

## Promoting labour rights and reducing decent work deficits in the BRICS

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### Contents

<b>1. Labour rights for achieving decent work for all</b>	<b>2</b>
<b>2. Advancing fundamental principles and rights in the BRICS countries: some policy considerations and country examples</b>	<b>4</b>
▶ Freedom of association and the effective recognition of the right to collective bargaining	5
▶ Elimination of all forms of forced or compulsory labour	7
▶ Effective abolition of child labour	9
▶ Elimination of discrimination in respect of employment and occupation	11
▶ A Safe and healthy working environment	13
<b>Annex: Available data and legal frameworks for FPRW in BRICS countries</b>	<b>16</b>
▶ Brazil	16
▶ Russian Federation	17
▶ India	19
▶ China	21
▶ South Africa	22

The ILO Centenary Declaration for the Future of Work reaffirms that the achievement of social justice requires further developing a human-centred approach to the future of work, which puts workers' rights and the needs, aspirations and rights of all people at the heart of economic, social and environmental policies.<sup>1</sup> Fundamental principles and rights at work (FPRW) provide the foundation on which equitable and just societies and an open, inclusive global economy are built. Universal and inalienable human rights in and of themselves, they are also the starting point for a virtuous circle of effective social dialogue, better conditions for workers, more and better jobs and social protection, formalizing the informal economy, and, ultimately, the achievement of decent work for all and the advancement of social justice.

The ILO Declaration on Fundamental Principles and Rights at Work, adopted in 1998 and amended in 2022, commits ILO Member States to respect, promote and realize principles and rights in five domains, independently of the fact that they have ratified the core instruments or not (Table1):

- ▶ freedom of association and the effective recognition of the right to collective bargaining;
- ▶ the elimination of all forms of forced or compulsory labour;
- ▶ the effective abolition of child labour;
- ▶ the elimination of discrimination in respect of employment and occupation; and
- ▶ a safe and healthy working environment.

This report provides a brief overview of fundamental principles and rights in the five BRICS countries as well as of the legislative and policy frameworks in place in each to protect and promote these rights (annex). It then provides some insights on measures taken to realise FPRWs in the five BRICS countries and some overarching policy considerations.

## 1. Labour rights for achieving decent work for all

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**The five fundamental labour rights are essential enabling rights for the achievement of decent work for all**, defined by the ILO as “productive work for women and men in conditions of freedom, equity, security, and human dignity”. They embody the fundamental values on which rest the “sustained and sustainable economic growth” envisaged in target 8 of the 2030 Development Agenda. Labour rights are crucial in putting nations on a sustainable path towards strong and stable economic growth.<sup>2</sup> And as shown during the COVID-19 crisis, labour rights provide some protection to workers and enable economies to rebound quicker when a crisis occurs.<sup>3</sup>

Freedom of association and the right to collective bargaining represent the primary vehicle by which this can be achieved, enabling employers and workers to negotiate key aspects of their relationship. Ensuring respect for freedom of association and the effective recognition of the right to collective bargaining is a critical precondition for effective social dialogue, without which there can be no negotiation between employers and workers, for example for the fair sharing of wealth they helped generate. Social dialogue is a key pillar of decent work.

Discrimination denies equality of opportunity and treatment and remains one of the most significant barriers to decent work. Ending discrimination will unlock the potential of the millions of women, men and youth currently excluded or undervalued. Non-discrimination means workers and job seekers are treated equally, regardless of any attributes other than their ability to do the job, again an essential cornerstone of decent work. Discrimination stifles opportunities, wasting the human talent needed for economic progress, and accentuates social tensions and inequalities. Combating discrimination is an essential part of promoting decent work, and success on this front is felt well beyond the workplace.

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<sup>1</sup> ILO. 2019. [ILO Centenary Declaration for the Future of Work](#). p. 3.

<sup>2</sup> Bivens J. and C. Weller. 2003. Rights make might; Ensuring workers' rights as a strategy for economic growth. EPI Issue Brief No. 192, April 2003; Thomas I. Palley. 2004. The economic case for international labour standards. [Cambridge Journal of Economics, Volume 28, Number 1 \(January 01, 2004\)](#), pp. 21-36; Rémi Bazillier, 2008. Core Labor Standards and Development: Impact on Long-Term Income. [World Development Volume 36, Issue 1](#), January 2008, Pages 17-38.

<sup>3</sup> ILO. 2020. [COVID-19 and fundamental principles and rights at work](#). Issue paper. Fundamental Principles and Rights at Work Branch (FUNDAMENTALS). Geneva: ILO.

There can also be no decent work in contexts where working women and men are losing their lives, sustaining injuries or becoming ill because of inadequate safety and protection in their working environments, where they are coerced to work against their free will, or where children must perform work for which they are too young or that may be physically or psychologically harmful to their health and well-being.

Eradicating child labour and ensuring that all children are in quality education, and that young people receive the training they need to fulfil their productive and creative potential, will contribute to ending poverty, to stronger economies and to a better future for all. Ending forced labour, in all its forms, means that workers will neither be robbed of their dignity nor their right to freely-chosen employment.

The inclusion of a safe and healthy working environment as a fundamental principle and right of a is a precondition for the improvement of individual and collective conditions of work. Preventing accidents, injuries and diseases at work is protecting human life, preventing human suffering, and serving sustainability of enterprises and preserving employability.

**The five fundamental labour rights are closely interlinked and reinforce each other.** The result is an integrated approach to fundamental principles and rights at work which both recognizes and makes use of the fact that enabling workers and employers to freely and equally take action to improve their working environment is an efficient way to remedy deficits in achieving decent work generally.

In practice, carrying out programmes for freedom of association or against forced and child labour and discrimination frequently calls for tools which also enhance occupational safety and health. Workplace-specific solutions for safety and health prevention are often agreed on in collective agreements or found in workplace cooperation mechanisms, which cannot effectively operate without respect for freedom of association principles. Collective agreements provide the consent without which overtime arrangements can rapidly deteriorate into coercive measures or hazardous working conditions. Interventions to prevent, identify and address occupational injuries and diseases play an important role in broader efforts against forced labour. For example, severe OSH violations can be an important indication of potential forced labour, pointing to the importance of leveraging OSH inspections for the identification of forced labour. Also, early intervention addressing OSH concerns can in some instances help prevent work situations from degenerating into situations of forced labour. Ensuring children are in school rather than child labour makes it more likely they will acquire the human capabilities necessary for decent work as adult workers. Intervening early in the lifecycle against child labour, in other words, is a key OSH preventive strategy, making work outcomes involving OSH violations less likely later on.

Workers in BRICS countries are facing headwinds including the lingering effects of the COVID-19 pandemic, repercussions of war, rising inflation and growing income inequality, all serving to place fundamental labour rights at heightened risk. Yet the current moment is also one of important opportunity.

The process culminating in the historic decision to include a safe and healthy work environment as a fifth fundamental right in 2022 has given new momentum to broader efforts towards protecting and promoting all the fundamental rights. The 5<sup>th</sup> Global Conference on the Elimination of Child Labour, held in Durban, South Africa in May 2022, has drawn world attention to the urgent need for accelerated progress against child labour and forced labour, while the [Call to Action on the Elimination of Child Labour](#) agreed at the Conference has provided a critical roadmap for global efforts against child labour going forward.

Tables 1 and 2 provide some initial insight into the status of fundamental labour rights in the BRICS countries. While the five countries have made important progress in terms of the ratification of the core ILO fundamental instruments, ratification of the instruments remains far from universal (Table 1). Efforts towards ratification remain critical because ratification uniquely embodies lasting political validation of national commitment to continued progress embedded in multilateral dialogue. But ratification, while critical, is not enough. Key FPRW statistical indicators also paint a picture of both achievement and significant challenge in terms of the *implementation* of the fundamental instruments across the five BRICS countries (Table 2).

**Table 1. Ratification of ILO fundamental instruments**

	Brazil	Russian Federation	India	China	South Africa
C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	--	10-Aug-56	--	--	19-Feb-96
C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	18-Nov-52	10-Aug-56	--	--	19-Feb-96

C029 - Forced Labour Convention, 1930 (No. 29)	25-Apr-57	23-Jun-56	30-Nov-54	12-Aug-22	05-Mar-97
P029 - Protocol of 2014 to the Forced Labour Convention, 1930		17-Jan-19			
C105 - Abolition of Forced Labour Convention, 1957 (No. 105)	18-Jun-65	02-Jul-98	18-May-00	12-Aug-22	05-Mar-97
C100 - Equal Remuneration Convention, 1951 (No. 100)	25-Apr-57	30-Apr-56	25-Sep-58	02-Nov-90	30-Mar-00
C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	26-Nov-65	04-May-61	03-Jun-60	12-Jan-06	05-Mar-97
C138 - Minimum Age Convention, 1973 (No. 138)	28-Jun-01	03-May-79	13-Jun-17	28-Apr-99	30-Mar-00
C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)	02-Feb-00	25-Mar-03	13-Jun-17	08-Aug-02	07-Jun-00
C155 - Occupational Safety and Health Convention, 1981 (No. 155)	18-May-92	02-Jul-98		25-Jan-07	18-Feb-03
C187 - Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)	--	24-Feb-11	--	--	--

Source: ILO NORMLEX

**Table 2. Key FPRW indicators (most recent year)**

		Brazil	Russian Federation	India	China	South Africa
Freedom of association and the effective recognition of the right to collective bargaining	Trade union density rate (%) <sup>1</sup>	13.0 (2019)	27.5 (2017)	19.8 (2017)	44.2 (2017)	29.1 (2019)
	Collective bargaining coverage rate (%) <sup>1</sup>	64.8 (2020)	28.5 (2019)	--	45.0* (2017)	30.1 (2019)
Elimination of all forms of forced or compulsory labour	Proportion of persons engaged in forced labour (%)	--	--	--	--	--
Effective abolition of child labour	Proportion of children aged 5-17 years engaged in child labour (%)	4.6 (2019) <sup>2</sup>	--	--	--	5.0 (2019) <sup>3,a</sup>
Elimination of discrimination in respect of employment and occupation	Labour force participation rate by sex, 15+ (%) <sup>1</sup>	Male: 72.9 Female: 52.4 (2021)	Male: 70.6 Female: 55.4 (2021)	Male: 73.8 Female: 24.1 (2021)	Male: 72.6 Female: 61.1 (2021)	Male: 62.4 Female: 49.6 (2021)
	Employment-to-population ratio by sex, 15+ (%) <sup>1</sup>	Male: 65.1 Female: 43.8 (2021)	Male: 67.3 Female: 52.8 (2021)	Male: 68.1 Female: 24.4 (2020)	Male: 68.7 Female: 58.5 (2021)	Male: 45.2 Female: 34.6 (2021)
	Unemployment rate by sex, 15+ (%) <sup>1</sup>	Male: 10.7 Female: 16.4 (2021)	Male: 4.6 Female: 4.8 (2021)	Male: 8.2 Female: 6.8 (2020)	Male: 5.4 Female: 4.2 (2022)	Male: 27.5 Female: 30.3 (2021)
Safe and healthy working environment	No. of work-related fatalities per 100,000 of the working-age population (> 15 years) <sup>4</sup>	17.6 (2016)	28.3 (2016)	43.7 (2016)	39.7 (2016)	20.0 (2016)

Notes: (a) Refers to the age group 7 to 17 years. (\*) refers to collective contracts as the outcome of a collective consultation process, not collective agreements negotiated in a collective bargaining process as understood in international labour standards.

