

**“The Influence of the International Labour Organization on International  
Law and State Practice: An Analytical Study”**

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## Abstract

This study aims to provide a comprehensive examination of the International Labour Organization's (ILO) institutionalization of international labour standards and its significant impact on the development of international law. It commences with a historical exploration of the ILO, emphasizing the crucial role of its tripartite structure in establishing and overseeing international labour standards, including the fundamental principles and rights at work. The study highlights the positive effects of these standards on the social and economic welfare of workers. Additionally, it delves into the essential ILO conventions and declarations, shedding light on the significance of “soft law” instruments, such as widely adopted ILO recommendations. The study also investigates the ILO's collaborations with other United Nations agencies and regional organizations, illustrating its effective role in promoting the implementation and monitoring of international labour standards, specifically in the context of Saudi Arabia. In summary, this study argues that the ILO has played a substantial role in formulating fundamental international labour standards that encompass economic, social, and cultural rights, as well as the eradication of workforce discrimination, predating the United Nations' human rights framework. It underscores the ILO's pioneering efforts in recognizing labour rights as human rights and its active promotion of social justice and the economic well-being of workers worldwide. Through its comprehensive analysis, this study underscores the importance and influence of the ILO's work within the realm of international law.

keywords: International law, international labour organisation, international labour standards, decent work, social justice, Saudi Arabia

## 1. Introduction

The International Labour Organization (ILO) is the oldest international organization of the 20th century.<sup>1</sup> In fact, it was the League of Nations' first specialized agency;<sup>2</sup> however, unlike the League, the ILO survived the Second World War and was absorbed into the bureaucracy of the United Nations (UN) in 1946.<sup>3</sup> The ILO Constitution,<sup>4</sup> adopted in 1919 as per Article XIII of the Treaty of Versailles, established it as the first international organization to proclaim social justice as the foundation of universal and enduring peace and security.<sup>5</sup> The first line of the preamble states that “universal and lasting peace can be established only if it is based upon social justice”.<sup>6</sup> As such, the foundation of the ILO can be viewed as a significant step in the evolution of international law, as it has made international law more “sensitive” to the social and economic welfare of individuals, regardless of whether they are employers or employees;<sup>7</sup> consequently, it has influenced the conception of the individual as a legal entity in international law.<sup>8</sup> It is further postulated that the ILO has had a pioneering role in shaping the legislative framework that regulates international organizations.<sup>9</sup>

For its time, the ILO's institutional structure was progressive, even revolutionary, as it aims to better the conditions of workers worldwide.<sup>10</sup> The ILO Constitution emphasized the importance of States to regulate the duration of work hours, the supply of labour, the prevention of unemployment, enact anti-discrimination laws, and the establish adequate living wages; these standards remain firmly rooted in the majority of the world's legal systems.<sup>11</sup> With its unique tripartite structure, the ILO is the only UN agency—and was the first international organization—to bring together governments, employers, and

<sup>1</sup> Van Daele, J, Survey, The International Labour Organization (ILO) in Past and Present Research IRSH 53 (2008), pp. 485-511, 2008 Internationaal Instituut voor Sociale Geschiedenis, 485.

<sup>2</sup> Since that date it has been amended on six occasions and the ILO has become a separate instrument. The original text of the ILO Constitution, established in 1919, has been modified by an Instrument of Amendment in 1922, 1945, 1946, 1953, 1962, 1972 and 1997 and entered into force on 8 October 2015. See *ILO, Constitution of the International Labour Organisation (ILO)*, 1 April 1919, entry into force: 28 June 1919.

<sup>3</sup> See Van Daele (n1) at 485.

<sup>4</sup> *ILO, Constitution of the International Labour Organisation (ILO)*, 1 April 1919, entry into force: 28 June 1919.

<sup>5</sup> *Ibid.*, See also Van Daele, (n1) 485, entry into force: 28 June 1919.

<sup>6</sup> See ILO (n 4).

<sup>7</sup> Klabbers, J. An Accidental Revolution: The ILO and the Opening Up of International Law (2021) In: Halonen, T., Liukkonen, U. (eds) *International Labour Organization and Global Social Governance*. Springer, Cham., 124.

<sup>8</sup> *Ibid.*

<sup>9</sup> See, Hosset, C., & Villalpando, S., “La contribution de l’OIT au droit des traités” (translated from French) in Justice, Politakis, Georges P., Tomi Kohiyama, and Thomas Lieby. 2019. *ILO100: Law for Social Justice*. Geneva: ILO, 172, and 1034.

<sup>10</sup> Van Daele (n1) 485.

<sup>11</sup> Columbia Encyclopaedia. (2008). *International Labour Organization*, Columbia University Press, 6. See also Van Daele (n1) 485.

worker representatives (trade unions) at all levels of decision-making.<sup>12</sup> Due to this tripartite structure, the ILO is a unique forum where state representatives and social stakeholders of the economy of its member states can openly discuss and develop labour policies and standards.<sup>13</sup> The mix of governmental agents and stakeholders has “proven to be very stable” as it has remained unchanged since the ILO’s establishment.<sup>14</sup> Currently, the ILO has 187 member states and 405 instruments; it has published approximately 191 conventions, 6 protocols, and 208 recommendations.<sup>15</sup>

As mentioned above, the ILO has had a substantial impact on the development of international law, particularly in the establishment of international human rights norms, predating the formation of the UN human rights treaty system. The ILO not only establishes international labour standards but also provides the means for the effective implementation of these standards. As will be discussed in more detail below, the ILO has had a progressive role in overseeing states’ ratification and implementation of ILO conventions, regularly assesses states’ adherence to the conventions, and assists states with problems through social dialogue and technical assistance.<sup>16</sup> As the example of Saudi Arabia will demonstrate, the ILO’s efforts in the areas of standard-setting, supervisory mechanisms, and technical assistance are significant.

## 2. The 1944 Declaration of Philadelphia and the 1998 Declaration on Fundamental Principles and Rights at Work

Between its establishment in 1919 and the outbreak of the Second World War in 1939, the ILO adopted 67 conventions<sup>17</sup> and made 66 recommendations<sup>18</sup>. In 1944, the Declaration of Philadelphia was adopted at the 26<sup>th</sup> session of the General Conference of

<sup>12</sup> ILO. (n.d.). *Tripartite constituents* <<https://www.ilo.org/global/about-the-ilo/who-we-are/tripartite-constituents/lang-en/index.htm#:~:text=agency%20with%20government%2C%20employer%2C%20and,elaborate%20labour%20standards%20and%20policies>> [Last accessed 23 July 2023]

<sup>13</sup> Ibid.

<sup>14</sup> Van Daele (n1) 485. See also Jakovleski, V., Jerbi, S., & Biersteker, T. (2019). The ILO’s Role in Global Governance: Limits and Potential. In C. Gironde & G. Carbonnier (Eds.), *The ILO @ 100: Addressing the Past and Future of Work and Social Protection* (Vol. 11, 84). Brill.

<sup>15</sup> ILO. (n.d.). *Normlex* <<https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:1:0>> accessed 23 July 2023.

<sup>16</sup> ILO. (n.d.). *How the ILO Works* <<https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/lang-en/index.htm>> [Last accessed 23 July 2023]

<sup>17</sup> The convention adopted was the Migration for Employment Convention, 1939 (No. 66), see ILO. (n.d.). *Conventions* <[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12000:0::NO::P12000\\_INSTRUMENT\\_SORT:4](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12000:0::NO::P12000_INSTRUMENT_SORT:4)> accessed 23 July 2023.

