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COMISIÓN DE DERECHOS HUMANOS
Subcomisión de Promoción y Protección
de los Derechos Humanos
55º período de sesiones
Temas 3, 4 y 5 del programa provisional

ADMINISTRACIÓN DE JUSTICIA, ESTADO DE DERECHO Y DEMOCRACIA

DERECHOS ECONÓMICOS, SOCIALES Y CULTURALES

PREVENCIÓN DE LA DISCRIMINACIÓN

Memorando presentado por la Oficina Internacional del Trabajo

Nota de la secretaría

La secretaría de la Subcomisión de Promoción y Protección de los Derechos Humanos tiene el honor de transmitir el memorando* presentado por la Oficina Internacional del Trabajo (OIT) en relación con los temas 3, 4 y 5 del programa provisional del 55º período de sesiones de la Subcomisión.

* El memorando se reproduce en el anexo como se recibió, en el idioma en que se presentó únicamente.

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Annex

MEMORANDUM SUBMITTED BY THE ILO

Introduction

1. The present memorandum submitted by the International Labour Office (ILO) to the fifty-fifth session of the Sub-Commission for the Promotion and Protection of Human Rights contains general information on ILO activities related to human rights, as well as specific points on issues of relevance to items 3, 4 and 5 of the provisional agenda.[1] The ILO is working for the protection and promotion of fundamental rights and freedoms in a number of areas through standard-setting, its supervisory system, technical assistance and policy advice. The promotion and realization of fundamental principles and rights at work, including normative action, is one of the strategic objectives of the ILO. Gender equality issues are being addressed as a cross-cutting objective.

2. The purpose of the memorandum is to draw the Sub-Commission's attention to a number of ILO activities, to inform its considerations and to facilitate its work. Naturally, a selection of the most pertinent and recent developments had to made. The memorandum is part of the ILO's commitment to engage in an active partnership with the United Nations on human rights matters. It hopes that the memorandum will be a useful tool to the members of the Sub-Commission, observers and non-governmental organizations, serving as a source of information as well as a reference guide. The International Labour Office will be glad to amplify on this note on request.

I. GENERAL INFORMATION

A. Ratification of ILO Conventions

3. The trend towards increased ratification of ILO Conventions is continuing. In particular there has been a large number of ratifications of Conventions on subjects relating to concerns of the Sub-Commission. This has partly been the result of the ratification campaign launched by the Director-General following the World Summit for Social Development (Copenhagen, 1995) for the eight fundamental human rights Conventions of the ILO (Nos. 29 and 105 concerning forced labour, Nos. 87 and 98 on freedom of association and collective bargaining, Nos. 100 and 111 on discrimination, and Nos. 138 and 182 on child labour). In addition, the 1998 Declaration on Fundamental Principles and Rights at Work and its Follow-up has had a positive impact on the ratification of the fundamental human rights Conventions. The ILO Regional and Sub-Regional Offices follow up governments' indications on ratifications, and assistance in overcoming obstacles to ratification is made available. With the rising number of ratifications of these Conventions, action is increasingly focusing on better application, including through legislative reform, training and capacity building, awareness raising, and gender mainstreaming.

4. The table below summarizes the ratifications as of 16 June 2003 of those among the 185 ILO Conventions which are of special relevance for human rights[ii], while countries having ratified since the last memorandum[iii] are listed in the Annex. Attention is drawn to the high recent ratification figure for the Conventions on discrimination, and especially on child labour, during the last year.

