

Appendices

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Appendix A – Glossary of Terms

A

Accession:

When a state signs and ratifies a treaty at a date later than when it was first presented or after it is already in force. Accession has the same legal force and effect as ratification.

B

Bodies of Principles, Codes of Ethics, Declarations, Guidelines:

These are examples of international instruments in non-treaty form. They represent a collective statement of principles or a declaration of intention. These instruments are not open to ratification. They are not usually legally binding on states (the exception being the Universal Declaration of Human Rights), but they reaffirm principles and can become sources of customary international law, *cf.* declaration

C

Charter, Convention, Covenant, Pact, Protocol, Treaty:

These are all international agreements among states that are intended to be legally binding from the date of ratification.

Charter-based Mechanisms:

See “extra-conventional mechanisms”.

Commission of Inquiry:

The independent body that may be appointed by the ILO’s Governing Body in order to investigate a complaint lodged against a state under article 26 of the ILO Constitution. A Commission of Inquiry is composed of three experts. *cf.* complaint

Committee:

See “treaty body”.

Committee of Experts on the Application of Conventions and Recommendations (Committee of Experts):

The body composed of 20 independent experts whose tasks include reviewing government reports on the implementation of ratified ILO Conventions, as well as government reports on the state of national law and practice with respect to certain unratified Conventions and Recommendations. *cf.* Regular System of Supervision

Committee on Freedom of Association (CFA):

The CFA is the tripartite committee of the ILO's Governing Body responsible for examining complaints alleging violations of freedom of association.

Communication:

Euphemism for "complaint" in the UN human rights system.

Complaint:

The term for an allegation made under article 26 of the ILO Constitution. The allegation must maintain that a state is not implementing fully the provisions of an ILO Convention which it has ratified.

Conference Committee on the Application of Standards (Conference Committee):

The tripartite committee of the International Labour Conference that is set up each year and charged with reviewing the report of the Committee of Experts. It also discusses cases involving the implementation of ratified ILO Conventions by individual states. *cf.* Committee of Experts.

Constitutional Obligations:

Those requirements imposed by the ILO Constitution on states which are members of the ILO. They include the obligation to submit new instruments to the competent national authorities, and to report on ratified ILO Conventions, unratified ILO Conventions, and ILO Recommendations.

Customary International Law:

Customary international law is automatically incorporated into domestic law unless the state has been a persistent objector. Therefore, it gives the individual a potential remedy in domestic law. In order to claim that a principle has become part of customary international law, you must show consistent and widespread state practice to that effect and that a large number of states consider it binding. For example, the UDHR became binding because states and individuals treated it as binding. Now, in the

conscience of most states, it is regarded as a binding instrument, even though such declarations are not usually binding.

D

Declaration (ILO):

A formal statement made by the International Labour Conference or the ILO's Governing Body. Also refers to a formal statement made by an ILO member state when it ratifies an ILO Convention, usually to make use of a flexibility clause or to specify the labour standards that will apply to it under such a convention. For example, a state ratifying the Minimum Age Convention is required to specify, in a declaration appended to its ratification, the minimum age for admission to employment in its territory. *cf.* flexibility clause

Declaration (UN):

1: The formal statement a State Party may make under CERD, CAT or MWC recognizing the competence of the relevant committee (or treaty-body) to receive and consider communications from individuals or groups of individuals. *cf.* communication, treaty-body.

2: The term applies to various international instruments, including binding, or non-binding international or universal aspirations made by parties to the declaration. Some declarations may have maintained provisions that were not binding when first adopted, but with the passage of time, developed into customary international law, and thereby eventually became binding in character.¹²⁶ The Universal Declaration of Human Rights offers such an example.

Denunciation or Withdrawal from a Treaty:

When a state declares that it is no longer bound by a treaty it has previously ratified. A state may denounce a treaty or withdraw from it after giving the appropriate body notice of its intention to do so.

E

Entry into Force:

When a treaty enters into force, it becomes a binding legal document. The terms of a treaty may specify that a certain number of ratifications is needed before it is considered enforceable.