<sup>18</sup> The last recommendation was *R066 - Rest Periods (Private Chauffeurs) Recommendation, 1939 (No. 66)*, see ILO. (n.d.). *Recommendations*. <[https://www.ilo.org/dyn/normlex/en/f?p=1000:12010:::~:text=agency%20with%20government%2C%20employer%2C%20and,elaborate%20labour%20standards%20and%20policies](https://www.ilo.org/dyn/normlex/en/f?p=1000:12010:::)> [Last accessed 23 July 2023]

the ILO.<sup>19</sup> The Declaration is annexed to and forms an integral part of the ILO Constitution.<sup>20</sup> It reaffirms the fundamental principles of the ILO Constitution, declaring that “labour is not a commodity” and setting out basic “human and economic rights”, under the principle that “poverty anywhere constitutes a danger to prosperity everywhere”.<sup>21</sup> The objective was to give men and women all over the world the opportunity to seek social justice. In the 1990s, the ILO and its member states began to address the proliferation of ILO standards,<sup>22</sup> as there were significant shortcomings in the implementation of existing ILO conventions, and there was a need to establish “core labour standards” that would apply in all countries.<sup>23</sup> Following the 1995 negotiations at the Singapore WTO Ministerial Conference,<sup>24</sup> it was decided that the ILO would give greater priority to promoting fundamental principles and enhancing international labour conditions and the operation of labour markets.<sup>25</sup>

In 1998, the ILO adopted the Declaration on Fundamental Principles and Rights at Work and its follow-up,<sup>26</sup> which established a significant new “benchmark” of what had been previously established since the Organization’s founding in 1919. The Declaration stipulated that all member states must respect and promote the constitutionally enshrined fundamental rights, even if they have not ratified the ILO conventions in question.<sup>27</sup> The Declaration addressed freedom of association<sup>28</sup> and the effective right to collective

<sup>19</sup> Perulli, A., *The Declaration of Philadelphia*, University of Venezia Ca’ Foscari, 2018, WP CSDL E “Massimo D’Antona” INT – 143/2018, 2, <[http://aei.pitt.edu/100471/1/20180724-082011\\_Perulli\\_n143-2018intpdf.pdf](http://aei.pitt.edu/100471/1/20180724-082011_Perulli_n143-2018intpdf.pdf)> [Last accessed 23 July 2023]

<sup>20</sup> ILO. (June 1988). *ILO Declaration on Fundamental Principles and Rights at Work*. Adopted at its 86th Session, Geneva.

<sup>21</sup> See ILO, *ILO at a Glance* (ILO 2007) 11 <<https://www.ilo.org/public/english/download/glance.pdf>> [Last accessed 23 August 2023]. See also Art.1 and 2 in the Declaration concerning the aims and purposes of the International Labour Organisation. **See also** Alvarez, J. E. (2018). The Legitimacy of IO Rule-Making. *Proceedings of the Annual Meeting (American Society of International Law)*, 112, 276.

<sup>22</sup> Bob Hepple. *Labour Laws and Global Trade* (Oxford: Hart Publishing, 2005) 30.

<sup>23</sup> See Jakovleski & Biersteker (n14) at 87.

<sup>24</sup> See Singapore WTO Ministerial Declaration, Adopted on 13 December 1996, WT/MIN(96)/DEC (18 December 1996).

<sup>25</sup> Maskus, Keith E. Should Core Labor Standards Be Imposed through International Trade Policy? World Bank Development Research Group, Policy Research Working Paper 1817. (Washington DC: The World Bank 1997) 65.

<sup>26</sup> According to the ILO “Even though the fundamental Conventions are an expression of the principles contained in the ILO Constitution, the Declaration, which is a promotional instrument, adopts a different approach.” The focus Declaration lies on helping States to attain acquiescence “with the fundamental principles and rights through technical cooperation”. In addition to technical cooperation, “each year the ILO publishes a global report on one of the four fundamental principles...” see ILO. (2003). *Text of the Constitution* (ILO Geneva) <<http://www.ilo.org/ilolex/english/iloconst.htm>> [Last accessed 23 July 2023] ILO. *Fundamental rights at work and international labour standards* (ILO Geneva 2003) <[http://www.ilo.org/public/libdoc/ilo/2003/103B09\\_63\\_engl.pdf](http://www.ilo.org/public/libdoc/ilo/2003/103B09_63_engl.pdf)> [Last accessed 27 July 2023]

<sup>27</sup> ILO. (June 1988). *ILO Declaration on Fundamental Principles and Rights at Work*. Adopted at its 86th Session, Geneva.

<sup>28</sup> ILO. *Freedom of Association and Protection of the Right to Organise Convention, 1948 (C87)*. ILO. *Right to Organise and Collective Bargaining Convention, 1949, (C98)*.

bargaining, the elimination of all forms of forced and compulsory labour,<sup>29</sup> the effective abolition of child labour,<sup>30</sup> and the elimination of discrimination in respect of employment and occupation.<sup>31</sup>

The ILO Declaration on Fundamental Principles and Rights at Work and its follow-up were adopted at the 86<sup>th</sup> session of the International Labour Conference (1998) and amended at the 110<sup>th</sup> session (2022). It presents “an expression of commitment by governments, employers’ and workers’ organizations to uphold basic human values—values that are vital to our social and economic lives”.<sup>32</sup> In 2022, the ILO added a safe and healthy working environment as the fifth principle and right to the Declaration of 1998. This landmark decision concerned “all working women and men in all occupations and all kinds of workplaces across the world”,<sup>33</sup> stating that ILO member states should protect workers and guarantee them a safe and healthy workplace.<sup>34</sup> During the same session in 2022, the ILO also adopted a follow-up procedure to support the 1998 Declaration.<sup>35</sup> Its purpose was to encourage and monitor the efforts made by the Organization’s members to promote “the fundamental principles and rights” enshrined in the constitution of the ILO and the 1944 Declaration of Philadelphia and reaffirmed in

<sup>29</sup> ILO. *C29 Forced Labour Convention, 1930*. ILO. *C105 Abolition of Forced Labour Convention, 1957*, ILO. (2010). *Declaration on Fundamental Principles and Rights at Work: “Elimination of all forms of forced or compulsory labour”* (ILO Geneva)

<<http://www.ilo.org/declaration/principles/eliminationofchildlabour/lang--en/index.htm>> [Last accessed 30 July 2023]. In June 2014, the ILO adopted Protocol and a Recommendation which supplement the Forced Labour Convention, 1930 (No. 29) this provided “the fruit of our collective determination to put an end to an abomination which still afflicts our world of work and to free its 25 million victims” as stated by the ILO Director-General, Guy Ryder. See ILO. (n.d.) “*Strengthening the global fight against all forms of forced labour*” *The Protocol to the Forced Labour Convention*, 2 <[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_321414.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_321414.pdf)> [Last accessed 27 August 2023]

<sup>30</sup> ILO. *Child labour: C138 Minimum Age Convention, 1973*, ILO. *C182 Worst Forms of Child Labour Convention*, ILO. (1999). *ILO Declaration on Fundamental Principles and Rights at Work: Effective abolition of child labour* (ILO Geneva 2010) <<http://www.ilo.org/declaration/principles/abolitionofchildlabour/lang--en/index.htm>> [Last accessed 27 August 2023]

<sup>31</sup> ILO. (n.d.). *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up*. Adopted at the 86th Session of the International Labour Conference (1998) and amended at the 110th Session (2022), (ILO 2022) 1.

<sup>32</sup> ILO. (n.d.). *About the Declaration* <<https://www.ilo.org/declaration/lang--en/index.htm#:~:text=The%20ILO%20Declaration%20on%20Fundamental,our%20social%20and%20economic%20lives>> [Last accessed 20 July 2023].

<sup>33</sup> See ILO (n 31) at 1.

<sup>34</sup> For more information on the fifth Standard, see ILO. (n.d.). “*Providing safe and healthy workplaces for both women and men*” *Decent work a better work starts here*.

