Using ILO Standards to Promote Environmentally Sustainable Development

Booklet 3

POLITICAL INDICATORS OF DEVELOPMENT

Workers' Education and Environment Project INT93/M12/NOR

Bureau for Workers' Activities
International Labour Office Geneva

Introduction

In this booklet on political indicators we look at some ILO Conventions and Recommendations that deal with basic human and trade union rights.

These rights — to live, speak and move freely, for example — are perhaps the most basic measurement of a country's committment to environmentally sustainable development, for human rights, development and the environment are closely interwoven.

It is no coincidence that some of the world's worst environmental problems have been identified in countries with the worst record for observing human and trade union rights. Any country plagued by political unrest can always be taken advantage of, and this can also apply to exploitation of the environment and of workers. Any country that knowingly exploits and pollutes environmental resources for short-term gains will not think twice about ignoring the rights of its citizens or repressing concerned workers and trade unions.

Trade unions have always stressed the importance of democratic structures, respect for their rights, and their involvement in the decision-making processes as essential elements for development. In the case of the environment it is impossible to see how progress can be made unless all partners, including trade unions, work together with a common aim and with well-defined, guaranteed rights.

Democracy, then, is the thread which runs through this booklet. For us as trade unionists this means looking at the most basic rights, including:

- the right to organize and promote our interests in freedom and peace;
- the right to operate and negotiate on our members' behalf;
- the abolition of forced labour.

This booklet therefore looks at those Conventions that are among the most important in the pursuit of these basic rights. As the ILO has traditionally attached great significance to them, the booklet also looks at a special

ILO procedure that examines complaints regarding the non-observance of trade union rights.

What can be said of exploitation of workers and repression of trade union activities can also be said of certain sectors of the workforce and community. Freedom from discrimination based on gender, ethnic origin, age, etc., and the abolition of child labour are therefore also basic human rights to strive for. Discussion of these, however, can be found in the booklet on *"Equality of Opportunity and Treatment"*.

Hopefully, the following pages will help you:

- understand what is available in the form of ILO standards to help you promote your union's policies and campaigns on basic human rights, and especially those on freedom of association and participation in decision-making;
- understand the more relevant standards and the special complaints procedure for non-observance of trade union rights;
- use the standards to back up your case for change.

POLITICAL INDICATORS

For a country to develop in a sustainable manner it has to respect basic human rights — the right to live, move and speak freely, etc. The ILO has always attached great importance to certain basic human rights, especially those that are essential to improving the conditions of workers. In this respect some of the most basic of rights, for us as trade unionists, are:

- the right to organize and promote our interests in freedom and peace;
- the right to operate and negotiate on our members' behalf (the right to participate in decision-making);
- the abolition of forced labour.

Freedom from discrimination is another basic human right, but this is dealt with in the booklet on *"Equality of Opportunity and Treatment".*

The abolition of child labour as a basic human right has also been a constant concern of trade unions and the ILO. Children, because of their general vulnerability to exploitation, need special protection to uphold their basic rights. In this respect, many Conventions and Recommendations have been adopted over the years to protect them, not only from forced labour, but also from exploitation in general and from dangerous occupations in particular. The special needs of children and younger workers are also detailed in the booklet on *"Equality of Opportunity and Treatment".*

The following Conventions are among some of the most important in the pursuit of basic human and trade union rights.

The right to organize

Convention No. 87 on Freedom of Association and Protection of the Right to Organize

Adopted in 1948, this Convention has been ratified by 114 member States (as of February 1996). It is one of the most important of all ILO Conventions and the one most valued by workers everywhere.

AIM

Freedom of association provides workers with the right to form their own trade unions or organizations and to join them freely. It also guarantees that these organizations can function without interference from the public authorities.

SUMMARY

All workers have the right to form and to join organizations of their own choice, without any previous authorisation. (Except for the armed forces and the police, whose rights according to the Convention are to be determined by national law).

Such organizations have the right to draw up their own constitutions and rules, to elect their own representatives, organize their own administration and activities, and develop their own programmes, without interference. It must be remembered that the Convention covers both workers' and employers' organizations and thus refers only to intereference by the public authorities, and not to interference by employers and their organizations. This aspect is covered in Convention No. 98 on the Right to Organize and Collective Bargaining (see below).

Workers' organizations cannot be dissolved or suspended by the administrative authority

Such organizations can establish and join federations and confederations, which can also benefit from the same rights of the Convention. They also have the right to affiliate to international organizations of workers.

