International Labour Organization

# Freedom of Association, Social Dialogue and Conflict Resolution: Proceedings of the 2024 Sub-regional Conference

Panama City, Panama, 18-21 March 2024

International Labour Organization

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Panama City, Panama, 18-21 March 2024

ILO Regional Office for Latin America and the Caribbean
October 2024

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First edition 2024

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ISBN: 9789220413043 (print)
ISBN: 9789220413050 (web pdf)

Also available in Spanish: *Libertad Sindical, Diálogo Social y Resolución de Conflictos: Actas de la Conferencia Subregional de 2024, Ciudad de Panamá*, 18-21 de marzo de 2024, ISBN 9789220412893 (impreso) ISBN 9789220412909 (pdf web).

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Printed in Peru

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# ▶ Presentation

This publication contains the proceedings of the Subregional Conference on Trade Union Freedom, Social Dialogue and Conflict Resolution, an event co-organized by the Inter-American School of Social Dialogue, Tripartism and Conflict Resolution (EI-DiSTReC), of the University of Panama, with the Office of the International Labour Organization (ILO) for Central America, Haiti, Panama and the Dominican Republic, with the support of the ILO Freedom of Association Service. The conference was held in Panama City from 18 to 21 March 2024.

The event brought together representatives of employers' and workers' organizations, as well as governments of the Central American sub-region, Panama and the Dominican Republic, and included the technical participation of experts on the subject from countries such as Panama, Honduras, the Dominican Republic, Colombia, Mexico and the United States of America. It also received technical input from the ILO and international experts. This combination of information and analysis made it possible to achieve a high level of discussion and conclusions.

The event took place in two parts. On the one hand, the invited specialists, technicians and authorities presented scientific inputs on the subject in order to generate a discussion. On the other hand, group work was carried out in the form of workshops to generate a discussion on issues related to social dialogue, in which both the tripartite participants of the conference and specialists from the ILO and the EI-DiSTReC took part.

It is important to note that as a result of the discussions held in the workshops, a series of conclusions and recommendations for possible actions to be taken were reached, which are included at the end of the publication. These results constitute an input that can serve as an orientation for the tripartite constituents of the sub-region for their possible implementation in the short and medium term.

Social dialogue and tripartism are at the heart of the ILO's decent work agenda. Their promotion and strengthening are a priority for ILO action in the Latin American region. To this end, the generation of knowledge to enrich the exchange of experiences and the development of public policies on social dialogue can be nurtured through joint events such as this conference.

For the ILO Regional Office for Latin America and the Caribbean and EI-DiSTReC, the publication of these proceedings is a contribution to the discussion on strengthening social dialogue in the region.

**Vasco Torres De León**

Director General EI-DiSTReC

**Ana Virginia Moreira Gomes**

Assistant Director-General Regional Director

Regional Director of the ILO Regional Office for Latin America and the Caribbean

# Part I.

# General introduction to the conference

# ▶ 1. Participants

The Subregional Conference on Freedom of Association, Social Dialogue and Dispute Resolution, held from 18 to 21 March 2024 in Panama City, was attended by 29 official delegates from Honduras, El Salvador, Costa Rica, Guatemala, the Dominican Republic and Panama. In addition, 68 people linked to labour relations from the host country, as well as from the sub-region and elsewhere attended.

In total, 11 countries were represented: Mexico, Honduras, El Salvador, Costa Rica, Guatemala, Honduras, the Dominican Republic, Colombia, Panama, Venezuela, South Africa and the United States of America.

A total of 13 speakers participated in the event, including representatives of the ILO Governing Body:

### Governing Body

- Gerardo Martinez, Representative of the Workers' Group of the Governing Body
- Manuel Terán, Representative of the Employers' Group of the Governing Body
- Evance Kalula, Chairperson of the Committee on Freedom of Association

The ILO was represented by 9 other officials from different offices:

### ILO Regional Office for Latin America and the Caribbean

- Ana Virginia Moreira, Assistant Director-General and Regional Director of the ILO Regional Office for Latin America and the Caribbean

#### Freedom of Association Service

- Karen Curtis, Head of the Freedom of Association Service
- Xavier Beaudonnet, Specialist of the Freedom of Association Service

#### ILO Office for Central America, Haiti, Panama and the Dominican Republic

- Juan Hunt, Director
- Fernando García, Specialist in Labour Law and Social Dialogue
- Blanca Peralta, Specialist in International Standards and Labour Law
- Randall Arias, Senior Employer Activities Specialist
- Amanda Villatoro, Senior Worker Activity Specialist

#### ILO Office for Mexico and Cuba

- Elizabeth Echeverría, Coordinator of the project Observation and Engagement for the Realisation of Freedom of Association and Collective Bargaining Rights (OBSERVAR)

In addition, participants included:

- Jaime Escobar, Executive Secretary of the Economic and Social Council of Honduras
- Sabrina De La Cruz, Vice-Minister of Trade Union and Business Relations, Ministry of Labour of the Dominican Republic
- Rolando Murgas, professor emeritus of the University of Panama
- Juan Nicolas Escandón, Director of Fundamental Rights of the Ministry of Labour of Colombia
- Humberto Villasmil, Professor at the Andrés Bello University in Venezuela

- Pablo Godoy, Representative of the National Labor Relations Authority of the United States of America
- Sergio Molina, Counsellor of the Federal Judiciary of Mexico

# 2. Programme developed

The event followed the programme detailed below, which consisted essentially of two blocks: one concerned presentations by experts, specialised technicians and ILO authorities on the issues addressed, and another block devoted to discussing, in workshops, the elements of these issues. The presentations and their authors are mentioned here:

- Inaugural conference: Action and relevance of the Committee on Freedom of Association. Special reference to Central America, Panama and Dominican Republic.
  *By Evance Kalula, Chairperson of the ILO Committee on Freedom of Association*
- Reactions of the representatives of the employers' and workers' sectors of the ILO Governing Body
  *By Gerardo Martínez (workers' group) and Manuel Terán (employers' group)*
- Presentation: ILO Regional Initiative for the strengthening Social Dialogue and Labour Relations
  *By Ana Virginia Moreira, Assistant Director-General and Regional Director of the ILO Office for Latin America and the Caribbean*
- Presentation: ILO initiatives to strengthen industrial relations systems in Latin America and promote conflict resolution at the national level. Developments and perspectives
  *By Karen Curtis, Chief, ILO Freedom of Association Service*
- Presentation: Comparative report on complaints filed before the Committee on Freedom of Association in the Latin American region with special reference to Central America. Past, present and future developments
  *By Humberto Villasmil*

### Comparative experiences on conflict resolution mechanisms

- Presentation: Experiences of the International Labour Standards and Dispute Resolution Panels and Commissions
  *By Jaime Escobar (Honduras), Rolando Murgas Torrazza (Panama) and Sabrina De la Cruz (Dominican Republic)*
- Presentation: Experience of the Special Committee on Dispute Settlement at the ILO (CETCOIT)
  *By Juan Nicolás Escandón (Colombia)*

# Part II.

# Inaugural lectures and speeches by the authorities

# 1. Inaugural conference: Action and relevance of the Committee on Freedom of Association. Special reference to Central America, Panama and Dominican Republic

*By Evance Kalula, Chairperson of the ILO Committee on Freedom of Association*

## 1.1. Special acknowledgments

First of all, I would like to express my deep appreciation to the Minister of Labour of Panama, Ms. Doris Zapata, and to the Director of the EI-DiSTReC, Mr. Vasco Torres, for their kind invitation to Panama. I would also like to express my highest appreciation to the EI-DiSTReC and the ILO Office for Central America, Haiti, Panama and the Dominican Republic for convening this tripartite conference, whose theme is extremely relevant and timely, as well as fully in line with the purposes and philosophy of the Committee on Freedom of Association (CFA).

I greet all the speakers and participants of this event, the members of the ILO Governing Body, the representatives of the International Organisation of Employers (IOE) and the International Trade Union Confederation (ITUC), the tripartite constituents from eight countries, our guests from important national bodies in Colombia, Mexico and the United States, as well as representatives of the International Labour Office, including the Regional Director of the ILO Office for Latin America and the Caribbean, the Chief of the Freedom of Association Branch and the Director of the ILO Office for Central America, Haiti, Panama and the Dominican Republic.

The presence of all these personalities and institutions demonstrates the importance of the issues that bring us together at this table: freedom of association and social dialogue, as well as the usefulness of strengthening industrial relations, including through the strengthening of national dispute settlement mechanisms. But first, let me go back to basics and recall the fundamental importance of freedom of association and social dialogue for democracy, social justice and sustainable development.

## 1.2. The centrality of freedom of association, collective bargaining and social dialogue for democracy, social justice and sustainable development

It is clear to all participants in this event that these principles have been at the heart of the ILO's institutional and normative architecture since 1919. This is demonstrated by their place in the ILO Constitution and in the various declarations adopted since then, from the 1944 Declaration of Philadelphia, annexed to the ILO Constitution, to the 2019 Centenary Declaration. They are also reflected in the two fundamental Conventions, No. 87 and No. 98, as well as in a number of technical Conventions that complement them.

What could be more natural than to recognise this importance for a tripartite institution such as the ILO? Without effective recognition of freedom of association, there can be no independent workers' and employers' organisations, and consequently no effective systems of collective bargaining and social dialogue. Nor, because of the enabling nature of these rights and principles, can there be without them balanced systems of industrial relations that guarantee decent work for all.

In this regard, I wish to underline the progressive wisdom of the ILO's founding members, including many of your countries, who understood very clearly that the full participation of representatives of the real economy in economic and social decision-making is a necessary element for democracy, balance and sustainable economic and social development and for the peaceful resolution of conflicts. "If you want peace, cultivate justice. If you want justice, cultivate social dialogue", this is certainly one of the ILO's key mantras.

More than 100 years after the creation of the ILO, legal and institutional recognition of the importance of freedom of association, collective bargaining and social dialogue has spread far beyond our organisation, both at the national level and throughout the international multilateral system.

The Universal Declaration of Human Rights, the two UN Human Rights Covenants of 1966 and the Inter-American Convention on Human Rights have all enshrined the importance of freedom of association as a civil and political, as well as an economic and social human right. Several of the UN Sustainable Development Goals, not only SDG 8 on economic development and decent work, but also SDG 10 on reducing inequalities and SDG 16 on peace, justice and strong institutions, require mature systems of industrial relations and social dialogue. Several free trade agreements to which your countries are party also contain important clauses on freedom of association, collective bargaining and industrial relations.

I would like to commend here the remarkable and pioneering commitment of your countries in this regard, as all countries in the subregion have ratified Conventions Nos. 87 and 98, and in most cases, they have done so very early in the 1950s. Ensuring the effective functioning of industrial relations is, of course, an ongoing process that should be encouraged at all times. There is certainly no shortage of challenges, and the industrial relations framework must constantly take into account and adapt to changes in the world of work. In turn, freedom of association, collective bargaining and social dialogue are particularly important in times of rapid mutations, as they help to find balanced and peaceful solutions to new problems that may arise.

At this point, let me turn to the body that I have the immense honour of chairing since 2019: the ILO Governing Body Committee on Freedom of Association.

## 1.3. The mandate and relevance of the Committee on Freedom of Association

At the same time as the ILO adopted the two fundamental Conventions Nos. 87 and 98 on freedom of association and collective bargaining, it also decided to create a special supervisory procedure and a new supervisory body, tripartite in nature and universal in scope, in order to protect and promote freedom of association in all ILO and UN member countries, whether or not they had ratified the Conventions. Thus, it was that the ILO Governing Body created the Committee on Freedom of Association (CFA) in 1951.

The CFA is a tripartite body of the Governing Body composed of 6/6/6 tripartite members acting in their personal capacity and chaired by an independent personality. As explained in its Digest of Decisions, the CFA examines alleged violations of the principles of freedom of association and the effective recognition of the right to collective bargaining enshrined in the ILO Constitution (Preamble), the Declaration of Philadelphia and expressed in the ILO Resolution of 1970. Its mandate is to establish whether a particular law or practice complies with the principles of freedom of association and collective bargaining set out in the relevant conventions. The CFA is not a court and the objective of the special procedure on freedom of association is not to blame or punish anyone, but rather to engage in a constructive tripartite dialogue to promote respect for trade union rights in law and practice by adopting recommendations and monitoring their implementation.

Although specific in nature, the CFA carries out its tasks in synergy with the other ILO supervisory procedures and supervisory bodies. It often refers the monitoring of the legislative aspects of the cases it has examined to the Committee of Experts on the Application of Conventions and Recommendations. In turn, the Governing Body refers to the CFA the provisions of article 24 of the ILO Convention on the Application of Conventions and Recommendations concerning allegations of violations of freedom of association and collective agreements. Similarly, it is frequently mandated to follow up on the implementation of commissions of enquiry set up under articles 26 et seq. of the ILO Constitution when complaints concern freedom of association and collective bargaining.

Since 1951, the CFA has examined more than 3,400 cases. Most of the complaints examined have been lodged by workers' organisations, although it should not be forgotten that important complaints lodged by employers' organisations about their right to organise and associate have also been and are being examined by the Committee, including in this sub-region. More than 650 of these cases originated in the countries covered by the ILO offices in San José and Mexico, which is quite considerable. However, it is interesting to note that the number of cases currently active before the CFA from most of these countries has decreased significantly in recent years.

All CFA recommendations are based on a tripartite consensus reached by the Committee members. They therefore have a unique legitimacy, and can certainly contribute, if properly taken into account and implemented, to resolving the challenges and difficulties raised in the complaints. Indeed, the recommendations of the CFA have led to important developments in many countries: they have saved lives, they have led to the release of trade union and employers' leaders, they have contributed to major advances in the categories of workers and employers covered by freedom of association and collective bargaining in certain countries. In addition, they have often helped to strengthen the state and tripartite institutions responsible for protecting freedom of association and promoting collective bargaining.

The sub-region is no exception in this respect and several countries have taken into account the recommendations of the CFA when adopting recent important measures aimed, for example, at ensuring the representative character of trade unions or facilitating the registration of trade unions in the public sector.

At this point, I would also like to take the opportunity to commend the commitment of your governments in providing timely information to the Committee on specific cases. I also greatly appreciate your participation in the meetings that regularly take place at ILO headquarters between GRULAC (Latin American and Caribbean Group), myself and tripartite members of the CFA. These meetings are an important forum for updating governments on how the activities and working methods of the CFA are evolving and provide an important opportunity to exchange views.

Each year, the CFA publishes an annual report of its activities and we invite you to consult its 2023 report, which was adopted and published at its March meeting last month.

But let me now turn to what is at the heart of this meeting, namely the role of national social dialogue in promoting and advancing freedom of association and collective bargaining, and let me highlight how this national dialogue is intrinsically connected to the work of the CFA.

## 1.4. Achievements of the CFA mandate and national social dialogue mechanisms

I would like to reiterate here that the CFA is at the service of the ILO's national constituents to support them in the promotion and realisation of freedom of association and collective bargaining. These objectives cannot be fully achieved without national legislation that complies with ILO standards, without strong public institutions and strong and independent social partners coming together in effective tripartite social dialogue.

In this context, initiatives to create or strengthen national social dialogue mechanisms to address issues of freedom of association and collective bargaining are not only welcome but necessary. Such national social dialogue mechanisms can take various forms.

In some cases, tripartite voluntary mediation and conciliation bodies are set up to resolve specific disputes related to freedom of association and collective bargaining. The CFA has always supported these initiatives and has requested the Office to provide technical assistance on this matter. With regard to complaints brought before the CFA, in fact, it seeks to encourage voluntary conciliation at the national level. As a matter of fact, since March 2021, the complainant of a case before the CFA and the government concerned have the option of entering a voluntary conciliation which has the effect of suspending the examination or consideration of the complaint by the Committee for an initial period of six months.

In some other cases, national tripartite bodies are tasked with following up on the comments of the ILO supervisory bodies, including the recommendations of the CFA, in order to identify the necessary actions (including legislative action where appropriate) to implement them.

I would like to highlight how these two types of initiatives complement and reinforce each other. Both, at their respective levels, contribute to building trust. While the resolution of specific conflicts can provide immediate and concrete relief, lasting conflict resolution and the strengthening of industrial relations will only be achieved in a legal and institutional environment that has addressed the recurrent and systemic challenges identified by the ILO supervisory bodies. Some of these systemic challenges in the sub-region may include issues such as anti-union violence, interference with the appointment of employers' representatives and the free functioning of employers' organisations, prompt registration of trade unions at all levels, effective protection against anti-union discrimination, effective and balanced procedures for collective bargaining in the public sector, effective promotion of collective bargaining in the private sector, etc.

Therefore, as president of the CFA I can only encourage you to continue your efforts to further develop and strengthen the above-mentioned national mechanisms. As I understand that the event is very much in line with the strategy currently developed by the International Labour Office to support the strengthening of industrial relations in Latin America, I am confident that it will receive effective support in this regard.

## 1.5. Brief concluding remarks

As it is time for me to conclude my introductory lecture, I would like to reiterate my congratulations to the EI- DiSTReC, the Ministry of Labour of Panama and the International Labour Office for organising this event which will undoubtedly contribute to progress in the promotion and realisation of freedom of association through a stronger and more effective social dialogue. I wish you every success in this endeavour. Rest assured that CFA will be at your side on this important journey.

# ▶ 2. Presentation: ILO Regional Initiative for the Strengthening Social Dialogue and Labour Relations

*By Ana Virginia Moreira, Assistant Director-General and Regional Director of the ILO's Office for Latin America and the Caribbean*

The ILO Office for Latin America and the Caribbean will launch, together with its technical departments and offices in the region, the Initiative for Strengthening Social Dialogue and Labour Relations. This Initiative will be implemented through work with constituents in the countries of the region, with the objective of improving collective labour relations, especially in the exercise of freedom of association and collective bargaining rights, the representation and participation of sectors in social dialogue bodies, the promotion of the application of international labour standards and the creation and development of mechanisms for the prevention and resolution of labour disputes.

## 2.1. Starting point: context and situation of Latin American and Caribbean (LAC) countries in social dialogue and industrial relations

Fundamental rights at work have found normative recognition in international human rights instruments, in international standards of the ILO, at the constitutional and legal level in the countries of the region. This regulation has administrative and judicial protection channels at the national level and even through the inter-American justice system at the supranational level.

In addition to their installation in the constitutional block in our countries and the ratification of international labour conventions, national legislations have developed and established the rights to freedom of association and collective bargaining and conflict resolution mechanisms to deal with cases of violations that may arise. Efforts to strengthen conflict resolution mechanisms in countries are always a necessity, given the importance of ensuring the effective exercise of rights and their impact on the labour relations system, the rule of law and the development of democracies.

