

# Application of International Labour Standards in times of crisis: the importance of international labour standards and effective and authoritative supervision in the context of the COVID-19 pandemic

## Extracts of the General Report

Committee of Experts on the Application of Conventions and Recommendations (CEACR) at its 91<sup>st</sup> session (Nov-Dec. 2020)

## **Introduction: the COVID-19 crisis**

44. The COVID-19 pandemic has presented the greatest public health crisis the world has seen during the ILO's centenary of existence and in its wake has followed a social and economic crisis of immense scale. Millions of people across the world have been exposed to the virus and to date almost 1.6 million people have died. To address the health crisis, many governments have adopted containment measures, including lockdowns and related restrictions in an effort to prevent the spread of the virus. These measures have had devastating impacts on the labour market. While demand has increased in certain sectors, such as in the health and food retail sectors, demand in other sectors, such as tourism, aviation and transport has all but collapsed. Millions of enterprises were closed and millions of jobs and livelihoods have been lost. While the crisis has affected enterprises in all sectors and of all sizes, micro, small and medium-size enterprises, lacking the necessary human and financial resources to weather a crisis of this magnitude, have been severely affected and many have simply closed their doors.<sup>7</sup>

45. According to the ILO Monitor of September 2020,<sup>8</sup> working hour losses are higher than previously estimated, amounting to 495 million full-time equivalent jobs. Predictably, specific groups in vulnerable situations have been the hardest hit by the socio-economic crisis, although the effects vary. For example, women, who in many countries have significantly higher rates of unemployment than men, have suffered greater rates of job loss generally. Moreover, women are also over-represented in high-risk sectors, such as in care work, where demand for their services has increased due to the pandemic. As a result, they have been required to work excessive hours while also continuing to shoulder the primary burden of unpaid care work. Other specific groups in vulnerable situations that have been severely affected in many countries include: young workers, migrant workers, persons belonging to racial, ethnic or linguistic minorities, older workers, domestic workers, indigenous and tribal peoples, people living with or affected by HIV or AIDS and rural workers. In addition to having been historically subject to discrimination and exclusion in employment and occupation, such groups are now also experiencing levels of violence, harassment, stigma and xenophobia. People belonging to these groups are generally concentrated in low-paid jobs in sectors most affected by the pandemic, and are often in precarious employment, including in the informal economy.

46. The ILO estimates that the crisis has devastated the employment and livelihoods of some 1.6 billion informal economy workers, representing 76 per cent of informal

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<sup>7</sup> 2021 Addendum to the 2020 General Survey on promoting employment and decent work in a changing landscape.

<sup>8</sup> [ILO Monitor: COVID-19 and the world of work, 6th edition, 23 September 2020.](#)

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employment worldwide.<sup>9</sup> Physical distancing is frequently difficult, if not impossible for many informal economy workers, such as street and market vendors, domestic workers and home delivery workers. Many waste pickers might handle contaminated materials, while living and working in close proximity to others. If they continue to work, they usually have no access to personal protective equipment, sanitizing or hand-washing.

47. The measures adopted to contain the spread of the pandemic through quarantines, travel restrictions and lockdowns have resulted in a global recession and historical levels of unemployment. According to World Bank estimates,<sup>10</sup> the impacts of the pandemic could push up to 150 million people into extreme poverty by 2021, causing the first increase in global poverty since 1998. Globally, acute hunger could double in 2020, affecting more than 260 million people, and the rise in extreme poverty is likely to reinforce disparities, magnify social and economic inequalities and generate new migration flows, a rise in stigma and discrimination and a widening digital divide. The crisis exposed the blind spots of pre-existing legal and policy frameworks exacerbating inequality and poverty and stalling, or even reversing, the progress made towards sustainable development and towards realizing the SDG8 vision of full, productive and freely chosen employment and decent work for all.

48. In this context, the ILO supervisory bodies, along with other human rights monitoring bodies, are called upon to offer guidance on the path to recovery and resilience as the custodians of human rights and the principle of leaving no one behind.<sup>11</sup> The central role of international labour standards as the tried-and-trusted foundation of the Decent Work agenda is to reaffirm the framework within which any response may be formulated in order to prevent regression and put recovery efforts on a stable footing, answering the call of the 2030 Development Agenda to leave no one behind. Standards and effective and authoritative supervision are a fundamental part of the solution to this crisis, in line with the guidance given in the Centenary Declaration on the Future of Work<sup>12</sup> for addressing the profound transformative changes of today's world of work.