Convention	Total ratifications	Since last memorandum
Forced Labour		
No. 29	162	3
No. 105	159	5
Discrimination		
No. 100	161	8
No. 111	159	10
No. 156	34	1
Freedom of Association		
No. 87	142	6
No. 98	153	4
Migrant Workers		
No. 97	42	1
No. 143	18	-
Indigenous and Tribal Peoples		
No. 107	27	No longer open for ratification
No. 169	17	1
Minimum Age		
No. 138	127	18
No. 182	142	59
Vocational Rehabilitation		
No. 159	75	2

B. Standard-setting activities

The Promotion of Cooperatives Recommendation, 2002 (No. 193)

5. The International Labour Conference adopted at its 90th Session the Promotion of Cooperatives Recommendation, 2002 (No. 193). The ILO views cooperatives as important instruments to advance economic, social and cultural rights, as well as the right to development, through improving the living and working conditions of women and men globally. Cooperatives create greater opportunities for women and men to secure decent employment and income by enabling their members to combine resources, skills and talents. In doing so, they are an effective tool for participation in economic and social development, making essential infrastructure and services available in areas neglected by the state and investor-driven enterprises. Recommendation No. 193 calls for specific measures to assist cooperatives worldwide, recommends that Government should provide a supportive policy and legal framework, underlines the role of workers' and employers' organizations and establishes a framework for international cooperation. It replaces the Cooperatives (Developing Countries) Recommendation, 1966 (No. 127).

The List of Occupational Diseases Recommendation, 2002 (No. 194)

6. Another instrument adopted by the International Labour Conference at its 90th Session, is the List of Occupational Diseases Recommendation, 2002 (No. 194). The instruments focuses on strengthening the identification, recording and notification procedures for occupational accidents and diseases, with the aim of identifying their causes, establishing preventive measures, promoting the harmonization of recording and notification systems, and improving the compensation process in the case of occupational accidents and occupational diseases. The Recommendation also establishes a simplified procedure for updating a list of occupational diseases within the ILO framework.

The Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)

7. This instrument adopted by the International Labour Conference at its latest session in June 2003 aims to improving the security of seafarers' identification by up-dating and revising the Seafarers' Identity Documents Convention, 1958 (No. 108).

Standards under preparation

8. At its 280th Session (March 2001) the ILO Governing Body decided to place the question of human resources training and development on the agenda the International Labour Conference with a view to adopted a new standard in 2004 to revise the Human Resources Development Recommendation, 1975 (No. 150). At its 93rd session in June 2003 Conference discussed a preliminary report prepared by the Office entitled "Learning and training for working the knowledge society" which is available on the ILO's web site, and asked the Office to prepare a draft instrument for adoption in 2004. Also in June 2004, in the context of a general discussion on occupational safety and health, several proposals were adopted which may lead to standard setting in several respects.

C. Supervision of standards

9. The application of ILO instruments is promoted through its supervisory system, hand in hand with technical assistance and cooperation. The Committee of Experts on the Application of Conventions and Recommendations continuously examines the application of ILO standards in law and practice, based on reports provided by governments, as well as observations from workers' and employers' organization. Once a year, it issues comments in the form of "direct requests" and "observations" in which it raises questions, notes progress, and highlights remaining difficulties and problems. The observations are published in the report of the Committee of Experts, which is submitted to each year the International Labour Conference for discussion in its Committee on the Application of Standards. In addition to this regular supervisory machinery, there are two constitutional complaints special procedures (representations under article 24 and complaints under article 26), as well as the possibility to lodge complaints with the Committee on Freedom of Association. The results of supervisory process are also available on-line through the ILOLEX database (www.ilo.org), searchable by Convention, country, as well as full text word search. ILOLEX also features the Handbook of procedures relating to international labour Conventions and Recommendations. A complete collection of ILO instruments is available on CD-ROM as "International Labour Standards Electronic Library 2003 (ILSE)".

