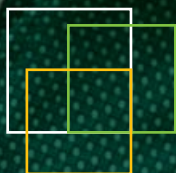




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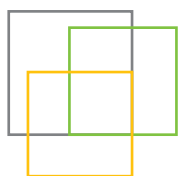
Freedom of Association for Women Rural Workers

A Manual

DECLARATION

Bureau
for Gender
Equality





Freedom of Association for Women Rural Workers

A Manual

By Ramapriya Gopalakrishnan and Ashwini Sukthankar

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FOREWORD

Freedom of association is a core right for all workers and a prerequisite for social dialogue and collective bargaining. However, most workers employed in the rural sector do not enjoy this right, and the barriers for women workers to access the right are often higher than for the men workers. In 2009 the International Labour Conference concluded its discussion on “Gender equality at the heart of decent work” by specifically mentioning that the ILO in its work for gender equality should take into account a previous discussion on the “Promotion of rural employment for poverty reduction” and work to promote the rights of rural women.

This manual is an easy-to-use, practical tool for trade unions to reach out to women workers in the rural sector to inform them of their rights and engage them in activities to promote freedom of association. It goes through the various steps on how to get in contact with the workers, how to prepare for and conduct the training, and what activities to suggest for them. The manual is a complementary tool to ILO’s “Gender Equality: A Guide to Collective Bargaining” (1998). A similar manual has also been made for women workers in Export Processing Zones, called “Freedom of Association for Women Workers in EPZs” (2011).

The manual is the result of collaboration between the Programme for the Promotion of the ILO Declaration on Fundamental Principles and Rights at Work, Bureau for Workers’ Activities, ILO Country Office in Manila, ILO Decent Work Team/Country Office in Pretoria, and the Bureau for Gender Equality. Ms. Ramapriya Gopalakrishnan and Ms Ashwini Sukthankar wrote the manual. Ms. Line Begby coordinated the project and piloting workshops. Particular thanks for comments and assistance are expressed to Mr. Edward Lawton, Ms. Lisa Tortell, Ms. Vanessa de la Blétière, Ms. Hilde Roren, Mr. Claude Akpokavie, Ms. Neliën Haspels, Ms. Hilda Tidalgo, and Ms. Inviolata Chinyangarara.

Warm thanks are also extended to the South African trade union federations, namely COSATU, FEDUSA and NACTU for sending representatives from FAWU, HOSPERSA and UNIPSAWU to the piloting workshop, and for their valuable comments and inputs to the manual. This manual was developed with support from the Government of Sweden.



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CHAPTER 1 Introduction

1.1. Women Rural Workers

Rural workers form the largest workforce in the world.¹ The term ‘rural worker’ has been defined to mean “any person engaged in agriculture, handicrafts or a related occupation in a rural area, whether as a wage earner or, as a self-employed person such as a tenant, sharecropper or small owner-occupier.”² The term ‘rural worker’ thus refers to those engaged in agriculture as well as other occupations in rural areas³ and includes within its scope both wage earners and self-employed persons.

A majority of the world’s women workers are engaged in agricultural activities in rural areas.⁴ Women agricultural workers include unpaid family workers, subsistence farmers, small-scale producers and wage workers in farms, plantations; and agro industries engaged in the supply, processing and distribution of farm products. Women in rural areas are also engaged in livestock raising, fisheries, forestry, handicrafts, trade and production of goods of different kinds and other occupations. They are often involved in multiple activities simultaneously. They may also take up different kinds of work at different times depending upon the season.

Rural women engaged in waged employment may be employed on a full time, part time or seasonal basis. They may be permanent workers, temporary workers or casual workers. They may be paid on a daily wage or piece rate basis. They may be engaged through labour contractors or be home workers.

There is an increasing presence of migrant workers in agricultural work. Women rural workers include migrants within and across national borders. Forced labour is prevalent in rural areas and women rural workers include trafficked workers, and those in debt bondage and other forced labour situations. Child labour is also widespread in rural areas and girl child workers form a significant part of the agricultural workforce.

¹ ILO, *Promotion of rural employment for poverty reduction*, 2008, p. 100 http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_091721.pdf

² Article 2 (1), Rural Workers’ Organisations Convention, 1975 (No. 141)

³ “At the international level, there is no standard definition of “rural” which would be applicable to all countries, but the size of the locality, or the smallest civil division in a country is most typical. Thus, urban areas are often defined as localities with a population of 2000 or more inhabitants, and rural areas as localities with a population of less than 2000 inhabitants and sparsely populated areas. For countries where density of settlement is not sufficient to distinguish between urban and rural areas, international recommendations propose the use of additional criteria: the percentage of the economically active population employed in agriculture, the general availability of electricity and/or piped water in living quarters, and the ease of access to medical care, schools and recreation facilities, for example. In reality, urban and rural areas form a continuum and are inextricably linked.” From *Promotion of rural employment for poverty reduction*, footnote 1 above, p. 12.

⁴ According to FAO estimates, 2/3rds of the female labour force in developing economies is engaged in agriculture. From *Rural Women in a Changing World: Opportunities and Challenges, Women 2000 and beyond*, United Nations, Division for the Advancement of Women, Department of Economic and Social Affairs, 2008, p.9 <http://www.un.org/womenwatch/daw/public/Women%202000%20-%20Rural%20Women%20web%20English.pdf>

Women rural workers are largely engaged in low income, labour intensive work in difficult conditions, and are often not covered by national labour standards in law or in practice and have little or no social or health protection.⁵

Poverty is widespread in rural areas. Workers in rural areas and their families often lack access to adequate food, housing, education and health care. The fact that rural areas often lack essential infrastructure such as roads, water, sanitation systems and energy sources also makes the working and living conditions of rural workers difficult. The situation of women living in areas suffering from drought, desertification, deforestation, armed hostilities and natural disasters is particularly difficult. Similarly, in rural areas, where there is reduced availability of land for agriculture on account of factors such as the acquisition of agricultural land by the state or other private players for non-agricultural purposes, women agricultural workers face added obstacles.

