

# ILO Reporting Obligation: An Overview

## Abstract

International Labour Standards (ILS) adopted by the ILO are designed to improve the conditions of work people throughout the world. If ILS take the form of Conventions they are binding on member states of the ILO upon ratification. Though ratification is a sovereign act, if a Convention is ratified by member states it gives rise to continuous obligation to implement it at the domestic level. In this regard, the ILO monitors the domestic implementation of Conventions through its supervisory system. As a primary step, such international monitoring is designed to focus on reporting obligation on the part of member states. The reporting obligation is viewed to be crucial not merely in terms of domestic implementation but also in the sense of effectively realizing the object and purpose of the ILO to promote the labour standards at the global level based on social justice.

**Keywords:** ILO, Labour Standards, Reporting System, Fundamental Convention, Ratified Convention.

## Introduction

The International Labour Organization (ILO) was established in 1919 at the Paris Peace Conference primarily with a view to adopt international standards to deal with the problem of labour conditions involving 'injustice, hardship and privation' suffered by work people and to ensure 'fair and humane conditions of labour'.<sup>1</sup> The ILO is aimed at the establishment of universal and lasting peace based on social justice.<sup>2</sup> In order to achieve its objectives, the ILO principally relies on the adoption of international labour standards.<sup>3</sup> The Constitution of the ILO is the basis for the formulation of international labour standards. For maintaining improved labour conditions globally, though ILO's diversified methods considerably emphasize on technical co-operation and education, standard-setting remains the core of its work.<sup>4</sup> It sets the standards through the International Labour Conference, which is the sole ILO body with the authority to adopt standards.<sup>5</sup> International labour standards take the form of international labour Conventions or Recommendations. Occasionally, international labour standards take the form of Protocols, which are partial and optional revisions of or amendments to earlier Conventions.<sup>6</sup> While Conventions are designed to obligate states which ratify them and thereby undertake to implement them at the domestic level, Recommendations are not capable of creating binding obligations for states to implement them, but are envisioned as guidance to action at the domestic level. Nevertheless, Recommendations carry out some obligations in the sense that national competent authorities must examine the action to be taken on them and must report to the ILO on the manner of their application.<sup>7</sup>

The adoption of international standards and their formal acceptance by member states are only the initial stages of the standard-setting work of the ILO. More important, the labour standards have to result in effective measures at the national level for the benefit of work people whose well-being they are intended to protect and promote, and have to help member states build their social policies. The utility of these standards therefore lies in the availability of supervisory machinery for their effective implementation.<sup>8</sup>

The implementation procedure provides for two objectives; first, it seeks to ensure that the obligations undertaken, by- member states- in respect of ratified Conventions are carried out in a satisfactory way; and second, at the same time, it aims generally at promoting the application of international standards independently of the obligations that member states have expressly undertaken.<sup>9</sup> Hence, in order to guarantee the effective implementation of international labour standards, the ILO has built up a system of supervision at the international level.

**Udayakumara  
Ramakrishna B.N.**

Assistant Professor,  
Deptt. of Law,  
Gujarat National Law University,  
Gandhinagar, Gujarat, India.

There are two methods of international supervision of ILO standards: first, international supervision through non-contentious reporting procedures involving the normal reporting obligations, and second, international supervision through contentious procedures involving 'representations' and 'complaints', and technical co-operation programmes to help member states comply with their obligations. The present paper exclusively focuses on reporting obligation under non-contentious normal reporting system. It analyses the obligation of member states for the submission of reports on the application of ILO standards to the International Labour Office, the secretariat of the ILO. It delineates various changes brought in the reporting arrangements since the inception of the ILO.

## Review of Literature

Dahan, Lerner and Milman-Sivan<sup>10</sup> outlining the ILO's shared responsibility based on tripartite structure view that ILO reporting system is yet a statist model. Member state is only obligated to supply regular reports on the implementation of ratified Conventions. They call for a radical change in the reporting system that it is the appropriate time to involve workers' and employers' organizations more deeply in the reporting process.

Commenting on the significance of reporting procedure Moore, Dannreuther and Möllmann<sup>11</sup> view that reporting obligation also requires member states that have failed to ratify ILO Conventions to regularly report on the position of their law and practice on such unratified Conventions, while stating the difficulties encountered by them in ratifying such Conventions.