The law of the land and the way it is applied cannot be used to impair the Convention's guarantees.

Although the Convention does not spell out the rights needed for the normal exercise of trade union activities, a resolution adopted by the International Labour Conference in 1970, concerning trade union rights and civil liberties mentioned: the right to freedom and security of person, freedom from arbitrary arrest and detention, freedom of opinion and expression, freedom of assembly, the right to a fair trial by an independent and impartial tribunal, and the right to protection of the property of trade unions.

Convention No. 98 on the Right to Organize and Collective Bargaining

This Convention supplements the Convention on Freedom of Association. Adopted in 1949, it has been ratified by 125 countries.

AIM

To protect workers against acts of anti-union discrimination, to safeguard their organizations from interference from employers' organizations, and to promote voluntary collective bargaining.

SUMMARY

The Convention aims to protect workers against acts of anti-union discrimination in employment. This especially concerns the refusal to employ because of trade union membership, or dismissal because of union membership or activities.

Workers' organizations shall be protected from attempts by employers' organizations to interfere with them. This is particularly taken to mean attempts to dominate, finance, or otherwise control them.

The Convention does not deal with public servants working for the administration of the State. On the other hand it cannot be taken to prejudice their rights or status in any way.

Green Agreement

The Parties agree that regular, structured discussions between management and union representatives are essential to the success of the joint environmental strategy.

These discussions should take place through the official joint Health and Safety Committee.

Convention No. 151 concerning Labour Relations (Public Service)

This Convention gives similar protection to public employees as that given to other workers under Convention No. 98 concerning the right to organize and collective bargaining.

It is supplemented by Recommendation No. 159. Adopted in 1978, it has been ratified by 29 countries.

AIM

To safeguard and promote the right of public employees to organize; to protect their organizations against interference by public authorities; to promote suitable means for establishing conditions of employment and settling disputes in the public service.

SUMMARY

The provisions of the Convention cover the same terms as in Convention 98, concerning protection against anti-union discrimination and interference in their organizations, in this case of public employees by a public authority.

Representatives of recognised public employees' organizations are entitled to facilities to enable them to carry out their functions.

Negotiation of terms and conditions of employment for public employees is to be encouraged, as are any other methods that will allow their representatives to participate in these matters.

The settlement of disputes shall be sought through negotiation between the parties concerned, or through independent and impartial means such as mediation, conciliation and arbitration.

Convention No. 141 on Rural Workers' Organizations

This Convention and the corresponding Recommendation, No. 149, were adopted in 1975. The Convention has been ratified by 35 countries.

AIM

Freedom of association for rural workers, encouragement of their organizations and their participation in economic and social development.

SUMMARY

This Convention restates the basic provisions of earlier standards concerning basic trade union rights. That is, it lays down the principle that all categories of rural workers are free to establish and join organizations of their own choosing. It also provides that measures must be taken to ease the establishment and growth of strong and independent trade unions of this kind, free from interference or repression. Regarding the exercise of these rights, the Convention reproduces the relevant provisions of the Convention No. 87 on freedom of association.

As a major part of this Convention deals with the participation of rural workers in economic and social development, a summary of the rest of its provisions is dealt with in the booklet on *"Social Development"*.

DISCUSSION POINTS

- Where can you find out about which Conventions your country has ratified?
- Which Conventions in the field of trade union rights has your country ratified and which Recommendations has it accepted?
- If your government has not ratified the two basic Conventions, Nos. 87 and 98, find out the reasons given by the government for this.
- What has been the reaction of your union, and others, to this?
- How do Conventions 87 and 98 compare with your national legislation in this area? Are all the provisions covered? Does your national legislation go further than the Conventions? Give examples.

