



International
Labour
Office
Geneva

Report VI

Fundamental principles and rights at work: From challenges to opportunities



**International
Labour
Conference**

106th Session, 2017

International Labour Conference, 106th Session, 2017

Report VI

Fundamental principles and rights at work: From challenges to opportunities

A recurrent discussion on the strategic objective of fundamental principles and rights at work, under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008

Sixth item on the agenda

International Labour Office, Geneva

ISBN 978-92-2-130577-4 (print)
ISBN 978-92-2-130578-1 (Web pdf)
ISSN 0074-6681

First edition 2017

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Abbreviations

AIDS	acquired immunodeficiency syndrome
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CFA	Committee on Freedom of Association
CLP	Child Labour Platform
DWCP	Decent Work Country Programme
EIB	European Investment Bank
EPZ	export processing zone
EU	European Union
FPRW	fundamental principles and rights at work
FUNDAMENTALS	Fundamental Principles and Rights at Work Branch
GAWU	General Agricultural Workers' Union of Ghana
HIV	human immunodeficiency virus
ICLS	International Conference of Labour Statisticians
IFC	International Finance Corporation
ILC	International Labour Conference
ILO	International Labour Organization
IOE	International Organisation of Employers
IPEC	International Programme on the Elimination of Child Labour
ITUC	International Trade Union Confederation
LGBT(I)	lesbian, gay, bisexual and transgender (and intersex)

NAFTA	North American Free Trade Agreement
MNE	multinational enterprise
MoU	Memorandum of Understanding
OECD	Organisation for Economic Co-operation and Development
SDGs	Sustainable Development Goals
UN	United Nations
UNODC	United Nations Office on Drugs and Crime

Introduction

1. In the International Labour Organization (ILO) Declaration on Social Justice for a Fair Globalization (the 2008 Declaration), the ILO sets out four equally important strategic objectives, namely: promoting employment; developing and enhancing social protection; promoting social dialogue; and respecting, promoting and realizing the fundamental principles and rights at work (FPRW).¹
2. The follow-up to the Declaration provides for a recurrent discussion by the International Labour Conference (ILC) in order to ensure that the Organization can better understand the diverse realities and needs of member States with respect to each of the strategic objectives.² The recurrent discussion also assesses the results of the ILO's activities on the strategic objective concerned, with a view to informing ILO strategic planning and programme and budget discussions.³ The first recurrent discussion on FPRW took place in 2012, following which the Governing Body adopted a plan of action for the period 2012–16. This report will review trends in FPRW and document progress on the plan of action.
3. The promotion of social justice and internationally recognized human and labour rights are at the core of the ILO's mission. As the Organization approaches its centenary and against a background of significant changes in the world of work, it is timely to reflect on global progress on FPRW. Such reflection should not only consider the ILO's historic mission and its experience in promoting FPRW and tackling violations; it should also address new challenges and the significance of FPRW in the debate now engaging constituents about labour market governance, the nature of the employment relationship and the very future of work.
4. FPRW are detailed in eight ILO Conventions⁴ and in the Protocol of 2014 to the Forced Labour Convention, 1930. They cover four areas of concern: the right to freedom of association and collective bargaining; the effective abolition of all forms of forced or compulsory labour; the elimination of child labour; and the elimination of discrimination in respect of employment and occupation. These principles are embodied in the 1998 Declaration on Fundamental Principles and Rights at Work (the 1998 Declaration), which has become one of the most widely referenced ILO instruments and provides a foundation for its vision of decent work for all.
5. The 1998 Declaration emphasizes that all member States have an obligation to respect, promote and realize, in good faith, the principles established in the fundamental

¹ Gender equality and non-discrimination are cross-cutting issues for each of the strategic objectives.

² ILO: [Declaration on Social Justice for a Fair Globalization](#), June 2008, p. 18.

³ ILO: [Resolution on advancing social justice through decent work](#), adopted 9 June 2016, p. 3, para. 15.2.

⁴ The Forced Labour Convention, 1930 (No. 29); the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); the Equal Remuneration Convention, 1951 (No. 100); the Abolition of Forced Labour Convention, 1957 (No. 105); the Discrimination (Employment and Occupation) Convention, 1958 (No. 111); the Minimum Age Convention, 1973 (No. 138); and the Worst Forms of Child Labour Convention, 1999 (No. 182).

Conventions, irrespective of ratification. The 2008 Declaration further states that the FPRW are of particular significance as both rights and enabling conditions that are necessary for the full realization of the strategic objectives. Moreover, it states that the strategic objectives are inseparable, interrelated and mutually supportive and that failure to promote any one of them would harm progress towards the others. It adds that freedom of association and collective bargaining are particularly important in order to attain the four strategic objectives.⁵ The resolution concerning the recurrent discussion on fundamental principles and rights at work adopted by the ILC in 2012 emphasizes the mutually reinforcing interdependence of FPRW.⁶ The absence of freedom of association and discrimination are often associated with situations of child labour and forced labour.

6. In many countries, the economic and social context that provides the background to trends in FPRW has been challenging. Global unemployment is projected to exceed 200 million in 2017.⁷ Large emerging economies are experiencing slower economic growth and, in some cases, recession.⁸ Vulnerable employment affects 1.5 billion people worldwide, and is particularly acute in developing and emerging economies.⁹ In the majority of the 34 countries in the Organisation for Economic Co-operation and Development (OECD), the income gap between richest and poorest is the highest in three decades.¹⁰

7. Growing public concern about inequalities has been fuelled by stagnant wages and rising job insecurity, factors which have also contributed to the polarization of political discourse in a number of countries. Policy-makers are having to address new issues arising from an increase in diverse forms of employment and establish a policy mix that encourages employment growth while maintaining rights at work.

8. Responding to such challenges and realizing FPRW requires political will, effective labour market governance and inclusive social dialogue. The overall assessment of developments in relation to FPRW presented in this report shows a mixed picture. Global estimates indicate a continuing decline in child labour, although much remains to be done to eliminate it globally. Greater attention has been focused on forced labour and action taken against it has increased; whether this has led to a decrease in the number of victims remains to be established. Attention to freedom of association and non-discrimination issues has also increased, although more slowly. It is evident that while the fundamental Conventions overall enjoy a high rate of ratification, there is a major implementation gap. The ILO and its constituents would have to scale up action on all four categories of FPRW in order to tackle this gap.

9. Despite the challenging circumstances, it is important to take note of cases where efforts by member States and the ILO to promote FPRW are having a positive impact and where opportunities to promote FPRW exist. Global awareness of the importance of the ILO's standards and the values they embody is growing. In recent years, this was reflected in the award of the Nobel peace prize to the Tunisian National Dialogue Quartet, in which the social partners played a vital role in maintaining democracy in the country; and to

⁵ ILO: 2008 Declaration, op. cit., p. 11.

⁶ ILO: *Resolutions adopted by the International Labour Conference at its 101st Session* (Geneva, June 2012), p. 16.

⁷ ILO: *World employment and social outlook: Trends 2016* (Geneva, 2016), p. 12.

⁸ *ibid.*, p. 9.

⁹ *ibid.*, p. 16.

¹⁰ OECD: "Growing unequal? Income distribution and poverty in OECD countries", in Multilingual summaries, 2008, p. 2.

Kailash Satyarthi, a leading advocate against child labour closely associated with the development of the Worst Forms of Child Labour Convention, 1999 (No. 182). Furthermore, the integration of targets on FPRW in the 2030 Agenda for Sustainable Development has provided a landmark opportunity to build international coalitions and support for the promotion of FPRW.

10. It is against this background of challenges and opportunities that this report is presented and that the ILO's constituents are invited to consider progress and chart a course for future action. The structure of this report takes account of a Governing Body decision on modalities of recurrent discussions¹¹ agreed as follow-up to the resolution on advancing social justice through decent work adopted by the ILC in 2016.¹²

¹¹ ILO: *Draft minutes of the 328th Session of the Governing Body of the International Labour Office* (Geneva, doc. GB.328/PV/Draft, 2016), para. 102.

¹² ILO: *Follow-up to the resolution on advancing social justice through decent work* (Geneva, doc. GB.328/INS/5/2, 4 Oct. 2016), pp. 7–8, para. 23.

Chapter 1

Trends and challenges of FPRW

11. This chapter provides a picture of general trends and challenges concerning the effective realization of FPRW. The first section considers developments in each of the four categories of FPRW. This is followed by an overview of the situation regarding ratification of the fundamental Conventions. The final section considers a number of thematic issues of particular relevance to efforts to promote FPRW.

A. Dynamic global picture by category of FPRW: Main trends

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

12. Both employers and workers, without distinction, have the right to freedom of association – the right to establish and join organizations of their own choosing in order to promote and defend their respective interests. The right to organize and bargain collectively provides an essential foundation for social dialogue, effective labour market governance and realization of decent work.

13. 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.¹ However, recent years have seen continuing pressures on the processes and institutions that support these. In many developing countries, the majority of work continues to be carried out in the informal and rural economies, in which the ability of workers to organize faces major challenges. Following the global financial crisis, many countries, particularly in Europe, launched austerity programmes which involved labour market deregulation and which, in many cases, weakened collective bargaining.² Structural changes in employment, including the growth of non-standard forms of employment, have also posed challenges for freedom of association and collective bargaining.³ On a more positive note, in some emerging economies, there appears to have been a trend to strengthen employment regulation with the aim of achieving greater equity.⁴

¹ ILO: *Freedom of association in practice: Lessons learned*, Report I(B), ILC, 97th Session, Geneva, 2008, p. ix.

² A. Koukiadaki, I. Távora, and M. Martínez Lucio: “Structural labour market reforms and the collective bargaining landscape in Europe”, in *Social Europe*, 2016.

³ ILO: *Non-standard employment around the world: Understanding challenges, shaping prospects* (Geneva, 2016), pp. 208–215.

⁴ ILO: *World employment and social outlook: The changing nature of jobs* (Geneva, 2015), p. 118.

14. There continue to be too many serious violations of freedom of association and the civil liberties which underpin it. During the period 2012–15, the Committee on Freedom of Association analysed cases involving 77 countries. More than half of the cases involved allegations of anti-union discrimination. Allegations concerning government interference and denial of civil liberties were also prominent. A further 3 per cent of these cases were brought by employers' organizations alleging violations of employers' rights.

15. The International Trade Union Confederation (ITUC) has continued to collect data pointing to serious violations of workers' rights, including cases of murder of trade unionists, violence against workers holding protests and taking industrial action, and imprisonment and repression.⁵ In 2016, the United Nations (UN) Special Rapporteur on the rights to freedom of peaceful assembly and of association recommended that States refrain from anti-union policies and practices, and reprisals against workers who exercise their peaceful assembly and association rights. The Rapporteur called upon States and all other stakeholders to commit themselves to creating the best possible enabling environment for the exercise of the rights to freedom of peaceful assembly and of association in the workplace.⁶

Trends in trade union membership

16. Trade union membership has been in decline in many countries over the past 20 years. This trend has been attributed to various causes, including: the decline of manufacturing industries in which large numbers of unionized workers were employed; the growth of non-standard forms of employment; cuts in public sector employment; and legislation, which in some countries has weakened collective bargaining and made it more difficult for trade unions to function effectively.

17. An ILO analysis using data from 48 countries found that between 2008 and 2013, union density declined on average by 2.3 per cent.⁷ As this period coincided with the fallout from the global economic crisis and austerity measures, this decline could be regarded as a relatively modest reduction in membership against a very harsh economic background. However, it follows on from some earlier years of decline in membership in a number of countries.⁸

Trends in employers' organization membership

18. While less data is available on membership activities in employers' organizations, they too have faced challenges following labour market transformations and face the need to adapt. The time spent on industrial relations has decreased and many organizations have developed other member services, with some expanding their role to broader trade issues.⁹ The declining role of employers' organizations in industrial relations can be attributed in part to the decline in national and sectoral bargaining and the growth of enterprise bargaining. A further trend affecting employers' organizations has been increased regionalization, with employers seeking to ensure their effective representation and

⁵ ITUC: "ITUC Global Rights Index: Workers' rights weakened in most regions, worst year on record for attacks on free speech and democracy", 9 June 2016.

⁶ UN General Assembly: *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association* (New York, doc. A/71/385, 14 Sep. 2016), pp. 26–27, paras 97 and 99.

⁷ ILO: "Trends in collective bargaining coverage: Stability, erosion or decline?", in *Labour relations and collective bargaining*, Issue Brief No. 1, Geneva, 2015, p. 8.

⁸ See www.ilo.org/ilostat, which provides statistics on trade union membership level.

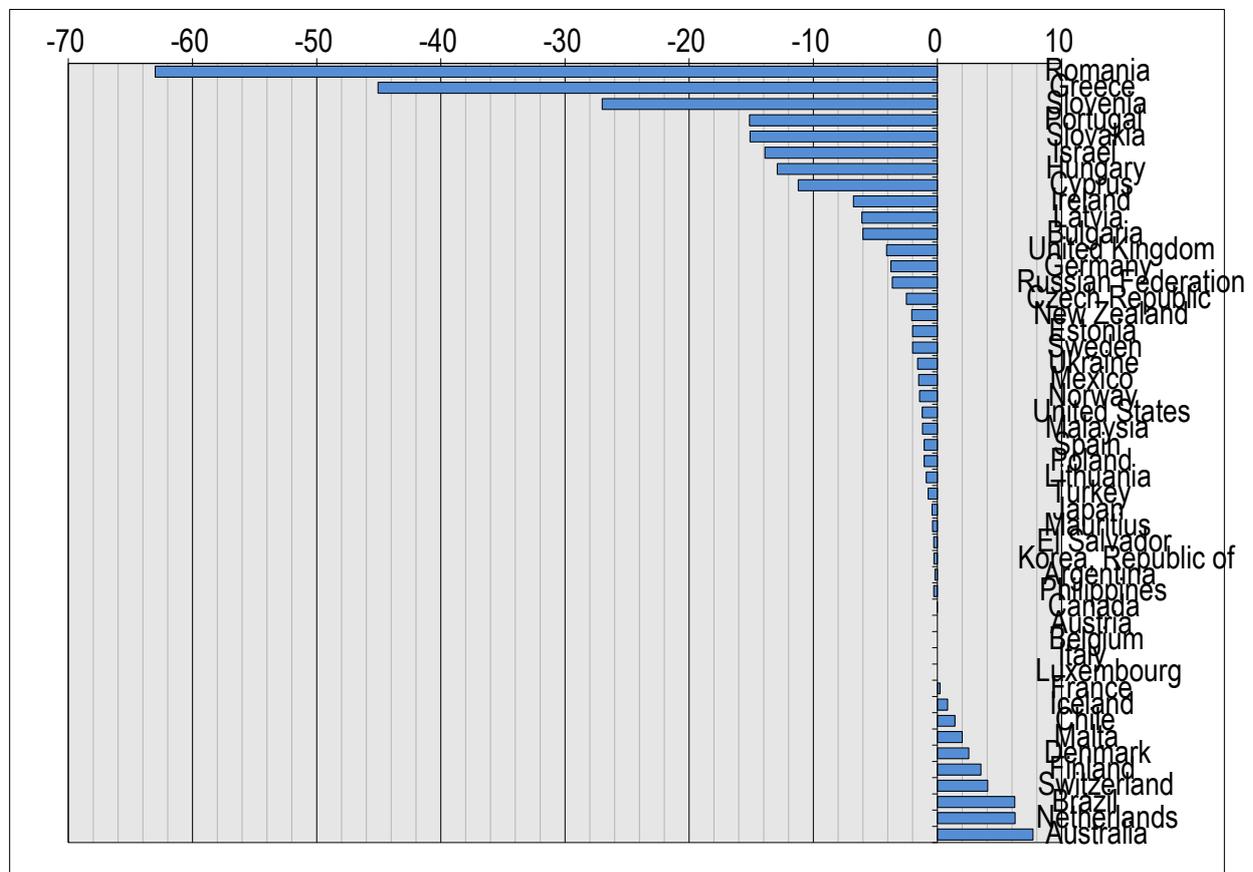
⁹ ILO: *Social dialogue: Recurrent discussion under the ILO Declaration on Social Justice for a Fair Globalization*, Report VI, ILC, 102nd Session, Geneva, 2013, p. 15, para. 57.

participation in regional economic discussions.¹⁰ There has also been a move towards ensuring a stronger national representation for employer interests through mergers of businesses, economic organizations and chambers of commerce.¹¹

Collective bargaining trends

19. Collective bargaining has come under pressure during the past three decades and the financial crisis of 2008 put further pressure on bargaining arrangements. Data from the ILO's 48-country analysis suggests that between 2008 and 2013, there was an average decline in bargaining coverage of 4.6 per cent (figure 1.1). The sharpest fall was in a group of European countries that were required to undertake structural adjustments in exchange for international financial assistance. Many of the programmes accompanying loan packages required changes in wage setting and labour law; the bargaining coverage of this group of countries fell by an average of 21 per cent.¹²

Figure 1.1. Changes in bargaining coverage 2008–12/13 (per cent)



Source: ILO: "Trends in collective bargaining coverage: Stability, erosion or decline?", in *Labour relations and collective bargaining*, Issue Brief No. 1, Geneva, 2015, p. 9.

20. The downward trend was not consistent across all countries; in ten countries, coverage increased.¹³ These are generally countries that promoted bargaining through

¹⁰ International Organisation of Employers (IOE): "Working at regional level".

¹¹ ILO: *Social dialogue*, 2013, op. cit. p. 16, para. 58.

¹² ILO: "Trends in collective bargaining coverage", op. cit., p. 10.

¹³ *ibid.*, p. 8.

deliberate policy measures, including social pacts or national agreements and policies to broaden the coverage of collective bargaining agreements.¹⁴ The Right to Organise and Collective Bargaining Convention, 1949 (No. 98), requires public authorities to take appropriate measures to encourage and promote machinery for voluntary negotiations between employers' and workers' organizations. Policies that tend to stabilize or increase coverage include those mentioned above. Actions that tend to decrease coverage include the cessation of national agreements, and weakening of support for multi-employer bargaining.¹⁵

21. Recent research reviewed labour market reforms across 111 countries during the period from 2008 to 2014, using data on the number of reforms passed each year by country and on the nature of the reforms. The findings identified a trend towards relaxing existing levels of workers' protection, with 56 per cent of the total interventions reducing existing levels of regulation. Moreover, 27 per cent of the reforms related to collective bargaining. In general, the research found a trend towards deregulation in developed economies, but a reinforcement of labour legislation in emerging economies.¹⁶

22. A 2013 General Survey concerning labour relations and collective bargaining in the public service noted that national legislation has often excluded public service employees from laws governing labour relations and has stipulated special provisions, whether through the formulation of "public service statutes" or by the adoption of special laws and regulations. However, it further noted that a review of different national legislation showed a clear global tendency towards acknowledging collective bargaining rights in the public service, although special modalities could be involved for public service employees.¹⁷

Collective bargaining, inequalities and wages

23. Collective bargaining can play an important role in reducing inequalities. Countries with high collective bargaining coverage, often supported by strong national tripartite mechanisms, have been found to have less inequality. Using a widely accepted measure of wage inequality (the D9/D1 ratio), a clear correlation was found between the proportion of wage earners covered by a collective bargaining agreement and the ratio of the wages received by the top and bottom 10 per cent of workers (figure 1.2).¹⁸

¹⁴ *ibid.*, p. 9.

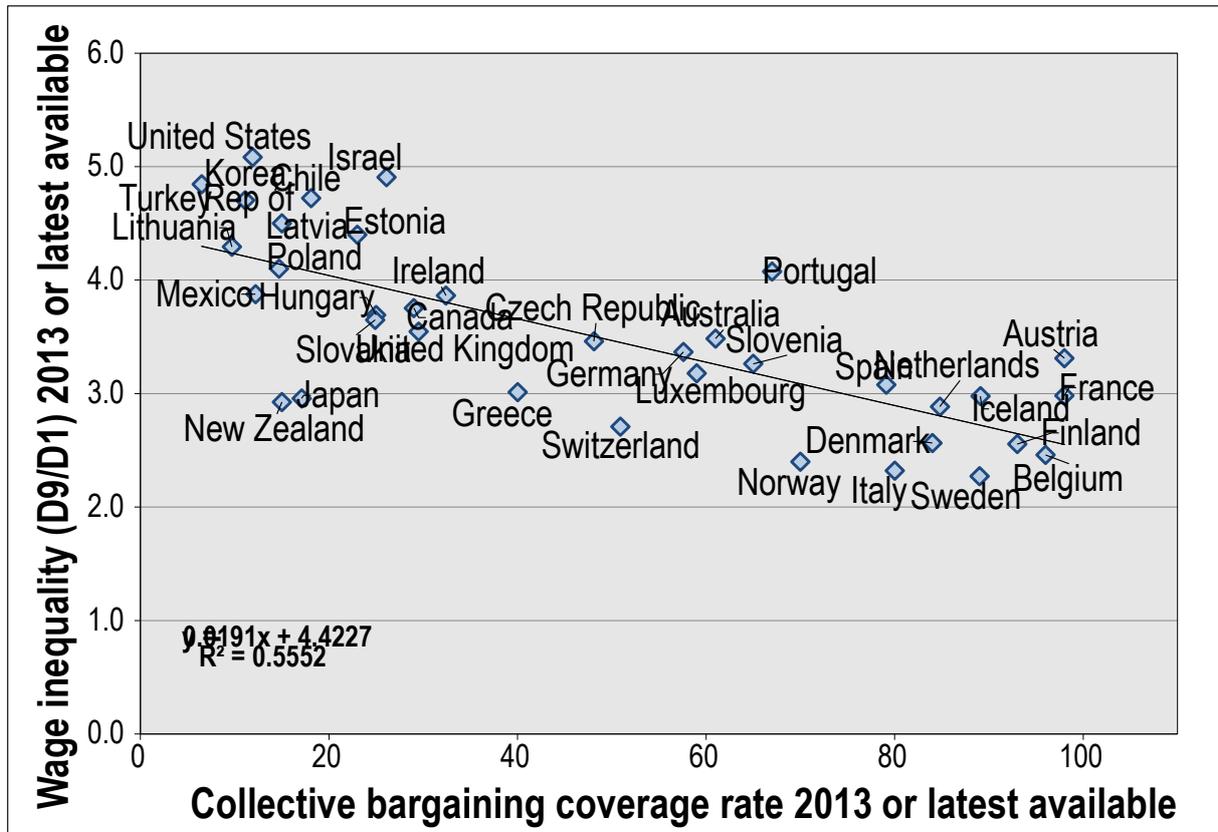
¹⁵ *loc. cit.*

¹⁶ D. Adascalitei and C. Pignatti Morano: "[Drivers and effects of labour market reforms: Evidence from a novel policy compendium](#)", in *IZA Journal of Labor Policy*, 2016, p. 6.