<[https://www.ilo.org/wcmsp5/groups/public/@dgreports/@gender/documents/publication/wcms\\_105060.pdf](https://www.ilo.org/wcmsp5/groups/public/@dgreports/@gender/documents/publication/wcms_105060.pdf)> [Last accessed 20 July 2023]

<sup>35</sup> See ILO. *About the Declaration*. <<https://www.ilo.org/declaration/lang--en/index.htm#:~:text=The%20ILO%20Declaration%20on%20Fundamental,our%20social%20and%20economic%20lives>> [Last accessed 20 July 2023].

the 1998 Declaration on Fundamental Principles and Rights at Work. The Declaration on Social Justice for a Fair Globalization (2008), addresses “social imbalances” caused by “free trade and capital flows” and was also amended in 2022 to reflect the inclusion of “a safe and healthy working environment in the ILO framework of fundamental principles and rights at work”.<sup>36</sup>

As mentioned above, the ILO’s tripartite system and its standard-setting procedures involve private actors in the development of international law,<sup>37</sup> and the ILO has adopted many international legal and policy instruments since its foundation. The ILO also offers resolution mechanisms such as mediation and arbitration in the case of disputes and provides technical assistance and international expertise on labour matters.<sup>38</sup> According to Van Daele, “The ILO has been a trendsetter among international organizations in standard-setting.”<sup>39</sup> There are currently 402 ILO standards, including 190 conventions, 6 protocols, and 206 recommendations.<sup>40</sup>

As previously mentioned, the ILO’s legal frameworks and institutions encourage bipartite and tripartite social dialogue in member states, as well as consensus building, economic and social development, and good governance<sup>41</sup>—in addition to the numerous mechanisms by which the ILO examines the reports of member states resulting from their ratification of conventions.<sup>42</sup> This oversight, which occurs both in the context of the regular procedure through periodic reports (Art. 22 of the ILO Constitution) and in the context of special procedures based on representations or complaints from ILO

<sup>36</sup> Alvarez, J. E. (2018). The Legitimacy of IO Rule-Making. Proceedings of the Annual Meeting. *American Society of International Law*, 112, 276.276. See ILO, “ILO. (n.d.). ILO Declarations <[https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/organigramme/jur/legal-instruments/WCMS\\_428589/lang--en/index.htm](https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/organigramme/jur/legal-instruments/WCMS_428589/lang--en/index.htm)> [Last accessed 20 July 2023]

<sup>37</sup> Ibid.

<sup>38</sup> See The Labour Code 2019, for example there is a Labour Arbitration Councils or the People’s court, see ILO. (2020). *Labour dispute resolution*. <[https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms\\_807441.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_807441.pdf)> [Last accessed 20 July 2023]

<sup>39</sup> Van Daele (n 1) 485.

<sup>40</sup> Of these instruments, 17 Conventions and 39 Recommendations have been “abrogated or withdrawn as outdated” See ILO. (n.d.). *International labour standards – A glossary* <[https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/organigramme/jur/legal-instruments/WCMS\\_700630/lang--en/index.htm#:~:text=To%20date%2C%20the%20body%20of,six%20Protocols%20and%20206%20Recommendations.](https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/organigramme/jur/legal-instruments/WCMS_700630/lang--en/index.htm#:~:text=To%20date%2C%20the%20body%20of,six%20Protocols%20and%20206%20Recommendations.)> [Last accessed 20 July 2023]

<sup>41</sup> ILO. (n.d.). *Social dialogue* <<https://www.ilo.org/ifpdial/areas-of-work/social-dialogue/lang--en/index.htm>> [Last accessed 23 July 2023]

<sup>42</sup> ILO. Application of International Labour Standards 2022: Report of the Committee of Experts on the Application of Conventions and Recommendations, International Labour Conference 110th Session, 2022, Report III, Part A, 33, <[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_836653.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_836653.pdf)> [Last accessed 23 July 2023]

constituents to the Governing Body (Arts. 24 and 26),<sup>43</sup> has resulted in substantial global achievements.<sup>44</sup>

Currently, the 11 fundamental ILO conventions are the following: Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Convention, 1930 (No. 29) (and its 2014 Protocol); Abolition of Forced Labour Convention, 1957 (No. 105); Minimum Age Convention, 1973 (No. 138); Worst Forms of Child Labour Convention, 1999 (No. 182); Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Occupational Safety and Health Convention, 1981 (No. 155); Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).

### 3. Promoting International Labour Standards through Recommendations

According to Jerbi and Biersteker, during the mid-1990s, when the formal standard-setting role was in decline, “soft law instruments were viewed as a means by which to breathe new life into the ILO”.<sup>45</sup> At the time, the tripartite constituents were mainly content with the status quo: “workers were unwavering supporters of the adoption of conventions as opposed to recommendations—despite their obviously declining ratification rates—while employers’ groups supported conventions at least implicitly”.<sup>46</sup> As such, the ILO adopted many recommendations classified as either “autonomous”, providing new obligations to member states, or “adopted”, to provide precision to the terms of a corresponding convention.<sup>47</sup>

These ILO recommendations are important because they address new issues by offering guidance through “authoritative statements on certain principles” and can influence

<sup>43</sup> See ILO. (1 April 1919). *Constitution of the International Labour Organisation (ILO)*. ILO. *Application of International Labour Standards 2022: Report of the Committee of Experts on the Application of Conventions and Recommendations*. International Labour Conference 110th Session, 2022, Report III, Part A, 33, <[https://www.ilo.org/wcmsp5/groups/public/-ed\\_norm/---relconf/documents/meetingdocument/wcms\\_836653.pdf](https://www.ilo.org/wcmsp5/groups/public/-ed_norm/---relconf/documents/meetingdocument/wcms_836653.pdf)> [Last accessed 23 July 2023]

<sup>44</sup> OECD. (10 April 2019). “*The Contribution of International Organisations to A Rule-Based International System*”. *Key Results from the partnership of international organisations for effective rulemaking*, 1. <<https://www.oecd.org/gov/regulatory-policy/IO-Rule-Based%20System.pdf>> [Last accessed 23 July 2023]

<sup>45</sup> Jakovleski & Biersteker (n14) at 86

<sup>46</sup> ILO. (1997a). *The ILO, Standard Setting and Globalization, Report of the Director General* (Geneva: ILO), <https://www.ilo.org/public/english/standards/relm/ilc/ilc85/dg-rep.htm>, cited in Jakovleski & Biersteker (n 14) at 87.

<sup>47</sup> The newest ILO recommendation adopted was ILO (2023). *R208 - Quality Apprenticeships Recommendation* (No. 208). See Jakovleski & Biersteker (n14) at 86.



policies and “generate legal effects at the national level”.<sup>48</sup> Autonomous recommendations also strengthen the existing institutional ILO framework.<sup>49</sup> As such, recommendations serve as authoritative guidelines for member states to improve their labour laws, policies, and practices. They also cover a various topic, including discrimination (Employment and Occupation), employment, income security, hours of work, occupational safety and health, minimum age, social protection, child labour, forced labour, discrimination, and collective bargaining, among others.<sup>50</sup>

ILO recommendations are based on research, consultations with governments, employers, and workers and are adopted at ILO Conference. These recommendations offer best practices to government, provide international labour norms, and aims to overcome challenges encountered by employers and employees on an international scale.

At the conclusion of the 100<sup>th</sup> session of the International Labour Conference (2011), members of the ILO recognized the need for a “Recommendation complementing existing ILO social security standards and providing guidance to Members in building social protection floors tailored to national circumstances and levels of development” in order to establish “comprehensive social security systems”.<sup>51</sup> As a result, the R202 - Social Protection Floors Recommendation, 2012, (No. 202) was adopted. The recommendation recognizes, among other standards, that the right to social security is a “human right” and that social security is a crucial instrument for combating poverty, inequality, social exclusion, and social insecurity.<sup>52</sup> Consequently, in Art. 1(a), the recommendation directs member states to “establish and maintain, as applicable, social protection floors as a fundamental element of their national social security systems”. Art. 1 (b), the recommendation defines social protection floors as “nationally defined sets of basic social security guarantees that provide protection to prevent or alleviate poverty, vulnerability, and social exclusion”.<sup>53</sup>

<sup>48</sup> See Jakovleski & Biersteker (n14) at 86.

<sup>49</sup> ILO. (1997a). *ILO Standard Setting and Globalization*, Report of the Director General (Geneva: ILO), <<https://www.ilo.org/public/english/standards/reim/ilc/ilc85/dg-rep.htm>>[Last accessed 23 July 2023], cited in See Jakovleski & Biersteker (n14) at 86.

<sup>50</sup> For a list of ILO recommendations see, ILO. Normlex <<https://www.ilo.org/dyn/normlex/en/f?p=1000:12010:.....>> [Last accessed 23 July 2023]

<sup>51</sup> Preamble, ILO, *Social Protection Floors Recommendation, 2012 (No. 202)*.

<sup>52</sup> Ibid at Art. 1.

<sup>53</sup> Ibid.