Non-observance of Trade union rights: Special procedure for complaints

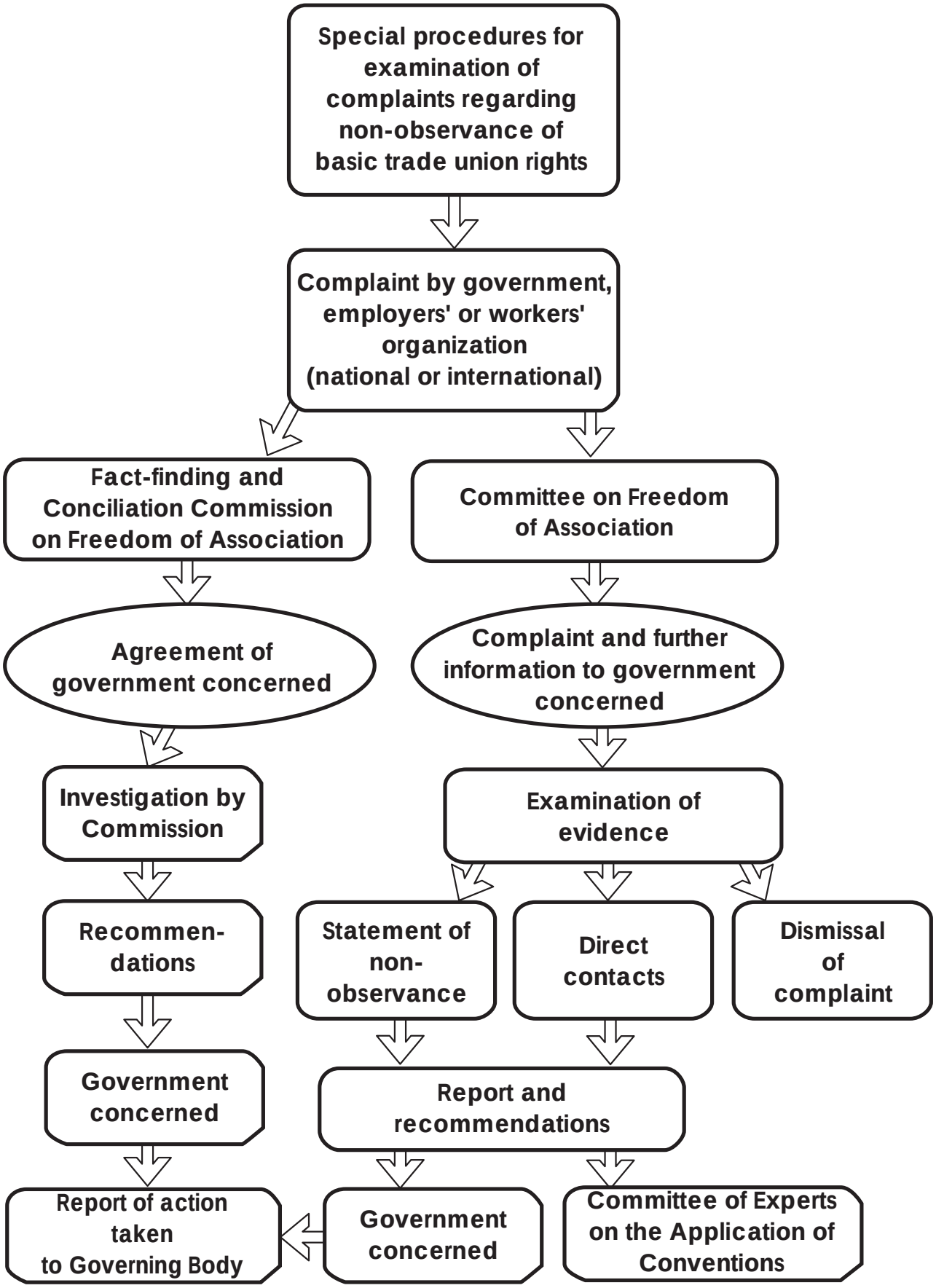
The vital importance attached by the ILO to the principles and guarantees of freedom of association and the right to organize has led to a special procedure for the examination of complaints regarding the non-observance of these trade union rights. This special freedom of association procedure is a supplement to, and not a substitute for, the regular procedures and the special complaint procedure outlined in the booklet on *"The International Labour Organization and Its Standards"*. It can, however, be used against governments even if they have not ratified the Freedom of Association Convention, and deserves a special mention here.

The different processes open to workers wishing to complain about violations concerning their right to organize can be seen in figure 6.

Subjects often brought up during these procedures include all aspects of the setting up of organizations and the right to join them, election to and removal from trade union office, interference with trade union administration and activities, dissolving or suspending organizations, acts of anti-union discrimination in employment, the right to collective bargaining, the right to strike, arrests of trade unionists, and not allowing trade union meetings and demonstrations.

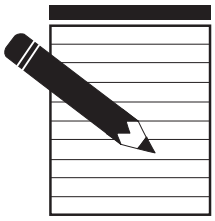
The results of the procedures have been mixed. The worker members of the Governing Body are well aware that trade union rights continue to be violated regardless of any ILO recommendations, particularly in those cases connected with a difficult political situation. In a great many cases, however, positive results have been achieved, and experience has shown that just the possibility of recourse to the complaints procedure has sometimes led to the parties concerned improving the situation in order to avoid it being investigated at international level.