¹⁷ ILO: *General Survey concerning labour relations and collective bargaining in the public service*, Report III (Part 1B), ILC, 102nd Session, Geneva, 2013, pp. 6–7, paras 27–28.

¹⁸ ILO: *Labour markets, institutions and inequality: Building just societies in the 21st century* (Geneva, 2015), p. 101.

Figure 1.2. Collective bargaining coverage rate and the wage gap (D9/D1), 2012–13



Source: Based on ILO: *Labour markets, institutions and inequality: Building just societies in the 21st century* (Geneva, 2015), p. 102.

24. At the country level, the minimum wage should be determined through consultation and participation with the social partners and other national actors in line with the provisions of the Minimum Wage Fixing Convention, 1970 (No. 131). In some countries, collective bargaining plays an important role in establishing minimum wages.¹⁹ Recent years have seen increased interest in minimum wage policy and more than 90 per cent of ILO member States have one or more minimum wages in place.²⁰ China, Brazil, Cabo Verde, Germany, Malaysia and Myanmar are among the countries that have established or strengthened statutory minimum wages in recent years. In its 2014 General Survey on minimum wage systems, the ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) suggested that this renewed interest in minimum wage policy could be linked to the increase in the number of vulnerable workers, the widening income inequality in many countries and concerns about the erosion of the purchasing power of wages due to inflationary tendencies.²¹

Comments of the CEACR

25. Between 2012 and 2016, the CEACR made 563 comments concerning the application of the Freedom of Association and Protection of the Right to Organise

¹⁹ ILO: *General Survey of the reports on the Minimum Wage Fixing Convention, 1970 (No. 131), and the Minimum Wage Fixing Recommendation, 1970 (No. 135)*, Report III (Part 1B), ILC, 103rd Session, Geneva, 2014, pp. 62–67.

²⁰ ILO: *How many countries have a minimum wage?*

²¹ ILO: *General Survey*, Report III (Part 1B), 2014, op. cit., p. 9, para. 16.

Convention, 1948 (No. 87), of which 18 were noted with satisfaction. Cases of satisfaction primarily concerned adoption or progress on legislation.

26. The CEACR noted with interest the adoption of policies, national projects, training courses, technical assistance and court rulings regarding rights of workers' organizations to organize their administration and activities. However, it also expressed concern over issues related to trade union rights, civil liberties of trade unionists, harassment and serious acts of violence against trade unionists, the right to establish organizations without previous authorization and the right of organizations to organize their activities and to formulate their programmes in full freedom.

27. Between 2012 and 2016, the CEACR made 413 comments concerning the application of Convention No. 98, of which 11 were noted with satisfaction. Satisfaction primarily concerned the adoption of or progress on legislation. Mozambique, for example, adopted legislation recognizing the freedom of association and right to collective bargaining of public servants.²²

28. The CEACR noted with interest the adoption of policies, the results of court cases, collective agreements, social dialogue, the rights of trade union leaders, and the right to collective bargaining. However, it also expressed concern regarding restrictions on collective bargaining, registration of trade unions and the lack of adequate protections against acts of anti-union discrimination and interference.

The elimination of all forms of forced or compulsory labour

The global picture

29. Forced labour, contemporary forms of slavery, debt bondage and trafficking in persons are closely related, although not identical in a legal sense. They all represent a severe violation of human rights; those who suffer most are among the poorest and least protected – youth, migrant workers and indigenous peoples. During the past decade, the issue of forced labour and what has been termed “modern-day slavery” has attracted growing attention at the international and national levels with many new actors focusing on the subject. This heightened interest has been reflected in the inclusion of the elimination of forced labour, trafficking in persons and slavery under target 8.7 of the 2030 Agenda.

30. The ILO's most recent estimates, published in 2012, indicated that 21 million people were victims of forced labour, of whom 5.5 million were children. The Asia and the Pacific region accounted for 56 per cent of the global total, Africa for 18 per cent and Latin America for 9 per cent. In addition, 7 per cent were in developed economies and the European Union (EU); 68 per cent were working in activities such as agriculture, construction, domestic work or manufacturing; 22 per cent were victims of forced sexual exploitation. A further 10 per cent were in state-imposed forms of forced labour, including in prisons or in work imposed by state and non-state armed forces.

31. The third global estimate, to be published in 2017, will be based for the first time on national surveys and will include a more refined typology. It will shed light on the profile of victims, different manifestations of forced labour and the sector, period and place of the activity concerned. The production of the third global estimate has benefited greatly from the consultative process established to inform the forthcoming International Conference

²² ILO: *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 1A), ILC, 105th Session, Geneva, 2016 [subsequently referred to as *Report of the Committee of Experts*, Report III (Part 1A), 2016], p. 97.

of Labour Statisticians (ICLS), which will consider recommendations on the harmonization of indicators and measurement frameworks.

32. Several forms of state-imposed compulsory labour still exist, including abuse of conscription, abuse of community work, compulsory development work, compulsory prison labour and forced or compulsory recruitment of children for use in armed conflict. Countries including Belarus,²³ Burundi,²⁴ Eritrea,²⁵ Sierra Leone,²⁶ and Thailand²⁷ have laws and policies which permit one or more such practices.

33. The majority of forced labour, however, exists in the private economy, generating illicit annual profits of US\$150 billion.²⁸ The victims often work hidden from public view, for example on board fishing vessels, in small backstreet workshops, in commercial agriculture or in private homes. Forced labour takes different forms: it includes workers trapped in a vicious cycle of debt; children trafficked for forced begging; domestic workers deceived about their conditions of work and with visas tied to the employer; and workers confined to the employer's home.

34. Debt bondage – in which workers and often their families are forced to work for an employer in order to pay off debts they have incurred or inherited, without clear terms of reimbursement or with higher interest rates – persists in many countries. The victims of debt bondage are often among the poorest and most socially excluded in society and are frequently illiterate and easy to deceive. The manipulation of credit and debt either by an employer or recruiting agent is still a major factor in trapping workers in forced labour situations.²⁹

35. Of the estimated victims of forced labour, 15 per cent found themselves trapped following movement within their country and 29 per cent following movement across international borders.³⁰ A large part of global migration is of a temporary and seasonal nature, especially for low-skilled work in agriculture, construction, manufacturing and domestic work. While labour migration can be positive, it can also lead to abuse and extreme exploitation at the hands of some unscrupulous labour recruiters and employment agencies, and may give rise to forced labour. Migrant workers can be vulnerable to exploitation during the recruitment process, before travel and while based in the country of destination. Payment of exorbitant recruitment fees and associated costs increase the vulnerability of workers to forced labour. Migrant workers in irregular situations or whose

²³ *ibid.*, pp. 175–178.

²⁴ ILO: *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 1A), ILC, 103rd Session, Geneva, 2014 [subsequently referred to as *Report of the Committee of Experts*, Report III (Part 1A), 2014], p. 132.

²⁵ ILO: *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 1A), ILC, 104th Session, Geneva, 2015 [subsequently referred to as *Report of the Committee of Experts*, Report III (Part 1A), 2015], pp. 160–162.

²⁶ ILO: *Report of the Committee of Experts*, Report III (Part 1A), 2014, *op. cit.*, p. 155.

²⁷ *ibid.*, pp. 160–163.

²⁸ ILO: *Profits and poverty: The economics of forced labour* (Geneva, 2014), p. 13.

²⁹ ILO: *General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, 2008*, Report III (Part 1B), ILC, 101st Session, Geneva, 2012, p. 125, para. 294.

³⁰ ILO: *Report for discussion at the Tripartite Meeting of Experts concerning the possible adoption of an ILO instrument to supplement the Forced Labour Convention, 1930 (No. 29)*, Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation (Geneva, 11–15 February 2013), pp. 2–3, para. 12.

visas are tied to a specific employer can find themselves particularly vulnerable due to their dependence on their employer.³¹

Legislation and enforcement

36. Many countries have adopted legislation on forced labour and human trafficking, particularly in recent years. Two prominent issues in such legislation are the need to criminalize and prevent forced labour and the need for effective victim protection.

37. Enforcement remains a major challenge due to the inadequacy of labour inspection and law enforcement machinery. Some forms of forced labour may be outside the reach of labour inspection – if not in law, then in practice. For example, even when covered by national legislation, such forms of work as domestic work in private households, agricultural labour in remote areas and work on fishing vessels may be difficult to monitor due to restricted access to the workplace and inadequately resourced labour inspectorates. Despite the fact that many countries are giving new attention to forced labour practices and that a number have established special units tasked with tackling forced labour, increasing the number of prosecutions and convictions for forced labour and trafficking in persons remains a challenge.

38. The United Nations Office on Drugs and Crime (UNODC) collects data on the enforcement of anti-trafficking legislation. It reported in 2016 that the share of detected trafficking victims found to have been in forced labour other than trafficking for sexual exploitation increased from 32 per cent in 2007 to 38 per cent in 2014 and identified considerable regional differences with regard to forms of forced labour exploitation. Trafficking for sexual exploitation was the main form detected in Western Europe and southern Europe, whereas in Eastern Europe, Central Asia and sub-Saharan Africa it was trafficking for other forms of forced labour. UNODC reported that while convictions for trafficking in persons remain few, the longer countries have had comprehensive legislation in place, the more convictions are recorded.³²

39. While the increase in the numbers of prosecutions and convictions can sometimes be a significant deterrent, providing technical information and advice on effective means of complying with legislation is an important role of labour inspection services. However in many countries labour inspectors are not responsible for enforcing criminal law. Their mandate refers mostly to violations of rights covered by labour legislation, restricting capacity to tackle some instances of forced labour. In other countries, such as Brazil, India and Malaysia, the labour administration has a clear mandate to enforce the prohibition of forced labour. Cooperation between the labour inspectorate and other relevant public institutions can also be an effective tool in designing joint strategies, planning operational action and exchanging information, as in the case of Belgium and the Netherlands.³³

Comments of the CEACR

40. Between 2012 and 2016, the CEACR made 670 comments concerning the application of the Forced Labour Convention, 1930 (No. 29), of which three were noted with satisfaction. Uganda repealed legislation under which unemployed people could be settled on any farm settlement and required to work.³⁴ Myanmar also adopted legislation

³¹ ILO: *Profits and poverty*, op. cit., p. 46.

³² UNODC: *Global report on trafficking in persons 2016* (UN, New York, 2016), p. 12.

³³ ILO: *Strengthening action to end forced labour*, Report IV(1), ILC, 103rd Session, Geneva, 2014, pp. 57–58.

³⁴ ILO: *Report of the Committee of Experts*, Report III (Part 1A), 2014, op. cit., p. 166.

making the use of forced labour by any person a criminal offence punishable with imprisonment and fines.³⁵

41. The CEACR noted with interest the adoption of action plans and direct action. However, it also expressed concern regarding penalties for the exaction of forced labour and trafficking in persons, and issues of compulsory agricultural work, forced labour and sexual slavery.

42. Between 2012 and 2016, the CEACR made 498 comments concerning the application of the Abolition of Forced Labour Convention, 1957 (No. 105), of which three were noted with satisfaction. In Niger, for example, media-related offences such as insults and defamation were no longer punishable by prison sentences.³⁶ Benin had repealed the Merchant Shipping Code of 1968, which had allowed for imprisonment for breaches of discipline such as absence without leave or refusal to obey an order.³⁷

43. The CEACR noted with interest legislative provisions prohibiting slavery, servitude and forced labour. However, it also expressed concern about penalties for the expression of political views and the right to hold public meetings and peaceful assemblies.

Effective elimination of child labour

The global trend

44. Significant progress in reducing child labour has been achieved since 2000, with a total reduction of almost one third and a 50 per cent reduction in the worst forms of child labour. However, the most recent global estimates (2012) found that 168 million children remained in child labour. Of this number, 72 per cent were between 5 and 14 years of age, while the remainder were between 15 and 17 years. More than 40 per cent were girls.³⁸ The largest absolute number of children in child labour is in the Asia and the Pacific region, although this region also saw the sharpest decline in child labour between 2008 and 2012. Africa remains the region with the highest incidence of child labour.³⁹

45. In 2006, the ILO set a target date of 2016 for the elimination of the worst forms of child labour. The target was based partly on assumptions that rapid progress made in the Americas could be continued and replicated in other regions with a high incidence of child labour. This proved not to be the case and, although there was steady progress in eliminating the worst forms of child labour, the pace of decline still left the world significantly short of the target.

46. Figure 1.3 shows the declining number of children in child labour and hazardous work in the period 2000–12 and possible future scenarios if the rate of decline in the period 2008–12 continues. If the recent pace and trends continue, the new target of eliminating all child labour by 2025, established in the 2030 Agenda, will be missed. To have any chance of reaching the target, a significant increase in the rate of reduction is required. The need to intensify efforts to tackle child labour is also evidenced by global demographic data. The current global population of 7.3 billion is expected to reach 8.5 billion by

³⁵ ILO: *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 1A), ILC, 102nd Session, Geneva, 2013 [subsequently referred to as *Report of the Committee of Experts*, Report III (Part 1A), 2013], pp. 250–254.

³⁶ *ibid.*, pp. 257–258.

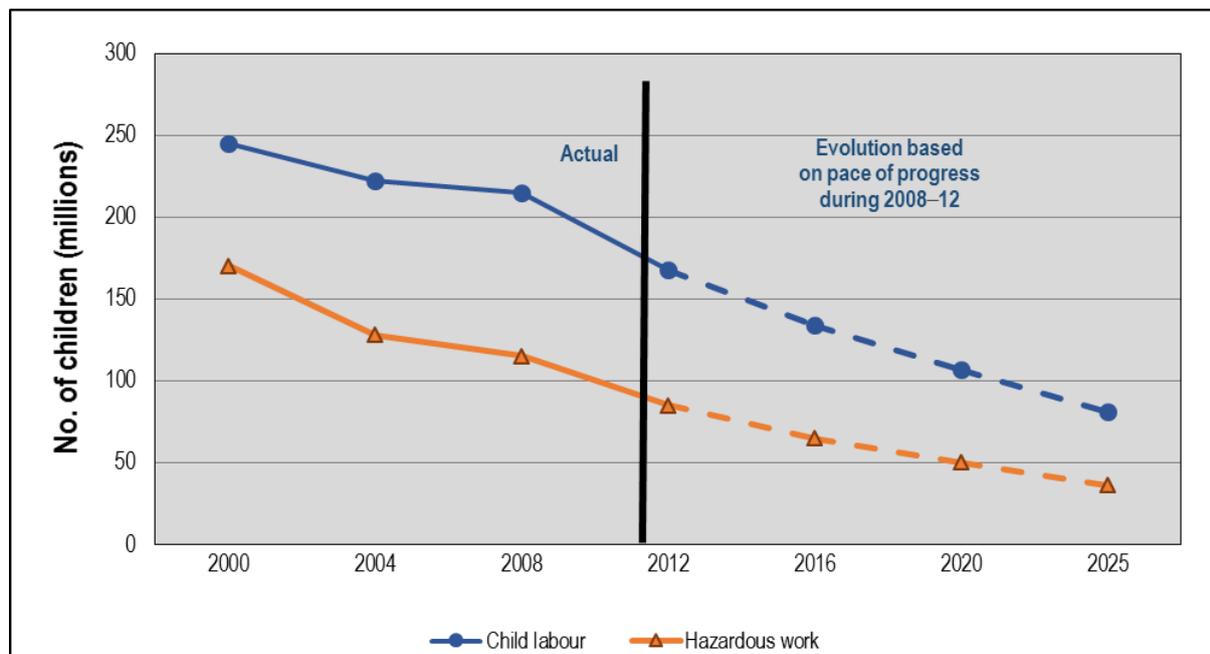
³⁷ ILO: *Report of the Committee of Experts*, Report III (Part 1A), 2015, *op. cit.*, pp. 146–147.

³⁸ ILO: *Marking progress against child labour: Global estimates and trends 2000–2012* (Geneva, 2013), pp. 30–31.

³⁹ *ibid.*, pp. 4–5.

2030.⁴⁰ In many countries, a growing number of children will lead to increased demands on national education systems, and a failure to accommodate the growing numbers could fuel child labour.

Figure 1.3. Number of children (in millions) in child labour and hazardous work, actual 2000–12 and projected levels for 2016–25, assuming pace of progress as 2008–12



Source: Understanding Children's Work calculations, based on national household surveys.

47. Among the most serious violations of FPRW in conflict settings is the forced recruitment of children for use in armed conflict, one of the worst forms of child labour. The UN Special Representative of the Secretary-General for Children and Armed Conflict reported in 2016 that since 2000, more than 115,000 children associated with parties to conflict have been released as a result of coordinated dialogue and awareness-raising by the UN. The advocacy generated by the mandate has achieved a global consensus among member States that children should not be recruited and used in conflict.⁴¹ Despite this, many serious challenges remain, some of which are referred to in a later section of the present report.

Policy responses – What works and what is required

48. Successive global reports on child labour have pointed to the need for coherent national policy responses that address the root causes of child labour. Ensuring socio-economic security, including decent work for adults, is of fundamental importance. Policy choices and accompanying investment in education and social protection have been identified as being particularly relevant to the decline in child labour since 2000.⁴²

⁴⁰ UN Department of Economic and Social Affairs (DESA)/Population Division: *World population prospects: The 2015 revision, Key findings and advance tables* (New York, 2015), p. 8.

⁴¹ UN: *Report of the Special Representative of the Secretary-General for Children and Armed Conflict* (New York, doc. A/71/205, 25 July 2016), p. 8, para. 27.

⁴² ILO: *Marking progress against child labour*, op. cit., p. ix.

49. Between 1999 and 2012, the number of out-of-school children declined from 204 million to 121 million.⁴³ During this period, many countries took steps to remove the direct costs of basic education and, in some instances, to provide incentives through social protection programmes to promote school attendance. Both of these measures help to take children out of child labour.

50. Research has also highlighted the relevance of social protection interventions in preventing families from having to rely on child labour as a household survival strategy. In addition to cash transfer programmes which involve conditions that those receiving benefits should ensure children attend school, research has found that other social protection measures, such as health insurance and income security for the elderly, can also play a positive role in minimizing the likelihood of child labour.⁴⁴

51. A cross-country analysis conducted recently by the Understanding Children's Work programme – an interagency initiative involving the ILO, the United Nations Children's Fund (UNICEF) and the World Bank – provides evidence that ratification of international labour standards, in particular Convention No. 182, is associated with progress against child labour. This can be explained by the accompanying legislation and policy, which are usually part of a ratification process. Furthermore, the analysis found that structural changes in favour of low-skilled production tend to lead to an increase in child labour, and that changes in per capita gross domestic product do not seem to be statistically relevant for child labour rates.⁴⁵

52. Older children, between 15 and 17 years of age, constitute 28 per cent of the total number in child labour but in some countries the share is much higher (figure 1.4). Such children may have reached the legal minimum age for employment but are considered to be engaged in child labour either because their work has been designated as hazardous work prohibited to those under 18 years or because it is one of the other worst forms of child labour detailed in Convention No. 182.