D. Application by Myanmar of the Forced Labour Convention, 1930 (No. 29)

10. It is recalled that the International Labour Conference decided at its 88th (2000) Session to apply article 33 of the Constitution which allows it to take "such measures as it may deem wise and expedient" to secure the observance of the recommendations of the 1998 Commission of Inquiry. Since then the Conference Committee on the Application of Standards has held three special sittings on Myanmar concerning the application of Convention No. 29. In March 2002, the Governing Body endorsed an understanding reached between the Government of Myanmar and the ILO concerning the appointment of an ILO Liaison Officer in Myanmar, who took up her assignment in October 2002. The Governing Body requested the Government of Myanmar to take concrete action for the eradication of forced labour through the development of a comprehensive plan of action. In May 2003, the ILO and the Union of Myanmar came to a Formal Understanding on a Facilitator to assist possible victims in Myanmar to seek remedies available under the current legislation and as provided under Convention No. 29. In addition a Plan of Action against forced labour, as requested by the Governing Body, is to comprise a road-building project, alternatives to the use of forced labour, and information and awareness raising. At its 91st Session in June 2003, the International Labour Conference noted that the measures so far taken by the Government still had not resulted in tangible progress in the application of Convention No. 29. The Conference welcomed the fact that the Government had agreed on a Plan of Action, under which the Government had undertaken to enforce strictly the prohibition on force labour in a pilot region, while emphasizing that its implementation was without prejudice to the Government's obligation to put an end to forced labour in the whole of the country. It

also regretted that recent events had resulted in a climate of uncertainty and intimidation which did not provide an environment in which the Plan of Action could be implemented in a credible manner, and asked the Director General to go ahead when the conditions were met for its effective implementation.

E. Recent publications and materials (selection)

11. A number of publications on international labour standards have been completed recently: A comprehensive overview on international labour standards is contained in a 2002 publication entitled "International Labour Standards: A Global Approach"; a book entitled "Fundamental rights at work and international labour standards" presenting the ILO core labour standards was launched in June 2003; a manual issued in 2002 on "ILO normative activities - the employers` perspective" seeks to enhance the knowledge of international labour standards by employers; "Standards for the 21st Century: Social Security" offers an accessible presentation of ILO standards in that field; a book entitled "Corporate Success Through People – Making International Labour Standards Work for You" was published in 2002. The American Academy of Social Siences has recently published an ILO paper on information sources and indicators concerning international labour standards on non-discrimination. A training manual for managers on the employment principles of the Global Compact is being finalized. Reference to specialized publications on gender equality, HIV/AIDS, indigenous and tribal peoples, migrant workers, and workers with disabilities is made below in the respective sections of Part III.

II. ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ITEM 4)

A. Globalization

12. In February 2002, the ILO launched the World Commission on the Social Dimension of Globalization. This independent body aims to move the debate from confrontation to dialogue, and thereby set the stage for action. The Commission is exploring innovative, sustainable ways of combining economic, social and environmental objectives to make globalization work for all. Based on the best available expertise, it will make its recommendations seeking to build upon a broad consensus among all key actors. The Commission held a series of national and regional dialogues in all parts of the world to with business, labour, civil society and other social actors, as well as meeting on the occasion of major conferences and special events, such as the fora in Davos and Porto Alegre. A knowledge network involving experts on matters related to the social dimension of globalization has been established. Further details on the Commission's work and objectives are available at its internet web site and in the March 2003 report of the Working Party on the Social Dimension of Globalization.[iv] The Commission's final report will be released in late 2003.

13. The work of the Governing Body Working Party on the Social Dimension of Globalisation has continued. High-level discussions were held in 2002-03 with Mr. Mark Malloch Brown, UNDP Administrator, Mr. Jean –Claude Faure, Chairperson of the OECD Development Assistance Committee, as well as Trevor Manuel, Minster of

Finance of South Africa. The Working Party also discussed the topics of "Investment in the global economy and decent work", and "Governance, social partnership, and globalisation". There was a broad agreement that good governance was essential for development and that social partners should actively cooperate with governments in order to achieve social and economic objectives. However, the foundation of good governance had to be respect for human rights. The respective background papers are available on-line.[v]

B. The informal economy

14. The ILO is paying increased attention to the situation of women and men working in the informal economy. A landmark report on "Decent work and the informal economy" was discussed at the International Labour Conference in June 2002.[vi] The report attempts to define who is in the informal economy and the factors shaping and reshaping it, and argues that rights at work are as essential in the informal as in the formal economy. The informal economy is where most jobs have been created in recent years, but it is also where the greatest problems with regard to workers' rights are found. And among informal workers, special attention needs to be given to particularly vulnerable groups – women, child workers, youth, persons with disabilities, migrants and ethnic minorities – who are often socially excluded and subjected to discrimination, exploitation or forced labour. The International Labour Conference adopted a set of wide-ranging conclusions that are being followed up by the Office.

