Session 3

Freedom of association and collective bargaining

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Session snapshot

Session 3

- Focuses on freedom of association (FOA) and the right to collective bargaining (CB) as key labour standards.
- It discusses principles, applications in different sectors, and ways to promote FOA and CB.

Estimated duration:
90 minutes

Required materials:
None except for usual presentation equipment and accessories

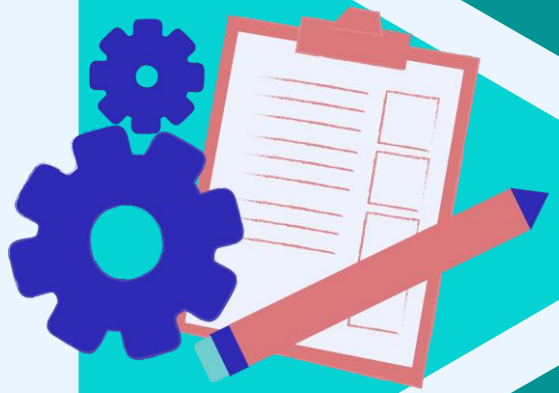
Facilitator's guide points

Facilitator’s guide points

1. Open Session 3 with a brief transition from Session 2 and introduce the overview.

2. Present the specific learning objectives.

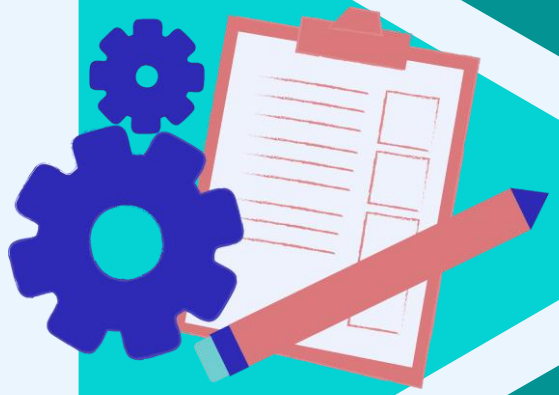
3. Begin with Activity M1-2 (Word Association).



4. Facilitate the session using the Session Proper as a guide, covering only the topics relevant to the audience:

- ILO Principles and Standards on FOA and CB
- FOA and CB in the Private Sector
- FOA and CB in the Public Sector
- FOA and CB in the Informal Economy
- Promoting FOA and CB

5. For the Private Sector topic, conduct Activity M1-3 (Matching Exercise).



Facilitator's Guide Points

6. Use the Key Learning Points to guide your messaging.

7. Deliver optional discussions or exercises as needed.

8. Engage participants throughout by checking for questions or comments.

9. Conclude with a recap exercise.

Learning Objectives

Learning objectives

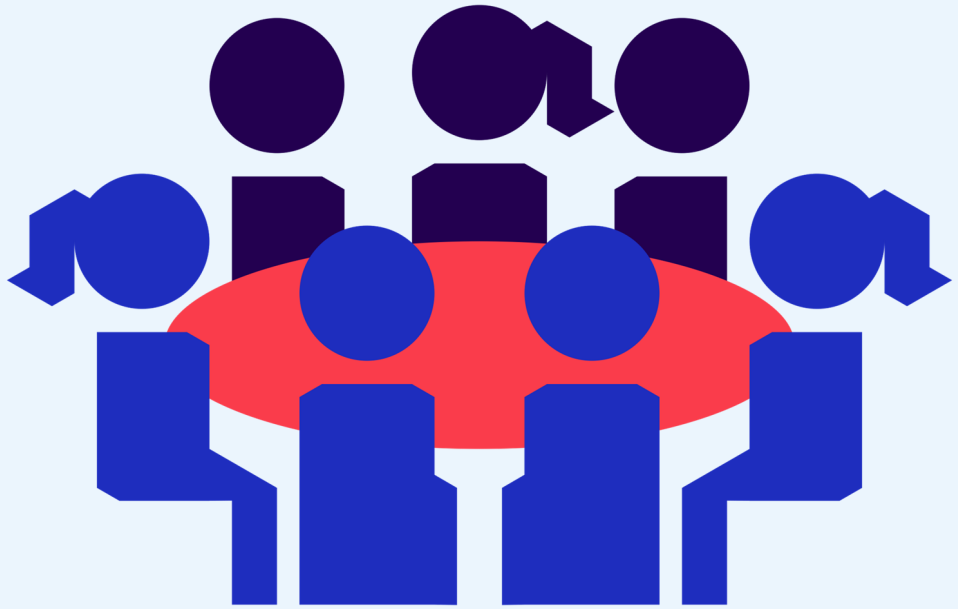
Identify principles and standards of FOA and collective bargaining

Understand applications in private, public, and informal sectors

Explain the right to strike in context of FOA and collective bargaining

Identify ways to promote FOA and collective bargaining

Definition of key terms

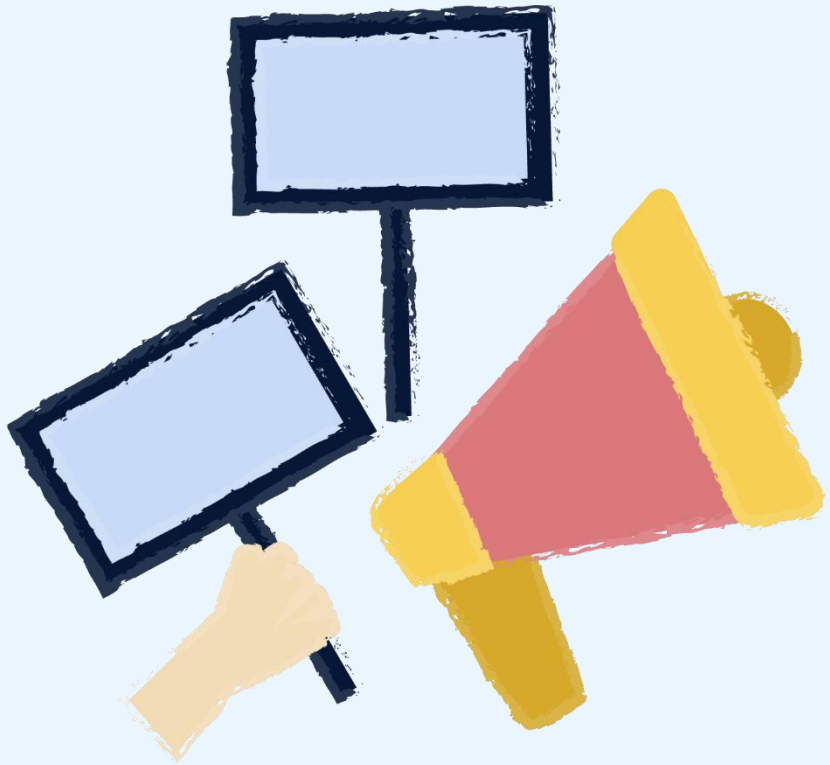


Collective bargaining

voluntary process where employers and trade unions (or workers' reps) negotiate pay and working conditions to reach collective agreements that set employment terms.

Freedom of association

Right to form or join organizations to protect work interests, free from interference. This right should be guaranteed by the State, regardless of occupation, sex, colour, race, creed, nationality or political opinion.



Strike / right to strike

The right of workers to stop work to promote and defend their economic and social interests

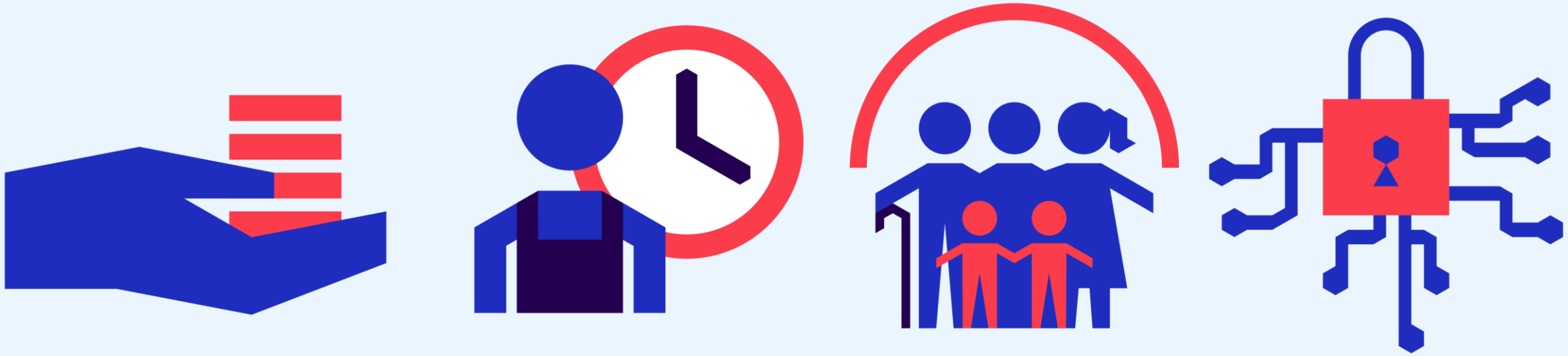
Public sector unions or associations

Any organization, union, or association of employees in government agencies which exists wholly or partly for the purpose of collective negotiations or mutual aid, interest, cooperation and rights protection.

Key learning points

FOA is central to ILO values and underpins social dialogue and decent work.

FOA and CB are fundamental rights for all workers in both the private and public sector, and whether in the formal or informal economy; **they are key to social justice and development.**



CB enables employers and unions to **negotiate fair wages and conditions at different levels.**

The right to strike is integral to FOA, CB, and democracy. However, it is not absolute— workers in essential services such as healthcare, public safety, and utilities may be restricted from striking to protect public welfare and safety. In such cases, governments must ensure alternative, fair, speedy, and transparent dispute resolution mechanisms are in place.