Sources: (1) ILOSTAT; (2) Instituto Brasileiro de Geografia e Estatística (IBGE); (3) Statistics South Africa; (4) [WHO/ILO Joint Estimates of the Work-related Burden of Disease and Injury, 2000–2016](#).

See the annex for more detailed information on available data and legal frameworks.

## 2. Advancing fundamental principles and rights in the BRICS countries: some policy considerations and country examples

The need to safeguard fundamental principles and rights at work in the BRICS countries and to extend these rights to groups of workers for whom protections in law and practice are lacking or inadequate is on-going. There are of course no easy or one-size-fits-all solutions for respecting, promoting, and realising the fundamental labour rights of BRICS workers. Circumstances in the five BRICS countries and the rights challenges faced by workers in them vary widely. Bespoke, evidence-based policy responses are needed in

each. Research and experience points to some important overarching policy considerations for advancing the fundamental principles and rights at work in the BRICS countries. These are briefly discussed below.

### ► Freedom of association and the effective recognition of the right to collective bargaining

Freedom of association and the effective recognition of the right to collective bargaining are the “first among equals” of the fundamental labour rights - foundational rights that are indispensable for the realisation of the other four categories of fundamental labour rights. Indeed, in situations in which these fundamental labour rights are denied, workers are unable to exert a collective voice, to defend their interests, or to positively influence the conditions of their working lives, in turn leaving them much more vulnerable to other fundamental rights violations. Vulnerable groups such as youth, poor women and disabled persons are amongst those with the lowest levels of organisation. More broadly, the rights to organize and bargain collectively provide the essential underpinning for social dialogue, effective labour market governance and realization of decent work for all.

Recent years have seen continuing pressures on the processes and institutions that support freedom of association and collective bargaining. In many contexts, the majority of work continues to be carried out in the informal and rural economies, where workers face major challenges in organizing. The COVID-19 pandemic and the food and energy crises have also had negative impacts on collective bargaining. Structural changes in employment, including the growth of new forms of employment, have also posed challenges for freedom of association and collective bargaining.<sup>4</sup>

An effective legal and institutional framework for labour relations, strong employers’ and workers’ organizations and an efficient labour administration are the main elements of a conducive and enabling environment for freedom of association and collective bargaining.<sup>5</sup>

Ratification of the relevant fundamental Conventions is a critical step towards advancing freedom of association and the effective recognition of the right to collective bargaining in the BRICS countries. However, implementation still faces challenges. The use of those methods “which have their origins in tripartism, social dialogue and full and frank consultations between the social partners”<sup>6</sup> are essential for the implementation of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

Implementation challenges are often not related to a distinct lack of respect for the right to organize or for the civil liberties essential for the exercise of trade union rights. They often point to the need to invest in an integrated labour relations infrastructure that effectively combines the need for meaningful participation in labour market governance and ownership of its outcomes with the prevention or professional management of disputes: tripartite consultations on labour law reform; professional and accessible dispute settlement systems that correctly distinguish between rights and interest disputes; and actively supported frameworks for collective bargaining – to name just a few. Without investment in such public goods, inequality and instability are likely to further the foundations of sustainable economic growth and compromise the leap from middle-income to high-income status.

Most workers in the informal economy – migrants as well as nationals – lack a representative and collective voice, even in contexts in which freedom of association and collective bargaining are guaranteed in law. Redressing the lack of effective access to representation among informal economy workers is crucial to progress against other fundamental labour rights violations. Among the many challenges are legal restrictions: democratic, independent, membership-based organisations of actors in the informal economy may sometimes not even be allowed to operate under local or national legislation. This serious representation gap reinforces the lack of other legal and social protections, in turn compounded by multiple discriminations based on gender, ethnicity, migrant status and other factors. A It is also a central element in broader efforts towards their formalisation.

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<sup>4</sup> ILO. 2017. [Fundamental principles and rights at work: From challenges to opportunities \(ilo.org\)](#).

<sup>5</sup> ILO. 2017. [Fundamental principles and rights at work: From challenges to opportunities \(ilo.org\)](#).

<sup>6</sup> ILO. 2012. *Giving Globalization a Human Face – General Survey on the Fundamental Conventions Concerning Rights at Work in Light of the ILO Declaration on Social Justice for a Fair Globalization, 2008*, International Labour Conference, 101st Session. ILC.101/III/1B.

In several countries, informal economy workers with few statutory rights have formed their own membership-based organizations to directly represent their interests and negotiate with state authorities or employers. These include specific sections for workers in the informal economy within existing trade unions; trade unions that are specifically established for workers in the informal economy; and cooperatives and associations. In **India**, the SEWA trade union represented the women head loaders in the Panchkuva cloth market in Ahmedabad, India, who were not covered by the Industrial Disputes Act, 1947 and therefore deprived of the right to collective bargaining, which enable them to benefit from ad hoc and regular negotiations with the state and the employers for adequate wages, working conditions and pay parity with men head loaders.<sup>7</sup> In São Paulo, **Brazil**, the dominant form of representation for domestic workers is conducted through the Domestic Workers Union of the State of São Paulo (STDMSP). The domestic workers' engagement in regular negotiations finally awarded them the statutory right to collective bargaining, which enabled them to build on the São Paulo agreement in 2017.<sup>8</sup>

Relatedly, extending the right to collective bargaining to public sector workers, vulnerable workers such as domestic and migrant workers and more recently platform workers and other workers in diverse work arrangements remain a critical challenge. In recent years, trade unions and employers' organizations at different levels have engaged in collective bargaining to address the specific issues facing workers in diverse work arrangements. The ILO has identified five areas in which innovative clauses protecting these workers have been reached:

1. securing regular employment: social partners have negotiated collective agreements which provide a measure of certainty and even job security to workers with temporary contracts or who have worked for the same firm for many years through an intermediary. Limits have been agreed on the period after which a worker is no longer considered 'temporary', and workers on successive temporary contracts have had their employment regularized, such as in **South Africa**, the Road Freight Bargaining Council Agreement (2012-2013).<sup>9</sup>
2. negotiating equal pay: social partners have used collective bargaining to progressively minimize wage differentials between workers performing the same work but with 'regular' and 'non-standard' contracts of employment. In some instances, they have also negotiated equal pay, particularly in the case of temporary agency workers, such as in **India** where Coal India Ltd. and the Indian National Mineworkers Federation (INMF) and others, negotiated a wage agreement for contractor workers engaged in mining operations (2012-2016).<sup>10</sup>
3. guaranteeing working hours for workers with zero-hours contracts;
4. extending maternity protection; and
5. making the workplace safe.

#### **A legislative framework to support social dialogue**

In **South Africa**, the Labour Relations (Amendment) Act, 2018 provides for the following: (1) Timelines in which the Minister should act to extend a collective agreement after receiving a request to do so; (2) The power of the Minister to renew or extend a funding agreement in the bargaining council for 12 months at the request of any of the parties to the council where the Minister is satisfied that failure to renew such agreement may undermine collective bargaining at the sectoral level; (3) Power of the Commissioner of the *Commission for Conciliation, Mediation and Arbitration* to secure an agreement between the parties to a dispute on rules to apply to any picket, and where there is no agreement, to make such a determination; (4) Independence of the registrar and deputy registrar of employers and workers organizations and their duty to be impartial and exercise their powers without fear, favour or prejudice; and (5) Appointment and composition of an advisory arbitration panel in public interest, and for such panel to make advisory arbitration awards, and the effect of such awards.

<sup>7</sup> ILO. 2023. Negotiations by workers in the informal economy. [ILO Working Paper 86](#). ILO, Geneva.

<sup>8</sup> Ibid.

<sup>9</sup> ILO. 2015. Collective bargaining and non-standard forms of employment: Practices that reduce vulnerability and ensure work is decent. [Issue Brief n°3 – Labour Relations and Collective Bargaining](#). ILO, Geneva.

<sup>10</sup> Ibid.

The way the bargaining table is set up – including the recognition of the parties who may take a seat at the table and the “rules of engagement” – plays an important part in determining the degree to which collective bargaining may contribute to the inclusive and effective governance of work. Collective bargaining as a voluntary process is predicated on the autonomy of the parties. The role of the public authorities – and of the institutional and regulatory framework – is to promote the full development of collective bargaining. A fine balance needs to be struck between the promotional and enabling role of the State on the one hand, and the autonomy of the bargaining parties on the other. There is considerable variation among countries, ranging from “voluntaristic” industrial relations systems, where the parties establish their own procedural rules for collective bargaining with minimal involvement by the State, to those where the public authorities play an active role in promoting collective bargaining by “setting up the table”. In line with its voluntary nature, national laws rarely provide for detailed regulation of the negotiation process. However, interference by the State continues to be an issue in several countries, ranging from the use of compulsory arbitration to requirements to submit the agreement to the authorities for approval. Some broad guidelines may nevertheless be established to facilitate constructive negotiations. In several countries, legislation prescribes a general duty to bargain in good faith (for example, in Argentina, Cambodia, Canada, Poland, Rwanda and the United Republic of Tanzania), while in others it provides specific obligations (for example, in **China**, Kenya, Sweden, Ukraine and the United Kingdom). In some cases, these obligations are set out in codes of good practice, agreed between the social partners. For example, in 2018, **South Africa** adopted the Code of Good Practice: Collective Bargaining, Industrial Action and Picketing, the aim being, inter alia, to promote orderly collective bargaining by strengthening trust, mutual understanding and constructive engagement. Various regulatory measures have either been adopted or are being considered with the intention of promoting collective bargaining.<sup>11</sup>

### ► Elimination of all forms of forced or compulsory labour

The Forced Labour Convention, 1930 (No. 29), the Abolition of Forced Labour Convention, 1957 (No. 105), and the Forced Labour Protocol and Recommendation together establish an unambiguous principle: the exaction of forced labour is a crime and needs to be dealt with as such. But the instruments also make clear that forced labour cannot be eliminated through criminal law enforcement alone. Rather, a broad-based approach is needed, with a strong emphasis on preventing and addressing root causes of forced labour and on ensuring protection and remedies for the people already affected by it. Socio-economic vulnerability and the lack of decent employment opportunities are critical underlying causes of people falling into situations of trafficking for forced labour. Experience and evidence point to a number of overarching policy priorities in this regard:

- Extending respect for the freedoms of workers to associate and to bargain collectively to all workers, including those in the informal economy, where the risk of forced labour is highest, and most workers currently lack a collective and representative voice;
- Extending at least basic social security guarantees (social protection floor) to all workers and their families, without discrimination, to offset the socio-economic vulnerabilities that can push people into forced labour;
- Promoting fair and ethical recruitment, to protect workers from abusive and fraudulent practices during the recruitment and placement process, including the charging of extortionate fees and related costs by unscrupulous recruitment agencies and labour intermediaries,
- Establishing a solid labour contracts system that effectively formalizes employment relationships, reduces the scope for casual employment and protects workers in non-standard forms of employment
- Strengthening the reach and capacity of public labour inspectorates, so they are able to detect and act on labour violations before they deteriorate into forced labour and to promptly detect and refer actual forced labour cases; Among the key measures adopted by **Brazil** in the fight against forced labour is the creation of a Special Mobile Inspection Group in 1995, under the Ministry of Labour, combining the efforts of specially trained and equipped labour inspectors, labour prosecutors and police officers. The Brazilian Smartlab and accompanying Observatory for the Eradication of Contemporary Slavery and Trafficking in Persons are a pioneering data and evidence-oriented initiative aimed at leveraging the use of knowledge to guide efforts against forced labour and to monitor progress in this regard. **Brazil** also has a Public Labour Prosecutor’s Office with 24 local offices spread across the country and mandated to ensure respect for workers’ individual and collective rights, including forced labour.

