



COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2008)¹: AFGHANISTAN

FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)

REPORTING	Fulfillment of Government's reporting obligations	YES, since the 2005 Annual Review (AR).	
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to the Government: Involvement of the Chamber of Commerce of Afghanistan (CCA) (except for the 2006 AR) and the All Afghanistan Federation of Trade Unions (AAFTU) through consultations or communication of the Government's reports.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2007 AR: Observations by the CCA.	
	Workers' organizations	2008 AR: Observations by the AAFTU. 2007 AR: Observations by the AAFTU.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Afghanistan has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No.98) (C.98).

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the Government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>

		Ratification intention	<p>YES, since 2005, for both C.87 and C.98.</p> <p>2008 AR: The Government indicated that ratification of C.87 and C.98 was currently under evaluation by the Council of Ministers in consultation with employers' and workers' organizations and will be subsequently submitted to Parliament after approval by this Council.</p> <p>2007 AR: According to the Government: Ratification of C.87 and C.98 will be submitted to the newly established Parliament. The CCA supported ratification of C.87 and C.98 by Afghanistan. The AAF TU supported ratification of C.87 and C.98 by Afghanistan, and hoped that the Government would accelerate this process.</p> <p>2006 AR: According to the Government: C.87 and C.98 are in the process of ratification. The AWA supported the ratification of C.87 and C.98 by Afghanistan and hoped that this would take place soon.</p>	
Recognition of the principle and right (prospect(s), means of action, basic legal provisions)		Constitution	YES According to the Government: The 2004 Constitution guarantees freedom of association to employers' and workers' organizations.	
		Policy, legislation and/or regulations	Legislation A special Law on Freedom of Association that was adopted in 2004 relate to the principle and right (PR).	
		Basic legal provisions	(i) Constitution, 2004; (ii) Law on Freedom of Association, 2004.	
		Judicial decisions	NIL	
Exercise of the principle and right	At national level (enterprise, sector/industry, national)	For Employers	2005 AR: Prior government authorization is necessary to operate employers' organizations. All categories of employers can set up their organizations.	
		For Workers	2005 AR: Prior government authorization is necessary to operate workers' organizations. Freedom of association can be exercised by all workers in the public service; medical professionals; teachers; agricultural workers; workers in export processing zones (EPZs) or enterprises/ industries with EPZ status, migrant workers, workers of all ages, and all categories of employers. However, workers engaged in domestic work or workers in the informal economy, cannot exercise it as the Labour Code does not cover them. Workers in the informal economy can exercise the right to collective bargaining.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT			Special attention to particular situations	2005 AR: According to the Government: Women.

			Information/ Data collection and dissemination	2005 AR: According to the Government: There is a lack of information and data.
		At international level		2005 AR: According to the Government: There are no particular restrictions for the international affiliation of employers' and workers' organizations.
	Monitoring, enforcement and sanctions mechanisms			<p>2008 AR: The Government indicated that it did not recognize the AAFTU as a trade union given that the organization is not legally registered at the Ministry of Justice. It added that it nevertheless does not interfere in the AAFTU's activities.</p> <p>2005 AR: According to the Government: The PR is realized through inspection/monitoring mechanisms. Should the PR not be respected, the matter is referred to administrative or labour courts that shall take appropriate sanctions ranging from fines to imprisonment. Moreover, penal, civil and administrative sanctions may be taken.</p>
	Involvement of the social partners			The CCA stated that it had participated in this workshop and in the labour law review process.
	Promotional activities			<p>2008 AR: According to the Government, a tripartite workshop was organized in collaboration with the ILO in May 2007 on International Labour Standards (ILS) and the Declaration Follow-up.</p> <p>2007 AR: According to the Government: a national tripartite workshop on international labour standards, the Declaration and social dialogue was also organized in 2006 in cooperation with the ILO. The CCA stated that it had participated in this workshop and in the labour law review process. The AAFTU mentioned that it had participated in this workshop, and that it was also working for the improvement of workers' rights.</p> <p>2006 AR: According to the Government: a national tripartite seminar on International Labour Standards (ILS), including ILO fundamental Conventions was organized in Kabul in May 2005 with ILO technical assistance.</p>
	Special initiatives/Progress			<p>2007 AR: According to the Government: The Ministry of Martyrs, Disabled and Social Affairs drafted a new Labour Law in 2006, in cooperation with the social partners, and the ILO, the comments of which have been integrated in the final text. A new employers' organization have been established in 2005: the Chamber of Commerce of Afghanistan. Several sectorial organizations (teachers, engineers, shop keepers, journalists, writers, doctors, lawyers, etc.) and additional national workers' organizations exist now in the country. The Government organized separate consultations with sectorial organizations that are not federated. The AAFTU mentioned that it was working to improve workers' rights in Afghanistan, and its major objective was the realization of the fundamental principles and rights at work (FPRW) in the country.</p> <p>2006 AR: According to the Government: Following the adoption of the Law on Freedom of Association in 2004, some 170 associations have been registered, including employers' and workers' organizations and cooperatives.</p> <p>2005 AR: According to the Government: In the public sector, workers that have been laid off as a result of structural adjustment have obtained good allowances and/or retirement benefits following a national demonstration that puts pressure on the Government during negotiations.</p>
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations		NIL