Activity

Instructions

Activity M1-2. Top-of-mind word association

Methodology

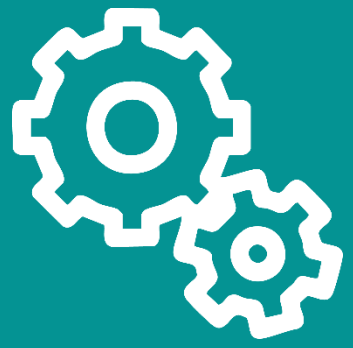
The top-of-mind word association is a light exercise that allows participants to associate a word or an idea (in a single word) with a particular topic, theme or concept, such as labour rights. They are simply asked to answer the question: What comes first to your mind when you hear of/talk about freedom of association? Through this activity, the facilitator is also able to map out which words or ideas the participants commonly link FOA and labour rights, and thereby anchor most discussions in those words or ideas while ensuring that other key learning points are emphasized

Activity M1-2. Top-of-mind word association

Timing

It is best to conduct this activity upon opening the third session of this modules, which tackles FOA and CB, but just before diving deep into the discussion points as outlined in the lecture notes. It is also practically positioned in the middle of the entire module to partly break the lecture-oriented style of discussion for the first two sessions.

Activity M1-2. Top-of-mind word association



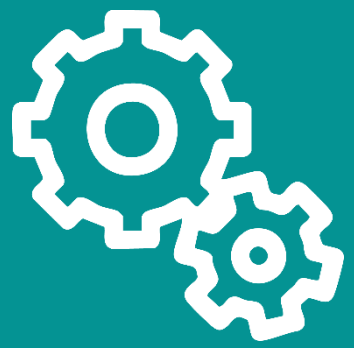
Mechanics

1. Remaining seated in their chairs, ask the participants to learn and follow your hand-and-foot movement: two stomps, 1 clap to the tune of “We will rock you.”

2. In unison, the participants continue doing the movement.

3. As they do the movement, ask them to recite a word that comes first to their mind when hearing of/talking about freedom of association. (A possible example can be “organize.”)

Activity M1-2. Top-of-mind word association



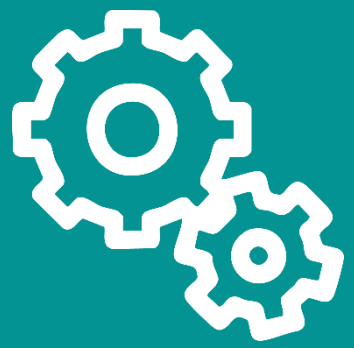
Mechanics

4. In an orderly manner and based on their seating arrangement, each participant recites a word that does not repeat any word previously mentioned by another participant. Remind the participants to not think too much about the word and just recite what is on top of their mind. Tell them there is no right or correct answer.

5. Write the words generated on a board or pieces of metacards (the facilitator may need some assistance on this).

6. Depending on the size of the participants, this can be done in more than one round, up until all essential words or ideas seem to have been exhausted already. Decide as facilitator when to cut the rounds.

Activity M1-2. Top-of-mind word association



Mechanics

7. After the round/s of word recitation, quickly process the words that have been generated. Some words can be clustered, for instance. There can be words that may sound controversial or out of context. Decide accordingly whether to give some time unpacking these words, and to what extent (mindful of the time and the fact that they can be further discussed as the session lecture goes on).

8. Proceed to the discussion points and supplemental notes found in Session 3

Activity M1-2. Top-of-mind word association

Materials	• White board • Metacards • Markers
Notes on adaptation to online session	*Conducting this activity in a live online session will prove more challenging as originally designed. However, it can be done in an alternative way, simply using the chatbox of conferencing platforms like Zoom, for instance, or engagement platforms like MentiMeter, where participants are asked to type in the first word that comes to mind which they associate with FOA. (Note: Using MentiMeter will provide an illustration clearly showing which word/s has/have been most commonly answered by the participants.)*

Activity

Answer keys

Session proper

Session 3

- ILO principles and standards on FOA and collective bargaining
- 10 central policy concerns stressed in the ILO Declaration of Philadelphia
- The normative framework for freedom of association and collective bargaining
- The Philippines: Union registration
- What is collective bargaining?

Session 3

Distinguishing collective bargaining from other forms of social dialogue

Benefits of collective bargaining

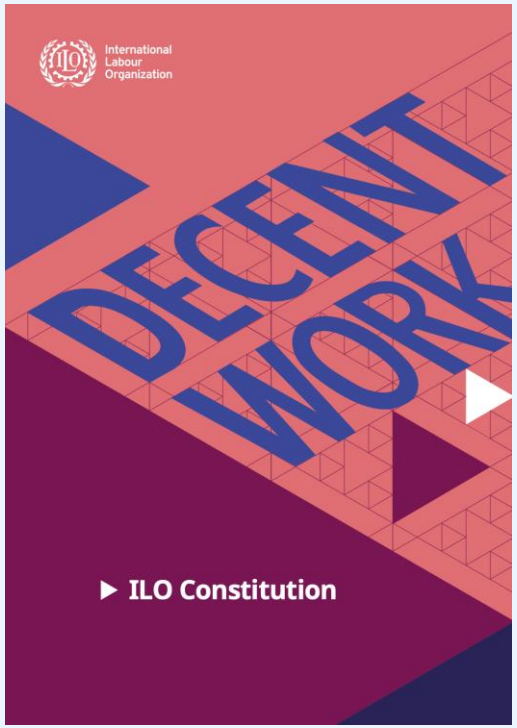
FOA and collective bargaining in the private sector

ILO principles and standards on FOA and collective bargaining

Freedom of association is central to ILO values. This is mainly enshrined in these four (4) key ILO founding and operational documents:

- **ILO Constitution (1919)**
- **Declaration of Philadelphia (1944)** *Underscored in session 2*
- **Declaration on Fundamental Principles and Rights at Work** (1998)
- **Universal Declaration of Human Rights (1948)** Underscored in Session 1

ILO constitution (1919)



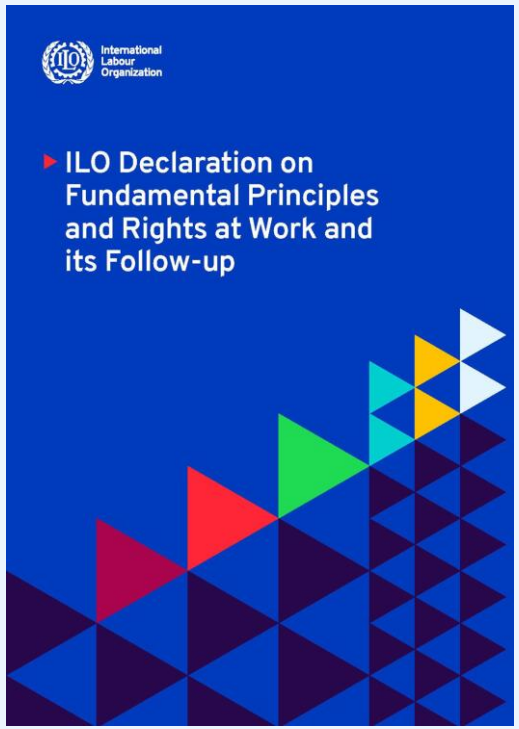
The ILO Constitution **recognises freedom of association as a fundamental principle that Member States must uphold.** FOA is **essential to the ILO's tripartite structure**, as it allows workers and employers to organise independently and represent their interests. Without FOA, genuine and independent organisations cannot exist, **weakening the very foundation of tripartism.**

Declaration of Philadelphia (1944)

Reaffirmed FOA as a core ILO principle, stating that ***"freedom of expression and of association are essential to sustained progress."*** It strengthened FOA as part of the ILO Constitution. To monitor its application, the **tripartite Committee on Freedom of Association (CFA)** was created in 1951 to handle complaints on FOA violations, even for countries that have not ratified related Conventions. The CFA remains the main body supervising FOA compliance.

About the image: Edward J. Phelan signing the Declaration of Philadelphia on 17 May1944 at a meeting with President Roosevelt at the White House in Washington. Also present are: Secretary of State Cordell Hull, the President of the ILO Philadelphia Conference Walter Nash, US Secretary of Labor Frances Perkins and ILO Assistant Director Lindsay Rogers

Declaration on Fundamental Principles and Rights at Work (1998)



The Declaration **confirms that all ILO Members must respect, promote, and realise FOA and the right to collective bargaining, even if they have not ratified related Conventions**. This obligation comes from ILO membership itself and must be upheld in good faith, as part of the ILO Constitution.

10 central policy concerns stressed in the ILO declaration of Philadelphia

10 central policy concerns stressed in the ILO Declaration of Philadelphia

full employment

jobs suited to workers' skills

training and labour mobility

fair wages and decent work conditions

recognition of CB and cooperation between labour and management

Source: Part III, ILO Declaration Philadelphia (1944)

10 central policy concerns stressed in the ILO Declaration of Philadelphia

expanded social security and medical care

worker health and safety

child welfare and maternity protection

adequate nutrition, housing, recreation, and culture

equal access to education and training

Source: Part III, ILO Declaration Philadelphia (1944)

The normative framework for freedom of association and collective bargaining

The normative framework for FOA and CB

1944 Declaration of Philadelphia

Freedom of association and Protection of the right to Organize Convention, 1948 (No 87):

1977 Declaration of Principles concerning MNEs and Social Policy

Freedom of Association

Right to Organize and Collective Bargaining Convention, 1949 (No 98) Establishment of measures to ensure respect for

1998 Declaration on principles and rights at work designates 4 principles:

Collective agreements Recommendation, 1951, N°91

1998 ILO Declaration on Fundamental principles and rights at work:

Labour administration Convention, 1978, N° 150 and Labour Administration Recommendation, 1978 (N°158)

ILO Declarations

1944 Declaration of Philadelphia:
Commits the ILO to promote effective recognition of CB

1977 Declaration of Principles concerning MNEs and Social Policy:
Guidance on FOA, the right to organize and sound industrial relations

1998 Declaration on principles and rights at work designates 4 principles:

- Elimination of discrimination in respect of employment and occupation
- Effective abolition of child labour
- Elimination of all forms of forced or compulsory labour
- freedom of association and the effective recognition of the right to collective bargaining

ILO Declarations

1998 ILO Declaration on Fundamental principles and rights at work:

- Obligation for members states arising out of their membership
- Respect, promote and realize, in good faith the principles concerning fundamental rights
- All member states have an obligation to respect, promote and realize the effective recognition of the right to collective bargaining

ILO Declarations

1998 ILO Declaration on Fundamental principles and rights at work:

- Obligation for members states arising out of their membership to:
- Respect, promote and realize, in good faith the principles concerning fundamental rights
- All member states have an obligation to respect, promote and realize the effective recognition of the right to collective bargaining

Freedom of association and Protection of the right to Organize Convention, 1948 (No 87):

- Recognizes the right of workers and employers to freely establish and join organizations
- Public authorities shall refrain from interference

ILO Declarations

Right to Organize and Collective Bargaining Convention, 1949 (No 98)
Establishment of measures to ensure respect for:

- The right to organize
- Encourage the development of collective bargaining

Collective agreements Recommendation, 1951, N°91

- Guidelines for the establishment of machinery to negotiate, conclude, revise and renew collective agreements.
- Includes guidance for giving effect to collective agreements, extension, interpretation, application of collective agreements.
- Include a definition of “collective agreements”.

