concerned NGOs wishing to draw attention to a specific issue.

## 2.2 The Conference Committee on the Application of Standards

The Conference Committee on the Application of Standards (Applications Committee) is a committee of the International Labour Conference. It is tripartite in structure with the governments, employers and trade union groups participating actively in its deliberations. It meets annually, during the International Labour Conference in June, and examines issues concerning the ratification and application of ILO Conventions.

A primary focus of its work is the review of the report of the Committee of Experts. When analyzing this report, the Applications Committee draws up a list of country situations for in-depth discussion during its session. The selection is made from among those countries which have received an Observation from the Committee of Experts and usually involves grave human rights violations and/or a repeated failure to comply with ILO standards. Efforts are made to ensure a good balance in terms of both the countries and the Conventions identified for this procedure.

In practice, it is the workers' group which proposes the cases for discussion at the Applications Committee, in consultation with the employers.

Minority and indigenous organizations and other concerned NGOs can try to influence trade unions to ensure the inclusion of a particular country in the list of countries to be summoned to appear before the Applications Committee, provided the country in question has received an Observation from the Committee of Experts.

### Working methods

In considering the report of the Committee of Experts, once the list of countries has been decided, the following steps are taken:

- The Applications Committee invites the government in question to appear before it to present its understanding of the situation. It is rare for a government to refuse, especially since the invitation is made in a spirit of dialogue and cooperation, a key element of the ILO.
- Once the government has presented its understanding of the situation, the floor is open and individual members of the Applications Committee are free to offer their comments, criticisms and suggestions. Representatives of workers' and employers' organizations as well as government delegates can put questions directly to the government concerned.
- The government representative has the right to reply to any questions and comments. Once this is exer-

cized, the employer and trade union spokespeople both make their concluding remarks (generally governments do not do this).

- The deliberations of the Applications Committee are extremely focused. This process serves to draw attention to specific instances of non-compliance with a Convention.
- The sessions of the Applications Committee are generally open to the public.
- The Committee serves to exert pressure on the government concerned as it has to respond publicly to criticisms from both national and international organizations.
- The discussions are often lively, and are entered into in a spirit of dialogue and cooperation.
- The Chair of the Applications Committee, traditionally a government representative, summarizes the discussion into Conclusions and Recommendations, which are adopted by the Applications Committee.
- In the worst cases of non-compliance with a Convention, the Committee may decide to include the case in a 'special paragraph' to its report, and/or find that there has been 'continued failure to implement' a Convention:
  - These are the Applications Committee's strongest censures and draw international attention to the government's failure to respect internationally agreed labour standards.
  - Governments which receive a 'special paragraph' and/or a 'continued failure' finding are very likely to be called in front of the Applications Committee again the following year.
- The deliberations of the Applications Committee are issued as a two-part report: part one is a general report, while part two contains Observations and information concerning particular countries, including a detailed report of the discussion at the Committee.
- The report is then submitted to the full International Labour Conference where it is discussed in plenary sessions before it is adopted.
- The final report is forwarded to the Committee of Experts at their next session. The Committee of Experts then continues its work in monitoring the efforts of the government concerned to better apply the relevant Convention, including in implementing the Recommendations and suggestions of the Applications Committee (as mentioned above).

Thus, a country's compliance with a particular ILO Convention is stringently reviewed by the ILO supervisory bodies.

The Committee of Experts is well known for its tenacity in consistently drawing attention to specific instances

**Diagram of the ILO's supervisory system**

Regular reports are due on ratified Conventions according to a periodic reporting schedule.

Trade union and employer organizations can make comments on regular reports, but they can also make comments at any time when they have information regarding a member state's non-compliance with a Convention they have ratified.

**Information and reports from governments, comments from employers and workers**



The independent Committee of Experts reviews the reports and information received.

**Committee of Experts on the Application of Conventions and Recommendations**

Where the Committee of Experts is concerned that a Convention is not being properly applied it can request further information from the government in the form of Direct Requests or Observations.



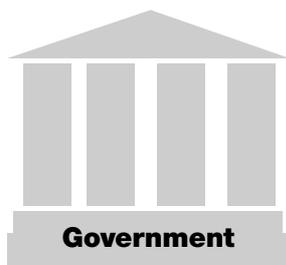
**Direct Requests**

Direct Requests are sent directly to the Government concerned.



**Observations**

Observations are published in the report of the Committee of Experts. Based on this report, some cases may be discussed at the Applications Committee:



**Applications Committee**



The tripartite Applications Committee reviews particular cases from the Committee of Experts' report, reaches conclusions and submits its report to the plenary sitting of the International Labour Conference.



**International Labour Conference**

Presentation of report to plenary session of the International Labour Conference.

of non-compliance with international labour standards, and for continuing to bring a specific issue to the attention of the government concerned until it has been resolved satisfactorily.

The country in question may also face strong criticism from the Applications Committee.

Both committees work independently, but in a complementary manner, by following up on each other's work in order to secure greater enforcement of ILO standards.

Following the adoption of the report by the International Labour Conference, it is forwarded to the Committee of Experts for follow up. The Committee of Experts continues to review the case and make comments until satisfied the government is meeting its obligations under the Convention in question.

When a government does not submit a report to the ILO supervisory bodies, as required under reporting obligations, the Committee of Experts repeats the previous comments. A list of those governments that have failed to supply reports is included in the Committee of Experts' Annual Report. This is a way of drawing public attention to these governments. The Committee of Experts may also decide to examine the situation on the basis of available information, especially in the case of repeated failures to respond to comments raised by the supervisory bodies.

### 3. Technical assistance

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The ILO offers its assistance to member states to comply more fully with international labour standards. This can take the following forms:

- **Technical cooperation** – where there is a continuing problem, or the government indicates it may need help, the ILO offers its technical assistance. It develops programmes specifically designed to assist individual governments to align their national law and practice with the international standards. There are a number of technical assistance programmes of which the following are noteworthy: the International Programme for the Elimination of Child Labour (IPEC) and the Gender Promotion Programme.
- **Training** – The ILO also offers a range of seminars and other forms of training on international labour standards. For example, in 1999 a sub-regional seminar for labour court judges on equality in employment was held in Harare, Zimbabwe; a national tripartite seminar on freedom of association was held in Rabat, Morocco; and a seminar on international labour standards for lawyers and legal educators was held in Turin, Italy.<sup>56</sup>
- **Promotional activities** – The ILO also carries out a number of activities designed to increase awareness

of its work, and of international labour standards. For example, a campaign to encourage all ILO members to ratify the fundamental Conventions has been in operation since 1995.

# VI. Complaints

## 1. Constitutional procedures

In addition to the monitoring of compliance through the regular supervisory system, there are two avenues for complaints to be filed at the ILO. They are enshrined in the ILO Constitution and are used only for serious instances of non-compliance:

- Representations under Article 24 of the Constitution;
- Complaints under Article 26 of the Constitution.

These two procedures are another way of drawing attention to contraventions of ILO Conventions, as a means of pressurizing a government to bring national law and practice into greater conformity with international standards. Thus minority and indigenous organizations and other concerned NGOs should consider this in their work to secure minorities' and indigenous peoples' protection.

### 1.1 The representation procedure (Article 24)

This procedure is outlined in Articles 24 and 25 of the ILO Constitution:

#### Article 24

*'In the event of any representation being made to the International Labour Office by an industrial association of employers or of workers that any of the Members has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party, the Governing Body may communicate this representation to the government against which it is made, and may invite the government to make such statement on the subject as it may think fit.'*

#### Article 25

*'If no statement is received within a reasonable time from the government in question, or if the statement when received is not deemed to be satisfactory by the Governing Body, the latter shall have the right to publish the representation and the statement, if any, made in reply to it.'*

Here is an overview of the procedure:

- A 'representation' is a failure by a member state to apply the provisions of a Convention that it has ratified.

- Once the ILO receives a representation, the Director-General acknowledges its receipt and brings it to the attention of the government concerned by sending it a copy.
- The representation is then submitted to the Governing Body. The Governing Body decides whether a representation is 'receivable' or not (see box below). It does not examine the substance of the representation at this stage:

Essential elements for a representation to be received at the ILO:

- Be about a Convention ratified by the member state concerned;
- Be submitted to the ILO;
- Be from an employers' or workers' organization;
- Concern an ILO member state;
- Be in writing;
- It must state very clearly how, and in what way, the member state has failed to implement the provisions of the specific Convention;
- Make specific reference to Article 24 of the Constitution.

- If the Governing Body is satisfied that the representation has been properly submitted, i.e. it meets the above requirements, it sets up a tripartite committee to look into the matter. However, if it relates to trade union rights, then it refers it to the Committee on Freedom of Association (see later).
- The tripartite committee is made up of three members of the Governing Body, one from each of the government, workers' and employers' groups. It can ask for further information from the government concerned or from the organization bringing the representation.
- The government in question has the option to request that a representative of the Director-General visit its country to gather more information. These visits also provide opportunities for NGOs in the country to meet with and provide further information to the tripartite committee through the representative.
- The tripartite committee gives its report to the Governing Body, showing the steps taken to examine the representation and its Conclusions and Recommendations.
- The Governing Body discusses and adopts the tripartite committee's report at its following session. The

concerned government is invited to send a representative to attend this session. The employers' or workers' organization submitting the representation is not asked to appear before the committee.

- The Governing Body also decides whether the representation and any government reply should be published, and notifies the organization and the government concerned of its decision. Generally, most representations are published and copies are available from the ILO web page.<sup>57</sup>

- Once the tripartite committee concludes its work, the Committee of Experts follows up on the Conclusions and Recommendations.
- While a representation is in progress, regular work on supervising the application of this particular Convention in the country concerned is suspended, at least on the question being examined in the representation.
- Once the Article 24 procedure is completed, the regular supervisory bodies resume their work.