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<sup>11</sup> ILO. 2022. [Social Dialogue Report 2022: Collective bargaining for an inclusive, sustainable and resilient recovery](#). Geneva: ILO. (p. 54-55)

- ▶ Ensuring protection for people freed from forced labour, through immediate assistance, rehabilitation, and long-term sustainable solutions, so they can successfully recover and avoid re-victimization, with special consideration for children, migrants, and those trafficked for forced labour; The government of **India** reports a number of schemes relating to the protection and rehabilitation of people who have fallen victim to forced labour<sup>12</sup>, including, inter alia, the Victim of Trafficking and Commercial Sexual Exploitation Scheme providing legal assistance to the victims of trafficking and sexual exploitation; Ujjawala comprehensive scheme for prevention of trafficking and rescue, rehabilitation and reintegration of victims of trafficking for commercial sexual exploitation<sup>13</sup>; and the Quick Response Cell run by the National Commission for Protection of Child Rights (NCPCR) addressing instances of child trafficking.<sup>14</sup> The revamped Central Sector Scheme for Rehabilitation of Bonded Labour supports persons released from situations of bonded labour. In **India**, the Supreme Court has expanded access to justice, in particular for socially disadvantaged groups such as bonded labourers, by accepting “public interest litigation” according to which claims of human rights violations such as forced labour can be brought by individuals or groups other than those directly aggrieved by social injustice as a matter of public interest.
- ▶ Ensuring access to remedy for people freed from forced labour, to help recompense them for the consequences of their subjection to forced labour and to help in their recovery;
- ▶ Ensuring adequate enforcement, to bring perpetrators to justice and deter would-be offenders from contemplating the crime of forced labour; **Brazil** has established a Register of individuals or entities found responsible, by a definitive administrative decision, for using labour under conditions akin to slavery, as an information tool to incentivise compliance with anti-slavery laws. Companies on the list are unable to access credit through the Brazilian financial system. **China** adopted a national action plan to combat trafficking in persons, which is overseen by the Ministry of Public Security and the [2021 – 2030 Plan of Action against human trafficking](#), which pledges to “strictly pursue the administrative, civil, and criminal responsibility of units and individuals who buy, act as an intermediary, or compel trafficked persons to engage in sexual services, obscene performances, or forced labour”.
- ▶ Addressing migrants’ vulnerability to forced labour and trafficking for forced labour, through national policy and legal frameworks that promote respect for the rights of all migrants at all stages of the migration process;
- ▶ Strengthening and extending identification and protection measures for children in forced labour, including, but not limited to, those in commercial sexual exploitation and those trafficked for forced labour;
- ▶ Combating forced labour and trafficking for forced labour in business operations and supply chains, with particular attention to the informal micro- and small enterprises operating at the lower links of supply chains in high-risk sectors and locations; The government of **India** has taken measures to address the manual scavenging of women from scheduled castes and tribes in situations that could amount to forced labour and young women and girls, mainly from scheduled castes and tribes from remote and rural areas, subjected to practices amounting to forced labour in textile mills in Tamil Nadu.<sup>15</sup>
- ▶ Ending abuses of compulsory prison labour, through reforms in both law and practice that are consistent with the core ILO forced labour conventions and protocols. China issued a government regulation in 2012 that banned forced labour in detention centre.<sup>16</sup>

In **Brazil**, the government has a broad set of policy frameworks and initiatives aimed at translating the laws into practice. The National Plan for Eradication of Slave Labour and the National Plan to Combat Trafficking in Persons provide the broad frameworks for national efforts against forced labour and human trafficking. The implementation of the plans is monitored in the MONITORA 8.7 Platform, a unique online platform developed to support the monitoring and evaluation of Target 8.7 plans, policies, programs and projects, and promote

<sup>12</sup> The government of India is in the process of finalising the Trafficking of Persons (Prevention, Care and Rehabilitation) Bill 2022 for introduction in the Parliament.

<sup>13</sup> [Direct Request \(CEACR\)](#) - adopted 2020, published 109th ILC session (2021), Worst Forms of Child Labour Convention, 1999 (No. 182) - India (Ratification: 2017), ILO.

<sup>14</sup> [National report submitted pursuant to Human Rights Council resolutions 5/1 and 16/21](#), India, Human Rights Council Working Group on the Universal Periodic Review, Forty-first session, 7–18 November, 2022A/HRC/WG.6/41/IND/117, August 2022.

<sup>15</sup> [Direct Request \(CEACR\)](#) - adopted 2018, published 108th ILC session (2019), Forced Labour Convention, 1930 (No. 29) - India (Ratification: 1954), ILO.

<sup>16</sup> [http://www.china.org.cn/china/NPC\\_CPPCC\\_2012/2012-03/02/content\\_24777695.htm](http://www.china.org.cn/china/NPC_CPPCC_2012/2012-03/02/content_24777695.htm)



evidence-based policymaking, social dialogue, and coordination. The National Commission for the Eradication of Slave Labour is a permanent platform for cross-sectoral engagement, and for coordinating efforts at all branches of government, the private sector, local governments, and civil society. The [InPacto](#) institute, an offshoot of the National Pact for the Eradication of Slave Labour, brings together businesses of all sizes to coordinate and strengthen private sector efforts against forced labour.

In **South Africa**, the Prevention and Combating of Trafficking in Persons National Policy Framework, launched in 2019, outlines the strategic goals and specific objectives to be achieved to facilitate a comprehensive implementation of the PACOTIP Act. The Framework provides a common strategic reference point and guidance for all government departments and civil society organizations engaged in anti-trafficking activities and in assisting and supporting victims of trafficking.<sup>17</sup> The National Inter-Sectoral Committee of Trafficking in Persons coordinates national anti-trafficking efforts and leads the implementation and administration of the PACOTIP Act at the national level. Provincial trafficking in persons task teams and provincial rapid response teams have been established to deal with complaints and provide support to victims.<sup>18</sup>

**China** has implemented a number of legal measures relating to forced labour<sup>19</sup>, including the abolition of re-education through labour in 2013; the abolition of the custody and education system for sex workers in 2019; the introduction of the Labour Contract Law in 2007 that aims to formalize employment relationships and contains specific provisions prohibiting forced labour; the recognition in law of the right of labourers to equal employment and to choose jobs on their own initiative in the 2007 Employment Promotion Law; the punishment of the crime of forced labour in accordance with the Criminal Law; the ratification of the Palermo Protocol to prevent, suppress and punish trafficking in persons; the adoption of a national action plan to combat trafficking in persons, which is overseen by the Ministry of Public Security; and the adoption of the [2021 – 2030 Plan of Action](#) against human trafficking which pledges to “Strictly pursue the administrative, civil, and criminal responsibility of units and individuals who buy, act as an intermediary, or compel trafficked persons to engage in sexual services, obscene performances, or forced labour.”.

At the international level, the Government of the **Russian Federation** indicates that special attention is paid to expanding international cooperation in combating human trafficking, including through the expansion of the CIS Programme of Cooperation for the period 2019–2023 and the conclusion of bilateral agreements with a number of countries.<sup>20</sup> **China** has endorsed the Call to Action to End Forced Labour, Modern Slavery and Human Trafficking, launched by world leaders during the UN General Assembly in 2017, which includes a commitment to endeavour to ratify and ensure the effective implementation of relevant international conventions, protocols, and frameworks.<sup>21</sup> China has ratified the International Covenant on Economic, Social and Cultural Rights. The Covenant recognizes the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts. The Covenant echoes the ILO Employment Policy Convention, 1964 (No. 122) which guarantees “freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use his skills and endowments in, a job for which he is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin”.

## ► Effective abolition of child labour

The Durban Call to Action on the Elimination of Child Labour, agreed at the 2022 5th Global Conference on the Elimination of Child Labour, held in Durban, South Africa in May 2022, provides a critical roadmap for global efforts against child labour going forward. The Call to Action centres on 6 broad action lines, all of which are relevant for the BRICS countries:

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<sup>17</sup> [Observation\(CEACR\)](#) - adopted 2020, published 109th ILC session (2021), Forced Labour Convention, 1930 (No.29) - South Africa (Ratification: 1997), ILO.

<sup>18</sup> [Observation\(CEACR\)](#) - adopted 2020, published 109th ILC session (2021), Forced Labour Convention, 1930 (No. 29) - South Africa (Ratification: 1997), ILO.

<sup>19</sup> On 12 August 2022, China ratified the ILO Forced Labour Convention, 1930 (No.29) and the Abolition of Forced Labour Convention, 1957 (No.105).

<sup>20</sup> [Direct Request\(CEACR\)](#) - adopted 2020, published 109th ILC session (2021), Forced Labour Convention, 1930 (No. 29) - Russian Federation (Ratification: 1956) Protocol of 2014 to the Forced Labour Convention, 1930 - Russian Federation (Ratification: 2019), ILO.

<sup>21</sup> [“China ratifies the two ILO Fundamental Conventions on forced labour”](#), ILO Press release, 12 August 2022.

- ▶ Accelerate multi-stakeholder efforts to prevent and eliminate child labour, with priority given to the worst forms of child labour, by making decent work a reality for adults and youth above the minimum age for work;
- ▶ End child labour in agriculture;
- ▶ Strengthen the prevention and elimination of child labour, including its worst forms, forced labour, modern slavery and trafficking in persons, and the protection of survivors through data-driven and survivor-informed policy and programmatic responses;
- ▶ Realize children's right to education and ensure universal access to free, compulsory, quality, equitable and inclusive education and training;
- ▶ Achieve universal access to social protection; and
- ▶ Increase financing and international cooperation for the elimination of child labour and forced labour.

Within this broad framework, evidence points to a core set of overarching policy considerations for addressing main underlying drivers of child labour. Extending social protection can mean families do not have to resort to child labour as a household survival strategy in the face of poverty and economic uncertainty. Investing in free, good-quality schooling can provide a viable alternative to child labour and open doors to a better future. Properly designed labour market policies can help in both curbing the demand for child labour and in ensuring that the investment in education translates into improved prospects for decent work during adulthood.