In different countries of our region, it is noted *i)* the persistence, noted by the ILO supervisory bodies, of legislative and practical difficulties for the full exercise of freedom of association and collective bargaining; *ii)* low rates of trade union membership and collective bargaining coverage in a context of high incidence of the informal economy; *iii)* high frequency of complaints filed with the Committee on Freedom of Association, and *iv)* existing efforts to promote and strengthen national mechanisms for the resolution of disputes in collective labour relations.

Vega-Ruiz (2004) explains that the high number of complaints does not necessarily indicate that this region presents the worst scenario in the world for violating trade union rights. For the author, a key factor is perhaps a greater understanding on both sides of the importance of the law, its value and its guarantees, at all levels, both nationally and internationally. Most Latin American countries have a long-standing relationship with the ILO (Villasmil and Carballo 2020). Most Latin American countries are founding members of the Organisation, and their membership has been stable for most of this period. Bronstein reinforces this argument, noting that the number of complaints may indicate that social actors know and understand the ILO's international supervisory system. Trade unions in the Americas know, use and value the role of the ILO supervisory bodies as part of their legal-institutional strategy to defend freedom of association. The analysis above suggests that the high number of complaints from Latin America may be the result of a combination of a high level of violations of freedom of association and the institutionalisation of freedom of association and collective bargaining principles.

In this framework and in close collaboration with the Freedom of Association Service (LIBSYND) and specialists in international labour standards and labour law in the region, specialists from the Bureaux for Workers' and Employers' Activities (ACTRAV and ACTEMP), and other specialists in labour relations and social dialogue, it is proposed to launch this Initiative for LAC countries. The Initiative considers the contributions and advances made by the countries and by the ILO to propose actions to improve labour relations, the protection and exercise of labour rights, as well as the promotion and application of international labour standards.

## 2.2. Strategic axes of the Initiative

The ILO will create a team of experts dedicated to industrial relations and social dialogue to respond to the needs of constituents. This team will support national policy development, promote effective conflict resolution and contribute to building a culture of mature social dialogue on a sound industrial relations basis.

With a view to increasing the impact of the supervisory system and its capacity to induce positive change at the country level, the team will work with constituents to identify priority areas for action, as well as institutional and constituent needs, based on an analysis of ILO supervisory systems, their comments and recommendations.

A two-pronged strategy will be implemented to address short- and medium-term needs in a complementary manner.

To respond to short-term needs and demands, the team will develop a programme of work to: *(i)* support the effective functioning of existing labour dispute resolution bodies in countries with high rates of labour disputes and complaints before ILO supervisory bodies; and *(ii)* provide, upon request, facilitation services to parties who have decided to engage in voluntary conciliation at the national level in the context of an Article 24 representation or a CFA complaint.

The team will also develop a work programme to provide evidence-based policy advice to Member States on options for addressing the root causes of industrial disputes and for promoting a culture of mature social dialogue and harmonious industrial relations. To this end, the team will: *(i)* undertake research to document and analyse the root causes of labour disputes in countries with high rates of labour disputes; *(ii)* conduct assessments of labour dispute resolution institutions, including national conciliation bodies, as well as tripartite social dialogue mechanisms related to international labour standards matters; and *(iii)* facilitate tripartite discussion and provide technical assistance to implement its findings.

It is proposed to: *(i)* establish regular contacts and links of trust with national tripartite constituents and strengthen, at national and regional level, networks in support of social dialogue and collective labour relations; *(ii)* follow up on the implementation of the recommendations of the supervisory bodies on freedom of association and collective bargaining; *(iii)* facilitating the development of regional and national strategies to strengthen social dialogue and promote collective bargaining with a view to addressing the root causes of labour disputes identified by the ILO supervisory bodies' observations and fostering trust between the parties; and *(iv)* promoting the development and strengthening of national dispute resolution mechanisms and other relevant institutions in the field of industrial relations.

In this initiative, the active participation of the constituents is expected in order to improve the industrial relations system and working conditions in our countries, and to make an effective and practical contribution to social justice.

To this end, through the work with constituents —governments, representatives of workers' and employers' organisations— in each country and at the international level, it is proposed to develop actions such as:

1. providing technical advice in the field of social dialogue, collective labour relations and conflict resolution to ILO constituents and other interested parties;

2. promote relevant international labour standards, following up with the tripartite constituents on the long-standing comments of the ILO supervisory bodies on freedom of association and collective bargaining. Provide technical support to the measures taken by governments in this respect with a country-by-country responsibility for compliance with international labour standards;

3. supporting the strengthening of ILO constituents' capacity to formulate and implement policies and programmes in the field of social dialogue, industrial relations and conflict resolution, with a gender perspective;

4. prepare analytical technical reports and assessments with the participation of the national tripartite constituents, in particular concerning the main structural obstacles to the effective exercise of freedom of association and collective bargaining in the country, and possible avenues for improvement through existing national institutions;

5. promote the development and strengthening of spaces for dialogue and exchange between national tripartite constituents with a view to fostering trust between the parties and promoting a culture of mature and constructive social dialogue. In the area of social dialogue, both instances and processes of dialogue in the countries could be promoted in these matters, either through formal and institutionalised instances or ad hoc spaces; at the level of national policies as tripartite dialogue, of collective bargaining as bilateral dialogue or of collaboration and cooperation in the workplace, as spaces for exchange within the enterprise. The experience of the International Labour Standards Committees and Commissions is important and a basis for the work carried out to deal with cases concerning freedom of association and collective bargaining in the countries and, above all, to evaluate in each country whether it is necessary to continue with the effort to open voluntary spaces for dealing with cases involving international labour standards;

6. generate opportunities to establish technical and strategic partnerships and foster collaborative relationships with UN system agencies, other international organisations, especially those of a regional nature, research institutions, academia, civil society, with a view to developing and implementing joint programmes on social dialogue, freedom of association and the promotion of collective bargaining;

7. promoting access to conflict prevention and resolution mechanisms in order to ensure spaces for communication between the parties and the search for conflict resolution options. This necessarily requires providing and expanding the information available to social actors, promoting training so that they can participate in conflict resolution forums, analysing the situation of existing mechanisms (their functioning and procedural management) and, especially, creating spaces for following up on the recommendations of ILO supervisory bodies;

8. exchange experiences and proposals on good practices to systematize recommendations of the ILO supervisory bodies with a view to strengthening industrial relations systems and avoiding repetition of complaints on recurrent issues; and

9. conduct, design and carry out innovative, inclusive and gender-sensitive research on structural and emerging issues that responds to the evolving needs of ILO constituents and other key stakeholders.

# ▶ 3. Presentation: ILO initiatives to strengthen industrial relations systems in Latin America and promote conflict resolution at the national level. Developments and perspectives

*By Karen Curtis, Chief of the ILO's Freedom of Association Branch*

For me too, as head of the ILO's Freedom of Association Service, it is an honour and a great pleasure to participate in this important tripartite event. Let me also join Mr. Kalula in thanking and congratulating the hosts of the conference and its speakers and participants.

Before I go straight into the subject of my presentation, I would like to underline, like Mr. Kalula, the complementary nature of the various objectives of the conference, which are both to ensure a systematic follow-up to the various observations and recommendations of the ILO supervisory bodies, in particular the recommendations of the Committee on Freedom of Association, and to strengthen national dispute settlement mechanisms.

The two objectives indeed feed each other and for robust and sustainable systems of social dialogue and collective bargaining, it is indeed important to have a solid legislative basis in line with ILO standards and principles. In this regard, I will be very attentive to the conclusions of the seminar on the follow-up to the recommendations of our supervisory bodies and how the Office can provide support in this regard.

I would now like to turn my attention to the close relationship between freedom of association and social dialogue.

Indeed, it is an honour and privilege for me to speak at this critically important event at a time when global challenges have demonstrated that constructive tripartite dialogue is needed now more than ever. I am especially heartened by the title of the event which places freedom of association as the first element; a necessary prerequisite to any discussion on social dialogue and dispute resolution.

I wish to extend my deepest thanks to the EI-DiSTReC that has successfully taken up the task of promoting knowledge and expertise in the area of international labour standards, building the capacities of social partners for dialogue and mediating disputes. The ILO is proud to have been associated at the outset with this forum that, in line with its own aims and objectives, has the mission of promoting harmonious labour relations and social peace.

I wish to first address the importance of social dialogue today and the prerequisites for its effective operation from a broad global perspective. I will then say a few words about the lessons that can be drawn from the ILO special complaints procedure to create the necessary environment to reap the gains of a functioning social dialogue before handing over to Xavier who will speak to the tools and means of action that the ILO employs to support its constituents in strengthening labour relations.

## 3.1. The importance of social dialogue

Social dialogue is indeed more necessary than ever in a climate of increasing global tensions, social conflict and crisis. The world is faced with interlocking multiples crises characterized by a convergence of economic, environmental, geopolitical and security risks calling for enhanced proactiveness, responsiveness and impactful action at all levels. Progress made in respect for international labour standards has stalled in many regions or even reversed decades of progress which in turn has only further fuelled social conflict and intensified inequalities. With civic space regressing, the efforts made to foster an environment for democratic, participative representation of social partners as a means for averting social conflict and finding sustainable responses to the state of polycrisis are ever more indispensable.

Indeed, these efforts echo the call of ILO's Recommendation on Decent Work for Peace and Resilience for a multi-track approach through social dialogue to implement coherent and comprehensive strategies for promoting peace, preventing crises, enabling recovery and building resilience with a key role for social partners well placed to harness stability and a predictable business and work environment for the protection of livelihoods, business interests, and workers' rights.

## 3.2 The *sine qua non* of trade union freedom

While social dialogue can surely reinforce the role and voice of social partners, it would be meaningless however without full guarantees of freedom of association for workers and employers in law and in practice. Just as social dialogue institutions represent the forum for democratic discussion and debate and where possible decision-making, freedom of association, as the cornerstone of democracy, is the necessary precondition.

While the ILO supervisory bodies —both tripartite and independent— have developed a long list of matters for consideration in the efforts to promote, respect and realise this fundamental enabling right, a close look at the issues raised boils down to three basic elements that are necessary to set the foundation:

1. a legislative framework for the protection of the freedom of association rights of all workers and employers;

2. legislative, regulatory or practical measures to ensure protection in practice for those not covered by labour legislation or where measures need to be adapted to the challenges of particular sectors, and

3. an enabling environment that includes awareness-raising campaigns for a broad constituency.

These factors in combination can assure that the parties to dialogue are independent, representative and robust, bringing to the table the collective voice of those concerned and ensuring that choices made respond to their interests and the needs of the real economy, reinforcing buy-in and social cohesion.

Representative voices are indeed critical at all levels of engagement: enterprise, sectoral, national and international.

Lasting resolution of conflicts at enterprise level are dependent upon the true representative nature of those engaged in negotiations, their independence from the employer and their capacity to hear and reflect the needs and concerns of the workers.

Independent and representative organizations of workers and employers in a given sector can assure that solutions respond to the specificities of the sector while setting a minimum level playing field to deter unfair competition.

Certain sectors by their nature face particular challenges for organizing. Ensuring representative voices in such cases requires more than a rights-based framework but also calls for raising awareness of the importance of social actors more broadly across the general population, building their capacity and addressing the difficulties encountered in organizing.

The development of free and viable organisations capable of protecting and furthering the interests of their members and ensuring their effective contribution to economic and social development thus also means the promotion of a broader-based understanding, including through schools and media, about the contribution these organizations can make to the socio-economic development of the country, jobs and decent work.

Considering the multiple causes of informality and the contribution that can be made through social dialogue for the development of public policies to accelerate the process of transition to the formal economy, measures to promote representation and collective voice of the over 60 per cent of the workforce in the informal economy are also urgent. Indeed, the CFA is seeing more and more complaints about the challenges to organizing, representation and collective negotiation faced by workers in the informal economy; a critical review can support efficient strategies to the challenges faced.

At the international level, the ILO's robust system of tripartite standard-setting and independent and tripartite review, complaints-based and regular reporting, have rendered it the legitimate international voice for providing guidance in the world of work. Yet even here efforts must be constantly made to ensure genuine representation of those affected such as in the example of the elaboration of the

Domestic Workers' Convention where the voices of domestic workers brought legitimacy to the outcome and ultimately provided impetus to the creation of the International Domestic Workers' Federation, providing representative voice for these isolated workers throughout the world.

As for the Latin American region, complaints to the CFA have shown both a strong and robust labour relations system where concerns over economic and social policies of the State can be freely voiced but has also exposed on occasion frustration in the avenues available for resolution at national level leading to the invocation of the mechanisms provided by the ILO as the respected house for the protection of fundamental labour rights. Petition to ILO supervision is in itself a demonstration of the free expression necessary for the full exercise of basic civil liberties which themselves are the essential foundation for true freedom of association. All of you here today are the embodiment of that freedom and your commitment to rendering its action fully purposeful is the hallmark of the ILO's aims and objectives.

The CFA's annual reports observe that this special complaints' procedure continues to receive numerous and even grave complaints related to fundamental freedom of association rights. Some of these have benefited from ILO intervention while the resolution of others may stagnate at national level, leading at times to a spiral of influx of complaints. In such circumstances, the recommendations of the ILO supervisory bodies can support analyses of the systemic nature of certain complaints in order to effectively address the obstacles and effect change on the ground.

A more in-depth analysis country-by-country would enable a view of the root causes hindering the full protection of freedom of association and the institutional measures that could support their resolution. Challenges such as weak institutions, delayed justice, insufficient legislative framework, but also lack of trust amongst social partners, rival fragmented collective voices and the absence of a climate of empowerment can further weaken the foundations of freedom of association necessary for any effective social dialogue.

The Director-General's pilot initiative in the region is aimed to address these challenges as comprehensively as possible in order to assist in their identification and resolution through robust dialogue amongst the representative parties in the world of work, building trust where it is lacking, reinforcing institutions and garnering a climate of confidence for those directly affected to engage in social dialogue and advance the social justice agenda in accordance with their shared priorities in an enabling environment. The Regional Director Ana Virginia Gomes Moreira will speak to this in detail tomorrow.

One last word before I turn over to Xavier to speak more directly to the opportunities in the region and ILO's means of engagement for strengthening labour relations.

Social dialogue mechanisms with representative partners presupposes a forum of heterogeneous voices and interests. Resolution of disputes and agreements on socio-economic policy are therefore built upon consensus and compromise necessary to a democratic society aimed at ensuring a fair and equitable protection of rights and benefits for all. This is the final presupposition for a results-oriented social dialogue: that all the social actors share the common value to persevere for inclusive and sustainable economic growth and the advancement of social justice and decent work, guided by the standards and principles elaborated over a century by the ILO, while striving to hear and understand the views and concerns of the other social actors. Such inclusive processes take time to develop but are key to forging inclusive development paths with fair opportunities for all.

# Part III.

# Central report of the conference: The Committee on Freedom of Association: its influence in the Latin American region[1]

1 This section retains the author's style, particularly —but not exclusively— in terms of the nomenclature of countries, the use of 'Latin America' and the structure of the footnotes.

# ▶1. The ILO and Latin America: by way of exordium

*By Humberto Villasmil Prieto, Professor at the Andrés Bello University in Venezuela*

At the beginning of the inter-war period and within the framework of the Versailles Peace Conference of 1919, the Treaty that bears its name was signed, which meant the creation of two multilateral organisations for public international law: the League of Nations (League of Nations) and the International Labour Organisation (ILO), which was born as the first specialised agency of the former.

> The belligerent States in the conflict signed the Versailles Peace Treaty and were thus original members of the League of Nations: Belgium, Bolivia, Brazil, the British Empire, Canada, Australia, Germany, South Africa, New Zealand, India, China, Cuba, Ecuador, France, Greece, Guatemala, Haiti, Hejaz, Honduras, Italy, Japan, Liberia, Nicaragua, Panama, Peru, Poland, Portugal, Romania, the Kingdom of the Serbs, Croats and Slovenes, Siam (Thailand), Czechoslovakia and Uruguay. Other States that had declared themselves neutral at some point during the war were invited to accede to the Treaty: Argentina, Chile, Colombia, Denmark, the Netherlands, Norway, Paraguay, Persia, El Salvador, Spain, Sweden, Switzerland and Venezuela. As can be deduced, of the 33 signatory states of the Treaty, original members of the League of Nations, 13 were from the American continent (United States, Canada and Latin America), i.e. 39% of the founding countries. Of the 13 states invited to accede to the pact, 6 were Latin American countries. Consequently, out of 46 founding states, 19 (41.3 %) were from the Americas and 17 (36.9 %) from Latin America (...)[2]

In that conclave, there were notable absences of some Latin American countries, starting with Mexico, which, having adopted the world's first social constitution - the Querétaro Constitution of 1917 - was not invited to the conference. Its entry into the ILO had to wait until 1931.

The Dominican Republic, for its part, being occupied by United States troops - in the first invasion of the island in the last century in 1916 —was unable to attend, as was Costa Rica, which on 27 January 1917— an improper and exceptional circumstance in its republican history - had a coup d'état that meant that the United States, one of the victorious powers in the First World War (WWI), did not recognise the unsaturated government. And, finally, Ecuador, which had been present and signed the Treaty of Versailles, saw its parliament subsequently fail to ratify it.

Costa Rica joined the ILO in 1920, the Dominican Republic in 1924 and Ecuador in 1934.

The case of the United States was surprising, considering that President Woodrow Wilson was the main promoter of the Peace Conference and the Treaty of Versailles, which he referred to in his famous speech of 8 January 1918 to the US Congress that went down in history as *Wilson's 14 points.*[3]

Although, in the framework of the Peace Conference, the American delegation signed the Treaty and chaired, through Samuel Gompers, leader of the American Federation of Labor (AFL), the Committee on Legislation that drafted its Title XIII —considered the birth charter of the ILO— the US Senate did not ratify it in the end.

Yet just under 40 per cent of the ILO's founding and recognised founding states - either because they originally signed the Treaty or because they were invited to join - were Latin American countries.

The number is surprising considering that of the Caribbean countries, only Haiti and the Republic of Cuba were present. Far from the beginning of the decolonisation policy promoted by the United Nations after

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2 Villasmil Prieto, Humberto. 2019. An "American" vision of the ILO centenary: approaching the understanding of a historical relationship. ILO Office for the Southern Cone of Latin America.

