

REPORT OF THE DIRECTOR-GENERAL

Freedom of association in practice: Lessons learned

Global Report under the follow-up to the ILO Declaration
on Fundamental Principles and Rights at Work

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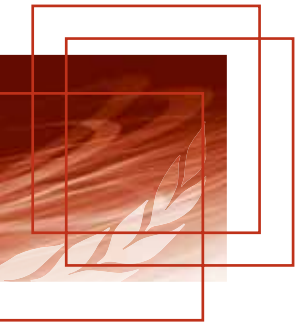
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Executive summary

This Global Report provides a global overview of the application and realization of universal principles and rights concerning freedom of association and collective bargaining in a year which makes the tenth anniversary of the adoption of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, and the 60th anniversary of the adoption of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

All workers and employers have the right to establish and to join organizations of their choice to promote and defend their respective interests, and to negotiate collectively with the other party. They should be able to do this freely, without interference by the other party or the State. Freedom of association is a fundamental human right and, together with collective bargaining rights, a core ILO value. The rights to organize and to bargain collectively are enabling rights that make it possible to promote democracy, sound labour market governance and decent conditions at work.

This Global Report, like the two earlier Global Reports on the same subject published in 2000 and 2004, is based on the premise that achieving the ILO's goal of decent work for all women and men in conditions of freedom, equity, security and human dignity is only possible if they can have a say in what this means for them. Freedom of association and the right to organize and bargain collectively are fundamental human rights, the exercise of which has a major impact on work and living conditions, as well as on the development and progress of economic and social systems.

A conducive environment

A legislative framework which provides the necessary protections and guarantees, institutions to facilitate collective bargaining and address possible conflicts, an efficient labour administration, and strong and effective workers' and employers' organizations, are the main elements of a conducive and enabling environment for freedom of association and collective bargaining. The role of governments in providing for an enabling environment is of paramount importance.

Ratification of Conventions

Ratification of the international labour Conventions Nos 87 and 98 that deal with freedom of association and collective bargaining expresses a commitment by a government to implement the principles and rights concerned. Progress in achieving wider ratification has been made. Nonetheless, universal ratification needs further efforts. By 31 December 2007 the total number of ratifications of Conventions Nos 87 and 98 stood at 148 and 158 member States respectively out of the total ILO membership of 181 States. It should be a matter of concern that Convention No. 87 has now become the least ratified of all eight fundamental Conventions. This Global Report invites further reflection on ways to remedy the situation.

The application of rights in practice

While ratification is an important element, the real challenges lie in the effective implementation of Conventions. The supervisory work of the ILO shows the need for increased efforts to promote respect for these rights and implementation of their principles

in both ratifying and non-ratifying States. The Report identifies some significant positive developments. Complaints concerning lack of civil liberties have diminished in comparison with problems arising from the application of the relevant rights and principles. The recognition of the importance of these rights appears to have strengthened, but the problems of guaranteeing them in practice remain.

Within this overall trend, there are serious and major cases involving large-scale dismissals, harassment, imprisonment and violence, including killings of trade unionists. Trade unions and employers' organizations continue to experience obstacles in their day-to-day activities. Problems arise with: restrictions on the establishment of organizations or the right to join them; interference by governments and other parties in the functioning of employers' and workers' organizations; restrictions on collective bargaining; discrimination against union members; and undue restrictions on the right to strike.

In recent years the ILO supervisory bodies have recorded an increase in the number of complaints concerning acts of anti-union discrimination and interference. These allegations concern prejudicial acts (including dismissals, demotions, transfers and refusals to hire) against trade union officers and members.

Government intervention in trade union activities is a recurrent problem. Less visible but equally pernicious restrictions of freedom of association exist where this right is denied or discouraged in practice as a result of pressure and interference in the activities of trade unions. Registration systems still allow the authorities to exercise undue discretion. Restrictions frequently take the form of excessively high membership requirements or requirements for previous authorization. Many countries have in fact abandoned legislation or practice which guarantees the dominant or monopoly position of one union, although significant exceptions still remain.

The role of governments

An enabling environment for freedom of association and collective bargaining calls for proper legislation and effective institutions, including for dispute resolution. Political will is essential both for enacting the right legislation and for proper implementation of the law. Governments also need the necessary administrative and technical capacity to uphold these principles. Strong and efficient labour administrations are important for the promotion of collective bargaining.

The context of globalization

Globalization has resulted in more intense competition. Structural and technological changes pose unprecedented challenges to today's industries and the traditional methods of representation and negotiation for both workers and employers. Various studies demonstrate that respecting freedom of association and collective bargaining rights has a positive impact on competitiveness and economic performance. New bargaining strategies underline efficiency and productivity. Recent examples confirm the potential of collective bargaining, as a tool adaptable to emerging needs, to respond successfully to new challenges.

Structural changes in employment

New challenges arise with new forms of work and new types of employment relations which divide the workforce into "core" and "contingent" workers within the same sector, industry or workplace. The precariousness resulting from atypical employment relationships calls on trade unions in particular to find new and innovative approaches to ensuring the coverage of the workers concerned. Structural changes in employ

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