Another recent recommendation is the R204 - Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204),<sup>54</sup> which was adopted nearly unanimously, and provides guidance to member states to 1(a) “facilitate the transition of workers and economic units from the informal to the formal economy, while respecting workers’ fundamental rights and ensuring opportunities for income security, livelihoods and entrepreneurship”.<sup>55</sup> As such, the recommendation aims to address the “major gap in ILO standards” and enhance the global standing of the ILO as a forum for the discussion of good labour practices.<sup>56</sup>

#### 4. The ILO’s Significance to International Law

The significance of the ILO is not limited to its function in establishing and enforcing international labour standards; it is also concerned with opening up international law, with demonstrating that international law is not limited to interstate relations.<sup>57</sup> Throughout its one hundred and four years of existence, the ILO has implemented its mandate to promote social justice through the adoption of international labour standards in a dynamic manner. The declarations are significant because they contain expressions of “renewed commitment by the ILO’s tripartite membership toward the universal relevance of the Organization’s constitutional mandate and its means of action”.<sup>58</sup> In addition, these declarations, as evidenced by the new amendments (as discussed above) have adapted the “ILO mission to contemporary circumstances for a better impact”.<sup>59</sup> Professors Alvarez and Burci have observed that the ILO has reinvented itself with minimal modifications to its founding Charter,<sup>60</sup> and as a result, it is one of the longest-lasting and most significant international organizations. Klabbers asserts that the ILO and its tripartite system are likely the first “manifestation of international law” in which individuals and corporations are taken seriously, thus “paving the way for the involvement of international law with individuals in more recent years; something we now take for granted.”<sup>61</sup> As a result, with the ILO and prior to the establishment of the

<sup>54</sup> See ILO. *Recommendation No. 204 Concerning the Transition from the Informal to the Formal Economy*, <[http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_377774.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_377774.pdf)> [Last accessed 21 August 2023].

<sup>55</sup> ILO. (2015). R204 - Transition from the Informal to the Formal Economy Recommendation (No. 204), Art. 1.

<sup>56</sup> ILO. (2012). *Governing Body 316th Session: Agenda of the International Labour Conference* (Geneva: ILO) <[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_192447.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_192447.pdf)> [Last accessed 22 August 2023]. See also Jakovleski & Biersteker (n 14) at 86.

<sup>57</sup> Klabbers (n 7) 124.

<sup>58</sup> Kohiyama, T., Role of International Organizations in Driving Rule-Making: The Example of the International Labour Organization. *Proceedings of the ASIL Annual Meeting* 112 (2018) 278.

<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

<sup>61</sup> Klabbers (n 7) 125.

UN, individuals are gradually becoming entities within the international legal system, with rights and responsibilities accorded to them.

The 2006 Maritime Labour Convention,<sup>62</sup> for instance, is one of the ILO's most significant conventions.<sup>63</sup> The Convention established international standards for the first truly global industry. The Convention, commonly referred to as the “Seafarers’ Bill of Rights”, is unique in that it endeavours to achieve both decent working conditions for seafarers and economic security for ship owners providing “protecting them from unfair competition from substandard ships”<sup>64</sup>, it serves as the fundamental balance that drives all international labour standards.<sup>65</sup> It illustrates how IO-sponsored treaties “alter what treaties do”.<sup>66</sup> It also emphasizes how the ILO with its tripartite membership involve private actors not just states in the making of international law.<sup>67</sup>

In addition, the Protection of Wages Convention, 1949 (No. 95) and the Protection of Wages Recommendation, 1949 (No. 85) were the first ILO standards that dealt with wages and sought to protect workers’ compensation.<sup>68</sup> Their purpose is to provide guidance and a “for the key principles that underlie wage protection”.<sup>69</sup> It is submitted that a principle shared by both the convention and recommendation is to ensure there are national regulations for prompt and direct payment of wages to the worker.<sup>70</sup> Convention No. 95 has been ratified by 99 ILO Member States as of 11 September 2023, the most recent being Saudi Arabia on 7 December 2020.<sup>71</sup> Regarding wage payment delays, the ILO Committee of Experts on the Application of Conventions and Recommendations

<sup>62</sup> ILO. (2006). *Maritime Labour Convention*, 45 ILM 792, ILO Report I(1B), International Labour Conference, 94th (Maritime) Sess. (2006).

<sup>63</sup> For example, it has entered into force 20 Aug 2013 and has 104 ratifications, see Normlex, Ratifications of MLC, 2006 - Maritime Labour Convention, 2006 (MLC, 2006) <[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300\\_INSTRUMENT\\_ID:312331](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312331)> [Last accessed 23 September 2023]

<sup>64</sup> International Chambers of Shipping, ILO MLC Frequently Asked Questions <[<sup>65</sup> ILO. \(n.d.\). \*Labour standards\*. <\[https://www.ilo.org/global/standards/maritime-labour-convention/what-it-does/WCMS\\\_219665/lang--en/index.htm\]\(https://www.ilo.org/global/standards/maritime-labour-convention/what-it-does/WCMS\_219665/lang--en/index.htm\)> \[Last accessed 23 July 2023\]](https://www.ics-shipping.org/shipping-fact/ilo-mlc-frequently-asked-questions/#:~:text=What%20are%20the%20basic%20aims,unfair%20competition%20from%20substandard%20ships.></a> [Last accessed 23 July 2023]</p></div><div data-bbox=)

<sup>66</sup> See Alvarez (n 21) at 276. See for example, International Law Commission, *Responsibility of International Organizations: Comments and Observations Received from International Organizations*, U.N. Doc. A/CN.4/637, at 11–12 (Feb. 14, 2011), 38–39.

<sup>67</sup> See Alvarez (n 21) at 276.

<sup>68</sup> ILO. (2023). *Guidance note: Wage protection for migrant workers*. 4 <[https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---travail/documents/publication/wcms\\_878658.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_878658.pdf)> [Last accessed 27 July 2023]

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> ILO. *Ratifications of C095 - Protection of Wages Convention, 1949 (No. 95)*. Date of entry into force: 24 Sep 1952, Normlex, <[https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:312240](https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312240)> [Last accessed 27 July 2023]

(CEACR) has issued comments to member states. See for example, CEACR, Observation - Conventions Nos. 26 and 95 to Madagascar, 2022; CEACR, Direct Request - Convention No. 95 to Tajikistan, 2015.<sup>72</sup>

International labour standards are an integral part of international human rights norms and standards, constituting international law.<sup>73</sup> The ILO, in fact, played a significant role in establishing international human rights standards even before the formation of the United Nations.<sup>74</sup> The ILO's Constitution of 1919 and the Declaration of Philadelphia of 1944, annexed to the Constitution, outline the fundamental principles of labour rights and human rights.<sup>75</sup> As such it seems early on the ILO has set in its constitution and subsequent declaration the principles of social justice, freedom, dignity, economic security, and equal opportunity for all individuals, regardless of their background.

By establishing these principles, the ILO set the stage for the development of subsequent international human rights instruments, including the Universal Declaration of Human Rights adopted by the United Nations in 1948. As such since 1919, with its international labour standards, the ILO have attempted to articulate the aspirations, values, and rights that were eventually enshrined in the 1945 UN Charter<sup>76</sup> and 1948 UDHR.<sup>77</sup> In addition, according to the CEACR, the ILO has influenced numerous international human rights treaties, such as the International Covenants on Civil and Political Rights (ICCPR) and on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the

<sup>72</sup> See ILO, “Guidance note: Wage protection for migrant workers” (n 68).

<sup>73</sup> De Meyer, Tim. *Social justice International labour standards as human rights*, Senior Advisor in the ILO’s International Labour Standards Department (NORMES), Analysis, 17 November 2022, < [https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_860960/lang--en/index.htm](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_860960/lang--en/index.htm) > [Last accessed 27 July 2023]

<sup>74</sup> ILO. (2022). *Collaboration with the United Nations*, Extracts from the General report of the 2022 Report of the Committee of Experts on the Application of Conventions and Recommendations, 1, <[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---normes/documents/meetingdocument/wcms\\_839277.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/meetingdocument/wcms_839277.pdf)> [Last accessed 27 July 2023] See also ILO: Report of the Committee of Experts on the Application of Conventions and Recommendations: General report and observations concerning particular countries, Report III (Part 1A), International Labour Conference, 86th Session, 1998, Geneva, pp. 16-17, paras. 56-58. The full text of this section of the Committee of Experts’ Report (paras. 41-60).