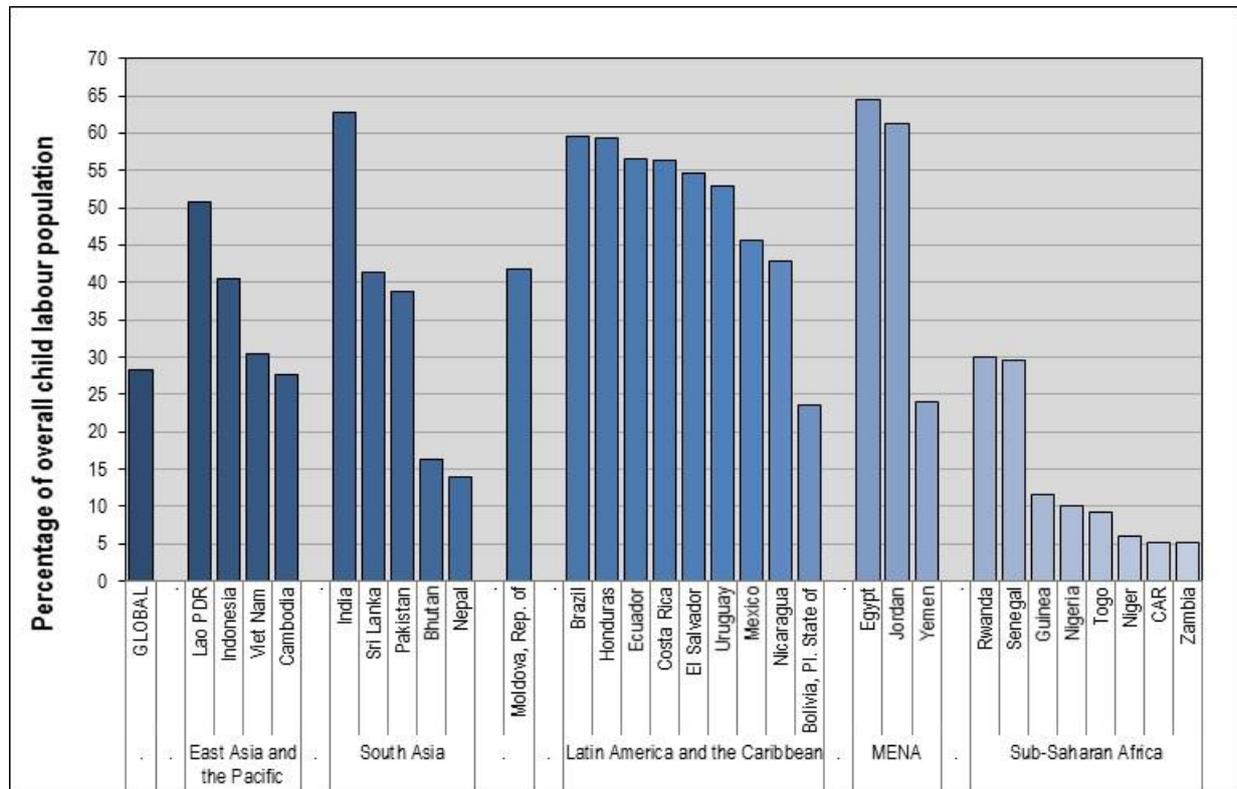
53. Convention No. 182 includes within its definition of the worst forms of child labour work likely to harm the health, safety or morals of children. Article 4 of the Convention requires that the types of such work shall be determined by national laws or regulations after consultation with the organizations of employers and workers concerned. It also provides that the list of the types of work determined shall be periodically examined and revised as necessary. The Worst Forms of Child Labour Recommendation, 1999 (No. 190), the non-binding guidelines that accompany Convention No. 182, gives some indication as to the work that should be prohibited. However, hazardous work lists, particularly those relating to work in agriculture, can be vague and difficult to apply in practice or else so broad that all work in a given subsector is banned as a result. At times, there is insufficient evidence – such as risk assessments – to support the development of such lists. Constituents in a number of member States have expressed the need for further guidance on the development of hazardous work lists.

⁴³ United Nations Educational, Scientific and Cultural Organization: *Education for all 2000–2015: Achievements and challenges* (Paris, 2015), p. 3.

⁴⁴ ILO: *World report on child labour: Economic vulnerability, social protection and the fight against child labour* (Geneva, 2013), p. xvi.

⁴⁵ ILO: *Understanding global trends in child labour*, Geneva (forthcoming in Sep. 2017).

Figure 1.4. Percentage of 15–17 year-olds in hazardous work as a percentage of the overall child labour population, by country/region



Source: L. Guarcello, S. Lyon: *Adolescents in hazardous work: Child labour among children aged 15–17 years*, working paper, 2015, p. 14.

54. Convention No. 182 reinforces and builds upon the Minimum Age Convention, 1973 (No. 138). Convention No. 138 provides an essential link to education, requiring that member States establish a minimum age for entry into (non-hazardous) work that is not less than the age of completion of compulsory schooling (normally 15 years), thus enabling a school-to-work transition in which children’s rights are respected.

55. Convention No. 138 also allows for light work from 13 years of age, if permitted by national law. This “flexibility clause” recognizes that safe work, which does not interfere with compulsory education, can be a beneficial part of children’s socialization. Promoting a smooth school-to-work transition requires access to safe work for children above the minimum age.

56. The UN Committee on the Rights of the Child recommends that States adopt a transitional approach towards achieving a balance between the positive role of work in adolescents’ lives while ensuring their right to compulsory education, without discrimination. Schooling and the introduction to decent work should be coordinated to facilitate both in the lives of adolescents, according to their age and effective mechanisms introduced to regulate such work.⁴⁶

Comments and observations of the CEACR

57. Between 2012 and 2016, the CEACR made 509 comments concerning the application of Convention No. 138, of which 19 observations were noted with satisfaction.

⁴⁶ UN Committee on the Rights of the Child, *General Comment No. 20 (2016) on the implementation of the rights of the child during adolescence* (Geneva, doc. CRC/C/GC/20, 6 Dec. 2016), p. 22, para. 86.

Cases of satisfaction primarily concerned the minimum age for admission to employment and legislation regarding hazardous work. In the case of Burkina Faso, the CEACR noted with satisfaction the adoption of the Decree of 2009 establishing a list of hazardous types of work prohibited for children, which include agriculture, stock rearing, fishing, agro-forestry and hunting, industry, mining, quarries and small-scale gold mines, construction and public works, the informal sector, craft industries, performing arts, transport and the human and animal health sector.⁴⁷

58. The CEACR noted with interest the adoption of action plans and policies and direct action taken by member States to eliminate child labour. However, it also deplored the adoption of legislation lowering the minimum age for admission to employment and expressed concern about the high number of children working below the minimum age.

59. Between 2012 and 2016, the CEACR made 742 comments concerning the application of Convention No. 182, of which 26 were noted with satisfaction. Mexico, for example, adopted a decree reforming the Federal Labour Law on child labour and prohibiting work likely to harm the health, safety or morals of children.⁴⁸ In Australia, the governments of New South Wales, South Australia and Tasmania adopted the Work Health and Safety Regulation 2012, which prohibits the employment of minors under 18 years of age in high-risk work.⁴⁹ The CEACR also noted with satisfaction that Bangladesh had adopted a list of 38 types of hazardous work prohibited to minors under 18 years of age. This list includes work in automobile workshops, the manufacturing of bidis and cigarettes and brick or stone breaking.⁵⁰

60. The CEACR noted with interest the adoption of policies, action plans and direct action to eliminate the worst forms of child labour. However, it also deplored the situation of children affected by armed conflict⁵¹ and expressed concern about the effect on children of armed conflict, lack of access to education and illicit activities, hazardous work and issues concerning monitoring mechanisms.⁵²

Elimination of discrimination in employment and occupation

Trends concerning sex-based discrimination and gender equality

61. Despite some progress, inequalities between women and men persist in access to opportunities and earnings in the labour market. During the past 20 years there has been significant progress in women's educational achievements but this has not yet translated into a comparable improvement in their work status. The opportunities for women to participate in the labour market are almost 27 per cent lower than for men, a figure that has hardly changed over the past 20 years.⁵³

62. Within the labour market there are often significant differences between the occupations in which men and women are concentrated; women tend to be

⁴⁷ ILO: *Report of the Committee of Experts*, Report III (Part 1A), 2013, op. cit., p. 295.

⁴⁸ ILO: *Report of the Committee of Experts*, Report III (Part 1A), 2016, op. cit., p. 285.

⁴⁹ ILO: *Report of the Committee of Experts*, Report III (Part 1A), 2015, op. cit., pp. 184–185.

⁵⁰ *ibid.*, pp. 188–189.

⁵¹ ILO: *Report of the Committee of Experts*, Report III (Part 1A), 2016, op. cit., p. 256; p. 307.

⁵² *ibid.*, p. 256–258.

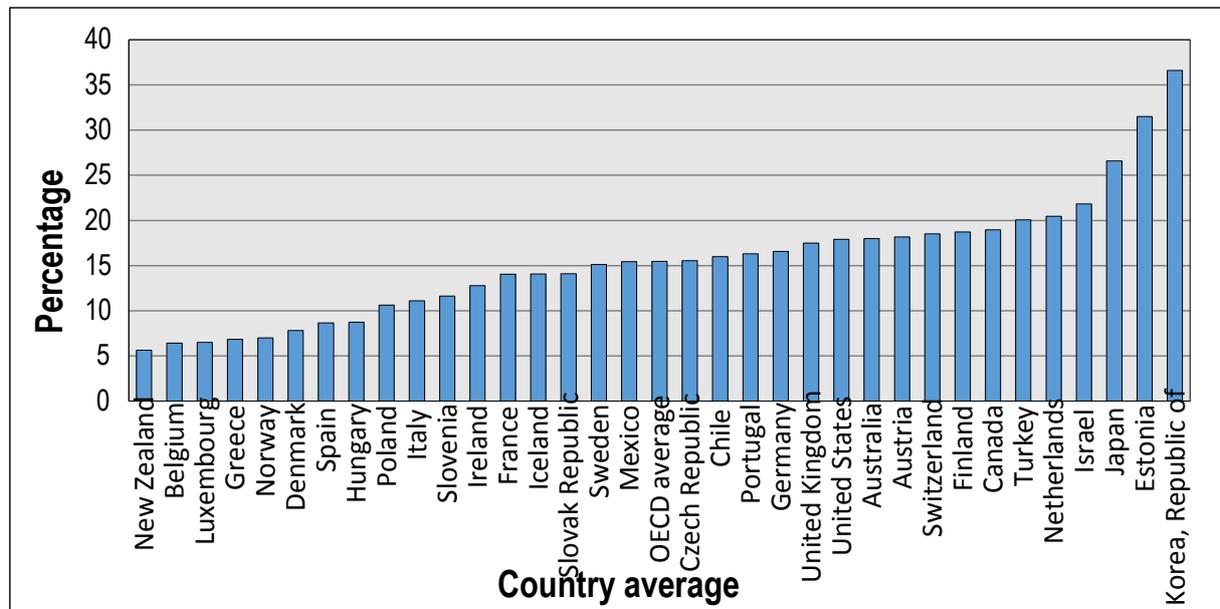
⁵³ ILO: *Women at work: Trends 2016* (Geneva, 2016), p. xi.

overrepresented in the lowest paid occupations and in non-standard forms of employment.⁵⁴ There has been no substantial decrease in occupational segregation.⁵⁵ Within the same sector or company, women predominate in lower-valued and lower-paid occupations, tend to work for fewer years and more frequently work in part-time jobs. Women continue to perform the vast majority of unpaid household and care work, on average two and a half times more than men.⁵⁶

63. The most recent estimate of the global average gap between women’s and men’s wages is 23 per cent – in other words, women earn 77 per cent of what men earn.⁵⁷ In a group of 37 countries and territories with data for two periods, the wage gap declined from 21.7 per cent to 19.8 per cent.⁵⁸ While the gap is slowly closing, at the current rate of progress it could take until 2086 to achieve pay equity globally.⁵⁹

64. Figure 1.5 provides the most up to date information on the raw gender wage gap in OECD countries.⁶⁰ This shows considerable variation between countries from over 30 per cent in Estonia and the Republic of Korea to under 10 per cent in Belgium, Denmark, Greece, Hungary, Luxemburg, New Zealand, Norway and Spain.

Figure 1.5. Gender wage gap in OECD countries



Source: OECD Employment Database 2014.

65. The gender wage gap can only be explained in parts. The explainable part can be attributed to observable elements that could be expected to influence remuneration, such as an individual’s level of education or sector of employment. The unexplained part – that which remains after adjusting for explainable elements – implies discrimination in the

⁵⁴ *ibid.*, p. 26.

⁵⁵ *loc. cit.*

⁵⁶ *ibid.*, p. xv.

⁵⁷ *ibid.*, p. xvi.

⁵⁸ *ibid.*, p. 28.

⁵⁹ *loc. cit.*

⁶⁰ OECD Employment Database: www.oecd.org/gender/data/genderwagegap.htm [accessed 12 Dec. 2016].

labour market that may be associated with gender bias and the undervaluation of women's work. However, the lack of reliable sex-disaggregated data on pay sometimes conceals or makes the extent of the gender wage gap hard to measure and address.

66. The principle of equal pay for men and women for work of equal value is set out in the Equal Remuneration Convention, 1951 (No. 100). The Convention provides the foundation for action to combat the discrimination which underlies the unexplained dimensions of the gender wage gap. There is evidence that the wage penalty associated with working in a female-dominated occupation is larger where employer discretion is greatest. Correspondingly there is less of a wage penalty where wage setting is guided by formal rules. Where trade union density and collective bargaining is high, the gender wage gap is smaller.⁶¹

67. The gender wage gap and patterns of employment also mean that women have less access than men to employment-related social protection. Women above retirement age receive a pension on average 10.6 percentage points lower than men. Some 200 million women in old age live without a regular social protection income, compared to 115 million men.⁶²

68. Policies required to promote gender equality include strengthening legislative and institutional frameworks and developing and applying objective and reliable job evaluation methodologies in order to measure and compare the relative value of different jobs. Attention must also be paid to combating stereotypes about women's roles, strengthening policies on maternity and paternity as well as parental leave and advocacy for better sharing of family responsibilities.⁶³

Other grounds of discrimination

69. For too many workers, discrimination because of race or ethnic origin remains a daily reality. In 2013, the UN General Assembly adopted resolution 68/237 proclaiming 2015–24 as the International Decade for People of African Descent. In the associated programme of activities adopted subsequently in 2014, it calls for action to eliminate racial discrimination and intolerance in the workplace against all workers and to ensure the equality of all in employment, vocational training and working conditions.⁶⁴ Studies in Austria, the Netherlands and the United Kingdom have concluded that people of African descent are less likely to be invited for a job interview despite having the same level of qualifications as other candidates.⁶⁵ In the United States in 2014, 25,482 cases of employment discrimination based on race were filed by people of African descent.⁶⁶

70. The 2016 General Survey on promoting fair migration reported that xenophobia against non-nationals and, in particular, migrants constitutes one of the main sources of

⁶¹ E. Murphy and D. Oesch: "The feminization of occupations and change in wages: A panel analysis of Britain, Germany and Switzerland", discussion paper (Institute for Economic Research, Berlin, 2015), p. 3.

⁶² ILO: *Women at work: Trends 2016*, op. cit., p. xvii.

⁶³ ILO: *Global wage report 2014/15: Wages and income inequality* (Geneva, 2015), p. 61.

⁶⁴ UN: General Assembly resolution 69/16, *Programme of activities for the implementation of the International Decade for People of African Descent* (New York, doc. A/RES/69/16, 1 Dec. 2014), para. 23.

⁶⁵ O. Nwabuzo: *Afrophobia in Europe: ENAR shadow report 2014–2015* (European Network Against Racism, Brussels, 2015), p. 18.

⁶⁶ ILO: *Supplementary report: International Decade for People of African Descent (2015–24)* (Geneva, doc. GB.326/INS/15/3, 1 Mar. 2016), p. 3, para. 11.

contemporary racism.⁶⁷ Migrant workers are often discriminated against either because of their country of origin or on other grounds including colour, religion and sex or on the basis of real or perceived human immunodeficiency virus (HIV) status. Migrant workers are often subject to mandatory HIV testing, which contradicts both the HIV and AIDS Recommendation, 2010 (No. 200) and the Domestic Workers Recommendation, 2011 (No. 201).

71. Religious intolerance and workplace discrimination can be closely associated. Research in the United Kingdom found that Muslim women are much more likely to be unemployed than non-Muslim women, even when they have the same qualifications and language skills.⁶⁸

72. In 2015, 76 countries were criminalizing same-sex sexual conduct, with seven countries prescribing the death penalty for certain offences. These laws persecute and stigmatize lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. Even when not enforced, such laws validate discrimination and can lead to an increase in violence and harassment.⁶⁹ Discrimination extends to the world of work, even in countries where same-sex sexual conduct is not criminalized. In 2015, the United States Equal Employment Opportunity Commission received a total of 1,412 cases that included allegations of sex-based discrimination related to sexual orientation and/or gender identity/transgender status, an increase of approximately 28 per cent over the charges filed in 2014. Globally, more attention is being paid to this ground for discrimination with the adoption by the UN Human Rights Council in 2016 of a resolution appointing an Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity to monitor and report on levels of violence and discrimination against LGBTI people, as a result of which more detailed information is likely to become available on this aspect of discrimination.⁷⁰

Legislative and policy trends

73. In most member States, non-discrimination provisions are contained in broader legislation on equality or human rights, other overarching labour law instruments, specific employment-related provisions in a labour code or in the national Constitution. In addition, most have put in place a range of non-discrimination policies and measures to promote equality. Some States include measures to promote equality in broader strategies, policies or plans.

74. Over the years, national legislation and international instruments have expanded the grounds of discrimination well beyond those explicitly detailed in the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), with disability and age being among the most commonly added.⁷¹ It has been estimated that people with disabilities make up 15 per cent of the world's population and that 80 per cent of this group are of working age. Statistics show that their employment rate is low compared with persons

⁶⁷ ILO: *General Survey concerning the migrant workers instruments*, Report III (Part 1B), ILC, 105th Session, Geneva, 2016, p. 95, para. 290.

⁶⁸ See “Discrimination keeps Muslim women out of the workplace, according to study”, in *phys.org* (16 Apr. 2015).

⁶⁹ United States Department of State: *Trafficking in persons report: June 2016*, p. 20.

⁷⁰ UN: General Assembly resolution 32/L.2, *Protection against violence and discrimination based on sexual orientation and gender identity* (New York, doc. A/HRC/32/L.2/Rev.1, 28 June 2016), p. 2.

⁷¹ ILO: *General Survey on the fundamental Conventions concerning rights at work ...*, op. cit., p. 337, para. 807.

with no disability.⁷² As a result, particularly in developing countries, many people with disabilities live in poverty.

75. Some countries have introduced affirmative measures in their Constitution or labour legislation for older and younger workers in order to address inequalities.⁷³

76. The list of grounds of discrimination is long and constantly changing, with new grounds emerging over time. In the light of such changes, the question arises as to whether further measures should be taken to review grounds of discrimination contained in Convention No. 111, with a view to providing additional guidance to member States.

Comments and observations of the CEACR

77. Between 2012 and 2016, the CEACR made 651 comments concerning the application of Convention No. 100, of which two were noted with satisfaction. Grenada revised a minimum wage order that previously specified different minimum wages for men and women agricultural workers to provide a uniform minimum wage for all agricultural workers.⁷⁴ Mauritius amended legislation to replace the words “the same type of work” with the words “work of equal value” giving legislative expression to the principle of equal remuneration for work of equal value.

78. The CEACR noted with interest the adoption of national action plans, technical assistance programmes and court cases that addressed enforcement of the principle of work of equal value, the gender wage gap, objective job evaluations and equal remuneration. However, it also expressed concern about situations that were not in conformity with the Convention.

79. Between 2012 and 2016, the CEACR made 727 comments concerning the application of Convention No. 111, of which three were noted with satisfaction. The Philippines repealed a ban on the employment of women in night work, replacing it with legislation that ensures an alternative to night work is made available to women workers before and after childbirth for at least 16 weeks.⁷⁵ The Republic of Moldova added “skin colour” and “HIV/AIDS infection” to the list of prohibited grounds of discrimination in its Labour Code.⁷⁶ Uruguay adopted legislation prohibiting pregnancy tests as a requirement for entry, promotion or to remain in any post or employment in the public and private sectors.⁷⁷

80. The CEACR also noted with interest the adoption of action plans, policies, national programmes and strategies taken by member States to address discrimination against Roma people and civil service employees, plans on gender equality, the promotion of employment of persons with disabilities, and equality of opportunity between men and women. However, it also expressed concern about the requirement by employers in some countries for pregnancy testing to obtain or keep a job, and discrimination based on race or ethnicity.

⁷² ILO: *Disability Inclusion Strategy and Action Plan 2014–17* (Geneva, 2015), p. 1.

⁷³ ILO: *General Survey on the fundamental Conventions concerning rights at work ...*, op. cit., pp. 337–338, para. 807.

⁷⁴ ILO: *Report of the Committee of Experts*, Report III (Part 1A), 2013, op. cit., p. 474.

⁷⁵ ILO: *Report of the Committee of Experts*, Report III (Part 1A), 2016, op. cit., p. 340.

⁷⁶ ILO: *Report of the Committee of Experts*, Report III (Part 1A), 2015, op. cit., p. 276.

⁷⁷ *ibid.*, p. 305.

B. Ratification of the ILO fundamental Conventions

81. By 31 March 2017, the ILO had registered 1,367 ratifications of the ILO fundamental Conventions, representing coverage of 91 per cent, and 13 ratifications of the Protocol to Convention No. 29. During the period from 2012 to end March 2017, there were 39 ratifications of fundamental Conventions in comparison with 20 over the previous five years. Nine of the ratifications were by two new member States.⁷⁸ A further 129 ratifications of the fundamental Conventions are required to meet the goal of the universal ratification campaign, set by the ILO in 1995.

82. Convention No. 182 remains the most-ratified Convention, followed closely by Convention No. 29. Conventions Nos 87 and 98 remain the least-ratified fundamental Conventions; approximately half of the world's population live in countries that have still not ratified one or both of these Conventions (table 1.1).

⁷⁸ See ILO: *Fundamental principles and rights at work: From commitment to action*, Report VI, ILC, 101st Session, Geneva, 2012, p. 16, para. 33 for the figure relating to the previous five years.