**Diagram of the Article 24 representation procedure**

Employers' and workers' organizations submit representations to the ILO:

*The ILO acknowledges receipt, informs the government concerned and brings the matter before the Governing Body.*

**International Labour Office**

*If the representation involves freedom of association, it is referred to the Governing Body's Committee on Freedom of Association.*

**GOVERNING BODY**

*If the representation fulfills the criteria, the Governing Body sets up a committee to examine the matter.*

**COMMITTEE ON FREEDOM OF ASSOCIATION**

**TRIPARTITE COMMITTEE**

*The tripartite committee examines the representation.*

*The government concerned may be contacted.*

**Government concerned**

**GOVERNING BODY**

*The Governing Body considers in private the report of its tripartite committee. The government concerned is invited to send a representative.*

*The Governing Body may decide to publish the representation.*

**Publication**

*It may also decide to initiate a complaint under Articles 26-34 of the ILO Constitution.*

**Article 26 complaints**

*The Committee of Experts follows up on implementation of the tripartite committee's report, as adopted by the Governing Body.*

**Committee of Experts on the Application of Conventions and Recommendations**

Article 24 representations have been brought against a number of countries. A partial list for 2001 includes:<sup>58</sup>

Deemed receivable:

- **Convention No. 169** on Indigenous and Tribal Peoples (1989)
- (i) *Colombia* brought by the Central Unitary Workers' Union (CUT) and the Colombian Medical Trade Union Association (ASMEDAS);
- (ii) *Denmark* brought by the Sulinermik Inuusutissarsiteqartut Kattuffiat (SIK); and
- (iii) *Ecuador* brought by the Ecuadorian Confederation of Free Trade Union Organizations (CEOSL).

Pending:

- **Convention No. 29** on Forced Labour (1930)
- *New Zealand* by the New Zealand Trade Union Federation.
- **Convention No. 111** on Discrimination (Employment and Occupation) (1958) and Convention No. 158 on Termination of Employment (1982)
- *Ethiopia* brought by the National Confederation of Eritrean Workers (NCEW);
- **Convention No. 169**
- (i) *Colombia* brought by the Central Unitary Workers' Union (CUT), and
- (ii) *Peru* brought by the General Confederation of Workers of Peru (CGTP).

The effect of a representation procedure is that it places a spotlight on a government's failure to apply a Convention to which it is a party. In some cases this is sufficient to spur a government to take the necessary action.

However, where the government concerned fails to implement the tripartite committee's Recommendations, the Governing Body may decide to initiate the complaints procedure provided for under Article 26 of the ILO Constitution (see below concerning complaints). This option can be taken up at any time during the representation procedure.

## 1.2 The complaints procedure (Article 26)

A complaint can be filed under Article 26 of the ILO Constitution:

*Article 26*

*'1. Any of the Members shall have the right to file a complaint with the International Labour Office if it is not satisfied that any other Member is securing the effective observance of any Convention which both*

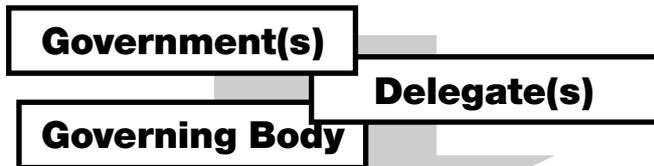
*have ratified.'*

This procedure is initiated in the following manner:

- A complaint is filed with the Director-General alleging that a member state is not fulfilling its obligations under a Convention it has ratified.
- It can be filed by:
  - An employer or trade union delegate to the International Labour Conference (in June each year);
  - Another government which has also ratified the same Convention;
  - The Governing Body.
- Once a complaint is received, the Governing Body has the option of communicating with the government concerned or it may directly appoint a Commission of Inquiry.
- The Commission of Inquiry conducts an investigation into the matter. There is no fixed time period for this, and each Commission adopts its own rules of procedure.
  - Trade unions and NGOs can submit their observations and reports directly to the Commission of Inquiry.
- Once the Commission of Inquiry concludes its work, it forwards the report to the Governing Body and to the parties concerned. The report includes findings and Recommendations, and can be published.
  - If a government accepts the Recommendations of the Commission but does not carry them out within a specified time period, the Governing Body may recommend that the International Labour Conference takes the necessary action to secure compliance (e.g. suspension of ILO membership and technical assistance activities).
  - If a government challenges the Recommendations, its only option is to refer the complaint to the International Court of Justice. This court is the only competent authority which can review ILO standards and decisions. Its decision is final.
  - A defaulting government may also inform the Governing Body that it has complied with the Recommendations and ask the Governing Body to constitute a new Commission of Inquiry to verify this claim. If the report of the new Commission of Inquiry finds in favour of the defaulting government, the Governing Body will recommend that any action taken by the International Labour Conference be suspended (Article 34 of the ILO Constitution).

**Diagram of the complaints procedure**

Another ratifying member state, an International Labour Conference delegate or the Governing Body can bring a complaint.



The Governing Body decides whether to appoint a Commission of Inquiry.



If the complaint involves freedom of association, it may be referred to the Governing Body's Committee on Freedom of Association.



**COMMISSION OF INQUIRY**

The independent Commission of Inquiry thoroughly investigates the complaint, setting its procedures as required by the case.

The government concerned may be visited.



The Commission of Inquiry reports its findings, giving Recommendations and a time frame for their implementation.



The report is sent to the government concerned, published, and transmitted to the Governing Body to take note.



The government(s) concerned may refer the complaint to the International Court of Justice for a final decision.



The Committee of Experts follows up on implementation of the Recommendations of the Commission of Inquiry.

**2. Special procedures for complaints relating to freedom of association<sup>59</sup>**

As the right to organize is pivotal to the ILO, mechanisms were established to protect this right regardless of whether the relevant Conventions had been ratified. The ILO has two committees to investigate complaints relating to freedom of association:

- Governing Body Committee on Freedom of Association;

- Fact-finding and Conciliation Commission on Freedom of Association.

**2.1 Governing Body Committee on Freedom of Association**

A complaint can be registered at this Committee irrespective of whether the country concerned has ratified the ILO Conventions relating to freedom of association.

Only in the follow up is there a difference in approach, as detailed below.

The Committee was established by the Governing Body in November 1951. It is a tripartite body with nine members (three each from governments', employers' and workers' groups) and an independent Chair. Complaints can be submitted by employer or trade union organizations (national or international) or by governments (though this rarely happens).

The Committee meets in Geneva three times a year. Complaints must be in writing, signed and supported by evidence. The government concerned is provided with an opportunity to respond and in urgent or serious cases, the Director-General may ask the government to allow an on-the-spot inquiry to help the Committee in its work.

When the Committee has completed its examination of the case, if the government in question has ratified the ILO Conventions, then the regular ILO supervisory bodies, namely the Committee of Experts, follow up on the case.

If the government has not ratified the Conventions, then the Director-General has the responsibility to follow up with the government concerned at regular intervals.

As of June 2001, the Committee on Freedom of Association had 56 cases against governments before it. These included the following states: Australia, Bangladesh, Bulgaria, Canada, Cameroon, Costa Rica, El Salvador, Gabon, Indonesia, the Republic of Korea, Japan, Pakistan, Peru, Philippines, Nepal, Spain, Lebanon, Thailand, Turkey and Ukraine. In addition, there were 'serious and urgent' cases regarding Ethiopia (Case No. 1888), Haiti (Case No. 2052) and Venezuela (Cases Nos 2067 and 2088).<sup>60</sup>

## 2.2 Fact-finding and Conciliation Commission on Freedom of Association

The Commission works in panels of three members who are highly qualified independent people appointed by the ILO Governing Body. It is primarily a fact-finding body. Its reports are published. As a general rule the government concerned must agree before a complaint can be submitted to this Commission (in contrast to the Committee on Freedom of Association where this is not necessary). As a result, the Commission is convened rarely.

The Commission can look at complaints referred to it by the Governing Body regarding states that have not ratified the relevant Conventions or at the request of the UN Economic and Social Council, even if the concerned state is not a member of the ILO.

## 3. Direct Contacts

In 1964, a special procedure was adopted whereby a country can invite a representative of the Director-General to visit the country. This is known as 'Direct Contacts' and the Director-General appoints the representative. The representative can be an ILO official or an independent person.

- A Direct Contacts visit generally takes place when there is no perceived progress on an issue being reviewed by the ILO supervisory bodies. It can be proposed by trade union or employer delegates to the Applications Committee, or by the government, and often serves to break the deadlock. The Committee of Experts can also suggest a Direct Contacts visit.
- It can take place only with the cooperation of, and at the invitation of, the government concerned. This provides an opportunity for constructive discussions to take place, in the country concerned, with the relevant government agencies, and with the tripartite partners.
- While a government can refuse a Direct Contacts visit, this generally draws even greater attention to its lack of cooperation with the ILO and failure to observe a particular labour standard, thereby leading to even more intense criticism. For example, in June 2000 and in June 2001, members of the Applications Committee strongly recommended that a Direct Contacts visit investigate reports of forced abductions and slavery in Sudan, and assess what kind of assistance could be offered to the Government. When the Government did not accept the visit, the Committee's conclusions were placed in a 'special paragraph'.
- The advantage of a Direct Contacts visit is that this often leads to constructive dialogue between the ILO and the government on practical solutions to the problem.
- Where there is no noticeable progress as a result of a Direct Contacts visit, it can be used to increase the ILO's authority to comment on a particular situation and criticize the government involved. This helps to maintain political pressure on the government concerned to bring its laws and practice into line with international labour standards. For example, when asked to appear before the June 1985 Applications Committee to discuss reports of gross human rights violations of the indigenous peoples in the Chittagong Hill Tracts, under Convention No. 107 on Indigenous and Tribal Populations (1957) the Government of Bangladesh requested 'Direct Contacts' (see ch. VII for more details).