Finally, necessary laws and regulations must be in place to protect children, backed by enforcement and child protection systems to apply them. All five BRICS countries have ratified the ILO Minimum Age Convention, 1973 (No. 138) and Worst Forms of Child Labour Convention, 1999 (No. 182), but important challenges remain in terms of their full transcription in national law and in practice

In **Brazil**, a Third National Plan for the Prevention and Eradication of Child Labour and Protection of the Adolescent Worker, launched in 2018, provides the policy framework for efforts towards eradicating the worst forms of child labour by 2025. The National Commission for the Prevention and Eradication of Child Labour is the tripartite body leading the implementation of the National Plan. The National Forum for the Prevention and Eradication of Child Labour brings together representatives of the federal government, workers, employers, civil society and international organizations in efforts against child labour. With some variation, both these structures are replicated at the state and municipal levels. A National Programme for the Eradication of Child Labour describes specific policy measures undertaken towards the prevention and eradication of child labour. *Bolsa Família* (Family Stipend) is a national programme providing families living in poverty with cash transfers conditional on their keeping their children in school and taking them for regular health checks. The programme plays a key role in mitigating the socio-economic vulnerability that can lead to family reliance on child labour. In 2019, support through the programme included 28,600 families identified as having children in child labour.<sup>22</sup>

In **India**, the National Policy on Child Labour provides the broad framework for action against child labour. The policy, introduced in 1987, sets out actions for addressing child labour in hazardous occupations and processes. A National Child Labour Project Scheme is aimed at rescuing and rehabilitating children in child labour. An on-line Platform for Effective Enforcement for No Child Labour (PENCIL) Portal was launched in 2017 to enhance coordination, coherence and information exchange among all levels of governments and various stakeholders in the implementation of the National Policy on Child Labour.

In **China**, child labour measures reported by the government include, inter alia, a special programme to help street children to return to school, improvements to procedures for the rescue and support services to street children, and activities to strengthen the implementation and supervision of laws to protect child domestic workers.<sup>23</sup> The government adopted the Regulations on the Management of Student's Internship in Vocational Schools (Management Regulations) in 2016, in response to concerns about hazardous work performed in work study programmes. In March 2021, the "Trial Measures for Trade Union Supervision over Labour Law Enforcement" were issued by the government to further strengthen their supervision work in the area of

<sup>22</sup> Ministério da Cidadania, SAGI/VIS DATA - May, 2019

<sup>23</sup> [Direct Request \(CEACR\)](#) - adopted 2021, published 110th ILC session (2022), Worst Forms of Child Labour Convention, 1999 (No. 182) - China (Ratification: 2002), ILO.

labour laws, with focus on the use of child labour.<sup>24</sup> The Compulsory Education Law and corresponding measures to enforce the law and prevent school dropouts play an important role in national efforts against child labour. In 2019, the government launched an Education Modernisation 2035 Plan with a major emphasis on the quality of education at all levels.

In **South Africa**, the Child Labour Programme of Action provides the broad roadmap for national efforts towards the elimination of child labour, guiding the efforts of Government departments, civil society groups, business organisations, labour federations and other organisations. The National Strategy for Children Living and Working on the Streets provides a rights-based policy framework for government and other stakeholders in efforts addressing children at the risk of living or working on the streets or already in a street situation.<sup>25</sup> Several national programmes help mitigate the socio-vulnerability that can lead to household reliance on child labour. The Child Support Grant provides unconditional cash transfers to poor parents and guardians to meet the basic needs of their children. The National School Nutrition programme provides 1 or 2 healthy school meals to children every school day. The programme reaches more than three-quarters of public-school learners in the country.<sup>26</sup> A five-year community based initiative known as Isibindi provides support to vulnerable children in their homes, at community level through safe parks and life skills programmes,<sup>27</sup> benefitting over one million children. The initiative, which is being implemented in 367 sites, has been successful in ensuring that vulnerable children remain in school, particularly children in child-headed families.<sup>28</sup> In an attempt to further address gender and racial inequality and discrimination, the South African government launched the 2019 National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance, which also addresses the implementation of employment equity policies.<sup>29</sup> In 2020, the National Strategic Plan on Gender-Based Violence & Femicide was implemented, which also aims to increase the economic empowerment of women, children and LGBTQIA+ persons.<sup>30</sup> In 2019, South Africa also adopted the Traditional and Khoi-San Leadership Bill.<sup>31</sup>

### ► Elimination of discrimination in respect of employment and occupation

Discrimination in the world of work not only violates a basic human right but has wider social and economic consequences. It stifles opportunities, wasting the human talent needed for economic progress, and accentuates social tensions and inequalities. Discrimination is also an important underlying driver of forced labour, child labour, and workplace OSH violations, as it shapes how people are treated in the labour market, marginalising those who are subjected to it.

All five BRICS countries have ratified the ILO Equal Remuneration Convention, 1951 (No. 100) and the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), but critical challenges remain in terms of implementing them in national law and practice. Discrimination in employment, whether on grounds of race, colour, sex, religion, political opinion, national extraction, social origin, HIV status, disability, sexual orientation, gender identity or other, persists in the five countries, and addressing it requires building legal, institutional and policy frameworks that tackle its structural roots.

The principles of non-discrimination and inclusiveness need to be mainstreamed across all policy areas. Important gender inequalities persist in the BRICS countries, underscoring the critical need for continued progress in ensuring women's equal access to employment, equal pay for work of equal value and representation rights. The need for reforms to ensure equality of opportunity and treatment of migrant

<sup>24</sup> [Observation \(CEACR\)](#) - adopted 2021, published 110th ILC session (2022) Minimum Age Convention, 1973 (No. 138) - China (Ratification: 1999), ILO.

<sup>25</sup> "[Strategy and guidelines for children living and working in the streets](#)", Department of Social Development, Republic of South Africa, accessed January 2023.

<sup>26</sup> "[National School Nutrition Programme](#)", Department of Basic Education, Republic of South Africa, accessed January 2023.

<sup>27</sup> "[Social Development rolls out five-year intervention programme](#)", Media advisory, South African government, accessed January 2023.

<sup>28</sup> [Observation \(CEACR\)](#) - adopted 2020, published 109th ILC session (2021), Worst Forms of Child Labour Convention, 1999 (No. 182) - South Africa (Ratification: 2000), ILO.

<sup>29</sup> [National Action Plan to combat racism, racial discrimination, xenophobia and related intolerance \(www.gov.za\): NAP-20190313-ImplementationPlan.pdf \(justice.gov.za\)](#)

<sup>30</sup> [National Strategic Plan on Gender-Based Violence & Femicide](#), Pillar 5.

<sup>31</sup> [https://www.gov.za/sites/default/files/gcis\\_document/201911/4286528-11act3of2019tradkhoisanleadership.pdf](https://www.gov.za/sites/default/files/gcis_document/201911/4286528-11act3of2019tradkhoisanleadership.pdf)

workers in respect of employment and occupation, in accordance with ILO Convention nos. 97 and 143, is also critical.

Discrimination and informality go hand in hand, and it will be critical to extend the reach of labour law and social protection to workers in the informal economy, as part of broader efforts towards their transition to formality. Discriminated groups are also more prone to violence and harassment in the workplace, pointing to the need for measures to help prevent and address these abuses, in line with the ILO Violence and Harassment Convention, 2019 (No. 190) and its accompanying Recommendation No. 206. Growing stigma, xenophobia, misinformation in social media highlights the need for accurate, clear and evidence-based public information and awareness-raising campaigns against discrimination and xenophobia.

In **Brazil**, numerous laws and policies address non-discrimination in employment and occupation. Law 9.029/1995 prohibits any kind of discriminatory practice which may limit the access or the maintenance of employment due to sex, origin, race, skin colour, marital status, family situation, disability, professional rehabilitation and age, among others.<sup>32</sup> The Consolidation of Labour Law (CLT), as amended by Law No. 9799/1999, provides more specific protection against discrimination in the labour market, including prohibiting discrimination in advertisements for employment on the grounds of sex, age, colour or family situation, refusing employment, promotion or dismissal from work on the basis of sex, age, colour, family situation or pregnancy; requiring a certificate or examination, of any nature, to prove sterility or pregnancy when hiring or keeping a job.<sup>33</sup> The CLT, as amended in 2017, also guarantees the right to equal remuneration without discrimination on the grounds of sex, ethnicity, nationality or age to workers “performing the same functions, for all work of equal value, rendered to the same employer, in the same business establishment”.

Special measures have been enacted in **Brazil** to overcome structural discrimination, including in relation to racial discrimination, such as Law No. 12.990 of 9 June 2014, which sets a quota of 20 per cent applicable to vacancies in the civil service and publicly owned companies at the federal level for “black” and “mixed-race” (“pretos” and “pardos”) candidates.<sup>34</sup> Several laws and regulations have been adopted to address the needs of specific groups more at risk of discrimination, including the Bill on Equal Opportunities and Treatment for Women in Employment (PLS No. 136/2011) which includes moral, physical, psychological and sexual harassment as forms of discrimination against women; the Law on Persons with Disabilities No. 13.146 of 6 July 2015 (section 4 and parts I, II and III) which prohibits discrimination on the grounds of disability with respect to access to vocational training, in all stages of recruitment and access to employment and in conditions of work including remuneration, and the Ministerial Order No. 1.927 of 10 December 2014, which establishes guidelines for combating HIV and AIDS-related discrimination in the workplace and creates a Commission for the Prevention of HIV and AIDS in the World of Work within the Ministry of Labour and Employment (CPPT Aids).

**Brazil** has established numerous dedicated equality bodies to oversee the implementation of respective laws and policies. These include the National Council for the Promotion of Racial Equality;<sup>35</sup> the National Committee for Equality of Opportunities on the Basis of Gender, Race, Ethnic Origin, for Persons with Disabilities and to Combat Discrimination; the Secretariat for Policies to Promote Racial Equality;<sup>36</sup> the National Coordinating Unit for the Promotion of Equality of Opportunity and the Elimination of Discrimination at Work;<sup>37</sup> the Racial Equality Hotline<sup>38</sup> and the National Ombudsman’s Office for Racial Equality.<sup>39</sup>

In the **Russian Federation**, the list prohibiting the employment of women in heavy, dangerous and underground work has recently been shortened. The Labour Code also provides protection for pregnant women and persons with family responsibilities of small children (Arts. 3, 64, 261 of the Labour Code of the Russian Federation) and establishes the right to equal pay for work of equal value. Sexual harassment constitutes a criminal offence. The Russian Federation recently implemented a National Strategy of Actions for

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<sup>32</sup> Ibid; similarly, [Law No. 9.029/95 \(13 April 1995\)](#), art. 1.

<sup>33</sup> [Law No. 9799 of 26 May 1999](#), art. 373A.

<sup>34</sup> [Law No. 12990 of 2014](#).

<sup>35</sup> [National Council for the Promotion of Racial Equality](#)

<sup>36</sup> [National Secretariat for Policies Promoting Racial Equality](#)

<sup>37</sup> [National Coordinating Unit for the Promotion of Equality of Opportunity and the Elimination of Discrimination at Work](#)

<sup>38</sup> <https://www.gov.br/pt-br/servicos/denunciar-violacao-de-direitos-humanos>

<sup>39</sup> See CEACR DRC111, Brazil 2017.

Women for 2017-2022 in cooperation with the Council of Europe, which focused on violence against women and women's participation in public and political life.

**India** adopted a Code on Wages in 2019, covering equal remuneration between men and women. Additionally, India has enacted legislation and policies directed to ensure the equality of women and men in employment and occupation, including laws tackling sexual harassment of women at the workplace.