While seeing a connection between ratification of a Convention and reporting obligation Trebilcock<sup>12</sup> observes that once a member state has used its free choice to ratify a Convention with a reporting regime, it delegates its authority to participate in it. Accordingly, member state is obligated by ILO Constitution to report on the domestic measures that it has adopted to give effect to voluntarily ratified Convention.

Baccini and Koenig-Archibugi<sup>13</sup> while underlining the rigor of ILO supervisory system convey that member states are subject to demanding reporting obligations, and if states are found to be violating their obligations, they are 'named and shamed'. Further they indicate that member states are obliged to supply reports to the ILO even on unratified Conventions.

Alston<sup>14</sup> opines that ILO monitoring mechanism on the domestic implementation of the Conventions have not been undermined and remain valid. While ratification of certain Conventions continues to be an issue, he views that reporting obligation remains largely intact.

## Objectives of the Study

1. To examine the nature of reporting obligation of member states provided under the ILO system of supervision of international labour standards
2. To identify the role of employers' and workers' organizations in the reporting obligation of

member states towards the ILO supervisory system

## The Obligation to Supply Reports

The Constitution of the ILO provides for two types of reporting obligations: reporting under Articles 22 and 35, and reporting under Article 19. Member states are under an obligation to supply reports to the International Labour Office on ratified Conventions under Articles 22 and 35. On the other hand, there is an obligation upon member states to supply reports to the International Labour Office on unratified Conventions and Recommendations under Article 19.

### Ratified Conventions

Article 22 of the Constitution providing for basic reporting obligation on the part of ratifying member states requires them to supply annual reports to the ILO.<sup>15</sup> Such reports are to be made by governments to International Labour Office. In this regard, the Constitution provides that they 'shall be in such form and shall contain such particulars as the Governing Body may request', and it requires each member state to communicate copies of these reports to the organizations recognized for the purpose of representation at the International Labour Conference.<sup>16</sup>

When the ratifications essential to bring a Convention into force have been registered, the International Labour Office submits to the Governing Body, the executive wing of the ILO, for its approval a draft form of annual report for the Convention.<sup>17</sup> Upon approval by the Governing Body, this form becomes standard form of annual report for the Convention prescribed by the Governing Body under Article 22 of the Constitution and member states bound by the Convention are under a legal obligation<sup>18</sup> to provide the particulars of the measures which they have taken to give effect to their obligations which are specified in the form.<sup>19</sup> As and when requested by the Governing Body, the report also contains detailed information in the form of reply to the observations of ILO supervisory bodies, i.e., the Committee of Experts, and the Conference Committee on the Application of Standards. For example, India in its report sent in January 2001 on the Forced Labour Convention, 1930 (No.29) for the period ending 31 May 2000, supplied replies to the observations of the Committee of Experts made in 1998 and 1999, and comments made by the Conference Committee during the same period.

Each report form contains both general questions and more detailed special questions. The general questions ask for 'a list of the laws and regulations by which effect is given to the provisions of the Convention, accompanied by the texts where these are not already communicated to the international Labour Office; particulars of judicial decisions, extracts from factory inspectors' reports and statistics which relate to the application of the Convention; information as to the legal effect of ratification and manner in which effective compliance is secured in any case in which there would appear to be discrepancy between the national law and the requirements of the Convention; and a general

appreciation of the manner in which the Convention is applied, mentioning any difficulties which have occurred in connection with its application and any observations relating to its application which have been received from employers' and workers' organizations'.<sup>20</sup> The special questions ask for more detailed information concerning the manner in which particular provisions of the Convention are applied, and frequently relate to the manner in which matters which the Convention leaves to the discretion of members are dealt with. Both the general and the special questions are revised from time to time in the light of experience.<sup>21</sup>

Under Article 35 of the Constitution, member states which are responsible for the international relations of non-metropolitan territories have three main obligations: first, the basic obligation to apply the Conventions they ratify to all their territories except where the subject-matter of the Convention is within the self-governing powers of the territory or is inapplicable owing to the local conditions or subject to such modifications as may be necessary to adopt the Convention to local conditions; second, the obligation to make, as soon as possible after ratification, a declaration indicating the extent to which they undertake that the provisions of the Convention shall be applied; and third, the obligation to report annually on the position in all their territories,<sup>22</sup> including those to which the ratified Conventions have not been declared applicable.<sup>23</sup> It is clear that once a member state which is responsible for the international relations of non-metropolitan territories, ratifies a Convention, then according to Article 35(6) of the Constitution that member state accepts the obligations contained in the Article 22 under which that is bound to submit annual reports on ratified Conventions. At present, Article 35 is of much less relevance due to the emergence of new states which assume the obligations according to the international law of state succession.

