



## ILO STANDARDS AND THEIR APPLICATION TO INDIAN AGRICULTURE LABOUR

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### **United Nations and the Law Governing Agricultural Labour:**

International Labour Organization [hereinafter referred as ILO] is a specialized agency of the United Nations in dedication to improve labour's conditions as well as living standards throughout the world<sup>5</sup>. International labour standards are laid down through the ILO in the form of *inter alia*, Conventions and Recommendations. ILO standards span most subjects relevant to labour and the social aspects of development and thus provide guidance to member States for the improvement of national labour legislation and social policy. ILO standards are universal in character and are formulated with sufficient flexibility to take account of variations in conditions and practices in countries at different levels of development.

ILO Conventions are codifications of universally applicable labour standards and have led many countries<sup>6</sup> to accept labour rights as basic rights. However, the ILO Conventions are binding on those member States who have ratified them. While the ratified Conventions work as legal sanction, the other Conventions have the force of moral sanction for the practices of member States. In the 86<sup>th</sup> Session of the International Labour Conference in 1998,

the ILO adopted the "Declaration on the Fundamental Principles and Rights at Work", which was an affirmation of the eight core Conventions. These Conventions are seen as representing core labour standards, which are fundamental to the implementation of other standards. These fundamental principles and rights at work are Right to Organise and Collective Bargaining<sup>7</sup>, Abolition of Child Labour<sup>8</sup>, Elimination of Discrimination<sup>9</sup> and Against Forced Labour<sup>10</sup>. The follow-up mechanism envisaged in the Declaration makes it binding on member States, irrespective of whether the concerned State has ratified the Conventions or not, to submit annual reports to the ILO on the observance of the respective Conventions.

India and United States are the two important countries mentioned in the Global Report of ILO, 2010<sup>12</sup> as key countries with poor track record on ratifying ILO Conventions. Out of the 189 Conventions adopted by the ILO so far, India has unfortunately ratified only 43<sup>13</sup>. Out of the eight "core" Conventions, it has ratified only four<sup>14</sup>. Core Conventions not ratified by India include Conventions on Worst Forms of Child Labour and Trade Union Rights<sup>15</sup>. When ILO has set a target of eliminating all the worst forms of child labour by 2016 Indian Government ironically is still "examining the prospects of ratification of Convention



on child labour". Effective Government intervention is absent. Basic ILO standards should have universal application<sup>16</sup>.

The Government of India has passed labour laws from time to time which recognize the rights of agricultural workers to promote and protect the social and economic interests of workers. These laws are quite in conformity with various ILO Conventions and Recommendations such as Freedom of Association and Protection of the Rights to Organize Convention<sup>17</sup>, Rights to Organize and Collective Bargaining Convention<sup>18</sup>, Equal Remuneration Convention<sup>19</sup>, Discrimination (Employment and Occupation) Convention<sup>20</sup>, Forced Labour Convention<sup>21</sup>, Abolition of Forced Labour Convention<sup>22</sup>, Minimum Age Convention<sup>23</sup>; (viii) Worst Forms of Child Labour Convention<sup>24</sup>, the Safety and Health in Agriculture Convention<sup>25</sup> and Recommendation, Plantations Convention<sup>26</sup>, Rural Workers' Organizations Convention<sup>27</sup>, The Promotion of Co-operatives Recommendation<sup>28</sup>, Labour

Many ILO Conventions apply to all workers. These include, but are certainly not limited to, ILO core labour standards on freedom of association, the right to collective bargaining, non-discrimination, equal pay for men and women workers, the abolition of forced labour, and the elimination of child labour. These core labour standards are often referred to as human rights at work. Not only are they important in their own right, but they also serve as enabling rights. That is, they create conditions to allow access to other rights. Freedom of association is a prime example of that function. The right of workers and employers to establish and join

independent organizations of their own choosing creates the basis on which social dialogue between employers and workers can take place, with a view to regulating terms and conditions of employment through collective agreements. Freedom of association is a fundamental human right which paves the way for improvements in social and labour conditions, for example, through collective bargaining<sup>37</sup>.

Despite nearly universal recognition of the right to freedom of association, legal impediments to the right of agricultural workers to organize remain in a significant number of countries, where national legislation either denies the right to organize in agriculture, or excludes the sector from the relevant legal protections. Some national governments may consider it impossible for their labour administrations to enforce this right in practice in rural areas<sup>39</sup>. Others may consider that the nature of work in agriculture, with its atypical, seasonal or casual employment relationships, makes the sector less accessible to the right to organize.

International labour standards, because they are formulated and adopted by representatives of governments as well as employers' and workers' organizations, offer member States valuable guidance on what minimum standards should apply in the world of work. Not only do ILO Conventions and Recommendations stimulate improvements in national social and labour legislation, but also inspire good practices at the sectoral and enterprise level, as employers and workers integrate their principles into collective agreements.