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<sup>9</sup> [ILO Press Release: As job losses escalate, nearly half of global workforce at risk of losing livelihoods](#), 29 April 2020.

<sup>10</sup> World Bank Press Release: [COVID-19 to Add as Many as 150 Million Extreme Poor by 2021](#), 7 October 2020.

<sup>11</sup> Declaration of Philadelphia para. II(a).

<sup>12</sup> ILO, Centenary Declaration for the Future of Work, International Labour Conference, 108th (Centenary) Session, Geneva, 21 June 2019.

## General principles

49. The Committee, taking note of the statements of other supervisory bodies in the UN system on the impact of the COVID-19 pandemic on fundamental human rights guarantees,<sup>13</sup> underlines the following:

- (i) The crisis does not suspend obligations under ratified international labour standards; any derogations should be exercised within clearly defined limits of legality, necessity, and proportionality and non-discrimination. Similarly, the obligation to report on measures taken to give effect to ratified and non-ratified standards under articles 19, 22 and 35 of the ILO Constitution is not suspended. Member States are invited to seek the support of the Office, which is now more necessary than ever, in order to ensure that rights at work are not sacrificed as a result of the crisis and that the ILO's normative system fulfils its primary purpose of providing much needed guidance towards building back better.
- (ii) Consistent with lawful measures to protect the health of the public, every effort should be made to prevent a downward spiral in labour conditions and pursue a virtuous cycle of recovery and development with the support of the Office and development partners fully respecting rights at work. Recovery measures weakening the protection afforded by labour laws will only further undermine social cohesion and stability and erode citizens' confidence that policy-makers heard the call for public policies to be responsive to people's needs. This is simply the wrong solution. An open global economy as the driver of recovery, is more than ever linked to respect for rights at work.
- (iii) Social dialogue is critically important in all aspects of the development, implementation, monitoring and review of COVID-19 policy responses to ensure that these are grounded in respect for rights at work, tailored to national circumstances and benefiting from local ownership. The inclusive human-centred approach called for by the ILO Centenary Declaration for the Future of Work is needed now more than ever to protect workers' rights and rescue businesses and economies devastated by the severe health and socio-economic shockwaves caused by the pandemic.
- (iv) The ILO has developed comprehensive policy guidance to support the efforts of governments, social partners and society in addressing the economic and social impact of the crisis and to ensure that they "build back better". It has also joined partnerships within the United Nations system in promoting the UN framework for the immediate socio-economic response to COVID-19 and its Key Indicators for monitoring human rights implications of COVID-19. The Committee calls for the national socio-economic response plans supported by the UN Country Teams, to be

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<sup>13</sup> The Committee notes in particular the UN Committee on Economic, Social and Cultural Rights Statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights (Document E/C.12/2020/1). See the 2021 CEACR general report's section on collaboration with the UN.

fully informed by and compliant with international labour standards and the principles underpinning them, notably tripartism and social dialogue.

## **Key challenges for rights at work**

50. At its current session, the Committee of Experts identified at least three key challenges emerging from the pandemic with regard to rights at work.

51. First, while the exponential accumulation of executive power in all countries is a natural consequence of the current circumstances, in order to safeguard national security and public health and while limitations on rights and freedoms serve a legitimate purpose to a large extent, they still need to comply with various parameters of international law, particularly:

- (i) the principle of legality so that those constraints must not be arbitrary and must be based on law;
- (ii) the principle of necessity requiring the Executive branch to prove that limitations are genuinely necessary according to the circumstances;
- (iii) the principle of proportionality positing the need to test constraining measures as proportionate to the risks and exigencies of the situation;
- (iv) the principle of non-discrimination against particular groups in society, while also respecting the corresponding requirements put forward in the respective human rights treaties.