Women in rural areas face multiple forms of discrimination by reason of their sex, race, religion, caste, ethnicity, socio-economic class, HIV/AIDS status, marital status and literacy and educational levels. They experience gender based discrimination in several ways.

- ☉ They are often paid lower wages than male workers for work of equal value.⁶
- ☉ Women in agriculture have limited access to land ownership because of discriminatory laws and practices in many countries.
- ☉ They have limited access to credit, production inputs and information and training on new agricultural techniques.
- ☉ Women rural workers have fewer opportunities to improve their skills than their male counterparts.
- ☉ They are vulnerable to harassment, including sexual harassment.⁷

Women rural workers are disadvantaged in other ways as well. Unlike their male counterparts, by reason of the traditional gender roles ascribed to them, they have to shoulder the responsibility for household chores and caring for children, the aged and the sick in the family. In many countries, fetching water from rivers and wells and gathering firewood is part of their daily duties. Moreover, relative to male members of the family, women have less access to even basic necessities such as food and medical care.⁸ In addition, on account of patriarchal socio-cultural norms, their social interactions, and ability to access public spaces is often limited. The incidence of poverty is higher among women in rural areas, and as rural workers they are already among the poorest workers in the world. From this we may deduce that women working in rural areas are among the world's most vulnerable workers, suffering huge decent work deficits.⁹

⁵ ILO, *Gender-equitable rural work to reduce poverty and boost economic growth*, Policy Brief #1, 2010. http://www.ilo.org/wcmsp5/groups/public/---ed_emp/documents/publication/wcms_150830.pdf

⁶ On an average, rural women are paid 25% less than men. *Gender and Rural Employment, Policy Brief 1*, FAO, IFAD and ILO, 2010, p. 2. Online at <http://www.fao.org/docrep/013/i2008e/i2008e01.pdf>

⁷ See note 5 above.

⁸ Bina Agarwal; *Are We Not Peasants Too? Land Rights and Women's Claims in India*, SEEDS, Population Council, New York, 2002, p. 4

⁹ *Gender equality at the heart of decent work*, International Labour Office, Geneva, 2009, pp. 23-25



1.2. Decent Work

The International Labour Organization (ILO) has recognized that there is an urgent need to promote decent work for rural workers. Decent work refers to opportunities for men and women to obtain productive work in conditions of freedom, equity, security and human dignity. The ILO's Decent Work Agenda stresses the following four objectives: creating jobs, guaranteeing rights at work, extending social protection and promoting social dialogue.¹⁰ The right to

organize is the key enabling right and the gateway to the exercise of a range of other rights at work.¹¹ In other words, freedom to associate and organize is the entry point to the achievement of decent work.

The organization of women rural workers into trade unions can benefit them in several ways. It could:

- ⊙ Enable them to engage in collective bargaining with their employers, which could result in higher wages and better terms and conditions of employment, including a safer work environment;
- ⊙ Empower them to raise their voice collectively against gender inequalities at the workplace.
- ⊙ Allow them to participate in social dialogue in tripartite processes involving the government; employers and workers;
- ⊙ Enable them to take collective action to ensure that governmental programmes for rural workers are implemented in a gender equitable manner.

¹⁰ For more information, see <http://www.ilo.org/global/about-the-ilo/decent-work-agenda/lang--en/index.htm>

¹¹ ILO, *Your voice at work*, 2000, para. 62 http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_publ_9221115046_en.pdf

However, on account of various obstacles to the free exercise by rural workers of their right to freedom of association, trade union membership has traditionally been low,¹² particularly for women.¹³ Furthermore, women's participation in decision making in trade unions is low when compared to membership.¹⁴ As a result, the needs and concerns of women members are often not adequately represented by unions.

1.3 Purpose of the Manual

The manual is designed as a practical guide to assist trade unions planning to conduct training programmes for women rural workers on their rights to freedom of association. It is intended for use by trainers selected by trade unions to conduct such programmes. The trainers could either be trade union staff or an outside facilitators. It may be used to train women workers in rural areas who have no prior experience of unionization or to help equip rural women workers who are already members of trade unions to effectively exercise their rights.

The manual:

- ☉ offers suggestions on how the trainer could prepare for the training and structure and plan the training programme;
- ☉ contains information on international labour standards concerning the freedom of association of rural workers and gender equality;
- ☉ provides an overview of the typical obstacles to organizing workers in the rural sector; and
- ☉ offers ideas that may help women rural workers develop strategies to overcome these obstacles.

This manual is designed as a global tool and so cannot address the many details that will be particular to one country. As a result, trainers will have to work with it and adapt it extensively.

The manual focuses only on the freedom of association and does not cover collective bargaining related issues. It is intended to complement the ILO publication, *Gender Equality: A Guide to Collective bargaining*.¹⁵

¹² It is estimated that less than 10% of the agricultural wage workers in the world are represented by trade unions or rural workers' organizations. See ILO, *Decent work in Agriculture*, r 2003, p. 5. http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---actrav/documents/meetingdocument/wcms_112419.pdf

¹³ See footnote 5 above.

¹⁴ For example, see *Gender and Law*, FAO Legislative study, 76, Rev.1, 2nd edition, p. 124 where it has been pointed out that even while women's membership in the Zimbabwe Farmers' Unions is to the extent of 75%, the number of women officers is only to the extent of 5%. Also see ILO, Pong-Sui Ahn (ed.), *Organizing for Decent Work in the Informal Economy*, 2nd edition, 2007, pp. 34-35

¹⁵ *Gender Equality: A Guide to Collective Bargaining*, ILO, Geneva, 2002 http://www.ilo.org/actrav/what/pubs/lang--en/docName--WCMS_113700/index.htm

CHAPTER 2 Note to the Facilitator

This section contains suggestions on how the trainer could prepare for the training and plan the training programme. It also contains suggestions regarding the training methods that could be used.