15. That the rights gap is especially serious in the informal economy is evident from the work of the Committee of Experts, the Committee on Freedom of Association, and the global reports produced under the follow-up to the ILO Declaration. Workers in the informal economy often do not enjoy freedom of association or the right to organize and to bargain collectively. In some cases, a country's legislation does not recognize persons active in the informal economy as workers and employers. More directly, self-employed workers may be excluded from the application of legislation or prohibited by law from organizing for professional purposes. The Committee of Experts stresses the applicability of Convention No. 111 to the self-employed and independent workers, although it has pointed out that in practice the informal economy is frequently excluded from such provisions in labour codes, and enforcement mechanisms and complaints procedures remain out of reach for persons engaged in it.

16. Child labour is almost entirely a phenomenon of the informal economy and countries that have ratified Convention No. 182 are therefore required to design and implement programmes aimed at reaching out into the informal economy. This includes preventing children from engaging in such activities and assisting their removal from them, and ensuring access to free basic education or vocational training. Forced labour is on the increase in all parts of the world. Situations that trap people into forced labour include abduction, trafficking in persons and outright slavery, coercive recruitment, bonded labour resulting from indebtedness, and compulsory labour in public works. Increasing poverty is a major contributing factor. Women and children are the primary, but by no means the only, victims. Informal workers may be particularly vulnerable to

exploitation by forced labour. Some of the above-mentioned practices may go unchecked in the informal economy owing to the lack of any form of inspection and limited access of persons in such situations to legal recourse.

17. Since the 1998 Declaration and fundamental human rights Conventions apply to all workers, there should not be a two-tiered system or separate regulatory framework for formal and informal workers – although there may be a need for different modalities and mechanisms for guaranteeing them in the less regulated, less formal parts of the economy. It might be possible to have separate systems of business registration, taxation or subscription to formal social security schemes for informal enterprises so as to adjust to their actual compliance capacity. But there should not be a lower level of application of core labour standards for informal workers. In regard to fundamental human rights, violation or non-compliance cannot be excused by poverty or informality. While, admittedly, in the context of high unemployment and abject poverty almost any work might appear to be better than none, it still cannot be argued that basic rights at work or, more generally, the quality of work, acquire relevance only above certain levels of income. Going beyond the rights and principles contained the ILO's fundamental human rights Conventions, it is necessary to extend basic minimum standards on substantive matters such as conditions of work, safety and health and income security, as well as basic rules for fair treatment, for example with regard to job security and vulnerable groups.

III. PREVENTION OF DISCRIMINATION AND PROTECTION OF INDIGENOUS PEOPLES AND MINORITIES (ITEM 5)

A. Application of Conventions concerning discrimination

18. The ILO's main instrument concerning discrimination is the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). Other important Conventions are the Equal Remuneration Convention, 1950 (No. 100), the Indigenous and Tribal Peoples Convention, 1989 (No. 169), as well as Conventions Nos. 97 and 143 concerning migrant workers. In addition, several other instruments contain provisions on equality and non-discrimination or make reference to Convention No. 111.

19. Since the last report of this kind was submitted to the Sub-Commission, the Committee of Experts has paid increased attention to situations involving multiple discrimination on the grounds of sex, colour, race, ethnicity, or religion, with women exposed to this type of discrimination more often than men. It has systematically addressed employment discrimination faced by ethnic minorities, particularly the Roma, in Europe. It has also requested governments to take specific measures with regard to discrimination against migrant workers and indigenous and tribal peoples, and people of African descent, as well as with regard to caste discrimination. The Committee requested governments to take the necessary measures to ensure that existing legislation on discrimination and equality be fully enforced and applied in practice. Governments have been encouraged to improve their assessments of national situations concerning discrimination and to measure the impact of policies and programmes, through measures

such as studies, data collection and analysis, as well as cooperation with employers' and workers' organizations.