52. With regard to civil liberties and freedom of association in particular, the Committee recalls its longstanding statement according to which crisis situations “cannot be used to justify restrictions on the civil liberties that are essential to the proper exercise of trade union rights, except in circumstances of extreme gravity and on condition that any measures affecting [their] application are limited in scope and duration to what is strictly necessary to deal with the situation in question”.<sup>14</sup> The Committee has consistently recalled, in the context of an economic crisis, the importance, as also highlighted by the Committee on Freedom of Association, of maintaining permanent and intensive dialogue with the most representative workers’ and employers’ organizations in particular in the process of adopting legislation, which may have an effect on workers’ rights, including those intended to alleviate a serious crisis situation.<sup>15</sup> The Committee finally refers to the statements and comments made on this subject by a group of human rights experts on 16 March 2020<sup>16</sup> and by the UN

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<sup>14</sup> ILO, CEACR General Survey on Freedom of Association and Collective Bargaining, 1994, para. 41.

<sup>15</sup> CFA Compilation, 2018, paragraphs 1437 and 1546.

<sup>16</sup> COVID-19: States should not abuse emergency measures to suppress human rights – UN experts. The statement provides that “emergency declarations based on the COVID-19 outbreak should not

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Human Rights Committee on 29 July 2020.<sup>17</sup> The Committee reverts to this question in the section of its general report dedicated to collaboration with the UN.

53. The second challenge is maintaining the universality, indivisibility interdependence and interrelation of all human rights both civil and political as well as economic, social and cultural rights. Human rights and international labour standards embody the universality and indivisibility of rights and freedoms. The Declaration of Philadelphia calls for “conditions of freedom and dignity, of economic security and equal opportunity” thereby giving concrete expression in the ILO Constitution to what came to be known as the interconnectedness of civil and political along with economic, social and cultural rights.<sup>18</sup>

54. Thirdly, the pandemic has exacerbated the plight of many groups who were already vulnerable to discrimination and marginalization. This is especially so where different grounds of discrimination intersect. As indicated at the outset for example, many women are disadvantaged in their access to the labour market as a result of gender discrimination and are also marginalized because they belong to disadvantaged groups. During the pandemic, it has also been evident that the scourge of racial discrimination is on the rise and cause for serious concern. While COVID-19 does not discriminate, its effects and consequences may well do so.

### Occupational safety and health

55. The COVID-19 pandemic has presented an immense challenge to the protection of the safety and health of workers around the world, with certain sectors particularly hard hit. The national strategies adopted in this context have recognized that occupational safety and health (OSH) measures are a key pillar for successful public health responses and fundamental to decent work.

56. As the crisis unfolded, millions of workers continued to work and provided essential services for the community while facing significant personal occupational health risks. A stark dilemma has been that of working and consequently risking infection, or else, having no income nor food. The public health response to the pandemic has shone the spotlight on the right to health, but it has also exposed the

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be used as a basis to target particular groups, minorities, or individuals. It should not function as a cover for repressive action under the guise of protecting health ... and should not be used simply to quash dissent”.

<sup>17</sup> Human Rights Committee, General comment No. 37 (2020) on the right of peaceful assembly (article 21 of the International Covenant on Civil and Political Rights, CCPR/C/GC/37, para. 2) describes the fundamental human right of peaceful assembly as “a valuable tool that can and has been used to recognize and realize a wide range of other rights, including economic, social and cultural rights”.

<sup>18</sup> Declaration of Philadelphia para. II(a).

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strains on the “adequate protection for the life and health of workers in all occupations”, called for in the Declaration of Philadelphia.

57. The crisis led to a rude awakening to the fact that the centrality of the right to health has not been given sufficient prominence in the policy discourse. The Committee wishes to defer to the UN Committee on Economic, Social and Cultural Rights, which has held that health is a fundamental human right indispensable for the exercise of other human rights.<sup>19</sup> The right to health encompasses safe and healthy working conditions as an underlying determinant of health.<sup>20</sup> Even in situations of public health emergency, certain core obligations must remain satisfied, including essential primary health care and the implementation of a national public health strategy that concerns the whole population and gives particular attention to all vulnerable or marginalized groups.<sup>21</sup>

58. The Committee notes that the pandemic has brought renewed recognition of the importance of international labour standards on OSH, including the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), and the Occupational Safety and Health Convention, 1981 (No. 155). The principles contained in these OSH standards have been shown to be more relevant than ever, such as: protecting workers from risks to their health, according to the principle of prevention, the highest priority; the importance of taking technical and organizational OSH measures; the necessity of providing personal protective equipment at no expenditure to the worker; the indispensability of adequate training and information; and the fundamental importance of assessing occupational risks.