3 "14. The establishment of a general association of nations, to be constituted by specific pacts for the purpose of mutually guaranteeing the political independence and territorial integrity of both large and small states". https://www.dipublico.org/3669/catorce-puntos-del-presidente-wilson-1918/

the Second World War (WWII), there were no other independent republics in the Caribbean, except for the Dominican Republic, which intervened in 1916.[4]

This marked the starting point of a remarkable influence of international labour standards which, after 104 years of the Organisation's existence, cannot be underestimated. The consideration that the ILO's normative system has been accorded by the Inter-American Court of Human Rights attests to this influence:

> In the context of the present advisory opinion, the Court considers it pertinent to emphasise that, although it is not its task to issue a direct interpretation of the various international labour law instruments, the principles, rights and obligations contained therein undoubtedly contribute decisively to determining the scope of the American Convention. Thus, by virtue of the matter submitted for consultation, the Court will take into special consideration, as additional sources of international law, the conventions and recommendations, and other relevant instruments, as well as opinions and recommendations of the Committee on Freedom of Association and the ILO Committee of Experts on the Application of Conventions and Recommendations, both of the ILO, in order to make a harmonious interpretation of the international obligations in the terms of the aforementioned conventions. In addition, the Court will consider the applicable obligations and the jurisprudence and decisions issued by other bodies, as well as the resolutions, pronouncements and declarations on the subject that have been adopted at the international or national level.[5]

In this overview that seeks to highlight the influence of the ILO's normative system in the Americas region, it is worth mentioning, as a culmination, the reception of basic ILO instruments in the law of the inter-American system:

> The promotion and strengthening of democracy require the full and effective exercise of workers' rights and the application of core labour standards, as enshrined in the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted in 1998, as well as other related ILO core conventions. Democracy is strengthened by improving the working conditions and quality of life of workers in the hemisphere.[6]

However, although a majority of the countries that founded the ILO came from Latin America[7], the first ratifications of international labour Conventions had to wait until 1925 when Chile, following the first visit to the region by Director-General Albert Thomas. The ratification of eight conventions began a sustained process of ratification of ILO conventions that justifies, to date, the fact that Latin America as a region is only surpassed in number of ratifications by the European continent. As can be inferred, we are on the verge of the centenary of the first ratification of an international convention by a Latin American country.

However, while the average number of ratifications is generally very high in the Latin American region, there are notable differences in the number and timing of ratifications by individual countries.

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4 "Nowhere was the ILO's Europeanist bias more pronounced than in the area of colonial labour. When the ILO was created, hundreds of thousands of people, a significant part of the world's population, were living and working under the colonial rule of European powers, yet the problems of these people were rarely discussed at ILO meetings" (Maul, Daniel. 2019. The International Labour Organization: 100 years of global social policy. Geneva, International Labour Office, p. 84).

5 Advisory Opinion OC-27/21 of 5 May 2021 requested by the Inter-American Commission on Human Rights Rights Rights to Freedom of Association, Collective Bargaining and Strike, and its relation to other rights, with a gender perspective, para. 52: https://corteidh.or.cr/docs/opiniones/seriea_27_esp1.pdf

6 Article 10: Inter-American Democratic Charter (adopted at the first plenary session, held on 11 September 2001): https://www.oas.org/dil/esp/carta_democratica_interamericana_11sep2001.pdf

7 "However, this American connection has not always been sufficiently emphasised. Much of the historiography on the ILO has not given America - and Latin America in particular - the hierarchy it deserved, considering first of all that more than a third of the founding countries came from the American continent; the American connection in the work of the Committee on Legislation at the Peace Conference and, finally, the importance of the American countries in the centenary life of the ILO since Chile began the process of ratifying ILO conventions in 1925" (Villasil Prieto, Humberto, "The American connection in the work of the Committee on Legislation at the Peace Conference and, finally, the importance of the American countries in the centenary life of the ILO since 1925 when Chile began the process of ratifying ILO conventions". (Villasmil Prieto, Humberto. 2019. Una visión "americana" del centenario de la OIT, *op. cit,* p. 35).

First, Chile ratified 8 conventions in 1925; in 1933, Argentina ratified 9 conventions and the Oriental Republic of Uruguay ratified 30, which marked a trend in the region —other identical cases arose— of what we could call block ratifications of ILO conventions.[8]

In terms of the number of ratifications per country, the region shows very unequal averages: the Eastern Republic of Uruguay has 111 ratifications to date (plus 1 protocol), Brazil, 98 and Cuba, 90, while at the other extreme are Haiti with 25 and Honduras with 26 ratifications.

From 1931 onwards, and in parallel with the ratification process, Latin America began a process of codification of its labour legislation, with the Mexican Federal Labour Law and the Chilean Labour Code, both dating from 1931, as initial and very influential references. Since then, the different countries in the Latin American region - all ILO member States - began to adopt either codes or general labour laws, a process that culminated in 1963 when the Republic of El Salvador adopted its first labour code.

However, in the 1930s, the creation of an Inter-American Labour Institute came to be considered, a proposal made by the Mexican delegation at the VII Pan-American Conference in Montevideo in 1933. The secular tension between the Eurocentric universalism of the ILO and the proposals for regionalisation, which could have led not only to the founding of this organisation but also to the future adoption of regional labour conventions, could be seen.[9]

In any case, the numerical weight of Latin America "(...) did not confer equal influence. The Europeanist bias was reflected first and foremost in the composition of the Board of Directors. When it met for the first time in 1919, no less than 20 of its 24 members were from European countries, and Japan, Argentina and Canada were the only non-European members represented".[10]

It is worth noting that Mexico —which two years before the founding of the ILO had adopted the Querétaro Constitution of 1917, the world's first social constitution that ushered in the era of social constitutionalism— was not invited to the Paris Peace Conference in 1919 and thus was not an original signatory to the Treaty of Versailles and did not join the ILO, nor the League of Nations, until 1931.

The ILO was for a long time a Eurocentric organisation that was slow to consider not only the specificity of the Latin American region and its particularities, but also the fact that, from the outset, it had a significant number of member states from Latin America.[11]

This also explains why the history of the ILO has also suffered from a strong Eurocentric bias that did not recognise Latin America not only for its influence in the very birth of the Organisation, but also for having remained part of it, as a region, throughout its 104 years of life.[12]

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8 On 12 April 1934, Nicaragua ratified 30 ILO Conventions. To date, it has 62 ratifications.

9 "(...) the ILO competed with Pan-Americanism as an alternative to an exclusively continental form of internationalism. Due to the dominant role of the United States in this framework and its position from outside the ILO, these two internationalisms were practically irreconcilable during this stage". *Ibidem*, p. 80.

10 *Ibidem,* pp. 77-78.

11 "Of the 40 delegations present at the Washington Conference in 1919, less than half came from Europe and North America. From Latin America alone there were 16 participating nations, and 5 Asian countries (China, India, Japan, Persia and Thailand), and one African (British Dominion South Africa) participated in the inaugural ILO Conference. In the inter-war period, when more non-European countries, such as Mexico, Afghanistan, Egypt, Liberia (sic.) (member since 28.06.1919) and Ethiopia joined the Organisation, their numerical weight increased even more". *Ibidem*, p. 77.

12 But many other traces of that ILO presence in the Americas and, conversely, of what the Americas meant to the ILO in its century-long history should be highlighted: 1936 marked the beginning of the organization of regional conferences of member States with the aim of studying problems of particular interest to a given region. It was by no means accidental that the first of these was held precisely in Latin America. The 1st Conference of Asian States in Ceylon had to wait until 1947 and the 1st Regional Conference of African States (Lagos-Nigeria) was not convened until 1960. This confirms how significant it was in the history of the ILO that the policy of decolonisation materialised. The Santiago de Chile Conference (2-14 January 1936), convened under the chairmanship of Arturo Alessandri Palma —who was appointed its honorary president— adopted 26 resolutions on social security and working conditions in the countries of the Americas. The agenda of the conclave included the fundamental principles of social insurance, the intensification of relations between the ILO and the countries of the Americas, unemployment and immigration, and the working and living conditions of indigenous populations" (Villasmil Prieto, Humberto. 2019. An "American" vision of the ILO centenary, *op. cit,* p. 58.)

More than a century later, the Latin American region, including the Caribbean, North, South and Central America, is second only to Europe in the number of ratified conventions, with the Eastern Republic of Uruguay standing out as the fifth country in the world in terms of ratifications with 111 ratified conventions (plus 1 protocol).[13]

This very brief historical overview aims to explain how and why the fundamental conventions on freedom of association and collective bargaining that were adopted after World War II (Conventions No. 87 and 98) have had virtually perfect ratification in the region to date[14], awaiting ratification by the United States and Brazil (for Convention No. 87) and the United States (for Convention No. 98).

**▶Table 1. Ratification of ILO fundamental conventions by region**

| Countries | Freedom of association | | Forced labour | | | Discrimination | | Child Labour | | OSH | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | C087 | C098 | C029 | P029 | C105 | C100 | C111 | C138 | C182 | C155 | C187 |
| **Total: 187** | **158** | **168** | **181** | **59** | **178** | **174** | **175** | **176** | **187** | **80** | **61** |
| Africa (54) | 51 | 54 | 54 | 13 | 54 | 53 | 54 | 53 | 54 | 24 | 17 |
| America (35) | 33 | 34 | 34 | 10 | 35 | 34 | 34 | 33 | 35 | 12 | 6 |
| Asia and the Pacific (36) | 19 | 23 | 31 | 6 | 27 | 29 | 29 | 28 | 36 | 10 | 8 |
| Arab States (11) | 4 | 6 | 11 | 1 | 11 | 7 | 7 | 11 | 11 | 2 | 1 |
| Europe (51) | 51 | 51 | 51 | 29 | 51 | 51 | 51 | 51 | 51 | 32 | 29 |

**Source**: NORMLEX (ILO)

The fundamental conventions and technical conventions related to freedom of association have had a decisive influence in the region on national legislation and practice, including the jurisprudence of the courts.

Even before it entered into force in 1950, Convention No 87 had its first critical test when the Rens mission visited Venezuela in 1949 and published the report Freedom of Association and Conditions of Work in Venezuela. Report of the mission of the International Labour Office (22 July - 1 September 1949).[15]

13 "Convention 87 is often conveniently referred to as the Freedom of Association Convention, but its scope goes far beyond the simple right to join a trade union (or an employers' organisation). It also covers the rights of workers' and employers' organisations to draw up their rules and administrative regulations, to elect their representatives, to formulate their programme of action, and to join national and international federations, all without interference by the public authorities. The Convention is therefore an important instrument for the protection of civil and political rights, i.e. the right to democracy. (Dunning, H. 1998. Origins of Convention No. 87 on Freedom of Association and the Right to Organise. International Labour Review. Vol 117, No. 2, 1998/2. Special issue: Labour rights, pp. 167-168.)

14 On the subject see Villasmil Prieto, Humberto. 2019. Una visión "americana" del centenario de la OIT, *op. cit.*

15 Villasmil Prieto, Humberto. 2015. Adrianus Vermeulen: *Persona non grata. A 60 años del anuncio del retiro de Venezuela de la OIT*, en 1955. Gaceta Laboral [*online*]. 21(1), 52-80, pp. 54 ff. Available at: https://www.redalyc.org/articulo.oa?id=33641802004.

# ▶ 2. The evolution of international labour standards on freedom of association

The preamble of the ILO Constitution (Part XIII of the Versailles Peace Treaty, 1919) includes "(...) the affirmation of the principle of freedom of association (...)". In that same treaty —in the General Principles section— and specifically in article 427, which went down in history as the Labour Charter, the principle is reaffirmed in these terms:

> The High Contracting Parties, recognising that the physical, moral and intellectual well-being of wage earners is of essential international importance, have established, for the attainment of this high object, the permanent agency provided for in Section I and associated with that of the League of Nations (...) Among these methods and principles, the High Contracting Parties consider the following to be of particular and urgent importance:
>
> 1. The guiding principle stated above that labour should not be regarded simply as a commodity or an article of trade;
>
> 2. The right of association for all objects not contrary to law, both for employees and employers (...).

However, in the historical development of the principle and the right to freedom of association, there is a moment of particular significance represented by the Declaration of Philadelphia of 10 May 1944, which for some meant nothing less than a *second founding* of the ILO.[16]

In a classical book —The Spirit of Philadelphia— Professor Alain Supiot began by saying:

> [It was in Philadelphia on 10 May 1944 that the first universal International Bill of Rights was proclaimed. Adopted just a few days after the Allied landings in Normandy, this declaration was also the first expression of the will to build, at the end of the Second World War, a new international order based not on force but on law and justice (...) This Declaration of Philadelphia was followed, a few weeks later, by the conclusion of the Bretton Woods agreements, then, the following year, by the creation of the United Nations Organisation and, finally, by the adoption in 1948 of the Universal Declaration of Human Rights.[17]

The Declaration of Philadelphia was incorporated into the ILO Constitution in 1946. Its Title I contains two paragraphs that were and remain enormously influential and significant: "The Conference reaffirms the fundamental principles on which the organization is based, and in particular the following: *a)* labour is not a commodity; *b)* freedom of expression and association are essential to steady progress (...)".

Title III of the Declaration states that the Conference recognises the solemn obligation of the International Labour Organisation to promote among all the nations of the world programmes which will: "(e) achieve effective recognition of the right of collective bargaining, the cooperation of employers and workers in the continuous improvement of efficiency in production, and the collaboration of workers and employers in the preparation and application of social and economic measures (...)".[18]

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16 "More than once during the war, the very survival of the ILO was called into question. In the end, the Declaration of Philadelphia became an ideological and programmatic platform on which the ILO was able to secure its place in the post-war order, as a result of factors that its leaders and most devoted supporters could only partially control" (Maul, Daniel. 2019. The International Labour Organization: 100 years of global social policy, Geneva, International Labour Office, p. 80.)

17 Supiot, Alain. 2011. The Spirit of Philadelphia. La justicia social frente al mercado total. Ediciones Península Barcelona, first edition, p. 11.

18 Declaration concerning the aims and objectives of the International Labour Organisation (Declaration of Philadelphia): https://www.ilo.org/static/spanish/inwork/cb-policy-guide/declaraciondefiladelfia1944.pdf

A year after the Declaration of Philadelphia, the Declaration of Social Principles of America[19], recognised the recognition of the right of association of workers, the collective bargaining agreement and the right to strike as "international public interest".

In 1948, the International American Charter of Social Guarantees (1948), adopted at the IX International American Conference (Bogota, Colombia, 30 March to 2 May 1948), recognised the right to collective labour contracts and agreements (art. 6), the right of association (art. 26) and the right to strike (art. 27).

At the same Conference, the Charter of the Organisation of American States (OAS) was adopted, Article 45 of which stipulated that:

> (...) *c)* Employers and workers, both rural and urban, have the right to associate freely for the defence and promotion of their interests, including the right of collective bargaining and the right of workers to strike, the recognition of the legal status of associations and the protection of their freedom and independence, all in accordance with the respective legislation (...)".

On 9 July of the same year (1948), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No 87)[20], was adopted, one of the fundamental conventions of the organisation,[21] the first treaty on a fundamental right to be adopted after the end of the Second World War, four months before the Universal Declaration of Human Rights.[22]

As it can be seen, the recognition of freedom of association in American instruments, and in particular in those dedicated to human rights, predated the Universal Declaration of Human Rights of 10 December 1948 and also predated Convention No. 87, adopted on 9 July 1948 by the 31st International Labour Conference (ILC) meeting in San Francisco, California.[23]

It ended 1948 with the adoption, on 10 December, of the Universal Declaration of Human Rights[24] by the General Assembly of the United Nations, which recognised the specificity of the right to trade union association when article 23.4 stipulated that: "Everyone has the right to form and to join trade unions for the protection of his interests (...) Everyone has the right to freedom of peaceful assembly and association (...) No one may be compelled to belong to an association".

Something else should be said about this development: almost two decades after the Universal Declaration of Human Rights, the United Nations General Assembly adopts on 16 December 1966, the International Covenant on Civil and Political Rights (ICCPR)[25] which recognised the right to trade union association (Article 22.1: "Everyone has the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests").

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19 Declaration of Social Principles of America - Inter-American Conference on Problems of War and Peace (Mexico City, 1945): https://www.dipublico.org/106701/declaracion-de-principios-sociales-de-america-conferencia- interamericana-sobre-problemas-de-la-guerra-y-de-la-paz-ciudad-de-mexico-1945/

20 https://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C087

21 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up Adopted at the 86th Session of the International Labour Conference (1998) and amended at the 110th Session (2022): https://www.ilo.org/wcmsp5/groups/public/---ed_norm/--declaration/documents/normativeinstrument/wcms_716596.pdf

22 Convention No. 87 is often conveniently referred to as the Freedom of Association Convention, but its scope goes far beyond the simple right to join a trade union (or an employers' organization). It also covers the rights of workers' and employers' organisations to draw up their rules and administrative regulations, to elect their representatives, to formulate their programme of action, and to join national and international federations, all without interference by the public authorities. The Convention is therefore an important instrument for the protection of civil and political rights, i.e. the right to democracy" (Dunning, H. 1998...). Origins of Convention No. 87 on Freedom of Association and the Right to Organise. International Labour Review. Vol 117, No. 2, 1998/2. Special issue: Labour rights, pp. 167-168.)

23 "The Right to Organise and Collective Bargaining Convention, 1949 (No. 98) thus constitutes the second part of what could be considered the tandem of fundamental ILO principles and standards on trade union rights embodied in an international instrument of the highest hierarchy at this level" (Von Potobsky, Geraldo. 1972. La OIT y su Acción en Materia de Libertad Sindical. Editorial La Ley, Buenos Aires, Libro Decimosexto. Volume V, p 896.)

24 Universal Declaration of Human Rights. Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948: https://www.ohchr.org/en/human-rights/universal-declaration/translations/spanish

25 https://www.ohchr.org/es/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights

The same General Assembly also adopted the International Covenant on Economic, Social and Cultural Rights (ICESCR), which established specific trade union rights in Article 8.[26]

The end of the decade saw the adoption of the American Convention on Human Rights —the Pact of San José, Costa Rica, in November 1969— which stipulated that: "All persons have the right to associate freely for ideological, religious, political, economic, labour, social, cultural, sporting or any other purposes (...) (art. 16.1)"[27].

The Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights - Protocol of San Salvador, adopted in the city of San Salvador on 17 November 1988, was much more explicit in relation to the essential contents of trade union freedom, which, according to its text, consists of the right to organise, to bargain collectively and to strike.

Article 8 of the Protocol of San Salvador states:

> 1. States Parties shall ensure:
>
> a.the right of workers to organise trade unions and to join the trade union of their choice for the protection and promotion of their interests. As a projection of this right, States Parties shall permit trade unions to form national federations and confederations and to join existing ones, as well as to form international trade union organisations and to join the one of their choice. States parties shall also allow trade unions, federations and confederations to function freely;
>
> b. the right to strike.[28]

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26 "1. The States Parties to the present Covenant undertake to ensure:

a) The right of everyone to form trade unions and to join the trade union of his choice, subject only to the rules of the organisation concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

b) The right of trade unions to form national federations or confederations and the right of national federations or confederations to establish or join international trade union organisations;

c) The right of trade unions to function without hindrance and without limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order, or for the protection of the rights and freedoms of others;

d) The right to strike, exercised in accordance with the laws of each country.

