



Cornell University
ILR School

Cornell University ILR School
DigitalCommons@ILR

International Publications

Key Workplace Documents

1-1-2003

Promoting Better Working Conditions: A Guide to the International Labor Standards System

International Labor Organization

Follow this and additional works at: <https://digitalcommons.ilr.cornell.edu/intl>

Thank you for downloading an article from DigitalCommons@ILR.

Support this valuable resource today!

This Article is brought to you for free and open access by the Key Workplace Documents at DigitalCommons@ILR. It has been accepted for inclusion in International Publications by an authorized administrator of DigitalCommons@ILR. For more information, please contact catherwood-dig@cornell.edu.

If you have a disability and are having trouble accessing information on this website or need materials in an alternate format, contact web-accessibility@cornell.edu for assistance.

Promoting Better Working Conditions: A Guide to the International Labor Standards System

Keywords

Key workplace documents, federal, ILR, Catherwood, labor, promoting, guide, standard, international, ILO, convention, countries

Comments

International Labor Organization



INTERNATIONAL LABOR ORGANIZATION



PROMOTING
BETTER WORKING
CONDITIONS:
A Guide to the
International
Labor Standards
System

Copyright © 2003 International Labor Organization, Washington Office

To order copies of this booklet, or to obtain permission to reprint portions of this publication, contact:

International Labor Organization
Washington Office
1828 L Street, N.W., Suite 600
Washington, D.C. 20036
Phone: (202) 653-7652
Fax: (202) 653-7687
E-mail: washilo@ilowbo.org

PROMOTING BETTER WORKING CONDITIONS: A Guide to the International Labor Standards System

PREFACE	2
INTRODUCTION	3
I. An Overview of International Labor Standards	5
II. Setting Standards: The Making of an ILO Convention	7
III. Ratifying ILO Conventions in the United States	9
IV. Supervising and Promoting Labor Standards—Overview	13
V. Supervising Compliance with <i>Ratified</i> Conventions	15
VI. Monitoring When Countries <i>Don't</i> Ratify Conventions	21
VII. Protecting the Most Fundamental Rights	23
VIII. Making a Difference with International Labor Standards	27
IX. Global Consensus on Fundamental Principles and Rights at Work	33
APPENDICES	35
A. A Note on Article 33	36
B. "Actively Promoted" Conventions	37
C. Key ILO Bodies	41
D. Key ILO Reports	43
E. Internet Guide	46
F. Bibliography	48

PREFACE

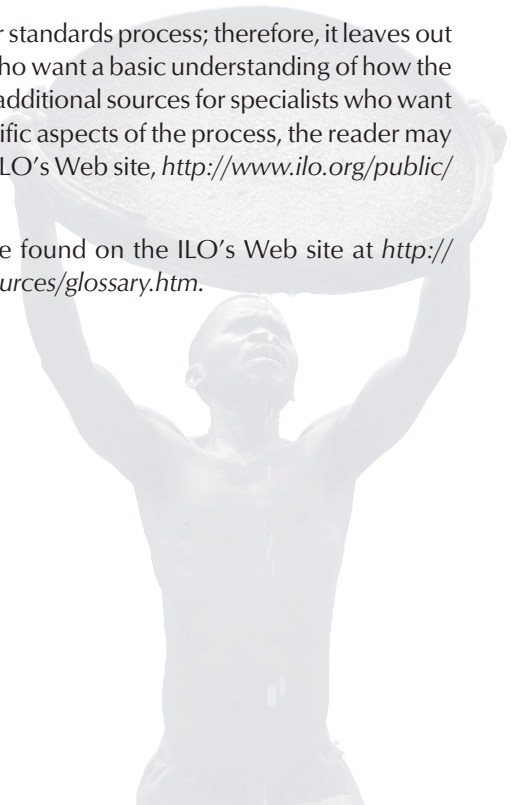
Interest in international labor standards is growing in the United States, as economic globalization increasingly affects the lives of people in this country and around the world. This trend has generated renewed interest in the International Labor Organization (ILO) and the international labor standards—in the form of conventions and recommendations—that it develops and administers.

This booklet explains how the ILO sets standards and supervises the ways governments apply them. It takes the reader through the complete standards process step-by-step, a process that involves the governments of member nations as well as representatives of workers and employers.

Currently, 179 ILO conventions are in force. In 2001, five of the previous total of 184 conventions were withdrawn because, without two or more ratifications by member countries, they could not enter into force. Based on decisions by the Governing Body, the ILO is actively promoting 71 of the 179 conventions. The remaining 108 conventions need revision, are in various stages of review, or are considered obsolete, but they are still in effect and sometimes provide the best international protection available at this time. The revision of the ILO labor code is described in more detail beginning on page 5. Because the 1998 *Declaration on Fundamental Principles and Rights at Work* is based on principles embodied in ILO conventions, this new instrument is described beginning on page 33.

This booklet addresses the key steps in the labor standards process; therefore, it leaves out some details that are not essential to readers who want a basic understanding of how the ILO's standards system works. Appendix F lists additional sources for specialists who want to delve more deeply into the subject. For specific aspects of the process, the reader may also refer to the labor standards section of the ILO's Web site, <http://www.ilo.org/public/english/standards>.

A glossary of ILO standards and terms can be found on the ILO's Web site at <http://www.ilo.org/public/english/standards/norm/sources/glossary.htm>.





ABOUT THE ILO

The ILO is a specialized agency in the United Nations system that brings governments, workers and employers together to set standards for basic worker rights, create stable employment, and promote safe and healthy working conditions. The ILO supervises observance of its standards by national governments; provides technical assistance to developing countries and emerging market economies to help them meet those standards; and conducts and publishes research on a wide range of work-related topics. Founded in 1919, the ILO is based in Geneva, Switzerland, and has 33 field offices and nine branch/liaison offices. As of 2002 there were 175 member countries. It is the only international institution that gives nongovernmental organizations—worker and employer groups—equal voice and vote with governments to achieve “tripartite” solutions to major employment and social issues. For more information, visit <http://us.ilo.org/aboutilo/index.html>.

INTRODUCTION

The issues driving today’s interest in international labor standards are not unlike the chief concerns that led to the establishment of the ILO in 1919. The specter of social instability loomed large as many demobilized soldiers faced unemployment or substandard jobs. Of equal concern was the prospect of nations setting low labor standards in order to produce cheaper exports, and thereby gain an unfair advantage in post-war international trade.

Understanding the potential dangers of poverty and poor working conditions, concerned governments, joined by their tripartite partners in business and labor, created a forum where they could draft, adopt and promote international labor standards. These benchmarks were to guide governments in the design of employment and social policies.

The ILO Constitution, adopted at the 1919 Paris Peace Conference, states that peace in the world is endangered when large numbers of people suffer from inhumane conditions at work and from hardships brought on by poverty. It also states that the failure of any nation to adopt humane labor conditions makes it difficult for other nations that want to improve labor conditions for their citizens.

Later that year, 44 delegates attended the first ILO International Labor Conference in Washington, D.C. They adopted six conventions addressing some of the major inequities in workplace conditions. These conventions were responsible for early advances in Europe, and later in the United States, in areas such as hours of work, unemployment insurance, maternity

INTERNATIONAL LABOR CONFERENCE

- 4 delegates per member state
- 1 worker delegate
- 2 government delegates
- 1 employer delegate

GOVERNING BODY

- 14 worker delegates
- 28 government delegates
- 14 employer delegates

INTERNATIONAL LABOR OFFICE (ILO STAFF/ SECRETARIAT)

- Headquarters in Geneva
- 33 field offices
- 9 branch/liaison offices

protection, and night work for women, as well as the minimum age for young people in industrial work.

The 1944 International Labor Conference prepared for the end of World War II and the transformation of colonies into new nation states. The *Declaration of Philadelphia*, adopted at that conference and later made part of the ILO Constitution, was a major milestone, restating the organization's values and enlarging its goals, with an emphasis on human rights that was later taken up by the newly formed United Nations. The ILO joined the U.N. system in 1946 as the first specialized agency.

Four years later, the 1948 International Labor Conference adopted the ILO cornerstone Convention 87 on Freedom of Association and approved the launch of far-reaching technical assistance programs to transfer know-how to the newly independent nations to aid in their development. As technical cooperation expanded, the growing body of ILO conventions served as the international legal foundation that guided the ILO and its member countries.

Today, as in 1919, there is an awareness—heightened by increasing economic globalization—of the relationship between international economic competition, national economic growth, and changes in national employment, wages and working conditions. A related concern is the large number of unemployed, underpaid and underprotected workers in emerging market economies and poorer countries, who are seen as a potential source of instability.

Once again, the world is turning to the ILO—now with 175 members—as a forum for action and a source of expertise to help remove social and economic inequities. And, as in the past, governments are looking to the ILO's body of labor standards to set common goals that allow countries to benefit from their competitive advantage in the global marketplace while fostering decent working conditions for their citizens.



!

AN OVERVIEW OF INTERNATIONAL LABOR STANDARDS

International labor standards take the form of conventions and recommendations. Recommendations serve as guidelines for lawmakers, while conventions are legally binding treaties.

When a government ratifies an ILO convention, it makes a commitment to bring its legislation and national practices into line with the provisions of the convention. A convention can be amended either with a revised convention or a protocol. Both the new convention and the protocol require government ratification. A recommendation differs from a convention by providing more detailed, non-binding guidelines for national policies and actions and often supplements a specific convention.

National government, worker and employer delegates to the International Labor Conference adopted 184 conventions from 1919 through 2003. Between 1995 and 2002, however, the Governing Body carried out a major overhaul of the ILO's labor code. The goal was to modernize and streamline the complete body of instruments and the means for supervising how they are applied. As a result, the Governing Body selected 71 conventions for active promotion and supervision after deciding that: five should be withdrawn because they had not been ratified; 55 were "obsolete" and should be "shelved;" 24 needed revision; and the status of the remaining conventions could not be determined without additional information. All ILO conventions are the subject of periodic reports to the ILO by member nations.¹

Of the actively promoted ILO conventions, eight have been labeled "fundamental" and four have been labeled "priority." These 12

¹ For a list of the 71 actively promoted conventions, see appendix B.

conventions, along with the years in which they were adopted, are listed in table 1.