Table 1.1. Percentage of world population not covered by the fundamental Conventions, 31 March 2017

	C029	C087	C098	C100	C105	C111	C138	C182
Percentage of world population not covered by ratification	24	52	49	5	23	8	27	18
Countries not covered by ratification of the Convention	<p>Americas United States</p> <p>Asia Afghanistan, Brunei Darussalam, China, Republic of Korea, Marshall Islands, Palau, Tonga, Tuvalu</p>	<p>Africa Guinea-Bissau, Kenya, Morocco, South Sudan, Sudan</p> <p>Americas Brazil, United States</p> <p>Arab States Bahrain, Iraq, Jordan, Lebanon, Oman, Qatar, Saudi Arabia, United Arab Emirates</p> <p>Asia Afghanistan, Brunei Darussalam, China, Cook Islands, India, Islamic Republic of Iran, Republic of Korea, Lao People's Democratic Republic, Malaysia, Marshall Islands, Nepal, New Zealand, Palau, Singapore, Thailand, Tonga, Tuvalu, Viet Nam</p>	<p>Americas Canada, Mexico, United States</p> <p>Arab States Bahrain, Oman, Qatar, Saudi Arabia, United Arab Emirates</p> <p>Asia Afghanistan, Brunei Darussalam, China, Cook Islands, India, Islamic Republic of Iran, Republic of Korea, Lao People's Democratic Republic, Marshall Islands, Myanmar, Palau, Thailand, Tonga, Tuvalu, Viet Nam</p>	<p>Africa Liberia, Somalia</p> <p>Americas United States</p> <p>Arab States Bahrain, Oman, Kuwait, Qatar</p> <p>Asia Brunei Darussalam, Cook Islands, Marshall Islands, Myanmar, Palau, Tonga, Tuvalu</p>	<p>Asia Brunei Darussalam, China, Japan, Republic of Korea, Lao People's Democratic Republic, Marshall Islands, Myanmar, Palau, Timor-Leste, Tonga, Tuvalu, Viet Nam</p>	<p>Americas United States</p> <p>Arab States Oman</p> <p>Asia Brunei Darussalam, Cook Islands, Japan, Malaysia, Marshall Islands, Myanmar, Palau, Singapore, Thailand, Tuvalu</p>	<p>Africa Liberia, Somalia</p> <p>Americas Saint Lucia, Suriname, United States</p> <p>Asia Australia, Bangladesh, Cook Islands, India, Islamic Republic of Iran, Marshall Islands, Myanmar, New Zealand, Palau, Timor-Leste, Tonga, Tuvalu, Vanuatu</p>	<p>Africa Eritrea</p> <p>Asia Cook Islands, India, Marshall Islands, Palau, Tonga, Tuvalu</p>

Source: Based on data in UN DESA/Population Division, *World population prospects: The 2015 revision, Key findings and advance tables* (New York, 2015), pp. 13–17.

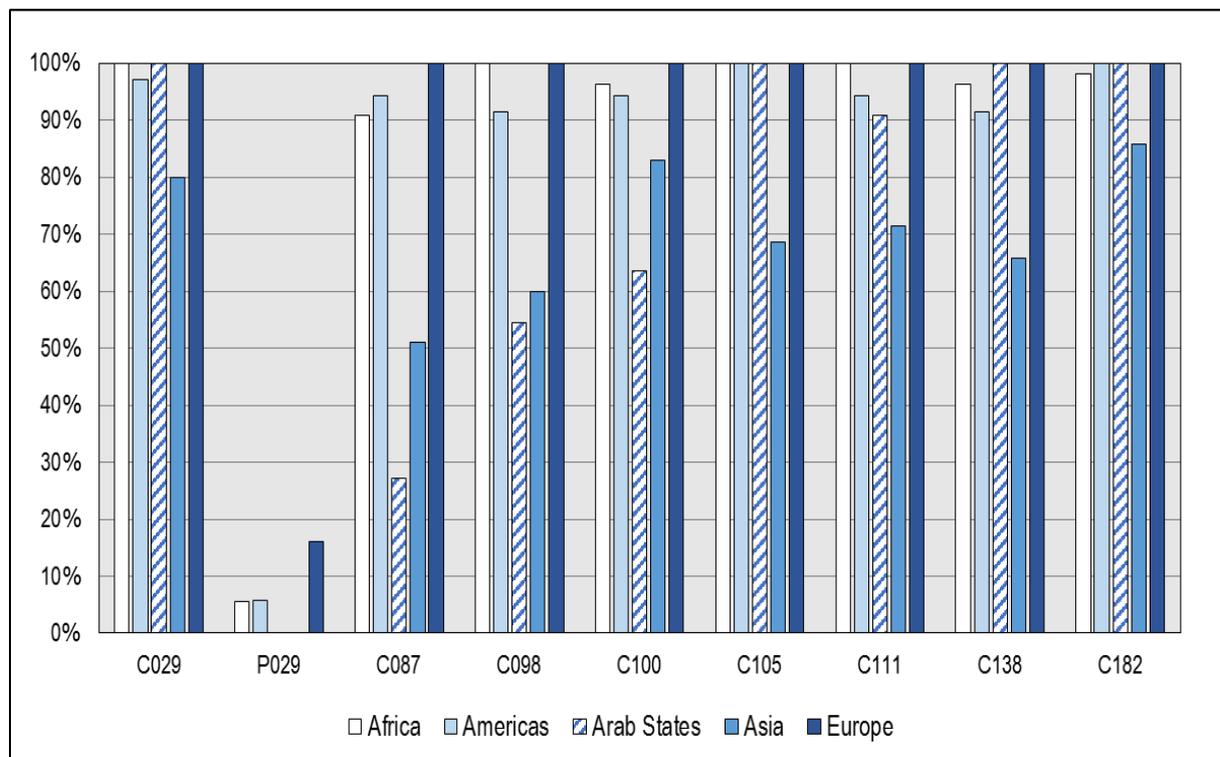
83. Table 1.2 shows the total number of ratifications recorded since the beginning of the ratification campaign in 1995, the number recorded since 2012 and the total as at 31 March 2017. Figure 1.6 shows the ratification rate for each of the fundamental Conventions and for the Protocol to Convention No. 29, by region, as at 31 March 2017.

Table 1.2. Ratification of the fundamental Conventions and the Protocol to Convention No. 29 since 1995, 31 March 2017

Convention/ Protocol No.	New ratifications since the beginning of the ratification campaign in 1995	Total ratifications as at 31 December 2011	Total ratifications as at 31 March 2017
C029	35	175	178
P029	0	0	13
C087	36	150	154
C098	33	160	164
C100	42	168	173
C105	55	169	175
C111	47	169	174
C138	113	161	169
C182	174	174	180
Total	535	1 326	1 380

Source: ILO, created from NORMLEX.

Figure 1.6. Ratifications of the fundamental Conventions and the Protocol to Convention No. 29 by region, 31 March 2017



Source: ILO, created from NORMLEX.

The Protocol to Convention No. 29 and its follow-up

84. In 2014, the ILC adopted two new instruments on forced labour, namely, the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203). The Protocol creates specific obligations to prevent forced labour, protect victims and provide access to remedies. It recalls the validity and relevance of the definition of forced labour provided for in Convention No. 29, emphasizing the link between forced labour and trafficking in persons. The Protocol also creates an obligation to develop a national policy and plan of action to combat forced labour, in consultation with employers' and workers' organizations. The new instruments have positioned the ILO and constituents at the forefront of global efforts to eradicate forced labour, trafficking in persons and slavery-like practices. The Protocol is open for ratification to all member States that have already ratified Convention No. 29. By 31 March 2017, 13 ratifications of the Protocol had been registered (Argentina, Cyprus, Czech Republic, Estonia, Finland, France, Mali, Mauritania, Niger, Norway, Panama, Poland and the United Kingdom). Consistent with the obligations of member States to report in respect of unratified FPRW instruments, non-ratifying member States will be called on to provide information in relation to the Protocol under the Annual Review mechanism.⁷⁹

C. Thematic section

85. This section of the report highlights a number of thematic issues of particular interest. Each of these themes has been the subject of either ILC discussions, a meeting of experts or a General Survey since the recurrent discussion on FPRW in 2012.

The informal economy

86. The conclusions concerning the recurrent discussion on FPRW in 2012 called for the convening of a meeting of experts on advancing FPRW in the informal economy. The subsequent expert meeting became part of the process leading to the adoption of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). The Recommendation provides guiding principles and policy guidelines for coherent and integrated strategies to facilitate the transition to the formal economy. Its aims are threefold: to help facilitate the transition of workers and economic units from the informal to the formal economy while respecting workers' fundamental rights; to promote the creation of enterprises and decent jobs in the formal economy; and to prevent the informalization of formal jobs. The Recommendation calls on member States to respect, promote and realize FPRW in the informal economy. It underscores the importance of freedom of association, collective bargaining and social dialogue and calls on member States to create an enabling environment for employers and workers to exercise their right to organize and to bargain collectively.

87. Workers in the informal economy have lower and less regular incomes, longer working hours and commonly lack representation. They are also often physically and financially vulnerable because their work is either excluded from or effectively outside labour protection and social protection, including social security.⁸⁰ High rates of informality drive countries towards the lower and more vulnerable end of global

⁷⁹ ILO: *Review of annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work* (Geneva, doc. GB.325/INS/4, 29 Oct. 2015) p. iii.

⁸⁰ ILO: *Transitioning from the informal to the formal economy*, Report V(1), ILC, 103rd Session, Geneva, 2014, p. 3, para. 2.

production chains. Furthermore, unregistered workers and enterprises often do not pay taxes. This places an unfair burden on those that do⁸¹ and weakens the fiscal revenue required for effective public governance.

88. Some small progress appears to have been made in reducing informality in Latin America but even there it has been suggested that it could take a further 55 years to halve the rate of informality.⁸² Some countries, such as Argentina, Chile, Ecuador and Uruguay, have designed and implemented strategies which have to some degree succeeded in formalizing workers and economic units. The approach includes legal reform, strategies to expand social security coverage, measures to guarantee that minimum wages cover informal occupations, innovative actions to improve labour inspection, economic incentives for compliance with the law, promotion of social dialogue and awareness-raising campaigns.⁸³

89. The nature of much informal employment constitutes a barrier to the creation of democratic and independent workers' organizations. Even when it is possible for workers to group together to promote their interests, organizations of informal workers are sometimes not allowed under national or local legislation; without representation, workers are unable to pursue and defend their collective interests.⁸⁴ Data from 22 low- and middle-income countries⁸⁵ show that trade union membership rates of workers in the informal economy are systematically lower – in some cases more than 50 times lower – than for workers with formal arrangements (figure 1.7). Despite the daunting challenge, there have been initiatives in many countries to strengthen the organization of workers in the informal economy, some of which are referred to in Chapter 2.

90. Most child labour and forced labour occurs in the informal economy, primarily in agriculture and the wider rural economy, low-skilled manufacturing, mining, construction, domestic services, entertainment, restaurants, hotels and street vending as well as other forms of informal commerce.⁸⁶

91. Discrimination on grounds of gender, age, ethnicity or disability also means that the most vulnerable and marginalized groups often end up working in the informal economy, unprotected by law and at risk of abuse of their rights at work.⁸⁷

92. Domestic work is one sector that is almost entirely informal in most countries. The ILO estimates that only 10 per cent of all domestic workers are covered by labour legislation to the same extent as other workers, while some 30 per cent are completely excluded.⁸⁸

⁸¹ *ibid.*, p. 10, para. 28.

⁸² *ibid.*, p. 8, para. 21.

⁸³ ILO: *2015 Labour overview of Latin America and the Caribbean* (Geneva, 2015), p. 55; ILO: *Policies to formalize paid domestic work in Latin America and the Caribbean* (Geneva, 2016).

⁸⁴ ILO: *Transitioning from the informal to the formal economy*, Report V(1), 2014, *op. cit.*, p. 43, para. 138.

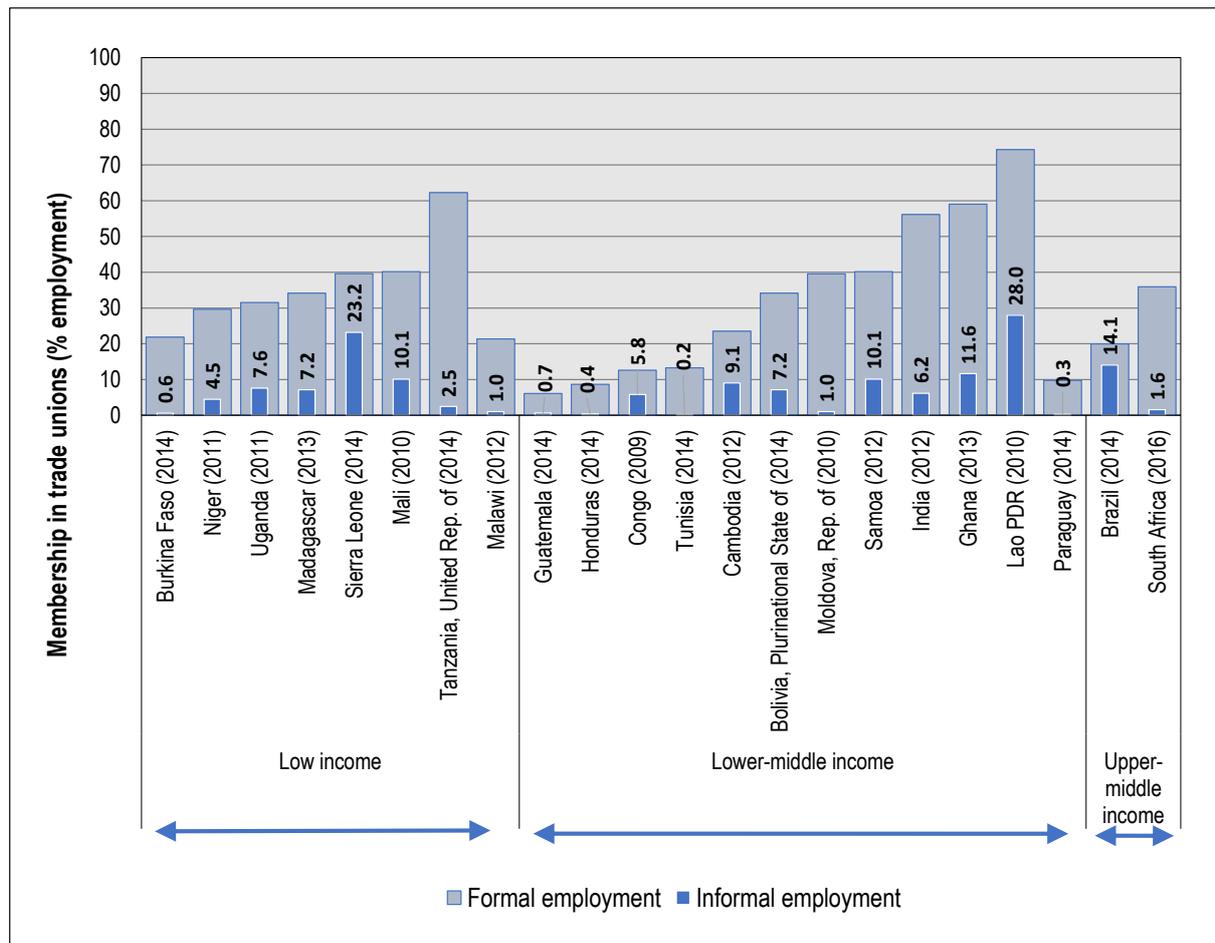
⁸⁵ The low- and middle-income countries covered are: the Plurinational State of Bolivia (2014), Brazil (2014), Burkina Faso (2014), Cambodia (2012), Congo (2009), Ghana (2013), Guatemala (2014), Honduras (2014), India (2012), Lao People's Democratic Republic (2010), Madagascar (2013), Malawi (2012), Mali (2010), Republic of Moldova (2010), Niger (2011), Paraguay (2014), Samoa (2012), Sierra Leone (2014), South Africa (2016), United Republic of Tanzania (2014), Tunisia (2014) and Uganda (2011).

⁸⁶ ILO: *Marking progress against child labour*, *op. cit.*, p. 23; and *Profits and poverty*, *op. cit.*, p. 19.

⁸⁷ ILO: *Transitioning from the informal to the formal economy*, 2014, *op. cit.*, pp. 6–7, para. 17.

⁸⁸ ILO: *Domestic workers across the world: Global and regional statistics and the extent of legal protection*, 2013, p. 95.

Figure 1.7. Trade union membership among workers (per cent), latest available year



Source: Based on national labour force surveys or equivalent national household surveys.

93. Labour inspection is extremely limited across most of the informal economy. Resources allocated for labour inspection are often inadequate even for regular inspection of medium and large sized enterprises let alone to reach the thousands of small workplaces that comprise much of the informal economy. In the absence of any effective inspection system, the informal economy provides fertile ground for employment practices that violate FPRW.

The rural economy

94. Almost half the world's population live in rural areas and some 32 per cent work in agriculture, the sector which employs the highest proportion of female workers.⁸⁹ The workforce in rural areas includes farmers, tenant farmers, sharecroppers, waged and unpaid labour, seasonal and migrant workers. More than 82 per cent of total rural employment and more than 98 per cent of agricultural employment is informal.⁹⁰

95. In its 2015 General Survey, the CEACR painted a bleak picture of the overall trend in relation to FPRW, saying that the dismal living and working conditions in much of the rural sector have changed little over the past 40 years and, in some cases, over the past

⁸⁹ ILO: *General Survey concerning the right of association and rural workers' organizations instruments*, Report III (Part 1B), ILC, 104th Session, Geneva, 2015, p. 3, para. 13.

⁹⁰ *ibid.*, p. 6, para. 19.

century.⁹¹ The working lives of many in the rural economy are characterized by poverty, job insecurity, a lack of representation and dangerous working conditions. The ILO has estimated that 170,000 workers die each year as a result of exposure to agrochemicals or in incidents involving agricultural machinery.⁹²

96. A vital step in advancing respect for FPRW in the rural economy is the development of effective workers' and employers' organizations. The General Survey highlighted obstacles that continue to prevent rural workers from organizing.⁹³ In some countries, self-employed and own-account workers are excluded from relevant national statutes guaranteeing trade union rights, including the effective right to collective bargaining.⁹⁴ Furthermore, legislation sometimes excludes categories of workers such as workers on small family farms, self-employed, temporary, seasonal or casual workers.⁹⁵ The General Survey concluded that there is a need for integrated national policies to promote the establishment, growth and functioning of rural workers' organizations so that rural workers participate in economic and social development.

97. Many of the victims of forced labour work in the rural economy. Migrant workers and indigenous communities are at high risk. In some cases, their situation is linked to inherited debt bondage. Illicit profits generated by forced labourers in agriculture amount to an estimated US\$9 billion annually.⁹⁶ The fishing sector in particular has come under increasing scrutiny in recent years. It employs many migrant workers from developing countries, who are vulnerable to coercion while at sea for prolonged periods of time.⁹⁷

98. It is estimated that almost 60 per cent of all child labour is in agriculture (including fishing, aquaculture and forestry), and the vast majority of this is in unpaid family work. Child labour can also be found in other parts of the rural economy, such as in artisanal and small-scale mining and quarrying, domestic work, brick kilns and in various agro-business activities.

99. Agriculture remains the main area of employment for women in low-income and lower-middle-income countries although their involvement has declined over the past 20 years.⁹⁸ Women work largely in time- and labour-intensive activities, which are frequently poorly remunerated.⁹⁹ Women may also have less legal and social protection. With regard to maternity protection, the explicit legal exclusion of workers in agriculture has been identified in at least 27 countries, including Egypt, Rwanda, Sudan and Thailand.¹⁰⁰ People from indigenous communities are also at high risk due to discrimination in access to employment and occupation, and in conditions of work.

⁹¹ *ibid.*, p. 99, para. 325.

⁹² ILO: "[Supporting rural development through social protection floors](#)", in *Rural Development through Decent Work*, Policy Brief, 2011, p. 1.

⁹³ ILO: *General Survey concerning the right of association and rural workers' organizations instruments*, *op. cit.*, p. 35, para. 114.

⁹⁴ *ibid.*, p. 40, para. 127.

⁹⁵ *ibid.*, p. 39, para. 125.

⁹⁶ ILO: *Profits and poverty*, *op. cit.*, p. 15.

⁹⁷ *ibid.*, p. 20.

⁹⁸ ILO: *Women at work: Trends 2016*, *op. cit.*, p. 23.

⁹⁹ *loc. cit.*

¹⁰⁰ ILO: [Labour protection in a transforming world of work](#), Report VI, ILC, 104th Session, Geneva, 2015, p. 44, para. 100.

100. Many workers in the rural economy continue to find themselves excluded from the scope of labour protection. In Canada, not all provinces apply labour relations legislation to agricultural workers, excluding them from the right to form or join trade unions. The Bangladesh Labour Act does not apply where less than five workers are employed on a farm.

101. Where rural workers are included in the scope of protective regulation, the law is often not applied in practice, either due to the precarious nature of the employment relationship or to a labour inspectorate ill-equipped to ensure application of laws in the rural economy.¹⁰¹

102. In order to build sustainable rural livelihoods, the ratification of relevant international labour standards and their effective implementation in rural areas needs to be a priority. The promotion of FPRW as enabling rights is fundamental to this. The ILO has initiated a process aimed at developing policy guidelines for the promotion of sustainable livelihoods, targeting the agro-food sector.

Global supply chains and export processing zones

103. Global supply chains now involve an estimated 453 million workers, one in five jobs, an increase of 53 per cent between 1995 and 2013.¹⁰² They are often complex, diverse and fragmented and span sectors as varied as textiles, clothing, electronics, automotive, service industries, food and agriculture and fisheries.¹⁰³

104. The conclusions of a 2016 ILC discussion concerning decent work in global supply chains recognize that supply chains have contributed to economic growth, job creation, poverty reduction and entrepreneurship and can contribute to a transition from the informal to the formal economy. They can also support development by promoting technology transfer and new production practices and enhance skills development, productivity and competitiveness.¹⁰⁴ While the conclusions further indicate that failures at all levels in global supply chains have contributed to decent work deficits,¹⁰⁵ it must be recognized that such deficits are present across all enterprises and are not limited to exporters.

105. Such failures have contributed to undermining labour rights, particularly freedom of association and collective bargaining. The presence of child labour and forced labour in lower segments of some global supply chains is acute. Sometimes, these segments are linked to the informal economy in domestic labour markets, involving migrant workers or homeworkers. In many sectors, women represent a large share of the supply chain workforce, disproportionately represented in low-wage jobs in the lower tiers; they are too often subject to discrimination.¹⁰⁶

106. Export processing zones (EPZs) are an important part of global supply chains. The ILO's most recent estimate of the number of EPZs, in 2006, was 3,500. More recent

¹⁰¹ ILO: "Rights at work in the rural economy: Decent work in the rural economy, Policy guidance notes", p. 4.