### Unratified Conventions

Member states are under an obligation to report on unratified Conventions and recommendations by virtue of Article 19 paragraphs 5-7 of the Constitution.<sup>24</sup> This provision requires them to make such reports on Conventions they have not ratified<sup>25</sup> and on Recommendations<sup>26</sup> as may be requested by the Governing Body of the ILO. In these reports member states should: (i) indicate the position of their law and practice in regard to the matters dealt with in the standards; (ii) show the extent to which effect has been or is proposed to be given to any of the provisions of the standards; and (iii) state the difficulties which prevent or delay the ratification of the Convention or the application of the Recommendation.<sup>27</sup>

It is relevant to note that there is no obligation for member states under Article 19 to implement the provisions of unratified Conventions and Recommendations but only to report on the progress made or the difficulties encountered in respect of the application of them which is left to member states. Under Article 22, member states are

under the regular reporting obligation, which is subject to the changes made by the Governing Body; whereas, under Article 19, it is obligatory to report only upon the request made by the Governing Body at appropriate intervals. Federal states have a similar obligation to report on the law and practice of both the federation and the constituent states, provinces or cantons.<sup>28</sup> The Article 19 obligation is currently used as the basis for: (i) the production of General Survey concerning different standards selected yearly by the Governing Body; and (ii) the reporting called for in the follow-up to the ILO's Declaration on Fundamental Principles and Rights at Work, 1998.<sup>29</sup>

Every year governments are asked to submit reports to the International Labour Office on the effect given to certain unratified Conventions and to certain Recommendations selected by the Governing Body.<sup>30</sup> The standards selected for reporting usually concern topics of current interest<sup>31</sup> and are grouped according to subject matter. These reports are based on special forms drawn up by the Governing Body and afford a chance to review the position in each country with regard to the topic selected.<sup>32</sup> The Committee of Experts makes a General Survey of national law and practice in regard to the instruments which have been the subjects of request for reports under Article 19 of the Constitution.

### Purpose of Reporting

The ILO reporting obligation being part of regular supervisory mechanism helps in establishing the accountability of member states<sup>33</sup> in the domestic application of international labour standards. Reporting is at the heart of international supervision of the domestic implementation of treaty obligations.<sup>34</sup> The central purpose of the reporting system is to promote compliance by member states with the obligations which arise under various international labour standards. In order to comply with reporting guidelines, member states either in the reports themselves, or in the oral dialogue with the supervisory bodies are constrained to publicly articulate government policy on a range of issues.<sup>35</sup> The exercise of drafting a report therefore can itself assist a state in identifying and clarifying the extent of its obligations under the instrument in question.<sup>36</sup> The reporting fulfils the function of initial review, monitoring, policy formulation, public scrutiny, evaluation, acknowledgement of problems and information exchange. It is to be noted that the act of reporting does not purport to infringe domestic sovereignty; it is rather a legal obligation upon the government of Member States.<sup>37</sup>

The procedure of annual reports on the application of ratified Conventions has been essentially a 'means of facilitating the mutual verification' by all concerned of the extent to which the obligations assumed by the ratification of Conventions are being fulfilled.<sup>38</sup> By facilitating such verification, it has made it possible to maintain a constant moral pressure directed towards securing satisfactory compliance. The procedure is not in any real sense a procedure for the enforcement of the provisions of Conventions, but the experience which has been

acquired over the years would appear to show that this type of mutual verification of the fulfilment of obligations is a form of supervision of application which can, under favourable conditions, achieve results of value even when there is no physical sanction in the background.<sup>39</sup>

