



International
Labour
Organization

▶ ILO Flagship Report

▶ **Social
Dialogue
Report**
2022

Collective
bargaining
for an inclusive,
sustainable and
resilient recovery

Executive summary

► Executive summary

Concerns have been growing over rising inequality in earnings and widening gaps in labour market opportunities. This is mirrored by sluggish productivity growth on the one hand, and a declining labour income share on the other. The COVID-19 pandemic has exacerbated these inequalities and exposed existing vulnerabilities in economies, labour markets and societies. Measures taken to contain the spread of the virus resulted in the loss of earnings for millions of enterprises and hundreds of millions of workers. Business continuity was jeopardized. A clear distinction emerged between those who were able to adapt their working patterns and shift to telework, and those whose work was suspended or who lost their employment altogether: the former often better remunerated, the latter frequently among the low-paid. The ILO estimates furthermore that in 2022, global unemployment will stand at a staggering 207 million people, compared to 186 million in 2019.¹

Collective bargaining has played a role in mitigating the impact of the COVID-19 crisis on employment and earnings, helping to cushion some of the effects on inequality while reinforcing the resilience of enterprises and labour markets. The tailoring of public health measures and strengthening of occupational safety and health (OSH) at the workplace, together with the paid sick leave and healthcare benefits provided for in many collective agreements, have protected many workers and supported the continuity of economic activity. Agreements negotiated in response to the COVID-19 crisis-induced experimentation with telework and hybrid work are transforming these practices and paving the way for a future with decent digital work.

Collective bargaining and the governance of work

What is collective bargaining?

Collective bargaining is a process of voluntary negotiation between one or more employers (or their organizations) and one or more workers' organizations (that is, trade unions).

These representative parties come together to voice their respective demands, share information about what lies behind their positions, and through discussions and reciprocal trade-offs, seek to reach consensus. Ideally, these negotiations conclude with the signing of a collective agreement that regulates working conditions and terms of employment.

Collective bargaining is at once an enabling right, a voluntary negotiation process between autonomous representative parties, acting in good faith, and – if consensus is reached – a substantive regulatory outcome in the form of a collective agreement.

Collective bargaining: At the heart of social dialogue. Collective bargaining involves voluntary negotiations, conducted in good faith. Like other forms of social dialogue, for example workplace consultation and cooperation, it involves the exchange of information. At the same time, it is underpinned by two fundamental principles and rights at work: freedom of association and the effective recognition of the right to collective bargaining. As enabling rights, these freedoms provide the democratic foundations of labour markets and pave the way for the inclusive and effective governance of work. While the negotiation process may at times be characterized by significant contestation, over time, the repeated formulation of compromises by the bargaining parties can gradually contribute to trust, stability and labour peace.

Collective bargaining offers a unique mechanism for regulating the conditions of work and terms of employment – one enacted by the parties themselves. Representative actors in the world of

¹ ILO, *World Social and Economic Outlook: Trends 2022* (2022).

work jointly create new standards or implement, tailor and enhance minimum statutory standards. The fact that collective bargaining involves autonomous and representative parties fosters trust in the legitimacy of the outcome. Collective agreements are based on a concurrence and the shaping of substantive outcomes through the reciprocal exchange that takes into account the interests of *both* parties.

Collective bargaining: Contributing to the inclusive and effective governance of work

As a form of co-regulation, **collective bargaining can make an important contribution to the inclusive and effective governance of work**, with positive effects on stability, equality, compliance and the resilience of enterprises and labour markets.

- ▶ **Collective bargaining provides a model for the governance of work that is responsive**, involving the devolution of rule-making and the encouragement of co-regulation. It enables the parties to tailor rules to their particular circumstances and adapt those rules when the circumstances change. This report provides evidence of the responsiveness of collective bargaining as a regulatory tool during the COVID-19 crisis.
- ▶ **Collective agreements can facilitate inclusive labour protection**, both with regard to their coverage of enterprises and workers, and with regard to the manner in which they address working conditions and terms of employment. This can have positive effects on equality, including in relation to wage distribution. This report highlights the importance of inclusive labour protection in ensuring, for example, that workers in temporary employment were provided with the same personal protective equipment (PPE) and access to healthcare benefits as those in permanent employment.
- ▶ **Effective collective bargaining institutions are part of an enabling environment for sustainable enterprises**, promoting trust, cooperation and stability – the basis for sound industrial relations. Depending on the country context, such institutions can facilitate the pooled financing of social protection (including healthcare), reduce labour turnover or help to retain a skilled and experienced workforce. This report looks, in particular, at the way in which collective bargaining enables the retention of experienced workers during periods of inactivity, allowing enterprises to jumpstart economic activity once the situation improves.