¹⁰² ILO: *World employment and social outlook 2015: The changing nature of jobs* (Geneva, 2015), p. 132.

¹⁰³ ILO: *Reports of the Committee on Decent Work in Global Supply Chains: Resolution and conclusions submitted for adoption by the Conference, Provisional Record No. 14-1, ILC, 105th Session, Geneva, 2016, p. 2, para. 1.*

¹⁰⁴ ILO: *Follow-up to the resolution concerning decent work in global supply chains (general discussion)* (Geneva, doc. GB.328/INS/5/1, 7 Oct. 2016), p. 1, para. 1.

¹⁰⁵ *ibid.*, p. 1, para. 3.

¹⁰⁶ *loc. cit.*

estimates suggest the figure is now closer to 4,500.¹⁰⁷ A particular concern has been that EPZs are often exempted from labour laws and workers may therefore face restrictions on trade union activities and collective bargaining.¹⁰⁸ In some countries there are legal restrictions on unionization, such that union officials may find it difficult to obtain physical access to EPZs and restrictions may be placed on collective bargaining.¹⁰⁹

107. According to a report published by the United Nations Conference on Trade and Development (UNCTAD), EPZs face a strategic challenge as traditional tax incentives for attracting companies become incompatible with international trade law and exemptions for developing countries expire.¹¹⁰ The report, which examined 100 EPZs, suggested they could enhance competitiveness by switching from a narrow focus on cost advantages, to become champions of sustainable business. Although some EPZs were trying to make such a transition, most were not promoting social or environmental features.

108. The ILC, in its conclusions, called on the ILO to develop a programme of action to address decent work in global supply chains through a comprehensive and coordinated framework of action. The Organization subsequently identified the following five action areas: knowledge generation and dissemination, capacity building, advocacy, policy advice and technical assistance and partnership and policy coherence.¹¹¹ This framework for action is expected to assist member States in reducing decent work deficits, including as they relate to FPRW. Moreover, the Governing Body agreed to convene three meetings of experts, which are expected to cover various issues related to FPRW in global supply chains and EPZs.

Non-standard forms of employment

109. Non-standard forms of employment can include temporary employment and fixed-term work, temporary agency work and subcontracting, part-time employment and on-call work (including casual work and arrangements such as zero hours contracts).¹¹² They may serve specific and legitimate purposes, such as in seasonal industries or to replace temporarily absent workers. These forms of contracts have assisted business adaptability and growth, as well as increasing labour market participation, and can offer some workers flexible options required to balance their work and private life. They can be a useful mechanism for training and recruiting workers, as well as for harnessing the skills and expertise of certain workers more swiftly, and may also act as stepping stones to standard employment.

110. The 2012 recurrent discussion noted that the increase in non-standard forms of employment raised questions concerning the full exercise of FPRW. As a follow-up to that discussion, the 2015 Tripartite Meeting of Experts on Non-Standard Forms of Employment reviewed trends in non-standard forms of employment and adopted conclusions to address decent work deficits. The subject of employment relationships and

¹⁰⁷ UNCTAD: *Enhancing the contribution of export processing zones to the sustainable development goals: An analysis of 100 EPZs and a framework for sustainable economic zones* (Geneva, 2015), p. 4.

¹⁰⁸ ILO: [Resolution concerning decent work in global supply chains](#), adopted 10 June 2016, p. 2, para. 5.

¹⁰⁹ ILO: *Trade union manual on export processing zones* (Geneva, 2014), p. 39.

¹¹⁰ UNCTAD: *Enhancing the contribution of export processing zones to the sustainable development goals*, op. cit., p. ii.

¹¹¹ ILO: GB.328/INS/5/1, op. cit., p. 2, para. 9.

¹¹² ILO: *Non-standard employment around the world*, op. cit., pp. 47–102.

arrangements is also being considered in the broader context of the ILO's Future of Work Initiative.

111. The experts noted in their conclusions that the world of work has seen continuous evolution, including the growth of diverse forms of employment and contractual arrangements. They further noted that in comparison with other workers, workers in non-standard forms of employment more frequently lack protection in law or in practice.¹¹³ They concluded that such forms of employment should meet the legitimate needs of workers and employers and should not be used to undermine labour rights and decent work, including freedom of association and collective bargaining, equality and non-discrimination and security of employment. Moreover, they observed that adequate protection is achieved by having an appropriate regulatory framework, compliance with and strong enforcement of the law, and effective social dialogue.¹¹⁴

112. The use of casual, temporary or agency workers can pose significant challenges for freedom of association and collective bargaining. If workers are only likely to be in a workplace for a short time, they may not see the value in joining the union or may be fearful of doing so. The provisions of the Private Employment Agencies Convention, 1997 (No. 181), seek to ensure access to freedom of association and other FPRW. However there is concern that, among the fast growing number of enterprises using agency workers, bargaining units can be destabilized by creating a division in workforces between permanent and agency workers.¹¹⁵

113. Women, migrants and youth, who are more vulnerable to discrimination, are over-represented in non-standard forms of employment. Women are more likely than men to be in part-time employment, often combining work with family care work. Although wage penalties are usually smaller for part-time workers than for temporary or temporary agency workers, they can still be significant.¹¹⁶

114. Alongside the spread of non-standard forms of employment in established industries, in some new and emerging areas of the economy, work relationships are blurring the distinction between dependent employment and self-employment.¹¹⁷ An example of this includes work that is performed using online web platforms, contributing to what is known as the "gig-economy" or "on-demand economy"¹¹⁸ where activities such as transport, cleaning and delivery services are channelled through mobile applications, managed by firms that set quality standards of service and in the selection and management of the workforce.¹¹⁹

115. The ILO supervisory bodies have expressed their concern at the fact that if self-employed people are excluded from the application of employment and labour laws, they may also be excluded from regulations protecting FPRW. Self-employed or misclassified

¹¹³ ILO: *Conclusions of the Meeting of Experts on Non-Standard Forms of Employment* (Geneva, doc. GB.323/POL/3, 16 Mar. 2015), p. 50, para. 2.

¹¹⁴ *ibid.*, p. 50, para. 3.

¹¹⁵ ILO: *Non-standard forms of employment: Report for discussion at the Meeting of Experts on Non-Standard Forms of Employment* (Geneva, 16–19 Feb. 2015), p. 30, para. 59.

¹¹⁶ *ibid.*, p. 26, para. 47.

¹¹⁷ ILO: *Labour protection in a transforming world of work*, Report VI, 2015, *op. cit.*, p. 5, para. 13.

¹¹⁸ ILO: *Non-standard employment around the world*, *op. cit.*, p. 39.

¹¹⁹ ILO: *The rise of the "just-in-time" workforce: On-demand work, crowdwork, and labour protection in the "gig-economy"* (Geneva, 2016), p. 1.

workers seeking to organize or bargain collectively could also, in some situations, be deemed to be in breach of regulations such as competition and anti-trust laws.¹²⁰

116. The 2015 Meeting of Experts concluded that special attention should be given to preventing and eliminating non-standard forms of employment that do not respect FPRW and are not in accordance with elements of the Decent Work Agenda.¹²¹ It called for action to ensure access to freedom of association and collective bargaining, urging social dialogue be used to develop innovative approaches including regulatory initiatives that enable workers in such employment to enjoy the protection afforded to them under applicable collective agreements. In addition, it called for action to promote equality and non-discrimination in non-standard forms of employment.

Situations of fragility and conflict

117. It is estimated that 1.5 billion of the world's 7 billion people live in conflict- and fragility-affected States.¹²² In 2015, 65.3 million individuals were forcibly displaced worldwide, the highest level of displacement on record.¹²³ This figure represents an increase of more than 50 per cent in five years. In crisis situations, livelihoods are destroyed and workplaces damaged. Lack of respect for FPRW and other labour standards, inequality and social exclusion are common features of such situations.¹²⁴

118. Active strategies for prevention and preparedness can minimize the risks of crisis. Tackling discrimination and inequalities can contribute to reducing social tensions, which are often driving forces in conflicts.

119. Recovery from crisis requires immediate action to protect the most vulnerable as well as long-term responses. Children are among the most vulnerable. In 2015, the UN Special Representative of the Secretary-General for Children and Armed Conflict reported that in Yemen, nearly all parties to the conflict on the ground had engaged in widespread child recruitment, with information that four times as many children were recruited during a six-month period in 2015 than in the whole of 2014. Nearly 2,000 children were successfully separated from armed groups in the Central African Republic but were at risk of being re-recruited, owing to the persistent instability and lack of appropriate reintegration programmes.¹²⁵

120. Five years into the crisis in the Syrian Arab Republic, 2.1 million children had lost their schools and more than 700,000 child refugees were in neighbouring countries, the majority not in school. One report estimated that 47 per cent of refugee households in Jordan relied partly or entirely on income generated by a child.¹²⁶

¹²⁰ *ibid.*, p. 11.

¹²¹ ILO: GB.323/POL/3, *op. cit.*, p. 52, para. 7(h).

¹²² ILO: *Employment and decent work for peace and resilience: Revision of the Employment (Transition from War to Peace) Recommendation, 1944 (No. 71)*, Report V(1), ILC, 105th Session, Geneva, 2016, p. 4, para. 7.

¹²³ Office of the United Nations High Commissioner for Refugees (UNHCR): *Global trends: Forced displacement in 2015* (Geneva, 2016), p. 2.

¹²⁴ ILO: *Employment and decent work for peace and resilience: Revision of the Employment (Transition from War to Peace) Recommendation, 1944 (No. 71)*, Report V(1), 2016, *op. cit.*, p. 5, para. 9.

¹²⁵ UN: *Annual report of the Special Representative of the Secretary-General for Children and Armed Conflict* (New York, doc. A/HRC/31/19, 28 Dec. 2015), p. 3, para. 3.

¹²⁶ UNICEF: “[Small hands heavy burden: How the Syria conflict is driving more children into the workforce](#)” (Amman, 2015), p. 2.

121. Armed conflicts often give rise to the imposition of forced and compulsory labour and in some instances to slavery, including sexual slavery. This may be linked with the repression of minorities such as in the case of the Yazidis, thousands of whom were held captive in the Syrian Arab Republic.¹²⁷

122. The Syrian crisis sparked a major movement of refugees. More than 80 per cent fled to neighbouring countries of the region, in particular Jordan, Lebanon and Turkey, while most of the remainder travelled to Europe. Such large-scale, uncontrolled population movements are often accompanied by child labour and human trafficking for labour and sexual exploitation.

123. Workers' and employers' organizations can be a force for much-needed stability in crisis contexts. In many situations, the social partners' history of negotiation and dialogue can provide capacity that may be lacking elsewhere in the community. In other contexts, there is a need to build capacity and address grievances through dialogue and the promotion of rights.

124. In 2016, the ILC started a process leading towards a new instrument to replace the Employment (Transition from War to Peace) Recommendation, 1944 (No. 71). The proposed new instrument builds on the growing international consensus on the central role of employment and job creation in responding to crises. It acknowledges the need for increased capacities and an integrated rights-based approach.

¹²⁷ UN: *"They came to destroy": ISIS crimes against the Yazidis* (Geneva, doc. A/HRC/32/CRP.2, 15 June 2016), p. 1.

Chapter 2

Review of action by the ILO and its constituents

125. This chapter provides examples of actions taken by constituents in the promotion of FPRW. It also summarizes actions taken by the Office in the framework of the plan of action on FPRW, adopted by the Governing Body in 2012.

A. Action taken by constituents to promote FPRW

Efforts to improve legislation and policies

126. New political and legal developments have enabled the development of workers' and employers' organizations in a number of countries. Myanmar, for example, took steps to reform laws on the formation of labour organizations. The country subsequently saw a rapid growth of enterprise level organizations, which by mid-2016 numbered more than 1,700 (more than half of which were farmers/agricultural workers' organizations). The Government of Myanmar also recognized labour federations at the national level, as well as a national confederation.

127. A revised Labour Law in Timor-Leste prohibits acts of interference on the part of the authorities in the organization or funding of workers' and employers' organizations; as well as acts of interference on the part of the employer that hinder the formation or functioning of workers' organizations.¹ In Ecuador, the Labour Code was amended to provide that the unjustified dismissal of members of the executive committee of a trade union shall have no effect.²

128. A growing number of countries have revised or introduced new legislation and/or policies to tackle forced labour practices. Mauritania's Act No. 2015-031 criminalizes slavery and slavery-like practices while seeking to empower associations for the defence of human rights, assist victims and provide compensation rights for victims.³ In Kuwait, Law No. 91 of 2013 criminalizes trafficking and related offences and prescribes stringent penalties. In Peru, the second National Plan to Combat Forced Labour was approved; it includes three strategic objectives, namely: training and awareness raising; reintegration of victims; and identification and reduction of vulnerability factors.⁴

129. Legislation to prevent and mitigate forced labour in private and public enterprises has been introduced in a number of countries. The United Kingdom, for example, adopted

¹ Government of Timor-Leste, [Law No. 4/2012 of 21 February 2012](#), art. 83.

² ILO: *Report of the Committee of Experts*, Report III (Part 1A), 2016, op. cit., p. 59.

³ *ibid.*, p. 200.

⁴ ILO: *Report of the Committee of Experts*, Report III (Part 1A), 2014, op. cit., p. 147.

the Modern Slavery Act 2015, which introduced new measures to strengthen action against forced labour and slavery in supply chains and strengthened enforcement capacity.⁵ Similar provisions were included in the California Transparency in Supply Chains Act of 2012. This Act requires retailers and manufacturers doing business in California with annual worldwide gross receipts of US\$100 million or more to disclose their efforts to eradicate slavery and human trafficking and to protect basic human rights along the entire supply chain. The United States Trade Facilitation and Trade Enforcement Act of 2015 allows for stronger action against the importation of goods deemed to be produced using child labour or slave labour.⁶

130. With regard to the child labour Conventions, during the period 2004–14, 59 countries developed, revised or updated their legislative framework at the national and subnational levels, affecting a total of 194 laws. Fifty-seven countries adopted and implemented 279 specific policies, plans and programmes designed to combat child labour or the worst forms of child labour. Furthermore, improved national policy coherence through the inclusion of child labour concerns in relevant development, education, social protection and other social policies and programmes was recorded in 46 countries and in 211 policies, plans and programmes.⁷

131. In the five years since the adoption of the Domestic Workers Convention, 2011 (No. 189), more than 30 member States have successfully adopted law and policies concerning domestic work, and at least 18 have initiated the process, thereby extending legal protection and assisting the prevention of forced labour and child labour. A number of countries have developed sectoral policies aimed at eliminating child labour in domestic work and protecting young workers of legal working age. Countries including Ecuador, Gabon, Panama and Togo have endorsed such policies.

132. In the Lao People's Democratic Republic, the Labour Law Amendment Act of 2013 requires employers to maintain records containing the particulars of employees under 18 years of age, including their name, age and date of birth. Such records are supplied to labour inspection officials.⁸ In Pakistan, the creation of the Prohibition of Employment of Children Act by four provinces prohibits the employment of children below the age of 14 years and prohibits the employment of people under 18 years in hazardous types of work.⁹ Following amendments to the Labour Code in Georgia there are now provisions restricting the working hours of children between the ages of 14 and 16.¹⁰

133. In Honduras, the Basic Education Act, which envisages compulsory free schooling, was adopted.¹¹ In Kenya, funds were increased for cash transfer programmes and other initiatives to support orphans and vulnerable children. In Lesotho, the Children's

⁵ Government of the United Kingdom, [Modern Slavery Act 2015](#), p. 43.

⁶ Government of the United States, [Trade Facilitation and Enforcement Act of 2015](#), dated 24 Feb. 2016, United States 114th Congress, Public Law 130 Stat. 122, Section 104(b)(d), p. 131.

⁷ ILO: "[Major results of ILO work on child labour](#)", Brochure, 2014, p. 4.

⁸ Government of the Lao People's Democratic Republic, [Labour Law No. 43/NA, as amended, 24 December 2013](#), art. 103.

⁹ [A bill to prohibit the employment of children and to regulate employment of adolescents in certain occupations and processes in the Province of Khyber Pakhtunkhwa](#), 2015, p. 1.

¹⁰ Government of Georgia, [Labour Code of Georgia](#) (unofficial translation).

¹¹ Government of Honduras, [Ley Fundamental de Educación No. 262–2011](#), 22 Feb. 2012.

Protection and Welfare Act introduced penalties for a person who causes or allows a child to be involved in illicit activities.¹²

134. In the area of non-discrimination, Belgium adopted the Act of 22 April 2012 which aims to reduce the gender pay gap. The law requires enterprises to negotiate measures to tackle the wage gap at interoccupational and sectoral levels and to organize mandatory consultation in enterprises with 50 employees or more, with a view to producing a gender-neutral remuneration policy. This requires enterprises to conduct a detailed biennial analysis of their remuneration structure in order to establish, if the staff representatives deem it necessary, an action plan with objectives.¹³

135. Denmark amended its Equal Pay Act by Act No. 513 of 2014, extending the obligation to prepare sex-disaggregated statistics, annually, to employers employing ten workers or more, of whom at least three are men and three are women. The amendment aims to increase awareness of gender-segregated wage statistics, to provide a tool that employers and employees can use to work together towards eradicating gender-specific wage differences and to provide a legal basis for alleged cases of wage discrimination.¹⁴ In South Africa, the adoption of the Employment Equity Amendment Act of 2013 establishes that a difference in terms and conditions of employment between employees performing the same work or work of equal value constitutes unfair discrimination.¹⁵ The Vietnamese Labour Code of 2012 includes the principle of equal pay for work of equal value.¹⁶

136. In India, the Government adopted legislation aimed at prohibiting employment in manual scavenging among members of a scheduled caste or tribe.¹⁷

137. In 2014, the President of the United States signed an executive order expanding protection for federal workers and contractors from discrimination on the grounds of sexual orientation. The Organization of American States adopted the Inter-American Convention against All Forms of Discrimination and Intolerance (2013) which includes sexual orientation and gender identity and expression.

Workers' and employers' organizations play a leading role

Organizing the unorganized

138. Against the background of changing employment relationships, technological change and the prevalence of informal employment, many trade unions have been identifying strategies to reach out to currently unorganized groups. The ITUC World Congress in 2014 urged that building capacity for organizing should be the top priority for unions everywhere, with targets set for union growth.¹⁸ Strategies being pursued by trade unions often involve efforts to make trade unions more diverse and to reach groups who

¹² Government of Lesotho, [Children's Protection and Welfare Act 2011](#), Part VI, article 45(b), p. 492.

¹³ ILO: *Report of the Committee of Experts*, Report III (Part 1A), 2013, op. cit., p. 428.

¹⁴ See [direct request \(CEACR\) – Adopted 2015, published 105th ILC Session \(2016\)](#).

¹⁵ Government of South Africa, [Employment Equity Amendment Act, 2013](#) in *Government Gazette*, 16 Jan. 2014, Vol. 583, 2014, No. 47, article 3(b)(4), p. 4.

¹⁶ Government of Viet Nam, [Labour Code, 2012](#), article 90(3).

¹⁷ Government of India: [The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013](#) (Act No. 25 of 2013), in *The Gazette of India*, 19 Sep. 2013, Part II, Section 1, p. 1; [The Scheduled Castes and the Scheduled Tribes \(Prevention of Atrocities\) Amendment Act, 2015](#) (Act No. 1 of 2016), in *The Gazette of India*, 31 Dec. 2016.

¹⁸ ITUC: “[Union growth: Draft framework for action](#)”, 3rd ITUC World Congress (Berlin, 18–23 May 2013), p. 4.

may be under-represented. Strategies may involve promoting involvement of women, reaching out to young workers and those in the informal economy and non-standard forms of employment and building coalitions in communities.

139. In Spain and Portugal, where a very large number of young workers are on precarious contracts, unions have created special departments for young workers and immigrants. In Italy, all three major confederations have created separate unions for temporary workers.¹⁹ In Ghana, the General Agricultural Workers Union of Ghana (GAWU) modified its bylaws to include the recruitment of farmers, and has since recruited some 15,000 new smallholder members.

140. There were many examples of trade unions seeking to build organizations among informal workers, including in Brazil, India, Republic of Korea, Philippines, Sierra Leone, South Africa and Thailand.²⁰

141. In 2013 the International Domestic Workers' Federation, an affiliate of the International Union of Food and Allied Workers, was established, and now has 58 affiliated organizations representing some 330,000 domestic workers. Collective agreements in Argentina, France, Italy and Uruguay sought to improve the rights of domestic workers. New organizations of employers of domestic workers were formed in Argentina and the Plurinational State of Bolivia.

142. It has been estimated that only 1 per cent of migrant workers are in a trade union.²¹ In a number of countries, there are attempts to reach out to migrant workers. The Irish Congress of Trade Unions, for example, has developed a dedicated organizing campaign and similar campaigns have been delivered by a number of other trade unions.²²

143. Many countries have seen an increase in the number of self-employed workers. In Germany, for example there was a 25 per cent increase between 2000 and 2015. Among these are a large number of freelance workers in the expanding digital economy. Responding to this trend, a service workers' union established a self-employed workers branch to support and identify strategies to promote the interests of the group. The branch now has 30,000 members.²³

Other activities of social partners

144. The crucial role of independent workers' and employers' organizations in the democratic process was recognized in 2015 when the Nobel peace prize was awarded to the Tunisian National Dialogue Quartet for its contribution to the building of a pluralistic democracy in Tunisia. The quartet included both the Tunisian general labour union and the Tunisian confederation of industry, trade and handicrafts. The peace prize committee said that the Quartet "established an alternative, peaceful political process at a time when the country was on the brink of civil war. It was thus instrumental in enabling Tunisia, in the space of a few years, to establish a constitutional system of government guaranteeing

¹⁹ M. Bernaciak, R. Gumbrell-McCormick and R. Hyman: *European trade unionism: From crisis to renewal?* (European Trade Union Institute (ETUI): Brussels, 2014), p. 21.