### **Role of Employers' and Workers' Organizations in Reporting Mechanism**

Being part of the ILO's tripartite structure the most representative employers' and workers' organizations have an important role to play in assessing whether Conventions and Recommendations are being satisfactorily implemented within their countries. This role of the employers' and workers' organizations finds its basis initially in Article 23(2) of the Constitution,<sup>40</sup> under which a copy of all the information and report communicated to the International Labour Office must be communicated by the government concerned to the 'most representative organizations'<sup>41</sup> of employers and workers in the country. Article 23(2) is applicable to both reports on ratified Conventions under Article 22 and reports on unratified Conventions and Recommendations under Article 19. Communication of reports to employers' and workers' organizations may be done either prior to finalization of the report, inviting comments which can be taken into account, or at the same time as the reports are sent to the ILO. In any event, when forwarding its reports to the ILO, the government should indicate the organizations to which communication has been made. Those organizations may make any observations they wish on the application of ratified (and unratified) Conventions.<sup>42</sup> In practice, if the government sends the reports and information to the organizations of employers and workers all of them sometimes may not send their observations to the government.

Observations may be received by the government directly from an organization, concerning the implementation of a ratified (and unratified) Convention or relevant legislation. They may or may not relate specifically to one of the government's reports. Full details should be sent in the government's report, together with the government's response if any. Observations may also alternatively be received by the International Labour Office from an organization; in this case, the International Labour Office acknowledges receipt and simultaneously forwards a copy to the government concerned, so that it might respond.<sup>43</sup>

In case of failure by the government to carry out the obligation under Article 23(2), the ILO is requested by the Committee of Experts to send a reminder to the government pointing out the omission and asking it to indicate whether copies of the reports have been communicated to the representative organizations, and if so, the names of those organizations. If, in spite of the

reminder, the government still fails to comply with the above requirement, the Committee of Experts may formulate a comment, usually in the form of a direct request, drawing attention to the matter and expressing the hope that in future all reports will indicate the representative employers' and workers' organizations to which copies of such information and reports have been communicated.<sup>44</sup>

Besides, paragraph 5(c) of Recommendation No. 152<sup>45</sup> provides for consultation of representatives of employers' and workers' organizations on questions arising out of reports to be made on unratified (and ratified) Conventions and Recommendations. In addition, Article 5(1)(c) of Convention No. 144<sup>46</sup> and paragraph 5(d) of Recommendation No. 152 provide for tripartite consultations at appropriate intervals to consider what measures might be taken to promote implementation and ratification as appropriate of Conventions which have not been ratified and Recommendations to which effect has not been given.<sup>47</sup>

As a complementary for this, at each session, the Committee of Experts draws the attention of governments to the role that employers' and workers' organizations are called upon to play in the application of Conventions and Recommendations and to the fact that numerous Conventions require consultation with employers' and workers' organizations, or their collaboration in a variety of measures.<sup>48</sup> While emphasizing the employers' and workers' role, the Committee of Experts in its General Survey on the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), in 1999, noted that tripartite dialogue is essential in carrying out all the work of the ILO.<sup>49</sup>

### **Survey of Changes Brought under the Reporting System**

The obligation for member states to submit annual reports on the application of ratified Conventions was written into the original ILO Constitution. The Director-General of the ILO was required to place a summary of these reports before the International Labour Conference as to keep it informed of the measures taken to make ratified Conventions effective. But it was soon realized that the International Labour Conference itself was not equipped to undertake any searching examination of compliance with such obligations. In 1927, two supervisory bodies, a Committee of Experts and a tripartite Conference Committee, were set up in this regard.<sup>50</sup> At its first session itself, in 1927, the Committee of Experts had been called upon to examine 180 reports on the application of ratified Conventions from 26 states. Later owing to ratification of Conventions by member states the number of reports was gradually being increased. Besides, both the Committees had become responsible for examining reports on unratified Conventions and

Recommendations specially requested each year from member states by the Governing Body.<sup>51</sup>

The steadily heavier growth in the workload on the supervisory bodies, as well as on member states, made it necessary to introduce a series of measures simplifying the system of checks on the application of ratified Conventions in the late 1950s. Some of these measures involved lengthening the intervals between the reports. In 1959 it was decided to introduce a more flexible formula instead of the automatic requirement that governments of member states should report every year on the application of ratified Conventions. Under the new procedure, governments were needed to supply detailed reports on ratified Conventions only every two years, but the obligation to send annual reports continued in cases where the supervisory bodies considered that there were serious discrepancies and it was therefore necessary to exercise more continuous supervision.<sup>52</sup> Again in 1968 a proposal was made to the Conference Committee that the interval between the reports should be lengthened further to three years. At that time it was opposed by the workers and several government members of the Conference Committee on the ground that it would lead to a slackening of the supervisory procedure, and hence, the proposal was withdrawn.<sup>53</sup>