- ▶ **Collective agreements can reinforce compliance with statutory or negotiated standards**, relieving labour administration systems of some of the regulatory resources involved in monitoring and enforcing labour standards. The report provides evidence of the positive relationship between collective agreements and compliance with OSH standards at the enterprise level.
- ▶ **Collective bargaining can help to forge resilience** in the short term, facilitating the trade-offs required to ensure business continuity and save jobs and earnings, while transforming work practices in the long run. These features have been particularly crucial in the context of the COVID-19 crisis.

As a long-standing and fundamental institution of work, collective bargaining has played an important role in many countries in securing decent work, guaranteeing equality of opportunity and treatment, reducing wage inequality and stabilizing labour relations.

Collective bargaining: A global picture

Regulatory coverage by collective agreements varies considerably across countries, regions and levels of development

Over one third of employees in 98 countries have their pay and working conditions regulated by one or more collective agreements (weighted average). There is considerable variation in this collective bargaining coverage rate across individual countries, ranging from over 75 per cent in many European countries and Uruguay to below 25 per cent in around half of the countries for which data are available. There is also significant dispersion by region and level of economic development.

This variation can be attributed to key industrial relations factors, including, inter alia, the organizational features of trade unions and employers' organizations; the legal coverage of collective bargaining rights, such as the question of whether public servants have the right to collective bargaining; the institutional setting for collective bargaining (that is, whether bargaining is predominantly carried out on a multi-employer or a single-employer basis); and the manner in which collective agreements are applied.

The report finds that where collective bargaining takes place on a single-employer basis at the enterprise level, an average of 15.8 per cent of employees are covered by collective agreements. Where it takes place in multi-employer settings, there is greater opportunity to shape inclusive regulatory coverage, with an average coverage rate of 71.7 per cent.

A related matter is the way in which collective agreements are applied, particularly in countries with high rates of collective bargaining coverage. In 10 out of the 14 countries in which the collective bargaining coverage rate is above 75 per cent, the regulatory coverage of collective agreements is shored up by measures that apply collective agreements either to all workers in an enterprise or bargaining unit, irrespective of whether they belong to the signatory trade union (*erga omnes*); and/or to all enterprises in a sector, irrespective of whether they belong to the signatory employers' organization (the extension of collective agreements).

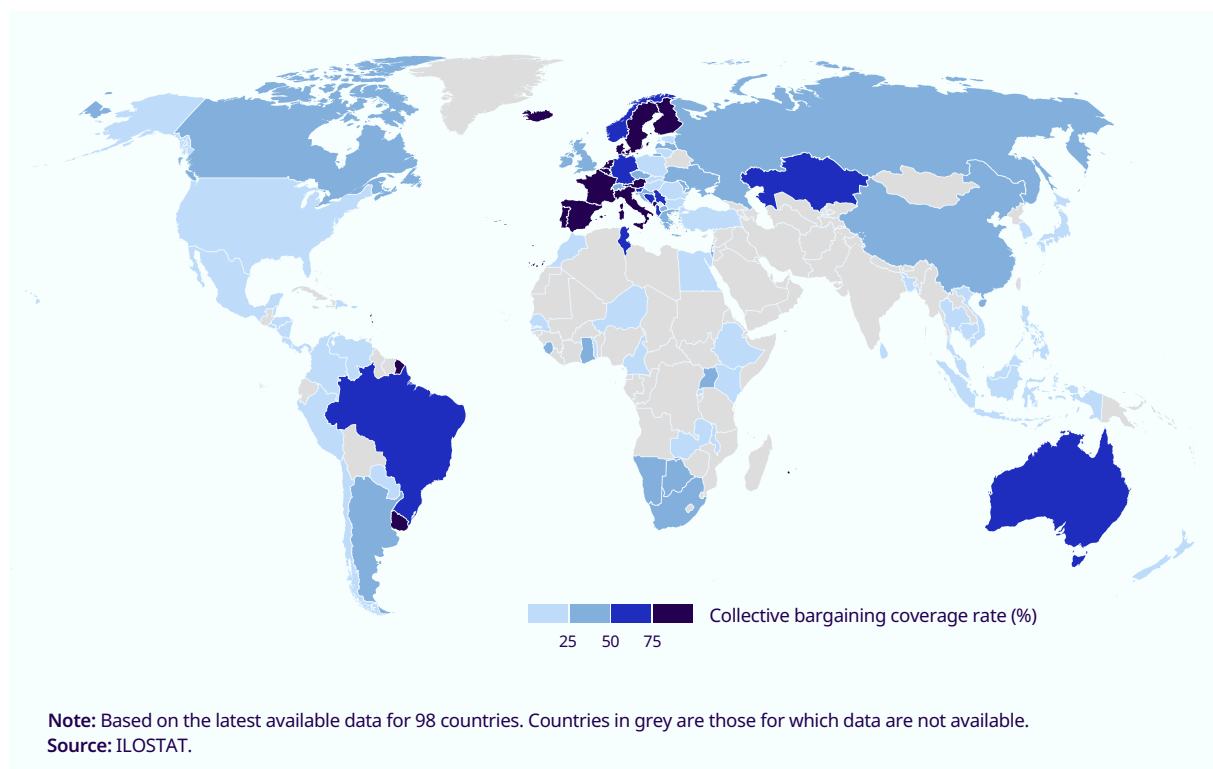
Shaping the legal coverage of collective bargaining rights

The effective recognition of the right to collective bargaining is grounded in the ILO Constitution.

