

COMPARATIVE STUDY OF ILO CONVENTIONS VS. NATIONAL OSH LAWS: GAPS AND IMPLEMENTATION CHALLENGES

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Abstract

The International Labour Organization (ILO) has promulgated key conventions to provide a global standard for occupational safety and health (OSH), notably Convention No. 155 (Occupational Safety and Health, 1981) and Convention No. 187 (Promotional Framework for Occupational Safety and Health, 2006). This paper presents a comparative analysis of these ILO conventions and national OSH laws across selected countries, highlighting gaps between the international normative framework and domestic legislation, as well as implementation challenges. Drawing on the ILO LEGOSH database, national legal texts, and published literature, the study employs a qualitative gap analysis methodology. Findings reveal significant divergence in ratification, policy adoption, inspection systems, and preventive culture. Key obstacles include limited ratification, resource constraints, weak tripartite governance, insufficient enforcement, and lack of alignment with ILO's fundamental principles. The paper discusses how these gaps hinder effective OSH governance, and offers recommendations for strengthening national frameworks a crucial step toward achieving safer work environments worldwide.

Keywords: ILO; Convention 155; Convention 187; Occupational Safety and Health; national OSH laws; implementation gaps; legal alignment

Introduction

Occupational safety and health (OSH) is a cornerstone of decent work. The International Labour Organization (ILO) has long recognized this, codifying standards through international conventions. Two of the most significant are Convention No. 155 (the Occupational Safety and Health Convention, 1981) and Convention No. 187 (Promotional Framework for Occupational Safety and Health Convention, 2006). In 2022, both Conventions were declared fundamental, underscoring their centrality.

However, despite international consensus, national implementation remains uneven. While many countries have OSH laws, the degree to which these laws conform to ILO standards and how effectively they are enforced varies. This

gap poses critical challenges for worker protection, risk management, and the global OSH governance framework.

This study aims to examine divergences between ILO OSH conventions and domestic OSH legislation, and to identify the major implementation challenges that hinder full alignment. By employing comparative legal analysis complemented with empirical literature, we evaluate how well national systems reflect ILO principles, where shortfalls exist, and how these can be addressed.

The remainder of this paper is organized as follows: Section 2 provides a literature review; Section 3 outlines the methodology; Section 4 presents findings; Section 5 discusses the

implications; and Section 6 concludes with recommendations.

Literature Review

The ILO Conventions: 155 and 187

Convention No. 155 establishes a comprehensive framework for national OSH policy. Its provisions include the formulation of a national OSH policy, preventive measures, risk assessment, consultation, training, and a legal and institutional infrastructure for implementation.

Convention No. 187 builds on 155 by promoting a preventive national system, including participatory governance, risk assessment, hazard prevention, and a culture of prevention.

Together, these conventions set out a normative standard aimed at guiding member states toward safer workplaces, making coordinated policy, legal, and institutional reforms.

Ratification and Global Status

Despite the importance of these conventions, ratification remains limited. Studies show that while many countries have OSH legislation, only a fraction have formally ratified ILO 155 or 187.

For example, in Latin America and the Caribbean, although nearly all countries have national OSH laws, few have ratified the core ILO conventions.

This discrepancy raises questions about the gap between normative commitment and formal adoption.

Legal and Implementation Gaps

Scholars have highlighted various legal and practical gaps. According to a comparative commentary in Southern Africa, ILO conventions are not automatically translated into binding national laws; many nations adopt partial or non-binding measures.

Similarly, the Institute for Labor Studies in the Philippines conducted a gap analysis, finding that national legislation often lacks alignment with ILO 155 in areas such as consultation, national policy, and enforcement.

A case study of Bangladesh's Ready-Made Garment (RMG) sector illustrated weak political will, lack of tripartite structures, and limited institutional capacity to adopt ILO standards.

Institutional and Capacity Challenges

The ILO itself acknowledges that many states lack up-to-date OSH programmes: only 34% of Member States had an active national OSH program as of a recent report.

Moreover, assessment of national OSH qualification systems reveals that many countries struggle to train competent OSH professionals, as their qualification frameworks do not align with ILO guidance.

Enforcement challenges such as under resourced labor inspection systems, low inspection coverage, and weak penalties are frequent in the literature.

Methodology

Research Design

This study utilizes qualitative comparative legal analysis, supported by gap analysis. We examine the text of ILO Conventions 155 and 187, analyse national OSH legislation in a purposive sample of countries, and identify discrepancies and challenges in implementation. Supplementary sources include ILO databases and peer-reviewed literature.

Data Sources

ILO LEGOSH Database: The LEGOSH (Global database on occupational safety and health legislation) provides structured data on national OSH laws.

ILO Reports: Reports and policy briefs from the ILO (e.g., implementation reports, global strategy) give context to adoption and enforcement.

Peer-reviewed Literature: Articles and case studies on ratification, national gap analyses, and institutional challenges (e.g., in Latin America, Bangladesh, Botswana).

Legal Texts: National OSH laws, policies, and regulations from selected countries (via publicly available legal documents, reports).

Sample and Scope

Given resource constraints and richness of data, we focus on a purposive sample of five countries that illustrate different contexts (e.g., high-income vs. Low middle income, ratified vs. Non ratified): Bangladesh, Botswana, Mexico, Peru, and the Philippines. The sample allows us to examine both ratification and implementation dynamics.