Figure 6. Special complaints procedure for the non-observance of trade union rights



Activity

- Decide on an important trade union right that you know is being, or has been, violated recently. Try to formulate the text of a complaint, taking into account the possibilities that trade unions have in the procedure for the examination of complaints by the ILO Committee on Freedom of Association.



Notes

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Right to participate in decision-making

After the right to organize, this is the second major trade union right — to be able to operate and negotiate on our members' behalf. Covering the field of industrial relations, several Conventions and Recommendations are appropriate here:

Convention No. 135 concerning Workers' Representatives

Supplemented by Recommendation 143, this Convention was adopted in 1971, and has been ratified by 56 countries.

AIM

To protect workers' representatives against prejudice based on their status or activities as representatives; to make sure that facilities are provided for them to carry out their functions effectively.

SUMMARY

The Convention allows for workers' representatives who are recognised as such under national law or practice to be protected against any wrongful act, such as dismissal, because of their status or activities as representatives.

Facilities shall be provided for them within the undertaking to enable them to carry out their functions as representatives.

Representatives entitled to the protection and facilities provided for by this Convention can be trade union representatives, or representatives elected by the workers in an undertaking, determined by national law, collective agreements, arbitration or court decision.

Where both sorts of representatives exist in an undertaking, it must be ensured that this does not undermine the position of trade unions, and that cooperation between representatives is encouraged.

Convention No. 154 concerning Collective Bargaining

Supplemented by Recommendation 163 and adopted in 1981, this Convention has been ratified by 22 countries.

AIM

To promote free and voluntary collective bargaining.

SUMMARY

Collective bargaining is defined as all negotiations which take place between an employer, a group of employers or one or more employers' organizations on the one hand, and one or more workers' organizations on the other, for the purposes of:

- determining working conditions and terms of employment,
- regulating relations between employers and workers,
- regulating relations between employers or their organizations and a workers' organization or organizations.

The Convention provides for measures to promote collective bargaining, with the aim of covering all employees* for the purposes of the above bargaining points; of encouraging established rules and procedures for bargaining; and of settling labour disputes.

The measures taken by public authorities to encourage collective bargaining shall be taken only after consultation with workers' organizations, and should not hinder the freedom of collective bargaining.

(As in many ILO Conventions, the armed forces and police may not necessarily be covered by the provisions of the Convention. The extent of their coverage depends on national law and practice. Likewise, special means of applying the Convention may have to be fixed for public employees.)*

Recommendations: guidelines for Member States

Although the provisions of Recommendations are not compulsory, they can provide guidelines, and their standards have been widely recognised on questions of consultation, communication and the examination of grievances. A list of the more relevant ones is included at the end of this section, but let us look at one in particular.

Recommendation No. 113 on Consultation (Industrial and National Levels), 1960

SUMMARY

This Recommendation deals with measures to promote consultation and cooperation between public authorities, workers' organizations and employers' organizations at industrial and national level.

These measures should aim at promoting good relations between the three parties, with a view to developing the economy as a whole, or branches of it, improving working conditions and raising standards of living.

They should also ensure that public authorities seek the views, advice and assistance of workers' organizations concerning:

- the preparation of laws affecting their interests
- the establishment and functioning of national bodies responsible for such things as organization of employment, vocational training, labour inspection, occupational health and safety, social security and welfare, etc.
- defining and implementing economic and social development plans.

Consultation: Recommendations or obligations

Many of the international labour standards provide for consultation with workers' and employers' organizations as regards the measures to be taken in implementing the standards in question. In 1976 the International Labour Conference adopted two special texts which clearly spell out the obligations of member States in this respect. These are:

Convention No. 144 on Tripartite Consultation (International Labour Standards) and Recommendation No. 152 on Tripartite Consultation (Activities of the ILO)

This Convention has been ratified by 76 countries.

AIM

To effectively secure tripartite consultation and to promote the application of ILO Conventions and Recommendations

SUMMARY

Any State that has ratified this Convention shall make sure that workers' organizations are consulted in the following areas:

- government replies to ILO questionnaires and their comments on proposed texts to be discussed at the International Labour Conference,
- proposals to the national competent authority which decides on ratification and application of the texts of Conventions and Recommendations,
- re-examination of unratified Conventions,
- questions arising out of reports on ratified Conventions,
- proposals for the denunciation of ratified Conventions.

(Refer to the booklet on "The International Labour Organization and its Standards" for more details on what these specific areas mean for workers).