As emphasized in the ILO Declaration on Fundamental Principles and Rights at Work (1998), all ILO Member States, even if they have not ratified the fundamental international labour Conventions,² have the obligation to respect, promote and realize in good faith the effective recognition of the right to collective bargaining. Recognizing the foundational role played by the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), in providing a framework for the effective recognition of the right to collective bargaining by Member States, four additional countries have ratified this Convention in the last five years: Canada (2017), Mexico (2018), Viet Nam (2019) and the Republic of Korea (2021).

When it comes to shaping the legal coverage of collective bargaining, the effective recognition of the right to collective bargaining and promotion of the full development of machinery for voluntary negotiation are essential. The recognition of the right to collective bargaining is general in scope and covers all workers in the public and private sectors, the only exceptions being the armed forces, the police, and public servants engaged in the administration of the State. A number of important developments have taken place in this regard.

► **Figure ES.1 Collective bargaining coverage around the world (percentage)**



² The eight fundamental ILO Conventions are the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); the Forced Labour Convention, 1930 (No. 29) (and its 2014 Protocol); the Abolition of Forced Labour Convention, 1957 (No. 105); the Minimum Age Convention, 1973 (No. 138); the Worst Forms of Child Labour Convention, 1999 (No. 182); the Equal Remuneration Convention, 1951 (No. 100); and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

- ▶ First, measures to afford workers the right to collective bargaining in the public sector have been adopted in multiple countries.
- ▶ Second, legislative and institutional actions have been taken to promote machinery for voluntary negotiation in sectors, occupations and among groups of workers where effectively exercising the right to collective bargaining is a challenge. These groups include domestic workers, migrant workers and workers in export processing zones.
- ▶ Third, in line with the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), various strategies have been adopted by trade unions to organize and formalize the contracts of workers in the informal economy and negotiate collective agreements with employers that regulate their terms of employment and conditions of work.
- ▶ Finally, in view of the rapid growth in diverse forms of work arrangements – including temporary, part-time and on-call work, multi-party employment relationships, dependent self-employment and, most recently, platform work performed under different work and employment relationships – **several countries have taken steps to ensure the effective recognition of the right to collective bargaining for all workers.**³ These have included, on the one hand, clarifying the employment status of workers and ensuring that workers in diverse forms of work arrangements enjoy the right to bargain collectively. On the other hand, there have been legislative and other initiatives to address the constraints on collective bargaining rights for self-employed workers posed by competition policy; and, where appropriate, to promote the development of specific collective bargaining mechanisms that are relevant to self-employed workers.

Shaping the regulatory coverage and responsiveness of collective agreements

A collective agreement – as an outcome of a voluntary negotiation process conducted in good faith – establishes joint rules in respect of working conditions, terms of employment and employment relations. In so doing, it can contribute to

the inclusive and effective governance of work. Drawing on the analysis of legal and regulatory frameworks in 125 countries, this report finds that **a number of procedural measures exist to facilitate the adaptability and inclusiveness of collective agreements.** These measures can provide regulatory certainty, allow for the tailoring of standards (such as working-time standards) and facilitate adaptability in the face of unexpected changes in the environment.

Ordering various sources of regulation through the favourability principle. With regard to the hierarchy between national laws and collective agreements, most countries apply the principle of favourability⁴ in relation to the law (91 countries). In countries where bargaining takes place at more than one level, the favourability principle provides the procedural means to order standards in agreements concluded at the various levels concerned, either by law (41 countries) or through collective agreements (8 countries). In cases where derogations from the law are provided for by legislation, the legislation explicitly stipulates the conditions under which this is possible, and/or the issues that can be subject to derogations. Some systems permit lower-level collective agreements to deviate from higher-level agreements through various adaptability clauses, such as derogation clauses (12 countries) or hardship/opt-out clauses (15 countries). Adaptability clauses should be applied in accordance with the principles set out in international labour standards.

Inclusive application of an agreement concluded by sufficiently representative parties to all workers or enterprises or workers in a bargaining unit or sector. This can help to create a level playing field, that is, establish a framework for fair competition for enterprises. It can also facilitate the inclusion of migrant workers, temporary workers and other vulnerable categories of workers, affording inclusive labour protection with potentially equity-enhancing effects. Out of the 125 countries for which data are available, 80 provide for the *erga omnes* application of collective agreements to all workers in an enterprise and/or sector, irrespective of whether they are members of the signatory trade union, and 71 provide for the extension of collective agreements to all enterprises that fall under the scope of the agreement, under certain conditions. These conditions ensure that such extension is a

³ The *ILO Centenary Declaration for the Future of Work* (2019) reaffirms “the continued relevance of the employment relationship as a means of providing certainty and legal protection to workers” and emphasizes at the same time that “[a]ll workers should enjoy adequate protection in accordance with the Decent Work Agenda, taking into account: (i) respect for their fundamental rights [...]” (Part III(B)).