59. The pandemic has further highlighted the key role of occupational health services, in the monitoring of workers’ health and the provision of guidance for adapting workplaces procedures and practices and developing safety protocols. In this respect, the Committee recalls the important provisions of the Occupational Health Services Convention, 1985 (No. 161). The Committee also recalls that the Standards Review Mechanism Tripartite Working Group (SRM TWG), identified a gap in normative coverage in the area of biological risks which may lead to the possible inclusion of a standard setting item on this question on the agenda of a future session of the International Labour Conference.

60. Meaningful consultations with the most representative organizations of employers and workers for the development of OSH policies, systems and programmes are central

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<sup>19</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)*, Adopted at the Twenty-second Session of the CESCR, on 11 August 2000 (Contained in Document [E/C.12/2000/4](#)), para. 1.

<sup>20</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)*, Adopted at the Twenty-second Session of the CESCR, on 11 August 2000 (Contained in Document [E/C.12/2000/4](#)), para. 4.

<sup>21</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)*, Adopted at the Twenty-second Session of the CESCR, on 11 August 2000 (Contained in Document [E/C.12/2000/4](#)), paras 44 and 47.

to ILO OSH standards. National mechanisms for such consultations have proven to be essential for the development and implementation of tailored measures during times of crisis with the support of employers and workers. The pandemic has also reinforced the value of cooperation and consultation with workers and their representatives at the workplace level in ensuring safety and health and developing measures adapted to each undertaking.

61. The Committee wishes to emphasize that ILO OSH standards cover, in relation to work, both the physical and mental elements affecting health. The considerable changes to working conditions and the modalities of work in 2020 have introduced or intensified certain psychosocial risks, and the Committee accordingly underlines the critical importance, when designing and implementing measures to emerge and recover from the crisis, of taking into account workers' mental health, their physical health and general well-being.

## **Social security**

62. The Committee observes the tremendous pressure placed by the COVID-19 pandemic on national health systems and the surge in demand for medical and allied care and services resulting from the spread of the virus, in all regions of the world. It also observes the significant impact of the crisis that followed on people's livelihoods, threatened by the economic slowdown and the restrictions put in place to curb the health crisis.

63. The fundamental role of universal social protection floors has become evidently clear from the outset of the pandemic. Only 29 per cent of the global population enjoys access to comprehensive social security, while the remaining 71 per cent are not at all, or only partially, protected.

64. Based on the information at its disposal,<sup>22</sup> the Committee observes that, from the early stages, social protection emerged as a fundamental component of the COVID-19 crisis response and a means to mitigate its economic and social impact. Understandably, countries with strong social protection systems, underpinned by a well-developed and robust healthcare system, have been able to cope with the consequences of the COVID-19 pandemic and to ramp up support to their impacted populations quickly and effectively. The response has been less consistent in countries with fragmented social protection systems, mostly found in the developing world. These have not shown the same level of preparedness in coping with the crisis, due to the absence of universal

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<sup>22</sup> As provided by governments in their reports on the application of ILO Conventions and the European Code of Social Security, and as compiled by the ILO in a series of publications available on the dedicated webpages [Social Protection response to the COVID-19 crisis](#) and [State practice to address COVID-19 infection as a work-related injury](#).

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health coverage, unemployment insurance and sickness benefits for their populations, working mostly in the informal economy.

65. The Committee commends the governments concerned for having taken a vast array of measures (e.g. reinforcement of the health care system, provision of supplementary sickness and unemployment benefits and payments to workers and families in need, recognition of the occupational origin of COVID-19 to facilitate the compensation of persons infected in the course of their work). Moreover, these measures were taken within a short time frame, to increase the income and health protection of the population in face of the pandemic and to contain its devastating impact on people and on the economy.

66. The Committee notes that, while many of these measures go beyond the minimum standards set out in the Social Security (Minimum Standards) Convention, 1952 (No. 102), they tend to be aligned with the more advanced standards set out in other up-to-date social security Conventions,<sup>23</sup> and to implement, to some extent, the guidance provided by social security Recommendations,<sup>24</sup> as regards the scope of personal and material coverage achieved. The importance gained by these social security standards of the latest generation in the context of the COVID-19 pandemic highlights their continued relevance in guiding state action, even when not ratified or of a non-binding character.