2.1. Preparation

The trainer will need to be prepared to convey information on:

- ⊗ International labour standards concerning the freedom of association of rural workers, outlined in chapter 3 of this manual.
- ⊗ Constitutional provisions, domestic labour laws and laws specific to workers in the rural sector, if any, relating to their right to freedom of association.
- ⊗ International labour standards concerning gender equality that have been outlined in chapter 3 of this manual
- ⊗ Constitutional provisions and national laws concerning gender equality.

The trainer should be prepared to discuss

- ⊗ The gaps in the domestic law that hinder the full enjoyment by women rural workers of the right to freedom of association guaranteed under ILO Conventions Nos. 87 and 98. The kinds of legal obstacles discussed in chapter 3 of the manual could serve as a guide to identify such gaps. The observations of the ILO's Committee of Experts on the Application of Conventions and Recommendations in respect of the country's application of the guarantees of Conventions Nos. 87, 98 and 141 under the law and in practice would also help identify such gaps;
- ⊗ The various practical challenges to the effective exercise by women rural workers of their right to freedom of association. The kinds of practical challenges discussed in chapter 3 of the manual could serve as a guide to identify such challenges in the national context;
- ⊗ The gaps in domestic law in the context of gender equality;

Furthermore, as the social, cultural and political environment in the concerned country/state/province could add to the challenges of organizing women workers in rural areas, the trainer will also need to be familiar with these aspects.

2.2. Analyzing the Context

In preparation for the training, the trainer will need to analyze the specific context of the country/area. S/he would need to check whether the country in question has ratified ILO Conventions Nos. 87, 98 and 141.¹⁶ S/he will also need to learn about the background of

¹⁶ For more information on this see the ILOLEX Database for International Labour Standards, online at <http://www.ilo.org/ilolex/english/>

the trainees. Some questions that the trainer could ask herself to reflect on the situation and prepare for the training are listed below.

National Legislation Concerning the Freedom of Association of Rural Workers

- ⊙ Do rural workers in the country have the constitutional right to form and join organizations of their own choosing?
- ⊙ Does national legislation permit all categories of rural workers, including self employed workers to form and join trade unions?
- ⊙ If not, which categories of rural workers are excluded?
- ⊙ Does national legislation permit migrant rural workers to form and join trade unions?
- ⊙ Does national legislation afford protection to rural workers against acts of anti-union discrimination?
- ⊙ Does national legislation afford protection to rural workers' organizations against acts of interference by employers and/or their representative organizations?
- ⊙ Do rural workers have collective bargaining rights under the law?
- ⊙ Does national legislation protect rural workers' right to strike?

Environment for Organizing

- ⊙ Is the overall political environment in the country conducive to the formation of rural workers' organizations?
- ⊙ Are state policies and employer policies conducive to the formation of rural workers' organizations, in particular, trade unions?
- ⊙ What are the challenges that rural workers in the country face in forming and joining organizations of their own choosing?
- ⊙ Are there any additionally challenges that women rural workers face in this regard?
- ⊙ Do the labour administration authorities and labour inspectors generally take a serious view of violations of the right to freedom of association of rural workers?
- ⊙ Are the means of investigating and addressing allegations of anti-union discrimination and acts of interference in the country speedy and effective?

Types of Rural Workers' Organizations

- ⊙ What are the kinds of organizations that rural workers in the country generally form and join?
- ⊙ What kinds of trade unions do women rural workers in the country generally form and join?

The Socio-Economic Status of Women Rural Workers

- ⊙ Does national legislation prohibit gender discrimination and promote gender equality in the world of work?

- ⊙ Do women in the country enjoy land inheritance rights on par with men under the law and in practice?
- ⊙ Do women in rural areas generally earn lower wages than men?
- ⊙ Are women in rural areas poorer than women living in urban areas?
- ⊙ Relative to the men in their communities, are women in rural areas in the country disadvantaged in terms of access to food, housing, education and health care?
- ⊙ Are women in rural areas in the country primarily responsible for household work and child care?
- ⊙ Are men in rural areas automatically considered the 'head of the family'?
- ⊙ Are rural women conditioned to be non-assertive and to follow the men in decision making?
- ⊙ Are their social interactions limited and their ability to access public spaces limited by cultural norms?
- ⊙ Is rural women's mobility limited?
- ⊙ Are rural women considered suitable only for certain kinds of work?
- ⊙ What is the level of literacy of women rural workers in the country?
Is it significantly different from that of male rural workers?

Background of the Workers

- ⊙ In which language are the workers concerned proficient?
- ⊙ Are they functionally literate?
- ⊙ What kind of schooling have they had? What levels of reading and writing skills do they have?
- ⊙ Are they engaged in agriculture, forestry, fisheries, handicrafts, or other occupations?
- ⊙ Are they wage-earners or self-employed workers?
- ⊙ Are they permanent/temporary/casual/seasonal workers?
- ⊙ Are they employed through contractors/sub-contractors?
- ⊙ Are they full time/part time workers?
- ⊙ Are they home workers?
- ⊙ Are they migrant workers?
- ⊙ If so, are they undocumented migrant workers?
- ⊙ Do the women rural workers concerned belong to historically marginalized communities?
- ⊙ Are they disadvantaged in terms of their race, religion, ethnicity or caste?
- ⊙ Do they belong to trade unions or other rural workers' organizations?
- ⊙ Do they belong to other community organizations, women's organizations etc.?

