

## The International Context and National Implications

### International Rights and Conventions

The implementation of labour standards is about protecting people, by ensuring that fundamental standards are upheld to provide workers with decent working conditions. It is a principle that is recognized and supported by the highest international bodies, but which needs to be put into practice on site.

#### The Universal Declaration of Human Rights (UDHR)

Everyone has the right...to just and favourable conditions of work

*(From Article 23(1) of the Universal Declaration of Human Rights, adopted and proclaimed by United Nations General Assembly Resolution 217 A (III) of 10 December 1948)*

The UDHR provides an overarching framework for recognizing the rights and dignity of every person. The 191 Member States of the United Nations are pledged to work towards achieving the observance of human rights and fundamental freedoms.

Within the UDHR, Articles 23 and 24 make statements that directly relate to the world of employment:



- *Everyone, without any discrimination, has the right to equal pay for equal work (Article 23 (2))*
- *Everyone who works has the right to just and favourable remuneration... (Article 23 (3))*
- *Everyone has the right to form and to join trade unions (Article 23 (4))*
- *Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay (Article 24)*

It is with reference to this broad framework of international agreements that UN conventions, and for the most part national laws, operate.

### Fundamental Principles and Rights at Work

The International Labour Organization (ILO) was founded in 1919 as the United Nations' specialised agency to promote social justice through internationally recognized labour rights. In its role, the ILO sets minimum standards of labour rights through the formulation of international Conventions and Recommendations.

The ILO's *Declaration on Fundamental Principles and Rights at Work* identifies four core areas of labour standards affecting the rights of workers. Seen as rights that enable people to achieve their full potential, they are afforded special status and universal application.

Encapsulated within these four core standards are eight ILO *Conventions* considered by the ILO Governing Body as fundamental to the rights of all people at work, irrespective of the developmental status of individual Member States. A brief summary of the *intention* of each of these conventions is given here.

#### The four Core Labour Standards

1. Freedom of association and the right to collective bargaining;
2. Elimination of all forms of forced or compulsory labour;
3. Effective abolition of child labour; and
4. Elimination of discrimination in respect of employment and occupation (equality of opportunity and treatment).

**Table 1. Core labour standards and associated ILO Conventions**

Associated ILO Convention	Intention of the ILO Convention
<b>1. Freedom of association and the right to collective bargaining</b>	
Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87)	■ Providing workers the right to join, or establish, organizations of their choosing, without authorization or distinction
Right to Organize and Collective Bargaining Convention, 1949 (No.98)	■ Protecting workers from acts of anti-union discrimination in respect of their work
<b>2. Elimination of all forms of forced or compulsory labour</b>	
Forced Labour Convention, 1930 (No.29)	■ Placing an obligation on each member State of the ILO to "suppress the use" of forced or compulsory labour (work demanded from a person under the threat of penalty) at the earliest opportunity
Abolition of Forced Labour Convention, 1957 (No.105)	■ An extension of the Forced Labour Convention, 1930 to protect workers from being forced to work for reasons of political coercion, education, punishment, economic gain, discipline, or discrimination (racial, social or religious)
<b>3. Effective abolition of child labour</b>	
Minimum Age Convention, 1973 (No.138)	■ Ensuring that national policies are designed to effectively abolish child labour and raise the minimum age for active engagement in employment to a level appropriate for the development of young people. A child is defined as a person of 14 years or under.
Worst Forms of Child Labour Convention, 1999 (No.182)	■ Protection of children (in this case persons under the age of 18) from the worst forms of labour, such as slavery, trafficking, armed conflict, and other such work likely to harm the health, safety or moral welfare of children.
<b>4. Elimination of discrimination</b>	
Equal Remuneration Convention, 1951 (No.100)	■ Ensuring promotion and application of equal remuneration (wage or salary, plus any additional payments in cash or kind) for women and men, for work of equal value (i.e. without discrimination based on sex)
Discrimination (Employment and Occupation) Convention, 1958 (No.111)	■ Preventing discrimination (exclusion, distinction or preference) within employment and occupational opportunities (including vocational training) on the basis of race, colour, sex, religion, political opinion, national extraction or social origin

## Broader, substantive labour standards

While the four Core Labour Standards have universal application, concern for the adoption of a broader range of standards to protect workers has resulted in the recognition of further, more specific, ‘substantive’ labour standards. These are based on international conventions of the ILO and on provisions contained in regional and national law.

Details of these five substantive Labour Standards and associated ILO Conventions, together with a brief summary of their *intention*, is given in Table 2 overleaf.

### The five substantive Labour Standards

5. Health and safety to be addressed;
6. Wages to be paid in full and on time, to meet legal minima and be sufficient for basic needs;
7. Working hours to be limited; overtime to be paid;
8. No repeated casualization, so employers can avoid paying standard wages or meeting other legal benefits; and
9. All relevant social security regimes to be applied

## National legislation

Member States of the ILO are not legally bound to any of the ILO Conventions they ratify, but by accepting the ILO Constitution they have pledged to respect, promote and work towards the realization of the four Core Labour Standards.