In view of the continuing increase of the number of reports, an in-depth review of the ILO's standard-setting activities was undertaken by the Governing Body in 1974 to decide whether there should be a further spacing out of reports on ratified Conventions. In November 1976 the Governing Body approved a new selective system of reporting under which reports could be requested at yearly, two-yearly or four-yearly intervals.<sup>54</sup> Under the revised system, a government's first report on a ratified Convention was due, as earlier, in the year following the date of its entry into force for the country concerned. The next two reports had become due at two-yearly intervals. After that, for a limited group of Conventions<sup>55</sup> in particular, those relating to fundamental human rights, the reporting continued at two-yearly intervals and for other Conventions it was in principle at four-yearly intervals.

The adjustments made in 1976 brought benefits for more than a decade, but then the supervisory bodies again seemed to be reaching saturation point. The number of reports requested under Articles 22 and 35 totalled 2,149 detailed reports for the March 1993 session of the Committee of Experts, and government representatives had for several years claimed that the amount of work required by them had become excessive. After consultation with the parties involved, the Governing Body decided at its November session in 1993 to introduce a series of changes in the reporting procedure.<sup>56</sup>

The Governing Body decided to modify the reporting system in order to pursue two principal objectives: (i) to maintain and improve the quality of the supervisory machinery-and (ii) to focus the requests for reports on cases where serious problems of application arise. The changes made were intended to diminish the workload both on constituents and the Organization, and it was decided to evaluate the experience after five years' operation in order to make any further adjustments necessary before the new arrangements were put definitively into operation.<sup>57</sup> Hence, the modifications approved by the Governing Body in November 1993 came into force in 1996 for a trial period of five years. The reports were to be reached to the International Labour Office between 1 June and 1 September at the latest each year. Conventions for reporting were grouped either in 'Priority Conventions' or in 'Other Conventions' according to their subject. According to the modification made in 1993 by the Governing Body, first detailed reports were requested in the year following the coming into force of a Convention in a given country. A second detailed report was automatically requested two years after the first.<sup>58</sup>

### Periodic Reports

Reports, subsequent to the first and second detailed reports, were requested periodically either two-yearly or five-yearly on the understanding that the Committee of Experts may request detailed reports outside the normal periodicity. The detailed reports should be made at two-year intervals on a smaller group of ten 'Priority Conventions'.<sup>59</sup> Earlier this group had contained twenty Conventions. The Governing Body accepted the proposal to extend the four-year reporting cycle to a five-year interval for simplified reports, subject to safeguards, for all the others. The decision included a notation that the Governing Body could periodically review the list of priority Conventions, which it subsequently did in introducing the two principal child labour Conventions<sup>60</sup> into the two-year cycle.<sup>61</sup> The Governing Body at that time introduced a number of safeguards to ensure that the supervisory mechanism would remain up to date with important developments in application at the national level. These included the requirement on governments to send detailed reports in the event of major changes in the application of Conventions; and the ability of the supervisory bodies to request additional reports when needed.<sup>62</sup>

### Non-Periodic Reports

Non-periodic detailed reports on the application of a ratified Convention can also be requested in the following circumstances: (i) when the Committee of Experts, on its own initiative or the Conference Committee, so requests; (ii) when the Committee of Experts is called on to consider the follow-up to

proceedings instituted under Article 24 or 26 of the Constitution or before the Committee on Freedom of Association; (iii) when the comments have been received from national or international employers' or workers' organizations and the Committee of Experts considers that a detailed report is warranted in the light of the government's comments in reply or the fact that the government has not replied; and (iv) when the report is supplied or no reply is given to comments made by the supervisory bodies.<sup>63</sup>

### **Present Reporting Obligation**

In November 2001 and March 2002, the Governing Body approved a new reporting obligation that came into force in 2003 for a period of five years. Accordingly, reports on ratified conventions would become due every two years for fundamental and governance Conventions or every five years for rest of the Conventions, unless they would be specifically requested at shorter intervals. However, in November 2009 at its 306<sup>th</sup> Session the Governing Body decided to extend the reporting cycle from two to three years for the fundamental as well as governance Conventions.<sup>64</sup> This new reporting obligation came into force in 2012.<sup>65</sup> Nonetheless, if necessary, the Committee of Experts or the Conference Committee may request reports outside of the regular reporting cycle.<sup>66</sup>