Following the analysis of the women workers' situation, the framework for the training should be planned accordingly.

2.3. Outreach to the Women Workers

The trade union will have to conduct an assessment of the socio-economic status of the workers, the kinds of social groups they belong to, what issues are important to them, and what their degree of literacy and rights-awareness is. On the basis of these factors, the trade union may want to choose any or all of the following strategies to reach out to the workers:

- a) **Building trust and contacts with women workers by offering them services that they may need.** Such services could include literacy classes, health camps, savings and credit groups, and legal aid. These activities will develop relationships among women workers, and bring them into regular contact with the union. In addition, group activities such as savings and credit, or self-help, will lead to women workers learning skills related to working collectively, electing representatives, and conducting meetings. These skills will be critical to their future role as empowered members of unions. Such groups and networks will also lead to workers developing a greater understanding of solidarity, and a greater ability to identify issues and concerns that are common to them all. This is also an important step towards unionization.
- b) **Seeking the assistance of women's organizations that may already be working with women rural workers.** Such organizations may have an existing agenda to advance women rural workers' rights or may be providing community-level services that women rural workers use, such as crèches. In either case, the trade union may be able to rely on trust relationships and networks that have already been established between the workers and such organizations, especially where the organizations recognize, as they must, that they are not a substitute for trade unions.
- c) **Promoting the visibility of the union.** If the union conducting this training is already organizing rural workers, it may wish to publicize any campaigns it may be conducting on particular issues of importance for rural workers. If workers are made aware that the union is involved in challenging unfair laws or employment policies and practices that violate the rights of rural workers – it will help reassure them about the union's good faith and willingness to stand up for issues important to them. In addition, organizing campaigns where workers are able to join may be a possible preliminary to bringing them together for training. However, the union may wish to be careful about engaging in actions which may be more confrontational or risky than what the workers are prepared for.
- d) **Advertising the training programme, through posters and leaflets.** It is important that these materials be comprehensible to women rural workers. Where workers have low levels of literacy, posters and leaflets should include drawings, photographs or other images. Where the materials are attempting to convey a sense of some of the issues that workers may wish to come together to discuss, such as low wages or harassment, it is important that they represent actual experiences at the workplace, rather than abstract ideas or exaggerations. This will maximize the potential for women to identify with the issues depicted, and seek to act collectively.
- e) **Organizing initial gatherings at the community level.** It may be unrealistic to seek out women at the workplace, and if they believe that a training or empowerment process is putting their jobs at risk, it may even alienate them from further involvement. It may be preferable to avoid holding the meeting in a union hall. If there is any reason to be concerned that there is social stigma related to women's involvement in trade unions, or if travel to the union's office involves a long journey, meetings held in the community may be more accessible and less threatening. Women who are initially reluctant to participate may be more willing to attend when they see neighbors and friends on their way to the gathering. It is even possible for workers who are already involved in the training process, and/or the trainers themselves, to go door-to-door to encourage other women to attend.

Recruit women trainers and organizers to facilitate. It is critical that the meetings be led primarily (or even solely, depending on the socio-cultural environment) by women, since women workers in some regions may be initially hesitant to engage with men. In addition, if the meeting space constantly reinforces traditional power relations between men and women, with men in positions of authority and leadership, it is unlikely that it will lead to greater empowerment of women workers, or lead to their more active participation in the union. When training sessions are conducted by both male and female trainers, care must be taken to avoid gender stereotypes such as the male trainer taking the lead role and the female trainer acting as his assistant.

2.4. Planning the Training Programme

- While planning a training programme, i.e. the number of sessions over which the training should be conducted, the duration of each session, and the teaching methods to be adopted, a host of factors should be taken into consideration. These include:
  - The time the participants can spare for the training;
  - Their levels of literacy and education
  - Their levels of rights awareness; and
  - Their prior experience with trade unions.
- The schedule should take women's work schedules and household responsibilities into account. Considering the various demands on the time of women rural workers, training sessions could be kept short.
- The training sessions should be held in an environment where the workers feel at ease.
- The venue where the training is to be conducted should be easily accessible to the workers.
- Care should be taken to ensure that disabled workers have easy access to the place so that they may also have the opportunity to benefit from the training.
- It is preferable that the training be conducted in the language which the trainees are proficient in so as to avoid relying on interpreters.

2.5. Training Methods

- Rather than merely informing the participants about their rights, the obstacles to the exercise of their rights and possible strategies for overcoming them, a participant-centred approach should be adopted. Active learning methods drawing on the experience, skills and knowledge of the participants should also be applied.
- Research indicates that 90% of the information communicated is retained when a combination of **Sound, Sight, Discussion and Practice (SSDP) methods** is used during training sessions.¹⁷ The trainer/facilitator should therefore aim at using a combination of sight, sound, discussion and practice methods in every session. For instance, a session in which there is a brief oral presentation (sound) with the aid of a blackboard (sight), followed by an opportunity for the participants to ask questions and discuss the subject

¹⁷ <http://actrav.itcilo.org/english/library/socdiag/v02025.htm>

(discussion) and to engage in role plays based on the subject taught (practice) includes all the four elements of the SSDP formula.