ILO Declarations

Labour administration Convention, 1978, N° 150 and Labour Administration Recommendation, 1978 (N°158)

- Provides for the organization and effective operation of a system of Labour administration
- Sets out functions of Labour administration
- Functions include promotion of full development

Core labour standards for FOA and collective bargaining

1. **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) C87 guarantees that**

- Workers and employers can form and join organisations freely (Art. 2)
- Workers can manage their internal affairs without interference (Art. 3), and cannot be dissolved by authorities (Art. 4).
- They may set up or join federations and confederations, including international ones (Art. 5, Art. 6).
- It prohibits anti-union discrimination, interference, unfair restrictions, and unjust dissolution.

Acts Not Allowed Under C87

Art. 1:

- Making employment conditional on not joining or leaving a union
- Dismissing or disadvantaging a worker for union membership or activities

Art. 2:

- Creating unions controlled by employers
- Giving financial support to dominate unions

Acts Not Allowed Under C87

Art. 3:

- Restricting free election of representatives (e.g. mandatory registration, nationality or age limits, removal by authorities)
- Forcing unions to register members or allow broad inspections without cause
- Limiting union activities (e.g. banning political topics)
- Imposing compulsory arbitration or blanket bans on strikes, or criminal penalties for striking

Art. 4:

- Suspending or dissolving unions for vague reasons like harming the economy, security, public order, or morality

Acts Not Allowed Under C87

Art. 5:

- Requiring same employer or business category for federations
- Banning state enterprise unions from joining private federations
- Imposing excessive minimum numbers to form federations

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

C98 guarantees **protection for workers against anti-union discrimination** such as:

- requiring workers to avoid or leave unions
- dismissing them for union involvement

C98 **protects** workers' and employers' organisations from **interference by each other:**

- employer-controlled unions
- financial influence

C98 **upholds and promotes the right to collective bargaining**.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Practices Contrary to C98

Under C98, the following are not allowed:

- Restricting bargaining to certain levels only
- Limiting what issues can be negotiated
- Requiring official approval to validate or cancel agreements
- Imposing compulsory arbitration

Full list of Conventions and Recommendations under the category of standards called “freedom of association, collective bargaining and industrial relations”

- Right of Association (Agriculture) Convention, 1921 (No. 11)
- Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)
- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- Workers’ Representatives Convention (No. 135) and Recommendation, 1971 (No. 143)

Full list of Conventions and Recommendations under the category of standards called “freedom of association, collective bargaining and industrial relations”

- Rural Workers’ Organisations Convention (No. 141) and Recommendation, 1975 (No. 149)
- Labour Relations (Public Service) Convention, 1978 (No. 151)
- Collective Bargaining Convention, 1981 (No. 154)
- Collective Agreements Recommendation, 1951 (No. 91)
- Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92)
- Co-operation at the Level of the Undertaking Recommendation, 1952 (No. 94)

Full list of Conventions and Recommendations under the category of standards called “freedom of association, collective bargaining and industrial relations”

- Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113)
- Communications within the Undertaking Recommendation, 1967 (No. 129)
- Examination of Grievances Recommendation, 1967 (No. 130)
- Labour Relations (Public Service) Recommendation, 1978 (No. 159)
- Collective Bargaining Recommendation, 1981 (No. 163)

State Obligations for FOA and Collective Bargaining

The State is ultimately responsible for ensuring respect for FOA and CB.

- **If Ratified (e.g. Philippines – C87, C98):**
  - Apply Conventions in law and practice.
  - Report to the ILO periodically about the steps it is taking to apply the Conventions.
  - Applies nationwide, including special zones disaster-hit areas, and other areas affected by civil disturbances.
- **If Not Ratified:**
  - Must still respect, promote, and realise FOA and CB principles **(1998 Declaration).**

. https://www.ilo.org/publications/freedom-association-compilation-decisions-committee-freedom-association-pdf)

The Philippines: union registration

Who can apply?

Private labour organization

Employees in commercial, industrial, agricultural enterprises; GOCCs without original charters; and religious, charitable, medical or educational institutions (profit or non-profit) can form or join unions for collective bargaining.

- *Supervisors* may form their own separate unions, not join rank-and-file unions.
- *Managers* cannot form or join any union for CB.

Who can apply?

Workers' Associations

Self-employed, rural, ambulant, intermittent, and other workers without a definite employer may form associations for mutual aid and protection — but not for collective bargaining.

What are the requirements?

Filled-out Application Form

Attestation Requirements

Payment of registration fee.

Accompanying documents.

General requirements for all applications for registration

Filled-out Application Form

The application form should be duly filled-out and notarized. Please ensure all required documents are prepared in PDF format.

Attestation Requirements

The application for registration including all the accompanying documents, shall be certified under oath by its Secretary or Treasurer, as the case may be, and attested to by its President.

General requirements for all applications for registration

Payment of registration fee

An application for registration with complete documents shall be issued a certificate of registration upon payment of the prescribed registration

Accompanying documents

Original copy of all documents accompanying the application or notice shall be submitted to the Regional Office or to the BLR, as the case maybe.

Requirements for independent unions

- [ ] 1.Officers' names & addresses
- [ ] 2.Not a chartered local of any federation/national union
- [ ] 3.Minutes & list of attendees at organizational meeting
- [ ] 4.Membership list (at least 20% of bargaining unit)
- [ ] 5.Annual financial report or certification of no collections
- [ ] 6.Constitution & By-laws (CBL), with adoption/ratification minutes & list

Requirements for creation of local chapter

- [ ] 1.Charter Certificate from federation or national union
- [ ] 2.Names & addresses of local/chapter officers and principal office
- [ ] 3.Constitution & By-laws (note if same as federation/national union)

Requirements for report for affiliation

- [ ] 1.Board resolution approving affiliation
- [ ] 2.Minutes of general membership meeting approving it
- [ ] 3.List of members who approved
- [ ] 4.Certificate of affiliation from federation
- [ ] 5.Written notice to employer (if union is current bargaining agent)

Requirements for worker's association

- [ ] 1.Names and addresses of officers
- [ ] 2.Minutes of the organizational meeting
- [ ] 3.List of participating members
- [ ] 4.Annual financial report or certification of no collections
- [ ] 5.Constitution and By-laws (CBL)
- [ ] 6.Minutes and date of CBL adoption/ratification
- [ ] 7.Names of ratifying members

Requirements for federation / national union

- [ ] 1.Names and addresses of officers
- [ ] 2.Minutes of the organizational meeting
- [ ] 3.List of participating employees
- [ ] 4.Certification of no collected funds
- [ ] 5.Constitution and By-laws (CBL)
- [ ] 6.Minutes and date of CBL adoption/ratification
- [ ] 7.List of ratifying members

Requirements for federation / national union

- [ ] 8. Resolution of affiliation of at least 10 legitimate unions, each a certified bargaining agent
- [ ] 9.Names/addresses of companies where affiliates operate, plus members list

Requirements for workers associations operating in more than one region

- [ ] 1.Names and addresses of officers
- [ ] 2.Minutes of organizational meeting(s)
- [ ] 3.List of participating members
- [ ] 4.Annual financial reports or certification of no funds collected
- [ ] 5.Constitution and By-laws (CBL)
- [ ] 6.Minutes and dates of CBL adoption/ratification

Requirements for workers associations operating in more than one region

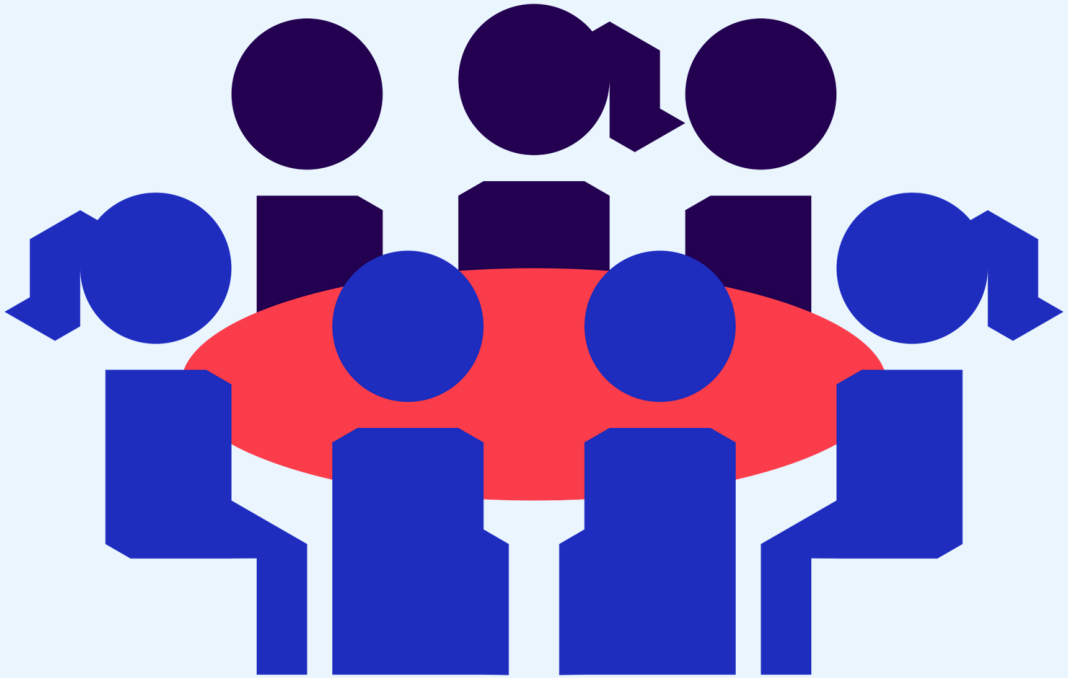
- [ ] 7. Names of members who ratified the CBL
- [ ] 8. Board-approved resolution of membership for each member association