2. This Article shall not prevent the exercise of such rights by members of the armed forces, of the police or of the administration of the State being subject to legal restrictions.

3. Nothing in this Article shall authorise States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organise to take legislative measures which would prejudice, or to apply the law in a manner inconsistent with, the guarantees provided for in the said Convention"
https://www.ohchr.org/es/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights

27 https://www.oas.org/dil/esp/Convenci%C3%B3n%20Americana%20sobre%20Derechos%20Humanos%20Pacto%20de%20San%20Jos%C3%A9%20de%20Costa%20Rica%20Republica%20Dominicaca.pdf

28 https://www.oas.org/es/sadye/inclusion-social/protocolo-ssv/docs/protocolo-san-salvador-es.pdf

# ▶ 3. The road to the adoption of Conventions Nos. 87 and 98

Since the beginning of the process of adopting international labour standards, and a little less than 30 years after the adoption of the two fundamental conventions on freedom of association and protection of the right to organise, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), international labour standards have been adopted which deal, in a still primary way, if you like, with the right of association.

Professor Geraldo von Potobsky in his contribution to the Labour Law Treatise edited by Mario L. Deveali[29] points out that the Reciprocity of Treatment Recommendation, 1919 (No. 2) provided that,,

> [The General Conference recommends that each Member of the International Labour Organisation should secure to foreign workers employed in its territory and to their families, on a basis of reciprocity and on terms agreed between the countries concerned, the benefit of labour protection laws and regulations and the enjoyment of the right of association legally recognised for its own workers.

In 1921, the Right of Association (Agriculture) Convention, 1921 (No. 11) was adopted, Article 1 of which provided that:

> Each Member of the International Labour Organisation which ratifies this Convention undertakes to secure to all persons engaged in agriculture the same rights of association and coalition as are enjoyed by workers in industry, and to abolish any legislative or other provisions which have the effect of impairing these rights in respect of agricultural workers.

This instrument was a standardisation rule aimed at guaranteeing workers in the agricultural sector —traditionally poorly protected and with little trade union presence— the same rights in this area as workers in industry.

Convention No. 11[30], which entered into force on 11 May 1923, has to date 123 ratifications. In the Latin American region, Chile was the first country to ratify it, in 1925, followed by Uruguay and Colombia in 1933, Nicaragua in 1934, Cuba in 1935, Argentina in 1936 and Mexico in 1937.[31]Several countries in the region, such as Bolivia, El Salvador, Haiti, Honduras and the Dominican Republic, which have traditionally had a decisive agricultural sector, never ratified it.

In 1927, "the attempt to put a convention on freedom of association on the agenda of the 1927-1928 ILC failed".[32]

In 1944 —continues Professor Von Potobsky[33]— the Social Policy in Dependent Territories Recommendation, 1944 (No. 70) was adopted, Article 43 of which provided: "1. The right of employers and workers to form associations for any lawful purpose shall be guaranteed by appropriate provisions".

Subsequently, the ILC adopted the Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84), article 2 of which stipulated: "The right of employers and workers to associate for any lawful

29 Von Potobsky, Geraldo. 1972. La OIT y su Acción en Materia de Libertad Sindical. Editorial La Ley, Buenos Aires, Libro Decimosexto, *op cit*, p. 884.

30 Instrument in provisional status (technical agreements).

31 SeeNORMLEX: https://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:1:0::NO:::

32 Maul, Daniel. The International Labour Organisation: 100 years of global social policy, *op. cit,* p 101.

33 Von Potobsky, Geraldo. 1972. The ILO and its Action on Freedom of Association, *op. cit,* p. 885.

purpose shall be guaranteed by appropriate provisions". This convention, for obvious reasons, did not have any ratifications in Latin America and, to date, has only 9 ratifications, the last one by Mauritania in 1987.[34]

Already in the post-war period, Conventions Nos. 87 and 98 were adopted. After 1949, a number of Conventions which included, in different ways, provisions on the right to organise were adopted: the Migration for Employment Convention (Revised), 1949 (No. 97), Article 6 of which provided: "1. Each Member for which this Convention is in force undertakes to accord to immigrants lawfully within its territory, without discrimination as to nationality, race, religion or sex, treatment no less favourable than that which it accords to its own nationals in respect of the following matters: (...) (ii) membership of trade unions and enjoyment of the advantages offered by collective agreements"; the Plantations Convention, 1958 (No. 110) , Article 2 of which provides: "Article 2 of the Plantations Convention, 1958 (No. 110) , Article 2 of which provides: (...) (i) the right to join trade unions; (ii) the right to join trade unions; and (iii) the right to join trade unions. 110)[35] whose Article 2 provided: "Each Member which ratifies this Convention undertakes to apply the provisions thereof equally to all plantation workers without distinction as to race, colour, sex, religion, political opinion, nationality, social origin, tribe or trade union membership", while its Part X. (Freedom of Association) included Article 1 (Freedom of Association). (Freedom of Association) included Article 62, identical in wording to Convention No. 87: "Workers and employers, without distinction whatsoever and without previous authorisation, have the right to establish and join organisations of their own choosing, subject only to observance of the rules of such organisations".

Convention No. 110, which entered into force on 22 January 1960, has had only 12 ratifications to date (8 of them by countries in the Latin American region), and was denounced by 2 countries (including Brazil, which did so in 1970), so that it remains in force in 10 countries, 7 of them Latin American.

Apart from Cuba, Guatemala, Mexico, Nicaragua and Panama, no other country in the Caribbean —which since colonial times has been known as the *Plantation Sea*[36]— has ratified Convention No. 110 to date, although Conventions Nos. 87 and 98 have been ratified.

Finally, the Protection of Migration for Employment (Underdeveloped Countries) Recommendation, 1955 (No. 100) included in its Part E (Trade Union Activities), paragraph 4, of this text:

> Migrant workers should be granted the right to organise and to engage freely in all trade union activities for lawful purposes in the establishments where they are employed, and all appropriate measures should be taken to ensure that trade unions representative of the workers concerned have the right to conclude collective agreements with employers or employers' organisations.

Finally, the Indigenous and Tribal Peoples Convention, 1957 (No. 107)[37] in Article 15 provided:

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**34** In 1945 the UN Charter had stipulated concerning the decolonisation process: Article 1.2: The purposes of the United Nations are: (...).2. "To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace".

**35** Updated instrument (technical agreements).

**36** "(...) the sugar cane plantations in the Caribbean areas required the creative force of the work of thousands and thousands of people. It is also inferred that the predominance of plantation cultivation in that region must have allowed for the development of the existence and lifestyles characteristic of this huge concentrated population. But it must also be recognised that, in the employment of a large number of workers involved in sugar production, the American corporations urged most of them to keep their families in a relationship of prolonged dependence on each of the subordinate occupations that originated in some phase of the sugar industry (p. 551)" (p. 551). (Thinking the Caribbean from Juan Bosch and Eric Williams: 50 years on from Christopher Columbus to Fidel Castro / Claudia Edith. Serrano Solares . [et al.]; foreword by Gloria Esperanza Amézquita Puntiel; Jacqueline Laguardia Martínez; Matías Bosch Carcuro —1st ed.— Ciudad Autónoma de Buenos Aires: CLACSO; Santo Domingo: Fundación Juan Bosch, 2021, p. 79.)

**37** This instrument has been superseded (technical agreements), but is still in force in five Latin American countries: Cuba, El Salvador, Panama, Haiti and the Dominican Republic.

> 2. Each Member shall do everything in its power to prevent any discrimination between workers belonging to the populations concerned and other workers, in particular with regard to: (...) (d) the right of association, the right to engage freely in all trade union activities for lawful purposes and the right to conclude collective agreements with employers and employers' organisations.

It is worth noting that throughout its history, the ILC has adopted resolutions that have been particularly far-reaching in terms of the protection and monitoring of the application of freedom of association. These include the Resolution on the independence of the trade union movement (1952) and the Resolution on trade union rights and their relationship to civil liberties (1970), which stated that "the concept of trade union rights is totally meaningless in the absence of such civil liberties".[38]

The first two ratifications of Convention No. 87, of which there are now 158, were by the United Kingdom of Great Britain and Northern Ireland and Norway, the latter on 4 July 1949. The Convention thus entered into force on 4 July 1950, in accordance with Article 15 of the Convention. Sweden ratified it the same year, while Finland, the Netherlands, Austria, Mexico and Iceland ratified it the following year.

Mexico was the first country in the Latin American region to ratify Convention No. 87, followed by Guatemala and Cuba in 1952 and Uruguay in 1954. Today, with the exception of the United States and Brazil, all countries in the Americas region have ratified it.

Convention No. 98, which to date has 168 ratifications, was first ratified by the United Kingdom of Great Britain and Northern Ireland on 30 June 1950 and by Sweden on 18 July 1950. For this reason —according to the provisions of its article— it entered into force on 18 July 1951. The first Latin American country to ratify it was Guatemala, Cuba did so on 29 April 1952, followed by Brazil on 18 November of the same year. Uruguay ratified on 18 March 1954 and Argentina on 24 September 1951.

## ▶ 4. The creation of the Committee on Freedom of Association

As highlighted by Professors Von Potobsky and Bartolomei De La Cruz, following an initiative of the Economic and Social Council of the United Nations, ILC

> (...) when discussing the principles that would form the content of future basic conventions on freedom of association (Nos. 87 and 98) (...) adopted a resolution inviting the Governing Body (GB) to examine the possibility of setting up a special body with the task of protecting trade union rights.[39]

38 On multiple occasions, the Committee has underlined the importance of the principle affirmed in 1970 by the International Labour Conference in its resolution on trade union rights and their relationship to civil liberties, which recognizes that "the rights conferred on workers' and employers' organizations are based on respect for the civil liberties enumerated, in particular, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and that the concept of trade union rights is totally meaningless in the absence of such civil liberties". (See [2006] ECR, paragraph 31; and 351st Report, Case No. 2569, para. 645.). ILO. 2018. Freedom of Association. Digest of Decisions of the Committee on Freedom of Association, p. 17. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_635185.pdf

39 Von Potobsky, Geraldo W. y Héctor G. Bartolomei De La Cruz. 1990. La Organización Internacional del Trabajo. Editorial Astrea, Buenos Aires, p. 121.

In 1950, the GB decided to set up the Commission of Inquiry and Conciliation on Freedom of Association (CIYCMLS) "by fixing its terms of reference, the basis of its procedure, and the criteria for its composition".[40] The main competence of the ICFTU was to examine complaints submitted to it by the Governing Body "if it considers an enquiry to be justified and the government concerned has given its prior consent (if it has not ratified the relevant freedom of association convention). This latter requirement constituted a difficulty which for many years prevented the Commission from functioning".[41]

This explains why, to date, the Reports of the Commissions of Inquiry and Conciliation on Freedom of Association have been only six, even though the procedure is still in force. Only one of the CIYCMLS reports referred to a Latin American country: Chile in 1975.

Finally, at the 117th session in 1951, the GB decided to set up the Committee on Freedom of Association (CFA) as a body of the GB to deal with complaints about compliance with conventions on freedom of association.

## ▶ 5. The special control of application: the procedure before the CFA

**a.** It is an instance of conventional origin, considering that it was created by the GB, a tripartite body. It therefore has no direct constitutional source, as do the complaints procedure (art. 24) and the grievance procedure (art. 26), although the preamble of the ILO Constitution recognises freedom of association as one of the founding principles of the organisation:[42]

> Whereas universal and lasting peace can be established only if it is based upon social justice;
>
> Whereas conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony; and whereas there is an urgent need to improve such conditions, for example, with regard to (...) the principle of freedom of association (...).[43]

**b.** It does not require exhaustion of national judicial remedies[44].

**c.** Paragraph 14 of the Special Procedures for the examination of complaints concerning violations of the exercise of freedom of association states that «[t]he mandate of the Committee is to determine whether a particular situation from the point of view of law or practice is in conformity with the

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**40** *Ibidem,* pp 121-122.

**41** *Ibidem,* p. 122.

**42** "Paul Ramadier, former President of the French Council of Ministers and for 10 years Chairman of the Committee, coined the oft-quoted phrase that the principle of freedom of association constitutes a kind of rule of customary international law over and above the scope of conventions and even membership of this or that international organisation": *ibidem,* p. 133.

**43** https://www.ilo.org/dyn/normlex/es/f?p=1000:62:0::NO:62:P62_LIST_ENTRIE_ID:2453907:NO

**44** "30. Although recourse to domestic courts, and regardless of their outcome, is an element that must certainly be taken into consideration and that the government can assert, the Committee has always considered that, given the nature of its responsibilities, its competence to examine the allegations was not subordinated to the exhaustion of national recourse procedures: Vid, Special procedures of the International Labour Organization for the examination of complaints concerning violations of the exercise of freedom of association (Annex I): https://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:62:0::NO::P62_LIST_ENTRIE_ID:4046805

principles of freedom of association and collective bargaining derived from the conventions on these matters»".[45]

**d.** The examination of the complaint by the CFA will consider not only legislation but also national practice.

**e.** It does not require the consent of the government concerned.

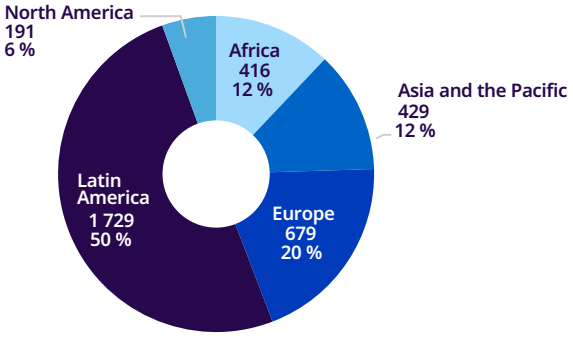
**f.** Its functions are not of a judicial nature and its decisions are therefore not in the nature of judgments.

**g.** However, given that the CFA "exercises quasi-judicial functions, it has surrounded its procedure with various measures to ensure its impartiality".[46]

## ▶ 6. Complaints to the CFA from Latin American countries: the shortcomings of a statistic

Over time, it has become a truism to say that most of the complaints that the CFA has heard and knows about come from Latin America. Various statistics on the subject have been published over the past decades that corroborate this.

**▶Figure 1. Complaints to the Committee on Freedom of Association** (1951-2023)




| Region | Number of cases | Percentage |
|---|---|---|
| Africa | 416 | 12 |
| Asia and the Pacific | 429 | 12 |
| Europe | 679 | 20 |
| Latin America | 1 734 | 50 |
| North America | 191 | 6 |
| **Total** | **3 449** | **100** |

**Source**: Freedom of Association Service of the Standards Department (ILO).

Beforehand, and assuming that, numerically speaking, this understanding was indeed true, it is important to qualify and, of course, contextualise what this reference may or may not indicate today.

For this purpose, we will consider the countries of Latin America, which is a conventional grouping, given that the very term "Latin America" has not ceased to be discussed by historians of different currents up to the present day, as well as its extension: where it begins and where it ends.

In any case, in the table below we include Mexico, the Central American countries plus Panama; Haiti, the Dominican Republic and Cuba in the Caribbean; and the southern countries of the continent, from Venezuela to Argentina and Chile, excluding Guyana and Suriname: 20 in total.

45 ILO. 2019. The rules of the game: An introduction to the standard-setting activity of the International Labour Organization Geneva, International Labour Office, p. 114: https://www.ilo.org/global/standards/information-resources-and-publications/publications/WCMS_672554/lang--es/index.htm

46 Valticos, Nicolas. International Labour Law, *op. cit,* p. 525.

## 6.1. Complaints submitted to the CFA from Latin American countries

**▶Table 2. Status of cases from Latin American countries in the CFA** (1951-2023)

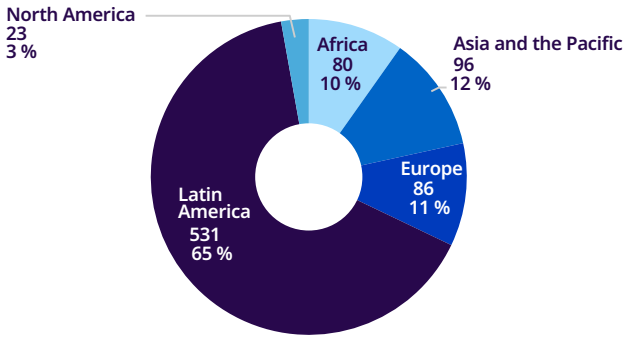
| Countries | Active | In follow-up | Closed | In follow-up, closed due to lack of information |
|---|---|---|---|---|
| Mexico | 3 | 1 | 63 | 0 |
| Guatemala | 4 | 9 | 98 | 1 |
| Nicaragua | 0 | 0 | 67 | 0 |
| Honduras | 2 | 3 | 45 | 0 |
| El Salvador | 6 | 7 | 92 | 2 |
| Costa Rica | 2 | 1 | 84 | 0 |
| Panama | 0 | 4 | 43 | 1 |
| Cuba | 1 | 0 | 16 | 0 |
| Haiti | 1 | 0 | 16 | 0 |
| Dominican Republic | 0 | 1 | 59 | 0 |
| Venezuela | 5 | 8 | 65 | 1 |
| Colombia | 12 | 21 | 184 | 0 |
| Ecuador | 2 | 6 | 54 | 0 |
| Bolivia | 1 | 2 | 37 | 0 |
| Peru | 7 | 11 | 182 | 0 |
| Brazil | 0 | 1 | 71 | 0 |
| Paraguay | 2 | 2 | 50 | 3 |
| Chile | 0 | 2 | 109 | 0 |
| Argentina | 9 | 14 | 181 | 5 |
| Uruguay | 0 | 3 | 54 | 0 |
| **Totals** | **57** | **96** | **1 570** | **13** |

**Source**: Author's own elaboration based on NORMLEX (ILO).

As it can be seen, the number of active cases, considering the total for the region and the ancestral recurrence of cases (complaints) coming from these countries has decreased.[47]

47 And for the period from 1 January 2019 to the present day, the percentage of complaints from Latin America is 45.6% (47 complaints out of 103). Source: Freedom of Association Service of the Standards Department (ILO).

**▶Figure 2. Complaints to the Committee on Freedom of Association** (2008-2022)




| Region | Number of cases | Percentage |
|---|---|---|
| Africa | 80 | 10 |
| Asia and the Pacific | 96 | 12 |
| Europe | 86 | 11 |
| Latin America | 531 | 65 |
| North America | 23 | 3 |
| **Total** | **816** | **100** |

**Source:** Freedom of Association Service of the Standards Department (ILO).

As it can be seen, the high number of complaints that traditionally came from the region —historically speaking— could have different justifications, including the secular weakness of the labour administration or the difficulty of obtaining effective judicial protection, which often left trade union organisations with the only possibility of resorting to the ILO supervisory bodies to seek protection of freedom of association rights.