Following a judgment delivered in 2014 by the Supreme Court in the case National Legal Services Authority v. Union of India (SCC 438), in which the Court recognized that discrimination, violence and prejudice based on a person's gender identity violates **India's** constitutional provisions relating to equality, a new law on the protection of rights of transgender persons covering non-discrimination against transgender persons in employment matters, including recruitment, and promotion by any government or private entity, has been enacted. It also requires every establishment to designate a complaint officer to deal with complaints in relation to this law.

**India** also amended the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act in 2015, to include new offences. Moreover, the National Commission for Minorities monitors the situation of minorities and investigates alleged abuses of the rights of minorities in India. Lastly, the HIV/AIDS (Prevention and Control) Act came into force in 2018 and it prohibits discrimination against a person on one or more HIV-related grounds, including the denial of, or termination from, employment or occupation.

In **China**, several laws convert the gender equality principles of the Constitution into legal rights, including the Law of the People's Republic of China on the Protection of Rights and Interests of Women (under Article 22, the state guarantees that women enjoy equal labour rights and social security rights with men, and Art. 45 established the right of equal pay for equal work), the Labour Law of the People's Republic of China (whose under Art. 13 provides for the equal rights of women and men in employment). Moreover, recently China introduced a new Civil Code and amended the Women's Protection Law to strengthen protection against sexual harassment, including through mandatory preventive measures. China also strengthened the prohibition of discriminatory job advertisements. Additionally, China's legislation prohibits discrimination against employees on the grounds of ethnicity, race, sex, or religious belief, and recruitment. Some of China's regional policies towards ethnic and religious minorities in the context of poverty alleviation and counter-terrorism are currently under consideration by the ILO supervisory bodies.

In **South Africa**, recently, also following ratification of ILO Violence and Harassment Convention, 2019 (No. 190), a Code of Good Practice on the Prevention and Elimination of Harassment was enacted with the aim to prevent and eliminate all forms of harassment at work based on discriminatory grounds.<sup>40</sup> The EEA also foresees the possibility to enact proactive measures, including affirmative actions and quota, to overcome persistent and structural discrimination affecting people from designated groups, including women and black people, as well as employers' obligations to submit information every year on the barriers to employment and the affirmative action measures adopted to overcome them and to demonstrate that reasonable steps have been taken to implement employment equity plans and to train and appoint qualified people from designated groups.<sup>41</sup>

## ► A Safe and healthy working environment

The realization of the fundamental right to a safe and healthy working environment asks for the development of national OSH policies, programmes and systems as the main instruments for the effective governance of OSH as promoted by the ILO OSH fundamental conventions - Occupational Safety and Health Convention, 1981 (No. 155) and Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187). These instruments should be supported by strong political commitment and adequate investment in national OSH infrastructures, as well workplace-level interventions that are adapted to the specificities of sectors and workforces.

While Convention No. 155 has been ratified by **Brazil**, the **Russian Federation**, **China**, and **South Africa**, Convention No 187 has had a fewer number of ratifications (**Russian Federation**). It is to be noted

<sup>40</sup> [Code of Good Practice on the Prevention and Elimination of Harassment](#).

<sup>41</sup> [Employment Equity Act](#), Chapter 3.

nonetheless that all BRICS have made progress to meet the key conditions required for a gradual decrease in the number of occupational injuries and diseases, as illustrated below.

Policy and regulatory frameworks that address and integrate OSH, including framework OSH laws and technical regulations have been adopted by all the BRICS. For example, **India** adopted an Occupational Safety, Health and Working Conditions Code in 2020. In 2009, the Ministry of Labour and Employment of **India**, after consultations with social partners adopted the National Policy on Safety, Health and Environment at Workplace, which also includes the Action Programme for its implementation.<sup>42</sup> The National Policy sets out a set of goals with the view to building and maintaining a national preventative safety and health culture and improving the safety, health and environment at workplace. Recently, extensive tripartite consultations were carried out to update the national OSH Profile. Complementing its 2006 national policy, China adopted the strategy “Healthy China 2030” in 2016, and more recently the 14th Five-Year” Plan on Work Safety covering the period from 2021 to 2025.

In 2011, **Brazil** adopted the national OSH policy (Política Nacional de Segurança e Saúde no Trabalho, PNSST), which promotes the principles of universality and prevention (among others) and defines the roles and responsibilities on OSH of different authorities and bodies (including Ministries of Labour and Ministry of Health, National OSH tripartite body, etc.). One year later, the national OSH programme (Plano Nacional de Segurança e Saúde no Trabalho – PLANSAT) was adopted, outlining the following 8 objectives: (1) inclusion of all Brazilian workers in the national system for the promotion and protection of safety and health at work; (2) harmonization of legislation related to OSH; (3) coordination of governmental actions on OSH; (4) adoption of special measures for high risk occupation; (5) creation of an integrated OSH information network; (6) implementation of OSH management systems in the public and private sectors; (7) life-long training and education on OSH; (8) creation of an integrated agenda of studies and research on OSH.

Employers and workers’ organizations are critical actors for the formulation, implementation and periodical review of OSH policies and programmes, which in some countries involves specialized tripartite structures. In **Brazil**, the Permanent Joint Tripartite Commission (Comissão Tripartite Paritária Permanente, CTPP), established under the Secretary of Labour of the Ministry of Labour and Social Security has the lead in stimulating social dialogue to contribute to the improvement of working conditions and environment. In **South Africa**, the Advisory Council for Occupational Health and Safety is the national tripartite body dealing with OSH. Extensive tripartite discussions were held to amend measures targeting the spread of COVID-19 in workplaces. In **Russia**, a General Tripartite Agreement is signed every three years between all-Russian trade union associations, all-Russian employers’ associations and the Government that contains a chapter on OSH in order to apply the national OSH policy at the federal level.<sup>43</sup>

The effectiveness of the national systems relies also on effective advisory and enforcement mechanisms, most often through a system of public labour inspection. All BRICS have established labour inspection systems as described by the ILO Labour Inspection Convention (Industry and Commerce), 1947. No. 81, which in some cases are the central authority responsible for OSH. The Department of Employment and Labour of **South Africa**, for example, is the responsible authority for safety and health at work. In **Brazil**, the Subsecretaria de Inspeção do Trabalho is a key institution on all that relates to the OSH regulatory framework, awareness raising and education, as well as enforcement. In **India**, State labour inspections play a critical role in supervising compliance with OSH legislation, and in **China** the specificities of occupational health and hazardous sectors are addressed by specialized enforcement bodies, which have engaged on large scale and training of labour inspectors, including through the use of augmented reality.

National OSH governance instruments and mechanisms create the enabling conditions for the prevention of occupational accidents and diseases by defining rights, responsibilities and duties, and giving the principle of prevention the highest priority. These systems are not sufficient if workplaces do not adopt adequate preventive and control measures. In this sense, occupational health services (e.g. health surveillance), risk assessment mechanisms, business support services and workers’ rights to training and information are all fundamental to achieving and sustaining real improvements. Continuous efforts have been made in recent years to strengthen the capacities of this actors in BRICS countries. **India** has engaged on extensive capacity building addressing

<sup>42</sup> See [National Policy on Safety, Health and Environment at Workplace \(ilo.org\)](https://www.ilo.org/public/libdoc/ilo/public/2020/09/20200901.pdf)

<sup>43</sup> The text of the latest Agreement signed on 31 March 2021 and covering the period of 2021 -2023 is available at <https://www.garant.ru/products/ipo/prime/doc/400435873/?ysclid=ldk2e3vi9q731553224#review>

OSH in sectors such as tea plantations and ship recycling. In **Brazil**, programmes such as Trabalho Seguro promote the articulation of efforts from government, the judiciary, employers and workers to strengthen institutional capacities for the good management of OSH.

While keeping in mind that the main goal of national OSH policies is to prevent all death, injuries and diseases arising out of work, the effective protection of health requires employment injury insurance programmes that cover all workers and all injuries and illness. In **South Africa**, the Compensation for Occupational Injuries and Diseases Act 130 came into force in 1994 covering compensation for disablement caused by occupational injuries or diseases or contracted by workers in the course of their employment, or for death from such injuries.

<sup>44 45</sup>

Across all these areas, strategies and initiatives addressing the specific OSH needs of micro, small and medium-sized enterprises (MSMEs) and the informal economy should be a priority, given that the informal economy comprises more than half of the global labour force and more than 90 per cent of micro and small enterprises worldwide.<sup>46</sup> Some BRIC countries have engaged on integrated strategies and approaches for formalization and prevention of accidents and diseases. This is the case of **Brazil**, through the interventions of the Subsecretaria de Inspeção do Trabalho.

A preventative OSH culture is also key in advancing this fundamental right at work. In **Russia**, the Government launched several initiatives to draw attention to OSH issues, including sharing best practices and major achievements in OSH among constituent entities of the Russian Federation, issuing recommendations, releasing manuals, technical guides and booklets and organizing awareness-raising campaigns, seminars, exhibitions and activities involving educational institutions.<sup>47</sup>

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<sup>44</sup> See <https://www.gov.za/documents/compensation-occupational-injuries-and-diseases-act#:~:text=The%20Compensation%20for%20Occupational%20Injuries,such%20injuries%20or%20diseases%3B%20and>

<sup>45</sup> See <https://www.gov.za/documents/occupational-diseases-mines-and-works-act-21-apr-2015-1257#:~:text=The%20Occupational%20Diseases%20in%20Mines,matters%20Incidental%20thereto.>

<sup>46</sup> See [ILO STAT, 2022](#).

<sup>47</sup> See Direct Request (CEACR) - adopted 2015, published 105th ILC session (2016), Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) - Russian Federation, [Comments \(ilo.org\)](#)

## Annex: Available data and legal frameworks for FPRW in BRICS countries

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### ► Brazil

Brazil's trade union density was 13 per cent in 2019 and its collective bargaining coverage rate was 64.8 per cent in 2020 (latest data available).

Brazil ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) in 1952. It has not yet ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

There is no nationally representative estimate of forced labour prevalence in Brazil. Administrative records from labour inspections indicate that cattle raising, sugarcane cultivation, deforestation of native forests, coffee cultivation, and ethanol production were among the sectors affected in recent years.<sup>48</sup> Records also show a growing number of rescues linked with civil construction.<sup>49</sup>

Brazilians of African descent and migrant workers with low levels of education and below the age of 30 are among the groups most affected. Although the indigenous populations correspond to 0.43 per cent of the Brazilian population, the number of indigenous victims of contemporary slavery in Brazil is roughly 4 per cent of total rescued victims. Identified cases of forced labour are predominantly in rural areas.<sup>50</sup>

Brazil ratified the ILO Forced Labour Convention, 1930 (No. 29) in April 1957 and the ILO Abolition of Forced Labour Convention, 1957 (No.105) in June 1965. "Reducing someone to a condition analogous to that of a slave" is a criminal offence under Article 149 of the Penal Code. Law 13.344 of 2016 expands the legal definition of the crime of human trafficking beyond sexual exploitation to include forced labour, servitude, illegal adoption and trafficking for the purpose of organ removal.