67. It is to be expected that the effects of the pandemic will worsen in the immediate future, and be felt for some time. This may warrant extending or adjusting the scope of protection and duration of current measures or taking additional measures, as need be, to strengthen the social protection of all persons in need, in particular the most vulnerable, and enable societies to better cope with the impact of the crisis. Mindful of the costs associated with these measures, which are likely to be needed for quite some time, and of the challenge for member States to secure appropriate financing over time, the Committee recalls the principles of progressivity, social solidarity, solidarity in financing and economic, financial and fiscal sustainability, embedded in ILO social security standards.

68. The Committee further recalls the importance of social dialogue and tripartite participation, as well as consultations with representatives of other persons concerned, in the formulation and implementation of social security measures, including measures taken in response to the pandemic. Finally, the Committee hopes that ILO Member States, in collaboration with social partners and other stakeholders, will take this

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<sup>23</sup> Notably the Employment Injury Benefits Convention, 1964 (No.121), the Medical Care and Sickness Benefits Convention, 1969 (No. 130) and the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168).

<sup>24</sup> Notably, the Medical Care and Sickness Benefits Recommendation, 1969 (No. 134), the Employment Promotion and Protection against Unemployment Recommendation, 1988 (No. 176) and the Social Protection Floors Recommendation, No.202.

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opportunity to strengthen their health care and social security systems, guided by international labour standards.

### **Employment policy**

69. In its 2021 Addendum to the 2020 General Survey on promoting employment and decent work in a changing landscape, and in the [general observation made in the Committee's 2021 report on the Employment Policy Convention, 1964 \(No. 122\)](#), the Committee highlights the added-value of the guidance contained in the body of ILO employment instruments to lay the foundations for an inclusive, sustainable response and recovery. In adopting the ILO Centenary Declaration for the Future of Work in June 2019, the International Labour Conference called for the ILO to further develop its human-centred approach to the future of work, through, inter alia, developing effective policies aimed at generating full, productive and freely chosen employment and decent work opportunities for all.

70. The Committee observes that the COVID-19 crisis presents both enormous challenges as well as valuable opportunities to shape a fairer, more inclusive and secure future of work through the adoption and effective implementation of policy measures based on international labour standards and the rule of law. It stresses, however, that governments cannot tackle these enormous challenges alone: social dialogue and tripartite consultation are essential tools to recovery. The social partners, with their in-depth knowledge of the needs and realities of both businesses and workers, can contribute to the development and adoption of effective preventive measures to limit the spread of COVID-19 in workplaces, as well as of comprehensive and targeted response and recovery measures that take into account the needs and perspectives of all parties concerned. Inclusive dialogue with individuals and groups concerned by measures to be taken, and with civil society organizations where appropriate, can go a long way to building a climate of trust and ensure the development, adoption, implementation and review of measures that are both evidence- and consensus-based and promote increased ownership among all stakeholders. The development of a new generation of gender-responsive inclusive policies and programmes based on the guidance provided in the employment instruments can help to ensure a sustainable recovery from the crisis that promotes and protects job growth and decent work, creates an enabling environment for sustainable enterprises and strengthens inclusive social dialogue processes. In doing so, the employment instruments can contribute to ensuring resilient societies, economies and institutions capable of building a brighter, more inclusive future of work.

## **Freedom of association**

71. While recalling its general statement regarding civil liberties and freedom of association in times of crisis <sup>25</sup> mentioned in paragraph 52, the Committee observes that in the context of the pandemic, physical distancing measures and restrictions on freedom of assembly have affected, directly or indirectly, the realization of the right to organize and to collective bargaining. Situations of confinement made it more difficult for workers to have direct contact with their representatives, and at times impeded elections to renew the terms of office of union leaders and the processes of consultation and collective bargaining. In this regard, the Committee notes the proactive measures taken in some countries to facilitate the continued exercise of collective rights in the context of the constraints imposed by the pandemic, including: the extension of the mandates of trade union representatives; the adjustment of collective bargaining deadlines; the increased use of videoconferencing to ensure the continuity of the activity of social dialogue and collective bargaining bodies; and the adaptation of the facilities granted to unions in their dealings with teleworkers.