B. *"Time for Equality at Work"*: Global Report 2003

20. The Sub-Commission's attention is drawn to the 2003 Global Report under the ILO Declaration on Fundamental Rights and Principles at Work, entitled *Time for Equality at Work*. The report provides a comprehensive picture regarding discrimination in employment and occupation worldwide, concluding that discrimination at work affects every country, every economic sector and all types of activity. It shows that the depth of poverty is widest among people who suffer multiple forms of discrimination simultaneously. Indigenous and tribal peoples are among the poorest of the poor, and poverty is more severe among women. Progress in eliminating discrimination has been uneven, and new forms of discrimination have emerged. Wage discrimination against women remains a reality. Laws banning discrimination are an indispensable step, but are insufficient without further measures. Effective enforcement institutions, positive action, unbiased education, training and employment services, and data to monitor progress, are also necessary. This mix of policies and instruments is essential whatever the form of discrimination. What matters is being constantly alert and tracing, through appropriate monitoring, progress or lack of it so as to correct the course of action when required. While the outward manifestations of discrimination may be eliminated quickly, confronting and eliminating the underlying causes calls for a great deal of more work. The report emphasizes that fairness and justice at the workplace boost the self-esteem, morale and motivation of workers who suffer from discrimination, which in turn enhances the productivity and competitiveness of businesses. Equality of opportunity and treatment among the various groups in society reduces the risk of social tensions and conflict. Based on the extremely rich discussion of the report at the International Labour Conference in June 2003[vii], a plan of action for technical cooperation will be drawn up and adopted by the Governing Body in November 2003.

C. General activities for the prevention of discrimination

21. The ILO continued to promote understanding and a better application of the standards concerning equality of opportunity and treatment through a broad range of activities, including research, workshops, seminars, technical cooperation and advisory services. National seminars on equal remuneration have been recently held in Estonia (January 2002), Thailand (April 2002), Japan (July 2002) and Cyprus (September 2002). A workshop in the context of the preparation of anti-discrimination legislation was carried out in Bulgaria (April 2003). An Equality Forum on the Promotion of the Ratification of Convention No. 111 was held in Tokyo (July 2002), followed up by an advisory services mission to Japan in December to discuss ratification. A follow-up technical advisory mission was undertaken to the Islamic Republic of Iran in May 2002 in relation to the application of Convention No. 111. As a follow-up of technical assistance provided previously to Mauritius, a national tripartite consultation reached consensus on the ratification of Conventions Nos. 100 and 111, which where

subsequently registered by the Office in December 2002, and a draft act on sex discrimination is under preparation.

D. Gender equality

22. In this year's Global Report entitled *Time for Equality at Work*, the ILO highlights the importance of anti-poverty strategies addressing the link between poverty and systemic discrimination against women as part of a rights-based approach to poverty reduction. Over the past year, the ILO has been working with governments, workers' and employers' organizations and other stakeholders to address the multiple links between discrimination against women, poverty and social exclusion. In China, Nepal, United Republic of Tanzania and Uganda, the Interregional project on "Enhancing the gender mainstreaming capacity of ILO constituents" – which builds on the first ILO Gender Audit - aims to develop constituents' and other stakeholders' capacity to assess the implications for women and men of any planned action, and implement strategies for making women's as well as men's concerns an integral dimension of employment policies and agendas. In addition, the ILO is assisting constituents in the different regions to establish and strengthen their gender strategies and to promote gender equality in national socio-economic policies and poverty reduction strategy processes (PRSP). Work on addressing income inequalities between men and women has been particularly successful in a few select countries, where ILO action has led to the subsequent adoption of equal remuneration legislation and implementation mechanisms. Finally, ILO's work on developing indicators on international labour standards on non-discrimination, including sex discrimination, aims at improving the ways to measure more effectively the progress made, and indicate the way to go forward. A more detailed summary of the numerous on-going technical cooperation activities on gender equality can be found given in the 2003 general report to the Governing Body on ILO action concerning discrimination in employment and occupation.[viii]

