

**Asia and Pacific Conference on Right to Form Unions and Right to Collective Bargaining:  
A Campaign for Ratification and Implementation  
of ILO Conventions 87 and 98  
Kuala Lumpur, Malaysia: 6-8 May 2009**

## Concept Note

### Background

Trade unionists in Asia and the Pacific Region continue to face threats, discrimination, persecution and at times death in their daily work of representing union members and carrying out collective bargaining. The current economic crisis has added further challenges to the unionists who now face the reality of millions of workers being made redundant. The present crisis is also being used as an excuse to deny trade union and collective bargaining rights. The ILO Convention 87 on Freedom of Association and the Protection of Right to Organise and Convention 98 on the Right to Organise and Collective Bargaining are the basis to provide and provide for rights and protection against abuse and violation of these rights. Most of the governments in the region have not ratified either or both the conventions. This Conference is about identifying strategies and launching an aggressive campaign for the ratification of these conventions.

The first-ever international Convention on protecting freedom of association was adopted in 1948; ILO Convention 87 on Freedom of Association and the Protection of Right to Organise was adopted when the Second World War was not long over. By recognizing freedom of association, the ILO took a decisive step forward in the struggle for social justice. However, many challenges remained for trade union organizations; the 1950s witnessed the break-up of empires. Unions in the colonised countries were at the forefront of the independence struggles in Africa and Asia.

In 1960's, military dictatorships had seized power in some countries and others had tightened their grip on their people. Trade unionists were a priority target. But freedom of association, even when assailed, stifled or repressed, proved a bulwark against authoritarian regimes. People fought for freedom. People fought using it. Braving the Greek colonels, General Franco in Spain, the racist apartheid regime in South Africa, the Tontons Macoutes in Haiti, and from Bangkok to Warsaw and Prague, trade union struggle kept the torch of liberty alight. It fuelled aspirations for a more just world.

Apart from being a fundamental right, recognized as such in the 1998 Declaration on Principles and Fundamental Rights at Work, freedom of association is also a force for social progress, where unions are recognized, where they can negotiate freely, and social inequality is reduced and people live in an environment of freedom. In workplaces with a union presence, there is no room for child labour, working women's maternity rights are respected, and social protection systems are put in place. The eight-hour day, weekly rest days, paid leave, social security, equal treatment, integration of workers with disabilities – these are just a few of the gains won by trade unions on the road towards decent work and social justice. Freedom of association also brings economic and social benefits.

“Trade unions are not only important to the workers they represent. They are an essential voice, along with employers and governments for democracy and social justice, for development and for peace.” says ILO Director-General Juan Somavia. The global report on freedom of association published by the ILO this year recalls that, “Various studies demonstrate that respecting freedom of association and collective bargaining rights has a positive impact on competitiveness and economic performance...(These rights) are essential to human rights, democracy and the social and economic development of countries.”

While six thousand people still die each day due to accidents at work place and with work-related illnesses, there is no ignoring of the fact that a trade union presence and social dialogue cut the accidents by half. In 1984, trade unions in Bhopal warned of the impending disaster and could have been avoided but nobody listened. Today, many trade unionists still have to work in a hostile climate. They face

sacking of activists, arbitrary transfers, relocation threats and being turned down for jobs are their daily lot, even when they are not subject to physical threats, imprisonment or murder.

As Guy Ryder, General Secretary of the International Trade Union Confederation, points out, “Even in several rich industrialised countries obstacles are making trade union action difficult, to say the least.” Many more struggles are still to come. New areas of negotiation are opening up with the advent of the global framework agreements. Many challenges will have to be met. However, there is one thing for sure that without freedom of association, there will be neither peace nor social justice nor decent work.

## Context

Last year marked the 60 years of adoption of ILO Convention no 87 – Freedom of Association and protection of the Right to Organise. This year marks 60 years of the adoption of Convention 98 on the Right to Organise and Collective Bargaining which was adopted in 1949. It has been repeatedly stated that the original spirit behind the adoption of these two conventions is the ILO Constitution and the Declaration of Philadelphia. Moreover, the core values of these conventions have been reaffirmed by the international community notably at the 1995 World summit on Social Development in Copenhagen, in 1998 ILO Declaration on Fundamental Principles and Rights at work and its Follow Up and in June 2008 when the ILO adopted the Declaration on Social Justice for fair Globalisation.

The global report submitted to the 97<sup>th</sup> session of the ILC by the DG has outlined the immense importance of these two conventions thus:

*“These enabling rights make it possible to promote and realise decent conditions at work. Strong and independent workers organisations and the effective realisation of the right to engage in collective bargaining are major tools for engagement between employers and workers organisations to address economic and social concerns. It can strengthen weak voices and reduce poverty and social disadvantage. The exercise of these rights has a major impact on work and living conditions, as well as on the development and progress of economic and social systems.”*

It is a matter of deep indignation that even after 60 years of the adoption of ILO Conventions 87 and 98; millions of workers around the world are deprived of the fundamental rights of freedom of association and the protection of right to organise and right to collective bargaining. According to the review of annual reports presented to the GB meeting last year, “52 percent of the total labour force of ILO member states lives in four countries that have not yet ratified both these conventions (Brazil, China, India and US). This leaves many millions of workers without the protection offered by these two instruments in international law, even if the governments concerned may consider their law and practice are sufficient. The figure of ratification of these two conventions by the member states are very dismal as the report noted. “It should be a matter of concern that con 87 has now become the least ratified of all eight fundamental conventions.”