¹²⁶ <http://untreaty.un.org/English/guide.asp#reservation>

Exhaustion of Domestic Remedies:

In many cases, all domestic remedies must have been accessed and carried through to the end (or “exhausted”) before an individual or group can make a complaint to the UN or ILO. Domestic remedies may also be exhausted when no effective remedy exists at the national level.

Extra-Conventional Mechanisms:

Mechanisms for dealing with violations of human rights and fundamental freedoms that have been established by a UN resolution, rather than a treaty. These mechanisms are also referred to as “charter-based” because they are directly or indirectly created by the Charter of the United Nations. *cf.* treaty-based mechanisms

F**Flexibility Clause:**

Unlike UN treaties, reservations cannot be entered to ILO Conventions. Instead, ILO Conventions contain clauses which take into account the particular economic and social systems, and levels of development of the ILO member states. These clauses are referred to as flexibility clauses because they allow for a certain degree of flexibility in the labour standards adopted. States are said to invoke flexibility clauses by making declarations specifying the standards that will apply to them. *cf.* declaration (ILO).

Fundamental Principles and Rights at Work:

This term refers to four fundamental principles and rights, the protection and promotion of which is considered a priority by the ILO. They are: freedom of association and the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the abolition of child labour; and the elimination of discrimination in employment. Certain additional obligations are imposed on ILO member states with respect to the Conventions enshrining these fundamental principles.

G**Governing Body (of the ILO):**

The Governing Body is the ILO’s executive council and is elected by the International Labour Conference. The Governing Body is composed of government, employer and worker representatives who meet three times a year in Geneva.

I

ILO (International Labour Organization):

Founded in 1919 under the Treaty of Versailles, the ILO became the United Nations' first specialized agency in 1946. The ILO's mandate includes advancing social justice and improving working and living conditions for workers everywhere. The ILO is characterized by its tripartite structure. *cf.* tripartism.

Individual Complaint Mechanism:

Covers isolated instances of alleged human rights violations. It is available under the OPCCPR, CERD, CAT and MWC to individuals or groups of individuals who believe that their human rights or fundamental freedoms have been violated.

Instruments:

A general term for formal legal documents. In the ILO, this term includes Conventions, Recommendations and Protocols.

International Labour Conference:

The International Labour Conference is often called "an international parliament of labour". The Conference is composed of government, employer and worker delegates from ILO member states, accompanied by their technical advisors, who meet once a year in Geneva.

International Labour Office:

The International Labour Office is the ILO's permanent secretariat. Its activities are overseen by the Governing Body and the Director-General.

Interstate Complaint Mechanism:

The CCPR, CERD, CAT and MWC provide this procedure in cases where one State Party believes that another State Party is not fulfilling its obligations under a treaty.

M

Member States:

Refers to States which are members of the ILO and bound by the terms of the ILO Constitution. Also refers to states which are members of the UN and bound by the terms of the UN Charter.

Mini-Report:

Contains information on specific human rights problems that deserve scrutiny. Mini-reports are usually prepared when the committee has asked the state for information on particular issues and an NGO wishes to provide alternative information on those issues or when an NGO does not have the resources for a full 'Shadow' Report. *cf.* 'Shadow' Report.

Model Questionnaire:

Some bodies of the UN provide model formats, called model questionnaires, for the submission of communications. Use of these model questionnaires is not mandatory since communications are considered even when they are not submitted in this format.

O**(Optional) Protocol:**

An international agreement amending or supplementing an original treaty. States Parties to the original treaty are not bound by an optional protocol unless they separately ratify or accede to it.

R**Ratification:**

Ratification is the act by which a state formally agrees to be legally bound by a treaty's provisions. It usually requires the approval of the state's legislative body (or bodies, in the case of federal states). A state that ratifies a treaty is called a "State Party" to that treaty. An agreement that is ratified is applicable and legally binding on the State Party. Some treaties do not come into force until they have been ratified by a certain number of the states that have signed it. The number of ratifications required is specified in the text of the treaty.