		<p>Workers' organizations</p>	<p>2008 AR: The AAFTU indicated the following challenges: (i) unemployment; (ii) illiteracy; (iii) a lack of capacity; (iv) lack of professional staff, vocational training and health centres; (v) insecurity; (vi) a lack of rule of law, of compliance with the international conventions, of respect to workers' rights and of the opportunities for the workers' rights defenders; and (vii) poverty and lack of educational centres.</p> <p>2007 AR: According to the AAFTU: (i) AAFTU is the national representative workers' organization of Afghanistan; (ii) AAFTU is not aware of the existence of any organization called «Afghanistan Workers' Association» (AWA); (iii) the Government did not consult with AAFTU in the labour law review process; and (iv) there are practical problems in the registration procedure in Afghanistan, and organizations may not be physically able to do so before the Ministry of Justice - therefore, the Ministry of Social Affairs, and the ILO should help solve this problem.</p>
	<p>According to the Government</p>		<p>2008 AR: According to the Government: It has to face multiple unions with very different requests, which make it difficult for social dialogue.</p> <p>2005 AR: Main difficulties encountered in realizing the PR: (i) lack of public awareness or support; (ii) lack of information and data; (iii) social values and cultural tradition; (iv) social and economic circumstances; (v) lack of capacity of responsible government institutions; (vi) lack of capacity of employers' and workers' organizations; (vii) lack of social dialogue on the PR.</p>
<p>TECHNICAL COOPERATION</p>	<p>Request</p>		<p>2008 AR: The Government requested that a national case study on freedom of association and the Declaration's Follow-up be conducted, along with the elaboration of workshops.</p> <p>2007 AR: According to the Government: ILO technical cooperation should be sustained to help Afghanistan better implement the new labour law and realize the FPRW. Labour Inspection and employers' and workers' organizations need ILO support for training and capacity building. A case study on the FPRW is needed in the country.</p> <p>According to the CCA: (i) ILO technical cooperation for training and capacity building of employers' organizations will facilitate the realization of the FPRW in Afghanistan; and (ii) the CCA supports the Government's request for a case study on the FPRW in Afghanistan.</p> <p>According to the AAFTU: (i) The AAFTU strongly needs ILO support for capacity building and training among its affiliates and members; and (ii) it also supports the Government's request for a case study on the FPRW in Afghanistan.</p> <p>2006 AR: The Government wished to organize a special workshop on the Declaration, with ILO technical assistance, so as to facilitate the design of a national Declaration programme that will promote all FPRW and social dialogue, and focus on implementation. It also reiterated its request for technical cooperation projects to facilitate the realization of the PR in Afghanistan in the following areas, in order of priority: (1) promotion of women's right; legal reform, strengthening data collection and analysis, strengthening tripartite social dialogue, strengthening capacity of employers' and workers' organizations; (2) training of other officials; sharing experience across countries; assessment of the difficulties identified and their implications for realizing the PR.</p> <p>The AWA requested ILO technical cooperation to promote the PR among its members and to strengthen its capacity to negotiate collective bargaining agreements.</p> <p>2005 AR: According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Afghanistan exist in the following areas, in order of priority: (1) promotion of Women's right; legal reform; strengthening data collection and analysis; strengthening tripartite social dialogue; strengthening capacity of employers' and workers' organizations; (2) training of other officials; sharing experience across countries; assessment of the difficulties identified and their implication for realizing the PR.</p> <p>The Government would most appreciate the design of a national declaration program that will promote all FPRW and social dialogue.</p>

	Offer	ILO
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAs) encouraged the Government of Afghanistan (and few other governments) to initiate the necessary labour law reform to remove the obstacles to the ratification of C.87 and C.98. They acknowledged the high number of promotional activities concerning the PR in Afghanistan (and some other countries), and encouraged the Office to maintain its efforts to support these activities. However, the IDEAs noted that restrictions on the rights of certain categories of workers in Afghanistan (and some other countries), such as workers in the informal economy, to organize, were not compatible with the realization of this principle and right (Cf. Paragraphs 32, 35 and 38 of the 2008 AR Introduction – ILO: GB.301/3).</p> <p>2007 AR: The IDEAs listed Afghanistan among the countries that have been indicating their intention to ratify C.87 and C.98 for several years, with no indication that progress has been made (Cf. Paragraph 33 of the 2007 AR Introduction – ILO: GB.298/3).</p> <p>2005 AR: The ILO Declaration Expert-Advisers noted with particular interest the reporting from Afghanistan in spite of the serious difficulties that this country has to face (Cf. Paragraph 8 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>	
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	NIL	