FUNDAMENTAL AND PRIORITY CONVENTIONS

The eight fundamental conventions address human rights issues. Seven of these conventions were identified by the 110 governments² that attended the 1995 Social Summit in Copenhagen.³ High-level government officials—many of them heads of state—pledged to pursue the goals of ensuring quality jobs and safeguarding the basic rights and interests of workers. To achieve these goals, they agreed to “promote respect for relevant International Labor

Organization conventions, including those on the prohibition of forced and child labor, the freedom of association, the right to organize and bargain collectively, and the principle of nondiscrimination.”

In 1994, the Governing Body decided that members states should report every two years not only on the fundamental conventions but also on four instruments considered to be priority conventions as they cover important institutions and policies: employment policy; labor inspection; and tripartite consultation on international labor standards. Reports on all other conventions are due every five years, unless requested more often.

TABLE 1: FUNDAMENTAL AND PRIORITY CONVENTIONS*

SUBJECT	CONVENTION NUMBER	YEAR ADOPTED
Fundamental Conventions		
Freedom of association	87	1948
Right to organize and bargain collectively	98	1949
Forced labor	29	1930
Abolition of forced labor	105	1957
Equal compensation	100	1951
Discrimination (employment and occupation)	111	1958
Minimum age	138	1973
Worst forms of child labor	182	1999
Priority Conventions		
Employment policy	122	1964
Labor inspection	81	1947
Labor inspection (agriculture)	129	1969
Tripartite consultation (international labor standards)	144	1976

* Governments report every two years on these conventions they have ratified.

² The list of countries that attended the summit is online at <http://www.un.org/documents/ga/conf166/aconf166-7.htm>

³ ILO members unanimously adopted the eighth core convention, on the worst forms of child labor, at the 1999 International Labor Conference.



SETTING STANDARDS: THE MAKING OF AN ILO CONVENTION

Individual conventions evolve from a growing international concern that something needs to be done to address a particular problem, such as freeing children from the worst forms of child labor, protecting mothers who work while pregnant or nursing, or shielding agricultural workers from the harmful effects of pesticides. Developing international labor standards at the ILO is a unique legislative process, involving representatives of governments, workers and employers from around the world at all stages.

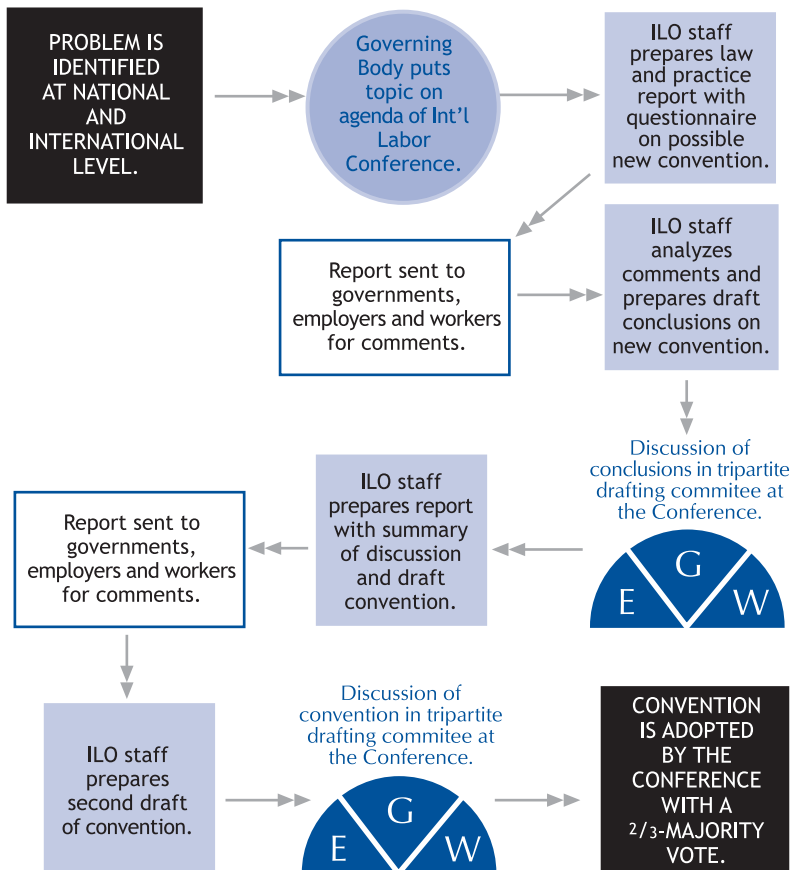
As a first step, the Governing Body agrees in March of a given year to put an issue, such as abusive child labor or maternity protection, on the agenda of the International Labor Conference to be held *two years later*. The conference takes place annually in June. This decision triggers a review by ILO staff of the laws and practices that member countries use to combat the problem. The findings are compiled in a report that is sent to governments, as well as to employer and worker organizations, for their comments. Their replies are analyzed and incorporated into draft conclusions for a first discussion at the conference, along with an accompanying report.

The ILO traditionally follows a “double discussion” process: most draft conventions and recommendations are debated by delegates at two consecutive International Labor Conferences before they are presented for a vote on adoption at a plenary session of the second conference. These discussions take place in conference drafting committees.

During the first discussion, delegates amend the draft conclusions. Voting in the committee is weighted so that each of the three categories of delegates—governments, workers and employers—has an equal voice and vote. Once this first round of discussing and amending is completed, ILO standards experts transform the text of the conclusions into a draft convention (and/or recommendation) and send it to member nations for comment by governments, employers and workers.

The comments received are taken into account in preparing the draft convention submitted to the International Labor Conference the following year. This draft instrument is debated and amended as necessary in the drafting committee at the conference. It is then presented to all conference delegates for approval, with adoption requiring a two-thirds majority vote. An adopted convention normally takes effect 12 months after it receives ratifications by two member states.

FIGURE 1:
THE MAKING OF AN ILO CONVENTION





RATIFYING ILO CONVENTIONS IN THE UNITED STATES

Unlike rules governing other international treaties, the ILO Constitution does not allow member states to ratify ILO conventions with “reservations,” although some conventions have clauses allowing them to be applied in a more flexible way. Therefore, conventions must be ratified in their entirety—no provisions may be excluded—and a country must be willing to implement every provision of a given ILO convention through its own laws and practices if current arrangements do not already comply.

The U.S. Constitution provides that treaties are part of the supreme law of the land, and the U.S. Senate affirmed in a 1988 resolution that it would not ratify a treaty if to do so would require changing U.S. domestic law. Because U.S. labor law is a patchwork of federal and state laws and regulations, the United States would have to resolve problems of conflicting or missing provisions or practices, in order to come into full compliance in law and practice with every element of an ILO convention. This would require changing every relevant federal and/or state law—a difficult task.

As a result, the United States has ratified only 14 ILO conventions since it joined the organization in 1934. Many of them set maritime working standards, which are the purview of federal law in the United States and therefore easier to meet. Of the eight fundamental human rights conventions, the United States has ratified two: Convention 105 on Abolition of Forced Labor and Convention 182 on Worst Forms of Child Labor.

In 1998, the White House sent Convention 111 on Discrimination to the Senate for its advice and consent after a legal advisory panel determined that U.S. law and practice were in compliance with the instrument's provisions. However, as of 2003, the Senate Foreign Relations Committee had not yet considered Convention 111.

Despite the low U.S. ratification rate, American workers generally enjoy good working conditions, and federal and state laws offer protections for both workers and employers on everything from conditions of work to unemployment and social security. In its 1999 annual report on the *Declaration on Fundamental Principles and Rights at Work*, the U.S. Department of Labor noted that the United States "recognizes and is committed" to the fundamental principles of freedom of association, the right to collective bargaining, the abolition of forced labor, equal opportunity and treatment in the workplace, and the elimination of child labor.

The report also noted that the First, Fifth and Fourteenth Amendments of the U.S. Constitution protect the principles of freedom of association. "Taken together," the report said, "these constitutional provisions guarantee that workers and employers are entitled to establish and join organizations of their own choosing, without previous authorization or interference from either the federal government or state governments." It is also "the policy of the United States to encourage collective bargaining between management and labor," the document stated. The report added that relevant labor law does not protect all workers, however, and that a 1994 commission had found some shortcomings in actual protection of workers attempting to organize, bargain for a first contract, and strike.

CHOOSING CONVENTIONS FOR RATIFICATION

The President's Committee on the ILO was established by Executive Order 12216 on June 18, 1980, to "monitor and assess the work of the ILO," to make recommendations to the president and other officers of the federal government on ILO issues, and to perform other functions relevant to relations with the ILO. One of its continuing responsibilities is to determine which ILO conventions to consider for ratification. Chaired by the secretary of labor, the committee also includes the secretaries of state and commerce, the assistant to the president for economic policy, and the presidents of the AFL-CIO and the U.S. Council for International Business, the groups representing American workers and employers at the ILO.

In 1985, the President's Committee unanimously agreed to the following guidelines for consideration of ILO conventions:

- Each convention will be examined on its merits, on a tripartite basis.
- If there are any differences between a convention and federal law and practice, they will be dealt with through the normal legislative process.
- There is no intention to change state law and practice by federal action through ratification of ILO conventions. Each convention will be examined for possible conflicts between federal and state law that would be caused by such ratification.

The Senate endorsed these guidelines in its 1988 resolution, adding that they were designed to ensure that no party would seek ratification of an ILO convention that is inconsistent with U.S. law and practice; and that the Senate would not attempt to use its treaty-making authority to bypass the normal legislative procedures for amending domestic labor laws.