An estimated 4.6 percent of all children aged 5 to 17 years, around 1.8 million children in absolute terms, were in child labour in 2019, the most recent year for which official data is available.<sup>51</sup> Girls made up one-third of all children in child labour, and children aged 5-15 years accounted for 46 per cent of the total. Two-thirds of children in child labour were Afro-Brazilian. School attendance was 10 percentage points lower for children in child labour than for other children, underscoring the education cost associated with premature engagement in work.

Among young children aged 5 to 13 years, two-thirds of child labour was hazardous in nature. Hazardous work accounted for over half (54 per cent) of child labour in the 14 to 15 age group. Of all child labour-related accidents and illness registered between 2007 and 2020, 56 per cent were serious working accidents, 31 per cent related to poisonous animals (snakes, spiders, scorpions, etc.), 7 per cent to exposure to chemical toxins, and 5 per cent related to the exposure to biological materials.<sup>52</sup>

Brazil ratified the ILO Minimum Age Convention, 1973 (No. 138) in June 2001 and the Worst Forms of Child Labour Convention, 1999 (No. 182) in February 2000. Article 7 of federal Constitution prohibits night, dangerous or unhealthy work for minors under eighteen years of age, and of any work for minors under sixteen, except as apprentices, beginning at fourteen years of age.<sup>53</sup> Article 403 of the Labour Code also prohibits economic activities or livelihood activities, with or without profit, paid or not, carried out by children or adolescents under the age of 16, with the exception of the condition of apprentice from the age of 14, regardless of their occupational status. The Child and Adolescent Statute (*Estatuto da Criança e*

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<sup>48</sup> Figures are for 2019-2021. (Source: "[Observatório da Erradicação do Trabalho Escravo e do Tráfico de Pessoas](#)", SmartLab Brasil, accessed January 2023).

<sup>49</sup> From 2010 to 2021, 11% of rescued workers were linked with civil construction. (Source: "[Observatório da Erradicação do Trabalho Escravo e do Tráfico de Pessoas](#)", SmartLab Brasil, accessed January 2023.)

<sup>50</sup> [Atuação da inspeção do trabalho no Brasil para a erradicação do trabalho análogo ao de escravo, Balanço 2020](#), Brazil Subsecretary of Labour Inspection and ILO, accessed January 2023.

<sup>51</sup> "[Trabalho infantil cai em 2019, mas 1,8 milhão de crianças estavam nessa situação](#)", Agência Notícias, IBGE, accessed January 2023.

<sup>52</sup> "[Notificações Relacionadas ao Trabalho de Crianças e Adolescentes](#)", Observatório da Erradicação do Trabalho Escravo e do Tráfico de Pessoas", SmartLab Brasil, accessed January 2023).

<sup>53</sup> "[O trabalho infantil no Brasil](#)", ILO, accessed January 2023.



*do Adolescente/ECA*) constitutes the country's principal regulatory framework for the wider rights of children and adolescents, including the right to freedom from child labour.

Brazil is the home of approximately 108.1 million women and 104.4 million men. There are persistent gender gaps in the labour market, with men having a higher labour force participation than women (72.9 per cent comparing to 52.4 per cent), higher employment rates (65.1 per cent comparing to 43.8 per cent), lower part-time employment rates (19.5 per cent comparing to 34.3 per cent) and lower unemployment rates (10.7 per cent against 16.4 per cent). Women are also getting lower pay comparing with men, by 4 per cent, however with significant improvement over the years.

Brazil ratified C.100 in April 1957 and C.111 in November 1965. Non-discrimination and the promotion of the well-being of all, without prejudice on the basis of origin, race, sex, colour, age and disabilities, as well as any other forms of discrimination are among the main principles of the Constitution.<sup>54</sup>

According to the latest data provided by the national authorities to the International Labour Organization (ILO), there were 2,156 fatal occupational injuries in the country in 2016. However, the joint estimate by the World Health Organization (WHO) and the ILO focused on 19 specific risk factors shows for the same year a much higher number of 28,355 work-related deaths, with 7,511 of those being due to occupational injuries and 20,844 caused by work-related diseases.<sup>55</sup> It is worth noting that national statistics disaggregated by sex are not provided, but it is estimated that over 80% of work-related fatalities are suffered by male workers. The fatality rate per 1000,000 workers is estimated to be 39.5 for males and 11.9 for females.

Brazil ratified Convention No. 155 in 1992. The country has also ratified 14 technical OSH conventions.<sup>56</sup>

The Brazilian Regulatory Standards (Normas Reglamentarias, NR), regulate and provide guidance on mandatory procedures related to OSH. These standards, cited in the Consolidation of Labour Laws (Chapter V, Title II) are compulsory for all Brazilian companies governed by the Labour Law and are periodically reviewed by the Ministry of Labour. In line with Convention No. 155 (art. 13), the Brazilian legislation recognize the right of workers to remove themselves from a situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health, without undue consequences.<sup>57</sup>

At national level, the authority responsible for OSH is the General Coordination of Safety and Health at Work of the Undersecretary of Labour Inspection (*Coordenação-Geral de Segurança e Saúde no Trabalho da Subsecretaria de Inspeção do Trabalho*), under the Ministry of Labour and Social Security.

## ► Russian Federation

The Russian Federation's trade union density was 27.5 per cent in 2017 and its collective bargaining coverage rate was 28.5 per cent in 2019 (latest data available).

The Russian Federation ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) in 1956. The Labor Code of the Russian Federation was adopted in 2001 and amended in 2022. Collective Agreements can be concluded at federal, interregional, regional, branch, territorial and enterprise levels. Both public and private sectors are covered by collective bargaining. The collective agreements may regulate forms, systems and amounts of remuneration; payment of benefits, compensations; a mechanism for regulating wages, considering the rise in prices, the level of inflation, the fulfilment of the

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<sup>54</sup> [Constitution of Brazil](#), art. 3(IV) and art. 7 (XXX), art. 7 (XXXI) respectively.

<sup>55</sup> See [Global monitoring report: WHO/ILO Joint Estimates of the Work-related Burden of Disease and Injury, 2000–2016](#)

<sup>56</sup> Brazil has ratified the following technical OSH conventions: Underground Work (Women) Convention, 1935 (No. 45); Radiation Protection Convention, 1960 (No. 115); C119 - Guarding of Machinery Convention, 1963 (No. 119); Hygiene (Commerce and Offices) Convention, 1964 (No. 120); Maximum Weight Convention, 1967 (No. 127); Benzene Convention, 1971; Occupational Cancer Convention, 1974 (No. 139); Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148); Occupational Health Services Convention, 1985 (No. 161); Asbestos Convention, 1986 (No. 162); Safety and Health in Construction Convention, 1988 (No. 167); Chemicals Convention, 1990 (No. 170); Prevention of Major Industrial Accidents Convention, 1993 (No. 174); Safety and Health in Mines Convention, 1995 (No. 176).

<sup>57</sup> See NR 1 sobre disposicoes generales y gestión de riesgos Laborales (1.4.3 y 1.4.3.1); NR 3 sobre embargo ou interdição and NR 10 sobre Segurança em Instalações e Serviços em Eletricidade (10.13.4).

indicators determined by the collective accord employment, retraining, conditions for the release of workers (article 51).

There is no nationally representative estimate of forced labour prevalence in the Russian Federation.

The Russian Federation ratified the ILO Forced Labour Convention, 1930 (No. 29) in June 1956 and the Abolition of Forced Labour Convention, 1957 (No.105) in July 1998. In June 2019, the Russian Federation also ratified the Protocol of 2014 to the Forced Labour Convention, 1930, becoming the first of the BRICS countries to do so.<sup>58</sup> The Penal Code criminalizes both trafficking in persons (section 127.1) and the use of forced labour (section 127.2). Federal Act No 119-FZ of 20 August 2004 ensures the protection of victims, witnesses and other participants of criminal proceedings in human trafficking cases.<sup>59</sup>

There are no published national or disaggregated estimates of child labour prevalence in the Russian Federation.

The Russian Federation ratified the ILO Minimum Age Convention, 1973 (No. 138) in May 1979 and the Worst Forms of Child Labour Convention, 1999 (No. 182) in March 2003. Article 63 of the Labour Code prohibits children under 16 years of age from signing a labour contract. An exception is light work performed out of school hours that is not be harmful to health and not detrimental to the study, which is permitted from the age of 14 years with parental consent.

The Labour Code does not, however, cover children's work in less defined employer-employee relationships in the informal economy where, according to the Government, the illegal employment of minors and the violation of their labour rights are frequent occurrences.<sup>60</sup><sup>61</sup>

Article 265 of the Labour Code prohibits the employment of people below the age of 18 in work with unhealthy and/or dangerous conditions, underground work, as well as jobs which execution may injure their health and moral development (gambling, night cabarets and clubs, spirits, tobacco, narcotic and toxic production, transportation and sale). Articles 134 and 240-242 of the Criminal Code criminalise the commercial sexual exploitation of children, and Articles 150 and 151 the engagement of children in illicit activities.

Russia is the home of approximately 76.8 million women and 66.6 million men. There are persistent gender gaps in the labour market, with men having a higher labour force participation than women (70.6 per cent comparing to 55.4 per cent), higher employment rates (67.3 per cent comparing to 52.8 per cent), lower part-time employment rates (6.3 per cent comparing to 11.7 per cent) and lower unemployment rates (4.6 per cent against 4.8 per cent). Women are also getting lower pay comparing with men, with a gender wage gap of 25.3 per cent. Also, women spend 17.9% of their time on unpaid care and domestic work, compared to 8.1% spent by men. This reveals profound vulnerability of women, including persistent social and cultural norms towards women's role in society, discrimination at work and lack of opportunities in politics.

The Russian Federation ratified C.100 in April 1956 and C.111 in May 1961. The principle of equality regardless of, among other, social status, employment position, sex and race, is enshrined in its

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<sup>58</sup> "[Russian Federation's renewed commitment to combat forced labour](#)", ILO News, 17 January 2019.

<sup>59</sup> The ILO CEACR has noted, however, that there is no special instrument to govern matters relating to combating human trafficking and defending the rights of victims, and has reminded the Government of the need to adopt appropriate legislation in order to effectively counteract trafficking in persons. See [Observation \(CEACR\)](#) - adopted 2016, published 106th ILC session (2017), Forced Labour Convention, 1930 (No. 29) - Russian Federation (Ratification: 1956) Protocol of 2014 to the Forced Labour Convention, 1930 - Russian Federation (Ratification: 2019), ILO. Concerns have also been expressed by the UN Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) regarding the absence of a national action plan on trafficking and the lack of a coordinating body and inadequate coordination among the relevant state structures to combat trafficking in persons. See [Concluding observations on the eighth periodic report of the Russian Federation](#), United Nations Committee on the Elimination of Discrimination against Women, CEDAW/C/RUS/CO/8, 20 November 2015.

<sup>60</sup> [Observation \(CEACR\)](#) - adopted 2020, published 109th ILC session (2021), Minimum Age Convention, 1973 (No. 138) - Russian Federation (Ratification: 1979), ILO.

<sup>61</sup> The ILO CEACR in this context has urged the Government to take the necessary measures to ensure that all children under 16 years of age, including those who work on their own account or in the informal economy, benefit from the protection afforded by the ILO child labour conventions. See [Observation \(CEACR\)](#) - adopted 2020, published 109th ILC session (2021), Minimum Age Convention, 1973 (No. 138) - Russian Federation (Ratification: 1979), ILO.

