



International
Labour
Organization

► Exchange with the United Nations treaty body chairpersons and special procedures mandate holders 2023 - published 2024

Extracts from the General report of the
2023 Report of the Committee of Experts
on the Application of Conventions and
Recommendations

H. Collaboration with the United Nations

60. A joint statement of the Committee and the Chairs of eight UN human rights treaty bodies, appended as an Addendum to the Committee's previous report, underlined the timeliness of protecting and realizing labour rights as human rights.³⁵ In particular, the parties: (i) reaffirmed their responsibility to promote within their respective mandates the effective fulfilment of human rights, including labour rights, especially for those at risk of being left behind, and to continue ensuring the full realization of civil, political, economic, social, and cultural rights to all without discrimination; (ii) called upon all stakeholders without exception to maximize efforts for the effective implementation of the recommendations from the Human Rights Treaty Bodies and the ILO Committee of Experts; and (iii) decided to join efforts in order to promote full respect, defend, fulfil and promote all human rights, including international labour standards, through joint analyses, concerted action, and thematic periodic meetings to effectively address the challenges referred to in the joint statement.
61. This year, the first thematic discussion between the Committee and the Treaty Bodies commemorated the 75th anniversary of the Universal Declaration of Human Rights and the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). Seven Chairs or treaty body members designated by the Chairs of the treaty bodies participated either remotely or in person. In addition, two Special Rapporteurs presented their recent findings on the state of freedom of association in the context of their mandate.
62. **Ms Graciela J. Dixon Caton, Chairperson of the ILO Committee of Experts** recalled that the Universal Declaration and Convention No. 87 proclaimed and entrenched fundamental rights that were essential to human beings at work or wherever their freedom and dignity needed to be protected or realized based on the rule of law. **Mr Claude Heller, Chair of the 35th Annual Meeting of the Chairs of the Treaty Bodies and Chair of the Committee against Torture (CAT)**, recalled the long-standing collaboration between the ILO Committee of Experts and the human rights treaty body system as well as last year's joint statement, which had marked the third anniversary of the UN Secretary General's Call to Action for Human Rights. He observed that this event took the cooperation between the ILO Committee of Experts and the human rights treaty body system one step further by focusing the first thematic meeting on the fundamental right to freedom of association as an enabling right for people to defend their human and labour rights and pursue their interests collectively.
63. **Mr Clément Nyaletsossi Voulé, Special Rapporteur on freedom of peaceful assembly and of association**, recalled the instrumental role of the Universal Declaration in support of liberation movements and decolonisation across the world, including through the participation of workers and their organisations in liberation struggles. He added that Convention No. 87, adopted five months before the Universal Declaration, reinforced the latter in relation to the right of workers to organise which was recognised in the Convention along with the corresponding rights of employers. He noted that freedom of association was inextricably linked to freedom of peaceful assembly and remained at the core of human rights protection, enabling individuals to become agents of their own development when faced with poverty, crises and multiple transitions. He presented his recent report which addressed the issue of the recognition of freedom of association and freedom of assembly for workers in the informal economy, noting the devastating effect that COVID-19 had exerted upon informal economy workers who were excluded from any type of legal protection. He called for improved protection of their fundamental freedoms, including the right to organise, the right to association and the right to strike for workers in the informal economy, since guaranteeing these rights would not only help create better conditions of work, but also sustain livelihoods, decrease inequalities, improve inclusiveness and support the fight against poverty and exclusion. He concluded by emphasizing that workers' rights should be seen as human rights and that the rights to freedom of peaceful assembly, to freedom of association and to organise, were still more relevant than ever, 75 years after the adoption of the Universal Declaration and ILO Convention No. 87.
64. **Mr Olivier De Schutter, Special Rapporteur on Extreme Poverty and Human Rights**, considered that the human rights system could do more to explore synergies that enriched human rights law and made it more operational for governments by referring to international labour standards and their interpretation by the ILO

³⁵ ILO, 111th Session (2023), Report III(A)/Addendum, [Joint statement by the ILO Committee of Experts on the Application of Conventions and Recommendations and UN Human Rights Treaty Bodies Chairpersons](#).