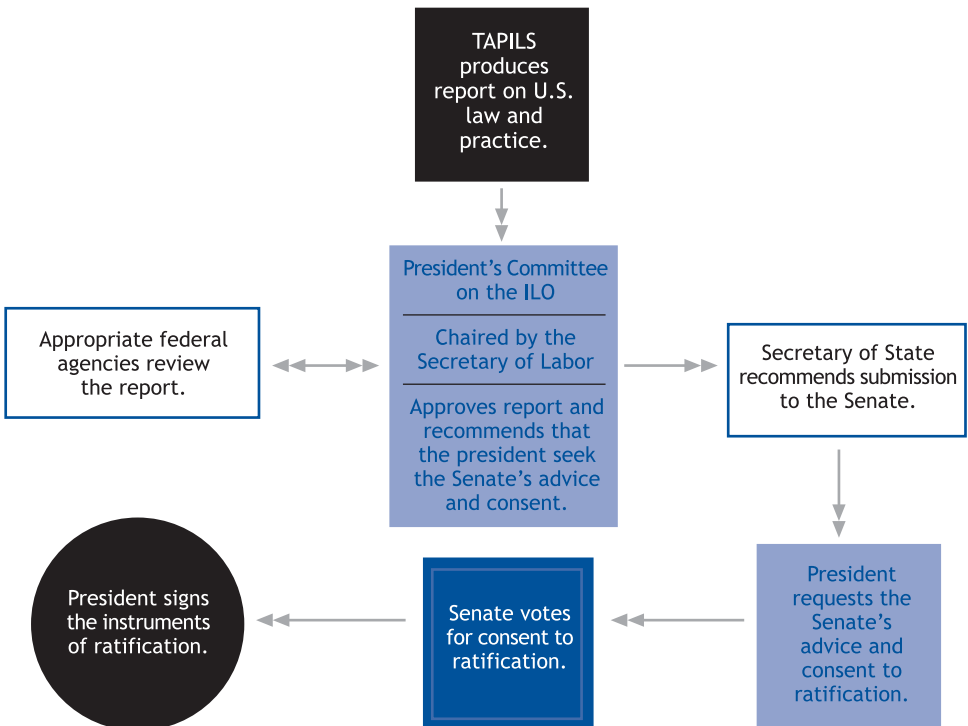
RATIFICATION PROCESS

A subcommittee of the President’s Committee, the Tripartite Advisory Panel on International Labor Standards (TAPILS), examines U.S. law and practice for potential conflicts with the requirements of a given convention. Chaired by the solicitor general

of labor, TAPILS is composed of the legal advisers from the President’s Committee and draws on legal advisers from other federal agencies as needed. For example, when reviewing Convention 111 on Discrimination (Employment and Occupation), the panel worked closely with officials from the Department of Justice.

If TAPILS finds no obstacles to ratification, the panel prepares a report of its findings for the President’s Committee. Once the committee reviews and approves the report, it recommends that the president seek the Senate’s approval, through its role of advice and consent, to pursue ratification. The secretary of labor then transmits the report and a recommendation to ratify the

FIGURE 2:
U.S. PROCESS FOR RATIFYING AN ILO CONVENTION



convention to the secretary of state and other appropriate executive branch agencies for their review and concurrence. The secretary of state then forwards everything to the president with the recommendation that the convention be submitted to the Senate.

After the president forwards the convention to the Senate for the advice and consent procedure, the Foreign Relations Committee

reviews the convention and votes on whether to recommend ratification. If the committee approves the convention, it is sent to the full Senate for a vote on ratification. Following Senate approval, the president formally signs the instruments of ratification, which are sent to ILO headquarters in Geneva for official registration.



IV.

SUPERVISING AND PROMOTING LABOR STANDARDS —OVERVIEW

The application of a ratified convention is sometimes a matter of political will on the part of the government concerned. However, in many cases the government is unable to fully implement a convention because of lack of resources, lack of know-how or both. The ILO has a long tradition of helping governments remedy such problems and achieve an acceptable degree of implementation of the convention in question through national laws and practices.

Experts in field offices and at headquarters in Geneva have advised numerous governments on labor policy development and labor law reform. The ILO also conducts technical assistance programs to help governments solve pressing economic problems, such as child labor, unemployment and faltering social security systems. Health and safety specialists train government inspectors in accident prevention and ways to improve the on-the-job welfare of workers.

Sometimes a government fails to meet its commitment to bring its legislation and national practices into line with the provisions of a convention that it has ratified. The problem is usually brought to the attention of the ILO and the bodies that supervise the standards process through regular reporting from the following sources:

- Government reports
- Submissions of worker and employer organizations
- ILO staff reviews of national legislation, statistical yearbooks, collective bargaining agreements and other documentation

- Participants of the annual Conference Committee on the Application of Standards

The ILO has three sets of procedures to monitor compliance with its conventions and address compliance or alleged violations:

1. Procedures to monitor implementation of conventions that governments have ratified, known as “regular supervision”

2. Procedures to assess how governments are applying the principles of conventions they have not ratified

3. Special procedures on freedom of association

These procedures are each described in the next three chapters.



V.

SUPERVISING COMPLIANCE WITH *RATIFIED* CONVENTIONS

Once a member nation has ratified an ILO convention, it must make sure that its laws and practices comply with the provisions of the convention. And it must apply them on a day-to-day basis.

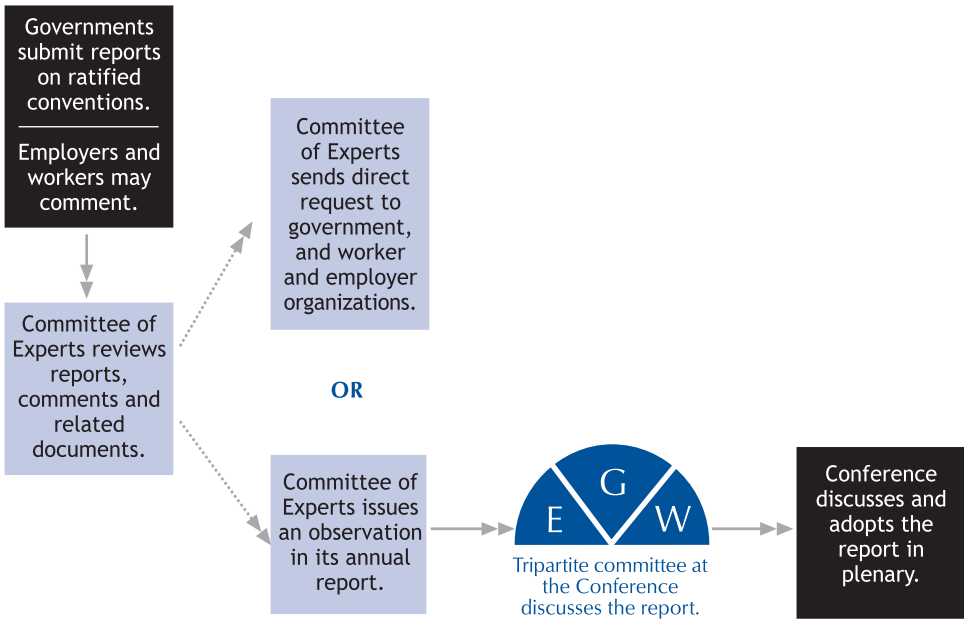
REPORTING

The ILO has machinery for regular supervision of countries' compliance with the conventions that they have ratified. Every two years, governments must submit reports detailing the steps they have taken in law and practice to apply the eight fundamental and four priority conventions. For all other conventions, governments must submit progress reports every five years, although the ILO may request reports at shorter intervals. Employer and worker organizations may submit comments on the government reports.

Every year, the Committee of Experts on the Application of Conventions and Recommendations reviews the government reports, along with any submissions from employer and worker organizations. The committee may also examine documents such as collective bargaining agreements, national laws and regulations, court decisions, and materials from other international organizations. Comments from employer or worker organizations may prompt the committee to ask a government for additional information.

If the committee believes that a country is not fully in compliance, it may call attention to the shortcoming in two ways:

FIGURE 3:
REGULAR SUPERVISORY PROCESS



- By sending a “direct request” to the government (and to the country’s worker and employer organizations) asking for action or clarification
- By issuing “observations” in a published report calling attention to serious or long-standing problems

International Labor Conference. The report is reviewed in sessions of the conference’s Committee on the Application of Standards. Governments that are mentioned in the report may be invited to address this committee by submitting a written statement, by sending a representative, or both.

In response to comments from the Committee of Experts, governments have changed their laws or practices in more than 2,200 documented instances since 1964. These improvements are referred to as “cases of progress,” in which the committee “expressed satisfaction” with the steps taken by the governments.

During the conference committee sessions, ILO government, worker and employer delegates have an opportunity to highlight problems in particular countries with respect to the application of conventions that those countries have ratified. The Committee on the Application of Standards’s discussion of individual cases is summarized in the annexes of its report. Those that the committee considers to be of special concern are summarized in “special paragraphs,” along with the committee’s conclusions or

The Committee of Experts prepares an annual report, which is published on the Internet and sent to governments and to worker and employer delegates to the

recommendations. On rare occasions, a case may be mentioned under the severest category of “continued failure to comply.”

Once the conference committee has completed its review, its report is submitted to all delegates to the International Labor Conference for discussion and adoption in a plenary session.

REPRESENTATIONS AND COMPLAINTS

In addition to the regular supervisory mechanisms, there are two other tracks for promoting implementation and enforcement of the provisions of ratified conventions:

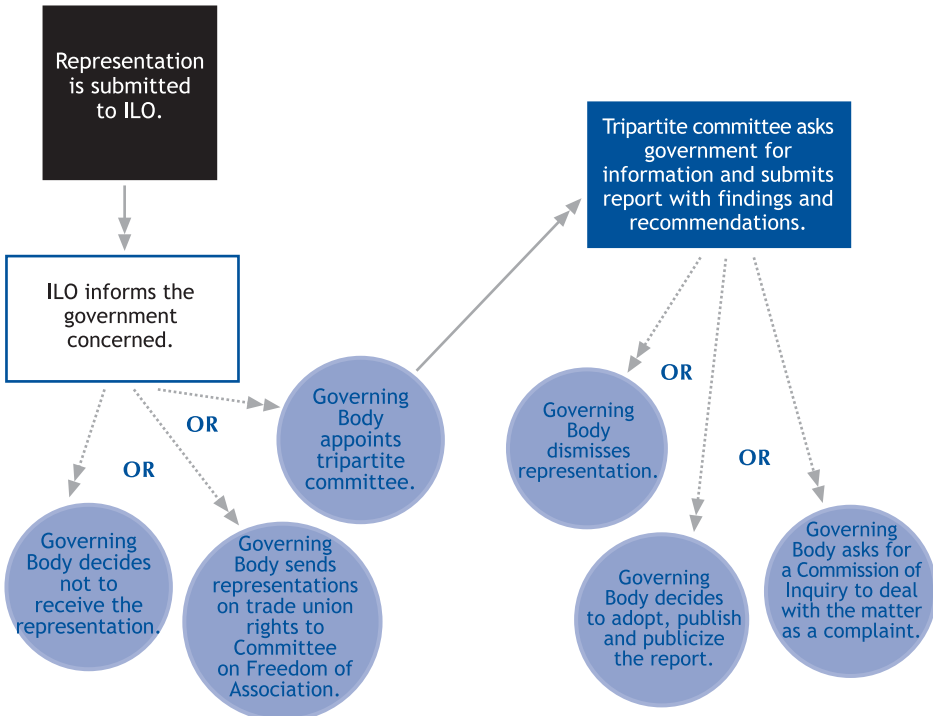
- Examination by the Governing Body, following a “representation”
- An open investigation by a Commission of Inquiry, following a “complaint”⁴

Representations

National and international worker and employer organizations can make a representation to the ILO claiming that a country has not applied a convention that it has ratified. The government is informed of the representation, and the question is brought to the Governing Body for a decision on whether or not to receive it.