⁴ According to the principle of favourability, standards established at higher levels of the hierarchy of labour law sources or collective agreements cannot be affected by collective agreements set at lower levels. When the lower source contains standards that are more favourable to workers, that source should have priority over the higher one.

policy decision by the public authority, and that the voices of non-parties are heard before the decision is taken.

Duration of collective agreements and the way in which regulatory certainty is ensured after an agreement has expired (“ultra-activity”). This aspect is important for enterprises projecting labour costs and for workers looking at their household budget to see whether they can pay their bills in the coming year. Out of 125 countries studied, 71 regulate ultra-activity. Most provide for the continued validity of some or all provisions until a new agreement has been concluded. Some extend the validity of an existing collective agreement for the same period that it was initially applicable, for an agreed duration, or for some other length of time, while others convert agreements with a definite duration into indefinite ones.

The scope of collective agreements

Much of the literature in recent years has focused on the impact of different institutional settings on labour markets, particularly in high-income countries. Less is known about the scope of collective agreements. How do collective agreements regulate wages and other working conditions, and how does this process differ across countries and institutional settings? How do collective agreements address contemporary labour market challenges related to rising inequality in many parts of the world, skills development, the inclusion of young people and women in labour markets, and technological and environmental transitions? How do the parties use collective bargaining to make the most of the opportunities available to them in the future? This report sheds light on all of the above questions. The ILO studied practices in 21 countries and undertook textual analysis of over 500 collective agreements and secondary sources, selecting countries from different regions and at different levels of economic development. Nine recurrent themes were examined: wages; working time; OSH; social protection; terms of employment; training; work and labour market transitions; equality, diversity and inclusion; and labour relations. Provisions regulating wages were included in 95 per cent of the collective agreements reviewed, followed by working time (84 per cent), sound labour relations (78 per cent), sick pay and health benefits (70 per cent), OSH (68 per cent) and skills (65 per cent). The contribution of provisions on sick pay,

healthcare, and the joint oversight of OSH has proved invaluable during the COVID-19 health crisis.

Collective agreements can make a significant contribution to the inclusive and effective governance of work. Apart from evidence on how collective agreements improve working conditions and establish frameworks for skills development, the unique data set assembled for this report provides evidence on their regulatory effects:

- ▶ Collective agreements can advance equality by reducing earnings inequality; promoting gender equality and the inclusion of women, young people, migrant workers and other vulnerable categories of workers; and expanding the opportunities for decent work offered by these agreements.
- ▶ Collective agreements can facilitate the tailoring of regulatory solutions to specific industry, enterprise and worker needs. This includes “regulated flexibility” in relation to pay for performance and working time.
- ▶ Provisions in collective agreements, particularly in settings where multi-employer bargaining predominates, can complement social protection systems, for example with regard to healthcare, pensions or unemployment benefits.
- ▶ Collective agreements can reinforce statutory provisions on critical issues such as OSH, which can be important for achieving compliance.
- ▶ Collective agreements can strengthen compliance, enabling labour administration bodies to devote their scarce compliance resources to much-needed sectors.
- ▶ Collective agreements are testing new approaches to the transitions that lie ahead – whether demographic, environmental or technological. The report highlights the experimentation taking place with regard to platform workers.

Representative organizations of employers and workers

The roles played by employer and business membership organizations (EBMOs) and trade unions in collective bargaining comprise the shaping of the regulatory environment and policies, coordination of bargaining processes, the

provision of relevant services for their members, and the negotiation of collective agreements. They are also central actors in the international normative framework that gives effect to the fundamental principles and rights at work, including freedom of association and the effective recognition of the right to collective bargaining. Given their importance in the governance of work, their representativeness is essential to the effectiveness of organized interest representation in collective bargaining and to the legitimacy of the outcomes. Survey-based evidence shows that their institutional resources and responsiveness as interest-based organizations have enabled them to play a critical representative function in policy debates about the transformations currently under way in the world of work.