Recommendation:

ILO Recommendations cannot be ratified and are therefore, strictly speaking, not legally binding on ILO member states. Recommendations provide the governments of ILO member States with policy or technical guidelines and sometimes clarify or complement ILO Conventions. Therefore, in a practical sense, ILO Recommendations can be legally binding on ILO Members states who have ratified the associated Convention(s) to the extent that they interpret the language of the Convention(s) and define the nature of the government's obligations.

Regular System of Supervision:

The ILO's regular system of supervision is based on its review of government reports on ratified and unratified ILO Conventions. These government reports, which can be detailed or simplified, include information on government measures taken to fulfill a state's obligations under ILO instruments. Government reports on ratified ILO Conventions are due at regular intervals and are said to be "periodic".

Reporting Mechanism:

This mechanism is available under the CCPR, ESCR, CADE, CERD, CEDAW, CAT, CRC and MWC. A state that has ratified or acceded to one of these treaties is required to submit a report on its fulfillment of its obligations under the treaty. The aim of the reporting mechanism is to make States Parties accountable in the area of human rights. In general, reports are submitted to the Secretary-General of the UN, who transmits them to the relevant treaty body.

Representation:

The term for an allegation made under article 24 of the ILO Constitution. It must be made by an industrial organization of workers or employers and allege that a state is not implementing the terms of an ILO Convention it has ratified.

Reservation:

Reservations are made at the time of ratification or accession. They indicate that the State Party disagrees with certain provisions of the treaty and is therefore not legally obligated to fulfill them. Reservations must not be incompatible with the overall purpose of the treaty. Some human rights treaties are not open to reservations. *cf.* flexibility clauses

S**'Shadow' Report:**

A comprehensive critique of the state report submitted under the reporting mechanism. 'Shadow' Reports are usually prepared by NGOs who have not had an opportunity to participate in the state reporting process. *cf.* mini-reports.

Signature:

Indicates a state's intention to be bound by the terms of an international agreement, but does not actually bind the state. *cf.* ratification.

The signature of an international instrument is the first step for a State toward becoming a Party to an international instrument. The following step is ratification. By signing an international instrument, States are given a period of time before becoming fully bound by the text of the document. According to Article 18 of the Vienna Convention on the Law of Treaties, signatories to international treaties commit themselves to refrain from acts which would defeat the object and purpose of the signed document.

Special Rapporteurs:

Experts who are assigned to particular thematic issues or country situations. Their functions vary according to their particular mandate. In general, they collect information on alleged violations of human rights and formulate policy recommendations. In some cases, they visit individual countries.

Special Systems of Supervision:

The ILO's special systems of supervision (or grievance procedures) include the filing of representations or complaints against States Parties to ILO Conventions, and the Freedom of Association procedures which apply to all ILO member states. *cf.* complaints and representations.

States Parties:

States that have ratified or acceded to a treaty.

Succession:

Act by which a new state assumes the treaty obligations of its predecessor.

A State that has gained independence from another State may choose to remain bound by an international instrument, which applied to its territory prior to independence, by means of a Declaration of Succession.

T

Treaty Body:

A group of experts set up according to the terms of a treaty to monitor each State Party's progress in fulfilling its obligations under that treaty. Also called a committee.

Treaty-based Mechanisms:

UN treaties dealing with human rights have established three mechanisms for dealing with violations of human rights and fundamental freedoms: the individual complaint mechanism, the interstate complaint mechanism

and the reporting mechanism. *cf.* extra-conventional or charter-based mechanisms.

Tripartism (noun) and Tripartite (adjective):

Tripartism is the ILO's defining characteristic, unique among international organizations. It means that three parties are represented on the ILO's main bodies and participate in the decision making, including the formulation of international labour standards and supervision of their implementation. These three parties are governments of states that are members of the ILO; representatives of workers; and representatives of employers.

W

Working Groups:

Groups of experts who concentrate on particular themes in human rights or on ways of strengthening and clarifying existing human rights mechanisms. Like the Special Rapporteurs, their functions vary according to their mandate.