# VII. Case studies

## 1. Introduction

This section of the Handbook describes how the ILO supervises its Conventions, providing case studies as examples.

The case studies may also help to illustrate how international attention can be brought to bear on violations of international Conventions, and how this contributes to increased pressure on governments to comply with their obligations towards their citizens, including minorities and indigenous peoples. The case studies also show trade unions, NGOs and other organizations working with minorities and indigenous peoples can use the ILO human rights systems.

Note: The ILO does not have any punitive authority beyond censuring a member state for not meeting its obligations. It is an inter-governmental organization and although the employers' and workers' organizations have standing in the ILO, it is weighted in favour of governments. Governments have two votes, with one each for employers and workers.

The ILO's strength lies in its ability to call governments to task for contravening universal guidelines and principles that they have voluntarily agreed to uphold. It can do so by publicizing how member states carry out these responsibilities through reports and other publications; and/or by summoning governments to appear before the Applications Committee for a public discussion on the issue.

In the long term, such processes do contribute to increased attention being focused on the human rights of minorities and indigenous peoples.

## 2. Burma (Myanmar)

Since 1955, when Burma ratified the Forced Labour Convention (1930) (No. 29), ILO supervisory bodies have been examining forced labour in Burma. As far back as 1964, the Committee of Experts began asking for further information on this issue. In more recent times, it has been the exploitation of porters by the armed forces which has drawn the sharpest criticism. Minorities and indigenous peoples have also been used as labourers by the army. This case study touches on discrimination,

forced labour, and minorities and indigenous peoples.

- Article 24 representation procedure:
  - In January 1993, the International Confederation of Free Trade Unions (ICFTU) filed an Article 24 representation against Burma for failure to comply with Convention No. 29 on Forced Labour.
  - A tripartite committee established to examine the complaint concluded its work in November 1994 and submitted its report to the Governing Body.
  - The Governing Body adopted the committee's Recommendations on 7 November 1994 and requested the Government to inform the Committee of Experts on the measures it had taken to comply with the tripartite committee's Recommendations.
  - In February 1995, the Committee of Experts made an Observation noting that it had not received any information from the Government. At the International Labour Conference in June 1995, the Applications Committee adopted a 'special paragraph' asking the Government to comply with the Recommendations of the tripartite committee and to report to the Committee of Experts in November that year. The Government failed to do so.
  - In June 1996, 25 workers' delegates at the International Labour Conference filed a complaint against the Government under Article 26 of the ILO Constitution.<sup>61</sup>
- Article 26 complaints procedure:
  - The Governing Body forwarded the complaint to the Government, which sent its reply in February 1997. The Governing Body did not find the response satisfactory and set up a Commission of Inquiry.
  - The Commission of Inquiry adopted its final report in July 1998.
  - Shortly after its appointment the Commission of Inquiry put out a request for information on forced labour in Burma to selected governments, international organizations, NGOs with or without ILO consultative status, and companies with knowledge of Burma. The bulk of the documentation received (including that submitted by governments) had its origin in reports prepared by minority and indigenous organizations and other concerned NGOs. The Commission of Inquiry held hearings in Geneva in November 1997, where most of the witnesses were representatives of NGOs or minority and indigenous victims of forced labour. In its visit to the

- region in early 1998, the Commission of Inquiry conducted 246 interviews, entirely with minorities and indigenous peoples.
- The Government accepted the Recommendations of the Commission of Inquiry in September 1998, but failed to implement them.
  - The 1999 International Labour Conference adopted a Resolution stating that the situation in Burma was incompatible with the conditions and principles governing membership of the ILO, and that the ILO should cease to provide any technical cooperation or assistance to the Government. There was to be one exception to this restriction: assistance to implement the Recommendations of the Commission of Inquiry.
  - The International Labour Conference in June 2000 adopted another Resolution under Article 33 of the ILO Constitution, recommending that if Burma did not take concrete steps to implement the Recommendations of the Commission of Inquiry by 30 November 2000, the ILO would ask its constituent members and other international organizations to review their relations with Burma.<sup>62</sup>
  - In October 2000, a technical cooperation team visited Burma to assess the situation and to offer its services to the Government.
  - In November 2000, following the cooperation team's visit, the ILO's Governing Body concluded that the Commission of Inquiry's Recommendations had not been implemented. The Director-General contacted international organizations and requested them to stop any cooperation with Burma, and to cease any activities that could directly or indirectly support the practice of forced labour. All ILO constituents were also urged to review their relations with Burma and to take measures to ensure that Burma could not take advantage of these relations to perpetuate the use of forced labour.
  - In its 2001 report, the Committee of Experts observed that in a letter of 29 October 2000 to the Director-General of the ILO, the Government indicated its 'political will to ensure that there is no forced labour in Myanmar, both in law and in practice', and the Committee asked the Government to report in detail on any progress made in implementing the Recommendations of the Commission of Inquiry.<sup>63</sup>
  - Burma was discussed again at the International Labour Conference in 2001, and in September 2001 the ILO sent a four-member team to Burma for three weeks to review what progress had been made in implementing the Commission of Inquiry's Recommendations. The team found that while the Government had made some progress, it was insufficient,

and forced labour was still practised widely.

- Burma remains under review.

### 3. Bangladesh

This case study demonstrates how continued ILO attention can help to bring pressure on member states, with the help of trade unions and NGOs.

- Since Bangladesh first ratified Convention No. 107 in 1972, the ILO supervisory bodies have been addressing the issue of the indigenous peoples in the Chittagong Hill Tracts (CHT) region. The two major concerns have been human rights and land.
- The Committee of Experts' comments intensified in the mid-1980s due to continuing reports of gross human rights violations committed by the armed forces, often in collusion with settlers brought in from the plains areas through a government population transfer policy. In 1985, following up on an Observation of the Committee of Experts on persistent reports of human rights abuses, the Applications Committee held detailed discussions with the Government on the subject. In November 1985, a representative of the Director-General visited Bangladesh on a 'Direct Contacts' visit.
- In its 1986 report, the Committee of Experts regretted that 'only very limited discussions' were arranged for the Director-General's representative during the Direct Contacts visit, described by the employers' members at the Applications Committee as a 'failure'. The Government was again invited to appear before the Applications Committee and a 'special paragraph' was included in the report to indicate the gravity of the situation. During the discussions at the Applications Committee, the duty of the Committee to protect minorities and the weak, in Bangladesh as well as in other countries where the problem arose, was stressed.<sup>64</sup>
- The Committee of Experts made another Observation in 1987 on the continuing conflicts between the indigenous peoples, and the settlers and the army, referring to reports received from NGOs including Amnesty International and the International Work Group for Indigenous Affairs (IWGIA). The Government was again asked to appear before the Applications Committee in June 1987, and a 'special paragraph' was adopted urging the Government to adopt concrete measures to resolve the situation.
- In 1988, the ILO received a 'comment' from the International Confederation of Free Trade Unions (ICFTU) regarding reports of human rights violations of the indigenous peoples in the CHT, including their right to life and physical safety. The ICFTU within the

context of Article 13 of Convention No. 107 on land rights,<sup>65</sup> also raised the issue of :

*'the massive influx of non-tribal settlers in the Chit-tagong Hill Tracts over a number of years and of numerous reports ... [of] violence and extortion in order to encroach upon land owned by members of the tribal population'.*

- This increased ILO attention on the CHT issue and in 1988 there was another Direct Contacts visit to Bangladesh reporting that no tangible progress had been made by the Government in resolving the situation in the CHT.
- In 1989, the Applications Committee again had detailed discussions with the Government reiterating that further steps must be taken, including: the effective examination of violations of human rights, the recognition and demarcation of land rights, and the settlement of disputes between the indigenous peoples and the settlers.
- The situation in the CHT remained under review by the Committee of Experts and received Observations practically every year between 1990 and 1998. In reviewing the situation in the CHT, the Committee considered information supplied by the Government as well as information received from indigenous organizations, NGOs (Anti-Slavery International, IWGIA, Minority Rights Group International and Survival International) and UN bodies. This helped to keep the CHT issue under public scrutiny. In 1997 a peace accord was signed between the indigenous peoples and the Government of Bangladesh.
- The CHT issue remains under review, and recent comments of the Committee of Experts have focused on the implementation of the peace accord, in the context of continuing reports of violence. Other issues raised by the Committee centred on human rights violations, land rights and the repatriation of refugees, focusing attention on the need to resolve the continuing problems in the CHT.<sup>66</sup>

#### 4. Mexico

The following is an illustration of how Convention No. 169 is monitored, and how workers' organizations can cooperate with indigenous organizations in bringing complaints before the ILO.