⁴ Representations and complaints involving alleged violations of freedom of association are handled through separate—but similar—procedures explained in chapter 7.

FIGURE 4:
REPRESENTATIONS PROCESS



Once the Governing Body accepts a representation, it sets up a tripartite Ad Hoc Committee of its members to examine the merits of the case. The committee may request further information from either the organization that brought the representation or the government in question. If the committee asks the government for more information, then the government has the right to ask that the ILO director general send a representative to the country to meet with officials and gather information about the issue concerned.

After the Ad Hoc Committee completes its work, its conclusions and recommendations are submitted in a report to the Governing Body. A government representative must be invited to attend a discussion of the report in a meeting of the Governing Body, which is entirely confidential until the Governing Body adopts the report.

Ultimately, the Governing Body can deal with a representation in one of several ways. It can:

- Close the matter, after deciding not to receive it
- Adopt the report, with findings and recommendations and refer the matter to the Committee of Experts for follow-up
- Decide on formal publication of the report and the findings and recommendations to widen publicity of them
- Refer the matter to a Commission of Inquiry to deal with it in the same manner as a complaint

Complaints

Complaints against member states may be initiated by another ILO member state that

has ratified the same convention, by any delegate to the International Labor Conference, or by the Governing Body itself. The Governing Body may appoint a Commission of Inquiry to examine the merits of the complaint.

A Commission of Inquiry is the ILO's highest-level investigative procedure, and is generally invoked when a member state is accused of committing persistent and serious violations and has repeatedly refused to address them. Reports issued by the commission are public documents. To date, the Governing Body has appointed only 10 Commissions of Inquiry.

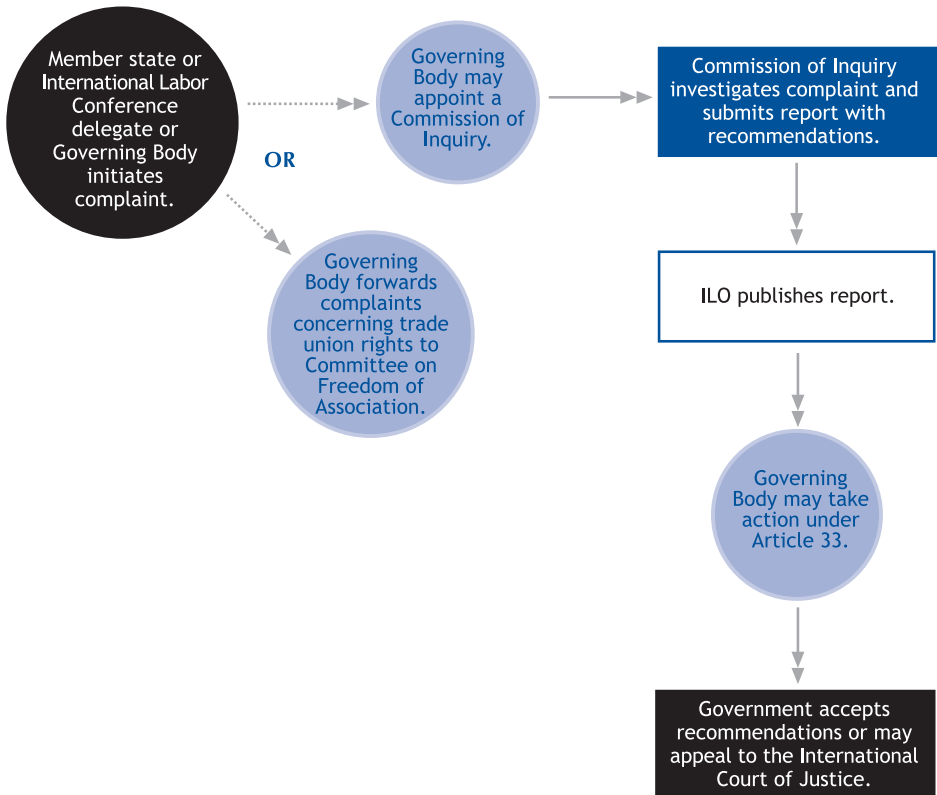
Commissions of Inquiry have broad freedom of action in conducting their investigations. This freedom ensures that commissions have thorough and objective information, which enables them to examine all of the factual and legal aspects of a complaint. They may request statements and documents from all parties—including worker and employer organizations and other nongovernmental organizations—as evidence and invite other member states—including bordering nations and important trading partners—to submit information. Commissions may also conduct investigations and hearings. These inquiries may take place in the country that is the subject of the complaint, if allowed by that country to do so.

When a Commission of Inquiry finishes its work, it adopts and sends a report to the Governing Body, to the government concerned, and to the ILO secretariat for publication. In its report, the commission presents findings and makes recommendations to correct any problems it identifies. It also asks the government against which the complaint is brought to

follow up on the matter in the government's regular reports to the ILO on the application of the convention concerned. This reporting enables the Committee of Experts and the International Labor Conference's Committee on the Application of Standards to review, at regular intervals, the progress the government has made in observing the ratified convention.

Under the ILO Constitution, the government concerned has three months to indicate whether or not it accepts the commission's recommendations and, if it does not, whether it intends to refer the complaint to the International Court of Justice in The Hague for a decision. This type of referral has not occurred with any of the 10 complaints examined by Commissions of Inquiry.

FIGURE 5:
COMPLAINTS PROCESS



APPLYING PRESSURE WITH ARTICLE 33

When a country refuses to take action to fulfill the recommendations of a Commission of Inquiry, the Governing Body can take action under Article 33 of the ILO Constitution. This provision states that “in the event of any Member failing to carry out within the time specified the recommendations, if any, contained in the report of the Commission of Inquiry... the Governing Body may recommend to the [International Labor] Conference such action as it may deem wise and expedient to secure compliance therewith.”

The Governing Body invoked Article 33 for the first time in ILO history in 2000, when it asked the International Labor Conference to apply pressure on Myanmar [Burma] to comply with a Commission of Inquiry’s recommendations on forced labor. A conference resolution proposed further action by governments, employers, and workers, as well as other international organizations, United Nations bodies, and specialized agencies to persuade Myanmar to end the systematic use of forced labor.

These actions, along with the debate on linking labor standards and trade, have raised questions about whether or not the ILO has sufficient means to obtain member state compliance with ratified conventions. They have also focused attention on Article 33 as a timely tool in a world that expects change to happen faster than the usual pace at which international organizations can operate.

WHO CAN MAKE A REPRESENTATION?

- National worker organizations
- National employer organizations
- International worker organizations
- International employer organizations

WHO CAN INITIATE A COMPLAINT?

- Another ILO member state that has ratified the same convention
- A delegate to the International Labor Conference
- The ILO Governing Body



VI.

MONITORING WHEN COUNTRIES *DON'T* RATIFY CONVENTIONS

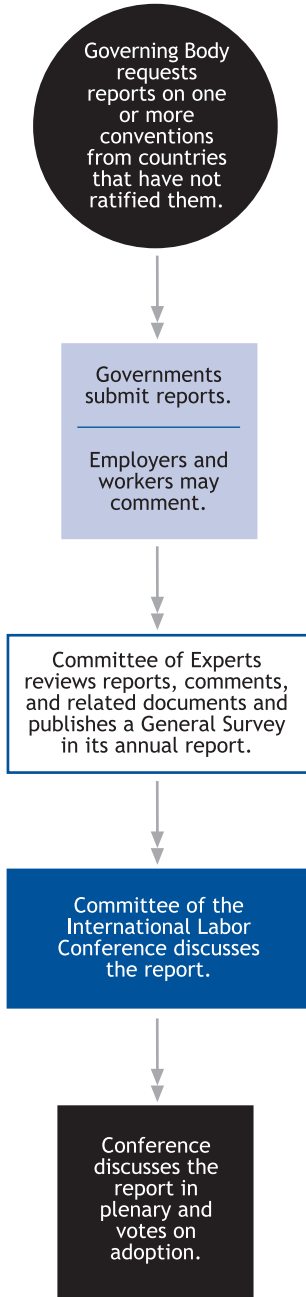
Although ILO conventions are drafted with a view to ratification, governments don't always do so for various reasons. The ILO has a procedure, under constitutional Article 19, to determine why countries have not ratified a particular convention and if they nonetheless are taking steps to implement its provisions through legislation and enforcement.

Each year, the Governing Body requests reports on a particular convention or group of related conventions from governments that have not ratified them. In recent years, report topics have included migrant workers, vocational rehabilitation and employment of disabled persons, labor administration, equality at work, and protection against unjustified dismissal.

The Committee of Experts on the Application of Conventions and Recommendations examines the government reports, along with information supplied by employer and worker organizations. The committee may also review legislation and other official documents provided by ILO staff. The committee then includes information on the specific nonratified conventions in a general survey on member nations' laws and practices, which is included in its annual report. This report is sent to the Conference Committee on the Application of Standards and to all conference delegates.

The Conference Committee discusses the general survey and includes a report on its discussion in its report to the conference plenary. This gives delegates a further opportunity to highlight the findings of the general survey or other selected elements of the Conference Committee's work.

FIGURE 6:
MONITORING WHEN COUNTRIES DON'T RATIFY CONVENTIONS





VII

PROTECTING THE MOST FUNDAMENTAL RIGHT

The ILO recognizes the overriding importance of the right of working people to form unions or other types of organizations—whether or not a country has ratified the two conventions (Nos. 87 and 98) that enshrine the principle of freedom of association. The principle is specified in the ILO’s Constitution, which every member is obliged to respect as a condition of membership. As a result, the ILO has special supervisory procedures to promote and protect this right—the cornerstone on which all other rights are built.