### **The ILO Declaration on Fundamental Principles and Rights at Work, 1998**

On 18 June 1998, at its 86<sup>th</sup> session, the International Labour Conference adopted the Declaration on Fundamental Principles and Rights at Work. The Declaration reiterates the binding nature of the Philadelphia Declaration of 1944, which reaffirmed the ILO objectives, and requires compliance of the fundamental (core) Conventions covering the aspects of freedom of association, forced labour, discrimination in employment, and child labour, even by those countries that have not ratified the concerned Conventions.<sup>67</sup>

There is an annual follow-up in which states are asked to provide reports every year on each of the fundamental Conventions which they have not ratified. The purpose of these reports is to provide an opportunity to review every year by means of simplified procedures to replace the four-year review, introduced by the Governing Body in 1995, the efforts made in the four areas of fundamental rights and principles specified in the Declaration by States which have not ratified the relevant Conventions.<sup>68</sup> This process concerning unratified fundamental Conventions is based on Article 19 paragraph 5(e) of the Constitution under which member states are required to report, when requested by the Governing Body, on the position of their law and practice in regard to the matters dealt with in a Convention which they have not ratified.<sup>69</sup>

The International Labour Office compiles these annual reports and the Governing Body reviews them. The procedure envisages the appointment by the Governing Body of a Group of Experts to present an introduction to the reports received drawing attention to any aspects which might call for a more in-depth discussion. The ILO, in turn, will prepare a global report which will cover each year one of the four categories of fundamental principles and rights. The report will be drawn under the responsibility of the Director-General and will be submitted to the International Labour Conference for tripartite discussion.<sup>70</sup>

### **Conclusion**

The observance of obligations in respect of Conventions and Recommendations can be maintained and strengthened through a reporting procedure. Ratification of a Convention by member states may not necessarily be followed by an effective application. The reporting procedure as a system is based on the supply of reports by member states. The obligation under Article 22 to supply reports itself pressurizes the government of member states to undertake effective implementation of the ratified Convention as a whole. For the purpose of domestic application of a Convention it is up to member states to give effect to the Convention either directly or through enactment of implementing legislation. When such application is monitored by supervisory bodies at the international level, it is possible to get member states effectively complied with the obligations in respect of the concerned Convention. Therefore, it is found that member states are obliged to supply reports to the International Labour Office in which they have to state the way of implementation of concerned Convention. Regarding this, it is necessary to note that drafting a report is an important matter. The exercise of drafting a report can itself assist member states in finding out the extent of their obligations under the instrument in question. Though ratification is within the purview of the member states, obligation to send reports on unratified instruments is continued. For submission of reports on unratified Conventions and Recommendations, the governments of member states have to follow the same procedure like that one followed in the case of ratified Conventions though contents of the reports may be varied. Besides, it is evident that the reporting obligation of member states is based on tripartite dialogue, which means that ILO Constitution stipulates a definitive role to play in the reporting obligation for employers' and workers' organizations. As a whole, the paper having analysed various changes brought under the reporting system comes to the conclusion that reporting obligation is an indispensable procedure for preserving espoused international responsibility by member states, and this obligatory process will immensely help them in effectively implementing international labour standards at the domestic arena.

### **References**

*Article 19(5)(e) of the Constitution provides that, 'if the Member does not obtain the consent of the*

authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member except that it shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Convention'

Article 19(7)(b)(iv) and (v); see Jenks, n.19, p.150.

Article 22 of the Constitution provides that, 'Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party'.

Article 23(2) of the Constitution. This shows that there is no reporting obligation before the concerned Convention comes into force even though the Convention was adopted by the International Labour Conference. This is the stage where annual reporting obligation begins for a particular Convention under Article 22 of the Constitution.

Article 23(2) provides that, 'Each Member shall communicate to the representative organisations recognised for the purpose of article 3 copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22.'

Article 35(6) the Constitution provides that, 'Acceptance of the obligations of a Convention in virtue of paragraph 4 or paragraph 5 shall involve the acceptance on behalf of the territory concerned of the obligations stipulated by the terms of the Convention and the obligations under the Constitution of the organisation which apply to ratified Conventions'

Anne Trebilcock, 'Setting the Record Straight about International Labor Standard Setting', *Comp. Labor Law & Pol'y Journal*, vol. 31, 2010, pp.101-118.

