

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

Freedom of Association and the Right to Collective Bargaining: Africa

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 efforts to establish sustainable economic and social development in Africa, and they 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

- Africa has responded strongly to a global campaign for ratification of the eight ILO core Conventions, including those on freedom of association and collective bargaining. Some 87 per cent of member States have ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) while 96 per cent 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 privatization pose challenges and potential for confrontation seems high. In 2001, the ILO estimated that worldwide, 15 million public sector jobs had been lost in the previous two years, part of a global trend toward reform, staff cuts, outsourcing and privatization. Agriculture workers often face difficulties organizing, ranging from exclusion under the law to violence and harassment. In Africa, agriculture is the biggest source of employment. The region's expanding labour force means that the number of people working in agriculture is increasing, although its share in total employment has declined in recent years. In export processing zones worldwide, ILO official sources point to a range of difficulties organizing, although in most countries national labour and industrial relations legislation applies to the zones. EPZs have grown rapidly. In 1975 there were 79 zones in 25 countries, but in 2002 there were 3000 in 116 countries, employing at least 43 million people. Migrant workers are among those most often denied the right to organize in law or practice and those who are undocumented or in an irregular situation are especially vulnerable. Worldwide, more than 80

million people are economically active today in countries other than their own. Domestic workers are too often subjected to abuse and denial of fundamental rights at work. Sometimes there are legal obstacles to domestic workers organizing, while isolation is another practical barrier. 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 bargain collectively. Informal employment absorbs 48 per cent of non-agricultural employment in North Africa; and 72 per cent in sub-Saharan Africa.

MOVING FORWARD

- In Uganda, the Federation of Uganda Employers set up Employer of the Year awards and opened regional centres; steps which helped attract significant numbers of new members.
- In the public sector, reform issues can become a focal point for trade union activities. In Mali an effort to reform the judicial system to prevent corruption included negotiating pay increases for civil servants working in the court system.
- In Malawi, an agreement concluded between various employers' and workers' organizations is intended to help tenant farmers in the tobacco sector, most of whom work without contracts and are not covered by labour legislation.
- In Kenya, Uganda and the United Republic of Tanzania, an ILO project has helped focus national labour law reform processes on giving effect to freedom of association and collective bargaining.
- Agreements between trade unions in sending and receiving countries can help safeguard migrant workers' rights. In Morocco, Senegal and Tunisia, for example, unions have such links with counterparts in receiving countries.
- The South African Domestic Service and Allied Workers' Union has succeeded in organizing domestic workers, estimated at 10 per cent of the workforce. It reached isolated workers by setting up a committee for every street.
- In Zimbabwe one union has organized informal economy tailors and women producing tie-and-dye cloth, while another works with people welding door frames, security grills and gates. Both offer training in organizational matters, and entrepreneurship and accounting services.

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. It sets out a new framework for technical assistance that is producing positive results. These efforts range 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. Technical assistance focused on freedom of association and collective bargaining has helped build institutional capacity within governments, employers' and workers' organizations, thereby improving relations between the three parties. In Africa, technical cooperation includes projects operating in more than 15 countries and a range of further initiatives