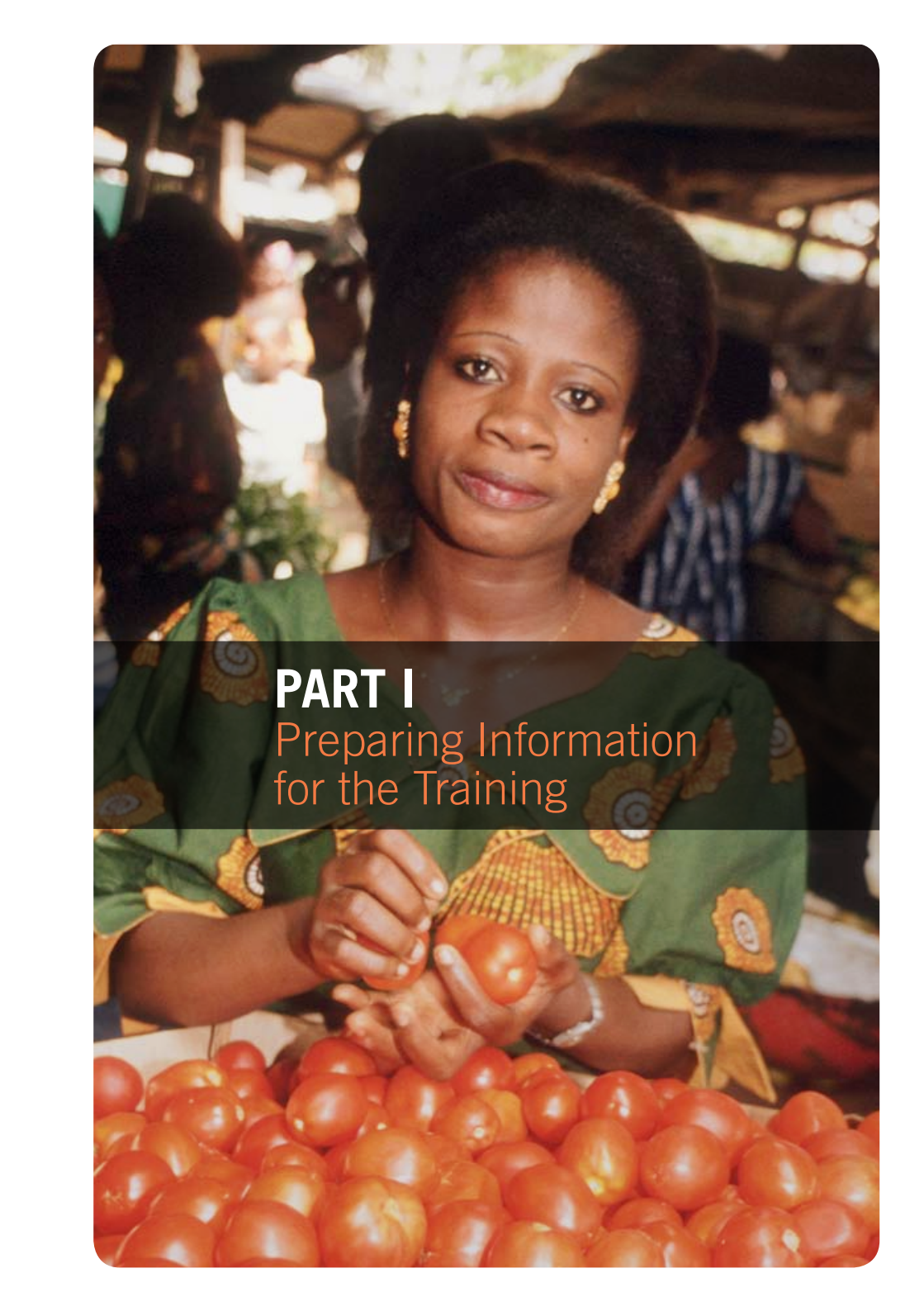
- The trainer should use **examples and case studies** to illustrate the points made in the oral presentation.
- Keeping in mind the need for adoption of SSDP methods during training sessions, the trainer/facilitator could use the following **aids**: a blackboard/chalkboard; flipcharts; pictures and posters, information leaflets/ booklets, textbooks; tape recorders/CD players; a slide projector; and short films/videos, in particular those depicting workers' struggles etc.
- Ideally the training materials should be developed in consultation with members of the target group.
- Training sessions should be as **interactive** as possible. To facilitate discussion, the trainer must ensure that the participants have ample opportunity to state their thoughts on the subject, ask questions and seek clarifications. When the participants are reticent, the trainer could **promote discussion** by asking them questions.
- The participants who have personal experiences to narrate that are of relevance to the subject taught should be encouraged to tell their **stories**.
- As **role plays, games and other such practical exercises** can facilitate easy assimilation of the points made in the training session, the trainer should devise appropriate practical exercises for each session. Role plays could either be performed by a few participants or by the entire class by dividing them into groups. The participants in the role play should be clearly informed about what they are expected to do. Each role play session should be followed by a discussion of the lessons learnt from the session.
- **Theatre, music and other innovative methods** could also be used during the training sessions.

2.6. Evaluation

At the end of the training, there should be an evaluation session and/or an evaluation form to complete, whereby the trainer gets feedback from the participants about their satisfaction with the programme. The trainer should also assess the effectiveness of the techniques adopted in the training sessions and make recommendations for the future.

2.7. Follow-up

With a view to encourage participants to apply what they have learnt, the trainer could ask the participants to draw up action plans and motivate them to take action accordingly. While the trainer ought to motivate the participants to take action, s/he should also serve as the devil's advocate by challenging participants on their plans. In particular s/he should ensure the plans are specific, achievable, relevant and time-bound.

A woman with dark skin and hair, wearing a green dress with yellow and orange patterns, is shown from the chest up. She is smiling slightly and looking towards the camera. She is holding two red tomatoes in her hands, and a large pile of red tomatoes is in the foreground. The background is a blurred market scene with other people and structures.

PART I

Preparing Information for the Training

This section of the manual focuses on two different types of information that the trainer ought to cover. The first concerns internationally-recognized *rights*, namely ILO Conventions and Recommendations that are relevant to organizing and to women workers. The second type of information deals with the range of *obstacles* to these rights including laws, employer practices, and social norms, which the trainer may have to research based on the guidelines offered.

