

From the right to “combine” to the right to organize

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From about 1750 onwards, workers had started to organize in Europe. Governments and employers reacted quickly, and laws and regulations were adopted to restrict such activities. In Great Britain, for example, the Combination Acts of 1799 remained in force for 25 years, regulating and even prohibiting workers' organizations among others.

But in time the right to “combine” gained ground. The Treaty of Versailles and the original ILO Constitution in 1919 recognized “the principle of freedom of association for all lawful purposes” among the principles on which the ILO was founded.

However, the new Organization was not immediately successful in adopting standards to give substance to this right although several attempts were made in the late 1920s. The obvious flaw of the Right of Association (Agriculture) Convention (No. 11), adopted in 1921, was that it had not defined the right to freedom of association.

Things changed when the ILO adopted its key Conventions Nos. 87 and 98 covering freedom of association, the right to organize and collective bargaining in 1948 and 1949.

Sixty years on, the two Conventions have been ratified by 149 and 159 of the ILO's 183 member States, respectively. They have also been codified in national constitutions and legislation.

Combined with strong freedom of association, sound collective bargaining practices ensure that employers and workers have an equal voice in negotiations and that the outcome will be fair and equitable. Collective bargaining allows both sides to negotiate a fair employment relationship and prevents costly labour disputes.

In 1951, the ILO added an entirely original complaints mechanism, which authorized employers' and workers' organizations to submit complaints alleging violations of the basic principle of freedom of association contained in the ILO Constitution, even when the relevant Conventions had not been ratified by the member State concerned. The work of the ILO Committee on Freedom of Association and other supervisory mechanisms ensure that freedom of association as a fundamental human right is respected the world over. The mechanism is even available in respect of complaints against non-member States.

It is important to note that the Conventions include workers' and employers' rights: a limited but important number of cases before ILO supervisory bodies have defended the latter vigorously.

Established collective bargaining practices were an element that allowed the Republic of Korea to weather the 1997 Asian financial crisis and the abovementioned complaints mechanism enabled South Africa to make a relatively peaceful transition into the post-apartheid era. ILO standards promote collective bargaining and help to ensure that good labour relations benefit everyone.

The principle of freedom of association is at the core of the ILO's values: it is enshrined in the ILO Constitution (1919), the ILO Declaration of Philadelphia (1944), and the ILO Declaration on Fundamental Principles and Rights at Work (1998). It is also a right proclaimed in the Universal Declaration of Human Rights (1948).