In this sense, if one were to understand that the current drop in the number of cases (complaints) brought before the CFA from the region, however moderate it may be, represents a crisis that could be immersed in a more holistic one, that of the ILO's normative system —as some authoritative voices have been arguing[48]— one would have to move the starting point of reflection to past decades, when it was often inexorable to resort to the supervisory bodies of application, given the weakness of the labour administration and/or the labour or constitutional justice system. The crisis would have arisen then and not now.

However, in addition to this perhaps pessimistic assessment, other virtuous consequences have arisen, such as the customary influence of the ILO supervisory bodies, starting with the Committee of Experts on the Application of Conventions and Recommendations (CEACR), followed by the Committee on the Application of Standards of the ILC and the CFA, in the modernisation of labour legislation in the region, which meant that, over time, legislative texts were amended in response to the recommendations of these bodies aimed at bringing international labour standards into line with national legislation and practice[49].

If this practice had been maintained, one would have expected to see a reduction in the number of cases (complaints) that are routinely repeated (in terms of their specific reason or allegation).

48 "Its withdrawal from its "fundamental" conventions and declarations without binding effect testifies to an erasure of its normative mission [...] in favour of the much more comfortable mission of a simple agency of means in the service of "sustainable development". This mutation is manifested, first of all, by such a drastic restriction of its ambitions that the idea of social justice is degraded to a list of fundamental rights, according to the process of pulverisation of law into more general rights highlighted by Jean Carbonnier [...]. Social justice is no longer considered as an organisational principle of society, the aim of which is to ensure a fair distribution of labour and its fruits on a global scale. Rather, it is seen as the allocation to individuals of a minimum per diem that should enable them to cope with generalised competition. Particularly revealing of this trend is the absence of social justice among the 17 Sustainable Development Goals adopted in 2015 by the United Nations. This transformation of the ILO into a resource agency is also manifested in the ongoing devitalisation of its system of supervision of international labour standards" (Supiot, Alain. The debate on the right to strike in ILO: Non-violence and social justice. Rubinzal-Culzoni. RC D 22/2024. This article takes up and updates a contribution in Collection of essays in homage to Mireille Delmas-Marty (Paris, Mare and Marin, 2022). It was presented and discussed during a conference given on 30 October 2023 at the invitation of the Faculty of Law of the University of Buenos Aires. Translation: César Arese, Professor of Labour Law at the National University of Córdoba).

49 "To a large extent, the modernisation of labour legislation in the region was influenced by the views of the supervisory enforcement bodies. This is measurable from the statements of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) in its annual reports, which indicate cases of progress in which it has noted with satisfaction. In the last ten years, in its annual report the CEACR has noted with satisfaction 72 cases of progress in Latin America and the Caribbean: 2 in 2019, 7 in 2018, 6 in 2017, 6 in 2016, 10 in 2015, 6 in 2014, 5 in 2013, 12 in 2012, 8 in 2011 and 10 in 2010" (Villasmil Prieto, Humberto. Una visión "americana" del centenario de la OIT: aproximación a la comprensión de una relación histórica, *op. cit,* p. 45).

## 6.2. Complaints to CFA from 10 countries that have not ratified Convention No. 87 (*) and Convention No. 98 (**) or have ratified only Convention No. 98 (***)

**▶Table 3. Status of cases in the CFA from 10 countries that did not ratify Convention No. 87 (*) and Convention No. 98 (**) or ratified only Convention No. 98 (***) (1951-2023)**

| Countries | Active | follow-up | Closed | In follow-up, closed due to lack of information |
|---|---|---|---|---|
| United States | 1 | 0 | 44 | 0 |
| India | 2 | 0 | 68 | 3 |
| Morocco | 0 | 1 | 67 | 0 |
| China | 1 | 0 | 6 | 0 |
| Iran | 1 | 2 | 10 | 0 |
| Saudi Arabia | 0 | 0 | 1 | 0 |
| Afghanistan | 1 | 0 | 0 | 0 |
| Malaysia | 0 | 3 | 16 | 0 |
| Qatar | 0 | 0 | 0 | 1 |
| Viet Nam | 0 | 0 | 0 | 0 |

**Note**: (*) Full members of the AC as countries of major industrial importance.

**Source**: Author's own elaboration based on NORMLEX (ILO).

The Russian Federation, which is also a member of this group, has to date 2 cases under follow-up with the FSC and 19 closed.

Certainly, the fact that in countries of the size of the United States, India, China, Russia and Iran there are only 5 active CFA cases seems indicative enough.

But even if we focus on entire regions in order to highlight the relativity of the traditional statistics on cases coming from Latin America, we would point out that, in the region of Sub-Saharan Africa, only one case (Angola) is active before the CFA[50]. In Benin, there are 9 closed cases, 2 in Botswana, 10 in Burkina Faso, 9 in Burundi (and another in follow-up), 6 in Cape Verde (plus another in follow-up closed due to lack of information), 24 closed cases in Cameroon (plus 2 in follow-up closed due to lack of information) and 10 in Chad.[51]

In the Caribbean[52] no cases (active, follow-up or closed) are reported in Dominica, St. Vincent and the Grenadines and St. Kitts and Nevis. Only one closed case is reported in Antigua and Barbuda and Belize, as well as in Saint Lucia and Suriname. Two cases are closed in Trinidad and Tobago. In Bahamas, there are 5 closed cases, 4 in Barbados and Grenada, 6 in Guyana and 9 in Jamaica[53]. Thus, to date, there are no active cases (complaints) before the FSC in the entire Caribbean region, which is also revealing.

For any uninformed person who wants to approach the subject, the mention of the high number of cases (complaints) from Latin America brought before the FSC might first suggest that this is the region

50 See NORMLEX.

51 See NORMLEX.

52 Excluding Haiti, Cuba and the Dominican Republic.

53 See NORMLEX.

of the world where freedom of association is most violated. But in truth this cannot be deduced from the number of cases that are registered, especially when there are entire regions or countries, which are more like continents than countries, where the total number of cases (complaints) is meagre, if not non-existent.

This does not even pretend to obviate the deficit of compliance with international labour standards, which has been the ancestral shortcoming of a region that, starting almost a century ago, had a high number of ratifications, a fact that is far from being evidence of an adequate level of application.

As we said elsewhere,

> (...) the deficit in the region is not so much in legislation as in application. For no other reason than that, Professor Héctor Hugo Barbagelata had included the shortcoming of inanity as one of the particularities of Latin American labour law. The reasons for this range from institutional weakness, including that of the labour administration, the labour justice system itself, to a weakening of the effective scope for exercising trade union freedoms and collective bargaining, all of which results in a visible reduction of effectively protected work, i.e. work provided under the protection of legislation.[54]

Finally, the aim is to qualify what might be suggested by a mere numerical or statistical reference which, clearly, seems to be totally insufficient to measure the consequences that they might have on the degree of application of the conventions and national legislation on the fundamental human right to freedom of association.

However, what can be inferred with some certainty is that —in a historical perspective— it seems clear that trade union organisations in the region know how to act before the ILO supervisory bodies (either the regular or the special supervisory body), which they have traditionally done without risk of government pressure against those who bring cases or complaints to the CFA.

Of course, there are and have been, but in view of the above, it would be worth complicating the statistics with other evaluation indices that would make it possible to measure, with greater certainty, the range of effective application of the fundamental conventions on freedom of association in the region and thus avoid comparisons that are not very truthful.

Of course, and finally, it cannot be hidden, although this was neither the motive nor the object of these lines, that whatever approach is taken to the statistics mentioned above, something much more transcendental hangs over it, namely the urgent debate on the state of the art of the ILO's normative system and on its legitimacy, more than its origin - undisputed, of course - of its exercise and development.

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**54** Villasmil Prieto, Humberto. 2016. Past and present of Latin American labour law and the vicissitudes of the employment relationship (second part). Revista latinoamericana de Derecho Social, (22), p. 21. http://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S1870-46702016000100008&lng=es&tlng=es

# Part IV.

# Experiences of the tripartite commissions and comparative experiences

# ▶ 1. Experiences of the International Labour Standards and Dispute Settlement Commissions and Committees

## 1.1. Experience from Honduras: Sectoral roundtable for the Prevention of Conflicts before the ILO (MEPCOIT)

*By Jaime Escobar*

Good morning to you all.

I would like to begin by thanking the organisers for the invitation to participate in such an important and relevant event, in which we hope to increase and strengthen our capacities and skills to generate avenues for dialogue in search of consensus that will help to promote social peace in our countries.

It is an honour to take the floor after having listened to yesterday afternoon and evening's masterly lectures, from which it is possible to highlight the importance of institutionalised social dialogue as an instrument that social partners and governments should strengthen in order to maintain cordial relations in labour matters.

Thus, as an official of the Economic and Social Council (ESC) of Honduras, I have been able to conclude that we are on the right track, highlighting that, within the framework of the guiding principles of dialogue, our institution is an example of respect, trust and tripartite commitment.

Before moving on to share with you our experience with the installation of the Sectoral Roundtable for the Prevention of Conflicts before the International Labour Organisation, known as MEPCOIT, I invite you to watch a short video that attempts to briefly explain the operational rationale of the Economic and Social Council of Honduras, the tripartite body from which MEPCOIT operates.

As you may have noticed, the highest authority of the Council is represented by the tripartite Assembly, in which the presidency is held on a rotating basis for periods of one year.

In its organisational structure, the Council's executive body is the Technical Secretariat, which is made up, among other bodies, of the different Sectoral Roundtables that are created to deal with specific issues.

Thus, since the end of 2018, given the increase in social conflict and the need to contribute to the harmony of labour relations, the Council Assembly agreed to create the Sectoral Roundtable for the Prevention of Disputes before the ILO, as a tripartite body of a technical nature, whose main objective is to be informed, study and evaluate, at the request of an interested party, possible complaints that may be lodged with the ILO, formulating documented technical recommendations to the ESC Assembly. Likewise, the Sectoral Roundtable, at the request of interested parties, may intervene in the treatment of conflicts arising in matters regulated by the ILO conventions ratified by Honduras, in order to avoid lodging complaints with the ILO and to contribute to the reduction of social conflict in the country.

The fundamental purpose of the Roundtable is to create a space for the parties in conflict to dialogue and reach agreements to resolve their discrepancies, thus offering a national alternative to filing complaints with the ILO.

In addition, by virtue of the conclusions issued by the ILO Committee on the Application of Standards (CAN) in the case of Honduras for non-compliance with Convention No. 87, the MEPCOIT was entrusted with the task of reviewing and issuing a technical opinion on the draft reforms to the Labour Code proposed by the Secretariat of Labour and Social Security, in compliance with the conclusions of the CAN aimed at harmonising the Code with the provisions of the Convention.

Just as last night we heard cases in which the process prior to the operationalisation of this type of dialogue spaces has reached long periods of time, our MEPCOIT is no exception: after a little more than 5 years since its creation, we are in debt with the fulfilment of the objectives that were initially set.

The arguments of the sectors for not moving forward have been varied and in some cases understandable, without leaving aside the lethargy to which our institutions fell victim during the pandemic and post-pandemic periods, with effects that are still being felt today in these tripartite instances of dialogue.

However, I would like to highlight and focus the rest of this paper on the operational regulations for case management that were approved at the technical level within MEPCOIT. This instrument aims to regulate its organisational and operational functioning.

Therefore, in addition to the functions described above, the Roundtable must:

- Promote activities of a preventive nature with regard to the monitoring of and compliance with ILO Conventions ratified by Honduras and national labour legislation;
- supporting the monitoring and evaluation of programmes and projects promoting compliance with international labour standards; proposing recommendations to decision-makers on the problems identified;
- to intervene in the treatment of conflicts and complaints on matters regulated by the ILO conventions ratified by Honduras, including cases that maintain an open status at the ILO head office in Geneva or any other that may be brought before this body, and
- appoint a conflict mediator.

With regard to its composition, the body has 9 full members and their respective substitutes, with 3 representatives for each of the sectors that make up the ESC, thus guaranteeing the principles of equity and freedom in the election of its representatives.

It is important to mention that each titular member has the right to speak and vote, and must also be automatically substituted by the respective substitute, in cases of absence, as well as in cases of excuse or recusal accepted by the MEPCOIT.

A key figure is the coordinator, who is selected from among the members of the Roundtable and proposed by the sector currently holding the presidency of the ESC Assembly.

The sessions of the Roundtable can be of two types, ordinary or extraordinary. The former must be scheduled sufficiently in advance in order to study the cases established for their review and acceptance, as well as for the designation of the respective mediator.

Extraordinary sessions are held at any time and their purpose is to handle and resolve previously accepted conflicts or cases, as well as to deal with urgent matters.

It has been considered that persons who, not being part of a conflict, have the capacity to enlighten the MEPCOIT on a specific topic, may attend the sessions as guests. These persons do not have the right to vote and only attend the session in order to make a presentation on the topic for which they are invited.

With regard specifically to the handling of conflicts, the regulation establishes the requirements for submitting a request for direct intervention in a given conflict or case, which must contain a minimum:

- clear identification of the parties to the conflict;
- a reasoned and substantiated statement of the facts and legal considerations of the case, indicating the type of action desired and the points on which intervention is requested;
- such documentation and evidence in support of the facts as may be considered relevant to the case, and

- the basis and elements of the settlement proposal.

On the other hand, in order to accept such an application, the Roundtable must ascertain that the case does not fall under any of the following circumstances:

**a.** the conflicting rights are prescribed in accordance with national legal provisions;

**b.** the matter in dispute has been previously adjudicated by a national judicial authority and its decision constitutes res judicata;

**c.** that it is a matter outside the ILO conventions ratified by Honduras;

**d.** disputes concerning individual employment rights, and

**e.** finally, that they are non-existent legal persons, except in the case of a trade union in formation.

Importantly, the acceptance of the case implies the appointment of the mediator responsible for dealing with the dispute.

This mediator, facilitator or amiable compositeur should be chosen by consensus among the members of the Roundtable. His or her powers include, among others, the following:

**1.** conduct meetings to be held in the framework of MEPCOIT;

**2.** hold the meetings it deems necessary to find solutions;

**3.** propose settlement formulas, and

**4.** suggest to MEPCOIT members changes in methodology to improve their performance.

On this point of the mediator, let me mention that this is one of the main constraints that have prevented us from making the Roundtable operational to date.

However, it is encouraging to have heard yesterday that the ILO office can provide the necessary assistance and support to identify this important figure and thus begin this important and necessary process. I therefore take this opportunity to take the offer on board and to develop the necessary procedures to conclude with this support, which will also guarantee the sustainability of the Bureau's actions.

To conclude my participation, I must state that at the technical level, the members of the Bureau were unable to reach agreement on two specific issues concerning the parties involved and the commitment to comply with and accept the agreements reached.

On the first point, there are discrepancies between the sectors with regard to the quality in which the representatives participate, there being discussion as to whether they only attend as observers to be consulted privately, or whether they have the right to participate in the discussions.

Secondly, the decisions and agreements adopted within the framework of the Roundtable, being a compromise of wills, are binding, and in order to achieve the similarity in their effects to those derived from a transaction contract or agreement, they must be formalised before the corresponding labour authority.

Finally, it is envisaged that MEPCOIT itself will be responsible for the periodic review of compliance with the agreements reached.

There is no doubt that there is still a long way to go, that day by day disputes accumulate and become even more complex, as a result of the evolution of the labour market and the conditions in which new employment opportunities are presented in our societies. For this reason, it is essential and urgent to create more and better spaces for dialogue in order to resolve conflicts and prevent the emergence of new ones.

Let us continue to talk and discuss the importance of institutionalised social dialogue in our countries, seeking to raise the awareness of sectoral representatives that dialogue is and will continue to be the solution to any kind of dispute.

I would like to end with the good news that the Minister of Labour, lawyer Sarahí Cerna, in her capacity as President *pro tempore* of the ESC, has instructed that this regulation be included on the agenda for discussion and approval at the April Assembly session, thus demonstrating the clear political will to move forward with the operationalisation of the Roundtable. We are also convinced of the commitment and willingness of the social partners to reach this consensus.

I cannot miss this opportunity to request the support and accompaniment of the ILO, in order to continue advancing and resolving the challenges that will allow us to report on the cases already resolved by the Sectoral Roundtable for the Prevention of Conflicts before the ILO operating in the Economic and Social Council of Honduras.

I conclude by repeating a short excerpt from the participation of Professor Evance Kalula, President of the Committee on Freedom of Association during his keynote lecture yesterday: "If you want peace, cultivate justice. If you want justice, cultivate social dialogue".

Thank you very much.

## 1.2. Panama experience: tripartite commissions

*By Rolando Murgas Torrazza*

### 1.2.1. Founding agreements of the tripartite commissions

**Agreement of 1 February 2012 (Panama City)**

At the initiative of the International Labour Organisation (ILO), a tripartite agreement, subsequently known as the Panama Tripartite Agreement, was concluded in Panama City on 1 February 2012. In this agreement, the following was agreed:

> 1. to initiate, as of 27 February 2012, with the support of the ILO, a phase of dialogue on the comments of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) on the application of Conventions Nos. 87 and 98, as well as on the discussion in June 2011 in the Standards Committee, with a view to the preparation of a draft law providing for possible amendments to the legal standards that are the subject of the comments, and
>
> 2. set up, with the assistance of the ILO, a tripartite Rapid Complaints Commission, "to examine, as a matter of urgency and with the objective of finding solutions and reaching agreements, all allegations of violations of freedom of association and collective bargaining". The Commission could also follow up on the recommendations made by the Committee on Freedom of Association. This Commission would begin its work on 1 March 2012 and would be assisted by an independent moderator appointed by agreement of the parties.

This Agreement was signed by the Vice-Minister of Labour, Mr. Darío Falcón Piraquive; by the representative of the employer sector (CONEP), Mr. Antonio Fletcher; by the worker sector, Mr. Genaro López, representing CONUSI, and Mr. Julio C. Fábrega, representing CONATO; and by the ILO, Ms. Cleopatra Doumbia-Henry, Director of the International Labour Standards Department.

In the subsequent development of this Tripartite Agreement, on the one hand, the Commission for the Rapid Handling of Complaints on Freedom of Association was maintained, and on the other, a separate Commission was created, called the Commission of the Tripartite Agreement of Panama (Adequacy Commission), in charge of discussing and proposing regulations concerning the adequacy of national

legislation to the criteria of the ILO supervisory bodies on the conventions ratified by Panama, starting with those relating to freedom of association and collective bargaining.