²⁰ ILO: *Organizing workers in the informal economy* (Geneva, 2016), pp. 6–7.

²¹ ITUC: "Union growth: Draft framework for action", op. cit., p. 2.

²² S. Philips: "Towards a strategy for the inclusion of migrant workers in trade unions", paper (Irish Congress of Trade Unions (ICTU)), n.d., p. 4.

²³ R. Knaebel: "Germany looking for ways to defend the workers of the digital age" in *Equal Times*, 9 May 2016, p. 1.

fundamental rights for the entire population, irrespective of gender, political conviction or religious belief.”.

145. In Tunisia, the social partners also concluded the first collective agreement governing labour relations in the agricultural sector.²⁴ The agreement covers the right to organize, to be represented, health and safety at work, working hours and holidays, work of women and children, training and apprenticeship matters and maternity leave. In Peru, a committee consisting of worker and government representatives developed a legislative initiative to guarantee the rights of informal and self-employed workers.

146. The Employers’ Organization of the Federation of Bosnia and Herzegovina assessed the country’s Labour Act and developed a comprehensive report with policy recommendations for amendments to the Act. A number of these were reflected in the new Labour Act adopted in 2015.²⁵

147. In the Republic of Moldova, the national trade union campaigned for changes in amendments to the legislation on labour inspection. As a result, the Government decided to align these amendments with international labour standards.²⁶

148. The need to address discrimination based on sexual orientation has extended to the Fortune 500 companies in the United States, with 91 per cent of these companies having identified the issue in their non-discrimination policies.²⁷ In Hungary, some 400 private companies supported a campaign showing the positive contribution of LGBT workers. In Argentina, many enterprises have been active in promoting sexual diversity at the workplace. International trade union organizations have publicly declared their commitment to working on LGBT workers’ rights and many national trade unions have addressed the issue.

Regional and international cooperation

149. In 2013 the Government of Brazil hosted a global child labour conference to take stock of the progress since The Hague Global Child Labour Conference in 2010. Over 1,600 representatives from 156 countries attended. The Brasilia Declaration on Child Labour called for a renewed effort to deliver a coherent and integrated approach to sustained eradication of the socio-economic root causes of all forms of child labour. The Government of Argentina will host a further global conference during the last quarter of 2017.

150. In a number of regions there have been increased efforts to build cooperation between member States. In October 2014, the Ministers of Labour of 25 member States signed a formal declaration for the establishment of the “Regional Initiative for a Latin America and the Caribbean free of child labour”. In 2013, the 12 Member States of the Economic Community of West African States established a Regional Action Plan for the Elimination of Child Labour especially the worst forms, which encourages Member States to use a peer review process to examine the progress each is making. This process was first used in a review in Ghana during 2014.

151. The issue of forced labour in the fishing sector has attracted growing attention. An international conference held in Oslo in 2015 focused on labour exploitation in the Atlantic.

²⁴ “[Tunisian farmers to have collective bargaining agreement](#)”, in *FairTrade Africa*, 17 Dec. 2015.

²⁵ ILO: *ILO programme implementation 2014–15*, ILC, 105th Session, Geneva, 2016, p. 45, para. 190.

²⁶ *ibid.*, p. 46, para. 195.

²⁷ Human Rights Campaign Foundation: “[The cost of the closet and the rewards of inclusion: Why workplace environment for LGBT people matters to employers](#)” n.d., p. 4.

The event brought together representatives of governments, employers, workers and specialized organizations from all regions of the world. The conference discussed good practices, innovative solutions and ways to tackle labour exploitation and promote decent work in the sector.

Other initiatives

152. The Child Labour Platform (CLP), led by the ILO and the UN Global Compact, connects companies from different sectors and regions to share experiences in combating child labour in supply chains. Co-chaired by the International Organisation of Employers (IOE) and ITUC and engaging regularly with the relevant Global Union federations, the CLP enhances linkages of global enterprises with national tripartite structures and processes to eliminate child labour in the countries concerned. Benefiting from the technical expertise, field experience and policy advice of the ILO, the CLP provides training on how to identify and address child labour risks, leads research projects and develops global manuals and guidelines. It also facilitates collaboration between member companies on child labour remediation activities covering different sectors in the same location.

153. The ACT initiative (Action, Collaboration, Transformation) gathers international brands and retailers, manufacturers and trade unions to address the issue of living wages in the textile and garment supply chain. Global trade union federation IndustriALL has signed a Memorandum of Understanding (MoU) with a number of industry brands.²⁸ The MoU explicitly identifies the development of industry bargaining in garment-producing countries as essential to achieving living wages and the need for effective recognition of workers' rights to freedom of association and collective bargaining in order for this to be realized.

154. A global spotlight was put on the issue of workers' rights following the disasters caused by the collapse of the Rana Plaza building in Bangladesh and earlier factory fires in Bangladesh and Pakistan, which together caused the deaths of over 1,500 people. Most of those who died had been producing garments for global brands and the disasters generated renewed call for urgent action to improve working conditions. Subsequently, the Accord on Fire and Building Safety in Bangladesh was established with the support of international trade unions and apparel brands. This initiative was welcomed by the ILO, which also underscored the need for reform of the labour laws of Bangladesh to bring them into line with international norms.²⁹

155. A Global Business and Disability Network comprising multinational enterprises, employers' organizations, business networks and organizations of persons with disabilities has been developed, in collaboration with the ILO and IOE, to promote disability inclusion in the workplace. The network raises business awareness about the positive relationship between the inclusion of people with disabilities in the workplace and business success, through knowledge sharing, the development and dissemination of joint products and services, and capacity building.³⁰

156. The number of global framework agreements established between multinational enterprises and Global Union federations has continued to grow, from approximately 80

²⁸ IndustriALL: "[Industry bargaining for living wages](#)", 18 Aug. 2015.

²⁹ ILO: "[ILO welcomes Accord on Building and Fire Safety in Bangladesh](#)", statement issued on 14 May 2013.

³⁰ See ILO Global Business and Disability Network, <http://www.businessanddisability.org/index.php/en/>.

in 2011 to 115 in 2015–16.³¹ The large majority of such agreements include explicit references to ILO fundamental Conventions and the need for recognition of the rights reflected in them.³²

157. The Defender of Rights in France has conducted and published a series of gauges of perception of discrimination at work, in partnership with the ILO Office for France, based on surveys.³³ The surveys, conducted since 2012, are based on feedback from employees in both the public and private sectors and have covered a range of subjects, including employees' perceptions of workplace discrimination on grounds of sex, age, origin or nationality, trade union membership, disability status, sexual orientation and gender identity, health status (including HIV and AIDS), and physical appearance. The results of these surveys provide valuable information and a knowledge base to help support policy development.

B. Implementation by the Office of the plan of action for 2012–16

158. Following the 2012 recurrent discussion, the ILC adopted a resolution that included a framework for action on the promotion and realization of FPRW.³⁴ Subsequently the Governing Body adopted a plan of action³⁵ in support of this framework, which proposed overarching areas of intervention, including internal coherence; standards-related action; research, statistics and knowledge base; technical advisory services, capacity building and development cooperation; tripartite partnership – strengthening the role of social partners; and international partnerships.

159. The targets of the plan have largely been achieved. Specifically, 39 new ratifications of fundamental Conventions were registered (target was 15); seven new countries established national action programmes to improve application of freedom of association and collective bargaining principles (target was five); 16 new countries adopted or revised policies on the elimination of forced labour and trafficking (target was 20); 36 new countries adopted or revised policies or laws or established programmes on child labour (target was five); and 11 new countries established national action programmes to promote non-discrimination at work (target was five). Furthermore, there was on average a 33 per cent increase in the progress noted in the implementation of fundamental Conventions by the supervisory bodies in 2015 compared with 2011 (target was 20 per cent).

160. ILO technical departments and field offices were involved in the delivery of over 200 activities under the plan of action. Overall, these activities contributed directly or indirectly to many of the positive developments reviewed in Chapter 1. Despite the good progress made, there were also challenges, reported regularly to the Governing Body. Some of these challenges are referred to in the following sections.

³¹ ILO: *Decent work in global supply chains*, Report IV, ILC, 105th Session, Geneva, 2016, p. 55, para. 159.

³² ILO: “Global framework achievements: Achieving decent work in global supply chains”, background paper, n.d., pp. 18, 20.

³³ *9e édition du baromètre du Défenseur des droits et de l'OIT sur la perception des discriminations dans l'emploi*, 2016. *8ème baromètre DDD/OIT de perception des discriminations dans l'emploi*, 2015. *7e baromètre sur la perception des discriminations au travail*, 2014. *6e baromètre de l'OIT et du Défenseur des droits sur les discriminations au travail*, 2013. *5e baromètre sur la perception des discriminations au travail*, 2012.

³⁴ ILO: *Resolutions adopted by the International Labour Conference at its 101st Session*, op. cit., pp. 16–17.

³⁵ ILO: *Fundamental principles and rights at work*, Report VI, 2012, op. cit., pp. 52–53, paras 138–142.

Internal coherence and synergies with other strategic objectives

161. The ILO's Decent Work Country Programmes (DWCPs) are the main channel for determining priorities at the country level. The systematic inclusion of FPRW in DWCPs is essential for their realization. In 2012, it was reported that approximately 20 per cent of DWCPs referred explicitly to FPRW or at least one category thereof. An independent evaluation of FPRW conducted in 2014, and covering the period 2008 to 2014, found that 29 per cent of DWCPs set at least one priority that would have a direct impact on the realization of FPRW.³⁶

162. Despite the increased attention to FPRW in DWCPs, significant differences remain in the prioritization of FPRW within DWCPs, as shown in table 2.1. The evaluation, which reviewed 79 DWCPs, found that none had given priority to freedom of association and collective bargaining and that, in many cases, priorities and outcomes mainstreamed the objective of gender equality regardless of the technical subject identified.

Table 2.1. FPRW priorities and outcomes, as a percentage of all, regionally and globally

Reference to:	FPRW		Freedom of association and collective bargaining		Forced labour		Child labour		Discrimination	
	As priority	As outcome	As priority	As outcome	As priority	As outcome	As priority	As outcome	As priority	As outcome
Anglophone Africa (n=17)	3 (5.4%)	6 (3.7%)	0	0	0	0	7 (12.5%)	19 (11.7%)	6 (10.7%)	30 (18.5%)
Francophone Africa (n=15)	1 (3%)	0	0	0	0	0	1 (3%)	8 (7.3%)	1 (3%)	9 (8.2%)
Europe (n=8)	0	0	0	1 (1.27%)	0	0	0	4 (5.1%)	0	6 (7.6%)
Arab States (n=6)	1 (5.6%)	1 (2.4%)	0	1 (2.38%)	0	1 (2.9%)	0	1 (2.4%)	1 (5.6%)	2 (4.8%)
Asia (n=21)	3 (4.8%)	3 (1.82%)	0	1 (0.61%)	1 (1.6%)	1 (0.6%)	0	10 (6.1%)	0	1 (0.6%)
Hispanophone Americas (n=9)	3 (9.4%)	9 (9.78%)	0	3 (3.26%)	4 (12.5%)	2 (2.2%)	4 (12.5%)	8 (8.7%)	2 (6.3%)	4 (4.4%)
Anglophone Americas (n=3)	0	0	0	0	0	0	0	0	0	0
Overall total	11 (4.6%)	19 (2.8%)	0	6 (0.9%)	5 (2.1%)	4 (0.6%)	12 (5%)	50 (7.4%)	10 (4.22%)	52 (7.7%)

Note: The letter "n" represents the number of DWCPs per region.

Source: ILO: *Independent evaluation of the ILO's strategies on fundamental principles and rights at work: Revised edition 2015*, p. 53.

163. There has been intensified cooperation across the Office to ensure that FPRW are mainstreamed in programmes and activities across the other strategic objectives. The independent high-level evaluation of ILO work on FPRW also found that activities in non-FPRW strategies and actions have a positive effect on FPRW.³⁷

164. The ILO's development cooperation portfolio on freedom of association and collective bargaining has included components on the promotion of social dialogue at the

³⁶ ILO: *Independent evaluation of the ILO's strategies on fundamental principles and rights at work: Revised edition 2015* (Geneva, 2015), p. 33.

³⁷ *ibid.*, p. 81.

national and/or sectoral level. In Malawi, for instance, the ILO's technical assistance supported the reactivation of the National Tripartite Social Dialogue Committee and the adoption of a plan of action on freedom of association and collective bargaining. Projects have also supported the work of national dialogue institutions in Niger, the Philippines, Rwanda, Sri Lanka and Togo. In Colombia and Morocco, technical assistance on freedom of association contributed to the development of social dialogue mechanisms at the regional level, with particular focus on decent work in the agricultural sector.

165. The *World Report on Child Labour* focused in two separate years on links with other strategic objectives of the ILO.³⁸ In 2013, the report focused on social protection and concluded that effective social protection policies can have a positive impact on the reduction of child labour. In 2015, the report looked at the connection between child labour and youth employment and made the case for a coherent policy response to facilitate children's transition from education to decent work.

166. The ILO launched the Fair Recruitment Initiative in 2014. This multi-stakeholder initiative focuses on preventing human trafficking and promoting safe migration. It is implemented in close collaboration with governments, employers' and workers' organizations, the private sector and other key partners.³⁹ Following the Tripartite Meeting of Experts to Develop Guidance on Fair Recruitment convened in September 2016, the Governing Body in November 2016 approved general principles and operational guidelines on fair recruitment.

167. The ILO's Sustaining Competitive and Responsible Enterprises project helps enterprises build systems to increase their productivity while improving the quality of jobs through better social dialogue and working conditions, including respect for FPRW. It makes a strong legal, moral and business case for investing in responsible workplaces through various modules. Key aspects of FPRW are mainstreamed in all five modules of the project, in particular those on: workplace cooperation, which links freedom of association and collective bargaining to improved competitiveness through employee engagement; workforce management, which promotes the elimination of discrimination and child labour; and safety and health at work, which addresses the psychological health risks of discrimination and harassment in all its forms.

168. A practical guide for employers on promoting diversity and inclusion through workplace adjustments was published in 2016;⁴⁰ its development involved significant cooperation across various departments.

169. In 2013, the Office established the Fundamental Principles and Rights at Work Branch (FUNDAMENTALS) to better integrate its activities on FPRW. The Branch brought together the International Programme on the Elimination of Child Labour (IPEC) and the former Programme for the Promotion of the Declaration on Fundamental Principles and Rights at Work (DECLARATION). The Governing Body also agreed to establish an ILO flagship programme on the elimination of child labour and forced labour. Collaboration between FUNDAMENTALS and other departments is essential to ensuring that FPRW are mainstreamed in ILO programmes and activities at headquarters and in the field. Efforts to strengthen the integration of work on FPRW has been assisted by re-

³⁸ ILO: *World report on child labour 2015: Paving the way to decent work for young people* (Geneva, 2015), pp. 9–10.

³⁹ Further information on projects and activities implemented under this initiative is available at: www.ilo.org/fairrecruitment [accessed 23 Jan. 2017].

⁴⁰ ILO: *Promoting diversity and inclusion through workplace adjustments: A practical guide* (Geneva, 2016).

profiling the roles of a number of field-based specialists so that they cover FPRW and not solely child labour.

Standards-related action

170. A tripartite meeting of experts to identify possible gaps in ILO standards in the area of forced labour had been proposed under the plan of action on FPRW adopted in 2012. That meeting paved the way for an ILC discussion in 2014, which resulted in the adoption of the Protocol to Convention No. 29 and of Recommendation No. 203. In 2015, the Office launched the 50 for Freedom campaign to advocate for 50 ratifications by 2018. The campaign enjoys strong support from constituents and partners and will continue to spearhead the promotion of the new instruments.

171. With regard to the general question of ratifications, the situation of member States that have not ratified one of the fundamental Conventions and their reasons for not doing so are reported to the Governing Body by means of annual reviews under the follow-up to the 1998 Declaration.⁴¹ The main challenges and obstacles to ratification identified include lack of implementation capacity, lack of political will, and legal incompatibilities (including inconsistencies in legal interpretation).⁴² While some of the factors identified in the Annual Review process are similar across the various categories of FPRW, each country situation is specific; consequently, it would appear most appropriate to take a targeted approach to assisting member States in overcoming the challenges that they face.

172. When the Governing Body discussed the annual reviews in 2015, it was suggested that the pace of ratification and implementation could be increased by the provision of further assistance to the reporting States. Requests for technical assistance range from awareness raising and capacity building for governments and social partners to readiness assessments and legal reforms.

173. Further steps have been taken to improve the effectiveness of NORMLEX, the ILO's information system. NORMLEX brings together information on international labour standards, including ratification information, reporting requirements and the comments of ILO supervisory bodies, as well as national labour and social security laws.

174. A number of tools have been developed to promote the ratification of fundamental Conventions, including mobile applications combining digital innovation with authoritative information on FPRW.⁴³

Research, statistics and knowledge base

175. The Office's research, statistics and knowledge-building work on FPRW has played a large part in raising global awareness about FPRW. It also underpins much of the technical support provided to constituents.

176. In relation to freedom of association and collective bargaining, the Industrial Relations Data (IRData) database⁴⁴ provides users with information on trends in trade union density and collective bargaining coverage and is updated biannually. The pilot ILO Legal Database on Industrial Relations (IRLex)⁴⁵ summarizes key aspects of the

⁴¹ ILO: GB.325/INS/4, op. cit., p. iii.

⁴² *ibid.*, p. 12, para. 79.

⁴³ See ILO: "[Mobile apps](#)".

⁴⁴ See ILO: "[Industrial Relations Data](#)" (IRData).

⁴⁵ See ILO: "[Industrial Relations](#)".

regulatory framework in a number of member States, providing a source of comparative information.

177. New global estimates on child labour will be published in 2017 and future estimates produced every four years. For the most part, the estimates are derived from a series of national surveys conducted by the responsible national statistical office in a range of countries. In addition to supporting the actual data collection process, the ILO works with national statistical offices to build capacity. An increasing number of child labour surveys have been integrated in broader national labour force surveys. This is a more sustainable approach than a stand-alone survey, as it is cost-effective and can be more easily replicated in the future. During the period 2012–16, 25 national child labour surveys were supported.

178. New global estimates on forced labour will also be published in 2017. In line with a resolution of the 19th ICLS, a working group was established with the aim of sharing best practices on forced labour surveys in order to encourage surveys in more countries. The working group is discussing and developing guidelines to harmonize concepts, elaborate statistical definitions, standard lists of criteria and survey tools, and will report to the 20th ICLS in 2018 on the progress made. In the past, the ILO, other international and non-governmental organizations have used different definitions and measurement frameworks, which makes the comparability of data difficult. It is therefore important to develop a shared understanding on how forced labour can be detected, measured and addressed.

179. The ILO has started a process which is expected to lead to the production of global estimates on discrimination in employment or occupation. The process has a number of phases, involving the elaboration of a detailed list of indicators and the development and testing of a methodology that could be used to provide national and global estimates. In order to support this work, 13 countries, representing a regional and socio-economic mix, were studied; information was collected on various grounds of discrimination outlawed in each country, national policies, sources of recent statistical data and methodologies used. Umbrella categories of indicators of discrimination in employment have been developed based on the data collected to date. Once the methodology has been further developed, endorsed and tested, work to produce global estimates on employment-based discrimination is expected to begin.

180. The Office has undertaken further research on the performance of individual labour dispute systems, which can involve disputes related to FPRW.⁴⁶ The topic was considered in the 2012 recurrent item discussion and again in the 2013 recurrent item discussion on social dialogue. While forced labour and child labour tend to be addressed by other judicial mechanisms including criminal justice, labour dispute mechanisms play an important preventive role. Aspects of discrimination at work and freedom of association and collective bargaining are more directly linked. The recent research studied over 50 countries in all regions, examining both judicial and extrajudicial dispute resolution mechanisms and processes. The main preliminary findings are as follows:

- there has been a dramatic increase globally in the number of individual labour disputes;
- labour law coverage is essential to ensure access to justice for all who are party to a labour dispute. Limitations on substantive rights protections, including FPRW, make access to justice inconsistent. Even legally guaranteed access can be constrained by complex and lengthy procedures;

⁴⁶ ILO: *Resolving individual labour disputes: A comparative overview* (Geneva, 2016).

- ❑ multiple dispute resolution institutions and processes complement each other, ensure expertise and offer options for users. However, jurisdictional and procedural complexity or overlap is common between settlement and enforcement provided by labour dispute institutions, labour inspectorates, and/or human rights or non-discrimination bodies. The latter are increasingly handling employment disputes. There is a growing need to establish an appropriate and clear connection between them;
- ❑ unionized workers globally have better access than non-unionized workers to information, advice and dispute resolution options;
- ❑ limitations on freedom of association and the right to collective bargaining, in addition to immature social dialogue, limit the role of collective voice mechanisms in preventing and resolving individual labour disputes;
- ❑ where the role of collective voice mechanisms is diminished, individual dispute resolution systems require a greater contribution from publicly-funded services;
- ❑ measures to improve individual labour dispute systems typically include enhanced information and outreach services and greater emphasis on conciliation/mediation procedures. Many systems feature specialized labour court/tribunal procedures, or arbitration offered by extrajudicial public institutions in order to ensure cheaper, faster and more expert options than the general courts. Yet resource constraints continue to hinder meaningful access to effective individual labour dispute systems.