<sup>75</sup> International Labour Review “Labour rights, human rights”, Vol. 137 (1998), No. 2, 128. See for example, The ILO constitution, forming Part XIII of the Treaty of Versailles, begins with the assertion that “universal and lasting peace can be established only if it is based upon social justice.” ILO, *Constitution of the International Labour Organisation (ILO)*, 1 April 1919. As well as, the Declaration of Philadelphia, specifically in Article 2 (a), affirms that “all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity.” International Labour Conference. 1944. Declaration Concerning the Aims and Purposes of the International Labour: Adopted by the Conference at Its Twenty-Sixth Session, Philadelphia, May 10.

<sup>76</sup> See for example, preamble of United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI,

<sup>77</sup> See UDHR, Preamble, UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III).

Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC).<sup>78</sup>

The ILO's commitment to equality is at the core of the concept of “decent work”.<sup>79</sup> The ILO's Discrimination (Employment and Occupation) Convention, 1958 (No.111), is widely recognized as a remarkably far-sighted and comprehensive instrument, as described by Hepple.<sup>80</sup> It is also considered one of the most widely ratified ILO Conventions.<sup>81</sup> The primary aim of this convention is to combat discrimination in the workforce and promote equal opportunities for work for both men and women.

Furthermore, the ILO Declaration on Fundamental Principles and Rights at Work, which was adopted in 1998 and amended in 2022, emphasizes that the eradication of discrimination in employment and occupation is a responsibility that applies to all member states, regardless of whether they have ratified the relevant conventions. The declaration highlights the universal obligation to address and eliminate discrimination in the workplace. The declaration also outlines the inherent obligations and commitments associated with ILO membership.<sup>82</sup> These include: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; the elimination of discrimination in respect of employment and occupation; and a safe and healthy working environment.<sup>83</sup> As such these are fundamental ILO standards, that encompass economic, social, and cultural rights.

Consequently, international labour standards have become the benchmark for laws and actions pertaining to human rights in the workplace.<sup>84</sup> These standards promote and safeguard a wide range of labour rights, spanning civil, political, economic, social, and cultural spheres, ensuring fair and decent working conditions for all individuals.<sup>85</sup> These standards also supplement international human rights law by adding critical dimensions

<sup>78</sup> ILO. (2022). *Application of International Labour Standards 2022*, Report III (Part A) Report of the Committee of Experts on the Application of Conventions and Recommendations, International Labour Conference, 110th Session, 2022, 76 <[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_836653.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_836653.pdf)> [Last accessed 27 July 2023]

<sup>79</sup> Hepple, B. Equality and empowerment for decent work, *International Labour Review*, Vol. 140 (2001), No. 1, 5.

<sup>80</sup> Ibid.

<sup>81</sup> It currently has 175 ratifications, (Saudi Arabia ratified the convention on 15 Jun 1978. See ILO, *Ratifications of C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*, Normlex, <[https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:312256](https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312256)> [Last access 1 October 2023]

<sup>82</sup> See Hepple, (n 79).

<sup>83</sup> ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up Adopted at the 86th Session of the International Labour Conference (1998) and amended at the 110th Session (2022).

<sup>84</sup> See Hepple, (n 79).

<sup>85</sup> See a list of Conventions and related recommendations, ILO, List of instruments by subject and status, Normlex, <<https://www.ilo.org/dyn/normlex/en/f?p=1000:12030::NO::>> [Last accessed 1 October 2023]

enabling Member States' obligation to “respect, protect and fulfil the human rights at work of individuals within their territory and/ or jurisdiction”.<sup>86</sup> For example, creating a platform for social dialogue, labour dispute settlement mechanisms, ILO efforts are regarded as an important means of realizing human rights at work.<sup>87</sup> Furthermore, ILO conventions serve as benchmarks for operationalizing human rights at work. For instance, conventions such as the Forced Labour Convention, 1930 (No. 29) aim to prevent slavery or forced labour, while others like the Worst Forms of Child Labour Convention, 1999 (No. 182) focus on protecting children against exploitation and abuse.<sup>88</sup>

Recently, on February 24, 2023, the ILO Committee of Experts on the Application of Conventions and Recommendations, along with the Chairpersons of UN Human Rights Treaty Bodies, issued a joint statement in commemoration of the third anniversary of the UN Secretary General's Call to Action for Human Rights.<sup>89</sup> The statement includes the following:

[L]abour rights are human rights and that integrating human rights and international labour standards into economic and legal policy frameworks is critical to reducing inequalities and creating an environment conducive to more equitable and inclusive economic development to uphold the 2030 Agenda's pledge to leave no one behind.<sup>90</sup>

The above highlights the inherent connection between labour rights and human rights, underscores the significance of integrating international labour standards and human rights into economic and legal policy frameworks. After ratifying ILO conventions, states are obligated to submit annual reports to the ILO, outlining the actions taken to implement the provisions of the ratified conventions.<sup>91</sup> The ILO employs regular reporting procedures as the primary means of supervising the application of conventions and recommendations. A summary of these reports must be presented at each session of the ILO Conference.<sup>92</sup>

<sup>86</sup> ILO, Application of International Labour Standards 2022 Report III (Part A) Report of the Committee of Experts on the Application of Conventions and Recommendations, International Labour Conference, 110th Session, 2022, 76 <[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_836653.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_836653.pdf)> accessed 27 July 2023.

<sup>87</sup> Ibid.

<sup>88</sup> Ibid.

<sup>89</sup> ILO, Joint statement by the ILO Committee of Experts on the Application of Conventions and Recommendations and UN Human Rights Treaty Bodies Chairpersons, third anniversary of the UN Secretary General's Call to Action for Human Rights 24 February 2023, <[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---normes/documents/statement/wcms\\_869037.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/statement/wcms_869037.pdf)> [Last accessed 12 September 2023]

<sup>90</sup> Ibid.

<sup>91</sup> Lodge, G. C., Lipson, L., & Schachter, O. (1960). Labor's Influence in The Development of International Legal Standards. Proceedings of the American Society of International Law at Its Annual Meeting (1921-1969), 54, 214.

<sup>92</sup> Ibid.

Over the years, the ILO has collaborated and partnered with other international organizations based on the guidance provided by the declaration of principles concerning multinational enterprises and social policy (MNE Declaration).<sup>93</sup> The ILO Governing Body regularly reviews its collaborations and partnerships, including those with many UN organizations, such as the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Working Group on Business and Human Rights, the United Nations Global Compact (UNGC), UN Women, the United Nations Development Programme (UNDP), and the United Nations Conference on Trade and Development (UNCTAD), in addition to other international organizations, such as the World Association of Investment Promotion Agencies (WAIPA) and the Organization for Economic Co-operation and Development (OECD).<sup>94</sup>

According to the ILO, between January 2020 and June 2022, the UN contributed over USD 101 million to ILO interventions, making it “the second largest contributor of voluntary funding to the ILO for this period”.<sup>95</sup> With the assistance of nearly 30 UN partners, the ILO has implemented approximately 200 initiatives in Africa and the Arab States, Europe and Central Asia, Asia and the Pacific, and the Americas in support of the ILO’s objectives and the UN Sustainable Development Goals (SDGs).<sup>96</sup>

In accordance with Art.12 of the ILO Constitution, the ILO has concluded cooperation agreements with other international organizations.<sup>97</sup> For instance, there are over 34 agreements with the UN and its various specialized agencies.<sup>98</sup> As a specialized UN agency, the ILO is actively involved in UN reform to ensure that the Decent Work

<sup>93</sup> The Tripartite declaration of principles concerning multinational enterprises and social policy (MNE Declaration) “provides direct guidance to enterprises on social policy and inclusive, responsible and sustainable workplace practices” ILO. (n.d.). *What is the ILO MNE Declaration?* <[https://www.ilo.org/empent/areas/mne-declaration/WCMS\\_570332/lang-en/index.htm](https://www.ilo.org/empent/areas/mne-declaration/WCMS_570332/lang-en/index.htm)> accessed 27 July 2023. See ILO. (n.d.). *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration)* <<https://www.ilo.org/empent/areas/mne-declaration/lang-en/index.htm>>; See also ILO. (n.d.). *Collaboration and partnerships with international organizations.* <[https://www.ilo.org/tokyo/helpdesk/WCMS\\_646618/lang-en/index.htm](https://www.ilo.org/tokyo/helpdesk/WCMS_646618/lang-en/index.htm)> [Last accessed 27 July 2023]

<sup>94</sup> Ibid.