The Conventions therefore provide *benchmarks* that enable nations to debate, adopt and enact legislation and other acts to reflect the provision of the Conventions within their national law.

Of the 178 member States of the ILO (as at March 2005), only 109 have ratified all eight fundamental conventions associated with the core labour standards. A further 26 states have ratified seven fundamental conventions, 13 have ratified six, 10 have ratified five and the rest have ratified four, or less.

The ‘substantive’ labour standards and associated conventions apply only in countries that specifically ratify the appropriate ILO conventions within national statute law.

### The meaning of Conventions and Standards in practice

Converting international Conventions and Standards into national standards that can be applied in practice requires a starting point at the national level. Where Governments have national laws on matters of labour and employment, these are the starting point for developing national standards. Alternatively, industry standards can be used, such as those developed as Collective Agreements between Employers’ Associations and respective Trade Unions.

If neither a national law nor Collective Agreement exists, ILO Conventions should be used. However, as the ILO Conventions are not written to be applied to programmes in specific countries, they need to be interpreted for effective application.

### What the Core and Substantive Labour Standards mean for the construction sector

*Adapted from Ladbury et al (2003) – with reference to a pilot programme in Ghana*

For labour standards to have a chance of being integrated into bids, proposals and contracts for construction works, their *practical* implications need to be understood. Table 3 (overleaf) provides an indication of some of these practical implications, with reference to the 4 core and 5 substantive labour standards.

### The case of HIV/AIDS

In addition to the four core and five substantive labour standards, the ILO has developed a Code of Practice on HIV/AIDS, in recognition that HIV/AIDS is a workplace issue.<sup>1</sup> Practical implications of adopting standards on HIV/AIDS on construction sites may prove to be the most challenging. See Table 4.

<sup>1</sup> To access the ILO ‘Code of Practice’ on HIV/AIDS and a training manual to guide the use of the Code, go to [www.ilo.org](http://www.ilo.org), click on *Social Protection*, then *The Programme on HIV/AIDS and the World of Work*.

**Table 2. Substantive labour standards and associated ILO Conventions**

Associated ILO Convention	Intention of the ILO Convention
<b>5. Health and safety to be addressed</b>	
Occupational Health and Safety, 1981 (No.155)	<ul style="list-style-type: none"> <li>■ Stipulating consultation between employers and workers representatives to formulate, implement and review national policy on occupational safety, occupational health and the work environment; with the intention of preventing accidents or injury to workers in the course of their work and minimizing hazards in the work environment</li> </ul>
Safety and Health in Construction, 1988 (No.167)	<ul style="list-style-type: none"> <li>■ With particular reference to construction activities; details the responsibilities and actions of employers and workers in ensuring compliance with national health and safety measures in the workplace</li> </ul>
<b>6. Wages to be paid in full and on time, to meet legal minima and be sufficient for basic needs</b>	
Minimum Wage Fixing, 1970 (No.131)	<ul style="list-style-type: none"> <li>■ Obliging each member State to establish a system of minimum wages, agreed between the authority of that country, workers and employers representatives. Failure to apply the minimum wage to result in appropriate sanctions</li> </ul>
Protection of Wages, 1949 (No.95)	<ul style="list-style-type: none"> <li>■ Subject to specific exclusions of categories of workers, ensuring that wages are paid in legal tender (with provision of part payment through allowances), not by promissory notes, vouchers or coupons. Payment is to be made direct to the worker, unless otherwise agreed, with the workers free to spend their wages as they wish</li> </ul>
Labour Clauses – Public Contracts, 1949 (No.94)	<ul style="list-style-type: none"> <li>■ Ensuring that contracts – in cases where one of the parties to the contract is a public authority and work involves the construction, alteration, repair or demolition of public works – include appropriate clauses covering labour conditions to standards set within local trade and industry</li> </ul>
<b>7. Working hours to be limited; overtime to be paid</b>	
Weekly Rest (Industry), 1921 (No.14)	<ul style="list-style-type: none"> <li>■ Providing workers, subject to identified exclusions, with a rest period of at least 24 consecutive hours in any 7 day work period</li> </ul>
Hours of Work (Industry), 1919 (No.1)	<ul style="list-style-type: none"> <li>■ Providing workers, subject to identified exclusions (such as shift workers, managers or supervisors, or to carry out urgent works), with a maximum eight hour working day and forty eight hour working week</li> </ul>
<b>8. No repeated casualization (whereby workers are engaged for months or years on a series of temporary contracts) so that employers can avoid paying standard wages or meeting other legal benefits such as tax or social security;</b>	
Social Security (Minimum Standard), 1952 (No.102)	<ul style="list-style-type: none"> <li>■ Requires the member State to protect specified categories of workers with benefits relating to sickness, unemployment, old-age, employment-injury, maternity, invalidity and the like, subject to specified conditions</li> </ul>
Maintenance of Social Security Rights, 1982 (No.157)	<ul style="list-style-type: none"> <li>■ With reference to Convention 102 (above) and national legislation, provides for the maintenance of social security payments to workers, in relation to length of employment and other specified factors</li> </ul>
<b>9. All relevant social security regimes to be applied</b>	
Conventions are as for 8 above.	