23. Among the more recent publications on women's human rights and the gender perspective attention is drawn to the "Resource Kit for Trade Unions on Promoting Gender Equality" and the "Guide on Economic Opportunities Identification for Women's Groups and Communities". The on-line "Information Base on Equal Employment Opportunities for Women and Men (*e.quality@work*)" has been up-dated and expanded.[ix]

E. Human rights and HIV/AIDS

24. Human rights abuses based on HIV status often take place at the workplace. These can take various forms such as: mandatory HIV testing of job applicants or persons in employment; breaches of confidentiality regarding HIV-related personal information; discrimination in access, terms and conditions of employment; and stigmatization of workers living (or presumed to be living) with HIV/AIDS. By threatening fundamental rights, the epidemic reduces the opportunities for decent work for women and men and erodes the realisation of the key ILO goals of social justice and equality. The ILO adopted a *Code of Practice on HIV/AIDS and the world of work* in June 2001 which forms the cornerstone of ILO efforts against AIDS.[x] The Code has

already been translated in eighteen languages. The process of implementing the Code focuses on advocacy, research, advisory services and technical cooperation projects.[xi]

25. The ILO has also produced a modular training manual to complement the Code, to widen its reach and strengthen its applicability.[xii] The emphasis of the manual is on practical activities and guidelines to help users apply the Code to national strategic plans and workplace policies and programmes. The whole manual takes a rights-based approach and one of the seven modules deals specifically with HIV/AIDS and human rights. A working paper on HIV/Aids and human rights was published in November 2002.

F. The situation of workers in the occupied Arab territories

26. In 2002 and 2003, the ILO again fielded high-level missions to examine the situation of workers of the occupied Arab territories. The report of the 2003 mission concluded that the situation had further deteriorated and that human security, rights at work, incomes, access to employment and social protection were under constant threat.[xiii] An easing of the closures and other measures in the first months of 2003 may have led to a low-level stabilization of the rate of economic deterioration in the occupied territories. The ILO continues to take steps to strengthen its technical cooperation programme aimed at creating sustainable jobs and future employment opportunities and reforming labour institutions. Within the context of the "Road Map" presented in May 2003, the ILO has been asked to contribute its technical assistance to institutional reforms in the labour, employment and social protection fields. Indeed, there is genuine scope for social dialogue among constituents from both sides of the conflict. The ILO will continue to seek to facilitate this dialogue, which is a key element of the wider political discussions within the framework of the Road Map.

G. Migrant workers

27. Labour migration will be the topic of the General Discussion at the International Labour Conference in Geneva in 2004. In preparation for this discussion the ILO is holding regional consultations and meetings on international labour migration. A survey covering the entire ILO membership will evaluate how migration and the treatment of migrant workers are being regulated through laws, administrative measures, specialized bodies of the state, the role of international agreements and the participation of tripartite partners. In addition national reviews of recent changes in laws and policy on labour migration in Chile, Hungary, Indonesia, Jordan, Republic of Korea, and Mauritius are being prepared. International migration is one of the policy issues examined by the World Commission on the Social Dimension of Globalization established by the ILO in 2002.

28. The ILO has launched a national research project to measure discrimination in employment against migrant workers in Italy, supported by the Italian Ministry of Labour/Welfare. This complements earlier research in Belgium, Germany, the Netherlands, Spain and other countries, and will serve to assist the Government of Italy and social partners to meet requirements of the European Union Directive on racism.

Efforts to compile a compendium of anti-discrimination "good practice" measures from all European countries have continued. In responding to requests for technical assistance, the Office encouraged the development of new national frameworks in Korea and Thailand for prevention of discrimination against migrant workers and proposed enhancement of efforts in Bangladesh and Indonesia towards protecting national workers abroad. New publications on labour migration include the 10 national working papers covering female migrant workers[xiv] and a new "Information Guide on Preventing Discrimination, Exploitation and Abuse of women migrant workers" which was issued in June 2003.