Membership in EBMOs has remained relatively stable in recent years, based on 25 countries for which data are available. This ranges from 15.1 per cent of enterprises in the Republic of Korea to 100 per cent in Austria. A survey of peak interprofessional EBMOs shows that just under half (46 per cent) have been involved directly in collective bargaining at the interprofessional level in the past five years. Experts from EBMOs have also been directly involved in negotiations at the sectoral level (21 per cent of respondents) and at the enterprise level (also 21 per cent of respondents), showing the importance these organizations have in some countries and regions in coordinating wage bargaining. Research findings have repeatedly pointed to the impact of bargaining coordination on labour market efficiency, and to the contribution of EBMOs in this regard. The results of the survey also indicate that, in addition to their direct role in coordinating collective bargaining, EBMOs also play an indirect role by offering services that support and promote the interests of their members in collective bargaining, including through the provision of information on wage and productivity developments (76 per cent of respondents); engaging in policy and regulatory debates on collective bargaining (69 per cent); providing legal advice on regulations and procedures (57 per cent); and organizing training on topics such as negotiation skills (54 per cent), among other services. Over half of respondents were of the view that issues related to collective bargaining would become more important in the future, while 41 per cent thought their importance would remain the same. As for the barriers and difficulties that EBMOs may face in collective bargaining, most of those identified by respondents related to the process itself and to the machinery established for bargaining. This suggests a need to focus on the revitalization of institutions and processes so as to promote the full development of collective bargaining.

Evidence on trade unions shows that they continue to be the largest voluntary membership organizations, representing more than 251 million workers in the private and public sectors worldwide. This includes a small but rising number of own-account workers. Indeed, union membership has become more diverse in recent years. Over the past ten years, global trade union membership has increased by 3.6 per cent. This is attributed entirely to the increase among self-employed and own-account workers, including waste pickers, translators, journalists, actors, musicians, interpreters and other professions. Trade union membership of wage and salary members has stagnated or not kept up with the rise in employment, resulting in a widely reported continuing decline in trade union density (that is, trade union membership as a proportion of employees). Trade union density figures vary considerably across countries and regions, ranging from less than 1 per cent in Oman to 91 per cent in Iceland. For the first time, the total female union density rate is higher than the male density rate. There is variation across countries, with higher female density rates in 40 of the 86 countries with available data, equal male/female density rates in 6 countries and lower female density rates in the 40 remaining countries. Trade union revitalization may be observed everywhere, as reflected in recruitment campaigns that focus on organizing workers in temporary employment, migrant workers, platform workers, workers in the informal economy and young workers. Respect for freedom of association and the right to organize is a prerequisite for inclusive trade unions. By negotiating fair wages and decent working conditions, trade unions have contributed to lower levels of earnings inequality across countries and over time. But their role is by no means limited to collective bargaining. In their representative, leadership and advocacy functions, they have managed, together with EBMOs and governments, to rise to the unprecedented challenges associated with the COVID-19 pandemic in 2020 and 2021.

Collective bargaining and the COVID-19 crisis: Forging resilience

The COVID-19 pandemic and the public health measures adopted in response have had dramatic effects on the world of work, on business continuity and, depending on the sector and activity, on workers' health and income security.

Millions have found themselves working on the front lines of the battle against the pandemic, directly exposed to the virus and the associated health risks. Enterprises have suffered significant income losses and faced rising levels of debt, which have threatened business continuity. Many workers switched to teleworking, while others were in occupations that did not allow them to perform their work remotely. Millions of workers had their work suspended or lost their employment. While all enterprises and workers have been affected, they have not been affected equally. The result has been deepening inequality within and across countries. The disproportionate effects of the crisis on female-dominated sectors, together with the increased burden of unpaid care work, threaten to reverse recent progress towards gender equality.

As successive waves of infection frustrated hopes of a rapid turnaround in 2020 and 2021, collective bargaining parties came to the negotiating table – or connected to online rooms – facing a highly uncertain economic and social outlook.

Negotiating throughout the pandemic

The extent to which industrial relations actors have used collective bargaining to respond to the pandemic followed pre-existing institutional trajectories. In countries where the State plays an important role in labour markets, this role has become even more pronounced during the pandemic, reducing the space for collective bargaining. Industrial relations systems, which before the pandemic had delegated certain social policy issues to employers, employers' organizations and trade unions, have tended to rely on these institutions as part of the response to the COVID-19 crisis, in particular by engaging peak-level actors in tripartite and bipartite social dialogue, and promoting collective bargaining. In these instances, collective bargaining has been used proactively and has proved responsive to both the health emergency and the deteriorating economic situation. The adaptation of processes and procedures, despite the constraints imposed by the pandemic, has enabled the parties to tackle the effects of the crisis. As a responsive form of regulation, these adjustments have given procedural certainty to employers and workers in the face of a highly uncertain outlook. They included the postponement of negotiations to renew agreements, a switch to online negotiations, the modification of procedures for the ratification of agreements, the negotiation of "roll-over", "standstill", "bridging" and other agreements,

and the use of temporary conditional derogation and hardship clauses.