The Convention also says that procedures for such consultation shall be determined after consultation with the organizations concerned.

Workers' representatives for the purposes of consultation shall be freely chosen by their organizations, and

shall be represented on an equal footing with employers' representatives.

Consultation shall take place at agreed intervals, but at least once a year.

Recommendation 152 provides for national action relating to the activities of the ILO. It adds that consultation should be considered in such areas as:

- the preparation and application of national legislation or other measures to give effect to Conventions and Recommendations
- the questions arising out of reports made to the ILO
- the preparation, implementation and evaluation of ILO technical cooperation activities
- the action to be taken in respect of resolutions and conclusions adopted by the International Labour Conference and other ILO meetings
- the promotion of better knowledge of ILO activities.

The Recommendation also gives examples of consultation procedures, such as committees, written communication and appropriate competent bodies.

STRENGTHENING PARTICIPATION AND CONSULTATION

29.6
Trade unions, employers and governments should cooperate to ensure that the concept of sustainable development is equitably implemented.

29.7
Joint (employer/worker) or tripartite (employer/Worker/ Government) collaborative mechanisms at the workplace, community and national levels should be established to deal with safety, health and environment, including special reference to rights and status of women in the workplace

The abolition of forced labour

The question of freedom of labour has been dealt with in two Conventions. The Forced Labour Convention No. 29 of 1930 provides for the progressive abolition of forced labour in all its forms in the shortest possible time. (Although it exempts, under certain conditions, compulsory military service, certain civic obligations, prison labour, work in case of emergencies, and minor communal services).

This Convention, ratified by 139 countries, approached the problem of forced labour mainly from the point of view of practices then current — in 1930 — in colonial territories. Later, attention was drawn to the widespread practice of forced labour as a means of political coercion or for economic purposes. The abolition of such systems of labour became one of the main objectives of a second Convention, adopted in 1957, and ratified by 117 countries:

Convention No. 105 concerning Abolition of Forced Labour

AIM

The immediate and complete abolition of forced or compulsory labour for certain purposes.

SUMMARY

Any State which ratifies this Convention promises to undertake to suppress any form of forced or compulsory labour for the following purposes:

- as a means of political coercion or education or as a punishment for holding or expressing views different to the established political, social or economic system
- as a method of using labour for purposes of economic development
- as a means of labour discipline
- as a punishment for having taken part in a strike
- as a means of racial, social, national or religious discrimination.

Activity

USING ILO CONVENTIONS

- Think about an important issue concerning your trade union rights.
- Look at some of the ILO Conventions and Recommendations to see if there is one that is relevant to your problem.
- Use the Worksheet included in these materials to help you record your findings.

Some International Labour Standards concerning basic trade union rights.

Those that have been summarised above are highlighted.

Right to organize

- **Freedom of Association and Protection of the Right to Organize, C87 (1948)**
- **Right to Organize and Collective Bargaining, C98 (1949)**
- **Labour Relations (Public Service) C151 and R159 (1978)**
- **Rural Workers' Organizations, C141 and R149 (1975)**
- Right of Association (Agriculture) C11 (1921)
- Right of Association (non-metropolitan territories) C84 (1947)

Right to participate in decision-making

- **Workers' representatives, C135 and R143 (1971)**
- **Collective Bargaining, C154 and R163 (1981)**
- **Tripartite Consultation (International Labour Standards) C144 (1976)**
- **Tripartite Consultation (Activities of the ILO) R152 (1976)**
- **Consultation (Industrial and National Levels) R113 (1960)**
- Labour Inspection, C81 and Protocol and R81 (1947) (plus other standards on labour inspection for specific areas: in non-metropolitan territories, C85 (1947); mining and transport, R82 (1947); agriculture, C129 and R133 (1969)
- Collective Agreements, R91 (1951)
- Voluntary Conciliation and Arbitration, R92 (1951)
- Cooperation at the Level of the Undertaking, R94 (1952)
- Communications within the Undertaking, R129 (1967)
- Examination of Grievances, R130 (1967)

Forced labour

- **Forced Labour, C29 (1930)**
- **Abolition of Forced Labour, C105 (1956)**

Freedom from discrimination

Many Conventions deal with freedom from discrimination for different sectors of the working community, especially concerning the rights of women, indigenous and tribal peoples, migrant workers, children and young and older workers, etc. These are listed, and some of them are covered in detail in the booklet on *"Equality of Opportunity and Treatment".*

Notes

Notes