<sup>95</sup> ILO. (n.d.). *The ILO and the UN system* <<https://www.ilo.org/pardev/partnerships/partnerships-and-relations/lang-en/index.htm>> [Last accessed 27 July 2023]

<sup>96</sup> Ibid.

<sup>97</sup> ILO. (n.d.). *ILO cooperation agreements with other international organizations* <[https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/organigramme/jur/legal-instruments/WCMS\\_442247/lang-en/index.htm](https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/organigramme/jur/legal-instruments/WCMS_442247/lang-en/index.htm)> [Last accessed 27 July 2023]. The ILO also has also agreements with other international and regional organisations, including four in the Arab world, and ten in Europe.

<sup>98</sup> UN agencies including: The UN (1946) , Joint United Nations Programme on HIV/AIDS (UNAIDS) (2001) , United Nations Children's Fund (UNICEF) (1997) ,United Nations Conference on Trade and Development (UNCTAD) (2014) ,United Nations Development Programme (UNDP) (1993) , Specialized Agencies and Related Organizations including: Food and Agriculture Organization (FAO) (1947), Food and Agriculture Organization (FAO) (2004) , World Bank (2016) and World Health Organization (WHO) (1948), World Intellectual Property Organization (WIPO) (1967). For a full list see ILO. (n.d.). *ILO cooperation agreements with other international organizations* <[https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/organigramme/jur/legal-instruments/WCMS\\_442247/lang-en/index.htm](https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/organigramme/jur/legal-instruments/WCMS_442247/lang-en/index.htm)> [Last accessed 27 July 2023]

Agenda<sup>99</sup> continues to be integrated into new policy frameworks and that the value of tripartism and the role of social partners are emphasized throughout the process.<sup>100</sup>

In 2022, the ILO and the Islamic Development Bank (IsDB) signed a memorandum of understanding (MoU)<sup>101</sup> to increase their cooperation on the labour market and wider economic areas of mutual concern.<sup>102</sup> The joint work will pool the financial and technical resources of the two institutions to assist member states in making investments and taking action in several priority areas, including policy, research and statistics, capacity development, youth economic empowerment, gender equality in the world of work, decent work in fragile contexts, skills development and youth employment, and women's economic empowerment.<sup>103</sup> The MoU has an initial duration of five years and can be renewed for additional periods as mutually agreed upon in writing by both parties.<sup>104</sup>

## 5. The ILO in Saudi Arabia

In addition to the IsDB and the ILO's collaborative work in the Arab region, the ILO has collaborated with Arab governments, workers, and employer representatives to promote the application of international labour standards through various means, such as awareness-raising activities, legal and policy reforms, and “elaborating social dialogue indicators as part of the overall indicators of decent work”.<sup>105</sup> As of 2022, the Kingdom of Saudi Arabia is regarded as one of “the world's fastest-growing economies”<sup>106</sup> and is

<sup>99</sup> See ILO. (n.d.). *Decent Work and the 2030 Agenda for Sustainable Development* <[https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---ilo-lisbon/documents/event/wcms\\_667247.pdf](https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---ilo-lisbon/documents/event/wcms_667247.pdf)> [Last accessed 27 July 2023]

<sup>100</sup> ILO. (n.d.). *The ILO and the UN system* <<https://www.ilo.org/pardev/partnerships/partnerships-and-relations/lang--en/index.htm>> [Last accessed 27 July 2023]

<sup>101</sup> See ILO. (n.d.). *Memorandum of Understanding Between Islamic Development Bank and International Labour Organization Regarding Cooperation and Collaboration in Areas of Mutual Interest* <[https://www.ilo.org/wcmsp5/groups/public/---dgreports/---jur/documents/genericdocument/wcms\\_863107.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---jur/documents/genericdocument/wcms_863107.pdf)> [Last accessed 27 July 2023]

<sup>102</sup> ILO. (13 November 2022). *G20: IsDB and ILO pledge to pool resources to support mutual Member States* <[https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_861491/lang--en/index.htm](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_861491/lang--en/index.htm)> [Last accessed 27 July 2023]. ILO. (n.d.). *Tripartism & Social Dialogue in the Arab States* <[https://www.ilo.org/beirut/areasofwork/tripartism-and-social-dialogue/WCMS\\_731001/lang--en/index.htm](https://www.ilo.org/beirut/areasofwork/tripartism-and-social-dialogue/WCMS_731001/lang--en/index.htm)> [Last accessed 27 July 2023].

<sup>103</sup> Ibid.

<sup>103</sup> ILO. (2022). *Memorandum of Understand Between Islamic Development Bank and International Labour Organization Regarding Cooperation and Collaboration in Areas Of Mutual Interest* <[https://www.ilo.org/wcmsp5/groups/public/---dgreports/---jur/documents/genericdocument/wcms\\_863107.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---jur/documents/genericdocument/wcms_863107.pdf)> [Last accessed 27 July 2023]

<sup>104</sup> Ibid.

<sup>105</sup> ILO. (n.d.). *International Labour Standards* <<https://www.ilo.org/beirut/areasofwork/international-labour-standards/lang--en/index.htm>> [Last accessed 27 July 2023]

<sup>106</sup> Salama, S. (January 07, 2021). *Saudi Arabia ranked most powerful country in Arab world* <<https://gulfnews.com/world/gulf/saudi/saudi-arabia-ranked-most-powerful-country-in-arab-world-1.76319445>> [Last accessed 27 July 2023]



considered one of the world's most powerful nations.<sup>107</sup> The country has been an ILO member state since 1976 and has ratified 18 ILO conventions, including six of the eight core conventions, and 11 technical conventions.<sup>108</sup> Over the past few years, the Kingdom has arguably made significant advances in ratifying and implementing international labour standards to strengthen its labour laws.<sup>109</sup>

Over the years, the Kingdom, guided by one of the Saudi Vision 2030 programmes (the National Transformation Programme 2020 (NTP)),<sup>110</sup> has signed a number of agreements with the ILO to collaborate with the Ministry of Human Resources and Social Development and social partners in the formulation and management of national development strategies pertaining to capacity building in order to support a just and sustainable labour market.<sup>111</sup> In accordance with the Kingdom's commitment to the 2030 Agenda for Sustainable Development (UN SDGs)<sup>112</sup> and Saudi Vision 2030<sup>113</sup>, the Saudi Ministry of Human Resources and Social Development is presently conducting a two-year collaboration with the ILO on a variety of activities aimed at achieving Goal 8 of the SDGs, which is to “promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all”. For example, the ILO is currently working with the Ministry to implement various capacity-building activities (SDG 8.1) and to foster cooperative development in Saudi Arabia through policy development, technical and capacity building (SDG 8.3). It is also working to support the

<sup>107</sup> Mati, A., & Rehman, S., (August 17, 2022). *Saudi Arabia to Grow at Fastest Pace in a Decade*.

<<https://www.imf.org/en/News/Articles/2022/08/09/CF-Saudi-Arabia-to-grow-at-fastest-pace>> [Last accessed 27 July 2023]

<sup>108</sup> ILO. *C001 - Hours of Work (Industry) Convention, 1919 (No. 1)* 15 Jun 1978; *C014 - Weekly Rest (Industry) Convention, 1921 (No. 14)* 15 Jun 1978; *C030 - Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)* 15 Jun 1978; *C045 - Underground Work (Women) Convention, 1935 (No. 45)* 15 Jun 1978; *C089 - Night Work (Women) Convention (Revised), 1948 (No. 89)* 15 Jun 1978; *C090 - Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90)* 15 Jun 1978; *C095 - Protection of Wages Convention, 1949 (No. 95)* 07 Dec 2020; *C106 - Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)* 15 Jun 1978; *C120 - Hygiene (Commerce and Offices) Convention, 1964 (No. 120)* 7 Dec 2020; *C123 - Minimum Age (Underground Work) Convention, 1965 (No. 123)* Minimum age specified: 18 years 15 Jun 1978; *C174 - Prevention of Major Industrial Accidents Convention, 1993 (No. 174)* 08 Oct 2001.