Requirements for collective bargaining agreements

- [ ] 1.The CBA document
- [ ] 2.Proof that the CBA was posted in at least two visible places in the establishment for 5 days before ratification
- [ ] 3.Proof that the CBA was ratified by the majority of employees in the bargaining unit

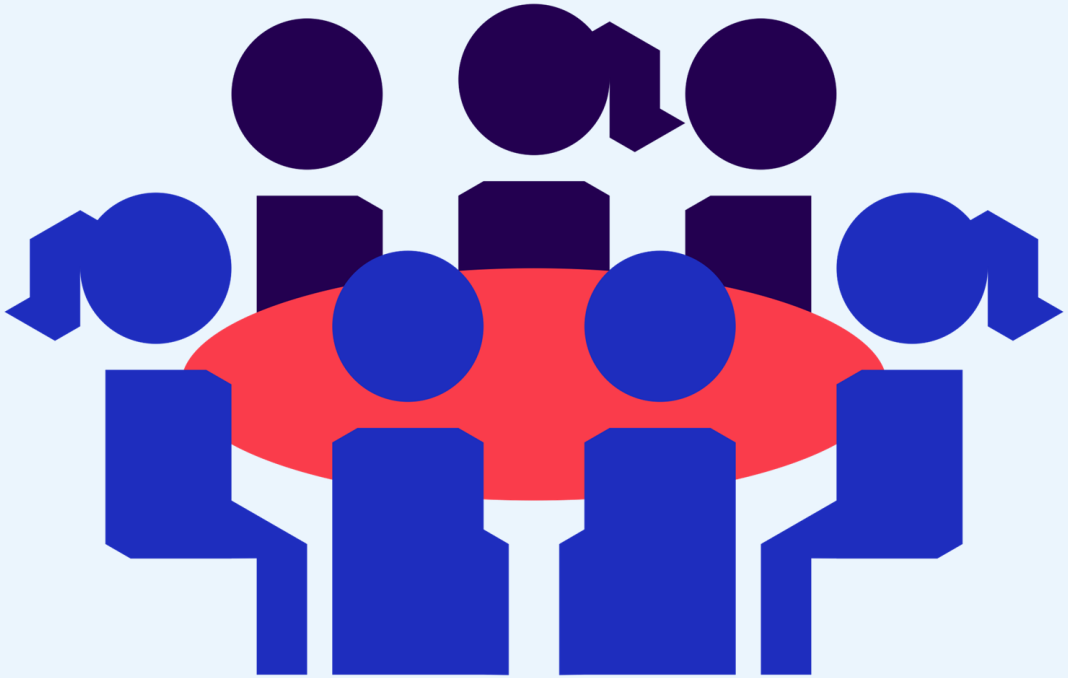
What is collective bargaining?

Collective bargaining



All negotiations that take place between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more workers' organisations, on the other for:s

Collective bargaining

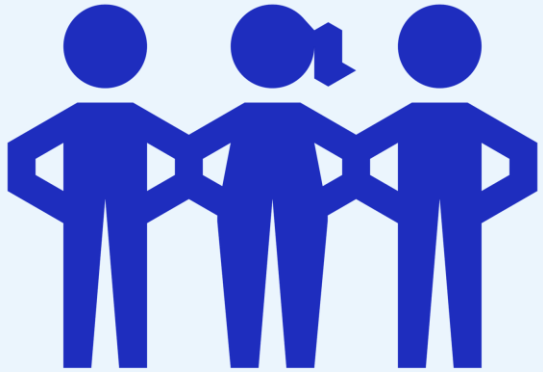


- Determining working conditions and terms of employment; and/or
- Regulating relations between employers and workers; and/or
- Regulating relations between employers or their organisations and a workers' organisation or workers' organisations

The practice to collective bargaining

Collective bargaining is concerned with **bipartite relations** (two independent parties):

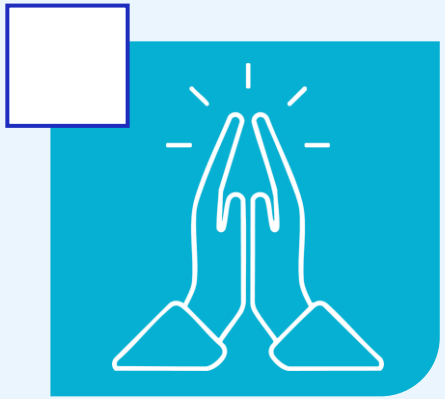
- One or more employers or one or more employers' organizations.



- One or more workers' organizations

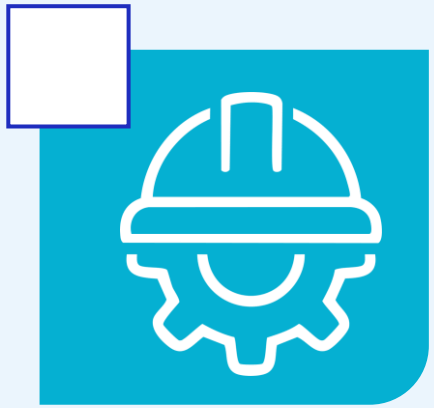
The process of collective bargaining

Collective bargaining is a **process of negotiation.** It implies formal and informal discussions with a view to reach an agreement.



Needs good faith

Helps build trust and mutual respect

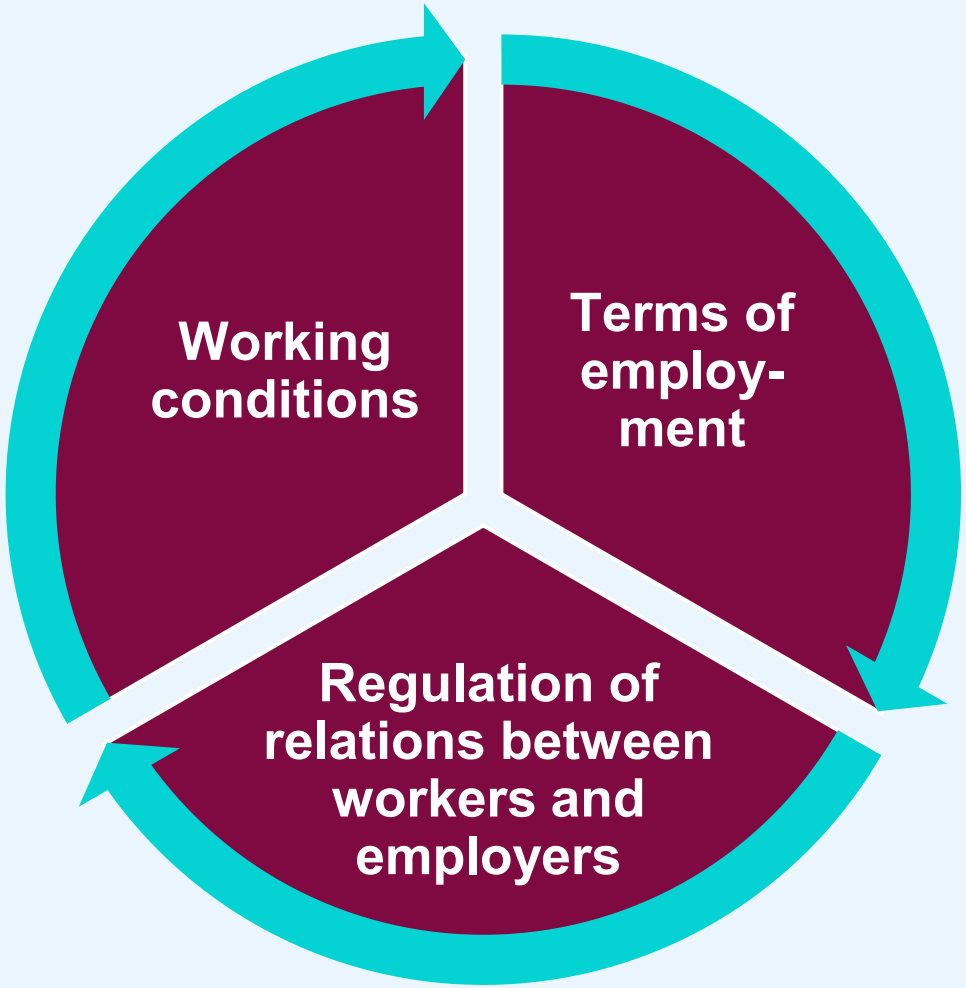


Enhances the quality of labour relations

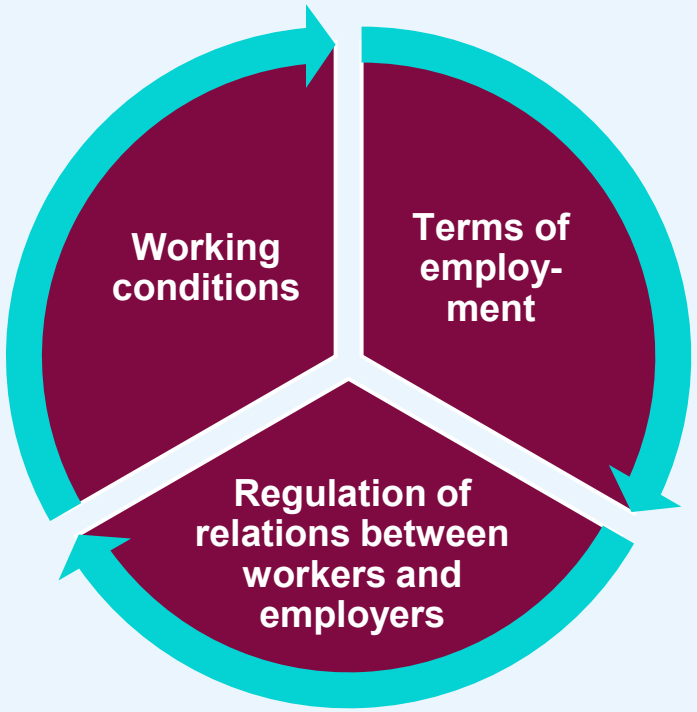
A voluntary process

The process of collective bargaining

Collective bargaining focus on:



The process of collective bargaining



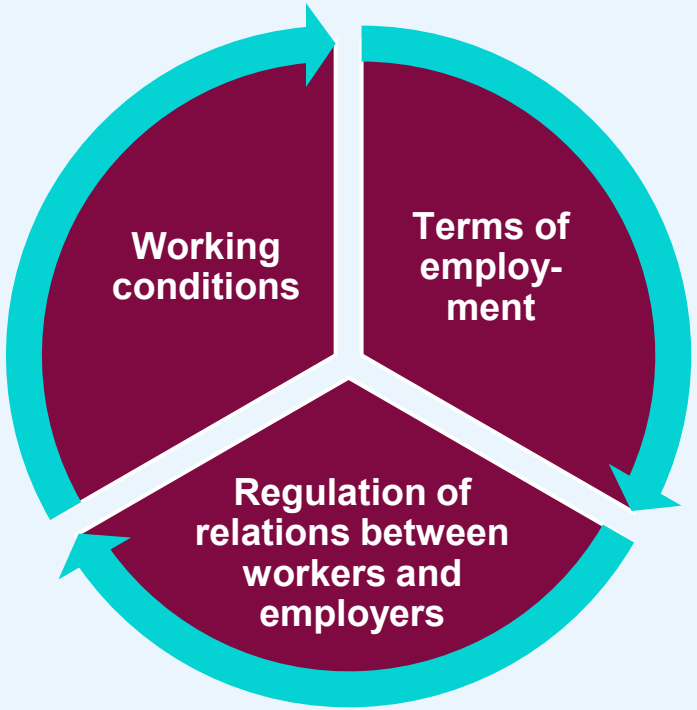
Terms and conditions of employment

- Wages, hours of work, annual bonuses
- Annual leave, maternity leave, occupational safety and health.

Regulating relations between employers and workers, or their organisations

- rules for the conduct of the collective bargaining relationship. dispute prevention and resolution procedure

The process of collective bargaining



Trade union facilities

- reduction of trade union dues through check-offs

The goal of collective bargaining is to conclude a collective bargaining agreement (CBA)

It is important that a CBA:

- **Binds the signatories** and those on whose behalf they are concluded.
- **Applies to all workers of the classes** concerned in the undertakings they cover, unless the agreement specifically provides for the contrary.
- **Takes precedence over individual contracts**, while recognizing stipulations in individual contracts that are more favourable to workers.

Distinguishing collective bargaining from other forms of social dialogue

Different forms, same goal: promoting decent work and sound labour relations

Distinguishing collective bargaining from other forms of social dialogue

Collective bargaining

- A distinct form of social dialogue.
- Substantive process involving negotiations.
- Regulates terms and conditions of employment and relation parties.

Workplace Cooperation

- Sharing of information and views.
- No joint-decision and not a replacement for collective bargaining.
- Scope of discussion is normally wider than collective bargaining

Tripartite social dialogue

- Involves three groups (government, employers, workers).
- Can take different forms (exchange of information, consultations, binding or non binding agreements).

Benefits of collective bargaining

Benefits associated with job quality

Improves wages

Can help to align wages and productivity

Can promote work/life equilibrium

Facilitates job security and employment protection

Creates opportunities for workplace participation

Benefits associated with equity

Compress wages structures

Enhances gender equality

Promote parity among workers with different types of contract in the same enterprise

Benefits associated with training

Tailors training to worker, enterprise and industry needs.

Can enhance access to continuing vocational training.

Benefits associated with labour relations

Enable access to other rights

Exercising rights through the process

Voice grievances & improve well-being

Resolve disputes, stabilise industrial relations

Benefits associated with labour relations

CB channels disputes, prevents conflicts, builds harmony

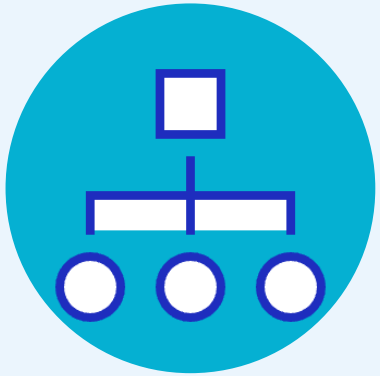
Tailor joint regulation to local needs

Legitimize rules & boost compliance

Benefits associated with enterprise performance:

Facilitate adaptability of enterprises in times of crisis

Increases workers' commitment and enhances sharing of information



Reduce turnover, thus leading to productivity gains and product quality

Enhances positive effects of workplace and technological change on enterprise performance

Enables the negotiation of productivity incentives and profit-sharing scheme

Benefits associated with macroeconomic policies:

Reduces inequality and allows for a fairer distribution of outcomes

Facilitates adjustment to economic shock

Coordinated collective bargaining has positive impact on economic performance

Higher collective bargaining coverage is associated with increase in public expenditure and active labour market policies

Benefits associated with equity, public service delivery and governance

Improves governance and delivery of public service

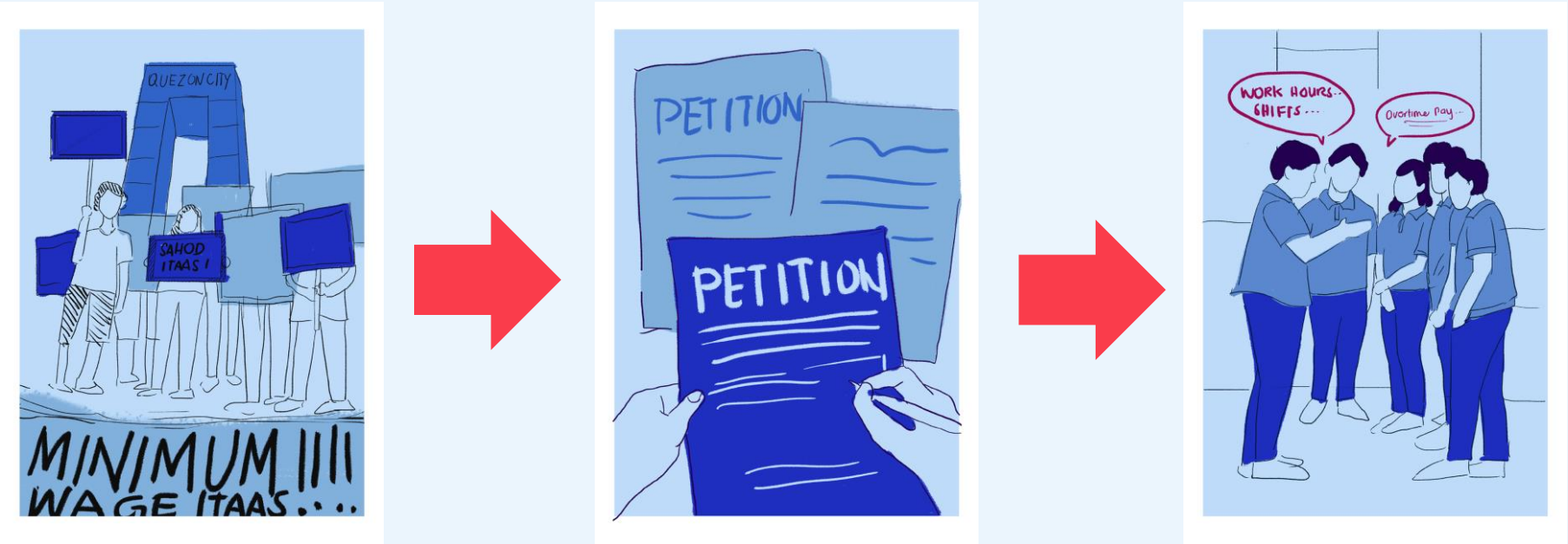
Enhance gender equality diversity and inclusion

FOA and collective bargaining in the private sector

FOA and collective bargaining in the private sector

- FOA and CB are **guaranteed rights for all private sector workers**
- FOA and CB are **intrinsically linked.** FOA enables CB, which lets workers protect their interests.
- Governments must remove indirect barriers and support CB, including multi-employer bargaining.

CB Diagram



Freedom to Organise → Right to Bargain → Better Conditions.

Private sector unions

In the Philippines, **private sector unions or labour organizations** are organized groups of employees formed for collective bargaining, mutual aid, rights protection, or other lawful purposes.

Private sector unions: formal sector

Formal sector labour organizations ("legitimate labor organizations)

Workers with an employee-employer relationship; also referred as enterprise-based unions.

Private sector unions: formal sector

National Union/Federation: Group of legitimate unions in private establishments, organized for collective bargaining, employer negotiations, or input on social and employment policies; registered with the Bureau.

Chartered Local: Enterprise-level union with legal personality through federation charter, registered with the Regional Office.

Independent Union: Enterprise-level union with legal personality through independent registration under the Labor Code.

Workers' Association: Group of workers organized for mutual aid and protection, *not* for collective bargaining.