Committee on Freedom of Association and the Committee of Experts. He illustrated this point by referring to article 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and article 22 of the International Covenant on Civil and Political Rights (ICCPR), both of which concerned freedom of association and should be read in accordance with ILO Convention No. 87 and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). He observed that no general comment had been adopted on these provisions while no special procedure of the Human Rights Council had been tasked specifically with looking at the rights of workers and linking human rights norms to ILO developments. He briefly presented the content of his report which raised three issues in particular:

- (i) how to define a living wage for the purpose of defining statutory minimum wages;
- (ii) the right to a fair remuneration, as a human right required by Article 7(a)(2) of ICESCR. He highlighted three factors that determined wage levels, notably the ability of clients to pay, the fact that many poorly paid jobs providing essential services to society had been historically performed by women, often without recognition nor remuneration, and finally, the bargaining position of the employers and workers, including the possibility for workers to exercise the right to strike in order to pressure employers to conclude collective agreements leading to more fair and just outcomes;
- (iii) the issues faced by platform workers, in the hope that the report would serve as a source of inspiration for the upcoming standard setting discussions on this subject at the International Labour Conference.

He concluded by calling for more systematic exchanges and convergence between the ILO supervisory bodies, human rights treaty bodies and special procedures.

65. Mr Olivier de Frouville, Chair of the Committee on Enforced Disappearances (CED), emphasized that defenders of the right to freedom of association, including trade unionists, were among the main victims of enforced disappearances, as shown by the numerous cases before the ILO Committee on Freedom of Association. He observed that without freedom of association the legal concepts serving to describe this terrorising practice would simply not exist, as the term “enforced disappearance” originated in the association of the mothers of May Square in Argentina and in other parts of the Americas. He also observed that enforced disappearances were a gendered phenomenon as the associations of families were mostly composed of women often left alone after the enforced disappearance of one or several men of their family, given that in their majority, disappeared persons were men. He emphasized that through their associations they found help, social, legal and economic assistance and most of all human support, in order to recover their dignity and engage in a combat for truth and justice. He underlined that the right to truth and freedom of association were intrinsically linked because most often it was the associations that claimed the right to know and carry the memory of the disappeared, despite pressures to “turn the page”, as there could be no sustainable peace without truth and justice. He recalled that article 24(7) of the Convention for the Protection of All Persons from Enforced Disappearance acknowledged the importance of protecting the central role of associations and organisations of victims and extended legal protection to them. He observed that despite this, associations were still under attack in many countries while in others, the associations of victims of enforced disappearances were simply not recognised or had to operate in silence in order to protect themselves from repression in the context of a constantly shrinking civic space. He concluded by emphasizing that, in this context, it was fundamental that the ILO and UN bodies combined their efforts in order to defend the right to freedom of association, which lied at the heart of democracy and collective action in defence of human rights.

66. Ms Laura-Maria Crăciunean-Tatu, Chair of the Committee on Economic, Social and Cultural Rights (CESCR), recalled the constant and longstanding partnership between the ILO Committee of Experts and CESCR. She added that CESCR often drew upon the observations and direct requests of the ILO Committee of Experts in shaping concluding observations on questions raised during constructive dialogues with States parties and in the formulation of lists of issues on which the latter provided reports. She also referred to the joint statement on freedom of association, which had been released in 2019 by CESCR along with the Human Rights Committee³⁶ in order to emphasize the importance of this right under both Covenants as the most characteristic illustration of the universal, interdependent and interrelated nature of all human rights. She

³⁶ Statement on freedom of association, including the right to form and join trade unions. Joint statement by the Committee on Economic, Social and Cultural Rights and the Human Rights Committee, E/C.12/66/5-CCPR/C/127/4.