Annex II (A) of the ILO Declaration on Fundamental Principles and Rights at Work, 18 June 1998.

*International Law*, vol. 34, 2013, pp.675-743.

C. Wilfred Jenks, *The International Protection of Trade Union Freedom* (London: Stevens and Sons, 1957), p.145. *Ibid.*

C.S. Venkata Ratnam, *Globalisation and Labour Management Relations: Dynamics of Change* (New Delhi: Response Books, 2001), p.287

Daniel S. Ehrenberg, 'The Labor Link: Applying the International Trading System to Enforce Violations of Forced and Child Labor', *Yale Journal of International Law*, vol.20, 1995, p.383.

*The obligation to report on unratified Conventions and Recommendations under Article 19 was imposed upon member states through the amendments made to the Constitution of the ILO in 1946, which came into force in 1948.*

David Tajzman and Karen Curtis, *Freedom of Association: A User's Guide* (Geneva: International Labour Office, 2000), p.51.

For example, subjects for General Survey by the Committee of Experts include minimum age (in 1981); working time, equality of remuneration, protection of the working environment (in 1987); freedom of association and collective bargaining (in 1994); and migrant workers (in 1999); hours of work (in 2005); eradication of forced labour (in 2007); fundamental conventions (in 2012); and instruments concerning occupational safety and health (in 2017).

Francis Wolf, 'Human Rights and the International Labour Organisation', in Theodor Meron (ed.), *Human Rights in International Law: Legal and Policy Issues* (Oxford: Clarendon Press, vol.2, 1984), p.275. Valticos, n.7, p.21

Gerry Rodgers, Eddy Lee, and others, *The International Labour Organization and the quest for social justice, 1919-2009* (Geneva: International Labour Organization, 2009),

*Handbook of Procedures Relating to International Labour Conventions and Recommendations* (Geneva: International Labour Office, 2012), p.2. It is relevant to note that till date the ILO has adopted 189 Conventions, 205 Recommendations and 6 Protocols. Nicolas Valticos, 'The International Labour Organisation: Its Contribution to the Rule of Law and the International Protection of Human Rights', *Journal of the International Commission of Jurists*, vol.9, no.2, 1968, p.7.

*Handbook of Procedures Relating to International Labour Conventions and Recommendations* (Geneva: International Labour Office, 1998), paragraph 38, p.16. *Ibid.*, paragraph 39.

*Handbook of Procedures*, n.42, paragraph 49, p.20.

*Handbook of Procedures*, n.6, paragraph 35, p.20. It is pertinent to note that at present the workload for regular reporting procedure is augmented due to increase in membership of states and in ratification of Conventions; nevertheless, the corresponding staff involved in the monitoring mechanism remain inadequate; see Jean-Michel Servais, 'The Right to Take Industrial Action and the ILO Supervisory Mechanism Future', *Comp. Lab. L. & Pol'y J.*, vol.38, 2017, p.390.

Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III, Part 1A, International Labour Conference, 106<sup>th</sup> Session, 2017, p.11.

K.T. Samson, 'The Changing Pattern of ILO Supervision', *International Labour Review*,