**Table 3. Practical implications**

Labour standard	Practical implications
<b>Core Labour Standards</b>	
1. Freedom of Association and the right to collective bargaining	Workers should be allowed to establish or join unions, or other work-based organizations – and be free not to. These organizations can be used to negotiate working conditions. Contractors should have a co-operative attitude to the workers' trade union representatives, allowing them on to site to talk to workers. Workers may opt to be represented by a local collective or community group, which should be recognized as legitimate negotiating bodies <sup>2</sup> .
2. Elimination of all forms of forced or compulsory labour <sup>3</sup>	Forced labour can occur when a contractor forces workers to do overtime or a 7 day week without their consent and under threat of penalty, e.g. job loss.
3. Effective abolition of child labour	Child labour can occur if women bring their children to site and they 'help' with a particular activity, e.g. breaking stones. If stopping this practice prevents women from working, dialogue is vital. Alternative actions, such as providing child care arrangements, may be needed to ensure that women do not lose their jobs.
4. Elimination of discrimination in respect of employment and occupation	Discrimination may be justified in terms of culture, e.g. 'our women like to carry concrete' implying they will not be considered for other jobs. Such attitudes are discriminatory if they limit employment opportunities for a particular group.
<b>Substantive Labour Standards</b>	
5. Health and safety to be addressed	Workplaces must be safe and without risk of injury to employees. National labour law will normally state minimum requirements for protective clothing and safety precautions specific to the industry. The contractor should also undertake obligations to train safety officers and first aiders (with a properly equipped first aid box). Provision of potable water, latrines on site and emergency procedures in the event of an accident may also be prescribed in law. Where the law does not provide an adequate standard, the Collective Agreement between the Employers' Association and Trade Union is the best point of reference.
6. Wages to be paid in full and on time, to meet legal minima and be sufficient for basic needs	The current national minimum wage can be used as a standard, although high inflation may make this out of date. In this case the rate agreed in a Collective Agreement should be applied. If there is no such agreement, the rate used by a local construction company known for good practice is an alternative reference point. Wages should be paid in cash, not in kind.
7. Working hours to be limited; overtime to be paid	National law will specify the 'working week'. Overtime should be paid above this rate according to the national legal formula. Regulations should ensure that the use of task-based/piece work does not lead to self-exploitation and workers having to work longer hours than specified in the legislation.
8. No repeated casualization to avoid meeting wages and other legal benefits <sup>4</sup>	The worker, called a 'casual' but more accurately a 'temporary' worker, is typically paid less than permanent workers and ends up with no pension rights, or access to other benefits such as employment-injury pay.
9. All relevant social security regimes to be applied	All countries have laws regarding registration for social security and these should be followed. If the law does not allow for temporary workers to receive social security, it may be necessary to review, with regulators, how to make regulations on social protection relevant and feasible for all workers.

<sup>2</sup> In many rural areas, there is no trade union representation but workers may form a collective group to enhance their bargaining power. It is important that these local negotiating bodies are recognized.

<sup>3</sup> There is a connection between forced labour and payment in full and on time (points 2 and 6). Failure to pay on time is common and well documented in some countries (e.g. India, Nepal). It results in workers having to borrow from the labour agents or contractors who employ them. Indebtedness in turn creates obligations and the workers can become, in effect 'bonded' to their employer; a situation which can lead to forced labour.

<sup>4</sup> Informal (verbal), short term contracts, without benefits, are the norm in the construction industry in many countries. Standard number 8 seeks to make a distinction between the true casual worker (hired on a daily basis for a short period) and a temporary worker (hired more or less continually by the same employer for months or years) who is treated as a casual, i.e. with none of the benefits of formal employment. Employers should 'move' this group of temporary workers into the permanent worker category.