- During the violent uprising in Chiapas, Mexico, the Government of Mexico was asked to appear before the Applications Committee in June 1995. In its 1996 Observation, the Committee of Experts followed up on the Recommendation of the Applications Committee to consider ILO technical assistance 'in order to increase basic protection of indigenous workers'

rights and to improve working conditions'.<sup>67</sup>

- On 16 February 1996, the Government of Mexico and the Zapatista Army of National Liberation (EZLN) signed a peace accord in San Andrés as part of the peace process in Chiapas. The Convention was used as a point of reference in the negotiations.<sup>68</sup>
- In 1997, the Committee of Experts continued its scrutiny of the situation in Mexico and commented on: (i) the nationwide process of consultation on the rights and participation of indigenous peoples, which resulted in a Recommendation to more fully align national legislation with the Convention; (ii) comments from the Authentic Labour Front (Frente Auténtico del Trabajo) 'alleging violation of the Convention due to conflicts associated with the construction of a hydroelectric dam in Oaxaca'; and (iii) the issue of exploitation of indigenous workers by the practice of *enganche* (a form of coercive recruitment). The Committee also reiterated the offer of ILO technical assistance.<sup>69</sup>
- In January 1997, an Article 24 representation was brought against the Government by the National Trade Union of Education Workers (SNTE), Radio Education, alleging non-observance of Convention No. 169. It was brought by the trade union on behalf of the Union of Huichol Indigenous Communities of Jalisco regarding their historical claim to their traditional lands.
- The representation was accepted, and a tripartite committee established to examine the case. In June 1998, the Governing Body adopted this committee's report, which found that the Government had not fulfilled its obligations to safeguard the rights of the Huichol to lands that they have traditionally occupied. It recommended that the Government should provide effective protection of the Huichol's rights of ownership and possession as required under Article 14 of the Convention; and that it should take special measures to safeguard their existence and way of life, including the allocation of sufficient land to the Huichol 'to provide the essentials of a normal existence or for any possible increase in their numbers, in accordance with Article 19 of the Convention ...'.<sup>70</sup>
- In 1999, the Committee of Experts asked the Government what steps it had taken to implement the Recommendations of the tripartite committee.<sup>71</sup>
- In 1998, *another* Article 24 representation was brought against the Government by the Radical Trade Union of Metal and Similar Workers alleging non-observance of Convention No. 169, with particular reference to its land rights provisions. This representation was about the construction of the Cerro del Oro dam in San Lucas Ojitlán, Oaxaca, and involved the

forcible relocation of the indigenous Chinantec families from their traditional lands, and resettlement in the Uxpanapa Valley.

- A tripartite committee concluded its examination of the case, and found that although Convention No. 169 could not be applied retroactively (the dam was constructed in 1972), its consequences continued to have a direct effect on the indigenous peoples, so the Convention did apply; it therefore recommended the Government consult with these peoples to seek a solution to the problems they faced. The Governing Body adopted its report in November 1999, and in 2000 the Committee of Experts asked the Government to provide information on measures taken to implement the Recommendations of the tripartite committee.
- Commenting on both the representations, the Committee of Experts observed:
 

*'Both the article 24 representations resulted in concern being expressed by the Governing Body on the apparent lack of real dialogue between the Government and the indigenous communities to discuss their situation and to find answers to their problems in the consultative spirit on which this Convention is based.'*<sup>72</sup>
- The case of Mexico was discussed in depth at the 2000 International Labour Conference by the Applications Committee, which held a detailed discussion with the Government and asked for further information on measures taken to more effectively apply the Convention, with particular reference to the Recommendations of the two tripartite committees. The workers' group at the Conference had wished to bring this case up during the 1999 Conference, however, as mentioned earlier under the complaints procedure, a matter pending under an Article 24 representation can be discussed only after the representation has been concluded.
- The case of Mexico remains under examination by the ILO.

These are only a few examples of how the ILO can be used to discuss the problems facing indigenous peoples with the government concerned, as a way of ensuring measures are taken to resolve the situation. However, as mentioned earlier, as with all international processes, these initiatives take time and attention, and have to be engaged in with a long-term perspective.

It is hoped that these case studies will encourage others to work with the ILO to promote minorities' and indigenous peoples' rights and issues.

# VIII. How to work with the ILO

## 1. Access to the ILO

The strength of the ILO is in monitoring how member states observe their obligations, and in focusing attention on their lapses, as well as on positive developments. However, it is important to keep in mind the limitations of the ILO as an international inter-governmental organization. While its actions and decisions carry moral authority and exert persuasive influence, the ILO cannot impose punitive measures.

As an extreme measure members can be excluded from the ILO's technical and other assistance, as in the case of Burma (see ch. VII). The ILO's request to international governmental organizations and workers' and employers' groups to review their relations with Burma to ensure that they were not contributing to forced labour was a very strong message – one that could be used by NGOs wanting to put pressure on governments and companies regarding their investment in or support to the Government of Burma.

As a general rule, governments are very sensitive to public scrutiny, and having discrepancies between national law and practice with international obligations pointed out can act as a catalyst to positive change. The ILO compliance mechanisms, reports and other documents provide some scope for drawing attention to specific instances of human rights violations, and should not be overlooked by minority and indigenous organizations and other concerned NGOs in exploring different avenues to more effective rights' protection.

Although the ILO's traditional partners are governments and employers' and workers' organizations, minority and indigenous organizations and other concerned NGOs may participate in ILO activities and processes. This can be done via:

- one of the ILO tripartite members;
- as an NGO on the ILO Special List (see later);
- directly.

### 1.1 Through governments, employers' and workers' organizations

This is often the simplest way to access the ILO. For example, during the adoption of ILO Convention No. 169 indigenous peoples participated in the various ILO bodies as part of official delegations.

- Of the three traditional partners, trade unions are gen-

erally the most open to minority and indigenous issues. They have often helped bring indigenous issues to the ILO's attention both for the regular work, in the Committee of Experts and the Applications Committee, as well as through the special constitutional procedures. For example, all Article 24 representations brought under Convention No. 169 have been brought by trade unions on behalf of indigenous communities and their organizations. In terms of advocacy, this is the key point of influence for minority and indigenous organizations and other concerned NGOs.

- It can be a local, national or international trade union. For example, the International Confederation of Free Trade Unions (ICFTU), which is based in Brussels, Belgium, has brought a number of issues to the ILO's attention.

Note: The trade union does not have to be from the same country, but it must be a workers' organization. In the case brought against Denmark (mentioned in ch. VI) an Article 24 representation on behalf of Greenland was brought by an indigenous workers' organization.

### 1.2 NGOs

The ILO decided it should formalize the ILO's relations with organizations – other than those belonging to employers' and workers' – whose aims and objectives are in keeping with the aims, principles and spirit of the ILO Constitution and Declarations, and who play a valuable role in its work.

There are three categories of NGOs at the ILO:

- International NGOs with an important interest in a wide range of ILO activities. These are granted either general or regional consultative status;
- International NGOs with a particular interest – e.g. for specific meetings. (Any NGO interested in working with the ILO in a specific area should contact the ILO and ask to be informed of any relevant meetings.)
- The 'Special List' of international NGOs.

Of these, the third category is the most relevant. To be placed on the ILO Special List of NGOs, an NGO has to fulfil the following criteria:

- A formal application must be submitted in writing to the ILO;
- The NGO must demonstrate that its aims and objec-

tives are in harmony with the aims, principles and spirit of the ILO;

- It should have an evident interest in at least one of the ILO's fields of activity;
- It should be an international organization with representatives or affiliates in different countries;
- It must enclose with the application: annual reports, a copy of its statutes, membership composition, names and addresses of its officers, and any other relevant information.
- Once the application is received, the Governing Body examines the application and decides whether the NGO should be placed on the Special List.
- Applications to attend a specific meeting must be received at least one month before the Governing Body session preceding the meeting.
- Official status i.e. accreditation with the UN Economic and Social Council or another UN specialized agency is relevant, but not essential.
- NGOs on the Special List can ask for invitations to participate in ILO meetings which are of relevance to their aims and objectives. The ILO provides information on such meetings. They can also ask to be invited to the International Labour Conference.
- Special List NGOs participate as observers with no voting rights.
- Indigenous NGOs on the Special List are the Four Directions Council, Indigenous World Association, Saami Council and the World Council of Indigenous Peoples (WCIP).
- International NGOs on the Special List include: Amnesty International, Anti-Slavery International, International Centre for Human Rights and Democratic Development, International Commission for Jurists, International Work Group for Indigenous Affairs (IWGIA), Survival International and the World Council of Churches.

Note: National NGOs can work with the ILO by affiliating with an international NGO. They can also contact the local ILO office, indicating their area of interest, and ask to be informed of any meetings or events which may be relevant to their work.

They can also have an important role in investigating and documenting cases of ILO Conventions via publications and consultation workshops.

For more details contact:

ILO Bureau for External Relations and Partnerships  
ILO  
Geneva 22  
CH 1211, Switzerland  
tel: +41 22 799 7867  
fax: +41 22 799 7146  
e-mail: [exrel@ilo.org](mailto:exrel@ilo.org)

### 1.3 Directly

NGOs can participate via:

- Meetings and seminars – Minority and indigenous organizations and concerned NGOs can participate in ILO meetings and events which are relevant to them, e.g. training on standards. These are *ad hoc* events and are generally at the invitation of the organizing office or programme of the ILO.
- Information – Information received from minority and indigenous organizations and other concerned NGOs will be passed to the relevant body if it contains hard data, i.e. verifiable information or well-known facts. This information can include public documents such as agreements, case decisions, laws, regulations, reports, etc. For example, reports from Amnesty International, Anti-Slavery International, Human Rights Watch, IWGIA, and MRG have all been used for reference by the supervisory bodies.
- Reporting process – In a unique example, the Norwegian Sami Parliament sends its comments to the ILO on the application of Convention No. 169 in Norway. This is the result of an agreement between the Norwegian Government and the Sami Parliament whereby the Parliament's report forms part of the official Government report to the Committee of Experts. The Committee is encouraging other governments to follow this example of cooperation.
- Technical programmes – Various ILO projects and programmes are designed for, and implemented in cooperation with, vulnerable groups. The International Programme for the Elimination of Child Labour (IPEC) has given NGOs an important role in the implementation of its programmes. This recent innovation in ILO practice is in recognition of the complexity of these issues, and the need to reach communities at the local level through associations and organizations which are not linked to the labour movement. This can also be partly attributed to the fact that in some situations there can be a conflict of interest with employers' and/or workers' groups. For example, workers' and employers' organizations may not

be in agreement over better conditions of work for home-based workers. The INDISCO project and the Project to Promote Convention No. 169 (see ch. IV) also work closely with minority and indigenous organizations and concerned NGOs. These are important indications of the ILO's more open attitude towards NGOs.