72. The Committee notes that in some countries, exceptional measures have led to temporary restrictions including the setting aside of collective bargaining mechanisms and the resulting agreements. The Committee considers that these exceptional measures are only admissible in the event of an acute crisis and that, by their nature, they must be limited in time, strictly adapted and proportionate to the objective constraints they address, include guarantees for the workers most affected and be consulted with the most representative organizations of employers and workers. At the same time, the Committee notes that in several countries collective bargaining mechanisms have played an important role in identifying responses to the crisis, for example through the signing of agreements defining the modalities of temporary reduction of working time and the preservation of workers' incomes.

73. In the context of the major economic difficulties generated by the pandemic, the Committee also notes the importance of carefully examining the effects of recent reforms establishing increased possibilities for derogation, by agreements at the enterprise level, of protective provisions set out in higher-level agreements. As indicated in a recent ILO study, "collective bargaining that takes into account the particular circumstances of specific enterprises or sectors is best placed to strike the right balance, and to re-evaluate the adequacy of wages in some mostly female-dominated low-paid sectors which have proved to be essential and of high social value during the current crisis". <sup>26</sup>

74. The Committee finally recalls that the COVID-19 crisis should not be used as a pretext for acts of anti-union discrimination.

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<sup>25</sup> ILO, CEACR General Survey on Freedom of Association and Collective Bargaining, 1994, para. 41.

<sup>26</sup> [ILO Global Wage Report, 2020-21](#), pages 18–19.

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75. In light of these developments and in line with the guidance provided by the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), the Committee underlines the importance of trade union and collective bargaining rights in providing fair and robust solutions to the current health, economic and social crisis and in ensuring, in this context, respect for all rights guaranteed by ILO standards.

### Child labour including its worst forms

76. As indicated in the [general observation made in the Committee's 2021 report on the Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#), global estimates indicate that between 42 and 66 million children could fall into extreme poverty as a result of the pandemic, adding to the 386 million children who were already in extreme poverty in 2019. The Committee applauds the universal ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182), by all Member States, which has also been instrumental in bringing the ratification rate of Convention No. 138 to over 90 per cent. Nevertheless, the Committee is concerned that without special efforts to prevent children from being pushed into child labour and its worst forms in the midst of the pandemic, not only years of progress towards eliminating child labour and its worst forms may be reversed, but the very foundation of an inclusive long-term recovery be undermined. The Committee calls on ILO Member States to strive towards safeguarding the precious progress made since the adoption of Conventions Nos 138 and 182 and making the recovery an opportunity to build back better and stronger.

### Forced labour

77. The pandemic exacerbates poverty in its many dimensions and exposes those living in poverty to coercion and the risk of falling victim to forced labour including trafficking in persons, debt bondage, and other forms of forced labour. It also contributes to worsening the situation of people who were already in situations of, or at risk of, forced labour before the COVID-19 outbreak including people trapped in slavery-like situations, discrimination, marginalization and limited or no social and labour protection.

78. The Committee wishes to recall that under human rights treaties, some rights, such as the right to life and freedom from slavery, including trafficking in persons, are non-derogable and cannot be constrained even in times of public emergency.<sup>27</sup> Even though Convention No. 29 allows for derogations in the event of an epidemic that would endanger the existence of the whole or part of the population, during these exceptional cases, the duration and extent of compulsory service, as well as the purpose for which it is used, should be limited to what is strictly required by the exigencies of the situation.

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<sup>27</sup> Article 4 of the International Covenant on Civil and Political Rights (ICCPR).

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Moreover, it may be appropriate to recall that the Abolition of Forced Labour Convention, 1957 (No. 105), requires ratifying Members not to resort to any form of compulsory or forced labour for purposes of economic development, as a means of labour discipline, as a punishment for having participated in strikes, or as a means of racial, social, national or religious discrimination. The Convention also protects persons “holding or expressing political views or views ideologically opposed to the established political, social or economic system” from sanctions involving compulsory labour. Any such restrictions should only be implemented in circumstances of extreme gravity and should be limited in time and scope to what is strictly required to meet the specific emergency situation.<sup>28</sup>

### Equality and non-discrimination

79. The consequences of the pandemic increase the risk of eliminating decades of progress on equality for women and men in the world of work. In this year’s Addendum to the 2020 General Survey on promoting employment and decent work in a changing landscape, the Committee observes that the pandemic has affected women and men differently, as working from home may impose a double burden on workers with family responsibilities, particularly on women, due to their unpaid care work.<sup>29</sup>

80. Women are over-represented in the health and social sector and have undoubtedly been more affected by job losses, including the loss of social security protection. The Committee highlights the need to develop policy responses that are both effective and inclusive, to promote and realize equality of opportunity and treatment for both women and men.<sup>30</sup>

81. As noted above, the context of the pandemic has also had a disproportionate impact on groups in vulnerable situations and highlighted that leaving no one behind is even more essential during a time of crisis. In emerging from the crisis and regenerating the world of work, it is imperative that progress is achieved in an inclusive manner.