CHECKLIST

This section asks that trainers review and prepare materials around each of the following:

The ILO Instruments on Freedom of Association and Gender Equality:

- ✓ Freedom of Association and Protection of the Right to Organize Convention, 1948 (Convention No. 87)
- ✓ Right to Organize and Collective Bargaining Convention, 1949 (Convention No. 98)
- ✓ Equal Remuneration Convention, 1951 (Convention No. 100)
- ✓ Recommendation concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, 1951 (Recommendation No. 90)
- ✓ Discrimination (Employment and Occupation) Convention, 1958 (Convention No.111)
- ✓ Discrimination (Employment and Occupation) Recommendation, 1958, (Recommendation No. 111)
- ✓ Workers with Family Responsibilities Convention, 1981 (Convention No. 156)
- ✓ Workers with Family Responsibilities Recommendation, 1981 (Recommendation No. 165)
- ✓ Maternity Protection Convention, 2000 (Convention No. 183)
- ✓ The ILO's supervisory bodies: the Committee on Freedom of Association and the Committee of Experts on the Application of Conventions and Recommendations

National legal and practical obstacles to organizing in the area where the trade union programme is taking place:

- ✓ Laws that are at variance with the guarantees contained in the international legal instruments referred to above (whether ratified by the government in question or not: however if at variance with a ratified instrument, it clearly provides a better window for action).
- ✓ Employers' anti-union practices
- ✓ Weaknesses in the enforcement of laws. These may be at the level of labour inspection, adjudication of complaints, or implementation of court decisions.
- ✓ Particular challenges for women

CHAPTER 3 Understanding the International Framework for Women Rural Workers' Rights

The facilitator should share information on the right to freedom of association and collective bargaining, as rights in domestic law and in international law in simple ways. The relevant ILO Conventions and Recommendations that apply to women rural workers are briefly summarized below. The trainer/facilitator ought to emphasize that the principles discussed below are an integral part of workers' internationally recognized fundamental rights.

3.1. Freedom of Association

The right to freedom of association enables workers to form and join trade unions, groups and associations, to protect and further their interests. It has been proclaimed as a basic human right of every person under the Universal Declaration of Human Rights, 1948.¹⁸

The Preamble to the Constitution of the International Labour Organization (ILO) states that recognition of the principles of freedom of association is vital for the improvement of the conditions of labour and the achievement of universal and lasting peace. The Declaration concerning the aims and principles of the ILO called the 'Declaration of Philadelphia' affirms that freedom of association is essential to sustained progress. Thus, the very membership of a State in the ILO carries with it the constitutional obligation to respect freedom of association in law and in practice.

The right to freedom of association is also guaranteed under the international labour standards developed by the International Labour Organization (ILO). The international labour standards of the ILO are formulated on a tripartite basis, that is, by representatives of governments, employers and workers and are adopted at the international labour conference of the ILO.

While the ILO's Conventions are binding on the countries that ratify them, its Recommendations are non-binding guidelines. A country ratifying a Convention is required to take measures under the law as well as in practice to apply its provisions. In some countries, when a Convention is ratified, it automatically becomes a chapter of the national law without any need for further specific legislation to give effect to its provisions. On the other hand, in some countries, laws have to be enacted to give effect to the provisions of the Convention.

The two main Conventions of the ILO that protect the freedom of association are the Freedom of Association and Protection of the Right to Organize Convention, 1948 (Convention No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (Convention No. 98). They are two among the eight Conventions identified by the Governing Body of the ILO as fundamental Conventions requiring universal observance.

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¹⁸ Article 23 (4)



Freedom of Association and Protection of the Right to Organize Convention, 1948 (Convention No. 87)

The Convention guarantees the following rights:

- a) The right of all workers and employers, without any distinction, to form and join organizations of their own choosing, without prior authorization.**

Thus, all categories of workers including temporary workers, seasonal workers, contract workers, part time workers, migrant workers, self employed workers and home workers would have the right to form and join organizations of their own choosing.

- b) The right of workers' and employers' organizations**

- ⊙ to draw up their constitutions and rules;
- ⊙ to elect their representatives in full freedom;
- ⊙ to organize their administration and activities; and
- ⊙ to formulate their programmes.

The right of workers' organizations to organize their activities in full freedom and formulate their programmes also includes the right to organize peaceful demonstrations and protest marches to defend their occupational interests. The ILO supervisory bodies have emphasized that freedom of assembly and demonstration constitutes a fundamental aspect of trade union rights.

- c) The right of workers' and employers' organizations against dissolution or suspension by administrative authority.**
- d) The right of workers' and employers' organizations to establish and join federations and confederations and to affiliate with international organizations.**
- e) The right to strike.**

The right to strike is not been explicitly referred to in the Convention. However, the ILO supervisory bodies have considered the right to strike to be an intrinsic element of the right to organize guaranteed under the Convention.

Convention
No. 98

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

The Convention:

a) affords protection to workers against acts of anti-union discrimination,

The right of workers to form and join organizations of their choice and engage in trade union activities is severely curtailed when employers resort to acts of anti-union discrimination. Unjust dismissals, suspension, transfer and demotion of workers are examples of such acts.

The Convention protects workers against acts of anti-union discrimination. Such discrimination could include, for example, telling workers that they will only be employed if they agree not to join a union, or dismissing workers who participate in trade union activity.

The ILO supervisory bodies (see section 3.3.) have considered that such protection is particularly desirable in the case of trade union officials in order for them to be able to perform their trade union duties in full independence.