H. Indigenous and tribal peoples

29. The Indigenous and Tribal Peoples Convention, 1989 (No. 169) has now been ratified by seventeen countries, most recently Brazil, Dominica and Venezuela (all 2002). Supervision of Conventions Nos. 107 and 169 continued as usual, with the Committee of Experts adopting at its session in November-December 2002 comments concerning a number of countries, such as Argentina, Bolivia, Colombia, Costa Rica, Denmark, Ecuador, Honduras, Paraguay and Peru. Reports from all ratifying countries will be due in September 2003. It is worth noting that in recent years a number of representations under article 24 of the ILO Constitution alleging failure of securing effective observance of the Convention No. 169 have been submitted concering several countries. Results of these proceedings, as well as the comments of the Committee of Experts are available on-line through the ILOLEX database. An ILO working paper entitled "Indigenous and Tribal Children: Assessing child labour and education challenges" appeared in July 2003.

30. Convention No. 169 is the basis of all technical cooperation carried out by the ILO with regard to indigenous and tribal peoples. The Interregional Programme to Support Self-Reliance of Indigenous and Tribal Peoples through Cooperatives and Self-Help Organizations (INDISCO) has continued its work on projects in Asia and Africa. In Asia, a regional workshop was organized to discuss sustainable indigenous land and natural resource management practices. The Project to Promote ILO Policy on Indigenous and Tribal Peoples, among other activities, has carried out capacity building and other assistance to pastoralists and hunter-gatherers in Kenya, with a view to ensuring their informed participation in the Constitutional review process. This culminated in the presentation of a position paper to the Constitution Review Commission in July 2002, which represented the collective views of over 15 different indigenous and tribal peoples in Kenya. The Project is in the process of expanding its activities in central Africa. The Special Action Programme to Combat Forced Labour has selected the question of forced labour and its linkages to discrimination, poverty and indigenous peoples as a thematic priority in Latin America. Workshops, bringing together government officials, other policy-makers and analysts, and human rights and development organizations, were conducted in Central America and the Andes during 2002. Consideration is being given to a major regional project on forced labour, discrimination and indigenous peoples in seasonal labour markets.

I. Workers with disabilities

31. Employers are playing a more central role than ever before in promoting opportunities for job seekers with disabilities, in retaining workers who acquire a disability while in employment and developing return-to-work-strategies for those who have left the active labour force. In support of these trends, the ILO has developed a *Code of Practice on Managing Disability in the Workplace*[xv], to provide guidance to public and private sector employers in the first instance, and also to employers' organizations, workers' organizations and national authorities on the following topics: recruitment of disabled persons; promotion and advancement of workers with disabilities; retention of people who acquire a disability; and return to work of people who have left employment due to disability. The Code provides that measures taken should incorporate specific action for women with disabilities. The ILO carries out a wide range of technical cooperation activities to enhance the capacity of national governments to implement effective legislation on the employment of persons with disabilities.

32. The ILO is participating actively in the UN Ad hoc Committee Considering A Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities. Views and suggestions from the perspective of the ILO's sphere of competence have been submitted, most recently to the Committee's second meeting in June 2003.[xvi] The ILO has also commissioned a report on 'The Right to Decent Work of Persons with Disabilities' which examines the development over time of the 'right to work' of disabled persons, the way in which this matter has been dealt with in international instruments and national legislation to date, and the experience in implementing employment and work opportunities.[xvii]

ANNEXES

Ratification of ILO Conventions relevant to the concerns of the Sub-Commission
(as of 16 June 2003)