82. Noting reports of a sharp increase in the incidence of violence and harassment as a result of the pandemic, the Committee welcomes the entry into force of the Violence and Harassment Convention, 2019 (No. 190). It hopes that legal and policy responses to the COVID-19 pandemic at all levels of the economy, adopted in consultation with the social partners and other stakeholders, will mainstream measures to promote and

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<sup>28</sup> [Key provisions of international labour standards relevant to the evolving COVID-19 outbreak](#), ILO, May 2020, pages 29-30.

<sup>29</sup> 2021 Addendum to the General Survey on promoting employment and decent work in a changing landscape, paragraph 169.

<sup>30</sup> 2021 Addendum to the General Survey on promoting employment and decent work in a changing landscape, paragraph 230.

ensure equality and non-discrimination in employment and occupation and freedom from violence and harassment in the world of work.

## Labour inspection

83. The Committee notes that a sharp decrease in the number of inspections has been reported as a result of the pandemic. Nevertheless, labour inspectorates continue to play an important role in national responses to COVID-19, by monitoring compliance with protective measures aimed at reducing transmission of the virus among employees; providing guidance to workers and employers; and creating hotlines for workers, trade unions, and the public to report concerns about workplace practices. The public health crisis is leading many inspectorates to redefine their regular priorities, in the process developing new operational procedures and making greater use of technology to continue functioning. Further, many have adopted important protective measures to ensure the safety and health of labour inspectors.

84. In a number of jurisdictions, the pandemic is resulting in a substantial reduction in inspection visits to workplaces. Most labour inspectorates have scaled back on planned activities due to the need to protect the safety and health of inspectors even though this is a time when their advisory and enforcement role is more needed than ever. However, the Committee emphasizes that moratoria imposed on labour inspections in certain cases or the exemption of certain types of enterprises from labour inspections are extremely disconcerting and risk undermining the rule of law. Going forward, inspection systems may be adversely affected by budgetary reductions linked to decreased public spending. The Committee recalls in this respect the important framework provided by ILO labour inspection Conventions Nos 81 and 129 for ensuring that labour inspectorates have an adequate number of staff, with appropriate conditions for hiring, training and service, with the necessary resources to perform their functions. It calls for the necessary resources, including personal protective equipment, to be made available to enable the labour inspectorate to accomplish its fundamental role in the governance of the labour market, including in the informal economy.

## Wages

85. According to a recent ILO report, in the near future, the economic and employment consequences of the COVID-19 crisis are likely to exert massive downward pressure on workers' wages. Adequate and balanced wage policies, arrived at through strong and inclusive social dialogue, are needed to mitigate the impact of the crisis and support economic recovery. In planning for a new and better "normal" after the crisis, adequate minimum wages – statutory or negotiated – could help to ensure more social justice and less inequality.<sup>31</sup> In this context, the Committee wishes to reiterate the critical

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<sup>31</sup> [ILO Global Wage Report, 2020-21](#), pages 18–19.

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importance of those international labour standards that seek to ensure decent minimum wage levels and the protection of wages, particularly the Minimum Wage Fixing Convention, 1970 (No. 131), the Protection of Wages Convention, 1949 (No. 95), and the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173). The Committee trusts that the crisis responses adopted or envisaged by governments in the field of income security will be fully consonant with the principles underlying these Conventions.