Complaints concerning violations of freedom of association may be brought against a member state by worker or employer organizations, even when the government has not ratified the relevant conventions. Complaints are received by the Governing Body, which refers them to its Committee on Freedom of Association. This committee, comprising three government, three worker and three employer members of the Governing Body, meets three times a year to review allegations and determine whether they have merit. The ILO director general also has the authority to contact the government concerned, in the name of the committee, to seek its comments on the allegations.

The Committee on Freedom of Association may recommend that no further action be taken on allegations that it determines:

- Are purely political in nature
- Do not involve an infringement of the exercise of trade union rights
- Are too vague to permit further consideration

When the committee decides that further action is warranted, it may recommend that the Governing Body take one or more of the following steps:

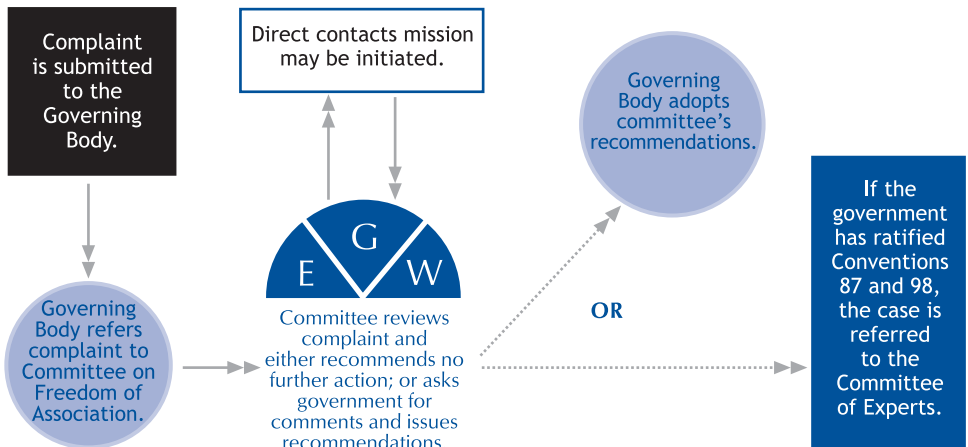
- Express its concerns to the government involved
- Invite that government to take steps to remedy the situation
- Ask that government to provide a follow-up report

The ILO may also choose to initiate a “direct contacts” mission to examine the matter further and seek a solution. A mission can take place during the initial examination of the complaint or at a later stage. Under this procedure, the director general sends a special representative to address a problem directly with officials of the government involved. The supervisory process is suspended during these high-level discussions.

There are some differences in the follow-up procedures when dealing with allegations against countries that have ratified Conventions 87 and 98 and countries that have not. For a country that has ratified the conventions, the Committee of Experts on the Application of Conventions and Recommendations handles the follow-up work after the Committee on Freedom of Association has reached its conclusions.

For a country that has not ratified the relevant convention(s) (87 or 98 or both, depending on the alleged infraction), the matter remains the jurisdiction of the Committee on Freedom of Association, which may ask the ILO director general to remind the government concerned to supply information on the case, including the steps it has taken to solve the problem. Complainants may also be asked to supply further information or to comment on the government’s reply.

FIGURE 7:
FREEDOM OF ASSOCIATION PROCESS



WHEN A GOVERNMENT DOES NOT RESPOND

When the government of a country that has not ratified the relevant convention(s) fails to supply requested information within a reasonable period of time, the Committee on Freedom of Association mentions the government in a special paragraph in the introduction of one of its reports, which are issued in May, June and November of each year. In addition, the government is notified that the committee chair will make contact with the government's representatives at the International Labor Conference to call their attention to the case. The chair then reports the results of these meetings to the committee.

There are rare occasions when the government concerned chooses not to communicate with the ILO or to respond to the recommendations of the Committee on Freedom of Association. When this occurs and a reasonable amount of time has passed, the ILO may send a direct contacts mission to ascertain the facts relating to a case and to seek solutions. If the government continues to fail to reply, the ILO may take further steps, such as publicizing the complaint, along with the recommendations of the Governing Body and the negative attitudes of the government.

If a government has ratified the relevant convention(s) and does not provide the requested information within a reasonable period of time, the complaint may be moved through the regular supervision procedures involving the Committee of Experts and the Committee on the Application of Conventions and Recommendations, as described in chapter 5.

In cases of serious and persistent violations of freedom of association, the ILO can refer the matter to a Fact-Finding and Conciliation Commission on Freedom of Association, which operates much like a Commission of Inquiry. If the country concerned has not ratified at least one of the ILO's conventions on freedom of association, the Governing Body must have the consent of the accused government to proceed. If consent is withheld, or if the government does not reply to the Governing Body within four months from

WHO CAN BRING A COMPLAINT ABOUT VIOLATIONS OF FREEDOM OF ASSOCIATION?

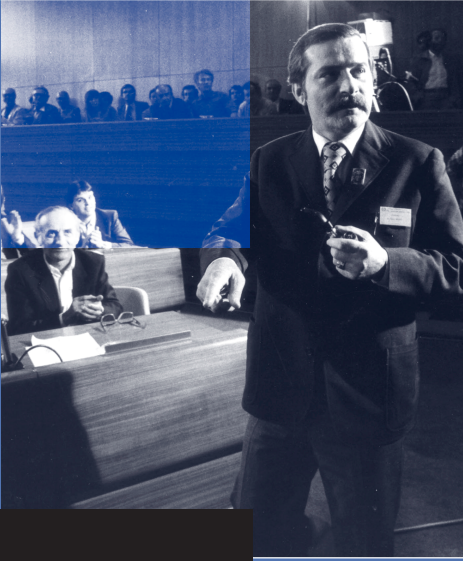
- **Workers' organizations**
- **Employers' organizations**

the time the request is made, then the Committee on Freedom of Association may recommend “appropriate alternative action.” Fact-Finding and Conciliation Commissions have been convened six times, the last one in 1991–1992. The Committee on Freedom of Association has never recommended “appropriate alternative action.”

If the commission is able to proceed, at the end of its work it issues a final report on the case with conclusions and recommendations

for the solution to the problems involved. The report is published in the ILO’s *Official Bulletin*.

Since a large number of ILO members have ratified conventions 87 and 98 (139 and 151, respectively, out of 175 members), complaints are now brought more frequently under the regular supervisory procedures. However, the Committee on Freedom of Association may still deal with alleged violations involving a country that has ratified conventions 87 or 98, as noted above.



VIII.

MAKING A DIFFERENCE WITH INTERNATIONAL LABOR STANDARDS

Do international labor standards make a difference? Yes, and part of the answer to this question can be found in the annual report of the Committee of Experts on the Application of Conventions and Recommendations. Each year, this independent committee tallies the number of cases in which countries have improved their laws or practices since 1964, the year the committee started to keep this record. These instances are labeled “cases of progress,” and in 2002 the committee reported 2,312 during the past 38 years, or an average of 61 cases each year. Although the committee does not weight the cases for importance, these statistics are one indication that the machinery gets results.

The Committee on Freedom of Association’s record is documented in a 2002 study published to mark the panel’s 50th anniversary. The committee’s accomplishments include the release of imprisoned trade unionists, protection of the rights of both workers and employers to join organizations of their own choice, and reversal of anti-union discrimination. From 1991 to 2001, nearly 2,000 trade unionists from 40 countries were released following the committee’s recommendations. This figure does not include the several thousands of trade unionists detained in the Republic of Korea and released during the same period, aided by ILO action.

For a qualitative measurement of the ILO’s impact on major problems, one has to look at the anecdotal material. There is substantial evidence that the actions of the ILO’s supervisory and governance bodies have contributed to major improvements in

worker rights and working conditions, some of historic proportion.

At the 1990 International Labor Conference, Nelson Mandela, then-vice president of the African National Congress, recognized the ILO's role in helping to end apartheid in South Africa, a 33-year saga of ILO perseverance. Mandela saluted the ILO "for its enormous contribution to our common struggle. The actions you took which resulted in the withdrawal of South Africa from the ILO a quarter of a century ago, and what you have done since then, are important elements in the common efforts of all humanity to isolate and by this means destroy the system of apartheid."

"Important elements in the common efforts" is an apt description of the role that the ILO's labor standards system has played in improving work and life for people around the world. To correct serious violations of international labor conventions usually takes more than the efforts of the ILO. The ILO sets the standards, objectively monitors their application and enforcement, and provides technical assistance to help countries comply with provisions of conventions. Governments, unions, and sometimes NGOs, other international organizations, and companies, exert pressure that adds to the ILO's actions, motivating a government to remedy the problem reported in a complaint to the ILO. As in Poland and other cases cited on the following pages, the remedy may trigger a chain of events that go well beyond compliance with the recommendations of an ILO supervisory body.

The ILO would prefer that countries make progress on their own initiative, drawing on the organization's conventions, recommendations and other guidelines, and seeking ILO technical assistance as needed.

When a complaint highlights a violation of ILO standards, the supervisory and governance bodies allow ample time for governments to reply, to act and to request know-how. The promotional character of the *Declaration on Fundamental Principles and Rights at Work* allows countries even more latitude to remedy a worker rights problem through technical assistance.

The following examples illustrate how the ILO's standards and supervisory and governance bodies are "important elements in the common efforts" that improved workplace human rights in various countries.

LEVERAGING LABOR STANDARDS IN POLAND

Poland's ratification of ILO Convention 87 on Freedom of Association gave the Solidarity trade union critical leverage in its struggle to gain recognition from the Communist regime in the 1980s. Solidarity's ally, the International Confederation of Free Trade Unions, charged Poland with violating Convention 87 in a complaint brought to the ILO in 1978. After resisting full compliance for 10 years, and under a steady stream of criticism from the ILO, the Polish Communist government finally relented and gave Solidarity legal status in 1989. Many international and national organizations and national governments supported Solidarity and put pressure on the Polish government. The ILO's standards system, however, gave Solidarity and its allies the essential leverage of international law.

Solidarity President Lech Walesa wrote to Senator Bob Dole in 1995, "The ILO... played a significant role in reminding the world of our existence and our goals. It supported us in the most difficult times of our underground

existence. The Commission of Inquiry created by the ILO after the imposition of martial law in my country made significant contributions to the changes which brought democracy to Poland.”

SEEKING EQUALITY IN BRAZIL

In the 1980s, Brazilian women were suffering serious harm from discrimination. The Committee of Experts on the Application of Conventions and Recommendations had been urging the Brazilian government to amend a law that allowed a husband to interfere with his wife’s employment contract if its continuance threatened the family. In 1991, the government brought the law into conformity with Convention 111 on Discrimination in Employment and Occupation.