Private sector unions: informal sector

Informal sector labour organizations:

Groups of workers without a formal employer-employee relationship. These include domestic workers and, in some cases, migrant workers who organize themselves into unions.

FOA and collective bargaining in the private sector

Local union
Enterprise or community-based, independently registered

Labour center or confederation —
Comprises various union types

Alliance
Several local unions united by industry, area, ownership, or issues

Global union federation
Unions worldwide in a specific sector or industry

Federation and national union

- *General Federation*: ≥10 unions with CBAs
- *National Union*: Federation focused on a specific industry or sector

Global union
Global alliance of national centres (e.g., ITUC membership optional)

Private sector unions: formal sector

- Collective bargaining (CB) allows organized private sector workers to negotiate employment conditions.
- Different bargaining structures worldwide influence union power, labor standards consistency, and adaptability to economic changes.
- Two common types of CB: **Single-Employer** and **Multi-Employer Bargaining (MEB).**

Key Characteristics of Single- and Multi-Employer Bargaining (MEB)

- In the Philippines, the most widely used mode remains to be the **single-employer bargaining at the company/enterprise level**, as institutionalized in the Labor Code of the Philippines, as amended and further operationalized by the Department of Labor and Employment (DOLE) Department Order No. 40-03.

Key Characteristics of Single- and Multi-Employer Bargaining (MEB)

- Despite its codification in national policy under the same DOLE issuance, **multi-employer bargaining is still underutilized**. In fact, in a study on the MEB framework, a significant gap was found between policy and practice as there are no registered CBAs executed using the MEB approach.

- Typical challenges to union work such as **employer resistance and low inter-union coordination** also affect the broader use of MEB in the Philippines.

Source: *Lifted from ILO (2015). Collective bargaining: a policy guide, pp. 35-36. https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_protect/@protrav/@travail/documents/instructionalmaterial/wcms_425004.pdf*

The Right to strike in the private sector

The right to strike — the right of workers to stop work to protect economic and social interests — is a **key aspect of freedom of association and collective bargaining**, though ILO Conventions 87 and 98 do not explicitly mention it. The ILO's CEACR recognises its integral role.

The Right to strike in the private sector

In the Philippines, the Labor Code (PD 442) covers strikes under **“concerted activities”** (Art. 263): workers may strike for collective bargaining or mutual benefit. Employers have a similar **right to a lockout during labour disputes**, provided it aligns with national interest.

The Right to strike in the private sector

However, strikes are only valid if they follow due process (Art. 278):

1. File notice with NCMB **(30 days before strike; 15 for ULP).**
2. Majority strike vote by secret ballot.
3. Report strike vote result to NCMB at least 7 days before striking.

Sources:
**Ilaw at Buklod ng Manggagwa v. NLRC, San Miguel Corporation, G.R. No. 91980, 27 June 1991, as cited in https://laborlaw.ph/strike-by-the-union-or-workers/*
***Ergonomic Systems Philippines, Inc. v. Enaje, G.R. No. 195163, 13 December 2017, as cited in* https://laborlaw.ph/strike-by-the-union-or-workers/
****Section 1, Rule XIII, Book V, Omnibus Rules Implementing the Labor Code, as cited in*

The Right to strike in the private sector

However, strikes are only valid if they follow due process (Art. 278):

The **grounds for strike** can be any of the following:

(1) **bargaining deadlocks,**

(2) **unfair labor practices, and**

(3) **flagrant violations and/or malicious refusal to comply with the economic provisions of the Collective Bargaining Agreement or CBA*****.

More details: laborlaw.ph/strike-by-the-union-or-workers

Activity

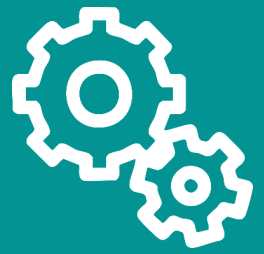
Activity M1-3. Matching Exercise on Key Terms and Concepts in Labor Relations in the Philippines

Activity M1-3. Matching exercise on key terms and concepts in labor relations in the Philippines

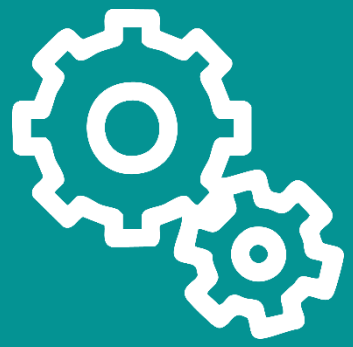
Methodology

The matching exercise is intended to supplement the learning process of the participants as it provides further information on key terms and concepts in labor relations particularly in the Philippine context. While most of the terms and concepts are applicable largely in the private sector, the exercise enables a preview of the limits and challenges of FOA and labor relations in the public sector and in the informaly economy, tackled as sub-topics subsequently in this session.

Activity M1-3. Matching exercise on key terms and concepts in labor relations in the Philippines

Timing	This activity is ideally given between the discussions on the FOA in the private sector and on the FOA in the public sector and in the informal economy.
 **Mechanics**	1. Prepare the activity sheet *(see on next page)* enough for such number of participants. The activity sheet must be printed in colored as an added aesthetic value. It will also be advantageous that it be colored for the processing of the answers.

Activity M1-3. Matching exercise on key terms and concepts in labor relations in the Philippines



Mechanics

2. Distribute the activity sheet individually to the participants. Give them 10-15 minutes to answer the activity by matching the term or concept in the colored box with the suggested legal definition below the box. The term or concept must be written in the space provided before the number.

3. Process the answers of the participants and refer back to previous Discussion Notes as required to emphasize messaging and nuances.

Activity M1-3. Matching exercise on key terms and concepts in labor relations in the Philippines

Answer Keys and Processing Guide

1. Right to self-organization. It is not right to security of tenure which is the right not to be dismissed from employment without just or authorized cause and procedural due process. The facilitator may emphasize here that the right to self-organization covers even a labor organization is still in the stage of organizing or completing their requirements for registration.

2. Unfair labor practice. The facilitator may emphasize here that not all unfair or unjust actions may be unfair labor practice but there may be discrimination on account of sex, gender, marital status, age, etc. The facilitator may give examples of discrimination. Unfair labor practice specifically relates when the unfair and unjust action relates to right to form, join or assist a union.

Activity M1-3. Matching exercise on key terms and concepts in labor relations in the Philippines

Answer Keys and Processing Guide

3. Legitimate labor organization. The facilitator may refer back to the different labor organizations in law and practice as outlined in the preceding Discussion Notes. Furthermore, the facilitator may explain the concept of affiliation which is a process where an independent union affiliate with a federation, national union or a chartered local which was subsequently granted independent registration but did not disaffiliate from its federation, reported to the Regional Office and the Bureau in accordance with Rule III, Sections 6 and 7 of DO 40-03.

4. Constitution and by-laws (CBL). It may be differentiated with collective bargaining agreement which refers to the contract between a legitimate labor union and the employer concerning wages, hours of work, and all other terms and conditions of employment in a bargaining unit. The facilitator may emphasize that the CBL governs the membership requirement, local election, officers' duties, administration funds, etc.

Activity M1-3. Matching Exercise on Key Terms and Concepts in Labor Relations in the Philippines

Answer Keys and Processing Guide

5. Check-off. The facilitator may emphasize that union dues are collected for the services that will support the well-functioning of the union. It maybe also be shared that non-union members may be assessed agency fees which can be higher than the union dues collected from union members.

6. Exclusive bargaining representative. The facilitator may emphasize that all exclusive bargaining representative must be legitimate labor organization. But not all legitimate labor organization is an exclusive bargaining representative. To be an exclusive bargaining representative it must go through the process of request for SEBA certification or certification election.

Activity M1-3. Matching Exercise on Key Terms and Concepts in Labor Relations in the Philippines

Answer Keys and Processing Guide

7. Grievance. The facilitator may explain that intra-union dispute refers to any conflict between and among union members, including grievances arising from any violation of the rights and conditions of membership, violation of disagreement over any provision of the union's constitution and by-laws, or disputes arising from chartering or affiliation of union while inter-union dispute refers to any conflict between and among legitimate labor unions involving representation questions for purposes of collective bargaining or to any conflict or dispute between legitimate labor unions.

Activity M1-3. Matching Exercise on Key Terms and Concepts in Labor Relations in the Philippines

Answer Keys and Processing Guide

8. Strike. The facilitator may emphasize the phrase “temporary stoppage of work” that is going out for example during one’s working hours. The facilitator may differentiate this with picket which is also a collective action of walking *to and from* with placards of their sentiments but there is no temporary stoppage of work because it is conducted during lunch break or after working hours. It is also differentiated from lockout which is a temporary refusal of an employer to furnish work as a result of a labor or industrial dispute.

9. Regular employment. The facilitator may emphasize that the determination of an employee’s employment arrangement (probationary, project, casual, fixed-term, seasonal) becomes relevant in the determination of appropriate bargaining unit and invocation of the right to self-organization.