**Table 4. The case of HIV/AIDS**

"Labour standard"	Practical implications
10. HIV/AIDS to be addressed	<p>The ILO Code of Practice goes beyond awareness raising to include non-discrimination, confidentiality, care and support. UNAIDS and other agencies produce guidelines for employer good practice with regard to HIV/AIDS. The ideal is to follow the national policy on AIDS if this has been developed.</p> <p>In an example from Ghana, the Ministry of Roads and Transport applied for funding from the Ghana AIDS Commission to mount an education campaign for contractors, workers and communities. Contractors were to allow health staff to visit sites and inform workers about the risks of HIV/AIDS, with workers paid for time spent on HIV/AIDS awareness.</p>

## The role of procurement

Worldwide, the construction sector typically provides 10% of a developing country's GNP. International financial institutions (IFIs), multi-lateral and bi-lateral donors are influential in the economy of these countries through procurement contracts in the construction sector.

While governments hold ultimate responsibility in matters of compliance with national law, the policies, procedures and guidelines of procurement contracts affect the degree to which labour standards are incorporated into contract documents, and how much attention is therefore paid to their implementation.

Experience of incorporating labour clauses in procurement documents is limited, but the potential to be had from awareness-raising and moving towards the implementation of labour standards is significant. It is the responsibility of procurement agencies to use their policies and associated activities to leverage the alignment of business opportunities with livelihoods security, social protection and broader poverty reduction. This should start at the early planning stages, with labour standards integrated into procurement guidelines, loan agreements, operational manuals, policy, procedures, directives and other appropriate documentation.

The capacity of government agencies to uphold the law in practice is often limited, especially in situations where the construction sector is characterized by the involvement of numerous small and semi-formal firms through sub-contracting by main contractors. Procurement agencies can also support governments and private sector institutions through capacity building, to enable the effective monitoring and enforcement of labour standards.



## Information sources

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Ladbury, S., Cotton, A. and Jennings, M. (2003), *Implementing Labour Standards in Construction – A sourcebook*, WEDC, Loughborough University

Available to download from

<http://wedc.Lboro.ac.uk/publications/index.htm>

Full text of the UDHR

<http://www.un.org/Overview/rights.html>

About the ILO

<http://www.ilo.org/public/english/about/index.htm>

The full text of all International Labour Standards can be found on the ILO website from

<http://www.ilo.org/ilolex/english/convdisp2.htm> (as at April 2005)

Recommendations and guidelines for the role of World Bank procurement in supporting the adoption of international labour standards, including the wording of recommended clauses for inclusion in standard bidding documents, are contained in the following report:

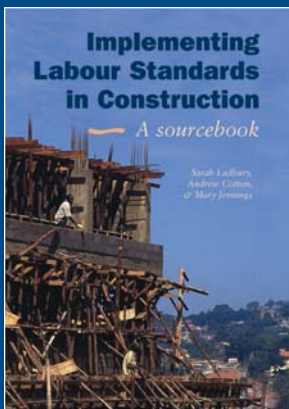
IFBWW, (2004), *Improving Working and Living Conditions in Construction: Addressing Needs Through International Labour Standards in World Bank Procurement*; Draft Recommendations and Technical Guidance from the International Federation of Building and Wood Workers, March 2004.

The report is available to download from

[http://www.ifbww.org/files/Improving\\_Working\\_and\\_84E5F.pdf](http://www.ifbww.org/files/Improving_Working_and_84E5F.pdf)

## About this Guidance Note

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This note provides an overview of the place of labour standards in international and national frameworks, conventions and agreements.

It forms part of a series of publications on Implementing Labour Standards in Construction:

### *A Sourcebook*

*Briefing Note* : *Lessons from Pilot Studies*

*Guidance Note 1* : *The International Context and National Implications*

*Guidance Note 2* : *Making Labour Standards Operational*

*Guidance Note 3* : *Including Labour Standards in the Contract*

These are all based on a review of international literature together with lessons learned from pilot studies carried out in Ghana, India and Zambia during a DFID-funded research project.

The project was undertaken by WEDC, Loughborough University, in association with the ILO and DFID

### **ILO**

The International Labour Organization (ILO) is a key organization in “promoting decent work for all”, setting standards and creating consensus to sign conventions relating to Labour Standards.

<http://www.ilo.org/>

### **DFID**

The Department for International Development (DFID) issues paper “Labour standards and poverty reduction” published in May 2004, identifies the contribution that well designed and implemented labour standards can make to poverty reduction.

<http://www.dfid.gov.uk/>

## Website

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Further details of the research project, including the Sourcebook, briefing note, guidance notes, papers and powerpoint presentation are available to view and download on the WEDC website: [http://wedc.Lboro.ac.uk/projects/new\\_projects3.php?id=55](http://wedc.Lboro.ac.uk/projects/new_projects3.php?id=55)

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For further information, contact:  
**Rebecca Scott** or **Andrew Cotton**

### **Postal address:**

Water, Engineering and Development Centre  
Loughborough University  
Leicestershire LE11 3TU UK

**Email:** R.E.Scott@Lboro.ac.uk  
A.P. Cotton@Lboro.ac.uk  
**Phone:** +44 (0)1509 222885  
**Fax:** +44 (0)1509 211079