Gap Analysis Framework

We develop a gap analysis framework based on the main pillars of Conventions 155 and 187:

- National OSH policy (existence, tripartism, preventive culture)
- Institutional structures (inspection, enforcement, OSH services)
- Risk assessment & prevention (hazard identification, risk mitigation)
- Training, consultation, and participation (worker involvement, safety committees)
- Enforcement & penalties (inspection coverage, penalties, sanctions)

For each country, we compare national law regulation against the benchmark standards derived from the conventions.

Limitations

Legal texts may not fully reflect de facto practices; we rely on secondary literature for implementation data.

The sample of five countries is not statistically representative but illustrative.

Language barriers and legal translation may limit precision in legal comparison.

Findings

Ratification Trends and Policy Gap

Ratification: Of our sample, only Botswana has explicitly undertaken a gap analysis with intent to ratify ILO 155 and 187.

National policy existence: According to ILO-IOSH data, only 47% of ILO member states have a national OSH policy.

Tripartite governance: In many countries, tripartite OSH governance (state, employer, worker) is weak or formal but not effective. In Bangladesh, scholars point to limited mechanisms for worker consultation.

Institutional and Capacity Challenges

Inspection systems: Inspection is under-resourced in many states. For instance, in Botswana the gap analysis reveals that national inspection capacity and legal coverage are insufficient compared to ILO expectations.

OSH services: Convention 161 (Occupational Health Services) is highly relevant; but many countries lack widespread occupational health services or align them poorly with national law.

Qualification systems: National qualification systems for OSH professionals often do not align with ILO standards.

Risk Assessment, Prevention, and Culture

Hazard prevention: Many national laws do mandate risk assessment, but preventive culture is not systematically embedded. ILO guidance (e.g., in Convention 187) emphasizes risk assessment, hazard elimination, training, and participation, but these are weak in some jurisdictions.

Consultation and participation: Worker participation is often enshrined in law (e.g., OSH committees), but effective consultation mechanisms remain limited, as found in case studies (e.g., Philippines).

Training: Training provisions exist, but implementation Quality and reach remain uneven; many employers lack capacity to deliver systematic OSH training.

Enforcement, Penalties, and Compliance

Legal enforcement: Penalties for OSH violations vary; in some jurisdictions they are weak and lack deterrence.

Accident reporting and investigation: There is widespread lack of robust systems for reporting and investigating workplace accidents and diseases. While ILO conventions call for such systems, national follow-through is variable.

Resource constraints: Labour inspectorates frequently lack staffing, budget, and technical expertise to enforce OSH standards effectively.

Political Will, Social Dialogue, and Governance

Political will: Non ratification or partial alignment often reflects limited political commitment. For example, in Bangladesh, political economy factors hinder the implementation of ILO standards.

Tripartite social dialogue: Countries struggle with meaningful social dialogue; tripartite structures may exist, but their influence on policy and enforcement is limited.

Global strategy alignment: The ILO's Global Strategy on OSH (2023–2030) calls for comparative research and capacity building to strengthen national systems.

Discussion

Interpreting the Gaps

The findings show that although ILO Conventions 155 and 187 provide a robust normative framework, national OSH laws frequently fall short in translating these into effective, enforceable domestic systems. The gaps are structural (institutional capacity), political (ratification, willingness), and technical (prevention, training). The divergence between convention and practice underscores the difference between de jure alignment and de facto enforcement.

Implementation Challenges

- Ratification hurdle: Without ratification, conventions remain aspirational. Countries may lack the political will, or fear the financial burden of implementation.
- Institutional capacity: Many States simply do not have well-developed OSH

inspection regimes, nor sufficiently trained OSH professionals.

- Enforcement deficit: Weak enforcement due to low inspection coverage, poor penalties, and limited reporting systems reduces compliance.
- Cultural barriers: Promoting a preventive culture (central in Convention 187) is difficult when awareness is low, and worker participation is tokenistic.
- Governance & social dialogue: Effective tripartite institutions are essential, but many countries lack credible mechanisms for social partners to influence OSH policy.
- Resource Constraints: Budgetary limitations for OSH systems, especially in developing countries, hamper progress on aligned OSH programs.

Recommendations

Based on the analysis, the following recommendations may help countries better align national OSH laws with ILO conventions and improve implementation:

- Promote Ratification: National governments, with ILO assistance, should conduct gap analyses and roadmap strategies to ratify Conventions 155 and 187.
- Strengthen Institutional Mechanisms: Invest in labor inspectorates, OSH services, and tripartite governance bodies; provide technical support for their establishment and maintenance.
- Build Competence: Develop OSH qualification frameworks aligned with ILO guidance to ensure a cadre of trained professionals.
- Enhance Prevention Culture: Introduce training, risk assessment, and consultation processes in law and practice; engage social partners in developing preventive policies.
- Improve Enforcement: Strengthen reporting, inspection, and sanctioning systems; ensure penalties are meaningful and enforceable.

- Foster Social Dialogue: Establish or revitalize tripartite OSH committees that genuinely participate in policymaking and monitoring.
- Mobilize Resources: Secure domestic and international funding for OSH capacity building especially in low middle income countries.

Conclusion

The ILO's OSH conventions provide a comprehensive blueprint for national OSH systems. Yet, as this comparative study demonstrates, many countries struggle to fully operationalize the conventions' requirements in their domestic legal and institutional contexts. Addressing this gap requires political commitment, capacity building, and an active preventive culture. Strengthening alignment between ILO norms and national OSH laws is not only a legal imperative but also a moral and practical necessity for safeguarding workers' health and lives.

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