Survey evidence shows that the perspective of EBMOs and trade unions on the role of collective bargaining in 2020–21 was positive on the whole, though some EBMOs were more measured in their assessment. Over half of the EBMOs surveyed agreed that the crisis had given new impetus to collective bargaining or that it had done so "to some extent". Similarly, over half of EBMO respondents agreed that collective agreements had been flexible enough to accommodate the effects of the crisis (including through their renegotiation or the postponement of their implementation), or that this was true "to some extent". In a survey of over 200 trade unions, more than half reported an increase in informal negotiations (that is, outside formal procedures), which had nevertheless resulted in the conclusion of collective agreements. Some trade unions reported "business as usual", with negotiations simply shifting online, whereas others reported the use of "rollover" agreements and other temporary arrangements to deal with the effects of the pandemic on collective bargaining. Experiences with online negotiations were mixed. Some trade unions reported more focused and efficient negotiations, while others referred to disruptions to some of the more intangible features of negotiations, such as the ability to read the body language of the other party. **Both trade unions and EBMOs reported a change in the topics under negotiation.** Health and safety, sick leave and health benefits, working-time flexibility and other working-time arrangements to balance work and family, and employment security moved to the top of the bargaining agenda, possibly dislodging other topics such as gender equality (with the exception of balancing work and family). EBMOs also noted the prevalence of telework on the bargaining agenda in some countries.

Protecting front-line workers and sustaining critical services

With the adoption of public health measures throughout the pandemic, millions of workers and employers in the public and private sectors were called upon to ensure the continuity of services deemed critical to ensuring the health, safety and security of the population. Many worked in occupations where social contacts and direct exposure to COVID-19 placed them at a high risk of contracting the virus, including healthcare and social care workers, cashiers and other workers in food retail, public transport workers, janitors and cleaners. As the risks mounted and work

► Figure ES.2 Changing priorities on the collective bargaining agenda (2020–21)



intensified, disruptions and labour protests – over issues such as dissatisfaction with wages, insufficient PPE, staff shortages and related work intensity – threatened the continuity of services in many parts of the world.

Evidence for 2020 and 2021 shows that bargaining parties across different countries reached agreements affording protection to front-line workers, ensuring an adequate supply of PPE and the installation of physical barriers (for example, in public transport and food retail), sufficient testing, access to vaccines, and increased paid sick leave or paid leave during quarantine periods, among other measures. Agreements were also reached with regard to the contractual status of workers considered critical yet who had until then been in temporary employment without adequate protection (such as access to healthcare insurance and paid sick leave).

Collective agreements also addressed the need to secure the continuity of services in healthcare and social care and to assign staff to new roles such as testing and tracing. This included agreement on changes to work organization and working time, and the redeployment of staff from healthcare to social care institutions. The capacity for coordinated bargaining contributed to resilience, allowing a systemic response to the increased demands on healthcare, such as temporarily extending the opening hours of kindergartens.

The evidence of the role of collective bargaining in the revaluing of the occupations of front-line workers is less conclusive. Case studies, country studies and an analysis of collective agreements for front-line workers show that, in addition to government awards of special COVID-19 bonuses in recognition of such workers' services and the risks taken, bargaining parties in some countries reached agreements on structural increases in the salaries of front-line workers. This reflects a revaluing of the work of some previously undervalued occupations in healthcare, social care and retail, where, significantly, women make up a large proportion of the workforce. On the other hand, pressure on public finances in other countries resulted in agreements to freeze wages. In some, agreements on wage adjustments were only reached after disputes that disrupted services.

Ensuring safe and healthy workplaces

The public health measures adopted to contain the pandemic required the adaptation of work practices to prevent workplace contagion. The protection of workers' safety and health became a prerequisite for sustaining work, whether performed on site or remotely. As a result, OSH was at the top of the bargaining agenda as enterprises and trade unions came together to implement

public health measures and tailor specific OSH measures to a given sector or enterprise.

OSH committees established in collective agreements played a central role in implementing, tailoring and monitoring prevention and control measures at the workplace. In some instances, collective agreements expanded the mandate of existing OSH committees within pre-existing OSH management systems; in others, bargaining parties set up dedicated crisis committees to oversee the implementation of COVID-19-related safety and health measures. Data generated by the ILO's Better Work programme show that garment-producing enterprises covered by collective agreements had higher levels of compliance with OSH standards in 2020–21 than those not covered by collective agreements.

COVID-19 measures in collective agreements followed a hierarchy of controls for minimizing the risk of contagion. Bargaining parties frequently agreed on temporary changes to work organization, where possible substituting on-site work with telework. Many agreements covered the procurement, provision and correct use of PPE to protect workers against COVID-19 exposure. On the basis of joint risk assessments, bargaining parties also reached agreement on a range of engineering controls. These included adequate ventilation and the installation of barriers. Other administrative and organizational measures were agreed for the purposes of infection prevention and control, including temperature checks, protocols for quarantine, vaccination programmes and incentives, and the negotiation of additional paid sick leave. The healthcare benefits, that were provided for in 70 per cent of the agreements reviewed, ensured that adequate treatment was available in cases of infection.

Preserving employment, protecting earnings, safeguarding business continuity

During the successive COVID-19 waves and restrictions, questions of business liquidity and employment and income security remained a pressing concern. The need to care for children and sick family members placed new constraints on working time. Issues of business continuity, employment security and working-time flexibility dominated the bargaining agenda throughout 2020 and 2021 in a context that was – and in many countries remains – highly uncertain.