added that in its monitoring and thematic work, CESCR examined the right to freedom of association not only in relation to article 8 of the Covenant on the right to form and join trade unions, but also as an enabling right relevant to the enjoyment of several other rights enshrined in the ICESCR. To illustrate this point, she referred to CESCR's General Comments on the right to just and favourable conditions at work (No. 23), paragraph 1 of which referred to the crucial role of trade unions and the right to strike; on science and economic, social and cultural rights (No. 25); on the equal right of men and women to the enjoyment of all economic, social and cultural rights (No. 16); on the right to the highest attainable standard of health (No. 14); on the economic, social and cultural rights of older persons (No. 6); on persons with disabilities (No. 5); on and the right to adequate housing (No. 4). She concluded by sharing the views expressed by previous speakers on the absence of a general comment on article 8 of the Covenant that could elaborate on the legal obligations under this article in a systematic way and supported having a more structured exchange between the ILO and CESCR on this matter.

67. **Ms Verene A. Shepherd, Chair of the Committee on the Elimination of Racial Discrimination (CERD)** observed that because of the work of the ILO and the human rights treaty bodies, the world could take for granted today the right to organise, the right to collective bargaining, the right to form trade unions and to protest against inequalities and discrimination. However, such rights had been obtained at great cost. She wished to speak in memory of all those who had created the space within which these rights could be enjoyed today and especially recall the workers who had been killed by colonial regimes. She referred to her part of the world, the Caribbean, where the right to form unions and to protest used to meet with cruel punishment. She emphasized that today these rights could be defended, inter alia, by virtue of article 5 of the Convention on the Elimination of Racial Discrimination and concluded by emphasizing that CERD would continue to reinforce these rights in its interactive dialogues with States Parties and to defend the rights of workers through its work.
68. **Ms Ana Peláez Narvaez, Chair of the Committee on the Elimination of Discrimination Against Women (CEDAW)**, referred to the need to strengthen cooperation among all the mechanisms, which worked to ensure the full recognition of human rights across the world. She emphasised that the situation of women constituted a common challenge for all human rights treaty bodies and ILO supervisory bodies and that the practice of collaborating among human rights mechanisms and the ILO Committee of Experts was very relevant for strengthening the work of all bodies. She noted that CEDAW was currently working on a draft general recommendation on the equal and inclusive representation of women in decision-making systems, which was linked to the rights to freedom of association and women's equal participation in political and public affairs, and always kept a close eye on ratifications of ILO Conventions as many of them had an impact on women. She also thanked the two Special Rapporteurs for raising the point of intersectionality in their statements, as women often suffered discrimination on more than one ground. She called for a more systematic focus on intersectionality and invited all human rights experts to exercise leadership and guide States Parties in this respect.
69. **Mr Khaled C. Babacar, Member of the Committee on the Rights of All Migrant Workers and Members of their Families (CMW)**, speaking on behalf of its Chair, Mr Edgar Corzo Sosa, referred to the multiple reasons leading to human rights violations and exploitation of migrants and the need to develop trustworthy data on these trends. He recalled that in addition to the International Convention on the Protection of the Rights of All Migrant Workers and Member of Their Families and the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), all other human rights instruments and international labour standards equally applied to migrant workers who were thus entitled to fundamental rights to non-discrimination, protection from forced labour and trafficking, and freedom of association and collective bargaining. The latter were protected under articles 26 and 40 of the Convention on Migrant Workers along with article 20 of the Universal Declaration on Human Rights and articles 21 and 22 of the ICCPR. He also welcomed the opportunity to strengthen collaboration with the Committee of Experts on shared concerns, emphasizing that CMW had a longstanding collaboration with the ILO and was in the process of strengthening it even further, through a plan of action adopted at the CMW 36th session in 2023.
70. **Mr Daniel Fink, Vice-Chair of the Subcommittee on the Prevention of Torture (SPT)**, speaking on behalf of its Chair, Ms Suzanne Jabbour, welcomed the exchange as an important opportunity to ensure that all workers and people could fully enjoy the fundamental right to freedom of association. With reference to the SPT's mandate to carry out visits in detention facilities, he expressed interest in drawing on the Committee of Experts' work in relation to freedom of association of persons deprived of their liberty, especially in cases where they

were forced to work. Recalling that the enjoyment of the right to freedom of association in these contexts was minimal and circumscribed to very particular conditions, he considered that this was a good basis for cooperation in the longer run.