- vol. 118, no.5, 1979, p.569. *Ibid.*, p.570. Valticos, n.3, p.232.
- ILO Law on Freedom of Association: Standards and Procedures (Geneva: International Labour Office, 1995), p.156.
- ILO Law on Freedom of Association, n.30, p.161.
- Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976. Tripartite Consultation (International Labour Standards) Convention, 1976.
- ILO Law on Freedom of Association, n.30, p.157.
- In other words, the functions of the ILO can be summed up in three words, "legislation", "information", and "technical assistance"; see Sunder Raman, *ILO: Role of a Pace-Setter* (Delhi: Khosla Publishing House, 1978), pp.21-22.
- Leonardo Baccini and Mathias Koenig-Archibugi, 'Why do states commit to international labour standards?: interdependent ratification of core ILO conventions, 1948-2009, *World Politics*, vol.66, 2014, pp.446-490.
- Limited group of Conventions for reporting at two-yearly intervals were; basic human rights Conventions (freedom of association, equality of opportunity and treatment in employment and, abolition of forced labour), Convention relating to employment policy, labour inspection, migrant workers, and the Convention on tripartite consultation in regard to international labour standards.
- Valticos, n.23, p.277.
- M.A. Kishore, 'Monitoring International Protection of Human Rights through Reporting System', in Abdulrahim P. Vijapur and Kumar Suresh (eds.), *Perspectives on Human Rights* (New Delhi: Manak Publications, 1999), p.346.
- Michael O'Flaherty, *Human Rights and the UN Practice Before the Treaty Bodies* (London: Sweet and Maxwell, 1996), p.2.
- Ibid.*, p.1.
- Naorem Sanajaoba, 'International Dimensions of Human Rights and International Obligations of India', *Journal of the Indian Law Institute*, vol.40, nos. 1-4, 1998, p.100.
- N. Valticos and G. von Potobsky, *International Labour Law* (Boston: Kluwer Law and Taxation Publishers, 1995), pp.275-276.
- Nicolas Valticos, 'Fifty Years of Standard-Setting Activities by the International Labour Organisation', *International Labour Review*, vol.100, 1969, p.201.
- Philip Alston, 'Core Labour Standards' and the Transformation of the International Labour Rights Regime', *European Journal of International Law*, vol.15, 2004, pp.457-521.
- Phoebe Moore, Charles Dannreuther and Christian Möllmann, 'The Future and Praxis of Decent Work', *Global Labour Journal*, vol.6, 2015, pp.127-137. Sanajaoba, n.33. Jenks, n.19, p.492. *ibid.*, p.493.
- Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III, Part 1A, International Labour Conference, 86<sup>th</sup> Session, 1998, p.34.
- Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III, Part 1A, International Labour Conference, 90<sup>th</sup> Session, 2002, p.41.
- Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III, Part 1A, International Labour Conference, 105<sup>th</sup> Session, 2016, p.11.
- See Virginia A. Leary, 'Labor', in Oscar Schachter and Christopher C. Joyner (eds.), *United Nations Legal Order* (Cambridge: Grotius Publications, vol.1, 1995), p.476. The ILO was originally set up as part of the League of Nations but later survived its parent body. When the United Nations (UN) was established after the World War-II, the ILO entered into an agreement with the UN in May 1946, through which it became a specialised agency of the UN; see L.R. Verma, 'India and the International Labour Organisation', in J.N. Mongia (ed.), *Readings in Indian Labour and Social Welfare* (Delhi: Atma Ram and Sons, 1980), p.621.
- The expression 'most representative organisations' finds its origin in Article 3(5) of the Constitution. According to Article 3(5) the member states undertake to nominate non-Government delegates and advisers chosen in agreement with the industrial organisations if such organisations exist, which are most representative of employers or workpeople, as the case may be, in their respective countries; see Bernard Beguin, 'ILO and the Tripartite System', *International Conciliation*, no.523, 1959, pp.416-418. Governing Body Document of the International Labour Office, GB282/LILS/5, 282<sup>nd</sup> Session, November 2001, paragraph 4, p.2. Valticos, n.23, p.277.
- Ten 'Priority Conventions' are: (i) Forced Labour Convention, 1930 (No.29); (ii) Abolition of Forced Labour Convention, 1957 (No. 105); (iii) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); (iv) Right to Organise and Collective Bargaining Convention, 1949 (No. 98); (v) Equal Remuneration Convention, 1951 (No.100); (vi) Discrimination (Employment and Occupation) Convention, 1958 (No. 111); (vii) Labour Inspection Convention, 1947 (No. 81); (viii) Labour Inspection (Agriculture) Convention, 1969 (No. 129); (ix) Employment Policy Convention, 1964 (No. 122); and (x) Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).
- Two principal child labour Conventions are: (i) Minimum Age Convention, 1973 (No.138); and (ii) Worst Forms of Child Labour Convention, 1999 (No.182).

*Under Article 19(6)(d) of the Constitution member states are with similar obligation in respect of Recommendations like that one with Article 19(5)(e). As the Recommendations are not open for ratification, member states in their reports have to show the extent of the application of the provisions which they deem necessary. Valticos, n.23.*

*Yossi Dahan, Hanna Lerner & Faina Milman-Sivan, 'Shared Responsibility and the International Labour Organization', Michigan Journal of /ilo/law/lablaw.htm, 26 July 2002.*