The following year, the Committee of Experts learned of a parliamentary committee report stating that numerous employers forced women seeking employment or wishing to keep their jobs to furnish certificates attesting that they had been sterilized. The situation was so shocking that it prompted a public debate of this and other violations of Conventions 111 and 100 (the convention on equal remuneration) at the 1993 and 1994 International Labor Conferences.

Unable to present a convincing case that the violations did not exist, in 1995, the Brazilian government sought and received ILO assistance to remedy the problem, starting with a workshop to sensitize high-level decisionmakers about discrimination issues. The following spring, newly elected President Fernando Cardoso unveiled a National Program for Human Rights to

implement Convention 111. A Council on Nondiscrimination was created, along with Brazil’s first tripartite body to deal with these issues and encourage parties pursuing collective agreements to make equality an issue at the bargaining table. In the late 1990s, labor inspectors and prosecutors, armed with a mandate to eliminate discrimination in employment, went to work. Many laws at the federal and state levels were subsequently amended.

In this example of leveraging the ILO’s work, a growing unacceptable human rights situation in Brazil galvanized social actors to use the ILO’s standards and procedures for peaceful change. A reformist president, substantial bilateral aid, a large national budget, and action by the ministries of labor and justice, as well as state governments, brought an end to forced sterilization of female workers and the creation of a mechanism to correct gender-based discrimination in the workplace.

ENDING PERSECUTION OF UNION ORGANIZERS IN SOUTH KOREA

South Korea joined the ILO in 1991 during its period of rapid economic development and democratization, and soon found itself the subject of complaints filed with the ILO alleging imprisonment of trade unionists for legitimate labor activity. Throughout the 1990s, the South Korean government’s denial of freedom of association to workers continued to dog its efforts to gain acceptance by the international community. During this period, ILO supervisory bodies and officials urged the South Korean government to reform its legislation and practices.

During a 1996 parliamentary session, having just achieved the coveted status of membership in the Organization for Economic Cooperation and Development (OECD), the government rushed through legislation restricting freedom of association. After strong negative reactions from various sources at home and abroad, including the OECD and the ILO's Committee on Freedom of Association, the South Korean government announced partial revisions to its labor law. Soon thereafter, the Asian financial crisis hit with full force, and South Korea sought emergency funding from the International Monetary Fund (IMF). At the behest of ILO and IMF members, the IMF secured an agreement from the South Korean government to implement some labor law reforms, based on suggestions made by the Committee on Freedom of Association.

Additional reforms followed when Kim Dae Jung became president in 1998, including amnesty for most workers still imprisoned for labor organizing activities. Because events in 2002 indicate continued strained relations between the government and the unions, including imprisonment of union members, the ILO continues to urge South Korea to prevent further violations of freedom of association.

CHIPPING AWAY AT FORCED LABOR—NEPAL SETS AN EXAMPLE

The ILO can cite more than 50 cases in which laws that allowed for forced labor have been eliminated. Yet ending slavery, bonded labor, inhumane prison work, and other practices defined as forced labor has proven virtually impossible. The practices often are hidden and the victims are helpless. Until a

country decides that it can no longer bear the stigma of this breach of human rights, the ILO, its members and other organizations can only chip away at the practice. A case in point is Myanmar [Burma], where the ILO has steadily pursued an end to the widespread and systematic use of forced labor by the military.

The Kingdom of Nepal is one country that has taken big steps to improve life for many citizens who had been in bondage. Although the country's constitution prohibits slavery, serfdom, forced labor, and trafficking in persons in any form, forced labor and trafficking in persons remain problems. In addition, Nepal has been struggling to improve its human rights record in the face of internal strife.

In 2000, the government of Nepal issued a decree outlawing bonded labor and released an estimated 75,000 "Kamaiya," bonded agricultural workers, from their debts. The government then asked the ILO to conduct a large technical assistance project to assure that their release would be sustainable. Funding was provided by the U.S. Department of Labor under the ILO's technical program for the *Declaration on Fundamental Principles and Rights at Work*. In 2001, the Nepalese parliament ratified Convention 29 on Forced or Compulsory Labor, reaffirming the country's commitment to ending all forms of forced labor.

CAMPAIGNING TO END CHILD LABOR

Delegates to the 1999 International Labor Conference adopted Convention 182 on the Worst Forms of Child Labor unanimously. Shortly thereafter, the ILO launched a global campaign to promote ratification of this

convention by all member countries. A major activity of the International Program on the Elimination of Child Labor (IPEC), the ratification campaign supports the growing global movement against child labor and sets the stage for strong implementation of Convention 182. In just three years, 129 of the ILO's 175 member countries had ratified 182, a record rate in the history of the ILO. This number surpassed the 117 ratifications received by Convention 138 on Minimum Age for Work, which was adopted by delegates to the 1973 International Labor Conference.

The Committee of Experts has made more than 50 observations about the need for countries that have ratified Convention 138 to bring their legislation into compliance with the convention. The ILO's supervisory bodies have also raised the issue of child labor in connection with applications of Convention 29 on Forced Labor.

IPEC's technical assistance goes hand-in-hand with the supervision of Conventions 138 and 182, working to help countries meet the standards they set. The importance of IPEC's programs can be gauged by the large

number of participating countries and the high level of funding from donor nations. The United States is by far the largest donor country, having granted or committed a total of \$157 million since 1995. IPEC programs are increasingly national in scope and include projects that deal with root causes; withdraw children from harmful work; rehabilitate them; give them education and skills training for light work; provide counseling, health services and nutrition; furnish legal aid; and prevent future recruitment of children. Governments receive IPEC/ILO advisory services to align national laws with ILO conventions, train inspectors and establish comprehensive national programs.

IPEC now operates 760 projects in 52 countries. Programs with timetables for ending the worst forms of child labor are either operating or being planned in 13 countries. The impact of this work can be partially gauged through statistics. In the period of 2000 to 2001, IPEC projects improved the lives of 311,108 children, benefited 29,292 parents, and formed 9,358 community organizations to combat child labor.



IX.

GLOBAL CONSENSUS ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK

ILO government, worker and employer delegates adopted a promotional measure at the 1998 International Labor Conference, the *Declaration on Fundamental Principles and Rights at Work*. The goal of this measure is to strengthen the ILO's procedures and effectiveness in addressing fundamental rights in the workplace. By adopting the declaration, the 175 countries that belong to the ILO agreed to respect four principles and promote their application. The principles are inherent in the ILO Constitution and embodied by the eight fundamental conventions (see table 2).

The declaration's introduction states that although globalization contributes to economic growth—a prerequisite for social progress—economic growth is not enough to guarantee social progress. Economic growth must occur according to certain ground rules, based on common values, that enable all those contributing to the growth to receive their fair share. The declaration and its follow-up procedures are designed to help governments achieve social progress along with economic gains, while taking into account the wide-ranging differences in their ability to do so.

To determine the extent to which member states respect the principles and rights set forth in the declaration, countries that have not ratified one or more of the eight fundamental conventions are required to submit annual reports on the steps they have taken in law and practice to conform with the principles of the conventions they have not ratified. The ILO publishes these reports, along with an introduction by expert advisers and comments by workers'

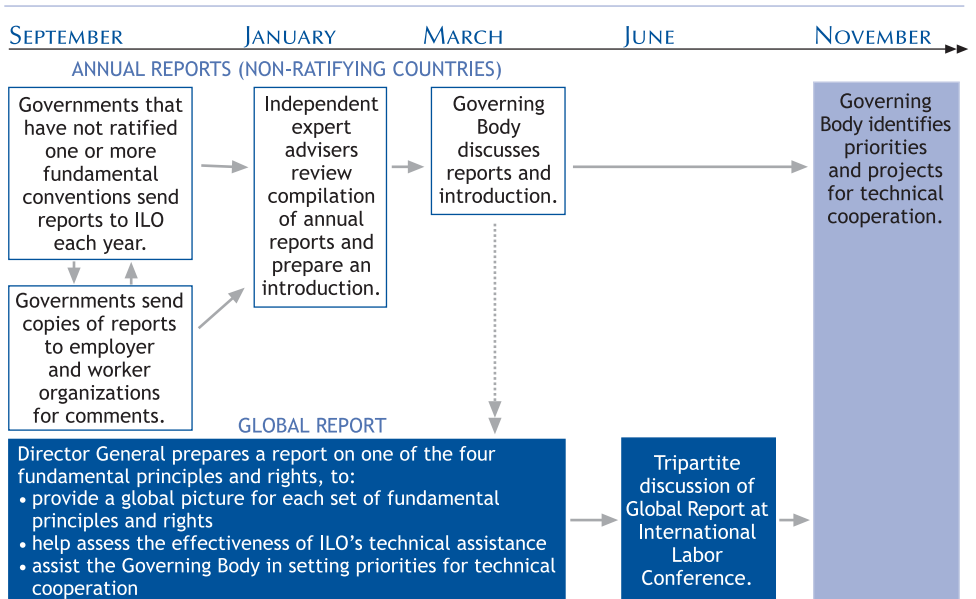
TABLE 2: FUNDAMENTAL PRINCIPLES AND RIGHTS

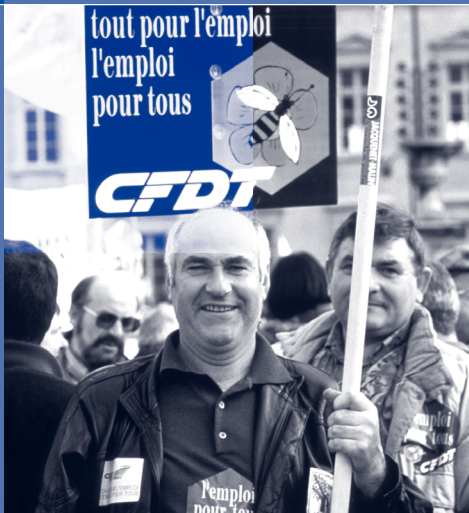
SUBJECT	CONVENTIONS
Freedom of association and the right to bargain collectively	87, 98
Abolition of forced labor	29, 105
Equal opportunity and treatment in employment	100, 111
Elimination of child labor	138, 182

and employers’ organizations. Member states that have ratified the fundamental conventions are exempt from this reporting requirement, since their performance is subject to review under the ILO’s regular supervisory system. An ultimate aim of the annual reports is to encourage member states to ratify all eight fundamental conventions. The declaration also instructs the ILO’s director general to prepare an annual report on the global status of one of the four principles. *Your Voice at Work* (2000), the first

such comprehensive survey, reports on respect for freedom of association and the right to collective bargaining. *Stopping Forced Labor* (2001) documents the rise in various forms of forced labor, such as slavery, debt bondage, and human trafficking. *Every Child Counts* (2002) deals with child labor issues. The 2003 report will review discrimination. The findings of these reports are intended to help assess the effectiveness of the ILO’s technical assistance to member states and set priorities for the organization’s work.