## 2. Working with the ILO

Here are points to keep in mind when undertaking work at the ILO:

### 2.1 Subject matter

- Verify that the issue you wish to raise falls within the ILO's mandate. To do this you have to identify the ILO Convention which covers your area of interest:
  - You can consult the full list of ILO Conventions and texts on the ILO's website (available in various languages including English, French and Spanish) at [www.ilo.org](http://www.ilo.org)<sup>73</sup> or you can obtain it from the ILO.
  - This is particularly important if you want to make full use of the ILO's supervisory system, for example for an Article 24 representation, as references have to be made to the specific Articles of the relevant Convention and must show how they are not being observed.
- Do remember that more than one ILO Convention may be relevant.
  - For example, if your organization is concerned about discriminatory employment practices against indigenous groups in a particular country, then Convention No. 100 on Equal Remuneration, Convention No. 111 on Discrimination (Employment and Occupation), and Convention No. 169 on Indigenous and Tribal Peoples may all be relevant.
  - If you need further information on this issue, you can contact the nearest office of the ILO for clarification. (Contact [ilo@ilo.org](mailto:ilo@ilo.org) for a list of regional offices.)

### 2.2 Ratification

- Once you have established how your issue fits into the ILO's structure of Conventions you need to check whether the country you are working on has ratified the Conventions you are interested in.
  - You can do this by looking at a book published by the ILO which lists all the countries which have ratified each Convention – *List of Ratifications by Convention and by Country, Report III (Part 2)* – which is available from ILO offices or through the internet at the ILOLEX database on the ILO website.<sup>74</sup>

- If the government has not ratified the Convention which is directly relevant, then check to see if you can submit the same information under another Convention which it has ratified.
  - In some cases, governments can be called upon to make reports on Conventions that they have not ratified. See the sections on General Surveys (see ch. V) and Declaration on Fundamental Principles and Rights at Work (see ch. III), as well as Complaints Procedures (in ch. VI) for details on when and how these procedures operate.

### 2.3 Research

- Next, you have to ensure that you have all the latest information. This should include the ILO's involvement to date, as well as any comments made by the government or any trade union and employers' organizations in relation to the issue. There are a number of ILO reports that need to be reviewed, the most important of which are:
  - The most recent report of the Committee of Experts (Report III, Part 1A), which can be obtained from the ILO or accessed from their website.<sup>75</sup> This covers the Committee's findings by Convention and by country, and is published in March each year. This is a very useful report. It also has a number of indexes, including one which details trade union or employer comments on countries and Conventions. These may be useful in identifying potential partners to work with.<sup>76</sup>
    - Also check whether the country in question has been the subject of a representation, a complaint or special procedures concerning freedom of association. This can also be found in the Committee of Experts' Annual Report (Part One, General Report), under 'Constitutional and other procedures'.
  - The country specific findings of the latest report of the Standards Committee – see Part Two of its report entitled *Observations and information concerning particular countries*.<sup>77</sup>
    - Check if the country and Convention you are interested in have been examined and, if so, what conclusions were reached.
- Where there is a history of ILO involvement with a particular issue, your research will tell you what the ILO has said and done to date<sup>78</sup> and also what the government's position is in relation to its compliance with the Convention in question:
  - Once you have this information, you can ensure that your submission focuses on the issues under debate and provides evidence of how the government is failing to comply with its obligations under the relevant Convention.

- If, after checking these reports, you do not find any comments relating to the country and Convention you are interested in, this indicates that the Committee of Experts has not received any substantive information relating to that country and Convention from the government concerned. Any relevant information that you are able to provide may therefore be particularly useful.

## 2.4 Submitting information

- Now that you have all this information, you have to decide how to make the information available to the Committee of Experts, and which is the best way to proceed:
  - Whether through: the regular reporting, the comment procedure or the special constitutional procedures.
  - In making this assessment you have to carefully weigh the substance of the information you have gathered and what would be the best method to use, given the information and the prevailing circum-

- stances.
  - You may wish to liaise with other organizations in order to obtain further information, discuss making joint submissions or to consider making use of alternative aspects of the ILO’s supervisory system, such as the representation or complaint procedures.
- As an organization which is not an ILO constituent member you may also wish to contact a trade union or employers’ organization to see if they are willing to submit the information to the ILO on your behalf.

## 2.5 ILO timetable

- After considering these points you will also need to look at the ILO supervisory bodies’ timetable for reviewing submissions, so that you can plan your work effectively.
- The action planner below highlights some of the key points in the year when information needs to be reviewed and when reports need to be submitted.

### Action planner for using the ILO’s supervisory system

**February** – The ILO asks governments to send the reports due that year. It also invites governments to respond to any Observations or direct requests from the Committee of Experts or comments from any of the other ILO supervisory bodies. Reports due that year need to be submitted by governments to the ILO between 1 June and 1 September to be examined by the Committee of Experts in November. Governments are supposed to send copies of their reports to representative national employer and trade union organizations.

- **Action** – Contact an employers’ or workers’ organization and ask if it has received a copy of the government’s report. If so, ask if you can review the government’s statement. Based on this, you can then prepare a supplementary report for submission to the ILO either directly, or in order for it to have more standing, through a friendly trade union.

**March** – The Committee of Experts’ report (from the previous year) is published.

- **Action** – Review the report by country and/or Convention. The Committee of Experts’ Conclusions are highly respected and, if appropriate, can be publicized and quoted in support of your organization’s campaign.
- Pay particular attention to any Observations made by the Committee as these are the issues they are

focusing on and therefore ones that you should take into account.

- The list of countries asked to appear before the Applications Committee at the International Labour Conference’s session in June are from those countries receiving Observations in the Committee of Experts’ report. If the country you are working on has received an Observation, it can be on the list of countries up for discussion. You should start lobbying now to have it included, and contact any trade unions, or employers’ organizations you are in touch with to see whether this can be considered.
- Many important debates and policy decisions take place during the International Labour Conference, including the discussion of the reports of the ILO’s specialized committees; the presentation of the Global Report under the follow up to the ILO Declaration on Fundamental Principles and Rights at Work; and the adoption of new ILO Conventions and Recommendations. You should see whether there are any issues you wish to focus on during the discussion at the Conference, and start contacting other NGOs and ILO partners in this regard.

**June** – The International Labour Conference takes place. Discussions are held on many issues as outlined above. In addition, the Applications Committee meets

cont...

**Action planner for using the ILO’s supervisory system**

during the Conference to discuss the Committee of Expert’s report and invites governments to discuss their failure to apply particular Conventions.

- **Action** – Lobby trade unions and employers’ organizations attending the Conference to highlight issues you are interested in, and/or to include the country you are working on in the list of countries up for discussion at the Applications Committee. In this regard, you can also provide any supplementary or more recent information relating to the issues raised in the Committee of Experts’ report.
- NGOs on the Special List can make briefings available to the trade unions, employers’ organizations and governments as useful background material for debates. You could try to get them to take up your issue.

**July** – The ILO circulates the Applications Committee’s report. Other documents from the Conference are made publicly available on the website: [www.ilo.org](http://www.ilo.org).

- **Action** – Review the reports from the Conference and take account of government statements and con-

clusions reached by the Conference and the specialized committees, in particular the Applications Committee, as this provides you with information on how best to target your future intervention at the ILO.

**August to September** – NGOs may wish to prepare further reports for submission to the Committee of Experts, highlighting instances of non-compliance with ILO Conventions. These reports need to be submitted to the ILO by September at the latest so that the Committee can consider these documents when it meets in November – December.

- **Action** – If you wish to have the reports submitted through the governments, trade union or employers’ organizations then they should be prepared well in advance, to give them some time to review the documents before submitting them to the ILO.