181. A wide range of new knowledge products have been developed in the area of FPRW. These include :

- ❑ a publication assisting unions both to organize in EPZs and to engage with decision-makers on EPZ policy;⁴⁷
- ❑ a policy guide on collective bargaining;⁴⁸
- ❑ publications on organizing and collective bargaining in domestic work;⁴⁹
- ❑ a trade union guide on tackling child labour;⁵⁰
- ❑ a publication examining key policies to advance decent work for women;⁵¹
- ❑ a resource guide on gender issues in employment and labour market policies;⁵²
- ❑ a report on labour provisions in trade and investment arrangements;⁵³
- ❑ a brochure on the new forced labour instruments;
- ❑ an IOE–ILO guidance note on the Protocol to Convention No. 29, entitled Guidance note on the Protocol of 2014 to the Forced Labour Convention, 1930;

⁴⁷ ILO: *Trade union manual on export processing zones* (Geneva, 2014), p. xiii.

⁴⁸ ILO: *Collective bargaining: A policy guide* (Geneva, 2015).

⁴⁹ ILO: *Achieving decent work for domestic workers* (Geneva, 2012); and “Improving working conditions for domestic workers: Organizing, coordinated action and bargaining”, in *Labour relations and collective bargaining*, Issue Brief No. 2, Geneva, 2015.

⁵⁰ ILO: *Trade unions and child labour: A tool for action* (Geneva, 2016).

⁵¹ ILO: *Women at work: Trends 2016*, op. cit.

⁵² ILO: *Resource guide on gender issues in employment and labour market policies* (Geneva, 2014).

⁵³ ILO: *Assessment of labour provisions in trade and investment arrangements* (Geneva, 2016).

- an updated version of the IOE–ILO publication entitled *Combating forced labour: A handbook for employers and business*.

Technical advisory services, capacity building and development cooperation

182. The International Training Centre of the ILO (the Turin Centre) has continued to strengthen the capacity of constituents and other key actors with regard to FPRW. In 2015, 1,315 people were trained, almost half of them women. The strong demand from institutions benefiting from training, the positive feedback from participants and the active role played by participants at the national level and during the ILC are indicators of the need for and the quality of training provided on FPRW.

183. A new training course on communicating freedom of association and collective bargaining rights was developed. Annual training was provided on child labour, forced labour and trafficking and regular courses were held on child labour and education and child labour and agriculture. Gender Academy programmes in 2013 and 2015 focused on discrimination.

184. An evaluation conducted at the end of 2015 found that the capacities of national skills training providers had improved as a result of their participation in Turin Centre courses. An evaluation of Turin Centre activities and projects on gender equality and diversity found activities to be highly relevant and well-implemented.

185. In order to maximize impact, the comparative advantage of the training offered on FPRW at the interregional and regional levels could, increasingly, be combined with subregional and national approaches involving local actors well placed to play a positive role in strengthening FPRW and could also involve learning partnerships with national training institutions. Training partnerships with international and regional institutions and national development agencies could also be established, with a view to integrating FPRW in their programmes.

186. Development cooperation projects have increasingly sought to pursue an integrated approach to FPRW, working across a number of – and, in some cases, all – relevant areas. Although a growing number of public–private partnerships have mainly been linked to work on child labour, steps are being taken to develop their scope further in order to address FPRW in an integrated manner. At the same time, where project requirements focus on a single aspect of FPRW there are constraints on such an approach. Instances in which an integrated approach has been pursued are outlined in the following three paragraphs.

187. Following the examination of Uzbekistan’s application of Convention No. 182 by the CEACR in 2013, the ILO was invited to monitor child labour during the cotton harvest in September–October 2013, which, in turn, led to discussions with constituents on the implementation of child labour and forced labour Conventions. In 2014, agreement was reached for a multi-year DWCP covering policy and capacity on topics such as employment and social protection, as well as child and forced labour, in an integrated manner. A baseline survey of the 2015 cotton harvest highlighted the risks of forced labour and led the constituents to recognize the need for measures to ensure protection against forced labour during the organized mass recruitment of cotton pickers each year. Consequently, child and forced labour issues are now included in the training agendas of both employers’ and workers’ representatives under the DWCP. Conclusions from the ILO’s assessment and surveys and from the commitments made by the Government of Uzbekistan in its action plan inform ongoing discussions with the constituents and the

World Bank. ILO monitoring activities have included the monitoring of projects financed by the World Bank.

188. The Programme to Support the Implementation of the ILO Declaration on Fundamental Principles and Rights at Work in West Africa sought to provide support to constituents across all areas of FPRW. Following discussions on a new Labour Code, several features relating to FPRW were integrated into Law No. 2015-532 of 20 July 2015, in Côte d'Ivoire. Supporting freedom of association, the new Code provides for the deduction of union dues at source and their transfer from the employer to trade unions (article 57.1). In addition, it establishes the freedom of union members to receive union education (article 13.32); contains provisions on equal access to employment and occupation; and identifies HIV and AIDS and disability as grounds of discrimination (article 4). Moreover, it contains provisions on the prohibition of workplace sexual harassment (article 5). The new law strengthens the fight against child labour and sets the minimum age for access to employment at 16 years (article 23.2). A national council on social dialogue has been established and is encouraging social dialogue between stakeholders.

189. The ILO worked with the General Agricultural Workers' Union of Ghana (GAWU) and the Ghanaian public authorities to support artisanal fishers and fish processors in the community of Torkor on the Volta Lake in order to enable them to organize themselves in the GAWU and change working practices to end the use of child labour, improve occupational safety and health and enhance productivity. Torkor has adopted an integrated area-based approach to ending all forms of child labour, driven jointly by GAWU and by teacher trade unions, community elders and the public authorities. The community is committed to training neighbouring communities to support them in replicating this successful model.

Better Work – Promoting fundamental principles and rights at work

The Better Work programme, a partnership between the ILO and the International Finance Corporation (IFC), has worked in the garment sector with companies supplying global brands. It seeks to build strong relations between management and the workforce and to promote FPRW, with a view to enhancing the competitiveness and sustainability of enterprises. In order to further understand the impact of its work, the Better Work programme commissioned an independent impact assessment that analysed 15,000 survey responses from garment workers and 2,000 responses from factory managers in Haiti, Indonesia, Jordan, Nicaragua and Viet Nam. The assessment concluded that "Factory-level evidence across all countries shows that the Better Work programme is having a significant and positive impact on working conditions. This includes reducing the prevalence of abusive workplace practices, increasing pay and reducing excessive working hours, and creating positive effects outside the factory for workers and their families. These effects occur while increasing the competitiveness of firms" (ILO, p. 51).

Freedom of association

Freedom of association rights are not fully respected in Haiti's garment sector, but the sector has come a long way since 2010, when there was only one factory in the sector with a trade union. By comparison, 18 factories had a trade union as of November 2015. Freedom of association violations were identified in each of the Better Work Haiti factories; proactive work is being carried out to address management interference, anti-union discrimination and trade union access. Better Work Nicaragua has established a strong process of constituent engagement since the beginning of the programme. This has helped to ensure that trade unions and employers in the sector had a strong understanding of freedom of association and collective bargaining.

Reducing conditions of forced labour in Jordan

Better Work Jordan has had a direct impact in curbing forced labour tactics. Results from six years of unannounced compliance assessments show a significant decline in non-compliance for indicators measuring coercion. This includes factors such as whether workers are allowed to come and go freely from the dormitories in industrial zones or whether they are in control of their passport and personal documents.

Combating gender-based discrimination by promoting equal pay: Haiti, Nicaragua and Viet Nam

Across countries and factories where Better Work operates, women constitute nearly 80 per cent of the workforce. Women typically have less occupational mobility, lower pay and higher levels of abusive treatment than men. Evidence from the independent impact assessment of Better Work shows there is a positive impact of the programme in several of these areas. By ensuring compliance with wage regulations, the programme has helped to close the gender pay gap. The programme has had a pronounced and positive impact on gender pay disparities in factories in Haiti, Nicaragua and Viet Nam.

Source: ILO: *Progress and potential: How Better Work is improving garment workers' lives and boosting factory competitiveness* (Geneva, 2016).

190. Building on the adoption of the Protocol to Convention No. 29 and Recommendation No. 203, the ILO established a new project to support country-level follow-up. The project aims to eliminate traditional and state-imposed forced labour systems and to reduce contemporary forms of forced labour, which are often linked to human trafficking, significantly.

191. The Work in Freedom programme tackles trafficking of women and girls from South Asia (Bangladesh, India and Nepal) into the domestic work and garment sectors of South Asia and the Middle East (India, Jordan and Lebanon). In source communities, over 170,000 women have participated in pre-decision training and other orientation initiatives. In destination areas, over 29,000 migrant women have organized into collectives.

192. With technical assistance from the ILO, in Viet Nam the Government and social partners jointly developed and launched a code of conduct on sexual harassment in the workplace aimed at tackling the problem and addressing legal gaps. Partners engaged actively in the promotion of the code and the development of a cohort of local trainers.

193. Key lessons identified in a Governing Body discussion on ILO programme implementation in 2014–15 included: the need to prioritize with fewer, bigger and better integrated programmes; the need to achieve more by working in partnership; the awareness that meaningful results take time to achieve, requiring interventions to be planned accordingly; and the need for tools and products to be used to generate improved results in terms of scale and outreach.⁵⁴

Strengthening the role of social partners

194. Under various components of the plan of action for 2012–16, many ILO departments have been involved in activities aimed at strengthening the social partners and, in particular, the Bureaux for Employers' and Workers' Activities have played a leading role.

195. Various training programmes on international labour standards and FPRW for trade unions and employers' organizations have been provided in selected countries and regions. The Turin Centre trained 120 lawyers operating in Africa, Asia and Latin America on the use of international labour standards in national courts, with a focus on freedom of

⁵⁴ ILO: *ILO programme implementation 2014–15*, ILC, 2016, op. cit., p. 15, para. 42.

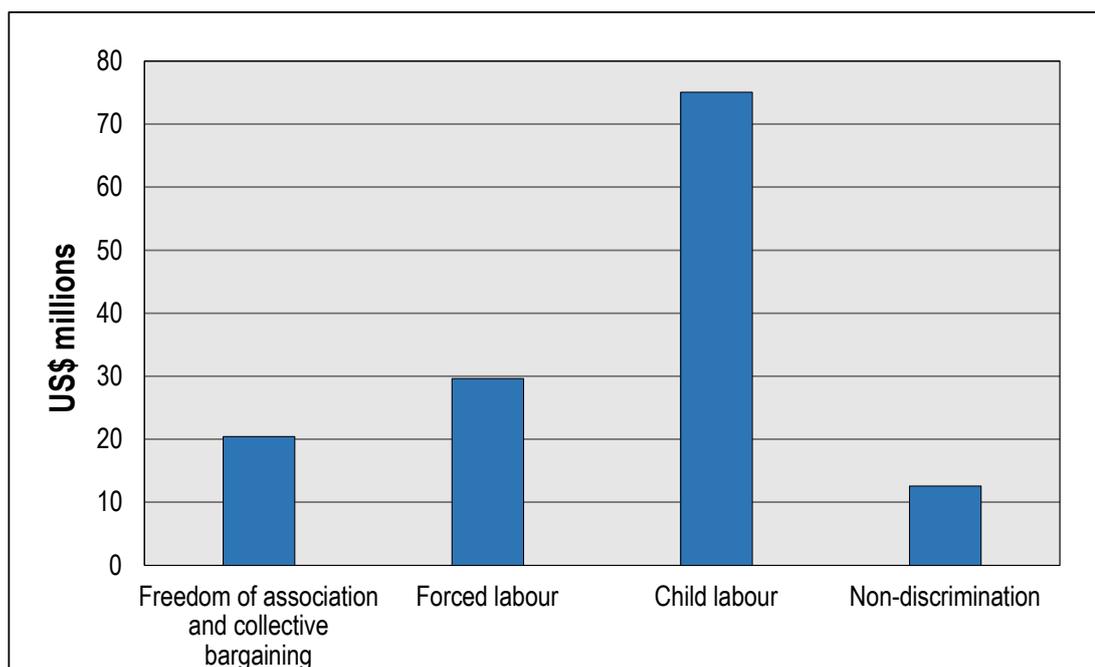
association. Training workshops on international labour standards were also held for trade unions in member States in the Gulf, Jordan and the Occupied Palestinian Territory.

196. Technical support was provided to trade unions in Zambia to develop strategic plans focusing on themes including social dialogue, child labour and HIV and AIDS. Training activities to enhance the capacity of trade unions to develop policies and programmes on discrimination with an emphasis on HIV and AIDS were implemented in a number of countries, including Chile, Mauritius, Nepal, Seychelles, Sri Lanka and Zimbabwe.

Allocation of resources

197. Between 1 January 2012 and 31 December 2015, 107 new development cooperation projects (not including the Office’s regular budget funding mechanisms) aimed at promoting FPRW were approved by the ILO.⁵⁵ Forty-nine per cent of these projects addressed child labour, 19 per cent forced labour, 18 per cent non-discrimination and 12 per cent freedom of association and collective bargaining. Their total value was US\$137.7 million, of which 55 per cent was allocated to child labour, 21 per cent to forced labour, 15 per cent to freedom of association and collective bargaining and 9 per cent to non-discrimination (figure 2.1). Figure 2.2 shows the regional breakdown of these projects.

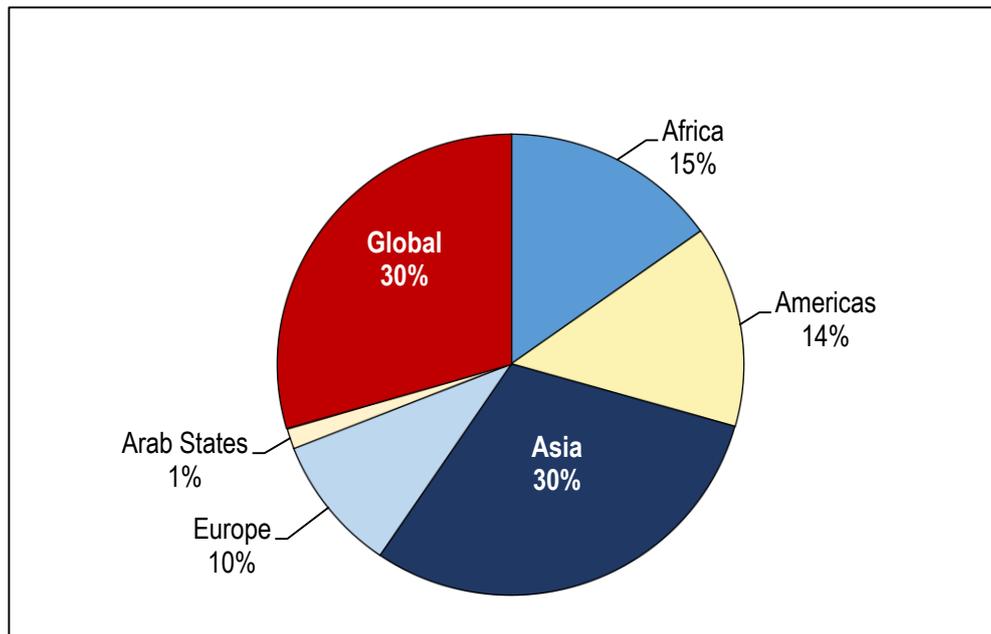
Figure 2.1. Breakdown of funding received by the ILO for new development cooperation projects by principle, 2012–15



Source: ILO.

⁵⁵ The Transitional Strategic Plan 2016–17, the successor of the Strategic Policy Framework 2010–15, does not facilitate the retrieval of data by principle; the period 2016–17 is therefore not considered here.

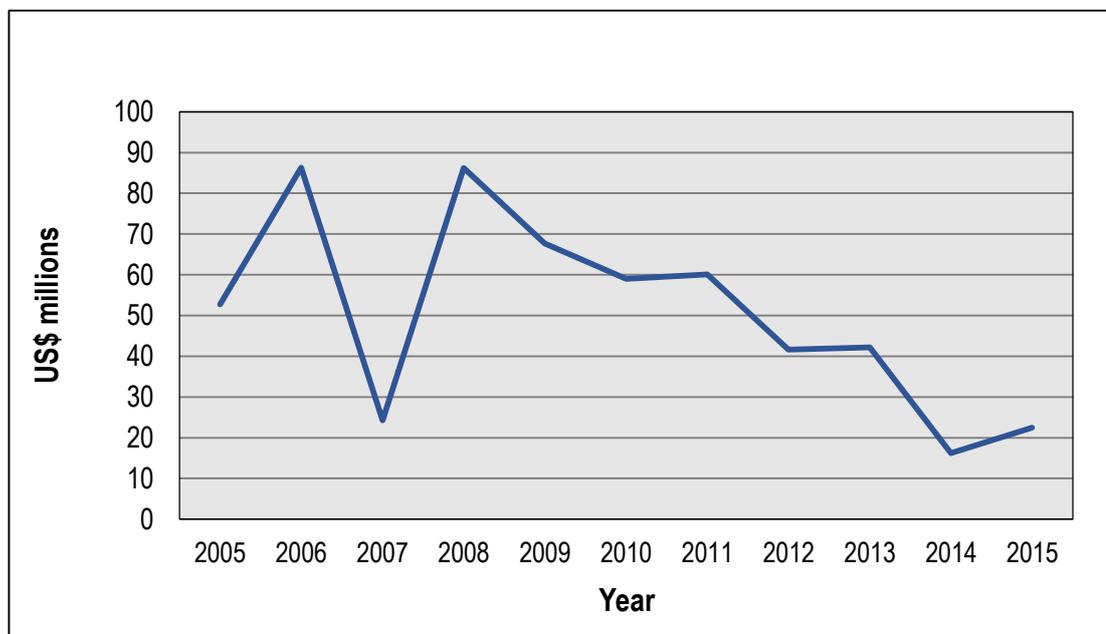
Figure 2.2. Distribution of new development cooperation projects by region, 2012–15



Source: ILO.

198. The overall development cooperation funding available to FUNDAMENTALS fell significantly during the same period (figure 2.3).⁵⁶

Figure 2.3. Evolution of funding received by FUNDAMENTALS for new development cooperation projects, 2005–15



Source: ILO.

⁵⁶ These figures compare recent funding to FUNDAMENTALS with the combined amount received by IPEC and DECLARATION prior to the establishment of FUNDAMENTALS.

199. Regular budget allocations to FPRW in the 2012–13 and the 2014–15 biennium were almost identical, with FPRW receiving 8 per cent of the total regular budget in both cases. There was also a similar pattern of allocations across the four principles for the same period. Conversely, there was a significant reduction in Regular Budget Supplementary Account (RBSA) funding between the two periods, with the totals falling from 15 per cent in 2012–13 to 3.5 per cent in 2014–15, with a mixed and uneven pattern across the principles (table 2.2).

Table 2.2. Regular budget and RBSA allocations in 2012–13 and 2014–15

Principle	Regular budget (US\$)				RBSA (US\$)			
	2012–13	% of FPRW total	2014–15	% of FPRW total	2012–13	% of FPRW total	2014–15	% of FPRW total
Freedom of association and collective bargaining	18 353 538	37	17 283 439	36	368 915	12	265 370	24
Forced labour	5 186 869	10	5 268 211	11	678 193	21	129 297	12
Child labour	13 166 668	27	12 477 343	26	1 325 154	41	701 266	63.1
Discrimination at work	12 867 426	26	12 999 968	27	835 233	26	15 588	1
TOTAL	49 574 501	100	48 028 961	100	3 207 495	100	1 111 521	100
Proportion of total biennium funding (%)	8		7.9		15		3.5	

High-level independent evaluation of the ILO's strategies on FPRW – Key findings

200. At its 322nd Session, the Governing Body considered a high-level evaluation of ILO work on FPRW.⁵⁷ This independent evaluation of the ILO's work drew on the findings of 17 case studies and gave particular attention to the achievement of country programme outcomes and global products to assess how they have contributed to the realization of FPRW.⁵⁸ The strategies and indicators of the four FPRW-related outcomes of the Strategic Policy Framework provided the background against which work and progress was assessed. The evaluation found that overall performance had been “somewhat satisfactory” and made a number of recommendations. These focused on the need to promote FPRW work in non-FPRW work/projects and the interlinked nature of FPRW; monitor and respond to requests for technical assistance through the Annual Review process more systematically; and to develop additional approaches to promoting the 1998 Declaration.

201. A number of actions were taken to address these recommendations. As previously indicated, the four FPRW categories were placed under a unified management structure in order to ensure a coherent strategy and the outcomes set in the Programme and Budget for 2016–17 no longer distinguish between the four categories of FPRW. FUNDAMENTALS also developed a new operational strategy, with a strong focus on the link between supervisory system and development cooperation and the need to promote an integrated

⁵⁷ ILO: *Independent evaluation of the ILO's strategies on fundamental principles and rights at work*, op. cit., p. 26.

⁵⁸ *ibid.*, p. ix.

approach to FPRW at the country level. A recommendation that specific indicators on FPRW should be included in areas of critical importance and outcomes was acted upon in the Programme and Budget for 2016–17.