Convention	Total ratifications	Since last memorandum (21 June 2001)
Forced Labour		
No. 29	162	Nepal, Equatorial Guinea, Mozambique
No. 105	159	Democratic Republic of the Congo, Equatorial Guinea, Lesotho, Kiribati, Sri Lanka,
Discrimination		
No. 100	161	Antigua and Barbuda, Fiji, Mauritania, Mauritius, Pakistan, Singapore, Saint Vincent and the Grenadines, United Republic of Tanzania
No. 111	159	Democratic Republic of the Congo, Equatorial Guinea, Fiji, Grenada, Mauritius, Namibia, Nigeria, Saint Vincent and the Grenadines, United Republic of Tanzania, United Arab Emirates
No. 156	34	El Salvador, Iceland, Republic of Korea, Ukraine, Serbia and Monenegro
Freedom of Association		
No. 87	142	Democratic Republic of the Congo, Equatorial Guinea, Fiji, Kiribati, Saint Vincent and the Grenadines, Zimbabwe
No. 98	153	Equatorial Guinea, Kiribati, Mauritania, New Zealand
Migrant Workers		
No. 97	42	Madagascar
No. 143	18	-
Indigenous and		

Tribal Peoples		
No. 107	27	No longer open for ratification (18 ratifications still in force)
No. 169	17	Brazil, Dominica, Venezuela
Minimum Age		
No. 138	127	Bahamas, Brazil, Cameroon, Côte d'Ivoir, Democratic Republic of the Congo, Fiji, Guinea, Lesotho, Mali, Mauritania, Mongolia, Mozambique, Nigeria, Peru, Sudan, Swaziland, Syrian Arab Republic, Uganda
No. 182	142	Albania, Antigua and Barbuda, Austria, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Burkina Faso, Burundi, Cameroon, Cape Verde, China, Congo, Costa Rica, Côte d'Ivoire, Croatia, Czech Republic, Democratic Republic of the Congo, Egypt, Equatorial Guinea, Estonia, Fiji, France, Guinea, Lebanon, Gambia, Georgia, Germany, Greece, Guatemala, Honduras, Iraq, Islamic Republic of Iran, Kazakhstan, Lesotho, Liberia, Madagascar, Mauritania, Mozambique, Nepal, Netherlands, Nigeria, Pakistan, Peru, Poland, Republic of Moldova, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Sudan, Swaziland, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, Turkey, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Zambia
Vocational Rehabilitation		
No. 159	75	Jordan, Ukraine

NOTES

[i] The last memorandum of this kind was submitted to the Sub-Commission at its 53rd session in 2001.
[ii] Including: the Forced Labour Convention, 1930 (No. 29), the Abolition of Forced Labour Convention, 1957 (No. 105), 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 Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Equal Remuneration Convention, 1951 (No. 100), the Minimum Age Convention, 1973 (No. 138), the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Indigenous and Tribal Populations Convention, 1957 (No. 107) and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), the Workers with Family Responsibilities Convention, 1975 (No. 156), and the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159).
[iii] The last report as contained in document E/CN.4/Sub.2/2001/24 indicated ratifications as of 21 June 2001.
[iv] See http://mirror/public/english/wcsdg/index.htm; GB.288/18.
[v] http://mirror/public/english/bureau/integration/globaliz/publicat.htm
[vi] International Labour Conference, 90th Sessions, 2002, Report VI, Decent work and the informal economy.
[vii] International Labour Conference, 91st Session, Geneva, 2003, Provisional Record 14 and 15, http://mirror/public/english/standards/relm/ilc/ilc91/records.htm
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[ix] http://mirror/public/english/employment/gems/eeo/index.htm.
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[xiii] The report is available on-line at http://mirror/public/english/standards/relm/ilc/ilc91/reports.htm
[xiv] Working Paper Series Series on Women and Migration (10 Working papers covering United Arab Emirates, Sri Lanka, Italy, Japan, Nicaragua, Nigeria, Philippines, Costa Rica, Bolivia and Ethiopia), http://mirror/public/english/employment/gems/advocacy/protect.htm
[xv] The text of the Code is available at http://mirror/public/english/employment/skills/disability/policy_c.htm
[xvi] The ILO's contribution is available on-line at http://www.un.org/esa/socdev/enable/rights/uncontrib-ilo.htm
[xvii] http://mirror/public/english/employment/skills/disability/index.htm

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