Collective bargaining played an important role in many countries in the implementation of

government-sponsored employment retention measures including short-time work, partial unemployment, wage subsidies and furlough schemes. Institutional learning from the 2008 financial crisis and tripartite social dialogue facilitated the rapid expansion and implementation of these measures, as well as their implementation through collective bargaining. There is evidence that some collective agreements and collective bargaining institutions improved on or “topped-up” statutory replacement rates. Some ensured higher supplements for low-wage workers and provided for social security (including health insurance) to be maintained during periods of temporary lay-offs.

Collective bargaining was also used throughout 2020 and 2021 to negotiate short-order flexibility in wage-setting, working time and work allocation in exchange for employment guarantees. The negotiation of short-order flexibility was a crisis response, rapidly implemented and time-bound. Amid great uncertainty, these agreements provided a degree of both substantive and procedural certainty, reducing tensions and smoothing, at least in part, the transit through the economic downturn. The solutions negotiated addressed employers' concerns over business continuity, while providing employment security to workers. They also ensured that enterprises had the capacity to retain skilled and experienced staff and were able to rapidly resume economic activity as soon as conditions permitted.

Both strategies – the negotiated implementation of government-sponsored employment retention and short-order flexibility – sought to pave the way for a swift recovery. Collective bargaining also resulted in measures aimed at mitigating the potential effects of the COVID-19 crisis on inequality, such as solidarity agreements and measures for balancing work and additional care responsibilities, thereby cushioning the disproportionate impact of the crisis on women.

Shaping future telework and hybrid work practices

Lockdowns and work-from-home recommendations throughout 2020 and 2021 accelerated the digitalization of work. However, the large-scale resort to telework was asymmetrical and closely associated with a country's level of economic development. The massive pandemic-induced experimentation with telework has transformed work practices in some important instances, with a number of large enterprises announcing hybrid work models that combine telework with on-site work.

The COVID-19-related inclusion of teleworking on the bargaining agenda enabled considerable institutional experimentation. There is evidence that these experimental arrangements are evolving into more durable frameworks, potentially ensuring decent and inclusive telework and hybrid working practices that meet the interests of both employers and workers. The bargaining agenda and subsequent agreements address issues typically falling within the scope of collective agreements, but with specifications tailored to the new working methods. For example, agreements may focus on changes in work organization and the need for adequate training in hybrid work and related technologies. They may provide for the reimbursement of costs related to telework. Some address issues of cybersecurity and data protection. A number of collective agreements “re-regulate” working time, increasing workers’ autonomy and control over their working-time schedules, while fixing hours and days of the week during which they must be reachable by their employer. Most agreements affirm rest periods through a right to disconnect. Collective agreements also address OSH, equality of opportunity and inclusion, and labour relations, among other subjects.

Negotiating for an inclusive, sustainable and resilient recovery

Collective bargaining provides the tools with which to achieve a human-centred recovery. A number of priorities need to be addressed if the full potential of collective bargaining to contribute to an inclusive, sustainable and resilient recovery is to be realized:

► **Revitalizing employers’ and workers’ organizations:** A human-centred recovery implies that employers and workers have a voice in the decisions affecting them. The representative function of EBMOs and trade unions – both in terms of their membership strength and their capacity to integrate diverse interests – is the bedrock of effective social dialogue, including collective bargaining. During the COVID-19 pandemic, in countries where engagement with and between representatives of employers’ and workers’ organizations has been part of

the response, it has also proved to be part of the solution. It is essential to harness the full potential of EBMOs and trade unions to shape the future trajectory of recovery. Looking forward, EBMOs need to further strengthen their membership recruitment and retention strategies, in order to attract a diverse membership, including in under-represented sectors and types of enterprises. Engagement in evidence-based policy dialogue will require expertise on major issues affecting labour markets, such as digital transformations, skills mismatches and the high levels of informality in certain parts of the world. Trade unions for their part need to strengthen their capacity to analyse and understand the transformations taking place in the world of work; they must also be able to influence economic, social and sustainable development policies, strengthen their own institutional and organizational processes, and engage in innovative strategies. Trade unions need to continue to invest in relevant capacity development initiatives, including education and training programmes, to ensure that the lessons learned from the pandemic are firmly embedded in the processes of social dialogue, including collective bargaining.