**Agreement of 4 June 2012 (City of Geneva)**

In the framework of the 101st International Labour Conference, at a meeting on 4 June 2012 between the members of the Commissions of the Tripartite Agreement of Panama and ILO officials, it is agreed as follows:

1. adopt a procedure for the admissibility of complaints and set a schedule of monthly meetings;
2. appoint an independent moderator, of Panamanian nationality, and
3. request the ILO's accompaniment in these tasks.

Participants also agreed on the importance of bearing in mind that institutionalising social dialogue requires time and the trust of the parties.

**Agreement of 27 June 2012 (Panama City)**

In the framework of the ILO mission composed of Mr. Jorge Sappia and Ms. Tania Caron, with the members of the Tripartite Agreement of Panama, the following was agreed:

1. to appoint the undersigned Rolando Murgas Torrazza as moderator;
2. ask the moderator to draw up a draft for the admission of complaints and set out some guidelines for the meetings of the two committees;
3. appoint a special delegation to inform the undersigned of the appointment as moderator and the task assigned to him/her, and
4. set as the first item on the agenda for the first meeting of the Rapid Complaints Handling Committee, the follow-up and content of the agreements signed on 29-30 March 2012 with the ILO mission headed by Mr. Jorge Sappia.[55]

## 1.2.2. Initial steps of the commissions

Following the founding agreement of 1 February 2012, the first steps were taken to implement the commitment to start meetings on 1 March.

In March of the same year, the rules of procedure for debates and the way in which agreements are adopted are approved. The presence of the three sectors is required for all meetings. In the case of the trade union sector, their presence is understood to mean the presence of at least one representative of CONATO and one representative of the trade union of CONUSI. However, for the exercise of the right to vote, the trade union sector has only one right to vote, as do the employer and government sectors respectively. These regulations have not been amended.

On 29 and 30 March, with the ILO mission headed by Mr. Jorge Sappia, decisions were taken concerning the examination of the agenda entrusted to each of the two committees, on issues such as the reinstatement of dismissed trade union leaders, petitions and rejected legal personality, ratification of Conventions Nos. 144 and 169, restitution of the 5 per cent contribution to FENASEP and UGT, constitution of a subcommittee to study the adaptation of the rules of the Administrative Career, and case 2921 before the CFA, brought by ANFACSS/AMOACS/CONUSI, on anti-union practices in the Social Security Fund.

55 The agreements of 29 and 30 March 2012 referred to were on enforcement issues in the Fast Track Complaints Handling Commission.

Among the subsequent agreements that were adopted, the following should be highlighted as important references:

1. Agreement of 11 June 2013, in the city of Geneva, by which the three sectors reaffirmed their commitment to social dialogue and the functioning of the two Commissions of the Tripartite Agreement of Panama; and undertook to make every effort to resume and invigorate them;

2. Agreement of 10 September 2013, in Panama City, establishing timetables for the harmonization of national legislation with Conventions Nos. 87 and 98, within the framework of the comments of the supervisory bodies; and the alignment of the Labour Code with those Conventions;

3. Agreement of 11 September 2013, of the Complaints Commission, by which the dismissals of Ms. Iraida Cano and Mr. Gerardo González, in the Social Security Fund; and that of Andrés Góndola, in the Ministry of Education, were declared a priority. It was also agreed that the Commission would promote the constitution of bipartite instances of permanent dialogue in the public institutions[56], and

4. Agreement of 10 October 2013 of the Tripartite Commission for the Rapid Handling of Complaints on Freedom of Association and Collective Bargaining, approving, with modifications, the proposal of the undersigned moderator, the regulations for the submission, admission and processing of complaints on freedom of association and collective bargaining.

## 1.2.3. Formalisation of the two tripartite commissions

While the aforementioned founding agreements created and launched both Commissions, Executive Decree No. 156 of 13 September 2012 formalised the two Commissions. By Resolution No. DM 192-14 of 15 May 2014, the Commissions were attached to the Higher Office of the Ministry of Labour and Labour Development and the Office of International Technical Cooperation was designated as their Technical Secretariat.

## 1.2.4. The agreements of 18 February 2016

With the presence of a very high-level ILO mission on 18 February 2016 in Panama City, a series of agreements and their respective timetables were reached, namely:

1. timetable of activities for the Adequacy Committee and the Complaints Committee;

2. to close cases 3048 (CTRP) and 2868 (CGTP);

3. the Ministry of Labour and Labour Development undertakes to ratify, by 26 February 2016, the permanent members of the Complaints Commission mandated to represent it;

4. set up a national socio-labour consultative body by May 2016;

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56 These agreements of 10 and 11 September 2013 were the result of the ILO technical mission to Panama, which took place the week of 9-14 September 2013, and was composed of five specialists in the field of social dialogue and freedom of association, who advised the Tripartite Agreement Commissions, in order to help them reach consensus and agreements. The ILO technical mission was composed of Mr. Horacio Guido, Coordinator of Freedom of Association of the ILO International Labour Standards Department; Ms. Tania Carón, ILO Specialist on International Labour Standards and Indigenous Populations for Central America, Haiti, Panama and Dominican Republic; Mr. Humberto Villasmil Prieto, Senior Labour Law Specialist of the Labour Law and Reform Unit, Governance and Tripartism Department of the ILO; Mr. Oscar Valverde, Senior Labour Law Specialist of the Labour Law and Reform Unit, Governance and Tripartism Department of the ILO; Mr. Oscar Valverde, Senior Labour Law Specialist of the Labour Law and Reform Unit, Governance and Tripartism Department of the ILO, and Mr. Oscar Valverde, Senior Labour Law Specialist of the Labour Law and Reform Unit of the Governance and Tripartism Department of the ILO. Oscar Valverde, Senior Specialist, Bureau for Workers' Activities (ACTRAV), ILO Office for Central America, Haiti, Panama and the Dominican Republic; and Mr. Lorenzo Pelaez, Senior Specialist, Bureau for Employers' Activities (ACTEMP), ILO Office for Central America, Haiti, Panama and the Dominican Republic.

**5.** to endorse the decision of the Minister of Labour and Labour Development to send for the signature of the President of the Republic the proposed resolution approving the registration of the National Union of Education Workers (SINTE), as ordered by a ruling of the Plenary of the Supreme Court of Justice, and

**6.** indicate that measures are needed to ensure the effectiveness of Convention No. 144.

## 1.2.5. Main agreements and results of the tripartite commissions

A number of important methodological decisions can be highlighted:

**Complaints Committee:**

- Promote public and private sector trade union membership of workers' organisations;
- In the complaints filed for dismissals in the public sector during the government of former President Ricardo Martinelli, for anti-union motivations, give preference to dismissals in the Social Security Fund and the Ministry of Education, identifying some priority cases;
- determine that any complaint to the Committee on Freedom of Association would be incorporated to the agenda of the Committee;
- promote the establishment of dialogue and conflict resolution bodies in all public institutions, and
- recommend the reinstatement and payment of back wages to those dismissed for anti-union reasons under the government of former President Ricardo Martinelli, with the result of reinstatement in a good number of cases (however, in almost none of the cases has the payment of back wages been recognised).

**Adequacy Commission:**

- agreement to initiate discussion on bringing public sector legislation on freedom of association and collective bargaining into line with Conventions Nos. 87 and 98;
- commitment of the sectors to ensure that the consensus reached is respected in the National Assembly (Tripartite Agreement of 10 September 2013);
- after reviewing public sector labour legislation on freedom of association and collective bargaining, reviewing private sector labour legislation on freedom of association and collective bargaining, and
- review of labour legislation in general with regard to other ILO Conventions in order to bring it into line with the criteria of the supervisory bodies.

As part of the work of this Commission, the Minister of Labour and Labour Development, Luis Alberto Carles, conveyed to the Commission the decision of the President of the Republic that the rights of trade union association, strike and collective bargaining should be recognised by law for public servants. In May 2016, a draft bill on Collective Labour Relations in the Public Sector was approved by consensus.

With this preliminary draft, which should become a bill and then a law of the Republic, the following was accomplished:

- The Commission's founding agreements, concluded during the previous government;
- The tripartite agreements concluded in Geneva, with the endorsement of the ILO, in June 2012 and June 2013;
- The tripartite agreements concluded in Panama City, with the endorsement of the ILO, in September 2013 and February 2016;

- The ILO's Conventions Nos. 87 and 98 and the various and reiterated criteria and observations of the ILO supervisory bodies on freedom of association, strike action and collective bargaining in the public sector;
- Panama has ratified a number of international instruments that oblige the country to recognise and protect collective rights in both the private and public sectors;
- Article 68 of the Political Constitution of the Republic, which recognises the right to organise for "employers, employees and professionals of all kinds", without distinguishing between the private and public sectors;
- to the constitutional doctrine of the Plenary of the Supreme Court of Justice, expressed in the ruling of 27 November 2014, in the Action for the Protection of Constitutional Guarantees in the case of the National Union of Education Workers (SINTE), and
- The Supreme Court of Justice, in a final, definitive and binding decision, issued on 30 December 2015 in an action of unconstitutionality, in the matter of the Administrative Career Law. This ruling recognises the direct application of Article 68 of the Political Constitution, without any distinction whatsoever, as well as ILO Conventions Nos. 87 and 98, which are considered to be part of the Constitutional Block. This ruling and the previous one are not in administrative contentious matters, as was stated in another ruling to the contrary, but at the level of protection of fundamental constitutional rights, by the Plenary of the Supreme Court of Justice, which is why they mark an unavoidable jurisprudential imprint.

At the same time, we are faced with a material reality in which public servants are increasingly exercising the constitutional right of trade union association through unions that do not have that name, but do have its nature; they exercise the right to strike because they have the power to do so; and they collectively negotiate working conditions and possible violations of laws, regulations or previous agreements. All this in the absence of a comprehensive and effective regulatory basis and an adequate system of collective dispute resolution in the public sector.

The preliminary draft had four main axes (right to trade union association, right to strike, right to collective bargaining and collective disputes). Apart from the above, it has introductory rules, procedural rules, a glossary and rules on enforcement.

It was to be presented to the Cabinet Council, so that in the first week of July 2016 it could be taken to the National Assembly, converted into a law. This did not happen, due to strong opposition from a significant part of the Cabinet.

On 26 April 2017, the National Federation of Public Servants and CONUSI succeeded in having the consensus draft law endorsed by the Health and Labour Committee of the National Assembly and converted into Law No. 500. Subsequently, in August 2017, the Cabinet Council, through the Minister of Labour and Labour Development, submitted another draft bill, containing changes introduced by the Cabinet Council, especially on strike action, arbitration, collective disputes and other issues, which the three sectors agreed would be re-discussed in the National Assembly. This draft was received and assigned the number 511. The Commission then agreed to merge the discussion of the two bills.

In light of the above, in January 2018, a working group was formed in the Commission to build consensus on the differences between the two projects. This consensus was reached and validated by the Adequacy Commission.

On 14 March 2018, the consensus document was submitted to the respective Committee of the National Assembly. This document implies, with a few exceptions, a significant and comprehensive adjustment to the criteria of the Committee on Freedom of Association and the Committee of Experts on the Application of Conventions and Recommendations. It went as far as the second debate, but was then returned to the first debate, after which the term of the previous National Assembly expired. After that, the bill has not been discussed again to date, either in the Adequacy Committee, the Cabinet Council or the National Assembly.

**Other agreements:**

1. The creation of a Higher Labour Council and the secondment of both Tripartite Commissions to it. Following consultations by the Ministry of Labour and Labour Development, a draft law for the creation of the Higher Labour Council was prepared. The Cabinet Council authorised the Minister to present it as a draft law to the National Assembly, which took place in January this year. It is currently being processed;
2. promoting compliance with Convention No. 144 on Tripartite Consultation, and
3. Subsequently, CONEP requested to defer the discussion.

### 1.2.6. Current situation

As a result of the pandemic and then a serious disagreement between the criteria of representativeness in the trade union sector, formal meetings of the two Commissions have been halted, despite repeated calls by the undersigned.

In the Complaints Commission, the last formal meetings to update the list of cases of dismissals in the public sector were held on 10 October 2019 and 13 February 2020. This update is pending information from the trade union sector.

With the possible creation of the Higher Labour Council and a tripartite effort, supported by the ILO, consensus could be built to establish the functioning of the two Tripartite Commissions.

As moderator, I was constantly providing documentary inputs to support the decisions of both Commissions, some of which appear in the annexes to this document.

## 1.3. Experience from the Dominican Republic: Past, present and future of our tripartite roundtable

*By Sabrina De la Cruz*

The Dominican Republic, as a member of the ILO and in compliance with Convention No. 144 on tripartite consultation, signed the first Agreement for the installation of the tripartite roundtable to address issues related to international labour standards on 1 July 2016.

After this, the parties began work on drafting the regulations for its implementation, and despite the firm will of the government, it was necessary to wait for the observations of the other sectors, given that a consensus agreement could not be reached among all, which led to a request for the ILO's collaboration for this purpose.

With the presence of Mr. Fernando García, as ILO Specialist, all the observations of the parties were discussed and agreed upon, and the regulations governing the Bureau were approved in mid-April 2018.

As of 23 May 2018, each of the sectors was organised, informing the names of their respective representatives.

In July 2019, the review of the following cases was initiated and as of today they are definitively closed. Namely:

1. Case No. 2786 closed: Frito Lay - Universal Aloe - Mercasid
2. Case No. 3068 closed: Pollo Cibao
3. Case No. 3071 closed: on violation of the trade union relationship
4. Case No. 3297 closed: AVIAM Airport Sector
5. Case No. 3304 closed: SINATRAE - Nursing workers
6. Case No. 3332 closed: Barrick Gold - Committee on Freedom of Association
7. Case No. 3335 closed: Edenorte - Committee on Freedom of Association

However, we have case No. 3364 of the Dominican Association of Teachers (ADP) against the Ministry of Education (MINERD), which should have been closed with the ruling issued by the Constitutional Court of the Dominican Republic, but they have placed a new case with the same number, on behalf of the same ADP. All this even though three agreements between the ADP and the MINERD were signed between 2020 and 2023.

1. Agreement signed between the Ministry of Education of the Dominican Republic (MINERD) and the Dominican Association of Teachers (ADP) dated 30 January 2020;
2. Agreement signed between the Ministry of Education of the Dominican Republic (MINERD) and the Dominican Association of Teachers (ADP) dated 30 June 2021, and
3. Agreement signed between the Ministry of Education of the Dominican Republic (MINERD) and the Dominican Association of Teachers (ADP) on 24 July 2023. The latter was even attended by the President of the Republic as an observer.

After a pause due to COVID-19 issues, the Tripartite Roundtable was resumed on 25 October 2023, by means of an agreement signed by the three sectors and endorsed by the ILO, and its implementing regulations. But not before putting into operation the Mediation School of the Ministry of Labour, which is responsible for training the mediators that will be needed.

The work of the Roudtable will be resumed, with the recommendations made by the Committee of Experts on the Application of Conventions and Recommendations (CEACR), submitted in February 2024.

In response to the recommendations, the person to coordinate the Roudtable in February 2024, Ms. Cheryl Victoria, was elected.

We are making arrangements to convene the meeting in early April.

We must also report that progress on the modernisation of the Labour Code (required in the last CEACR report) is in its final phase, with just over 90 per cent of the planned amendments having been agreed to date. It is expected to be completed before the end of the first half of the year, when it will be submitted to the President of the Republic to be sent to the National Congress.

It has been in the Minister's interest and application to resolve all issues using mediation to achieve consensus, achieving the success we have already mentioned in the progress of the Code.

Thank you very much.

# ▶ 2. Comparative experiences on conflict resolution mechanisms

## 2.1. Federal Labor Relations Authority of the United States of America

*By Pablo Godoy*

### 2.1.1. Introduction of the National Labor Relations Board[57]

The National Labor Relations Board (NLRB) is an independent federal agency created in 1935 to administer and enforce the National Labor Relations Act (NLRA), ensuring that workers can freely express their wishes regarding union representation and protecting the fundamental right of workers to act together to help or protect each other.

The NLRB does not initiate proceedings, but only acts on charges brought before it. All proceedings begin with the filing of charges or petitions by employees, trade unions, private employers or other private parties.

In its 88-year history, the NLRB has counted millions of votes, investigated hundreds of thousands of allegations and issued thousands of decisions.

### 2.1.2. Rights of employees under the National Labor Relations Act (NLRA)

The NLRA extends rights to many private sector employees, including the right to unionise and bargain collectively with their employer. Employees covered by the Act are protected against certain types of employer and union misconduct, and have the right to support union representation in a workplace where none currently exists or to seek to improve their wages and working conditions through other group action.

According to the LNRL, employees have the right to:

- Forming or attempting to form a trade union among the employees of an employer;
- join a trade union, whether or not the employer recognises it;
- assisting a trade union to organise employees;
- participating in protected concerted activities. Generally, protected concerted activities are activities which seek to improve working conditions, and
- refusing to perform any or all of the above activities. However, the union and the employer, in a State where such agreements are permitted, may agree on a legal union security clause requiring employees to pay basic union dues and fees for essential representational activities.

57 On March 19, 2024, in the framework of the sub-regional conference held in Panama City on the Mechanisms of Freedom of Association, Social Dialogue and Promotion of National Dispute Resolution, JNRL Assistant General Counsel Pablo A. Godoy presented the labour-management dispute resolution process in the United States. The text of this paper, its appendices and the data used in the March 19 presentation are from the NLRB's FY2024 Performance and Accountability Report, available at https://www.nlrb.gov/sites/default/files/attachments/pages/node-130/nlrb-fy2023-par-508.pdf

The NLRL prohibits employers from interfering with, restricting or coercing employees in the exercise of rights related to organising, training, joining or attending a labour organisation for collective bargaining purposes, participating in protected concerted activities or leaving these activities. Similarly, trade unions may not restrict or coerce employees in the exercise of these rights.

## 2.1.3. Statutory structure

The leadership consists of six persons appointed by the President, five Board members (including the Chairman) and the General Counsel. The day-to-day management of the Agency is divided by law, delegation and Agency practice between the Chairman, the Board and the General Counsel. The Agency's offices include its headquarters in Washington, D.C., a network of field offices throughout the United States, and two courthouses in New York City and San Francisco. The LNRL assigns separate and independent responsibilities to the Board and the General Counsel. The General Counsel's role is primarily procedural, and the Board's role is adjudicative. A map showing the regional offices can be found at https://www.nlrb.gov/about-nlrb/who-we-are/regional-offices.