### Working time

86. In this year's Addendum to the 2020 General Survey, the Committee observes the exponential increase in recourse to telework, platform work, home work, shift work and similar working modalities as measures to prevent the spread of the COVID-19 pandemic. Noting the range of challenges posed by telework, the Committee suggests in its conclusions that, to ensure that telework as a work modality meets the needs of both enterprises and workers and at the same time provides adequate protections and safeguards, the ILO constituents may wish to engage in further reflection to consider how best to address issues related to telework, such as working time and the right to disconnect from work, the allocation of rights and responsibilities with respect to the costs of teleworking, occupational safety and health requirements and privacy rights, among others.<sup>32</sup>

### Frontline workers

87. Many frontline workers in healthcare and key workers ensuring continuity of functions critical to economic and national security (such as seafarers and other transport workers, rural workers, food supply workers or law enforcement workers) have continued to provide essential public goods during the pandemic. The Committee refers to the general observations made in its 2021 report on [Convention No. 122](#), [Convention No. 182](#) and the [Maritime Labour Convention, 2006, as amended](#), as well as the 2021 Addendum to the 2020 General Survey on promoting employment and decent work in a changing landscape. It emphasizes the need to ensure that these categories

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<sup>32</sup> 2021 Addendum to the 2020 General Survey on Promoting Employment and Decent Work in a Changing Landscape, paragraph 299, Part IV. In its 2018 General Survey, the Committee also observed that while telework and the platform economy may offer certain flexibility to workers, these working arrangements may also bring a number of disadvantages for workers, including encroachment on nonworking time and rest periods, the unpredictability of working hours, income insecurity and stress associated with the (perceived) need to always be available for, or connected to, work and lost labour protections if they are classified as independent contractors. These stressors can have significant impacts on workers' well-being, including on their mental health, which may be compounded during the current period of global uncertainty arising from the pandemic and its aftermath. ILC Report III (Part B): General Survey concerning working-time instruments – Ensuring decent working time for the future, paragraph 758.

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of workers benefit from the full legal protection to which they are entitled under international law.<sup>33</sup>

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<sup>33</sup> The Committee also recalls in this regard the Domestic Workers Convention, 2011 (No. 189), the Home Work Convention, 1996 (No. 177), and the Nursing Personnel Convention, 1977 (No. 149).

## Indigenous peoples

88. While recognizing the gravity of the impact of the pandemic on the population as a whole, and the efforts made by governments to address the resulting crisis, the Committee considers that the special vulnerability and socio-economic conditions faced by indigenous peoples should be taken into consideration.

89. While indigenous peoples have a high rate of participation in employment, they are more likely to be in the informal economy and the quality of their employment is often reflected by poor working conditions, low pay and discrimination. They are nearly three times more likely to be in extreme poverty compared to their non-indigenous counterparts.<sup>34</sup> Furthermore, they still experience barriers in accessing safe water, proper sanitation as well as public health systems and social protection programmes.

90. The Committee is concerned that these pre-existing barriers have contributed to indigenous and tribal communities being disproportionately affected by the health and socio-economic effects of the crisis<sup>35</sup> and this may lead to deepening the marginalization of members of these communities. The Committee considers that the vulnerable situation confronting indigenous peoples needs to be addressed as a matter of urgency. The Committee acknowledges that some countries have taken into consideration the specific and at the same time diverse realities of indigenous and tribal communities in their response to the COVID crisis.<sup>36</sup> It recalls that the full implementation of the rights recognized in the Indigenous and Tribal Peoples Convention, 1989 (No. 169), should guide governmental action in its response to the crisis. Indeed, Convention No. 169 provides the framework for the adoption of an inclusive approach that leaves no one behind. This includes ensuring, inter alia, that indigenous and tribal peoples are consulted when legislative or administrative measures may affect them; that their right to land and access to natural resources is fully recognized; that their cultural identity, customs and tradition are respected; that health services are effectively made available to them; and that they have access to information in their own indigenous language. In light of these considerations, the Committee calls on governments to strive to ensure that indigenous peoples benefit from effective and culturally appropriate protection against the COVID-19 pandemic and its consequences.

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<sup>34</sup> ILO report: Implementing the ILO Indigenous and Tribal Peoples Convention No. 169 – Towards an inclusive, sustainable and just future, ILO, 2019.

<sup>35</sup> ILO paper, [The impact of COVID-19 on indigenous communities: Insights from the Indigenous Navigator](#), October 2020.

<sup>36</sup> 2021 Addendum to the 2020 General Survey, paragraphs 275 to 286 relating to indigenous and tribal peoples.

## **Concluding remarks**

91. The Committee would appreciate receiving information regarding the measures adopted by governments to meet the above obligations.