Constitution.<sup>62</sup> The Constitution also guarantees equality of rights and opportunities between men and women,<sup>63</sup> as well as protection of motherhood and the family.<sup>64</sup> The care and upbringing of children is an equal right and obligation of both parents.<sup>65</sup> The Labour Code prohibits discrimination in labour relations,<sup>66</sup> including job advertisements, hiring and termination of employment. No one may be deprived of their labour rights and freedoms or receive any benefits based on their race, colour of skin, nationality, language, origins, property, social or positional status, age, domicile, religious beliefs, political convictions, affiliation or non-affiliation with public associations, as well as other factors not relevant to the professional qualities of the employee.

The country has continuously reported fatal occupational injuries since 1983, displaying a monotonic decrease. In 2016, the reported 1,290 fatal occupational injuries are, however, significantly lower than the figure jointly estimated by ILO and WHO in the same year (8,937 fatal injuries).<sup>67</sup> Total burden of work-related injuries and disease was estimated around 34,000 in the same year with a rate of 45 per 100,000 workers. The data shows that the number of deaths among male workers was higher, with a rate of 72.3 per 100,000 workers compared to female workers and constituted a share of 83%. Female workers had a rate of 15.8 per 100,000 workers and a share of 17% of all work-related deaths.

Russia has ratified Convention No 155 in 1998 and No 187 in 2011. The country has also ratified 11 technical OSH conventions.<sup>68</sup>

The legal framework on OSH in Russia consists of the Labour Code, federal laws on labour and of Russian Federation subjects containing labour provisions, decrees by the President, as well as regulations of the national Government, federal executive authority bodies, of the executive power bodies of the Russian Federation subjects and of local self-government bodies. The main law on OSH is the Labour Code of 30 December 2001 (in particular its Section X (Chapters 33-36)). Legal protection of workers from specific occupational risks or hazards is contained in several separate legal provisions, such as the Federal Act on Safe Handling of Pesticides and Agrochemicals, the Federal Act on Radiation Safety of Population, and the Federal Act on Fire Safety.

Workers are given the right to remove themselves from the workplace in case his/her life or health is endangered due to violation of OSH requirements have been without undue consequences (in line with Convention No 155, art. 13).<sup>69</sup>

The Ministry of Labour and Social Protection of the Russian Federation is responsible for OSH at the national level. The responsible executive body for OSH policy within the Ministry is the Federal Service for Labour and Employment (Rostrud). The National tripartite body dealing with OSH is the Russian Tripartite Commission on the Regulation of Social and Labour Relations.

## ► India

India's trade union density was 19.8 per cent in 2017 (latest data available), the ILO does not have information on the collective bargaining coverage rate.

India has not ratified either the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). The Industrial Relations Code was adopted in 2020. In terms of membership of trade unions, sub-section

<sup>62</sup> [Constitution of the Russian Federation](#), Article 19 (2).

<sup>63</sup> [Constitution of the Russian Federation](#), Article 19 (3).

<sup>64</sup> [Constitution of the Russian Federation](#), Article 7 (2).

<sup>65</sup> [Constitution of the Russian Federation](#), Article 38 (2).

<sup>66</sup> [Labour Code](#) of the Russian Federation, Art. 3.

<sup>67</sup> See [Global monitoring report: WHO/ILO Joint Estimates of the Work-related Burden of Disease and Injury, 2000–2016](#)

<sup>68</sup> Russia ratified the following technical OSH conventions: White Lead (Painting) Convention, 1921 (No. 13); Underground Work (Women) Convention, 1935 (No. 45); Radiation Protection Convention, 1960 (No. 115); Guarding of Machinery Convention, 1963 (No. 119); Hygiene (Commerce and Offices) Convention, 1964 (No. 120); Occupational Cancer Convention, 1974 (No. 139); Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148); Asbestos Convention, 1986 (No. 162); Safety and Health in Construction Convention, 1988 (No. 167); Prevention of Major Industrial Accidents Convention, 1993 (No. 174); Safety and Health in Mines Convention, 1995 (No. 176)

<sup>69</sup> See [Russian Federation - Labour Code of the Russian Federation of 30 December 2001, as amended. \(ilo.org\)](#)

(2) of section 6 of the Code prescribes the same minimum membership criterion as that stipulated by the 2001 amendment to the Trade Unions Act for registration of trade unions. It provides that a trade union cannot be registered unless it has a minimum membership of one hundred workers or at least ten percent of the workers, whichever is less, engaged or employed in the establishment or industry with which the trade union is connected. If the membership of a union falls below the prescribed minimum membership requirement, it can be a ground for cancellation of the registration of the trade union and that was also the case under the 2001 amendment to the Trade Unions Act.

There is no nationally representative estimate of forced labour prevalence in India. The United Nations country team states that forced and bonded labour continues to be prevalent in India.

India ratified the ILO Forced Labour Convention, 1930 (No. 29) in November 1954 and the Abolition of Forced Labour Convention, 1957 (No.105) in May 2000. Forced labour is prohibited by the Indian Penal Code and the Bonded Labour System (Abolition) Act of 1976. The Code criminalizes slavery, forced labour, and trafficking of persons. The Bonded Labour System (Abolition) Act establishes penalties for compulsion to render bonded labour, advancement of bonded debt and enforcement of any custom, tradition, contract, agreement or other instrument requiring any service to be rendered under the bonded labour system.

Child labour continues to affect millions of children in India. Statistics point to the particular importance of child labour in agriculture. An estimated 56 percent of all children aged 5 to 14 years in economic activity were found in the agriculture sector, followed by 33 percent in industry and 10 percent in services in 2012, the most recent year for which published data is available.<sup>70</sup> Yet the national child labour situation has inevitably changed since 2012, and an updated statistical picture is therefore an important priority.

India ratified both the ILO Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182) in June 2017. Child labour is prohibited by the Child Labour (Prohibition and Regulation) Act. The Act prohibits the employment of children under the age of 14 in “any occupation or process” and prohibits the employment of children aged 14 and above in the list of hazardous occupations or activities specified in the Schedule to the Act. The Child Labour (Prohibition and Regulation) Act does not cover non-hazardous work with families or family enterprises after school hours and during vacations. The minimum age for work of 14 years falls within the age range for which education is still compulsory. The Child Labour (Prohibition and Regulation) Amendment Rules detail the duties and responsibilities of State Governments and District Authorities to ensure effective enforcement of the provisions of the Child Labour Act.

India has a population of approximately 662 million women and 717 million men. There are significant gender gaps in the labour market, with only 26.4 per cent of women participating in the labour force comparing to 74.3 per cent of men (48.1 percentage point gap). This is even more accentuated in the urban areas than rural areas where women experience even lower labour force participation rates (21.4 per cent comparing to 28.3 per cent of women in rural areas). Both men and women are experiencing high informal rates (90.3 per cent of women is made up of self-employed workers). In fact, women’s participation in formal work reduced over the last decade even as informal sector participation increased.

India ratified C.100 in September 1958 and C.111 in June 1960. India’s constitution establishes the principle of equality of opportunity for all citizens with no distinction based on religion, race, caste, sex, descent, place of birth, and residence, in matters related to employment or appointment under the State.<sup>71</sup> The constitution also mandates the State to direct its policy towards securing equal pay for equal work for both women and men.<sup>72</sup>

WHO and ILO jointly estimated<sup>73</sup> that 416,910 work related deaths (341,389 diseases and 75,521 injuries) occurred in the country in 2016 among the 4,764,377,30 total workers. The rate of work-related deaths per 100,000 workers is 87.5. Additionally, the estimates indicate that there were 83,675 work-related deaths among female workers, making up a rate of 79.2 per 100,000 workers and a ratio of 0.2 compared to male

<sup>70</sup> National Sample Survey Round 68 (NSS-R68), 2011–2012.

<sup>71</sup> [Constitution of India](#), art. 16.

<sup>72</sup> [Ibid.](#), Art. 39(d).

<sup>73</sup> See [Global monitoring report: WHO/ILO Joint Estimates of the Work-related Burden of Disease and Injury, 2000–2016](#)

workers. There were 333,235 work-related deaths among male workers, making up a rate of 89.9 per 100,000 workers and a ratio of 0.8 compared to female workers.

India has ratified 5 technical OSH conventions<sup>74</sup> but none of the OSH fundamental Conventions (neither Convention No 155 nor Convention No 187).

Constitutional provisions form the basis of workplace safety and health laws in India by imposing a duty on the State to implement policies that promote the safety and health of workers at workplaces. In addition, there are OSH laws covering different sectors, i.e., manufacturing (Factories Act, 1948 as amended in 1987); ports (Dock Workers (Safety, Health and Welfare) Act, 1986), construction (Building and other Construction Workers (Regulation and the Employment and Conditions of Service) Act, 1996) and mining (Mines Act 1952, as amended in 1957 and the Mines Rules 1957).

OSH in India is the primary responsibility of the Ministry of Labour and Employment.

## ► China

China's trade union density was 44.2 per cent in 2017, its collective contract coverage rate was 45 per cent in 2017 (latest data available).

China has not ratified either the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). According to Art. 35 of the Constitution of the People's Republic of China, citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration. There is no clear-cut protection of the right to strike (and no clear distinction between rights and interest labour disputes) in Chinese law, as the "freedom of strike" provision was removed from China's Constitution in 1982. The term used in China's legislation is not collective bargaining but "collective consultation". The government and Communist party play a key role in promoting collective consultation at all levels from national to enterprise level, including on wages.

Industrial or regional collective contracts may be concluded between the labour unions and the representatives of enterprises in industries such as construction, mining, catering services, etc. in the regions at or below the county level (Art. 53 Labour Contract Law (LCL)). Legislation, or equivalent source law, restricting the subject matters from the coverage of collective bargaining: Art. 51 LCL states that the employees of an enterprise may get together as a party to negotiate with their employer to conclude a collective contract on the matters of remuneration, working hours, breaks, vacations, work safety and hygiene, insurance, benefits, etc. Art 52 LCL states that the employees of an enterprise as a party may negotiate with the employer to enter specialized collective contracts regarding the issues of the work safety and hygiene, protection of the rights and interests of female employees, the wage adjustment mechanism, etc.

There are no published estimates of the prevalence of forced labour in China.

China has not published nor submitted official statistics on child labour.<sup>75</sup>

China ratified the Minimum Age Convention, 1973 (No. 138) on 28 April 1999, and the Worst Forms of Child Labour Convention, 1999 (No. 182) on 8 August 2002. The Labour Law (Article 15), Regulations Banning Child Labour (Article 2) and the Law on the Protection of Minors (Article 28), stipulate that state organs, social bodies, enterprises, institutions, non-governmental not-for-profit organizations and private businesses are prohibited from employing children under the age of 16. Additionally, the Law on the Protection of Minors protects adolescent workers (aged from 16 to 18) from any over-strenuous, poisonous or harmful labour or any dangerous operation (Article 28).