### 2.1.3.1. The Five-Member Board

The Five-Member Board acts primarily as a quasi-judicial body, deciding cases based on formal records of administrative proceedings. Board members are appointed by the President with the advice and consent of the Senate and serve staggered five-year terms.[58] The President appoints one of the members of the Board as Chairman. Board member Lauren McFerran was appointed Chair on 20 January 2021.

### 2.1.3.2. The General Counsel

The Congress created the office of General Counsel, in its current form, in the Taft Hartley Act of 1947. The General Counsel is appointed by the President, with the consent of the Senate, for a term of four years and is responsible for the investigation and prosecution of allegations of unfair labour practices ("PLI") and for the general supervision of the regional offices of the NLRB, and pursuant to delegation by the Board, also for the administrative, financial, and human capital operations of the Agency. In performing delegated functions, and in some aspects of statutorily assigned functions, the General Counsel acts on behalf of the Board. With respect to the investigation and prosecution of PLI cases, the General Counsel, by statute, has exclusive prosecutorial authority independent of the Board. Jennifer A. Abruzzo was appointed by the President to serve as General Counsel and was confirmed by the Senate on 21 July 2021 and sworn in on 22 July 2021.

## 2.1.4. Case management functions

The NLRB endeavors to create a positive labour-management environment for the nation's employees, unions and employers by guaranteeing employees free choice with respect to union representation and by preventing and remedying PLIs under the law. The NLRB maintains a public-focused, results-oriented philosophy to better serve the needs of the American people.

The primary function of the NLRB is the effective and efficient resolution of charges and petitions brought under the NLRL, whether by individuals, employers or trade unions. In carrying out the mandates of the NLRL, the NLRB supports the collective bargaining process and seeks to prevent and remedy certain PLI by employers and unions in order to enforce the rights of employees protected by the NLRL, promote commerce and strengthen the nation's economy.

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58 Although Board members have five-year terms, a new five-year term begins to run immediately upon the expiration of the previous member's term, so the seat remains vacant until a person is nominated and confirmed by the Senate. Therefore, there may be a time lag between when a term expires and a new Board member is confirmed, meaning that a new Board member would serve only the remaining part of the five-year term for which he or she was appointed.

The three mission-related objectives of the JNRL are:

- ensure effective implementation of the NLRL through timely and quality consideration and resolution of unfair labour practices with appropriate remedies;
- protect employees' free choice with timely and effective mechanisms for resolving representation issues; and
- improve public awareness of the Agency's mission and activities.

### 2.1.4.1. Procedures for Dealing with Unfair Labour Practices ("IWP")

The LNRL regulates the conduct of labour relations between employers and trade unions. The NLRB enforces the provisions of the Act through PLI Proceedings, which are adjudicated and remedied through proceedings under the NLRL.

The General Counsel has sole responsibility, independently of the Board, for investigating PLI allegations and deciding whether to issue complaints in respect of such allegations. The Board, in turn, acts independently of the General Counsel in deciding the merits of PLI cases.

The General Counsel investigates PLI cases through the Agency's network of regional, sub-regional and field offices (collectively known as field offices). If there is reason to believe that a PLI allegation has merit, then the Regional Director, on behalf of the General Counsel, issues and processes a complaint against the accused party, unless a settlement is reached. With some exceptions, a complaint that is not settled or withdrawn is tried before an administrative tribunal, which issues a decision. The decision may be appealed by either party to the Board by filing exceptions. The Board decides charges on the basis of the formal record, in accordance with the Act and case law developed by the Board and the federal courts.

If the Board determines that a violation of the Act has been committed, the General Counsel's role is to act on behalf of the Board thereafter to obtain compliance with the Board's order remedying the violation. Although the Board's decisions and orders in PLI cases are final and binding on the General Counsel, they are not self-executing. The statute provides that any party may seek review of the Board's decision before the U.S. Court of Appeals. In addition, if a party refuses to comply with a Board decision, the Board must apply to the court for enforcement of its order. In court proceedings to review or enforce the Board's decisions, the General Counsel represents the Board and acts as its counsel.

### 2.1.4.2. Representation procedures

Unlike PLI proceedings, representation proceedings under the Act are non-adversarial. Representation cases are initiated by the filing of a petition by an employee, a group of employees, a labour organisation acting on their behalf or, in some cases, by an employer. Typically, the petitioner requests an election to determine whether a union has the support of a majority of the employees in an appropriate bargaining unit and, therefore, should be certified or decertified as the bargaining representative of the employees. The Agency's role in such cases is to investigate the petition and conduct a secret ballot election. If appropriate, it must address challenges and objections to the election at a later date, and then determine whether certification should be issued.

In the processing of representation cases, the Board and the General Counsel have shared responsibilities. The regional offices, which are under the day-to-day supervision of the General Counsel, process representation petitions and conduct elections on behalf of the Board based on a delegation of authority conferred in 1961. As a result, while the Board has the authority to determine the rules governing proxy procedures, the Board and the General Counsel have historically worked together in developing such procedures. The Board also has the ultimate authority to determine issues such as the appropriateness of the bargaining unit and to rule on any challenges and objections to the conduct of an election. Regional directors have been delegated authority to make initial decisions on representation matters, which are subject to review by the Board.

#### 2.1.4.3. Compliance procedures

To obtain compliance with the Board's orders and settlement agreements, the General Counsel's staff must follow up to ensure that the results of the processes discussed above are enforced. The NLRB staff deals with employees whose rights have been violated and calculating back pay; it also works with respondents on notices, reinstatement of workers, expungement of disciplinary records, removal of unlawful rules or policies, and bargaining remedies. Because the Board's orders are not self-enforcing, non-compliance or disputes over outcomes may require additional court hearings or action.

### 2.1.5. Case management highlights

The NLRB does not initiate prosecutions but acts only on cases brought before it. While charges must be filed with the Agency to initiate an investigation, if there is merit to the allegations of charges, the Regional Director has authority delegated to him by the General Counsel to issue complaints in the absence of an agreement.

All proceedings originate with the filing of allegations or petitions by employees, unions, or private sector employers engaged in interstate commerce. During FY 2023, the public filed 19,869 unfair labour practice complaints containing one or more allegations of unlawful conduct, of which 41.1 per cent were found to have merit. In addition, in the fiscal year of 2023, the NLRB received 2 394 representation petitions, including 2,483 petitions for secret ballot elections in which workers in appropriate units freely decide whether they want unions to represent them in collective bargaining with their employers. There were 62 petitions for representation, of which 28 were submitted by employers after they were asked to voluntarily recognise the employees' union. There were 21 petitions for elections in which workers voted on whether to terminate existing union security agreements. The NLRB also received nine petitions seeking amendments and 10 petitions seeking clarification of an existing bargaining unit.

The NLRB focuses on carrying out the dual purposes of the NLRA to ensure employees' free choice of union representation and to prevent and remedy statutory unfair labour practices in an efficient manner that best serves the needs of the American people.

## 2.2. Mexico's labour reform, its context and impact on trade agreements

*By Sergio Javier Molina Martinez*

### 2.2.1. Introduction

I begin by thanking the Republic of Panama and the EI-DiSTReC University for this idea of regional dialogue and for organising this event.

I also acknowledge the interesting work of the Latin American School of Social Dialogue, Tripartism and Conflict Resolution through its director, Dr. Vasco Torres De León. Thank you for the invitation.

I also thank the Regional Director of the International Labour Organisation (ILO) for Latin America and the Caribbean, Ana Virginia Moreira, for her willingness and confidence in these projects. To the speakers who have preceded me, thank you for continuing to enlighten us with your concepts and to all of you for your presence.

In this presentation, I will address three aspects, namely: 1.) the social constitutionalism of 1917 and its political linkage; 2.) the great social change in Mexico: the labour reform of 2017; and 3.) *nearshoring* and the Rapid Response Labour Mechanism. All these topics harmonised under the idea of building social dialogue, with the participation of the sectors involved: government, employers and workers.

## 2.2.2. The social constitutionalism of 1917, corporatism and simulation in collective bargaining in Mexico

What is happening in Mexico today with labour rights? To begin with, the 1917 Constituent inspired the construction of social constitutionalism. Mexico, in its 1917 Constitution, transcended any other international instrument in achieving freedom and minimum rights for the workers' sector.[59]

Social constitutionalism was the product of a revolutionary struggle and, for the first time in my country, the incorporation of that struggle was shown in a text that became the basis for fundamental rights. Despite this great evolution in the conception and normative regulation, we had to ask ourselves: why did we lose our way, why did Mexico become the country with the lowest wages, flexible and precarious labour conditions?

Both elements emanated, in part, from trade union corporatism and collective simulation. These two elements led to the decline in respect for the social rights enshrined in the 1917 Constitution.[60] In the countries where I have discussed this report, these practices are common or familiar, because in Latin America they are recurrent aspects.

Corporate unionism in Mexico lasted for approximately 70 years, which meant a link between labour leaders and public power in exchange for elected positions and sectoral dominance in the tripartite consultative commissions. In general, this associationism prevented the emergence of a truly independent trade unionism, which contributed to the loss of value and dignity of large groups of workers.[61]

The model changed with the opening of trade and the political loss of the big unions. A key element was the fact that our country was singled out by monetary bodies in the liberalisation of market economies and the existing simulation in collective bargaining.

Some 85-95 per cent of collective contracts were protection contracts; agreements that ensured the employer and foreign investment cheap labour and flexible and precarious conditions for the population. Some 60 million people remained in poverty.[62]

Faced with these elements that caused Mexico to lose the path of social justice, we introduced a labour reform; this change has been, by the way, the most important in the last 100 years. We intend to rebuild this lost path by establishing guarantees in the Constitution and in legislation that aim to redirect this loss towards the goal of social justice in Mexico.

There is an effervescence in our country on labour law issues; not only because of the aforementioned reform, but also because of a successive series of changes that seek to put the dignity of workers, workers and trade unions at the centre of decisions, in the permanent search for the improvement of working conditions, both individually and collectively.

### 2.2.2.1. Internal factors

What are the origins of the change? We have already mentioned the internal elements that led to a simulation of collective labour relations. As a clear example, we had multinational companies setting up in Mexico and before they had machinery or workers, they had already signed a collective labour

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**59** See Robles, Jorge. El Estado corporativo y el movimiento obrero. In De Buen, Néstor *et al*. Democracia Sindical, Mexico, AFLCIO, FAT, UNAM, UAM, 2001, p. 103.

**60** Molina Martínez, Sergio Javier. 2022. El nuevo sistema de justicia laboral en México, 2nd edition, Mexico, Editorial Porrúa, pp. 49-95.

**61** Molina Martínez, Sergio Javier. 2023. Cambio social y justicia laboral en México, Mexico, Editorial Porrúa, pp. 29-37.

**62** Ibarra Zavala, Darío, Carlos Mora Jurado and Eric Urias Romero. 2014. *Pobreza y desigualdad en México en el siglo XX y principios del XXI*. In Debate Económico, Vol. 3 (2), 8, pp. 105-142. https://biblat.unam.mx/hevila/DebateeconomicoMexicoDF/2014/vol3/no8/4.pdf. / ECLAC (Economic Commission for Latin America and the Caribbean). 1999. La evolución de la pobreza extrema y la distribución del ingreso en México 1989-1996. https://repositorio.cepal.org/server/api/core/bitstreams/0894cae0-456c-457d-b663-da873437cd8c/content.

contract with a trade union.[63] There were also large law firms that were dedicated to promoting foreign investment, condoning taxes for the installation and previously establishing these protection contracts. Such was the extent of the simulation that only put labour as a commodity, contravening our own ideas of social constitutionalism.

We had a lack of delivery of justice. The conciliation and arbitration boards, tripartite dispute resolution bodies, had reached the end of their lifespan because they were only doing delays of the justice delivery. Third parties negotiating with the justice system and manufacturing elements for the extortion of micro and small businesses, which provided 60 per cent of the country's jobs.[64]

These were the internal conditions. Externally, there was an important development to comment on: trade agreements. In 2016, Mexico sought to sign the Trans-Pacific Partnership. This agreement was intended to join with some Southeast Asian economies and the United States. This required Mexico to change the labour justice model.[65] We will refer to these factors in the following section.

### 2.2.2.2. External factors

In the previous North American Free Trade Agreement (NAFTA) there were labour-related elements that had not been complied with. Among them: i.) avoiding simulation, ii.) extortion of micro and small employers, iii.) leaving freedom of association out of the decision-making process, and iv.) no freedom in collective bargaining for workers. The union leaders had a lot of resistance; almost eternal. For example, the main labour grouping in the country had four leaders in 60 years.

The problem was the complete lack of democratic elements within the organisations. This was unsustainable for trading partners, because it only made companies come to Mexico, not because of the value of the labour force, but because of the low wages. This clashed with the political discourse.

In fact, at the time, the president of the United States said that NAFTA was the worst trade agreement ever signed, because it only caused companies that would have to set up in the south of his country to set up in the north of Mexico, precisely in the search for low wages.[66]

We were under international pressure. It was also time to address the reports of the ILO's Committee of Experts which, from 2015 to 2019, pointed out every year the existing simulation scheme in Mexico.

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63 Martínez, María del Pilar. 2023. "En puerta conflicto laboral en Goodyear San Luis Potosí; la empresa firmó contrato colectivo aún sin trabajadores", *El Economista,* 2 February 2023. https://www.eleconomista.com.mx/empresas/En-puerta-conflicto-laboral-en-Goodyear-San-Luis-Potosi-la-empresa-firmo-contrato-colectivo-aun-sin-trabajadores-20230202-0089.html.

64 De Buen, Néstor. 2000. "Procuración de justicia laboral", in Kurczyn Villalobos, Patricia (Coord.), *Relaciones laborales en el siglo XXI,* 1ª. reimp., Mexico, Instituto de Investigaciones Jurídicas; UNAM; Secretaría del Trabajo y Previsión Social, pp. 254-255. https://biblio.juridicas.unam.mx/bjv/detalle-libro/43-relaciones-laborales-en-el-siglo-xxi-1a-reimp.

65 Oropeza García, Arturo. 2013. "El acuerdo estratégico Transpacífico de Asociación Económica (TPP). Una visión global", in Oropeza García, Arturo (coord.), El acuerdo de asociación transpacífico *¿bisagra o confrontación entre el Atlántico y el Pacífico?,* México, UNAM; Instituto de Investigaciones Jurídicas, pp. 905-935. https://archivos.juridicas.unam.mx/www/bjv/libros/8/3984/40.pdf. / Flores, Zenyazen. 2016. "TPP obliga a dar condiciones de trabajo aceptables", *El Financiero,* 5 February 2016, https://www.elfinanciero.com.mx/economia/tpp-obliga-a-dar-condiciones-de-trabajo-aceptables/

66 "El TLCAN, 'el peor tratado de la historia': Donald Trump", *Expansión*, 14 September 2016. https://expansion.mx/2016/09/14/el-tlcan-el-peor-tratado-de-la-historia-donald-trump

In particular, the lack of democracy, lack of accountability and lack of jurisdictional entities that resolve cases with independence and autonomy .[67]

The famous ILO case No. 2694, in which Mexico was once again singled out for this simulation in its collective labour relations, for the lack of effective collective bargaining and democracy within the unions, was underlining the atmosphere.[68]

## 2.2.3. The great social change: Mexico's 2017 labour reform, union democracy and the creation of labour tribunals

We were all taken by surprise when on 24 February 2017, the day on which Mexico celebrates Flag Day, the reform to the Constitution on labour justice was enacted; and a few years later, on 1 May 2019, the reform to the secondary legislation that splits the constitutional principles on the matter.

What were the characteristic elements of the labour reform? On the one hand, it was based on the strengthening, through real procedural and instrumental guarantees, of freedom of association and effective collective bargaining. Clauses were established that oblige trade union leaderships to be representative in order to call for strike action.

On the other hand, since the Constitution, a personal, free and secret vote has been contemplated within the trade union organisations for the main decision-making process. Such decisions include the constitution of a trade union, the renewal of its leadership, collective bargaining, among others.

Only in Mexico can it be understood why, once a strike has been called and an agreement has been reached between the union leadership and the employer, it must be put to a personal, free, direct and secret vote of the rank and file workers, so that they can determine with this decision that they agree with what their union leadership has negotiated.[69] In addition to requiring the presence of the judges and/or the authorities at the votes inside the factories, the ILO has even been present at these votes in the workplaces. Even the ILO has been present at these workplace votes.[70]

A specific example of the benefits of the application of this new collective right can be found in the situation of the vehicle assembly plants located in Mexico. These companies are among the world's leading car manufacturers, making Mexico the sixth largest exporter of vehicles globally.

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**67** Committee of Experts on the Application of Conventions and Recommendations, *Report of the Committee of Experts on the Application of Conventions and Recommendations 2015, International Labour Conference, 104th Session, 2015, corresponding to Report III, Part 1A,* Geneva: International Labour Office, 2015, pp. 126-127. https://www.ilo.org/public/libdoc/ ilo/P/09663/09663(2015-104-1A).pdf / Committee of Experts on the Application of Conventions and Recommendations, *Report of the Committee of Experts on the Application of Conventions and Recommendations 2016, International Labour Conference, 105th Session, 2016, corresponding to Report III, Part 1A*, Geneva: International Labour Office, 2016, pp. 103-105. https://www.ilo.org/public/libdoc/ilo/P/09663/09663(2016-105-1A.pdf / Committee of Experts on the Application of Conventions and Recommendations, *Report of the Committee of Experts on the Application of Conventions and Recommendations 2017. International Labour Conference, 106th Session, 2017, corresponding to Report III, Part 1A*, Geneva: International Labour Office, 2017, pp. 160-163 / Committee of Experts on the Application of Conventions and Recommendations, *Report of the Committee of Experts on the Application of Conventions and Recommendations 2018, International Labour Conference, 107th Session, 2018, corresponding to Report III, Part A*, Geneva: International Labour Office, 2018, pp. 148-150. https://www. ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_617067.pdf / Committee of Experts on the Application of Conventions and Recommendations, *Report of the Committee of Experts on the Application of Conventions and Recommendations 2019, International Labour Conference, 108th Session, 2019, corresponding to Report III, Part A*, Geneva: International Labour Office, 2019, pp. 114-117. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/--- relconf/documents/meetingdocument/wcms_670148.pdf.

**68** "Case No. 2694 (Mexico) - Date complaint filed: 05-FEB-09", NORMLEX; OIT. https://normlex.ilo.org/dyn/normlex/es/f?p=1000:50001:0::NO:50001:P50001_COMPLAINT_FILE_ID:2897749.

**69** The rules of the strike procedure are set out in Articles 920 to 938 of the Federal Labour Law.

**70** Martínez, María del Pilar, "INE y OIT vigilarán votaciones en planta de Manufacturas VU", El Economista, 31 August 2022. Available for consultation at: https://www.eleconomista.com.mx/empresas/INE-y-OIT-vigilaran-votaciones-en-planta-de-Manufacturas-VU-20220831-0066.html.