Chapter 3

Initiatives in other frameworks aimed at the promotion of FPRW

A. The UN and the 2030 Agenda for Sustainable Development

The 2030 Agenda and emerging alliances

202. The 2030 Agenda, which took effect in 2016, was adopted in 2015 at the UN summit for the adoption of the post-2015 development agenda, following several years of extensive consultation and negotiation. The 2030 Agenda addresses three dimensions of sustainability – economic, social and environmental – and includes 17 Sustainable Development Goals (SDGs), each accompanied by specific targets. The 2030 Agenda puts people and the planet at its centre and provides a new impetus to achieve sustainable development. The importance of decent work is the focus of SDG 8, which seeks to “promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all”. Within SDG 8 there are several targets of particular significance for FPRW, namely:

- 8.5 By 2030 achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value
- 8.6 By 2020 reduce substantially the proportion of youth not in employment, education or training
- 8.7 Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms
- 8.8 Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants and those in precarious employment

203. A series of other SDGs and targets in the 2030 Agenda are also relevant to FPRW.¹ These include SDG 1, which focuses on poverty reduction and social protection; SDG 4, which focuses on quality education for all (without which child labour cannot be eliminated); SDG 5, which focuses on gender equality; SDG 10, which aims at reducing inequality within and among countries; and SDG 16, which focuses on access to justice

¹ ILO: *The end to poverty initiative: The ILO and the 2030 Agenda*, Report I(B), ILC, 105th Session, Geneva, 2016, p. 7, para. 24.

and the protection of the fundamental freedoms required for peaceful and inclusive societies.

204. The 2030 Agenda emphasizes the need for national action to achieve progress on the various goals. The process leading to the formulation of the 2030 Agenda fostered an understanding that all parts of society must work together in new and innovative ways in order to achieve its ambitious and aspirational targets. Subsequently, a number of new global alliances and partnerships have been initiated, with a view to supporting the efforts of member States to make progress on particular targets.

205. Ending child labour and forced labour will require integrated thinking, coordinated actions, effective policy-making and efficient use of resources. Globally, numerous actors are involved, from the smallest grass-roots groupings to UN agencies. Each of these can use their experience, outreach and resources to deliver results that can move societies closer to eliminating these two human rights violations. A major challenge will be to strengthen and better coordinate ongoing efforts in order to scale up successful interventions and monitor progress towards achieving the targets. To this end, the ILO and partners took the initiative to establish Alliance 8.7, which was launched in New York in September 2016. The Alliance aims to achieve a significant decrease in the number of persons in child labour and forced labour, including through: increased global awareness of the problem and solutions; powerful advocacy for high-level commitment; more effective policies and action plans, including a sharper focus on prevention; coordinated and coherent action at the global, regional and country level; better monitoring and knowledge sharing; support for new and innovative initiatives; and creation of a global financing facility.²

206. The Global Equal Pay Coalition will be launched in September 2017 to help promote SDG target 8.5 on equal pay for work of equal value by 2030. The key indicators of success of this initiative will be: universal ratification of Convention No. 100; improved national legislation and strengthened enforcement mechanisms; and reduced gender pay gaps at the national level. At the global level, members of the coalition will: analyse data; monitor trends; disseminate findings, including information on obstacles, progress and good practices; and propose recommendations for improvement. At the country level, partners will: promote ratification of Convention No. 100; provide solutions to address legislative gaps; ensure capacity building for monitoring and enforcement; promote effective collective bargaining practices on gender equality and pay equity; share tools and good practices; and foster collaboration among countries with similar aspirations.

207. The Global Deal was developed by the Swedish Prime Minister in cooperation with the ILO and OECD. Launched in September 2016, its objective is to address challenges in the global labour market and enable all people to benefit from globalization. The Global Deal is a multi-stakeholder partnership that aims to encourage governments, businesses, trade unions and other organizations to make specific commitments to enhance social dialogue.³ The Global Deal makes a palpable contribution to the promotion of SDG 8 and is also relevant to other SDGs and targets.

UN Guiding Principles on Business and Human Rights

208. In 2011, the UN Human Rights Council endorsed the *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy”*

² ILO: “[Alliance 8.7 working together to end child labour and modern slavery](#)”, p. 3.

³ Global Deal: “[Together for decent work and inclusive growth](#)”.

Framework, which addresses the issue of business and human rights.⁴ Elaborated by former UN Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, the Guiding Principles provide guidance for governments to protect and business enterprises to respect human rights, as well as the need to ensure access to effective remedy for victims of corporate human rights violations. In addition, they recommend that business enterprises should conduct human rights due diligence in order to identify, prevent, mitigate and account for how they address human rights impacts across their operations and make specific reference to the 1998 Declaration.⁵ The ILO has organized sessions on child labour and forced labour at the annual business and human rights forums that form part of the follow-up to the Guiding Principles and has established close cooperation with the UN Working Group on Business and Human Rights.

209. The ILO's Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration), as amended in 2006, and the OECD Guidelines for Multinational Enterprises, as revised in 2011, constitute an expression of the expectations with regard to the behaviour of multinationals.⁶ The MNE Declaration refers specifically to the 1998 Declaration, calling on all parties to contribute to its realization and follow-up; moreover, it calls on the governments of States which have not yet ratified Conventions Nos 29, 87, 98, 100, 105, 111, 122, 138 and 182 to do so and in any event to apply, to the greatest extent possible, through their national policies, the principles embodied therein and in Recommendations Nos 35, 90, 111, 119, 122, 146, 169, 189 and 190.⁷

Other UN partnerships

210. Close collaboration exists between the ILO and the UN Global Compact. Various other partnerships with UN organizations have been developed or strengthened in recent years. In 2016, a new MoU was established between the ILO and the Office of the United Nations High Commissioner for Refugees (UNHCR),⁸ which provides for cooperation including on the issues of child labour and the economic exploitation of refugees.

B. Global and regional economic institutions

211. At a 2013 meeting of the G20 in Moscow, the Ministers of Labour and Employment from G20 countries discussed the global labour market situation and employment challenges faced by their countries. In their Declaration they expressed their commitment to ensuring full respect for the FPRW as set out in the 1998 Declaration and recognized the contribution of social dialogue as well as the active involvement of social partners in the design and implementation of labour and employment policies within the G20.

⁴ Office of the United Nations High Commissioner on Human Rights (OHCHR): *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (New York and Geneva, 2011).

⁵ *ibid.*, pp. 13–14.

⁶ In March 2016, the Governing Body decided to establish an ad hoc working group to review the MNE Declaration text, annex and addenda as well as interpretation procedure. The group will submit its recommendation to the Governing Body at its March 2017 session for possible adoption.

⁷ ILO: *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy* (Geneva, 2006), p. 3, paras 8–9.

⁸ ILO: "Memorandum of understanding between the International Labour Organization and the Office of the United Nations High Commissioner for Refugees" (Geneva, 1 July 2016), pp. 1–3.

212. The G20 Labour and Employment Ministerial Declaration issued in Melbourne in 2014 reiterated the importance of the 1998 Declaration and called, in particular, for measures to eliminate forced and child labour. With regard to the empowerment and increasing participation of women, Ministers indicated that their policy priorities would be informed by ILO Conventions and Recommendations on equality of opportunity and treatment and by the 2015 OECD Recommendation of the Council on Gender Equality in Public Life. The importance of FPRW was also reiterated in the Declaration issued by the G20 Labour and Employment Ministers in Beijing in 2016.

213. FPRW have been integrated more firmly in safeguard policies of several international and regional development banks, in particular the IFC, the European Bank for Reconstruction and Development (EBRD) and the African Development Bank (AfDB). In 2016, the World Bank adopted a new Environmental and Social Framework for investment lending, which includes a labour safeguard. While certain provisions are not fully in line with ILO standards, the policy provides new opportunities for collaboration and the development of practical guidance at the country level. In Uzbekistan, the ILO carried out third-party monitoring of projects financed by the World Bank; lessons learned from this collaboration should inform further action in this area.

214. The current approach of the European Investment Bank (EIB) to labour rights is reflected in two guidance notes, on addressing labour standards and addressing occupational and community health and safety, which outline its policy on labour standards and community relations for projects outside the EU. The former note says that the EIB's due diligence procedures should focus on the core labour standards outlined in the 1998 Declaration and the relevant national labour laws; subsequently, it affirms that the EIB will not finance projects that employ or benefit from child labour or forced labour, or that do not comply with national law on worker representation and organization.⁹

215. In all projects that it finances directly, the EBRD requires borrowers to: respect human rights and ILO core labour standards; provide written information to workers about their working conditions and rights; comply with basic occupational health and safety standards; and take responsibility for the conditions of "third-party" (subcontracted) workers. In December 2013, the AfDB adopted a similar labour safeguard in its Integrated Safeguards System.

216. The Asian Development Bank and the Inter-American Development Bank have not yet taken action to adopt a labour safeguard.

C. Labour provisions in trade agreements

217. Currently, a quarter of the value of trade is within the framework of trade agreements that include labour provisions. Labour provisions "take into consideration any standard which addresses labour relations or minimum working terms or conditions, mechanisms for monitoring or promoting compliance, and/or a framework for cooperation. This definition groups together a broad range of labour provisions, including references to workers' rights, as well as frameworks for cooperation."¹⁰

218. Labour provisions commonly refer to the 1998 Declaration as the basis for the commitments adopted by parties to the agreements. The obligations of the parties usually include not lowering their labour standards as a means to encourage trade or investment,

⁹ C. Wright: *European Investment Bank: Promoting sustainable development, where appropriate* (CEE Bankwatch Network, Prague, Nov. 2007), p. 9.

¹⁰ ILO: *Assessment of labour market provisions in trade and investment arrangements* (Geneva, 2016), p. 1.

and maintaining labour laws and practices in line with the 1998 Declaration and their effective enforcement. Reference to ILO instruments is made in 72 per cent of trade-related labour provisions, including to the 1998 Declaration, the Decent Work Agenda, the 2008 Declaration and, in some cases, ILO Conventions.

219. Trade agreements are including labour provisions on a more regular basis. As at August 2016, since the first binding labour provision in the 1994 North American Free Trade Agreement, 77 trade agreements, covering 136 economies, have included labour provisions.

220. In addition to bilateral and plurilateral trade agreements, some unilateral trade arrangements also include labour provisions as part of the eligibility criteria for special trade incentives. For instance, under the EU Generalized Scheme of Preferences (GSP), the GSP+ arrangement requires countries to ratify and implement ILO fundamental Conventions in order to be eligible for special incentives.¹¹

221. Labour provisions have various monitoring, implementation and compliance mechanisms. These may range from pre-ratification measures to introduce reforms to labour laws and practice and, once the agreement has entered into force, requirements and mechanisms for stakeholder involvement, including participation by the social partners, to dispute resolution mechanisms in case of violation of labour obligations. Despite the differences between mechanisms and approaches, most agreements emphasize dialogue, capacity-building and cooperative activities as means to promote labour rights and principles.

222. The combination of mechanisms such as capacity-building activities, monitoring and stakeholder involvement has been related to institutional and legal changes and, to a more limited extent, to improvements in working conditions in some sectors. For example, the Dominican Republic–Central America Free Trade Agreement aims to strengthen institutions, for instance through increases in the budgets of labour inspectorates and capacity building. In the US–Cambodia Textile Agreement, improvements in working conditions at the enterprise level were incentivized by increased trade; improved wages have been observed at that level, with a reduction of the gender wage gap and limited improvement of freedom of association.¹² However, the sustainability of these effects remains a challenge. Furthermore, one mechanism to improve overall effectiveness is the involvement of stakeholders, both with respect to transparency and accountability.¹³

223. In the context of trade agreements, the ILO has provided technical assistance and advice upon request to its member States or has participated in the implementation of development cooperation programmes with the social partners. Additionally, member States have used the comments and observations of the ILO supervisory system and special procedures to inform the implementation of labour provisions. An example of this involvement is a programme developed under the US–Colombia Trade Agreement and implemented by the ILO with the purpose of building the capacities of the Government of Colombia and the social partners to foster compliance with international labour standards and with the comments of the ILO’s supervisory system, with particular focus on freedom of association and collective bargaining.¹⁴

¹¹ *ibid.*, p. 20.

¹² *ibid.*, p. 66.

¹³ *ibid.*, p. 126.

¹⁴ *ibid.*, pp. 180–181.

224. Further research and discussion is needed to identify other avenues for the involvement of the ILO in order to ensure further coherence between the FPRW and the effective implementation of labour commitments under trade agreements.

Chapter 4

Observations on strengthening action on FPRW

225. The sections in this chapter reflect on the information presented in Chapters 1–3, providing a number of summary observations.

A. On general trends and challenges

226. **Ratifications.** Between 2012 and end March 2017, there were 39 ratifications of fundamental Conventions in comparison with 20 over the previous five years. However a further 129 ratifications are required to meet the goal of universal ratification – a goal set by the ILO in 1995 for 2015. Particular focus on Conventions Nos 87 and 98 is required. Steps to re-energize the ratification campaign could be considered, which could include setting new targets linked to the centenary of the ILO in 2019 and to the 2030 Agenda. In the context of such a campaign, the Office could endeavour to intensify the links between the Annual Review process and development cooperation activities.

227. **Tackling the implementation gap.** Despite the overall high rate of ratifications of the fundamental Conventions, their effective implementation is too often lacking. In the context of growing inequalities and significant changes in the world of work, it is timely to take stock of national progress and the potential for new efforts to promote respect for FPRW.

228. **Deficits in freedom of association and collective bargaining remain a key challenge.** Although the pattern is not uniform, the data presented point to a further decline in the level of trade union membership and collective bargaining coverage. In some member States, policy approaches have stabilized or expanded collective bargaining. There is growing concern within the Human Rights Council that workers and employers face increased challenges in organizing.

229. **The Protocol to Convention No. 29 provides new opportunities for action.** A growing number of member States have been taking action against forced labour, including by enacting legislation to tackle forced labour in supply chains and to improve victim protection. The Protocol provides new opportunities to mobilize action. Steady progress is being made on ratifications but many more are required to meet the ILO target of 50 ratifications by 2018. The measurement framework on forced labour is being improved, with the goal of assessing trends in future years.

230. **Progress in reducing child labour.** Important progress has been made in reducing child labour but more needs to be done if the SDG target of eliminating child labour by 2025 is to be met. There is good evidence that sound public policy approaches, economic transformation in the informal and rural economies and full engagement of the social partners can reduce child labour. An issue which has arisen in a number of member States

is the need for guidance on the development of the hazardous work list required under Convention No. 182. Further guidance on this topic may be relevant, covering also aspects of school-to-work transition and occupational safety and health prevention measures involving children of legal working age.

231. Discrimination in employment and occupation. Only modest progress has been made in reducing gender gaps, including the gender pay gap, in the labour market. There is a need to improve data on discrimination in general. Accessibility of all groups to mechanisms addressing discrimination remains a challenge and issues such as burden of proof and fear of victimization are often mentioned as obstacles.¹ The question arises as to whether the adoption of further measures could help to generate momentum in tackling discrimination.

232. FPRW in the informal and rural economies. The mutually reinforcing nature of FPRW is clearest in the informal and rural economies. The widespread absence of effective employers' and workers' organizations and the resulting lack of social dialogue in these sectors constitutes a major challenge. Recommendation No. 204 can provide a framework for new initiatives to address the informal economy, both urban and rural. The ILO and constituents could consider the scope for such initiatives in line with the Recommendation.

233. Strengthening labour administration. Strong and efficient labour administration is a key element in ensuring FPRW. However, in some of the areas where the worst violations of FPRW occur, labour administration is largely absent. A major challenge is to ensure the presence of properly resourced labour administrations with a sound understanding of FPRW.

234. Mainstreaming FPRW. The importance of FPRW has been highlighted in several recent ILC discussions (on the informal economy, global supply chains, fragile States) and in expert group meetings (non-standard forms of employment). Initiatives emanating from these and other discussions can offer new opportunities for mainstreaming FPRW in work across the Office, including in future work addressing global supply chains, the strengthening of labour inspection systems and other labour market institutions.

B. On action by the ILO and its constituents

235. Legislation and policies. Member States are continuing to enact and improve legislation to give effect to FPRW. National action plans and other policies are also widely used to promote action on FPRW.

236. DWCPs. There appears to have been an increase in attention to FPRW in DWCPs. However, significant differences remain in the prioritization given to different categories of FPRW. The evaluation of ILO work on FPRW found that freedom of association and collective bargaining was not identified as a priority in any DWCP. The Office could seek to provide further guidance and support to increase ratification of fundamental Conventions and respect for all FPRW in DWCPs, as well as encouraging an integrated approach.

237. Links with other strategic objectives. Efforts have continued to ensure coherence between work on FPRW and other strategic objectives of employment, social dialogue and social protection. Further, such efforts should be in line with the integrated strategy

¹ ILO: *General Survey on the fundamental Conventions concerning rights at work ...*, op. cit., pp. 367–368, paras 884–886.

pursued by FUNDAMENTALS. Work on other strategic objectives has also been found to have a positive impact on FPRW.

238. ILO actions should focus on fewer, bigger and better integrated programmes. The Governing Body's conclusions on lessons learned suggested that development cooperation activities should focus on fewer, bigger and better integrated programmes. The establishment of the new FUNDAMENTALS Branch in the ILO provides opportunities for new synergies supporting integrated FPRW interventions, and also supporting work with other strategic objectives. The new strategy of the IPEC+ flagship is embedded in such an integrated approach.

239. Public-private partnerships. Public-private partnerships have become increasingly common, initially focusing on child labour, then being extended to forced labour and more recently seeking to use an approach which would involve all four areas of FPRW. It is planned that the CLP will be consolidated, and initial work is under way to create a business network on forced labour. The ILO's Fair Recruitment Initiative will be expanded and deployed at the national level, engaging with businesses to strengthen due diligence of labour supply in value chains.

240. Advocacy. The issues of child labour and forced labour have commanded significant public attention, which has played an important role in galvanizing political will to tackle the challenges that exist. To some extent, the issue of sex-based discrimination in employment has also attracted attention, but far less attention has been given to other aspects of employment discrimination and to freedom of association and collective bargaining. New advocacy approaches across all categories of FPRW could be considered.

241. Allocation of resources. There has been a significant reduction in the availability of development cooperation resources for work on FPRW; moreover, allocation of resources across the categories of FPRW has been uneven. Renewed momentum to secure resources and an integrated approach which provides a better balance of support across the FPRW categories are needed.

242. Knowledge and data. The ILO plays a leading role in the collection and dissemination of knowledge and data on FPRW. The estimates on child labour and forced labour attract global media attention and are widely used in international and national policy discussions and advocacy. Less data is available on discrimination and freedom of association. Development of global estimates in these areas would support advocacy and a broader approach to FPRW. The Office is also undertaking research on specific issues related to FPRW, notably FPRW in global supply chains, situations of conflict and fragility and in the rural economy. Research on individual labour dispute systems also continues, with the goal of identifying guiding principles for effective dispute resolution, both to strengthen and improve the ability of the Office to offer technical assistance and to contribute to ongoing analysis of whether the existing body of international labour standards on the topic is fit for purpose.

C. On other initiatives and international frameworks

243. The 2030 Agenda. The 2030 Agenda positions the ILO at the centre of development discussions and provides an additional framework for guiding future action on FPRW. The ILO has led with the establishment of a multi-stakeholder Alliance 8.7 to promote the goals on the elimination of child labour and forced labour, in addition to the new Global Coalition on Equal Pay. These two alliances will contribute to broader Office and constituent engagement in the 2030 Agenda process, with a strong focus on action at the national level.

244. **Labour provisions in trade agreements.** A quarter of the value of global trade falls within the framework of trade agreements that include labour provisions. Of these, 72 per cent make reference to ILO instruments. The ILO has provided technical assistance and advice to member States, upon request and has participated in related development cooperation programmes with the social partners.

245. **International financial institutions.** New safeguard policies have been adopted by international financial institutions, more recently by the World Bank. Such policies offer new opportunities for collaboration, with a view to addressing gaps in the coverage of FPRW – in particular on freedom of association and collective bargaining – and supporting implementation of these new policies. Lessons learned from the collaboration between the ILO and the World Bank in Uzbekistan should be taken into account.

Suggested points for discussion by the Conference

246. The purpose of the recurrent discussion is to review trends in the realization of the four categories of FPRW and the results of ILO action, so that the Conference can guide the future work of the Office and ILO constituents and, thereby, also guide the Governing Body to adopt a plan of action on the strategic objective of FPRW. To that end, suggested points for discussion are listed below.

Point No. 1

Chapter 1 provides a global picture and highlights specific opportunities and challenges for each of the four categories of FPRW.

- (a) What have been your experiences and what lessons have you learned in giving effect to the 1998 Declaration and in respecting, promoting and realizing FPRW to further enhance social, economic and development objectives in your country? In your experience, what has worked and what has not?
- (b) What additional efforts by governments and social partners are needed to promote and ensure the effective realization of FPRW at both the national and global levels?

Point No. 2

Chapter 2 provides a summary of some of the achievements of the plan of action on FPRW adopted in 2012. Taking into account achievements and challenges in implementation of the plan of action and the guidance provided in the 2016 evaluation of the impact of the Social Justice Declaration:¹

- (a) What should the Office's priorities be with regard to development cooperation, DWCPs, capacity building, research, standards-related action and the allocation of resources for FPRW?
- (b) What steps should the Office and member States take to further promote the integrated ILO strategy on FPRW?
- (c) What further steps would be required by the Office and member States to give new impetus to the campaign for universal ratification of the eight fundamental Conventions and the Protocol to Convention No. 29?

Point No. 3

Chapter 3 provides information on the rise in references to FPRW in international frameworks. Specific targets in the 2030 Agenda, in particular, place a responsibility on the ILO to help drive and monitor progress towards the effective realization of FPRW.

- (a) How do we ensure that policy coherence is maintained in international forums in relation to FPRW and that they are better integrated in the policies and strategies of other international actors?

¹ ILO: *Advancing social justice: Reviewing the impact of the ILO Declaration on Social Justice for a Fair Globalization*, Report VI, ILC, 105th Session, Geneva, 2016.

- (b) What steps should member States and the Office take in order to mainstream tripartism in international frameworks and to strengthen the capacity of the social partners so that all constituents are fully engaged in SDG processes?
- (c) How can emerging alliances be fully mobilized to make a sustainable positive impact on the realization of FPRW?