

Global Report under the Follow-up to the ILO Declaration 2004

## Freedom of Association and the Right to Collective Bargaining: Asia

### OVERVIEW

Freedom of association and the right to collective bargaining are fundamental human rights at work that form an integral part of democracy. They underpin civil liberties and guarantee protection against discrimination, interference and harassment. These rights also play a vital role in sustainable economic and social development across Asia and the Pacific. In the world's most populous and diverse region, these rights help connect social goals and the demands of the globalized economy. They can promote productivity, adjustment measures and industrial peace, and ensure the benefits of growth are shared.

Under the ILO Declaration on Fundamental Principles and Rights at Work, adopted by the International Labour Conference in 1998, all ILO members "even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the (ILO) Constitution, the principles concerning the fundamental rights which are the subject of those Conventions." This includes freedom of association and the effective recognition of the right to collective bargaining

### KEY FACTS

- Rates of ratification of the eight ILO core Conventions, including those on freedom of association and collective bargaining, in Asia have been encouraging. Some 46 percent of ILO member States in the Asia-Pacific region have ratified the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), while 64 percent have ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).
- Still, some groups of workers face challenges in terms of freedom of association and collective bargaining. Public sector employees are among those most often subjected to restrictions on the right to organize and bargain collectively. Today, economic trends and privatisation pose challenges and potential for confrontation seems high. Agricultural workers face difficulties ranging from exclusion under the law to violence and harassment of those who try to organize. Across most of Asia, agriculture is the biggest source of employment. Difficult working conditions, violence and harassment are common. In export processing zones reports continue of difficulties organizing, although in most countries national labour and industrial relations legislation applies to the zones. These zones have grown rapidly. In 1975 there were 79 zones in 25 countries world wide, but in 2002 there were 3000 in 116 countries, employing at least 43 million people. Migrant workers are often denied the right to organize in law or practice and those without documents are especially vulnerable. In Asia, women make up half or more of all migrant workers. Worldwide, more than 80 million people are economically active outside their own countries. Domestic workers are

vulnerable to abuse and the denial of fundamental rights at work, although they play a growing socio-economic role in the global labour market. In the informal economy, ambiguous and disguised employment relationships are widespread, creating uncertainty about the scope and protection of labour law, including rights to organize and to bargain collectively. In Asia, informal employment accounts for 65 per cent of non-agricultural employment.

### **MOVING FORWARD**

- Across Asia and the Pacific, national employers' organizations are working with the ILO to increase the involvement of women, giving a voice to women entrepreneurs. Women are under-represented in employers' organizations world wide. The Asia Pacific work includes looking at women entrepreneurs' needs, and developing plans to extend services to them.
- In Hong Kong, China, 240,000 women migrant domestic workers are organized in some 20 trade unions, which have the support of the Hong Kong Congress of Trade Unions.
- In Karachi in Pakistan, a group of taxi, truck and bus drivers succeeded in being registered as a private transport sector trade union by the provincial department of labour. Although national law only allows trade union organization at the enterprise level, their trade union was organized on the basis of the route
- In East Timor, core ILO principles including freedom of association and the right to collective bargaining have been anchored in the country's new Constitution, and a new labour Code drafted with assistance from an ILO project.
- In Indonesia, an ILO project has aimed at building trust and capacity in industrial relations to promote freedom of association and collective bargaining. It has provided training for some 6,000 constituents in seven provinces, including 2,000 labour administrators, inspectors, conciliators and mediators, along with an almost equal number of trade unionists and employers' representatives.
- In Viet Nam, an ILO project focusing on freedom of association and the right to collective bargaining has been instrumental in the creation of industrial relations advisory service centres in seven provinces.

### **WHAT IS THE ILO'S ROLE?**

The ILO Declaration adopted in 1998 obliges the Organization to assist member States' efforts to respect fundamental principles and rights at work, including freedom of association and collective bargaining. The Declaration sets out a new framework for technical assistance that is producing results. This work ranges from advice on law reform to longer-term, multi-faceted projects. In 2000, the first action plan prepared under the follow-up to the Declaration listed more than 50 countries that had requested technical assistance. Since then, many of those have negotiated projects or other activities with the ILO, aided by significant donor funding. In Asia much of this has focused on freedom of association and collective bargaining, working to build institutional capacity within governments, employers' and workers' organizations, and thereby improving relations between the three parties. Countries in which projects are operating include Bangladesh, Cambodia, East Timor, Indonesia and Viet Nam.