**November to December** – The Committee of Experts meets for three weeks. Its sessions are closed.

**Summary of ILO calender for reports**

**February** – Requests sent to governments for reports.

**March** – Committee of Experts’ report published.

**June** – International Labour Conference Applications Committee discusses Committee of Experts’ report.

**September** – Deadline for submission of information to ILO.

**November to December** – Committee of Experts meets.

# Notes

- 1 For example, an ILO report investigating the labour situation in Spain was an important factor leading to the adoption of a new trade union law in Spain in 1977. This national law incorporated provisions from the ILO's core standards on freedom of association and the right to organize (Convention Nos 87 and 98), and Spain subsequently ratified Convention No. 87 on Freedom of Association and the Right to Organize later that year. See *International Labour Standards: A workers' education handbook*, fourth (revised) edition, Geneva, ILO, 1998, p. 107.
- 2 Unless otherwise indicated, this Handbook will use the term 'indigenous peoples'. The ILO refers to 'indigenous and tribal peoples', and the UN has yet to decide its preferred term with UN documents using both 'indigenous people' and 'indigenous peoples'. However, indigenous peoples have been very clear in indicating that they prefer 'indigenous peoples' and MRG will do likewise except when referring to ILO Conventions and documents, when the ILO term will be used.
- 3 For more details see *International Labour Standards: A workers' education handbook*, pp. 3–8.
- 4 This was the Annex to the Treaty of Versailles (chapter XIII). See Cairola E. and Chiarabini, A., *International Labour Standards: A Trade Union Training Guide*, International Labour Office-Geneva and International Training Centre of the ILO-Turin, 1998, p. 53.
- 5 The ratification process is not complete until the ILO receives a letter or other document, i.e. the instrument of ratification, sealed and signed by the relevant national authority. For example, the Argentine National Congress authorized ratification of ILO Convention No. 169 on Indigenous and Tribal Peoples in March 1992 (Act No. 24,071) but the formal letter of ratification was sent to the ILO in July 2000. Since Argentina had ratified the earlier Convention No. 107 dealing with indigenous and tribal populations, this Convention was applicable in the country during the interim period, and the ILO supervisory bodies continued to monitor its application in Argentina.
- 6 This was recently reiterated by the Tripartite Committee set up to examine an Article 24 representation alleging non-observance by Denmark of the Indigenous and Tribal Peoples Convention (1989) (No. 169). The Committee clarified that 'no reservations to the ratification of ILO Conventions are admissible ...', referring to a declaration made by the Government of Denmark when ratifying the Convention. For more details see Governing Body document GB.280/18/5 of March 2001.
- 7 For example, ratification of Convention No. 169 on Indigenous and Tribal Peoples (1989) amounts to an automatic denunciation of the earlier Convention No. 107 on Indigenous and Tribal Populations (1957), because Convention No. 169 revises Convention No. 107. Usually, denunciations can be done every 10 years but this may vary. Most Conventions have a provision describing when they can be denounced.
- 8 For more details, see *Handbook of Procedures Relating to International Labour Conventions and Recommendations*, International Labour Standards Department, Geneva, ILO, Rev. 1/1995 (pp. 3–6). This publication is also available online under ILOLEX at [www.ilo.org](http://www.ilo.org)
- 9 See *International Labour Standards: A Trade Union Training Guide*, p. 104.
- 10 The ILO numbers its standards, both Conventions and Recommendations, as they are adopted. For simplification purposes, the number of the Convention is used for easy reference. This Handbook will use both the names and the numbers of the Conventions.
- 11 The main body responsible for looking into the question of how member states are fulfilling their obligations under ILO Conventions is the Committee of Experts on the Application of Conventions and Recommendations. Another one is the ILO Conference Committee on the Applications of Standards. See later under ch. V for more details.
- 12 In keeping with the perception prevailing at the time that women needed special protection, Convention No. 4 on Night Work (Women) (1919) banned women from working at night, with the exception of family businesses. This was subsequently revised in 1934 and again in 1948, and the prohibition may be lifted during emergencies or national crises, but only after consultation with employers' and workers' organizations. The Conventions on this subject are now considered to be outdated except in very special circumstances.
- 13 *Report of the Committee of Experts 2001*, p. 477.
- 14 As note 13, p. 467.
- 15 *General Survey on Equality in Employment and*

- Occupation 1988*, p. 99
- 16 In practice, the ILO deals with indigenous questions mainly under Convention Nos 107 and 169, if the country in question has ratified either of these Conventions. Indigenous rights can also be raised under Convention No. 111, if the country concerned has not ratified Convention Nos 107 or 169. Minority and indigenous organizations and other concerned NGOs can decide which one will be the most useful to protect their rights and interests.
- 17 *Report of the Committee of Experts 2001*, p. 467.
- 18 *Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work: Stopping Forced Labour*, International Labour Conference, 89th Session 2001, Report I (B), Geneva, ILO, p. 18.
- 19 See *Report of the Committee of Experts: Application, International Labour Conventions*, International Labour Conference 39th session, Geneva, ILO, 2001, p. 128, for more details.
- 20 As note 19, p. 137.
- 21 See later under ch. V for details on how the Committee functions.
- 22 *Stopping Forced Labour*, pp. 21–9.
- 23 *The ILO: What it is, What it does*, Geneva, ILO, 1999.
- 24 *Stopping Forced Labour*, p. 22.
- 25 Somavia, J., ILO Director-General, *A Call for Universal Ratification*, ILO-IPEC public website.
- 26 The first Global Report focused on freedom of association (2000), the 2001 Global Report focused on forced labour, the third one in 2002 is to cover child labour, and the fourth in 2004 will be on discrimination.
- 27 The first session was held in 1951, and the second and last in 1954.
- 28 *Indigenous Peoples: Living and Working Conditions of Aboriginal Populations in Independent Countries*, Studies and Reports, New Series, no. 35, Geneva, ILO, 1953.
- 29 Swepston, L., *Indigenous and Tribal Populations: A Return to Centre Stage*, International Labour Review, vol. 126, no. 4, July–August 1987.
- 30 As note 29, pp. 450–1.
- 31 For more details, consult the full text of Convention No. 107, available from the ILO offices and also at the ILO website: [www.ilo.org](http://www.ilo.org)
- 32 Convention No. 107 uses the term ‘population’, but MRG, Anti-Slavery International and the authors prefer to use the term ‘peoples’.
- 33 Article 1(1) states that Convention No. 107 applies to: ‘(a) members of tribal or semi-tribal populations in independent countries whose social and economic conditions are at a less advanced stage than the stage reached by the other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations; (b) members of tribal or semi-tribal populations in independent countries which are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation and which, irrespective of their legal status, live more in conformity with the social, economic and cultural institutions of that time than with the institutions of the nation to which they belong.’
- 34 Initially there were 27 ratifications of Convention No. 107. Eight countries have since ratified Convention No. 169, which amounts to an automatic denunciation of Convention No. 107 (see box for list).
- 35 See *Report of the Committee of Experts 1993*, pp. 310–11.
- 36 See *Report of the Committee of Experts 1997*, p. 303 for details.
- 37 See *Report of the Committee of Experts 1999*, pp. 438–40 for more details.
- 38 Swepston, p. 450.
- 39 This has recently been renamed as the UN Sub-Commission on the Promotion and Protection of Human Rights.
- 40 UN Document No. E/CN.4/Sub.2/1986/7 (vols 1–5).
- 41 The Draft Declaration on the Rights of Indigenous Peoples (DDIP) was adopted by the Working Group on Indigenous Populations in 1994 and submitted to its parent body the Sub-Commission on Prevention of Discrimination and Protection of Minorities (now the Sub-Commission on the Promotion and Protection of Human Rights). The Sub-Commission endorsed the Draft in 1994 and sent it to the Commission on Human Rights in 1995. Currently, the Draft Declaration is being discussed at a working group of the Commission specifically established to elaborate a text.
- 42 Swepston, p. 451.
- 43 For more detailed information, see *ILO Convention on Indigenous and Tribal Peoples, 1989 (No. 169): A Manual*, Project to Promote ILO Policy on Indigenous and Tribal Peoples, Geneva, ILO, 2000.
- 44 As note 43, p. 84.
- 45 See later in ch. VI ‘Complaints’ for more details on this procedure.
- 46 See *Report of the Committee of Experts 2001*, p. 609.
- 47 As note 46, pp. 612–4.
- 48 See *Report of the Committee of Experts 1999*, p. 569 and Tomei, M. and Swepston, L., *Indigenous and Tribal Peoples: A Guide to ILO Convention No. 169*, Geneva ILO, and Montreal, the International Centre

- for Human Rights and Democratic Development, July 1996, p. 13.
- 49 As note 48, p. 13.
- 50 Generally the Committee of Experts and the Applications Committee will indicate in their comments to the government when the next report is due.
- 51 For example Aruba (Netherlands), Faroe Islands (Denmark), Falkland Islands/Malvinas (UK), French Guyana and Martinique (France).
- 52 In earlier days, both government reports as well as Direct Requests were published. However this practice was discontinued in view of their volume and the corresponding costs of publication. Direct Requests are published later on the ILOLEX (international labour standards) database.
- 53 The Committee of Experts also includes in its Annual Report: (i) ‘satisfactions’ as cases of progress made in implementing measures previously called for by the Committee, (ii) ‘interests’ if there are other positive developments, and (iii) ‘acknowledgements’ to indicate when a government has satisfactorily replied to a previous request for information.
- 54 The Committee of Experts’ report is available in English, French and Spanish. It can be purchased from the ILO or accessed directly through the ILO’s website at [www.ilo.org](http://www.ilo.org). From the homepage click on ‘sitemap’ and under the section ‘About the ILO’ click on ‘International Labour Conference’. From here you should click on the most recent year and call up the reports to the Conference. These reports include the Committee of Experts report, which is normally available from March onwards. This information can also be accessed from the ILOLEX database, but may not be available on the database immediately after publication.
- 55 *Report III (IA) of the Committee of Experts 2001: Application*, p. 55.
- 56 For further information, see [www.itcilo.it](http://www.itcilo.it) the website for the ILO Training Centre in Turin, Italy.
- 57 They can be obtained at the ILO internet site at [www.ilo.org](http://www.ilo.org) through the ILOLEX database. For more information contact: International Labour Standards and Human Rights Department (NORMES), ILO Geneva or at: tel: +41 22 799 7149 fax: +41 22 799 7139 or by email: [polnorm@ilo.org](mailto:polnorm@ilo.org)
- 58 See *Report of the Committee of Experts 2001*, pp. 16–7 for details.
- 59 For more details see *Handbook of Procedures*, 1995, pp. 33–5, and *A Trade Union Training Guide*, 1998, pp. 447–50.
- 60 For more details see Report 325 of the Committee on Freedom of Association, Document vol. LXXXIV, 2001, series B, no. 2. This information is also available via ILOLEX at [www.ilo.org](http://www.ilo.org)
- 61 For more information see the Provisional Record of the 88th session of the International Labour Conference, eighth item on the agenda, ‘Measures recommended by the Governing Body under Article 33 of the Constitution – Implementation of recommendations contained in the report of the Commission of Inquiry entitled “*Forced Labour in Myanmar*” (Burma)’.
- 62 ‘Myanmar (Burma): ILO keeps the door open’, *World of Work*, no. 35, July 2000, p. 13. See also the Provisional Record of the 88th Session of the International Labour Conference.
- 63 See *Report of the Committee of Experts 2001*, pp. 147–54 for more details.
- 64 See *ILCCR: Individual Observation concerning Convention No. 107, Indigenous and Tribal Populations, 1957: Bangladesh (ratification: 1972)*, document no. 24, 1987 for more details. This is also available on the internet through ILOLEX: at [www.ilo.org](http://www.ilo.org)
- 65 Letter of ICFTU President Mr Narayanan to the ILO Director-General concerning ‘Indigenous and Tribal Populations Convention, 1957 (Bangladesh)’ of 22 December 1987, ILO archives, Geneva.
- 66 See *Report of the Committee of Experts 2001*, p. 456–9.
- 67 See *Report of the Committee of Experts 1996*, p. 393.
- 68 See *Report of the Committee of Experts 1999*, p. 569, and Tomei and Swepston, *op. cit.*, p. 13.
- 69 See *Report of the Committee of Experts 1997*, p. 406 for more details.
- 70 For further information see *Report of the Committee set up to examine the representation alleging non-observance by Mexico of the Indigenous and Tribal Peoples Convention. 1989 (No. 169), made under Article 24 of the ILO Constitution by the Trade Union Delegation, D-II-57, section XI of the National Trade Union of Education Workers (SNTE), Radio Education*, document no. GB.272/7/2. Also available from the ILO website at [www.ilo.org](http://www.ilo.org) through ILOLEX.
- 71 See *Report of the Committee of Experts 1999*, pp. 568–73.
- 72 See *Report of the Committee of Experts 2000*, pp. 448–9.
- 73 Simply click on the ‘Search’ option at the top of the ILO homepage. This brings you to the ‘Search the ILO public website’ page. Go to the bottom of this page and there is an option to search by ILO Convention and Recommendation. Click on this and you can enter the number of the Convention you want and it will provide you with the full text. This information can also be accessed from the ILOLEX database (see endnote below).
- 74 The ILOLEX database can be accessed from the