FIGURE 8:
FOLLOW-UP TO THE DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK





APPENDICES

APPENDIX A A NOTE ON ARTICLE 33

A 1946 amendment to Article 33 of the ILO Constitution removed a specific reference to economic sanctions, and thereby left unspecified the means that could be used to put pressure on a member state, in the event it failed to carry out the recommendations of a Commission of Inquiry.

The 1946 conference delegation's report on the amended text states that the new "general clause would leave the Governing Body a discretion to adapt its action to the circumstances of a particular case, and permit it to make recommendations to the member of the organization or, if appropriate, to draw a case of such failure to the attention of the Security Council of the United Nations."

The amendment also transferred the authority for recommending measures from ILO Commissions of Inquiry to the Governing Body. Article 33 originally directed Commissions of Inquiry to conduct fact-finding and to indicate "the measures, if

any, of an economic character which it considers to be appropriate, and which other governments would be justified in adopting against a defaulting government." The amendment assigned responsibility for recommending "wise and expedient" action to the Governing Body.

The 1946 conference delegation's report states it is "inappropriate that Commissions of Inquiry consisting of persons acting in a personal capacity" be empowered to "indicate the measures, if any, of an economic character against a defaulting government which they consider to be appropriate and consider other governments would be justified in adopting."

The report adds that "the device of Commissions of Inquiry can develop into a valuable part of the machinery of the organization" if their functions are confined to fact-finding and making recommendations to member states on measures that would bring those states into line with the conventions they have ratified.

“ACTIVELY PROMOTED” CONVENTIONS

APPENDIX B

This table lists the 71 conventions that are up-to-date and actively promoted. Conventions that cover more than one subject appear in the table only once. For example, the Minimum Age Convention, 1973 (No. 138), is listed only under the heading “Fundamental Conventions—Child Labor” and does not appear again under the heading “Employment of Children and Young Persons—Minimum Age.”

SUBJECT	CONVENTIONS AND SUBJECT MATTER
FUNDAMENTAL CONVENTIONS*	
Freedom of association	
	C87 Freedom of association C98 Right to organize and collective bargaining
Forced labor	
	C29 Forced labor C105 Abolition of forced labor
Equality of opportunity and treatment	
	C100 Equal remuneration C11 Discrimination
Child labor	
	C138 Minimum age C182 Worst forms of child labor
PRIORITY CONVENTIONS AND PROTOCOLS†	
Employment policy	
	C122 Employment policy
Labor inspection	
	C81 Industry and commerce P81 Non-commercial services C129 Agriculture
Tripartite consultation	
	C144 Tripartite consultation
OTHER CONVENTIONS AND PROTOCOLS	
Freedom of association	
	C141 Rural workers’ organizations

APPENDIX B (CONT'D)

“ACTIVELY PROMOTED” CONVENTIONS

SUBJECT	CONVENTIONS AND SUBJECT MATTER
Industrial relations	
	C135 Workers' representatives C151 Labor relations (public service) C154 Collective bargaining
Protection of children and young persons	
	C77 Industry C78 Non-industrial occupations C124 Underground work
Employment promotion	
	C159 Vocational rehabilitation and employment C181 Private employment agencies
Vocational guidance and training	
	C140 Paid educational leave C142 Human resources development
Wages	
	C94 Labor clauses, public contracts C95 Protection of wages C131 Minimum wage fixing C173 Employers' insolvency
Working time	
	C14 Industry C106 Commerce and offices C171 Night work P89 Night work, women C175 Part-time work
Workers with family responsibilities	
	C156 Workers with family responsibilities
Occupational safety and health	
General provisions	C155, Occupational safety and health P155 C161 Occupational health services

APPENDIX B (CONT'D)

“ACTIVELY PROMOTED” CONVENTIONS

SUBJECT	CONVENTIONS AND SUBJECT MATTER
Occupational safety and health (continued)	
Protection against specific risks	C115 Radiation C139 Occupational cancer C148 Air pollution, noise and vibration C162 Asbestos C170 Chemicals C174 Major industrial accidents
Protection in specific branches of activity	C120 Hygiene (commerce and offices) C167 Construction C176 Mines C184 Agriculture
Social Security	
Comprehensive standards	C102 Minimum standards
Migrant workers	C118 Equality of treatment C157 Maintenance of rights
Medical care and sickness benefits	C130 Medical care and sickness benefits
Old-age, invalidity and survivor's benefits	C128 Invalidity, old-age and survivors' benefits
Employment injury benefit	C121 Employment injury benefits
Unemployment benefit	C168 Employment promotion and protection against unemployment
Maternity benefit	C183 Maternity protection
Labor administration	
	C150 Labor administration C160 Labor statistics
Seafarers	
General	C108 Identity documents C145 Continuity of employment C147, Minimum standards P147
Training and entry	C179 Recruitment and placement
General conditions of employment	C146 Annual leave with pay C166 Repatriation C180 Hours of work and manning

APPENDIX B (CONT'D)

“ACTIVELY PROMOTED” CONVENTIONS

SUBJECT	CONVENTIONS AND SUBJECT MATTER
Seafarers (continued)	
Safety, health and welfare	C163 Welfare C164 Health protection and medical care
Social security	C165 Social security
Labor inspection	C178 Inspection of working and living conditions
Dock workers	
	C152 Occupational safety and health
Indigenous and tribal peoples	
	C169 Indigenous and tribal peoples
Other specific categories of workers	
	C110, Plantations P110 C149 Nursing personnel C172 Working conditions (hotels and restaurants) C177 Home work
TOTAL	71 conventions 5 protocols

* Parties to fundamental and priority conventions report to the ILO on application every two years and parties to other conventions every five years.

† “C” signifies a convention. “P” signifies a protocol, an instrument used to amend a convention.

Committee of Experts on the Application of Conventions and Recommendations

The basis of the ILO's supervisory system, this committee comprises 20 eminent persons, nominated by the director general and appointed by the Governing Body. Members serve three-year terms, and may be reappointed. The committee meets in November and December of each year to examine nearly 2,000 reports made by governments under the ILO's regular supervisory mechanisms concerning the application of conventions that the governments have ratified, as well as any comments by national and international worker and employer organizations. The committee's report is submitted to the Conference Committee. The Committee of Experts also examines general surveys on selected conventions and recommendations under Article 19 of the ILO Constitution.

THE INTERNATIONAL LABOR CONFERENCE AND ITS BODIES

International Labor Conference

Each June, the ILO's member states meet in Geneva at the International Labor Conference. Each nation is represented by two government delegates, one delegate each from business and labor, plus a number of advisers. Each delegate has one vote in the conference. The conference has several key duties. Delegates take up key social and labor questions, such as the impact of globalization on working conditions; discuss and adopt labor standards; review compliance with ILO conventions; and pass resolutions to guide the ILO in its work. Every second year, the conference adopts the biennial program and budget.

Conference Committee on the Application of Standards

This is a tripartite committee drawn from delegates and advisers to the International Labor Conference. More than 150 people usually participate in the committee. Although there are not equal numbers of members from each group, voting is weighted so that governments, workers and employers each have one-third of the voting power. The chair is traditionally held by a government delegate; the two vice chairs are representatives of the employer and worker groups. The Conference Committee discusses the Committee of Experts' reports on the application of ratified conventions, and pays special attention to cases highlighted by the Committee of Experts. The Conference Committee calls a number of governments before it to explain their positions. In addition, the Conference Committee examines the general surveys on selected conventions.

THE GOVERNING BODY AND ITS COMMITTEES

Governing Body

The ILO's 56-member executive body is made up of 28 government representatives, 14 employer representatives, and 14 worker representatives. The United States and nine other governments of "chief industrial importance" have permanent seats on the Governing Body. The remaining 14 government members are elected for three-year terms. The

APPENDIX C (CONT'D)

KEY ILO BODIES

Governing Body meets twice a year (in addition to a one-day session after the International Labor Conference) to make decisions on ILO policy, including some supervisory matters.

Governing Body Committees for Representations

Committees for Representations are tripartite committees, made up of members of the Governing Body, including one member each from government, worker and employer groups. A separate committee is established for each representation received. The committee meets in private to examine representations alleging that a member state has failed to apply an ILO convention it has ratified. The committee submits its conclusions and recommendations to the Governing Body.

Commissions of Inquiry

Commissions of Inquiry are created to examine complaints concerning ratified conventions. They are composed of three prominent, independent persons appointed by the Governing Body. Commissions have broad latitude in investigating complaints. They do not normally address complaints of violations of freedom of association, which are usually referred to the special procedures on freedom of association. (See *Fact-Finding and Conciliation Commission on Freedom of Association*, below.)

Governing Body Committee on Freedom of Association

This tripartite committee comprises nine members of the Governing Body (and nine substitute members), and three delegates each from government, worker and employer groups. There also is an independent chair. The committee meets three times a year to examine complaints of violations of freedom of association. It examines the merits of such complaints and forwards its conclusions and recommendations to the full Governing Body.

Fact-Finding and Conciliation Commission on Freedom of Association

The commission comprises nine independent persons appointed by the Governing Body, and operates in 3-person panels. Procedurally, the commission operates like a Commission of Inquiry, investigating only serious complaints involving violations of freedom of association.

SECRETARIAT BODIES

Direct Contacts Mission

This is a special procedure under which the director general sends a special representative to address—directly with officials from a concerned government—problems with the implementation of a convention in law and practice, or a case before the Committee on Freedom of Association. The special representative can be either an independent person with credibility to speak on the issue or an ILO official with expertise in the matter under discussion.

KEY ILO REPORTS APPENDIX D

REPORTS OF THE STANDING COMMITTEES

Committee of Experts on the Application of Conventions and Recommendations

This report, prepared for review by the Governing Body and the International Labor Conference, includes:

- Comments on the application of ratified conventions based on some 2,000 reports each year
- Cases in which countries have taken steps to report on their efforts to bring their laws and practices into conformity with the conventions they have ratified
- Information and reports submitted by member states on non-ratified conventions

There may be a “footnote” at the end of a case summary inviting the government to “supply full particulars to the conference” at its next session, or to send a detailed report before it would otherwise be due, or both.

