

REPORT OF THE DIRECTOR-GENERAL

ORGANIZING FOR SOCIAL JUSTICE

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

INTERNATIONAL LABOUR CONFERENCE
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Introduction

1. This is the first Report of the second cycle of Global Reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. Four years after the first Global Report on freedom of association and the effective recognition of the right to collective bargaining,¹ this principle and right remain the focus of attention. This fundamental right has been enshrined in the Constitution of the ILO since 1919. It has a dual role, as a fundamental human right at work and as an important element of economic, social and political processes.

2. The fundamental principle of freedom of association and the right to collective bargaining is a reflection of human dignity. It guarantees the ability of workers and employers to join and act together to defend not only their economic interests but also civil liberties such as the right to life, security, integrity and personal and collective freedom. It guarantees protection against discrimination, interference and harassment. As an integral part of democracy, it is also key to realizing the other fundamental rights set out in the ILO Declaration.

3. Research and analysis have demonstrated that respect for freedom of association and the right to collective bargaining also plays an important part in sound economic development. It has a positive effect on economic development by ensuring that the benefits of growth are shared, and promoting productivity, adjustment measures and industrial peace. In a globalized economy, freedom of association and the right to collective bargaining in particular provide a connecting mechanism between social goals and the demands of the marketplace. Consequently, the real debate cannot and should not be on *whether* to respect these principles and rights, but on how best to respect and make use of them.

4. *Organizing for social justice* continues the assessment of current trends begun in *Your voice at work*. It will come as no surprise that the picture is mixed. Despite a general positive trend, linked to the spread of democracy, high rates of ratification of the fundamental international labour standards, and increased transparency in global markets, serious problems remain. Violations of freedom of association rights of both employers and workers

¹ ILO: *Your voice at work*, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report I(B), International Labour Conference, 88th Session, Geneva, 2000.

persist in different forms, including murder, violence, detention and refusal to allow organizations the legal right to exist and function. People continue to lose their lives and their freedom for attempting to organize and defend collectively their fundamental rights. Problems range from the tragic and complex case of Colombia to obstacles to extending legislation and protection beyond the sphere of established industrial relations. The ILO provides assistance in resolving problems regarding respect of freedom of association when these arise, for example by supporting governments' efforts to reform their legislation and procedures, or by intervening to obtain the release of imprisoned trade unionists.

5. A distinction has to be drawn between democratic actions and "formal" democracy; between ratification of standards and their implementation. In some cases, situations have become more precarious; in others, no progress can be recorded. Some problems of application are due to political choices; others are primarily attributable to structural and organizational obstacles. In many cases there is no clear-cut boundary between the two reasons for non-compliance. However, in addressing the issues it is important to determine whether the root cause is the absence of political will or a lack of capacity to implement an accepted policy.

6. Positive developments have continued to take place in a number of countries. Yet it is important to point out that without further enabling measures, political will in itself does not guarantee results. For instance, in Saudi Arabia and other Gulf Cooperation Council countries acceptance of the right to start developing structures for workers' representation will have to be followed up by positive measures to translate the process into practical action. In the Republic of Korea, legislative reform is hesitant, demonstrating the need for further confidence-building between the Government and the social partners and the general public. Indonesia is still dealing with the consequences of the explosion of the single-union system, and a great deal of work needs to be put into promoting labour-management cooperation and effective social dialogue.

7. Despite continued democratization, parts of Central and Eastern Europe still need to overcome the legacy of the centrally controlled single-union system. Such tendencies never die easily, and they can be exploited for political purposes. Trade unions still suffer from the heritage of being used as transmission belts for political decisions and the image this gave over decades to the whole notion of workers' – as well as employers' – representation.

8. Political and democratic impulses and economic and structural concerns often work hand in hand, with virtuous effects on organization and negotiation. For example, in Ghana and the United Republic of Tanzania, greater involvement by employers' and workers' organizations in poverty reduction strategies helps bring these partners together for better cooperation on key issues of national interest. In Brazil, the new Government established a national tripartite forum to discuss labour law reform with a view to giving better effect to freedom of association.

9. As was shown by *Your voice at work*, structural change and globalization have posed serious challenges to traditional methods and structures of representation of workers and employers and collective bargaining. These structures are being reviewed and adjusted, although organizational change – never easy in institutions representing people and their economic interests – is arguably not as rapid as that of economic actors and activity. Trade unions have sought to boost their strength, for instance through mergers and increased national and international cooperation. Coverage of collective agreements has continued to spread to new categories of salaried employees.