Activity M1-3. Matching Exercise on Key Terms and Concepts in Labor Relations in the Philippines

Answer Keys and Processing Guide

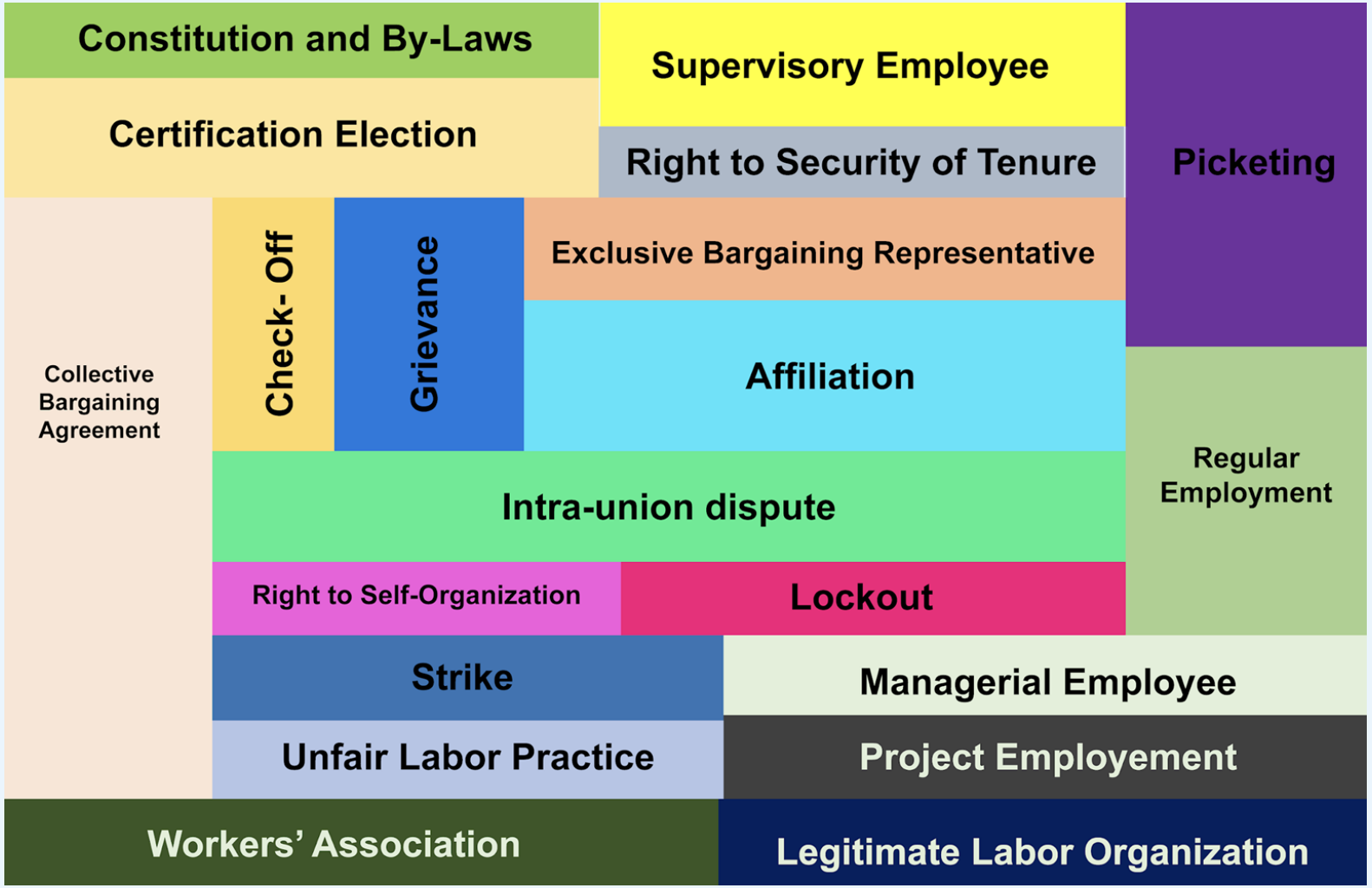
10. Supervisory employee. The facilitator may emphasize that the determination/ classification of an employee whether managerial, supervisory and rank-and-file becomes relevant in the determination of appropriate bargaining unit and invocation of the right to self-organization. The facilitator may emphasize that managerial employees can associate themselves together but not for purposes of collective bargaining. Only supervisory and rank-and-file employees can exercise right to self-organization for purposes of collective bargaining but they could not co-mingle in one union. Supervisory and rank-and-file employees may however join in one federation or national union.

Activity M1-3. Matching Exercise on Key Terms and Concepts in Labor Relations in the Philippines

Materials	Activity Sheet
Notes on adaptation to online session	*This can still be done online, via platforms like Zoom. The activity sheet can be sent to participants via the chat box or can be uploaded on an online folder to be accessed and downloaded by the participants. Alternatively, it can just be shown on the screen, and the participants may answer on a blank paper as they participate in the session remotely.*

Activity M1 -3

Match the terms provided in the box with its suggested definition stated below the box. Write your answer on the blank line provided before the number



_____ **1.** Right to form, join or assist unions, organizations or associations for purposes of collective bargaining and negotiation and for mutual aid and protection.

_____**2.** To initiate, dominate, assist or otherwise interfere with the formation or administration of any labor organization.

_____ **3.** Any labor organization in the private sector registered or reported with the Department in accordance with Rule III, Sections 2-C and 2-D of DO 40-03, as further amended.

_____ **4.** Embodies a covenant between a union and its members and constitutes the fundamental law governing the members' right and obligation.

_____**5.** A method of deducting from an employee's pay at prescribed period, the amount due the union fees, fines, or assessments.

_____**6**. A legitimate labor union duly recognized and certified to bargain collectively for all the employees in a bargaining unit.

_____**7**. Any question by either the employer or the union regarding the interpretation or implementation of any provision of the CBA or interpretation or to interpretation or implementation of company policies.

_____ **8**. Any temporary stoppage of work by the concerted action of the employees as a result of an industrial or labor dispute.

_____ **9**. An employment where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer.

_____**10**. An employee who, in the interest of the employer, effectively recommends managerial actions and the exercise of such authority is not merely routinary or clerical but requires the use of independent judgment.

FOA and collective bargaining in the public sector

FOA and collective bargaining in the public sector

- **Freedom of association (FOA) and collective bargaining (CB) are fundamental rights for public sector workers**, regardless of occupation, status, or attributes, as recognised in key ILO conventions.
- **ILO C87 (Art. 2)** upholds the right of all workers to form and join organisations freely, **except for armed forces and police** (Art. 9).

FOA and collective bargaining in the public sector

- **ILO C151 (Arts. 4 & 5)** reinforces this:
  - Art. 4: **Protects public employees from anti-union discrimination**, such as dismissal for union membership or activities.
  - Art. 5: **Guarantees independence of public employees' organisations** from public authorities and protects them from interference or control.

FOA and collective bargaining in the public sector

- **ILO C151 and Recommendation 159** guide fair labour relations in the public sector. Recommendation 159 promotes legal frameworks that **ensure meaningful participation in collective bargaining**, protect essential services, and provide impartial dispute resolution through courts, mediation, or arbitration.

FOA and collective bargaining in the public sector

- Despite these standards, **public sector FOA and CB still face challenges**, including legal and policy limits, bureaucracy, and institutional hurdles that often weaken workers' ability to negotiate better terms and protections.

Key challenges to FOA and Collective bargaining in the public sector

Strike restrictions

Many public employees, especially those providing essential services (e.g. emergency, safety, health), cannot strike. To balance this, grievance, mediation, or arbitration mechanisms are used instead.

Key challenges to FOA and Collective bargaining in the public sector

Limited Bargaining Scope

Fiscal regulations and administrative realities in the public sector also limit the extent to which employee unions or associations can bargain for better economic benefits, primarily wages. Collective negotiation agreements or CNAs may allow for the advancement of certain economic (as well as non-economic) benefits, but they continue to be limited in scope. Wage negotiations are constrained compared to the private sector, which can frustrate workers, especially during economic crises.

Key challenges to FOA and Collective bargaining in the public sector

Bureaucratic Delays

Complex procedures often delay the approval and implementation of CNAs, slowing the delivery of agreed benefits and discouraging union efforts over time.

Union Fragmentation

Multiple unions within an agency can weaken bargaining strength, create conflicting demands, and hamper effective dispute resolution and representation.

Key challenges to FOA and Collective bargaining in the public sector

Informalization

Informal employment undermines labour standards and creates disparities in job security and benefits

Budget constraints

Budget limitations affect the ability of public sector workers to organize and advocate for better conditions:

Executive Order 180

In the Philippines, only in 1987 was the right of government workers to organize effectively recognized through the issuance of **Executive Order No. 180** (its Implementing Rules and Regulations issued only in 2004).

Executive order 180

EO 108

- EO 180 establishes the primary legal framework to govern labour relations in the public sector in the Philippines.
- It enforces the 1987 Constitution's guarantee of the right to organise, sets rules for negotiations between unions and management, and designates the **Public Sector Labor Management Council (PSLMC)** to accredit unions and monitor their activities to maintain harmonious labour relations in government.

Executive Order 180

The PSLMC works with the CSC to ensure public sector workers can organise while keeping government operations efficient and services uninterrupted. As in ILO C87, some groups are excluded:

- **Armed forces**
- **Police**
- **Agents of the State or those exercising authority in the name of the State**
- **officials working in the administration of justice and the judiciary, customs officials, and similar office (no right to strike)**

(NOTE: Specific discussions on the key laws and policies on FOA and collective bargaining in the Philippines are dedicated under Session 4, Module 2 of this manual.)

Optional Discussion Point

The right to strike in the public sector

The right to strike in the public sector

In the public sector, the right to strike is more restricted than in the private sector due to limits on the right to organize. The CEACR highlights:

"Strikes are essential means available to workers... but... it is not an end in itself, but the last resort... as its consequences are serious..." (2012 General Survey, para. 117)

"The right to strike is an intrinsic corollary of the right to organize... but... it cannot be considered as an absolute right... may be subject to prohibition or conditions." (1994 General Survey, para. 151)

The right to strike in the public sector

In the public sector, the right to strike is more restricted than in the private sector due to limits on the right to organize. The CEACR highlights:

"Prohibition of the right to strike in the public service should be limited to public servants exercising authority in the name of the State." (1994 General Survey, para. 158)

"Essential services... should be defined restrictively: only those the interruption of which would endanger life, safety or health..." (1994 General Survey, para. 159)

In the public sector, the right to strike is more restricted than in the private sector due to limits on the right to organize. The CEACR highlights:

- In the Philippines, government employees are **prohibited from striking**; they can form unions but cannot stage strikes or walkouts (Bangalisan et al. vs. Court of Appeals, G.R. No. 124678, 1997).

Sources:

ILO. (2013). Freedom of association and the right to collective bargaining: training guide and materials for military,police and security forces in the Philippines.

ILO. (2019). Workers' training manual on freedom of association.