ILO's website at [www.ilo.org](http://www.ilo.org). Click on the 'Search' option at the top of the homepage. This brings you to the 'Search the ILO public website' page. At the bottom of this page click on the 'ILO databases' option. Then click on the second database option which is 'ILOLEX'. Once on the ILOLEX page, click on the second option which displays all documents by 'specific country'. Then select the country you want and it will list all the documents on the database for that country. The first option is for ratification – click on this and it will list all ILO Conventions ratified by that country.

- 75 To access the Committee of Experts report from the ILO's website, from the homepage, click on 'Sitemap', and under the section 'About the ILO', click on 'International Labour Conference'. From here click on 'Reports and documents submitted to the Conference'. These reports include the Committee of Experts' report. You can also find old Conference reports in this manner.
- 76 The index on comments from social partners is listed as an appendix at the end of the Committee of Experts' report at Part Two: III.
- 77 This is also available on the ILO website. From the homepage click on 'sitemap' and under the section 'About the ILO' click on 'International Labour Conference'. From here you should click on the most recent year and then call up 'Reports of Conference Committees and discussion in Plenary'. The reports from the Applications Committee are listed here. This information can also be accessed from the ILOLEX database, but may not be available on the database immediately after the International Labour Conference.
- 78 The quickest way to collect this information is by running a query on the ILOLEX database. Follow the steps outlined in footnote 74 until you have chosen the search based on 'specific country' and typed in the country you are interested in. This will give you all the information on that country including all the Conventions it has ratified, Observations from the Committee of Experts, individual Observations made by the Applications Committee, Freedom of Association cases and any Article 24 (representations) and Article 26 (complaints) procedures.

# Bibliography

- Cairola, E. and Chiarabini, A., *International Labour Standards: A Trade Union Training Guide*, Geneva, International Labour Office and Turin, International Training Centre of the ILO, 1998.
- ILO: *Child Labour: Targeting the Intolerable*, Report VI (1), International Labour Conference, 86th session, 1998.
- ILO, *Constitution of the International Labour Organization and Standing Orders of the International Labour Conference*, Geneva, December 1994.
- ILO: *Demystifying the Core Conventions of the ILO through Social Dialogue: The Indonesian Experience*, ILO Jakarta Office, 1999.
- ILO, *Equality in Employment and Occupation, General Survey by the Committee of Experts on the Application of Conventions and Recommendations*, International Labour Conference, 75th session, 1988.
- ILO, *Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work: Stopping Forced Labour*, International Labour Conference, 89th session 2001, Report I (B), Geneva, 2001.
- ILO, *ILO Convention on Indigenous and Tribal Peoples, 1989 (No. 169): A Manual*, Project to Promote ILO Policy on Indigenous and Tribal Peoples, Geneva, 2000.
- ILO, *Handbook of Procedures Relating to International Labour Conventions and Recommendations*, Geneva, 1995.
- ILO, *Indigenous and Tribal Peoples and the ILO*, ed. M. Tomei, Development Policies Branch, July 1994.
- ILO: *Indigenous peoples: Living and working conditions of aboriginal populations in independent countries*, Studies and Reports, New Series, no. 35, Geneva, 1953.
- ILO, *Individual Observation concerning Convention No. 107, Indigenous and Tribal Populations, 1957: Bangladesh (ratification: 1972)*, International Labour Conference Committee Reports, document no. 24, 1987.
- ILO, *International Labour Conventions and Recommendations*, Geneva, 1919–95.
- ILO, *International Labour Standards: A Workers' Education Handbook*, Geneva, fourth (revised) edition, 1998.
- ILO, *Measures Recommended by the Governing Body under Article 33 of the Constitution – Implementation of Recommendations contained in the Report of the Commission of Inquiry entitled 'Forced Labour in Myanmar' (Burma)*, Provisional Record of the 88th Session of the ILC, eighth item on the agenda, 2000.
- ILO, 'Myanmar (Burma): ILO keeps the door open', *World of Work*, no. 35, July 2000.
- ILO: *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 1A), International Labour Conference, 81st–89th session, Geneva, ILO, 1993–2001.
- ILO, *Report of the Committee set up to examine the representation alleging non observance by Mexico of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), made under article 24 of the ILO Constitution by the Trade Union Delegation, D-II-57, section XI of the National Trade Union of Education Workers (SNTE), Radio Education*, document no. GB.272/7/2.
- ILO, *Report 325 of the Committee on Freedom of Association*, document vol. LXXXIV, 2001, series B, no. 2.
- ILO, *The ILO: What it is, What it does*, Geneva, 1999.
- ILO, *Traditional Occupations of Indigenous and Tribal Peoples: Emerging Trends*, Project to Promote ILO Policy on Indigenous and Tribal Peoples, Geneva, 2000.
- ILO-CEET, *Ethnic Minorities in Central and Eastern Europe: Guidelines and Recommendations Promoting their Employment*, ILO-CETT Report No. 19, Budapest, ILO-Central and Eastern European Team, and Geneva, Equality and Human Rights Coordination Branch, March 1997.
- ILO-SAAT, *Fundamental Human Rights Conventions of the ILO*, ILO-South Asia Advisory Team, New Delhi, ILO, 1997.
- Roulet, F., *Human Rights and Indigenous Peoples: A Handbook on the UN System*, Copenhagen, IWGIA document no. 92, 1999.
- Swepston, L., *Indigenous and Tribal Populations: A Return to Centre Stage*, International Labour Review, vol. 126, no. 4, July – August 1987.
- Tomei, M. and Swepston, L., *Indigenous and Tribal Peoples: A Guide to ILO Convention No. 169*, Geneva, ILO, and the International Centre for Human Rights and Democratic Development (ICHRDD), Montreal, July 1996.

# Useful addresses

## International Labour Organization

### *International Labour Organization (ILO)*

*Address:* 4 Route des Morillons,  
CH-1211 Geneva-22  
*Country:* Switzerland  
*Telephone:* +41 22 799 6111  
*Fax:* +41 22 798 8685  
*E-mail:* ilo@ilo.org  
*Website:* <http://www.ilo.org>

### *Equality and Employment Branch (EGALITE) Standards Department, ILO*

*Address:* 4 Route des Morillons,  
CH-1211 Geneva-22  
*Country:* Switzerland  
*Telephone:* +41 22 799 7115  
*Fax:* +41 22 798 6344  
*E-mail:* egalite@ilo.org  
*Website:* <http://www.ilo.org>

### *Social Protection and Labour Conditions Branch Standards Department*

*Address:* 4 Route des Morillons,  
CH-1211 Geneva-22  
*Country:* Switzerland  
*Telephone:* +41 22 799 7126  
*Fax:* +41 22 798 6926  
*E-mail:* appl@ilo.org  
*Website:* <http://www.ilo.org>

### *Project for Indigenous and Tribal Peoples Equality and Employment Branch*

*Address:* 4 Route des Morillons,  
CH-1211 Geneva-22  
*Country:* Switzerland  
*Telephone:* +41 22 799 7115  
*Fax:* +41 22 798 6344  
*E-mail:* egalite@ilo.org  
*Website:* <http://www.ilo.org>

### *International Programme for the Elimination of Child Labour (IPEC)*

*Address:* 4 Route des Morillons,  
CH-1211 Geneva-22  
*Country:* Switzerland  
*Telephone:* +41 22 799 8181  
*Fax:* +41 22 798 4110  
*E-mail:* ipec@ilo.org  
*Website:* <http://www.ilo.org>

### *ILO Office for Central America*

*Address:* PO Box 10170-1000 San José  
*Country:* Costa Rica  
*Telephone:* +506 253 7667  
*Fax:* +506 224 2678  
*E-mail:* sanjose@oit.or.cr  
*Website:* <http://www.or.cr/mdtsanjo/indig/>

### *ILO Regional Office for Asia and Pacific*

*Address:* UNESCAP Building  
PO Box 2-349 Bangkok 10200  
*Country:* Thailand  
*Telephone:* +66 22 280 1234  
*Fax:* +66 22 280 1735  
*E-mail:* Bangkok@ilo.bkk.or.th  
*Website:* <http://www.ilo.org>

### *ILO Regional Office for South America*

*Address:* Las Flores 295, San Isidorio  
Lima 27  
*Country:* Peru  
*Telephone:* +51 1 421 5286  
*Fax:* +51 1 421 5292  
*E-mail:* biblioteca@ilolim.org.pe  
coronado@ilo.org