The ILO supervisory bodies have emphasized that legislation should explicitly and through adequate sanctions protect all workers against all acts of anti-union discrimination at the time of recruitment and during the employment relationship. They have also stressed the need for rapid and effective legal procedures to ensure such protection in practice.

b) affords protection to workers' and employers' organizations from acts of interference against each other,

The Convention provides that workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or each other's agents in their establishment, functioning or administration. It specifies that acts which are designed to promote the establishment of workers' organizations under the domination of employers' organizations or to support workers' organizations by financial or other means, with the object of placing such organizations under the control of employers or employers' organizations, shall be considered as acts of interference.

Offering bribes to union members to encourage their withdrawal from union membership, or the creation of "company unions" that support management decisions rather than representing workers, are examples of such acts of interference.

c) recognizes the collective bargaining rights of workers.

The Convention requires member states to take appropriate measures to encourage and promote collective bargaining between workers' organizations and employers or employers' organizations in order to regulate the terms and conditions of employment by means of collective agreements.



Rural Workers' Organizations Convention, 1975 (Convention No. 141)

Recognizing the need for specific international standards to encourage the formation of rural workers' organizations, the Rural Workers' Organizations Convention (No. 141) was adopted by the ILO in 1975.

As indicated earlier, the Convention defines the term 'rural worker' as any person engaged in agriculture, handicrafts or a related occupation in a rural area, whether as a wage earner or, as a self-employed person such as a tenant, sharecropper or small owner-occupier.¹⁹

The Convention affirms the right of all categories of rural workers to establish and join organizations of their own choosing without prior authorization. It applies to all types of organizations of rural workers, including organizations that are not exclusively representative of rural workers. It provides that rural workers' organizations shall be independent and voluntary in character and remain free from all interference, coercion or repression.

The Convention provides that ratifying states should, as an objective of national policy concerning rural development, facilitate the establishment and growth, on a voluntary basis, of strong and independent organizations of rural workers as a means of ensuring their participation in economic and social development. It also requires ratifying states to eliminate obstacles to the establishment and growth of rural workers' organizations and the pursuit of their lawful activities.

3.2. Gender Equality

Gender equality refers to the enjoyment of equal rights, opportunities and treatment by men and women in all spheres of life. In the context of decent work, gender equality refers to the equality of opportunity and treatment, equality of remuneration and access to safe and healthy working environments, equality in association and collective bargaining, equality in obtaining meaningful career development, maternity protection, and a balance between work and home life that is fair to both men and women. Gender equality is a matter of human rights and social justice.²⁰

The key international labour standards concerning gender equality are contained in ILO Conventions Nos. 100, 111, 156 and 183 that are briefly discussed below.

¹⁹ The ILO's Committee of Experts on the Application of Conventions and Recommendations has interpreted the term 'rural worker' in a wide manner. For instance, it has considered muster assistants (workers that provide water or medical facilities at work sites) engaged through an Employment Guarantee Scheme and workers engaged by the Government to run child care centres in villages as rural workers in "related occupations." see CEACR, 1993, 63rd session, Convention No. 141, observation, India and 2006, 77th session, Convention No. 141, observation, India.

²⁰ ILO, *ABC of Women Workers' Rights and Gender Equality*, 2nd edition, 2007, pp.91 - 92 http://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_087314.pdf

ILO Convention No. 100 on Equal Remuneration (1951) requires ratifying states to promote the principle of equal pay for men and women workers for work of equal value. It applies to basic wages and all other payments, both direct and indirect. Recommendation No. 90 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (1951) requires appropriate action to be taken in consultation with workers' and employers' organizations to ensure rapid application of the principle for equal pay for work of equal value in all occupations.

ILO Convention No. 111 on Discrimination (Employment and Occupation) (1958) requires ratifying states to adopt national policies to eliminate discrimination in access to employment, training and working conditions, on grounds of race, colour, sex, religion, political opinion, national extraction, social origin or any other ground which the tripartite constituents agree on, and to promote equality of opportunity and treatment in employment or occupation. Recommendation No. 111 concerning Discrimination in Respect of Employment and Occupation (1958) requires such national policies to be applied by means of laws and collective agreements between representative workers' and employers' organizations, among other measures.

ILO Convention No. 156 on Workers with Family Responsibilities (1981) recognizes the need for workers to balance employment related and family responsibilities with the objective of promoting equal treatment and opportunity for men and women in employment. Recommendation No. 165 concerning Equal Opportunities and Equal Treatment for Men and Women: Workers with Family Responsibilities (1981), requires appropriate measures to be taken to ensure that the terms and conditions of employment are such as to enable workers to reconcile their employment and family responsibilities.

Non-discrimination against women cannot be guaranteed unless their right to combine motherhood with employment is ensured. ILO Convention No. 183 on Maternity Protection (2000) entitles pregnant workers to maternity leave of a minimum of 14 weeks of which at least six weeks shall be after child birth. Convention No. 183 prohibits dismissal of workers on maternity leave. It entitles women workers to medical benefits and cash payments during maternity leave and nursing breaks during work. As per Recommendation No. 191 concerning Maternity Protection (2000), member states should endeavour to extend the period of maternity leave to at least 18 weeks.

3.3 ILO Supervisory Mechanisms

The ILO Declaration on Fundamental Principles and Rights at Work of 1998 requires all the Member States of the ILO, even if they have not ratified Conventions No. 87 and 98 to respect, promote and realize them, in good faith and in accordance with the Constitution of the ILO.²¹

The Committee of Experts on the Application of Conventions and Recommendations (CEACR) regularly reviews the application of the standards by ILO member states that have ratified them. The Committee on Freedom of Association (CFA) is a special supervisory mechanism which specifically examines complaints of violation of the standards contained in Conventions Nos. 87 and 98.²² The principles enunciated in the ILO Conventions referred to above have been interpreted and developed by these supervisory mechanisms. More information can be found in Annex A.