Convention 87 has been ratified by 148 of the 181 ILO Member States. But the 33 countries that have not ratified it are home to almost half of the world’s population. It is important that the trade union movement stay mobilized and help to garner increased number of ratifications. Fortunately, the ILO’s supervisory mechanisms on freedom of association apply to all member countries whether a country has ratified or not ratified the Convention. The process has helped free thousands of trade unionists from prison. Since 1951, more than 2500 complaints have been examined.

The Asia-Pacific region today presents a scenario where there is an increasing gap between the stated policies and the actual situation on the ground in so far as workers rights are concerned. The current statistics show that out of 181 member states 148 countries have ratified Convention 87 on FOA and only 15 countries from the Asia Pacific have ratified it; and 158 have ratified Con 98 and only 19 countries in the region have ratified it.

Today, workers and trade unions still have to work in a very hostile condition of discrimination, imprisonment, intimidation, harassment and physical threats. In **Bangladesh**, under the state of emergency, trade union activities had to be totally suspended since January 2007. In early September 2008, the government liberalised union activities with certain conditions e.g. permission from the

government when a union intends to organise a meeting of around 100 people, in Sri Lanka, the work of journalists are jeopardised by the military forces, some journalists were detained without court notification and some killed, in Pakistan the registration of trade unions such as the PIA union, railway unions, construction workers unions were cancelled by the government. The labour inspection system was suspended in EPZ's in Punjab and Sindh provinces. In Cambodia, trade unionists were killed and even after a few years the authorities have not been able to find the killers. Trade unionists continue to live in fear of their lives.

There are also emerging new areas of concern for the trade unions, this includes special economic zones (SEZ) where enforcement of labour law is compromised in favour of investments; the reform and dilution of labour laws in IT/ICT industries; growth of the informal economy, contract workers, supply chains; non application of standards in the informal economy; declining role of collective bargaining; lack of protection and employment security of migrant workers; legislative constraints in organising; gender inequality and discrimination; violation of human rights; existing laws do not cover all workers; lack of decent work for youth; non respect for OSH issues at work; lack of practice of social dialogue and tripartism.

The current global economic crisis is likely to increase the gap between the rich and the poor unless coordinated global action to promote growth and jobs is taken by the governments, along with measures to promote respect for workers rights. The ITUC Annual Survey on Violation of Trade Union Rights reports every year on a wide range of violations ranging from legislative barriers to the right to organize, arrests, imprisonments and killing of workers for trade union activities.

In view of the above, today we are at the historical junction, where we are marking the 60th anniversary of the adoption of ILO conventions 87 and the 98. It is an important and appropriate time now for the unions to take the responsibility to push for the ratification of the conventions and work towards a universal ratification campaign. The realisation of freedom of association and the right to collective bargaining for millions of workers including those in the informal economy should not remain a distant dream. Various studies demonstrate respecting freedom of association and the right to collective bargaining has a positive impact on competitiveness and economic performance. However, the trade union in the countries concerned must mobilise campaigns, where one must once again prove that rights are realised through struggles and not available automatically.

The following countries have not ratified Convention 87; New Zealand, Brunei, Hong Kong, Korea, Malaysia, Singapore, Thailand, China, Lao PDR, Vietnam, Afghanistan, India, Iran, Nepal, Timor Leste, Marshall Islands, Solomon Islands, Tuvalu. The following have not ratified Convention 98; Brunei, Korea, Thailand, China, Lao PDR, Myanmar, Vietnam, Afghanistan, India, Iran, Timor Leste, Marshall Islands, Solomon Islands, Tuvalu.

### **Objectives**

- strengthen trade union capacity in the areas of freedom of association (FOA) and collective bargaining (CB);
- develop a campaign strategy for the ratification and implementation of freedom of association and collective bargaining conventions;
- promote and establish structures for the implementation of Conventions 87 and 98;
- promote the integration of FOA and CB in all the DWCP's and broaden awareness and knowledge of FOA and CB

### **Expected outputs of the conference**

To identify -

- methods to intensify the campaign for promotion, ratification and implementation of the two fundamental ILO conventions;

- follow up mechanisms at national level on ILO Declaration on Social Justice for a Fair Globalisation 2008 and to mainstream the four objectives in all trade union activities;
- strategies to assist trade unions in the region to strengthen their on-going work for the respect of trade union and workers' rights through campaigns and activities, taking advantage of the special focus on freedom of association and the right to collective bargaining;
- methods of technical and organizational strategies of trade unions in Asia-Pacific to promote the ILO Conventions 87 & 98 concerning – Freedom of Association and Right to Collective Bargaining - two important rights which are essential to promoting Decent Work and extend social protection to the workers;
- strategies on most effective ways to work together as a team with National centres, ITUC-AP and Global Union Federations.

### **Place and Dates**

The Conference will take place at the Sheraton Subang Hotel and Towers, Jalan SS12/1, 47500 Subang Jaya, Selangor, Malaysia, from 6-8 May 2009.

### **Methodology**

A combination of presentations, plenary panels and group work will be used during the conference. The proceedings will be conducted in English.

### **Participants**

The Conference will bring together trade union representatives from Australia, Bangladesh, Brunei, Cambodia, China, East Timor, Fiji, Hong Kong, India, Indonesia, Japan, Republic of Korea, Lao PDR, Malaysia, Mongolia, Myanmar, Nepal, New Zealand, Pakistan, Papua new Guinea, Philippines, Singapore, Sri Lanka, Thailand and Vietnam.

In addition, colleagues from Amnesty International, Human Rights Group, Lawyers Association, Malaysia, officials and experts from ILO Geneva and the Regional Office, Bangkok, Thailand.

### **Programme**

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The draft programme is attached.