Despite the economic power of these companies, by applying the new rules of collective law, it has been possible to ensure that collective contracts negotiated on the basis of free, personal, secret and direct voting have been able to obtain wage increases of between 7 and 10 per cent in favour of workers[71]. This was previously only 1 to 2 per cent, always below inflation.

Now agreements are being reached for increases of up to 10 per cent. We had a high-end car manufacturing company on strike for a month until the workers accepted, by vote, the new conditions offered by the employer through the leadership. That is the strengthening of trade union democracy.[72]

On the other hand, we departed from the tripartite boards as dispute resolution bodies. We now have new labour tribunals that are responsible for the application of international labour standards and our own legislation, which seek to achieve lost social justice through their rulings.[73]

What were the main actions for this change? Inter-institutional planning: through dialogue between the labour authorities and the new government that came in in 2018. All trade union and employers' organisations that wanted to discuss the terms of the new law were freely convened.

In an unprecedented way, of course, they invited the Federal Judiciary, which succeeded in incorporating into law the principles that ensured the fundamental core of labour rights pursued through decent work, as set out in the ILO Constitution.[74]

We had to take into consideration several elements for the implementation of the reform. One of them was the implementation time. It was necessary to define the number of years we would have to project and materialise this change.

Three stages of implementation were established, starting with the regions with the lowest incidence of conflict. Implementation was gradual, starting in 2020, and we concluded for the whole country in 2022, with Mexico City, Jalisco and Nuevo Leon, states with a large population. We established synchronous stages between the federation, which is familiar with the main industries, and the states, which are familiar with service activities.[75]

Similarly, some of the factors that had to be considered were the implementation of measures that would bring about a cultural change in those who would be the new legal labour operators.

In the context of the reform, the three sectors are continuing their dialogue at the Ministry of Labour and Social Security. Social dialogue is one of the objectives of the Mexican government where plans and programmes can be established through consultation.

We have institutions that are based on the construction of social dialogue, such as the Minimum Wage Commission, the Commission for Profit Sharing, in the social security entities that deal with health and housing insurance, as well as the Concertation and Productivity Committee.

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**71** Hernández, Enrique, "Trabajadores de GM en Silao avalan alza salarial de 8.5% negociado por su nuevo sindicato", Forbes México, 27 May 2022. https://www.forbes.com.mx/trabajadores-de-general-motors-en-silao-avalan-aumento-de-8-5-a-su-salario/ / "Sindicato de trabajadores de General Motors acuerda alza salarial del 10% para 2023", *El Economista*, 13 March 2023. https://www.eleconomista.com.mx/empresas/Sindicato-de-trabajadores-de-General-Motors-acuerda-alza-salarial-del-10-para-2023-20230313-0023.html.

**72** Martínez, María del Pilar, "Finaliza huelga en Audi; alza global salarial será de 10.2%", *El Economista,* 18 February 2024. https://www.eleconomista.com.mx/empresas/Termina-huelga-en-Audi-trabajadores-aceptan-incremento-global-de-10.2-20240218-0061.html.

**73** They were incorporated into the Federal Labour Law, a principle that governs the proceedings and helps the judge to obtain the necessary elements that allow him to arrive at the truth and issue fairer and more realistic sentences.

**74** Molina Martínez, Sergio Javier (coord.) et al. 2021. Acciones de capacitación para el nuevo sistema de justicia laboral, Mexico, Tirant lo blanch, pp. 235.

**75** "Declaratoria del inicio de funciones de la Tercera Etapa de Implementación de la Reforma en Materia de Justicia Laboral, que iniciará a partir del 3 de octubre de 2022", published on 20 September 2022 in the Diario Oficial de la Federación (DOF). https://www.diputados.gob.mx/LeyesBiblio/marjur/marco/senado/Senado_declara_20sep22.pdf.

Disputes between the parties are settled in pre-judicial and compulsory conciliation, including collective issues. Afterwards, when you want to challenge or file a labour lawsuit, you must go to the labour courts. We give the unions the courage to call their employer before the courts.

Judges have become a key player in achieving this justice. Union members have identified that they do not lose the leadership of the cases, so in some complex wage reviews they also often go to the Federal Labour Court for Collective Affairs. When dealing with individual cases they have to go to prior conciliation, which is really effective, as it is around 70-75 per cent of the cases.

Within the pre-judicial conciliation stage, cases are settled before conciliators of the Federal Centre for Conciliation and Labour Registration, which, in addition to conciliating, is the entity in charge of keeping a single, national register of all union members. The latter is a fundamental condition for ensuring the democracy and freedom of association, as transparency is fulfilled. Previously, the collective bargaining agreements were not known to the workers. Now, everything is located in this Centre and it is possible to analyse the conditions of workers in another plant or other plants (when the company is made up of several) in order to make a comparison and demand that they are the same.[76]

## 2.2.4. *Nearshoring* and Rapid Response Labour Mechanisms (RRLMs)

I would like to introduce a third element resulting from Mexico's trade agreement with its main trading partners, the United States and Canada: *nearshoring.*

Currently, Mexico is the main exporter to the United States; it is the main trading partner and receives foreign direct investment as a result of *nearshoring* or the phenomenon of relocation of companies.[77]

By 2025, it is estimated that around 25,000 new jobs will be created and, by 2026, USD 80 billion in foreign investment[78], through the establishment of large industrial corridors that will be set up along Mexico's northern border and in the central part of the country. The expected sectors are assemblers, companies that supply the assemblers and companies involved in the electronics sector.

For reasons of the trade agreement, it was established that Mexico would have to change its labour justice model. It did so by establishing bases that guarantee trade union democracy, freedom of association and effective collective bargaining. But this has not been enough and Rapid Response Labour Mechanisms (RRM) were established[79], which can be used when a group of workers consider that a right related to trade union freedom and democracy is being violated.

In this way, international instruments can be invoked, and the United States or Canada takes cognizance of the complaint and determines whether there is sufficient cause or indications of a denial of rights by the covered centre (exporting company). If these elements are considered to exist, the US Treasury Department unilaterally secures the accounts receivable of the Mexican exporting company.

The Government of Mexico is then notified that an MLRR has been initiated, and is requested through the Ministry of Economy and the Ministry of Labour to conduct an investigation. If the violation of rights is confirmed, the parties involved —the employer, the Mexican government, the union or groups of unions— establish remedial measures to resolve their case. In 40 days, the company that has its customs accounts receivable would have them released, provided that this reparation agreement is complied with.

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**76** It is provided for in Articles 365 Bis, 391, section X, third paragraph and 391 Bis of the aforementioned Federal Labour Law.

**77** Lazarus, Esmeralda. 2022. "¿Qué es el nearshoring?", *El Economista*, 8 November 2022. https://www.eleconomista.com.mx/empresas/Que-es-el-nearshoring-20221108-0093.html.

**78** Saldaña, Ivette. 2024. "México regresa al top 25 del índice de Inversión Extranjera Directa: Kearney", *El Universal*, 3 April 2024. https://www.eluniversal.com.mx/cartera/mexico-regresa-al-top-25-del-indice-de-inversion-extranjera-directa-kearney/.

**79** Encinas Nájera, Alejandro, et al. 2021. *T-MEC and its Rapid Response Labour Mechanism: An Action Guide for Mexico*, Mexico, Government of Mexico; Secretaría del Trabajo y Previsión Social; Secretaría de Economía, https://www.gob.mx/cms/uploads/attachment/file/731283/T-MEC_Y_SU_MECANISMO_LABORAL_5_DE_ENERO_V2__1_.pdf.

These Rapid Response Labour Mechanisms will become the trend in trade agreements that the United States will soon sign or renegotiate with several countries in Latin America and Europe. The Rapid Response Labour Mechanism is unprecedented, and is effective when the labour authorities or trade union groups do not consider it feasible to turn to domestic labour authorities.

In Mexico, such a mechanism has been applied in the case of large car assembly plants. For example, in the main vehicle assembly plant in the central part of the country, which has more or less 7,000 workers, a dispute over the denial of trade union democracy and free collective bargaining rights was submitted to this mechanism so that the rights of democracy and freedom of association would be respected.[80]

## 2.2.5. Conclusions

As described, although the Mexican Constitution of 1917 was progressive in leading clearly and expressly to social constitutionalism, it did not materialise but lived in simulation for just over 100 years.

The 2017 labour reform in Mexico constitutes a transcendental change in the world of work, by guaranteeing democracy and freedom of association. It also creates an entire justice apparatus that begins with the pre-judicial and compulsory conciliation stage. And if the conflict is not resolved, there is a competent jurisdictional structure, based on principles such as immediacy and the maximum of reality, which guarantees certainty for workers, companies and trade unions.

As noted, it was internal and external elements that led to the achievement of the greatest change in labour matters in our country.

The MLRR is an innovative tool, born out of international law, which has made it possible to resolve certain collective disputes on the issues of trade union democracy and free bargaining. Its results have yet to be defined, given the short time it has been in force.

In the search for this lost social justice, we have the foundations laid to lead Mexico towards a society that seeks elements that contribute to permanent equilibrium, through the achievement of social justice.

Mexico has the instruments to achieve, in this social justice, material or factual equality between groups of workers, trade unions and employers.

Thank you very much.

80 Ministry of Labour and Social Security. 2021. "Bulletin number 068/2021. México y Estados Unidos acuerdan plan de reparación relativo a la reposición de la legitimación del Contrato Colectivo en General Motors", Government of Mexico, 08 July 2021. https://www.gob.mx/stps/prensa/mexico-y-estados-unidos-acuerdan-plan-de-reparacion-relativo-a-la-reposicion-de-la-legitimacion-del-contrato-colectivo-en-general-motors.

# Part V.

# Workshops

A central element of the conference was the holding of discussion workshops for presentation in plenary discussions. The workshops were organised with representation from all participating countries with official delegates, as well as with the accompaniment of the event organisers. Each workshop chose a moderator and rapporteur for the presentation of the group's proposed results to the plenary and made a written presentation of the results. This presentation is summarised below:

# ▶ 1. Outcome of workshop 1: information, training and capacity building

## *Tripartite early warning system*

### Information: what is it and what conditions are required for its creation?

1. **Pillars:** tripartism, decent work, sustainable enterprises

2. **Elements to consider:** individual and collective labour relations and the delivery of justice

3. **Institutionalised social dialogue bodies** (e.g. higher labour councils)

4. **Objective:** information analysis and conflict diagnosis for conflict prevention and mitigation.

5. **Sources of information:** internal (labour inspectorate, conciliation, labour courts/employers' and workers' organisations) and external (academic institutions, international organisations).

6. **Typification of conflicts:** development of indicators for diagnosis, monitoring and follow-up

- type of employment relationships;
- thematic;
- economic activities, and
- geographical location

### Communication

1. **Methods for publicising the existence of the system:** institutionalised communication strategy by the social dialogue body and individual communication strategies by each member of the body.

2. **Dissemination actions:** traditional media (written and audiovisual), digital media (web, podcast, social networks).

### Training and capacity building

1. **System requirements:**

- Tripartism and social dialogue;
- alternative means of conflict resolution (negotiation, mediation, conciliation), and
- ILO supervisory mechanisms (CAS, CFA).

*For governments: conventions, ratification, compliance and implications of non-compliance.

**2. Who trains:**

- at the national level: academic institutions, sectors that are members of the social dialogue body, and
- at regional level: ILO, peer-to-peer exchange (international cooperation for the exchange of experiences).

**Workshop proposal:** creation of a tripartite early warning system at regional level, promoted and coordinated by ILO.

**Rapporteur's note:** Workshop 1 highlights the proposal to create an early warning system for dealing with disputes over international standards and ADR in general. It refers to the need to develop a communication strategy for this initiative and proposes the existence of a training and capacity building programme in three areas (tripartism and social dialogue, alternative means of dispute settlement and ILO supervisory mechanisms).

## ▶ 2. Results of Workshop 2: intervention and management

**Are dispute resolution mechanisms linked to freedom of association, collective bargaining and international labour standards in place/functioning in your country?**

At the national level, the participating countries have mechanisms for resolving both individual and collective labour disputes. Generally, these are procedures regulated in labour codes and consist of conciliation or mediation. However, these mechanisms are mainly reactive in nature and lack a preventive approach. We consider that the existing mechanisms are currently insufficient and can be improved.

A common point of great relevance among the participants is that mediators and conciliators require further training.

In some countries there are dispute resolution mechanisms for freedom of association and collective bargaining arising from trade agreements such as TMEC for Mexico with the Rapid Response Labour Mechanisms and CAFTA.

The importance of respecting the principle of impartiality and neutrality of mediators and conciliators is highlighted.

**Do you consider that there are priority issues/issues in the procedural process to be regulated/modified/created with regard to the conflict resolution mechanisms (e.g. in the elaboration of the statutes, of the instance, in the determination of the members of the instance, in the identification of a mediator, in the follow-up of the decisions taken, etc.)?**

The participating countries agree on two serious shortcomings: 1.) the lack of personnel both in the field of inspection and in the field of conciliation and dispute resolution itself, and 2.) the lack of tripartite training. Not only do conciliators and mediators on freedom of association and collective bargaining need to strengthen their training, but also employers and trade union organisations need to be trained in conflict resolution and the application of international labour standards.

Emphasis should be placed on the profile of mediators, not only on their knowledge of the law and/or procedure, but also on their ability to bring the parties together and to persist in the negotiation until the conflict is resolved.

We conclude that the lack of tripartite training often generates additional conflict. On the other hand, the case of Mexico was discussed, where the government authority has put enormous effort into disseminating the labour reform among the population, including through social networks; however, we should not confuse information dissemination with effective communication and training.

Finally, the issue of continuity and sustainability of conflict resolution staff arises, with trained staff being retained regardless of change of administration or government.

**How do you see the ILO providing technical assistance for the creation or strengthening of such mechanisms?**

- provide thematic or industry specialisation (agriculture, seafarers, mining, etc.) as well as international labour standards;
- strengthen institutional (tripartite) capacity taking into account diverse national contexts, and
- provide technical assistance in legislative gap reviews for the effective implementation of the conventions.

**Note from the rapporteur:** Workshop 2 highlights among its conclusions that there are reactive (not preventive) labour dispute resolution mechanisms, in which the need for more training for mediators and conciliators is palpable. It refers to two major shortcomings, which it identifies as a lack of adequate staff and a lack of tripartite training, as well as of mediators and conciliators (who should be provided with specific skills to deal adequately with conflicts). They advocate that the ILO should provide thematic expertise (training) in various areas, including international labour standards; strengthen institutional (tripartite) capacity; and provide technical assistance.

## ▶ 3. Outcome of Workshop 3: follow-up mechanisms to the recommendations of the ILO supervisory bodies in general and the CFA in particular

### Recommendations:

1. to elaborate a diagnosis to identify the strengths and weaknesses of the institutionalised mechanisms for the follow-up of the observations and recommendations of the control bodies in each country;

2. disseminate the guides and consultation tools developed by the ILO to strengthen the knowledge of the procedures of the supervisory bodies;

3. facilitate, on the part of the office, capacity building and training for constituents to promote the functioning of the control bodies, allowing for continuity in monitoring processes during periods of governmental transitions;

4. promote, on the part of constituents, the continuous training of their members, in order to follow up and monitor the observations and recommendations of the control bodies;

5. promote spaces for social and inter-institutional dialogue (public and private sector) to socialise, understand and contribute to the observations and recommendations, and

6. create monitoring tools, including executive charts to follow up on observations and recommendations.

**Rapporteur's note:** Workshop 3 highlights three areas of work among its conclusions: the development of diagnostic instruments and monitoring tools, including the use of guides and tools developed by the ILO, to better follow up on the observations and recommendations of the ILO supervisory bodies; the training and capacity building of constituents; and the promotion of spaces for social and inter-institutional dialogue.

# Conclusion

The discussions held during the 4 days of work showed the importance of different issues on the subject. In particular:

1. **Review of the current state of the right to freedom of association in the sub-region.** The conference was a space where social actors had the opportunity to recognise specific problems and experiences in the sub-region related to the exercise of the right to freedom of association and compliance with international standards. It was possible to identify specific actions that could be implemented to reduce conflicts that could be submitted as complaints to the ILO Committee on Freedom of Association and, additionally, to promote tripartite exchanges at the national and sub-regional levels for the protection of fundamental labour rights.

2. **Review of national practices developed by conflict resolution roundtables.** The discussion on the high rate of cases brought before the FSC in the sub-region provided relevant information to identify internal mechanisms to deal with conflicts at the national level. The participants presented the experience of the national tripartite roundtables, which are replicated in countries such as Honduras, Panama, Colombia and the Dominican Republic, in which, through social dialogue, conflicts arising from violations of freedom of association are dealt with, with the aim of achieving better internal handling of the complaints that they produce before the ILO Committee on Freedom of Association.

3. **Identification of concrete actions to strengthen freedom of association, social dialogue and conflict resolution.** As a result of this activity, the initiatives discussed by the participants are presented. With a view to aligning domestic legislation with international labour standards, strengthening tripartite social dialogue and promoting access to conflict prevention and resolution mechanisms, they highlight the importance of the technical support provided by the ILO, the need to institutionalise social dialogue bodies, and to implement training programmes for tripartite actors and for mediators and conciliators.

On the other hand, the outcome of the discussions in the three workshops indicates that the constituents are committed to the development of three types of initiatives:

a. **Creation/strengthening of an early warning system** for the treatment of labour disputes in general, and disputes arising from the violation of international labour standards in particular. Such a system should provide for adequate mechanisms and/or tools to provide a good service to constituents, such as diagnostic instruments and monitoring tools; and it should have a communication strategy that allows stakeholders to be duly aware of such a system for its effective use.

b. **The promotion of spaces for social and inter-institutional** dialogue so that work can be done to strengthen institutional capacity (tripartite) for conflict resolution, receiving technical assistance from the ILO for this purpose.

c. **All workshops clearly point to a training and capacity building strategy/programme** referring to specific areas such as tripartism and social dialogue, alternative means of conflict resolution, ILO supervisory mechanisms and international labour standards. Such training should also include the development of skills and expertise for the mediator/conciliator, as well as the understanding and proper development of the respective processes (mediation/conciliation). In this regard, it is called for the design of preventive rather than reactive systems of labour dispute resolution.

The main outcome of the discussions, analyses and exchanges of ideas on the issues addressed probably suggests the existence of various ways of influencing the problems analysed. The participants agreed that the results of this type of meeting, and of this one in particular, can be very valuable inputs for the work of the constituents in their own countries and for the elaboration of actions and programmes to be carried out by the ILO in the region.

International Labour Organization

ILO Regional Office for Latin America and the Caribbean