71. **Mr James J. Brudney, member of the Committee of Experts**, agreed with the previous speakers that Convention No. 87 was at its core an enabling right : through social dialogue, including collective bargaining, peaceful assembly and organised protest actions, freedom of association had enabled workers and organizations to exercise a wide array of other human rights. These included the rights to adequate minimum wages, reasonable hours of work, safety and health at the workplace, equal treatment of women, minorities and indigenous peoples, and to promotion of employment, including through transition of workers from the informal to the formal economy. Nevertheless, in his view, freedom of association was not just a means to an end, but also an end in itself. He recalled that when the ILO in its founding documents had stated that “labour is not a commodity”, this had conveyed the principle of individual free choice, moral agency and the capacity for full and democratic participation. Unfortunately, as observed by many speakers, today's challenges to the achievement of freedom of association and its promises were numerous. He added that the Committee of Experts was acutely aware of continuous attacks on trade union members, leaders and organisers based on reports received regularly. He referred to examples from the Committee's latest observations on cases of arbitrary arrests, surveillance and judicial prosecution of independent trade unionists, incidences of violence and deaths in the context of protests linked to wage negotiations, and police violence preventing trade unions and their members from exercising their rights to organise public meetings without fear of reprisals. He also said that freedom of association for workers in the informal economy continued to be a challenge to which the Committee of Experts was certainly attentive, referring to recent jurisprudence and legislative developments on this subject across the world. He concluded by saying that protecting freedom of association was fundamental to meaningful and inclusive participation at the workplace and in society at large.
72. **Mr Heller** welcomed this opportunity for the Treaty Body Chairs and the Committee of Experts to enter into dialogue. He observed that the right to freedom of association was linked to the human rights mandates of each and every treaty body. The mandate of the CAT included all categories of protected persons, including workers exercising the right to organize. He considered that discussions and exchanges with the Committee of Experts could explore further themes and raised the example of the labour chapters of free trade agreements, which contained important provisions on fundamental freedoms, including at work. He concluded by emphasizing that it was important to continue the thematic dialogues and deepen the cooperation between the Committee of Experts and the Human Rights Treaty Bodies.
73. **Ms Dixon Caton** thanked everyone for the very rich exchange. With gratitude for those who had equipped humanity with freedom of association as a tool that continued to speak to peoples' universal aspirations, she recalled the duty to stand together in order to ensure that this tool was being effectively used. She emphasized that freedom of association could not be exercised in the absence of all other fundamental civil liberties enunciated in the Universal Declaration of Human Rights, such as freedom of assembly, freedom from arbitrary arrest and detention, freedom from torture and ill-treatment, and protection from threats, pressure and violence of any kind. She also said that freedom of association depended on an expanding civic space, including for Trade Unions and other representative bodies, such as Employer and Business Membership Organizations, National Human Rights Committees and Parliaments. She added that the corollary to freedom of association was the right to collective bargaining and recalled that 2024 marked the 75th anniversary of the Right to Organise and Collective Bargaining Convention No. 98. She emphasized that freedom of association and collective bargaining were more relevant than ever in a world navigating multiple environmental, geopolitical, economic, demographic and technological transitions, calling for increased representation, participation and dialogue for safeguarding social peace and social justice within and among countries. She concluded by expressing the hope of having additional thematic meetings in the future as today's challenges called for increased vigilance and proactiveness on behalf of all, including monitoring and supervisory bodies of the United Nations system.