<sup>109</sup> ILO. (8 June 2023). *Development cooperation between ILO and Saudi Arabia enters new phase*,

<[https://www.ilo.org/beirut/media-centre/news/WCMS\\_884708/lang--en/index.htm](https://www.ilo.org/beirut/media-centre/news/WCMS_884708/lang--en/index.htm)> [Last accessed 27 July 2023]

<sup>110</sup> For more information on the Program, see Saudi Arabia. *The National Transformation Program (NTP)*,

<<https://www.vision2030.gov.sa/v2030/vrps/ntp/>> [Last accessed 27 July 2023]

<sup>111</sup> UN Saudi Arabia. (n.d.). *Sustainable Development Goal 8 Decent Work and Economic Growth*

<<https://saudi-arabia.un.org/sdgs/8/key-activities>> [Last accessed 27 July 2023]

<sup>112</sup> UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development*, 21 October 2015, A/RES/70/1.

<sup>113</sup> Saudi Arabia. (2020). *Vision 2030*. <<https://vision2030.gov.sa/en/reports>> [Last accessed 27 August 2023].

implementation of a child labour (CL) policy through improved evidence and capacity building.<sup>114</sup>

Saudi Arabia already has laws protecting the rights of children—for example, its Basic Law of Governance promotes family bonds and Arab-Islamic values, guarantees for free healthcare, mandatory vaccinations and services, as well as free education for all children.<sup>115</sup> However, child labour is prevalent in the region; according to statistics gathered by the ILO, 13.4 million—or about 15%—of all children in the region are child labourers.<sup>116</sup> Observing the number of children involved in human trafficking and child begging, the Kingdom decided to ensure that it had an effective policy to combat all forms of child labour.

In 2001, Saudi Arabia ratified a fundamental labour rights convention, identified at ILO Declaration on Fundamental Principles and Rights at Work (1998), the Worst Forms of Child Labour 1999 (No. 182), and in 2021, the ILO Committee of Experts issued a direct request for the government to take several steps to ensure its full implementation. These include providing statistical information on “the number of reported violations, investigations, prosecutions, convictions and penalties imposed related to the use of child labour for begging” and continuing the Kingdom’s efforts to provide “appropriate services to children engaged in begging to facilitate their rehabilitation and social integration, and to provide information on the results achieved”.<sup>117</sup> The committee acknowledged that the ongoing ILO Technical Cooperation initiative was “fostering the

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<sup>114</sup> International Labour Organisation and corporation with Saudi Ministry of Human Resources and Social Development (implementing agency): SDG Goals (8.7) capacity building activities (from 2023-03-01 to 2025-06-30); Support implementation of child labour (CL) policy through improved evidence and capacity building support (from 2023-06-01 to 2025-06-30); Improve Occupational Safety and Health in line with international labour standards, through policy and systems’ development as well as technical and capacity building support; SDG Goals 8.8 (from 2023-02-01 to 2025-12-31); Foster cooperative development in KSA through policy development, and technical and capacity building support SDG goals 8.3 (from 2023-06-01 to 2025-06-30); Support improved policy development and implementation through placement of international advisers in the Ministry of Human Resources and Social Development, SDG Goals : 16.6 and 8.3, (from 2023-06-01 to 2024-06-30); Finally, increased capacities of MHRSD staff on policy development, implementation and monitoring and evaluation, SDG Goals: 16.7 and 8.5 (from 2023-08-01 to 2023-12-31) cited in *UN Saudi Arabia. Sustainable Development Goal 8 Decent Work and Economic Growth*.  
<<https://saudiarabia.un.org/en/sdgs/8/key-activities>> [Last accessed 1 September 2023].

<sup>115</sup> Basic Law of Governance, Royal Order No. A/90, 27 Sha’ban 1412H – 1 March 1992, Published in Umm al-Qura Gazette No. 3397, 2 Ramadan 1412H - 5 March 1992. See Unified National Platform GOV.SA, *Child rights* <<https://www.my.gov.sa/wps/portal/snp/careaboutyou/childrights/?lang=en>> [Last accessed 27 August 2023]

<sup>116</sup> Unified National Platform GOV.SA, *Child rights* <<https://www.my.gov.sa/wps/portal/snp/careaboutyou/childrights/?lang=en>> [Last accessed 27 August 2023]

<sup>117</sup> ILO. (2017). *Worst Forms of Child Labour Convention, 1999 (No. 182) Saudi Arabia (Ratification: 2001)*. Normlex Information System on International Labour Standards  
<[https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID:3298621](https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3298621)> [Last accessed 27 August 2023]

development of a statistical database on child labour, as well as the realization of a national child labour survey at a later stage”. This intervention demonstrates how the ILO Committee of Experts monitors the convention’s implementation and provides member states with recommendations on how to better adhere to the convention’s standards.<sup>118</sup>

Along with ratifying the convention, the Kingdom has also joined the international community in implementing the ILO’s recommendations and ensuring that explicit laws prohibiting child labour are in place. On 2 April 2014, the Kingdom ratified the Minimum Age Convention of 1973 (No. 138). In 2016, the ILO provided technical advisory services on child labour issues and reported on the convention.<sup>119</sup> In accordance with the Kingdom’s international obligations under ILO Conventions 138 and 182, the Council of Ministers approved the National Action Plan to Prevent Child Labour in 2021.<sup>120</sup> This demonstrates that the ILO’s collaborative efforts are effective.

To support the Kingdom’s commitment to the UN objective of Leaving No One Behind (LNOB)<sup>121</sup> and the ILO, the Ministry of Human Resources and Social Development approved a second phase of the ILO–Saudi Development Cooperation Programme in late 2022 to support a just and sustainable labour market.<sup>122</sup> In June 2023, a letter of intent was signed to launch Phase II, supporting analysis, policy, and capacity development in five main priority areas in alignment with the country’s Vision 2030,<sup>123</sup> building on the achievements of Phase I of the programme.<sup>124</sup> The new three-year phase, with a total budget of around USD 4.2 million, aims to improve employment and labour market policies and outcomes, strengthen social dialogue, and ensure the application of fundamental principles and rights at work.<sup>125</sup> This includes carrying out the National Policy for Eliminating and Preventing Child Labour,<sup>126</sup> and the recently adopted National

<sup>118</sup> Ibid.

<sup>119</sup> ILO. (n.d.). *Saudi Arabia* <[https://www.ilo.org/beirut/countries/saudi-arabia/WCMS\\_544148/lang--en/index.htm](https://www.ilo.org/beirut/countries/saudi-arabia/WCMS_544148/lang--en/index.htm)> [Last accessed 27 August 2023]

<sup>120</sup> The Saudi Gazette. (April 07, 2021). *Saudi Cabinet approves national policy to prevent child labor* <<https://saudigazette.com.sa/article/605320>> [Last accessed 27 August 2023]

<sup>121</sup> UN Saudi Arabia. (2023). *UN Country Results Report Kingdom of Saudi Arabia 2022*, 33, <[https://saudiarabia.un.org/sites/default/files/2023-05/UN%20KSA%20CRR%202022\\_0.pdf](https://saudiarabia.un.org/sites/default/files/2023-05/UN%20KSA%20CRR%202022_0.pdf)> [Last accessed 27 August 2023]

<sup>122</sup> Ibid.

<sup>123</sup> See Cabinet Resolution No. 308, adopted on April 25, 2016. The vision includes comprehensive plans and programs for economic and social development. It is a blueprint for policies, programs, and initiatives that leverage on the Kingdom’s potential resources within three themes: “a vibrant society, a thriving economy, and an ambitious nation.” Saudi Arabia. (n.d.). *Vision 2030*. <<https://www.vision2030.gov.sa/v2030/overview/>> [Last accessed 27 August 2023]; See also UN Human Rights Council, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Saudi Arabia, 5 August 2013, A/HRC/WG.6/17/SAU/1,2.

<sup>124</sup> See ILO “Development cooperation between ILO and Saudi Arabia enters new phase” (n 109).