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<sup>74</sup> India ratified the following technical OSH conventions: Underground Work (Women) Convention, 1935 (No. 45); Radiation Protection Convention, 1960 (No. 115); Maximum Weight Convention, 1967 (No. 127); Benzene Convention, 1971 (No. 136); Prevention of Major Industrial Accidents Convention, 1993 (No. 174).

<sup>75</sup> "Child labour in China and Mongolia", ILO, accessed January 2023. The ILO Committee of Experts in the context has urged the Government "to take the necessary steps to ensure that sufficient and accurate data on the situation of working children in China is made available, including, for example, data on the number of children and young persons below the minimum age of 16 years who are engaged in economic activities, and statistics relating to the nature, scope and trends of their work." See [Observation \(CEACR\)](#) - adopted 2021, published 110th ILC session (2022), Minimum Age Convention, 1973 (No. 138) - China (Ratification: 1999), ILO.

China is home to 689 million women and 723 million men. Yet, men have a higher labour force participation rate than women (72.6 per cent comparing to 61.1 per cent), higher employment rates (68.7 per cent comparing to 58.5 per cent), but also higher unemployment rates (5.4 per cent against 4.2 per cent). The labour force participation rate of women is falling more rapidly than that of men. Women also retire 5 years (managerial positions) or 10 years (manual workers) earlier than men who officially retire at the age of 60. Women also spend twice more time than men on unpaid domestic and care work.

The People's Republic of China ratified C.100 in November 1990 and C.111 in January 2006. The principle of equality is embedded in its Constitution, which also recognize the principle of equality between women and men in all spheres of life, and the principle of equal pay for work of equal value. It also states that all ethnic groups are equal and discrimination against any ethnic group is prohibited.<sup>76</sup>

The latest data provided to the ILO are from 2002 which indicated 14,924 fatal occupational injuries. WHO and ILO jointly estimated<sup>77</sup> 460,257 work-related deaths occurred in China in 2016 (392,291 due to work-related diseases and 67,966 due to occupational injuries) among the 788,454,289 total workers. Accordingly, the rate of work-related deaths per 100,000 workers is 58.4. Additionally, the estimates shows that there were 172,935 work-related deaths among female workers, making up a rate of 49.0 per 100,000 workers and a share of 37.6% of all fatalities. There were 287,322 work-related deaths among male workers, making up a rate of 66.0 per 100,000 workers and a share of 62.4% of all fatalities.

China ratified one of the fundamental OSH conventions, namely Convention No. 155 in 2007. China also ratified OSH conventions covering OSH in construction and protection against chemical hazards as well outdated standards prohibiting underground work for women; regulating manual handling and protecting dock workers.<sup>78</sup>

The legislative structure of OSH in China is based on the Constitution, and consists of laws, administrative regulations, local regulations, departmental rules, local rules and OSH standards. The major OSH laws are the Law of the People's Republic of China on Work Safety and the Law of the People's Republic of China on the Prevention and Control of Occupational Diseases. In line with Convention No 155 (art. 13), employees of a business entity who discover any emergency directly threatening their personal safety shall be entitled to suspend operations or evacuate their sites after taking possible emergency response measures without consequence on their contract, wage, welfare and other treatments.<sup>79</sup>

The national authority responsible for OSH was the State Administration of Work Safety until 2018 when it was merged into the Ministry of Emergency Management.

## ► South Africa

South Africa's trade union density was 29.1 per cent in 2019, its collective bargaining coverage rate was 30.1 per cent in 2019 (latest figures available). Sectoral-level bargaining, either in bargaining councils or multi-employer forums continues to be the predominant form of collective bargaining.

South Africa ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) in 1996.

There is no nationally representative estimate of forced labour in South Africa.

South Africa ratified both the ILO Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No.105) in March 1997. Forced labour is prohibited under Article 13 of the Constitution and Article 48 of the Basic Conditions of Employment Act. The Prevention and Combating of Trafficking in Persons (PACOTIP) Act of 2013, prohibits trafficking in persons and related activities, and provides for the protection of victims of trafficking.

<sup>76</sup> [Constitution of China](#), arts. 4, 48, and 89.

<sup>77</sup> See [Global monitoring report: WHO/ILO Joint Estimates of the Work-related Burden of Disease and Injury, 2000–2016](#)

<sup>78</sup> China ratified the following technical OSH conventions: Underground Work (Women) Convention, 1935 (No. 45); Safety and Health in Construction Convention, 1988 (No. 167); Chemicals Convention, 1990 (No. 170)

<sup>79</sup> See Law of the People's Republic of China on Work Safety, Art. 47

An estimated 5 per cent of all children aged 7 to 17 years, 571,000 children in absolute terms, were in child labour in 2019, the most recent year for which official data is available.<sup>80</sup> These estimates mark an improvement from 2015, when an estimated 5.2 per cent of children, or 577,000 children in absolute terms, were in child labour.

The overall figures mask significant variation by background characteristics: the percentage of black South African children in child labour was more than twice that of other racial groups; the child labour prevalence in non-urban areas was more than 3 times that of urban areas; and geographically, child labour prevalence varied from 8.4 per cent in KwaZulu-Natal to less than 1 per cent in Northern and Western Cape. The data for 2019 indicate that rates of reported work-related illness or injury among children in child labour are extremely high, though down slightly from 2015. A total of 193,000 children in child labour, one-third total children in child labour, sustained injuries at work, pointing to the hazardousness of the work performed by children.

Worst forms of child labour beyond hazardous also remain a concern in the country. The ILO CEACR in this context notes government indications that girls are trafficked internally, from rural to urban areas for sexual exploitation and domestic servitude, while boys are trafficked for work in street vending, begging, agriculture, and mining.<sup>81</sup> Children orphaned by HIV/AIDS are a particularly at-risk group.<sup>82</sup>

South Africa ratified the ILO Minimum Age Convention, 1973 (No. 138) in March 2000 and the Worst Forms of Child Labour Convention, 1999 (No. 182) in June 2000. Article 43 of Basic Conditions of Employment Act prohibits the employment a child younger than 15 or under the minimum school-leaving age, if this is higher. Children aged 15 to 18 may not be employed to do work inappropriate for their age or work that places them at risk. Hazardous occupations or activities prohibited for children are stipulated in the Regulations on Hazardous Work by Children in South Africa and in Articles 4 to 10 of the Basic Conditions of Employment Act. Section 284 of the Children's Act prohibits the trafficking of children or allowing a child to be trafficked.

South Africa is home of approximately 30 million women and 29 million men. Yet, there are still gender gaps in the labour market to tackle, with men having a higher labour force participation rate than women (62.4 per cent comparing to 49.6 per cent), higher employment rates (45.2 per cent comparing to 34.6 per cent), lower unemployment rates (27.5 per cent against 30.3 per cent) and lower part-time incidence (11.2 per cent comparing to 18.3 per cent). The informality rates among both women and men are high (43.9 per cent comparing to 39.7 per cent of men engaged in informal sector). Moreover, women are spending twice more time than men on unpaid domestic and care work (15.6 per cent compared to 6.5 per cent) and also getting a lower pay comparing with men, with a gender wage gap of 9.5 per cent.

The legacy of colonialism and apartheid, rooted in racial discrimination and spatial segregation, is a key driver of high inequality and gender gaps through its impact on both education and labour market outcomes. For instance, the unemployment rate among black African women was 41 per cent compared to 8,2 per cent among white women, 22,4 per cent among Indian/Asian women and 29,9 per cent among coloured women (according to Statistics South Africa (Stats SA)).

South Africa ratified C.100 in March 2000 and C.111 in March 1997. South Africa's constitution declares that it is a state founded on the values of non-racialism and non-sexism, amongst others.<sup>83</sup> According to Section 9, the state may not unfairly discriminate directly or indirectly against anyone based on one or more grounds, including race, gender, sex, sexual orientation, ethnic origin and colour.

The principle of anti-discrimination is reflected in national legislation regarding employment and occupation, namely the Employment Equity Act (EEA), which prohibits unfair discrimination in employment and occupation on one or more grounds, including race, gender, sex and sexual orientation,<sup>84</sup> and also

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<sup>80</sup> "Survey of Activities of Young People, 2019", Statistical release P0212, Statistics South Africa, Republic of South Africa, 2021.

<sup>81</sup> [Direct Request \(CEACR\)](#) - adopted 2020, published 109th ILC session (2021), Worst Forms of Child Labour Convention, 1999 (No. 182) - South Africa (Ratification: 2000), ILO.

<sup>82</sup> [Observation \(CEACR\)](#) - adopted 2020, published 109th ILC session (2021), Worst Forms of Child Labour Convention, 1999 (No. 182) - South Africa (Ratification: 2000), ILO.

<sup>83</sup> [Constitution of the Republic of South Africa](#), Section 1.

<sup>84</sup> [Employment Equity Act No. 55 of 1998](#), Section 6.

recognizes the principle of equal pay for work of equal value.<sup>85</sup> The EEA also defines harassment as a form of unfair discrimination and thus prohibited on any of the grounds of discrimination.<sup>86</sup>

In 2003, the Broad-based Black Economic Empowerment Act was enacted with a view to establishing a legislative framework for the promotion of black economic empowerment.<sup>87</sup>

The last available report from South Africa is from 2016. In that year, 307 fatal occupational injury was recorded in the country. For the same year, the WHO/ILO joint estimates<sup>88</sup> calculated 7,977 work-related deaths in the country. This includes 1,856 deaths caused by injuries. The rate of work-related deaths per 100,000 workers is 34. The data shows that the number of deaths among male workers is higher, with a rate of 50.4 per 100,000 workers compared to female workers who had a rate of 14.9 per 100,000 workers and a share of 20.2% of all work-related deaths.

The Republic of South Africa ratified the fundamental OSH convention No 155 in 2003. The country has also ratified 2 technical OSH convention.<sup>89</sup>

The leading OSH legislation in South Africa is the Occupational Health and Safety Act (OHSA). Additional to OHSA, the Mines Health and Safety Act 29 of 1996 aims to protect employees and other persons dealing with that specific sector.<sup>90</sup>

An Amendment Bill proposed by the South African Department of Employment and Labour on 21 May 2021<sup>91</sup> is expected to enter legislation in the first half of 2023, which entails additional OSH requirements for enterprises. However, the right for workers to remove themselves from a dangerous situation is still not clearly mentioned in the Amendment of the OHSA.

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<sup>85</sup> Section 6 (4) of the Employment Equity Act as amended by Act. No. 47 of 2013, [Employment Equity Amendment Act: Act 47 of 2013 \(www.gov.za\)](http://www.gov.za)

<sup>86</sup> [Employment Equity Act](#), Section 6 (3).

<sup>87</sup> [Broad-Based Black Economic Empowerment Act](#).

<sup>88</sup> See [Global monitoring report: WHO/ILO Joint Estimates of the Work-related Burden of Disease and Injury, 2000–2016](#)

<sup>89</sup> South Africa ratified the following technical OSH conventions: Underground Work (Women) Convention, 1935 (No. 45); Safety and Health in Mines Convention, 1995 (No. 176)

<sup>90</sup> See <https://www.gov.za/documents/mine-health-and-safety-act>

<sup>91</sup> See [KM C654e-20210525102605 \(labour.gov.za\)](https://www.labour.gov.za/legislation/bills/2021/employment-equity-amendment-bill-2021)