► **Realizing the effective recognition of the right to collective bargaining for all workers:** The ILO supervisory bodies have repeatedly affirmed the universal nature of the principles and rights enshrined in the fundamental international labour Conventions on freedom of association (No. 87) and collective bargaining (No. 98). In view of the transformative changes that are under way in the world of work, it is necessary to strengthen the institutions of work to ensure adequate protection for all workers, including the effective recognition of the right to collective bargaining.⁵ The promotion and realization of freedom of association and the effective recognition of the right to collective bargaining lay the foundations upon which employers, employers’ organizations and trade unions can contribute to the effective and inclusive governance of work through collective bargaining and other forms of social dialogue. However, this is only possible to the extent afforded under the broader regulatory framework, which encourages and promotes the full development of voluntary negotiations conducted in good faith. Given the proliferation of diverse forms of work arrangements in recent years, there is a need to review these regulatory frameworks at the national level to ensure

⁵ The ILO Centenary Declaration for the Future of Work (2019) calls upon all Members of the ILO to further develop its human-centred approach by, inter alia, “[s]trengthening the institutions of work to ensure adequate protection of all workers”, and emphasizes that “[a]ll workers should enjoy adequate protection in accordance with the Decent Work Agenda, taking into account: (i) respect for their fundamental rights; [...]” (Part III(B)).

legal clarity and certainty so that those in work relations in need of protection are afforded the necessary protections provided for by labour laws and other laws and regulations. This would help to ensure that all workers are guaranteed the effective recognition of the right to bargain collectively, as a fundamental principle and right at work, and as a human right.

► **Promoting collective bargaining for an inclusive, sustainable and resilient recovery:**

This report points to some of the opportunities that lie ahead as parties come to the bargaining table to agree on arrangements to address inequality and exclusion, ensure economic security, facilitate a just transition, achieve working-time flexibility and improve work-life balance, pursue a transformative agenda for gender equality and promote sustainable enterprises. Collective bargaining can provide a vehicle to ensure that workers are able to negotiate a fair share of productivity gains, which in turn enhances their commitment to the productive sustainability of an enterprise. Enterprises may in turn make commitments to invest in skills knowing that they can retain a committed workforce. However, collective bargaining needs to take place within an enabling regulatory framework established by the State, or, in some countries, by the parties themselves. This framework promotes the full development of voluntary negotiations by autonomous parties, acting in good faith, with the objective of reaching a collective agreement that can contribute to the governance of work. The regulatory resources provided for by collective bargaining furthermore reduce the need for government intervention in the labour market. Collective agreements can provide enterprises and workers with the capacity for “regulated flexibility” in relation to working time. As a regulatory technique, collective bargaining may also be effective in securing compliance with both jointly agreed rules and statutory ones. Enabling and encouraging the parties to negotiate and co-regulate conditions of work can also catalyse processes of institutional learning, and in some instances, provide the means to incubate innovative regulatory solutions.

► **Investing in peak-level bipartite and tripartite social dialogue:** In examining how collective bargaining has helped to forge resilience, this report has also highlighted the role played by the tripartite actors – governments, employers’

organizations and trade unions – in creating the policy and institutional environment necessary for the parties to freely craft negotiated solutions during the COVID-19 pandemic. Effective and inclusive social dialogue requires continued engagement on social and economic policy with and between peak-level industrial relations actors both in good times and in times of crisis. Investment in peak-level social dialogue, both bipartite and tripartite, is thus essential if countries are to have the institutional means to ensure a human-centred recovery.

► **Reinforcing social dialogue for the achievement of the Sustainable Development Goals:**

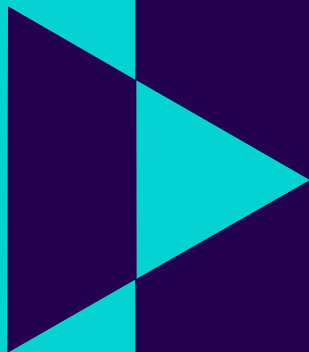
Social dialogue, including collective bargaining, can contribute to the implementation of the 2030 Agenda for Sustainable Development. While social dialogue is clearly vital for attaining Goal 8 (on decent work and economic growth), through its unique contribution to the inclusive and effective governance of work, it can also support other Goals. The role of employers’ and workers’ organizations is critical in this regard. They provide agency and give a voice to groups directly affected by policies. However, to make this contribution, the fullest realization of the fundamental principles and rights at work – freedom of association and the effective recognition of the right to collective bargaining – is essential.

As countries begin to lift public health restrictions, there is a need to unlock the full potential of employers’ and workers’ organizations and to strengthen social dialogue and collective bargaining. A human-centred recovery implies that employers and workers have a voice in the decisions affecting them and are endowed with the dignity that such processes afford. Rather than impose an impediment to adjustment, the report shows that collective bargaining can adapt and be responsive to changing conditions, and in the face of uncertainty can provide the parties with a degree of procedural and substantive certainty. This can be an invaluable source of stability. It can also facilitate the transformation of work processes for an inclusive, sustainable and resilient recovery. As in the past, the institutional resilience provided by collective bargaining can feed into the resilience needed for the next crisis – whether related to climate change or social or economic events – thereby supporting the pursuit of decent work.



Advancing social justice, promoting decent work

The International Labour Organization is the United Nations agency for the world of work. We bring together governments, employers and workers to drive a human-centred approach to the future of work through employment creation, rights at work, social protection and social dialogue.



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