### *ILO Regional Office for Arab States*

*Address:* Kantari, Justinian Str.  
Aresco Center, 12th Floor  
Beirut  
*Country:* Lebanon  
*Telephone:* +961 1 752400  
*Fax:* +961 1 752405  
*E-mail:* beirut@ilo.org

### *ILO Regional Office for Africa*

*Address:* Immeuble du Bureau régional  
de l'OTT, Boulevard Lagunaire  
Commune de Plateau, Abidjan  
*Country:* Côte d'Ivoire  
*Telephone:* +225 2031 8900  
*Fax:* +225 2221 2880  
*E-mail:* ottro@ilo.org  
kouakou@ilo.org

## International NGOs

### *Amnesty International (AI)\**

*Address:* 1 Easton St, London WC1X 8DJ  
*Country:* United Kingdom  
*Telephone:* +44 207 413 5500  
*Fax:* +44 207 956 1157  
*E-mail:* amnesty@gn.apc.org  
*Website:* [www.amnesty-international.org](http://www.amnesty-international.org)

**Anti-Slavery International\***

*Address:* Thomas Clarkson House  
The Stableyard, Broomgrove Rd  
London SW9 9TL  
*Country:* United Kingdom  
*Telephone:* +44 207 501 8920  
*Fax:* +44 207 738 4110  
*E-mail:* info@antislavery.org  
*Website:* http://www.antislavery.org

**International Work Group for Indigenous Affairs (IWGIA)\***

*Address:* Classensgade 11E, 2001  
Copenhagen Ø  
*Country:* Denmark  
*Telephone:* +45 35 27 0500  
*Fax:* +45 35 27 0507  
*E-mail:* iwgia@iwgia.org  
*Website:* www.iwgia.org

**Minority Rights Group International (MRG)**

*Address:* 379 Brixton Rd, London SW9 7DE  
*Country:* United Kingdom  
*Telephone:* +44 207 978 9498  
*Fax:* +44 207 738 6265  
*E-mail:* minority.rights@mrgmail.org  
*Website:* http://www.minorityrights.org

**Survival International\***

*Address:* 6 Charterhouse Buildings,  
London EC1M 7ET  
*Country:* United Kingdom  
*Telephone:* +44 207 687 8700  
*Fax:* +44 207 687 8701  
*E-mail:* info@survival-international.org  
*Website:* www.survival-international.org

(The NGOs on the ILO Special List are marked with \*)

**Indigenous NGOs on the ILO Special List****Four Directions Council**

*Address:* Native American St  
University of Lethbridge, Lethbridge  
Alberta T1K 3M4  
*Country:* Canada  
*Telephone:* +1 403 329 2635  
*Fax:* +1 403 380 1855  
*E-mail:* barsh@hg.uleth.ca

**Saami Council**

*Address:* PO Box 200  
Ohcejohka/Utsjoki FIN 99980  
*Country:* Finland  
*Telephone:* +358 16 677 351  
*Fax:* +358 16 677 353  
*E-mail:* samiradd@netti.fi

**World Council of Indigenous Peoples (WCIP)**

*Address:* 100 Argyle Ave, 2nd floor  
Ottawa, Ontario K2P 1B6  
*Country:* Canada  
*Telephone:* +1 613 230 9030  
*Fax:* +1 613 230 9340

**International trade unions****EI – Education International\*\***

*Address:* Boulevard Albert II, 5, 1210 Brussels  
*Country:* Belgium  
*Telephone:* +32 222 40 611  
*Fax:* +32 222 40 606  
*E-mail:* headoffice@ei-ie.org  
*Website:* http://www.ei-ie.org

**ICEM – International Federation of Chemical, Energy, Mine and General Workers' Union**

*Address:* Avenue Emile de Beco 109  
1050 Brussels  
*Country:* Belgium  
*Telephone:* +32 2 626 2020  
*Fax:* +32 2 648 4316  
*E-mail:* icem@icem.org  
*Website:* http://www.icem.org

**ICFTU – International Confederation of Free Trade Unions**

*Address:* Boulevard du Roi Albert II, 5  
1210 Brussels  
*Country:* Belgium  
*Telephone:* +32 2 224 0211  
*Fax:* +32 2 201 5815  
*E-mail:* internetpo@icftu.org  
*Website:* http://www.icftu.org

**ICFTU Geneva Office**

*Address:* Avenue Blanc 46, 1202 Geneva  
*Country:* Switzerland  
*Telephone:* +41 22 738 4202 or 738 4203  
*Fax:* +41 22 738 1082  
*E-mail:* icftu.ge@geneva.icftu.org

**ICFTU Washington Office**

*Address:* 1925 K Street NW, Suite 425  
Washington DC 20006  
*Country:* USA  
*Telephone:* +1 202 463 8573  
*Fax:* +1 202 463 8564  
*E-mail:* icftu@mnsinc.com

**ICFTU Moscow Office**

*Address:* Ul. Zemlynov Val, 64/1 L.623  
109004 Moscow  
*Country:* Russia  
*Telephone:* +7 095 915 7899  
*Fax:* +7 095 915 7899  
*E-mail:* 1studies@home.relline.ru

**ICFTU South-East European Office**

*Address:* Ulica Valtera Perica 22/III  
71000 Sarajevo  
*Country:* Bosnia-Herzegovina  
*Telephone:* +387 33 218 322  
*Fax:* +387 33 203 305  
*E-mail:* icftubux@bih.net.ba

**ICFTU/HKCTU Hong Kong Liaison Office**

*Address:* 19/F Wing Wong Commercial Bldg  
557–559 Nathan Road  
Kowloon, Hong Kong  
*Country:* China  
*Telephone:* +852 2770 8668  
*Fax:* +852 2770 7388  
*E-mail:* ihlo@khctu.org.hk

**ICFTU Amman Office**

*Address:* PO Box 925875, Amman 11110  
*Country:* Jordan  
*Telephone:* +962 6 560 3181  
*Fax:* +962 6 560 3185  
*E-mail:* icftuamm@go.com.jo

**IFBWW – International Federation of Building and Wood Workers**

*Address:* 54, Route des Acacias, PO Box 1412  
CH-1227 Carouge GE  
*Country:* Switzerland  
*Telephone:* +41 22 827 3777  
*Fax:* +41 22 827 3770  
*E-mail:* info@ifbww.org  
*Website:* <http://www.ifbww.org>

**IUF – International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Association (IUF)**

*Address:* Rampe du Pont Rouge 8  
1213 Petit-Lancy  
*Country:* Switzerland  
*Telephone:* +41 22 793 2233  
*Fax:* +41 22 793 2238  
*E-mail:* iuf@iuf.org  
*Website:* <http://www.iuf.org>

**PSI – Public Services International\*\***

*Address:* BP 9, 01211 Ferney-Voltaire Cedex  
*Country:* France  
*Telephone:* +33 450 40 64 64  
*Fax:* +33 450 40 73 20  
*E-mail:* psi@world-psi.org  
*Website:* <http://www.world-psi.org/>

(\*\* Active interest in indigenous issues)

**Regional trade union organizations****ORIT (Organización Regional Interamericana de Trabajadores) Regional Office for North and South America**

*Address:* Avda Andrés Eloy Blanco (Este 2)  
Edificio José Vargas, Piso 15  
Los Caobas, Caracas  
*Country:* Venezuela  
*Telephone:* +58 2 578 3538 or 578 1092  
*Fax:* +58 2 578 1702  
*E-mail:* cioslorit@cantv.net

**AFRO (African Regional Organization)**

*Address:* PO Box 67273, Ambank House  
14 Floor, University Way, Nairobi  
*Country:* Kenya  
*Telephone:* +254 224 4336 or 224 4335  
*Fax:* +254 221 5072  
*E-mail:* info@icftuafro.org

**APRO (Asian and Pacific Regional Organization)**

*Address:* 4th Floor, 73 Bras Basah Road  
Singapore 189556  
*Country:* Singapore  
*Telephone:* +65 222 6294  
*Fax:* +65 221 7380  
*E-mail:* gs@icftu-apro.org  
*Website:* <http://www.icftu-apro.org>

# The International Labour Organization:

## A Handbook for Minorities and Indigenous Peoples

This Handbook gives an insider's view of how the International Labour Organization (ILO) works. It explains how the ILO can be used by non-governmental organizations (NGOs) and others, to promote and protect minority and indigenous peoples' rights.

The Handbook provides an overview of the ILO's structure, relevant committees and methods, in an accessible format. It offers practical advice, case studies and step-by-step guidance on working with the ILO; showing, for example, how NGOs can provide information to the ILO, how they can influence its agenda, and how they can work with bodies such as trade unions to further minority and indigenous peoples' concerns.

While this Handbook is aimed at minorities and indigenous peoples' organizations, and other NGOs working to promote human rights, it will be of interest to anyone wishing to learn more about the ILO and its role in fighting discrimination and protecting rights.

### MINORITY RIGHTS GROUP INTERNATIONAL

379 Brixton Road  
London  
SW9 7DE  
UK

Tel: +44 (0)20 7978 9498  
Fax: +44 (0)20 7738 6265

E-mail: [minority.rights@mrgmail.org](mailto:minority.rights@mrgmail.org)  
Website: [www.minorityrights.org](http://www.minorityrights.org)

### ANTI-SLAVERY INTERNATIONAL

Thomas Clarkson House  
The Stableyard Broomgrove Road  
London SW9 9TL UK

Tel: + 44 (0)20 7501 8920  
Fax: + 44 (0)20 7738 4110

E-mail: [info@antislavery.org](mailto:info@antislavery.org)  
Website: [www.antislavery.org](http://www.antislavery.org)