<sup>125</sup> Ibid.

<sup>126</sup> Saudi Arabia also enacted the Child Protection Law by Royal Decree M/14 dated 25/11/2014, which represents a “comprehensive legal framework for the protection of children under 18 years from abuse and neglect”. Saudi Arabia, a

Policy on Equality in Employment and Occupation. <sup>127</sup> Both policies were developed with ILO support in the first phase of the programme. <sup>128</sup>

Overall, the Kingdom has made significant strides in ratifying and implementing international labour standards, and the new phase of cooperation with the ILO aims to build upon these accomplishments. The Regional Director of the ILO, Ruba Jaradate, stated, “The ILO is pleased to renew the programme of joint work with Saudi Arabia and considers it a good example of productive engagement between the ILO and countries of the Gulf Cooperation Council.”<sup>129</sup> The new phase of cooperation with the ILO and its support of social dialogue between the government and the Saudi National Committee of Workers Committees and the Federation of Saudi Chambers, respectively representing workers and employers, aims to strengthen Saudi Arabia’s commitment to its ILO obligations.<sup>130</sup> Social dialogue, as promoted by the ILO, is important because, according to the ILO, it has “the potential to resolve important economic and social issues, encourage good governance, advance social and industrial peace and stability and boost economic progress”, assuming the structures and processes of social dialogue are successfully established.<sup>131</sup>

Three years after the pandemic, the world confronts numerous challenges, which necessitate these efforts from Saudi Arabia. In many regions of the globe, real wages have decreased, while inflation, destitution, and inequality have risen. <sup>132</sup> According to Gilbert F. Hougbo, the Director-General of the ILO, “policies and actions must be human-centred, to allow people to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, economic security and equal opportunity.” These principles align with the core values articulated in the 1944 Philadelphia Declaration.<sup>133</sup>

As mentioned earlier, Saudi Arabia has demonstrated its commitment to the international community and is actively progressing in accordance with the call made by the ILO

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report to be submitted by the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, to the 77th session of the UN General Assembly in October 2022, <<https://www.ohchr.org/sites/default/files/documents/issues/children/cfi/vulnerabilities-children/states/2022-07-26/submission-sdgs-state-Saudi-Arabia.docx>> [Last accessed 27 August 2023].

<sup>127</sup> The Saudi Gazette. (January 10, 2023). *Saudi Arabia approves national policy to promote equality of opportunities and treatment* <<https://saudigazette.com.sa/article/628784>> [Last accessed 27 August 2023]

<sup>128</sup> See ILO, (n 109).

<sup>129</sup> Ibid.

<sup>130</sup> See ILO, “Development cooperation between ILO and Saudi Arabia enters new phase” (n 109).

<sup>131</sup> See ILO, “Social dialogue” (n 41).

<sup>132</sup> ILO, Statement by Gilbert F. Hougbo, the Director-General of the ILO, (1 May 2023). *Time to prioritize social justice* <[https://www.ilo.org/ankara/news/WCMS\\_879987/lang--en/index.htm](https://www.ilo.org/ankara/news/WCMS_879987/lang--en/index.htm)> [Last accessed 27 August 2023]

<sup>133</sup> Ibid.

Director-General. It appears, that the Kingdom is actively contributing to the establishment of equitable and resilient societies capable of fostering lasting peace and social justice.

In conclusion, considering the array of challenges faced globally, it is essential for countries like Saudi Arabia to actively engage in addressing them. By adopting human-centered policies and working towards the development of equitable and resilient societies, Saudi Arabia can play a significant role in promoting lasting peace, social justice, and the well-being of its own people and the broader international community.

## 6. Conclusion

In conclusion, the ILO stands as an impressive catalyst for progress, having established fundamental international labour standards and provided crucial technical assistance to member states. Its supervisory mechanisms and collaborations with other UN agencies, international, regional, and national organizations, as well as governments, have been instrumental in advancing and implementing international labour standards.

The ILO's tripartite structure, which uniquely positions it as a UN agency, plays a vital role by fostering social dialogue and cooperation among governments, employers, and employees.<sup>134</sup> This structure enables the establishment of international labour standards and provides a platform for addressing the barriers that hinder social justice in the workplace and hinder economic development. Consequently, the ILO's tripartite nature holds considerable influence within the realm of international law.

As mentioned earlier, international labour standards have become the prevailing norms for legislation and practices concerning human rights in workplaces. Furthermore, these standards complement international human rights law by providing essential elements that empower member states to fulfil their obligations of respecting, protecting, and fulfilling the human rights of individuals within their jurisdiction. The ILO's efforts, such as facilitating social dialogue and establishing mechanisms for resolving labour disputes, are widely recognized as critical methods for advancing human rights at work.<sup>135</sup>

<sup>134</sup> See ILO. (n.d.). *Tripartite constituents* <<https://www.ilo.org/global/about-the-ilo/who-we-are/tripartite-constituents/lang-en/index.htm#:~:text=agency%20with%20government%2C%20employer%2C%20and,elaborate%20labour%20standards%20and%20policies>> [Last accessed 23 July 2023]

<sup>135</sup> See Hepple, (n 79). See also ILO, Application of International Labour Standards 2022 Report III (Part A) Report of the Committee of Experts on the Application of Conventions and Recommendations, International Labour Conference, 110th Session, 2022, 76 .

The case of Saudi Arabia's engagement with the ILO exemplifies how collaboration and intervention by the organization can effectively support the implementation of international labour standards. This demonstrates the unique role of the ILO in promoting fundamental principles such as decent work, gender equality, the eradication of forced labour and the worst forms of child labour, and the overarching objective of addressing social and economic inequality. By promoting these principles, the ILO aims to ensure that all stakeholders in the international community uphold and act upon the core message of the ILO Declaration of Philadelphia (1944) that emphasizes the principle that “labour is not a commodity”.

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## "تأثير منظمة العمل الدولية على القانون الدولي وممارسة الدول: دراسة تحليلية"

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### المستخلص

تهدف هذه الدراسة إلى تقديم نظرة شاملة لمؤسسة منظمة العمل الدولية لمعايير العمل الدولية. وتأثيرها الكبير على تطوير القانون الدولي. يبدأ الدراسة باستكشاف تاريخي لمنظمة العمل الدولية، مع التركيز على الدور الحاسم لهيكلها الثلاثي في وضع معايير العمل الدولية والإشراف عليها، بما في ذلك المبادئ والحقوق الأساسية في العمل. وتسلط الدراسة الضوء على الآثار الإيجابية لهذه المعايير على الرفاه الاجتماعي والاقتصادي للعمال. بالإضافة إلى ذلك، فإنه يتعمق في اتفاقيات وإعلانات منظمة العمل الدولية الأساسية، وتسلط الضوء على أهمية صكوك "القانون المرن"، مثل توصيات منظمة العمل الدولية المعتمدة على نطاق واسع. وتبحث الدراسة أيضًا في تعاون منظمة العمل الدولية مع وكالات الأمم المتحدة الأخرى والمنظمات الإقليمية، موضحة دورها الفعال في تعزيز تنفيذ ورصد معايير العمل الدولية، وتحديدًا في سياق المملكة العربية السعودية. باختصار، تشير هذه الدراسة إلى أن منظمة العمل الدولية لعبت دورًا كبيرًا في صياغة معايير العمل الدولية الأساسية التي تشمل الحقوق الاقتصادية والاجتماعية والثقافية، فضلاً عن القضاء على التمييز في القوى العاملة، وذلك قبل إطار الأمم المتحدة لحقوق الإنسان. وتبين الدراسة الجهود الرائدة التي تبذلها منظمة العمل الدولية في إقرار حقوق العمل باعتبارها من حقوق الإنسان وتعزيزها النشط للعدالة الاجتماعية والرفاه الاقتصادي للعمال في جميع أنحاء العالم. ومن خلال تحليلها الشامل، تؤكد هذه الدراسة على أهمية وتأثير عمل منظمة العمل الدولية في مجال القانون الدولي.

**الكلمات المفتاحية:** القانون الدولي، منظمة العمل الدولية، معايير العمل الدولية، العمل اللائق، العدالة الاجتماعية، المملكة العربية السعودية.