Optional Discussion Point

Key points on collective negotiation agreement (Philippine context)

What is a CNA?

A contract negotiated between an accredited employees' organization as the negotiating unit and the employer/management on the terms and conditions of employment and its improvements that are not fixed by law.

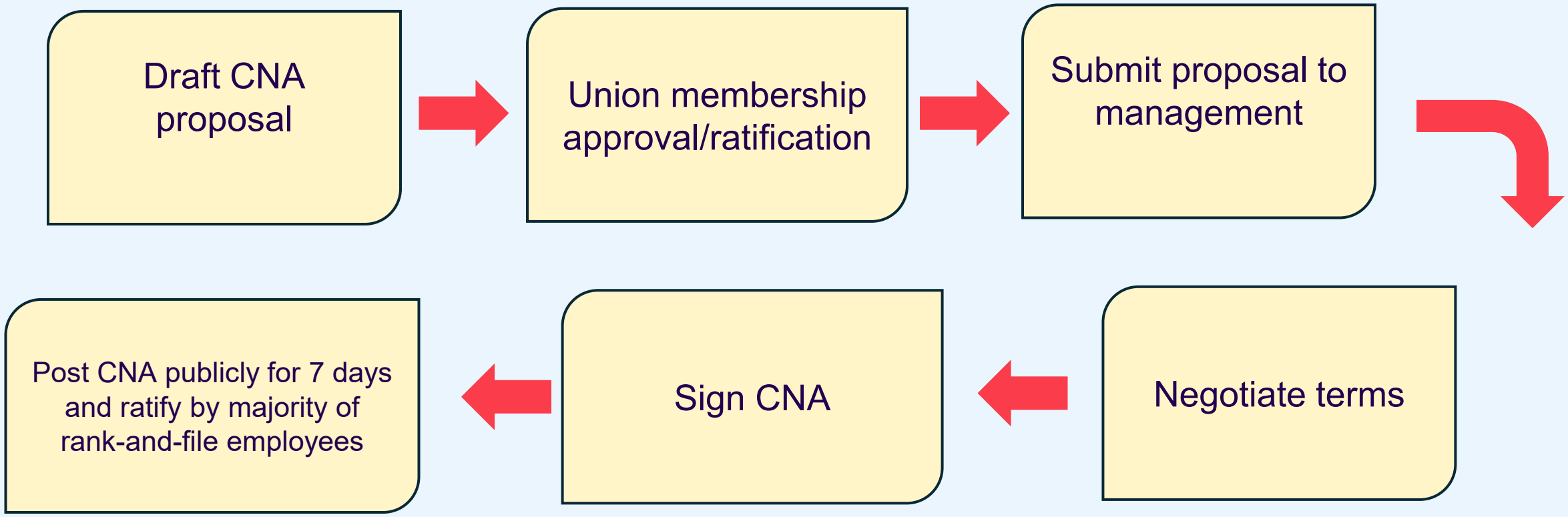
Who can negotiate?

An accredited union and management. Negotiations start within 1 year after union accreditation.

Negotiable items include:

- Schedule of vacation and other leaves
- Personal growth and development
- Communication system – internal and external
- Work assignment/reassignment/detail/transfer
- Distribution of workload
- Provision for protection and safety
- Provision for facilities for persons with disability
- Provision for first aid and medical services and supplies
- Physical and mental health programs
- Recreation, social, athletic and cultural activities
- CNA incentive (see PSLMC Resolution No. 04, s. 2002)
- Other benefits and concerns not prohibited by law and CSC rules and regulations

Steps to enter a CNA:



FOA and collective bargaining for workers in the informal economy

FOA and collective bargaining for workers in the informal economy

- International labour standards, **including ILO Conventions 87 (FOA) and 98 (CB), apply to all workers**, including those in the informal economy. Article 2 of ILO C87 affirms this right *"without distinction whatsoever,"* with only the armed forces and police as general exceptions (Article 9).
- The Rural Workers' Organization Convention, 1975 (No. 141), accompanied by its Recommendation, 1975 (No. 149), complement ILO Convention **87 on the exercise of FOA and collective bargaining by rural workers in the informal economy promoting the creation of rural organizations of workers.** While ILO R204 (2015) urges States to ensure decent work and respect FOA and CB in informal work.
- Despite this, many informal workers still face legal and practical barriers to exercising these rights — especially in developing countries where informal work is widespread and often involves women and youth* (footnote)

Source: ILO (2011). Freedom of Association and Development.

Key points on the informal economy

Informal Economy

Definition:

The informal economy covers all economic activities, jobs and workers not protected by formal laws or arrangements, including enterprise regulation and social protection.

(*Know more: ILO, 2023. Resolution concerning statistics on the informal economy*)

Who works in it?

Nearly 2 billion people (about 60% of the world's workforce) are in informal work — common roles include domestic workers, home-based workers, street vendors, market traders, and waste pickers.

(Know more: ILO, 2023. Women and men in the informal economy: A statistical update)

Informal Economy

Women:

Over 740 million women globally work in informal jobs (ILO, 2018).

(Know more: Women and Men in the Informal Economy: A Statistical Picture 3rd edition)

Informal sector vs informal employment

The *informal sector* refers to unregistered economic units. *Informal employment* means work not covered by formal protections, whether done in the informal or formal sector.

(*Know more: ILO, 2023. Resolution concerning statistics on the informal economy*)

Informal Economy

Where is it common?

Informal work is highest in low-income countries (up to 90% of workers), 82% in lower-middle-income countries, and 50% in higher-middle-income economies.

(Know more: ILO, 2023. Women and men in the informal economy: A statistical update; and Women and Men in the Informal Economy: A Statistical Picture 3rd edition)

ILO Recommendation 204 (2015)

It is vital to uphold labour rights like FOA and collective bargaining for informal workers, while also supporting their transition to the formal economy. This is the main aim of ILO Recommendation 204 (2015) — the first global standard fully addressing the informal economy. **It sets out three objectives and 12 guiding principles to guide this shift.**

Objectives

Facilitate the **transition** of workers and economic units **from the informal to the formal economy**

Promote **the creation, preservation and sustainability of enterprises and decent jobs in the formal economy** and the coherence of macroeconomic, employment, social protection and other social policies.

Prevent the informalization of formal economy jobs.

Guiding Principles of R204

- Adaptation to the **characteristics and needs of workers** and economic units and the use of tailored approaches
- Awareness of **special national circumstances**, legislation, policies, etc.
- **Adoption of various and multiple strategies**
- Reinforcement of **coherence and coordination** across a broad range of policy areas
- **Effective promotion and protection of human rights**
- Fulfilment of decent work for all

Guiding Principles of R204

- Compliance with international labour standards
- Promotion of gender equality and non-discrimination
- Special attention to the most vulnerable (women, persons affected by AIDS, persons with disabilities, domestic workers, etc.)
- Preservation of entrepreneurial potential, dynamism, skills and innovative capacities
- Importance of a balanced approach combining incentives with compliance
- Prevention of tax evason and the non-application of labour laws and regulations

ILO Recommendation 204 (2015)

To meet R204's objectives, integrated strategies emphasize FOA, social dialogue, and the role of employers' and workers' organisations.

- Ensure informal workers can freely organize and bargain collectively;
- Foster an environment for organizing, bargaining, and social dialogue in the transition to formality;
- Actively consult and involve the most representative employers' and workers' organizations, including those from the informal economy.

Promotion of FOA and right to collective bargaining

Promoting FOA and CB as practical and relevant helps both workers and employers see their value:

- FOA and CB are not just fundamental labour and human rights but **also a matter of development policy.**
- FOA and CB are **not just about workers' rights but also serve as instruments for achieving**
- State objectives of social justice and sustainable development.
- FOA and CB **contribute to economic growth, partly by improving workers' purchasing powers** and boosting domestic markets and demands.

Promoting FOA as part of economic growth and sustainable development highlights how workers' and employers' groups contribute

- They encourage **debate on economic and social policy issues**, facilitate **consultation** with a broad cross-section of **different interest groups** and **spur employment-rich growth**.

- Their agreements with government **build broad support for reforms.**

- Their agreements with government **build broad support for reforms.**

Promoting FOA as part of economic growth and sustainable development highlights how workers' and employers' groups contribute

- They help **achieve fairer income distribution** through negotiation
- Collective action helps **ensure other labour standards are upheld**.

Recap exercises

True or False

1. Workers can only organize and collectively bargain in the private sector.

True or False

2. Countries that have not ratified relevant Conventions such as C87 and C98, still assume the obligation to “respect, promote and realize” ILO principles and standards concerning FOA and the effective recognition of the right to CB.

3. This is a form of union that is enterprise-based or community-based, and independently registered.

a) Local union

b) Federation

c) Alliance

Recap Exercises

4. Name one group of workers/employees in the public sector among whom the exercise of FOA can be restricted, in accordance with ILO Convention 87.

5. Which of the following is NOT among the prohibited acts relative to FOA and the right to organize under ILO Convention 87?

a) Make the employment of a worker subject to the condition that he/she does not join a union or relinquish membership

b) Negotiate with the union on the minimum work terms and conditions, emphasizing the current capacities of the employer

c) Granting financial support to place the union under the control of the employer

Recap Exercises

Answer keys

Recap exercises: answer keys

True or **False**

1. Workers can only organize and collectively bargain in the private sector.

True or False

2. Countries that have not ratified relevant Conventions such as C87 and C98, still assume the obligation to “respect, promote and realize” ILO principles and standards concerning FOA and the effective recognition of the right to CB.

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4. Name one group of workers/employees in the public sector among whom the exercise of FOA can be restricted, in accordance with ILO Convention 87.

Armed forces / police / agents of the State

5. Which of the following is NOT among the prohibited acts relative to FOA and the right to organize under ILO Convention 87?

a) Make the employment of a worker subject to the condition that he/she does not join a union or relinquish membership

b) Negotiate with the union on the minimum work terms and conditions, emphasizing the current capacities of the employer

c) Granting financial support to place the union under the control of the employer