PUBLISHED: Annually, in March.

ON THE WEB: Pull down “International Labor Conference” in the menu window at the bottom of the home page, click on the year of conference and/or session number, click on “Reports and documents submitted to the Conference.” In addition, all comments by the Committee of Experts since 1985 are found at “International Labor Standards”: <http://webfusion.ilo.org/public/db/standards/normes/index.cfm?lang=EN>

Report of the Conference Committee on the Application of Standards

Prepared for review by delegates to the International Labor Conference, this document reports on the Conference Committee’s examination of selected cases involving the application of ratified ILO conventions by individual countries, which are drawn from the Report of the Committee of Experts on the Application of Conventions and Recommendations. The Conference Committee Report includes discussion amongst committee members, and with representatives of governments whose cases are being examined. The strongest concern about an individual case is conveyed in a “special paragraph.”

PUBLISHED: Annually, in June, after the sessions of the Conference Committee.

ON THE WEB: Pull down “International Labor Conference” in the menu window at the bottom of the home page, click on year of conference, click on “Reports of Conference Committees and discussion in Plenary,” scroll down to “Application of Standards.”

Report of the Committee on Freedom of Association

Published for Governing Body meetings, this report provides:

- Synopses of complaints brought against member states regarding infringement of the principles embodied in ILO Conventions No. 87 (Freedom of Association) and No. 98 (Right to Organize and Collective Bargaining)

APPENDIX D (CONT'D)

KEY ILO REPORTS

- The committee's review of the cases and requests made to the involved parties
- The decisions reached by the committee

PUBLISHED: Three times a year.

ON THE WEB: Pull down "Governing Body" in the menu window at the bottom of the home page, click on recent meeting or on "Documents of previous Governing Body session" (in which case choose desired meeting), scroll down to "Reports of the Committee on Freedom of Association."

REPORTS OF THE AD HOC COMMITTEES

Commissions of Inquiry

Each report contains the findings of an independent Commission of Inquiry appointed by the Governing Body to investigate a complaint against a member state for ineffective application of an ILO convention that the state has ratified. The report:

- Embodies the findings on all facts relevant to determine the issue between the parties
- Presents the commission's recommendations as to what the member state should do in response to the complaint

PUBLISHED: When a Commission of Inquiry has completed its work.

ON THE WEB: Pull down "Governing Body" in the menu window at the bottom of the home page, click on most recent meeting or on "past document collection" (in which case choose desired meeting), click on "GB," scroll down to subject of report, and link to the report. N.B. Only the Commission of Inquiry report in 1998 on forced labor in Myanmar is on the ILO Web site at: www.ilo.org/public/english/standards/relm/gb/docs/gb273/myanmar.htm. For information on the reports of previous commissions, contact your local ILO office.

Fact-Finding and Conciliation Commissions

Each report contains the findings of an independent Fact-Finding and Conciliation Commission appointed by the Governing Body to investigate a complaint involving violations of freedom of association. Reports are published in the ILO *Official Bulletin*. Reports concerning non-member states are also sent to the United Nations Economic and Social Council (ECOSOC).

PUBLISHED: When a commission has completed its work.

Copies are available from the ILO Distribution Service.

Representation Reports

These reports are prepared by ad hoc committees of members of the Governing Body established to examine representations alleging a member state's ineffective observance of a ratified convention. The committees' reports are part of the proceedings of the Governing Body.

APPENDIX D (CONT'D)

KEY ILO REPORTS

PUBLISHED: As appropriate.

ON THE WEB: Click on “International Labor Standards,” then “ILOLEX Universal Query Form,” and select “Representations.” You may use the other search parameters (Convention, Country, Subject) to narrow your search.

REPORTS UNDER THE FOLLOW-UP TO THE DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK

Annual Review

This report consists of two documents:

- An introduction by a group of independent expert-advisers highlighting matters for further discussion by the Governing Body
- A compilation of reports from governments describing the efforts they have made to respect the principles and rights relating to the eight fundamental ILO conventions they have not ratified, along with comments from worker and employer organizations

PUBLISHED: Annually, in March.

ON THE WEB: Pull down “Governing Body” in the menu window at the bottom of the home page, click on “Documents of Previous Governing Body Sessions,” click on March meeting in desired year, click on “GB,” scroll down to “Review of annual reports under the follow-up to the ILO Declaration...”

Global Report

Submitted by the ILO Director General to the International Labor Conference for discussion in a special session, this report:

- Presents a global picture of the situation with regard to one of the categories of principles and rights each year
- Serves as a basis for determining future priorities for technical assistance to members in implementing the fundamental principles and rights

The current four-year rotation of subjects is: freedom of association (2000); the elimination of forced labor (2001); child labor (2002); and the elimination of discrimination in employment (2003).

PUBLISHED: Annually, in May.

ON THE WEB: Pull down “International Labor Conference” in the menu window at the bottom of the home page, click on year of conference, click on “Reports and documents submitted to the Conference,” click on “Global report under the Follow-up to the ILO Declaration...”

APPENDIX E INTERNET GUIDE

The following URLs provide the most sought-after information on international labor standards, and exemplify the depth and breadth of information that is available at your fingertips. Since Web pages are constantly being updated and sites revamped, these URLs will become obsolete over time.

Home Page for International Labor Standards

<http://webfusion.ilo.org/public/db/standards/normes/index.cfm?lang=EN>

ILOLEX Database with Texts of Conventions and Recommendations, and Comments by ILO Supervisory Bodies

www.ilo.org/ilolex/english/index.htm

Frequently Asked Questions about International Labor Standards

www.ilo.org/public/english/standards/norm/index.htm

Glossary of Terms on International Labor Standards

www.ilo.org/public/english/standards/norm/sources/glossry.htm

Handbook of Procedures Relating to International Labor Conventions and Recommendations

www.ilo.org/ilolex/english/manualq.htm

ILO Constitution

www.ilo.org/public/english/about/iloconst.htm

ILO Constitution Instrument of Amendment (1997) Allowing Conventions to be Abrogated

www.ilo.org/public/english/bureau/leg/amend/1997.htm

International Labor Conference Documents and General Information about the Conference

www.ilo.org/public/english/standards/reln/ilc/index.htm

Governing Body Documents

www.ilo.org/public/english/standards/reln/gb/gbdoc.htm

ILOLEX Advanced Query Form

www.ilo.org/ilolex/english/iloquery.htm

Ratifications by Convention and by Country, Country Reports on Ratified Conventions, Comments Made by the Committee of Experts on the Application of Conventions and Recommendations

<http://webfusion.ilo.org/public/db/standards/normes/appl/index.cfm?lang=EN>

ILO Forms for Reporting on Conventions Countries Have Ratified (Article 22 Forms) and Those They Have Not (Article 19 Forms)

www.ilo.org/public/english/standards/norm/sources/reptforms/index.htm

ILO Conventions Ratified in the Past 12 Months

<http://webfusion.ilo.org/public/db/standards/normes/appl/appl-lastyearratif.cfm?Lang=EN>

APPENDIX E (CONT'D)

INTERNET GUIDE

Ratifications of the ILO's Eight Fundamental Conventions (country listings grouped by number of conventions ratified)

<http://webfusion.ilo.org/public/db/standards/normes/appl/appl-ratif8conv.cfm?Lang=EN>

Ratifications of the ILO's Eight Fundamental Conventions (by country alphabetically)

www.ilo.org/ilolex/english/docs/declworld.htm

NATLEX Database of National Labor Laws and Laws on Social Security and Related Human Rights

<http://natlex.ilo.org>

Legislative Information, a Monthly Bibliographic Update of the Most Recent and Important Legislation That Has Been Added to NATLEX

<http://natlex.ilo.org/leginf/english/index.htm>

DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK

Home Page

www.ilo.org/public/english/standards/decl

Annual Reports from Governments That Have Not Ratified One or More of the Fundamental Conventions

www.ilo.org/public/english/standards/decl/publ/review/index.htm

Global Reports on the Four Principles

www.ilo.org/public/english/standards/decl/publ/reports/index.htm

APPENDIX F BIBLIOGRAPHY

Constitution of the International Labor Organization. Geneva: ILO, June 2001.

Employers' Handbook on ILO Standards-Related Activities. By A. Wisskirchen and C. Hess. Geneva: International Labor Office, 2001.

Freedom of Association: A User's Guide. By David Tadgman and Karen Curtis. Geneva: International Labor Office, 2000.

Handbook on Procedures Relating to International Labour Conventions and Recommendations. Rev.2/1998. International Labor Standards Department, International Labor Office. Geneva: ILO, 1998.

Human Rights Complaint Procedures of the International Labor Organization. By L. Swepston, in Hannum (ed.), *Guide to International Human Rights Practice*, 3rd edition. New York: Transnational Publishers, 1999.

The ILO Declaration of 1998 on Fundamental Principles and Rights: A Challenge for the Future. By H. Kellerson. *International Labor Review*, Vol. 137 (1998), No. 2, (Special Issue), Geneva: ILO.

ILO Declaration on Principles: A New Instrument to Promote Fundamental Rights—A Workers' Education Guide. By M. Cloutier. Geneva: ILO, 2000.

The International Labor Organization: The International Standards System and Basic Human Rights. By Héctor Bartolomei de la Cruz, Geraldo von Potobsky, and Lee Swepston. Boulder: CO: Westview Press, 1996.

International Labor Review. Vol. 137 (1998), No. 2: Special Issue: Labor Rights, Human Rights, Geneva: ILO.

International Labor Standards: A Global Approach. Geneva: International Labor Office, 2001. First Edition 2002.

International Labor Standards: A Trade Union Training Guide, Second Edition, 1999. International Training Center of the ILO. Turin: ILO, 1999. (CD-ROM)

International Labor Standards. A Workers' Education Manual. Fourth (revised) Edition. Geneva: International Labor Office, 1998.



INTERNATIONAL LABOR ORGANIZATION

www.us.ilo.org

WASHINGTON OFFICE

1828 L STREET, N.W.

SUITE 600

WASHINGTON, D.C. 20036

PHONE: (202) 653-7652

FAX: (202) 653-7687

E-MAIL: WASHILO@ILOWBO.ORG