Given the predominance of women in the agricultural sector notably in



developing countries and their vulnerable situation, it is particularly important that the gender implications of collective bargaining be understood and addressed. There are issues that in practice are of particular concern to women, which can be addressed through collective bargaining, such as equality of opportunity policies, equal pay for work of equal value, maternity leave and benefits, child care issues, reproductive health services. It is also important that the gender implications of apparently neutral issues for collective bargaining be assessed, including regarding wages, leave, overtime, bonus systems since these often in reality impact on women and men differently.

In today's developing countries a typical workweek for agricultural workers may be 70 hours<sup>43</sup>. Recent studies in countries such as Vietnam find that the number of hours worked on farms by children decrease systematically with improvement in parental income<sup>44</sup>.

#### ***International Labour standards supporting the Right to Bargain Collectively***

The right of workers to bargain collectively with their employers is supported by the ILO, Right to Organize and Collective Bargaining Convention, which is also linked to the right to Freedom of Association.

#### ***Hours of Work and International Standards***

Hours of work for waged agricultural workers tend to be long compared with other sectors, often over 45 hours per week, and remain largely unregulated. Hours tend to vary due to a variety of factors such as, for example, seasonal and climatic conditions, peak periods of sowing and harvesting.

#### ***Food Security and Food Sovereignty***

The right to adequate and nutritious food, freedom from hunger as well as the development right to food security is set out in the preamble to the Rome Declaration on World Food Security<sup>47</sup>.

The responsibility of government for providing food security for the world's population is specified in *International Covenant on Economic, Social and Cultural Rights*, including overarching strategies for meeting these entitlements on a global scale. It is especially worth noting the need for wider international co-operation to address issues created by the export and import of food: "The state parties to the present Covenant, recognising the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programs, which are needed to ensure an equitable distribution of world food supplies in relation to need".

The Final Declaration of the World Forum on Food Sovereignty, made the following statement regarding the idea of food sovereignty: "Food sovereignty is the means to eradicate hunger and malnutrition and to guarantee lasting and sustainable food security for all of the peoples"<sup>48</sup>.

#### ***Education and Training for Agricultural Labour:***

Article 6 of the International Covenant on Economic, Social and Cultural Rights specifies government provision of "technical and vocational guidance and training programs" as a requirement for the fulfillment of the right to work. The *Universal Declaration of Human Rights* proclaims that "everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages.



Elementary education shall be made compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit<sup>49</sup>.

### **Traditional, Alternative, and Sustainable Farming Techniques**

Article 11.2(a) of the *International Covenant on Economic, Social and Cultural Rights* sets the broad objective of improving “methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilisation of natural resources.”

The integrated trade union approach to the human rights of agricultural workers also addresses issues related to different agricultural production systems, the availability and affordability of such systems and the safety and sustainability of these production systems<sup>50</sup>.

### **Sound Management of Chemicals in Agriculture**

The Chemicals Convention<sup>51</sup>, 1990 represent international efforts to upgrade the national measures and harmonize regulatory standards. They emphasize the need to establish a coherent national policy of chemical safety ranging from the classification and labeling of chemicals to the control in all aspects of the use of chemicals. Particular emphasis would thus be placed on roles and responsibility of the competent authority, suppliers and employers, as well as duties and rights of workers.

### **Challenge of tackling equality at**

### **work**

*The Convention on Equal Remuneration*, 1951 requires the application of principle of equal remuneration for women and men for work of equal value. It defines equal remuneration for work of equal value as remuneration established without discrimination based on sex, and which requires objective appraisal of jobs on the basis of the work to be performed, as one of the means of giving effect to this Convention with the co-operation of employers' and workers' organizations.

### **Elimination of Discrimination in respect of Employment and Occupation**

*Discrimination (Employment and Occupation) Convention*<sup>52</sup> requires the promotion of equality of opportunity and treatment in relation to employment and occupation and calls on States to declare and pursue a national policy designed to eliminate all forms of discrimination. It defines discrimination as “any distinction, exclusion or preference based on race, colour, sex, religion, political opinion, national extraction or social origin affecting equality of opportunity or treatment in employment and occupation; and covers access to vocational training, employment, and terms and conditions of employment”.

### **Safety and Health in Agriculture**

An important breakthrough in this respect is Article 20 of the *ILO Safety and Health in Agriculture Convention*, 2001<sup>53</sup> on hours of work which states: "Hours of work, night work and rest periods for workers in agriculture shall be in accordance with national laws and regulations or collective agreements". This is the first time in an ILO Convention that the connection between hours of work, rest periods, night work, and health and safety on the job has been made,



reflecting modern thinking and research on issues which were too often neglected in the past.

Human suffering cannot be assigned a monetary value, but the economic losses associated with poor occupational health, safety and environmental standards can. High levels of deaths, accidents and ill-health resulting in lost workdays and increased medical expenses have a considerable negative impact on agricultural productivity and place enormous social and financial burdens on enterprises. The ILO estimates that four per cent of Gross Domestic Product is lost due to fatalities, accidents and work-related diseases. A safe, healthy and environmentally conscious workforce is an essential element of a profitable and sustainable agricultural industry.