Some employers' organizations have merged with industry federations or coordinated their activities more closely. On the employers' side this may well mean a closer integration between the functions of managing labour relations and strategic decisions by enterprises on investment, production and location.

10. The question of the level at which collective bargaining occurs (local, industry-wide, national) continues to elude simple answers. Enterprise-level bargaining may well be desirable for rapid adjustment, although it may shift responsibility and burdens to the weakest without providing for adjustment measures at the industry-wide or national scale. The answer depends closely on the strength and capacity of employers' and workers' organizations at each level. Centralized bargaining may provide for longer-term economic adjustment measures at the national level, and in the process support governments' economic and employment policies. Success stories can be found at each level of bargaining.

11. There is a need to establish for each country (or economic sector, as the case may be) the optimal mix between what is negotiated centrally and what is more appropriate for local bargaining. It is misleading to see different levels and methods of bargaining as mutually exclusive. Decentralized bargaining systems may, in fact, have an overall coordinated effect, as in the case of the Shunto wage negotiations in Japan, held each spring between unions and employers, essentially at the enterprise level. Enterprise-based negotiations, when they take place at around the same time and with transparency, can have the same impact as a highly coordinated national-level process, such as that of Finland.

12. What does not seem in general to be a feasible option at this time is extending collective bargaining for wages and conditions of work to the international level. An important exception is a global collective agreement reached in 2003 between maritime employers and the International Transport Workers' Federation (ITF), covering wages and working conditions on flag-of-convenience ships. For the foreseeable future in other industries, the focus of bargaining remains at the national level. As to the right to organize, however, both international affiliation and international cooperation of workers' organizations are on the increase. The structures that have been created, either through European Union legislation (European Works Councils) or through agreements between multinational enterprises and trade unions (global company councils) are primarily for information and consultation. The role of international information and consultation arrangements for, among other things, reaching national and local agreements should certainly not be underestimated.

13. Recent years have seen the rapid growth of framework agreements concluded between multinational enterprises and global trade union federations. The venue for such negotiations can be consultative structures, such as international or European Works Councils. Framework agreements aim to ensure the respect of basic principles, such as freedom of association and collective bargaining, throughout the enterprise. Most of the agreements signed to date cover subsidiaries and some extend to joint ventures, suppliers and subcontractors. Given that framework agreements often include follow-up procedures and mechanisms to deal with problems that cannot be solved at the local level, they can also help to improve dialogue between management and workers throughout the company.

14. The availability of reliable and comparable data on the coverage of employers' and workers' organizations and of collective bargaining remains a problem. Published data vary and contain contradictions. The data also need to be compared to the volume of economic activities, and to take into

account any restrictions on or obstacles to organizing and collective bargaining. This would require an agreed baseline on what union membership or coverage of an employers' organization means, as these organizations may have different figures for different categories of members (active, full or associated members, apprentices, unemployed, pensioners, and so on). It is essential that employers' and workers' organizations have the capacity to collect and manage such data, which can help them to develop more effective policy responses to their changing circumstances.

15. Consequently, this Report proposes that a major effort be undertaken during the coming four-year period to improve data collection and analysis so that the next Global Report on this topic, in 2008, can help in establishing reliable and transparent baselines for future action.

16. *Your voice at work* identified groups of workers who face particular difficulties in organizing. This year's Report looks more closely at developments concerning these groups: the public sector, agricultural workers, workers in export processing zones, migrant workers and domestic workers. Some of these work in the informal economy, and many of them are women. In the public sector, both economic trends and privatization pose serious challenges to existing organizations and their modalities of operation. Trade unions continue to face the challenge of ensuring that workers are provided with effective protection when activities are privatized and employers and their approaches change. In the public sector, tight budgets often limit the possibilities for reaching settlements comparable with the private sector. The potential for confrontation in the foreseeable future appears to be particularly strong in this sector, where organization rates are often high, where there is a perceived threat to the maintenance of rights, and where employer representatives and governments have limited room to manoeuvre.

17. In agriculture, persisting difficulties range from exclusions under the law and harassment of those who try to organize, including acts of violence, to obstacles inherent in the nature of employment – remoteness and spread of workplaces, the seasonal nature of work, lack of communication, and language barriers. Nevertheless, there are some reports of increases in membership of workers' organizations.

18. Growing public and consumer attention to international conditions of production and greater transparency in highly visible global markets have led to increased awareness of freedom of association and the effective recognition of the right to collective bargaining in export processing zones. These zones can become entry points for better labour relations practices, just as they can pioneer the introduction of new technology, production methods and forms of employment. However, all too often these zones remain an area where fundamental principles and rights are denied to

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