²¹ <http://www.ilo.org/ilolex/english/iloconst.htm>

²² More information about the supervisory mechanisms can be found in the *Guide to International Labour Standards*, International Training Centre of the ILO, 2008. See "Supervising the application of standards," pp. 260-276. http://training.itcilo.it/its/materials/public/English/Guide_ILS.pdf

CHAPTER 4 Obstacles to Organizing

To get a general overview of the existing national laws and regulations regarding employment, ILO's Employment Protection Legislation Database (EPLex) can be useful.²³

There are several legal impediments as well as practical challenges hindering the free exercise of the right to freedom of association by rural workers, male as well as female. In addition, there are some impediments specific to women rural workers.

4.1. Legal Barriers

Legal barriers to the free exercise of right to freedom of association of rural workers are specific to rural workers or of a more general nature. In order to assess whether the right to freedom of association of rural workers are adequately protected by the legal framework of the country concerned, the trainer would need to check:

- a) **Whether the domestic law of the country fully protects the rights guaranteed by Conventions Nos. 87 and 98?**
- b) **Whether there are any barriers under the law for the exercise by rural workers, in particular women rural workers, of their right to freedom of association?**
- c) **Whether there is state machinery in place for:**
  - ⊙ Labour inspection and investigation;
  - ⊙ The resolution of disputes and complaints of violations, through courts, arbitration bodies or other independent fora;
  - ⊙ The recognition of workers' organizations; and
  - ⊙ Fast and effective means of investigating and addressing allegations of anti-union discrimination, with appropriate sanctions and remedies.



²³ http://www.ilo.org/dyn/epl/termmain.showCountry?p_lang=en&p_country_id=143

The trainer should examine national legislation, state/provincial laws and local ordinances, and other relevant regulations applicable to workers in the rural sector, to check for violations. Materials could then be prepared to present the legal barriers in a way that the group of women rural workers will be able to easily understand. The major kinds of legal impediments to the free exercise of right to freedom of association by rural workers are briefly discussed below. To find more information about specific countries and ILO's recommendations and notes on issues such as freedom of association, the trainer can consult the database ILOLEX for comments and ratification lists.²⁴

a) Exclusion of Rural Workers from the Scope of the Law

The right of rural workers to form and join organizations of their own choosing is by and large protected under the national laws of ILO member states. However, in some countries, some categories of agricultural workers have been excluded from the coverage of national laws guaranteeing the right of workers to form and join trade unions such as in Jordan, Pakistan and Uganda.²⁵ In the provinces of Alberta and Ontario in Canada, agricultural workers have been excluded from the scope of provincial laws protecting the right of workers to form and join trade unions.²⁶ In Bangladesh and Honduras workers in small farms have been excluded from the scope of such laws, and in Turkey self employed workers are excluded.²⁷

b) Restrictions on the Right to Form and Join Unions.

It is common for workers to migrate from one country to another for agricultural work. The laws of some countries restrict the right of migrant workers to form and join trade unions. For instance, in Algeria, the right to establish a trade union is restricted to persons who are Algerian by birth or have had Algerian nationality for at least 10 years.²⁸ Some countries prescribe a condition of reciprocity for migrant workers to exercise trade union rights. For instance, the Labor Code of the Philippines permits migrant workers with valid permits to join trade unions subject to the condition that they are nationals of a country that grants the same or similar rights to Filipino workers.²⁹

In some countries, minors who have attained the legal minimum age for admission to employment can join trade unions only after obtaining the explicit permission of their parents or guardians.³⁰

c) Restrictive Legal Requirements for the Establishment of Trade Unions

The prescription of a high minimum membership requirement under the law for the establishment of trade unions can impair the free establishment of rural workers' trade unions. Nigeria and Philippines are examples of countries considered by the CEACR as being remiss in this respect.³¹ Legal provisions requiring prior authorization from the

²⁴ <http://www.ilo.org/ilolex/english/>

²⁵ See CEACR, 2009, 80th session, Convention No. 98, observation, Jordan; CEACR, 2010, 81st session, Convention No. 87, observation, Pakistan; CEACR, 2010, 81st session, Convention No. 11, Direct request, Uganda

²⁶ See CEACR, 2009, 80th session, Convention No.87, observation, Canada

²⁷ See CEACR, 2010, 81st session, Convention No. 87, observation, Turkey

²⁸ See CEACR, 2009, 80th session, Convention No. 87, observation, Algeria

²⁹ See CEACR, 2010, 81st session, Convention No. 87, observation, Philippines

³⁰ Central African Republic is an example of such a country. see CEACR, 2009, 80th session, Convention No. 87, observation, Central African Republic

³¹ See CEACR, 2010, 81st session, Convention No. 87, observation, Nigeria and CEACR, 2010, 81st session, Convention No.87, observation, Philippines

authorities for the establishment of trade unions can also impair the free establishment of rural workers' trade unions.

d) Restrictions on Trade Union Pluralism

A few countries have laws that impose a system of trade union monopoly. This could curtail the rights of rural workers to form and join organizations of their choice. For instance, in Brazil, the law prohibits the establishment of more than one trade union to represent the same occupational or economic category in the same territory.³²

e) Restrictions on the Right of Trade Unions to Form and Join Federations

The right of trade unions representing rural workers to form and join federations may be impaired if the law requires that all trade unions belong to any particular federation,³³ or if it imposes excessively high requirements on the formation of federations.³⁴

f) Other Restrictions on the Rights of Trade Unions

Legal restrictions on the right of trade unions to freely draw up their own constitutions and rules; to freely elect their representatives; to freely organize and control their internal and financial administration; or the right to freely organize their activities and programmes could hinder trade unions from effectively functioning and protecting the interests of their members.

g) Restrictions on the Right to Strike

In some countries there are legal restrictions on the right to strike for rural workers, such as a prohibition on strikes by agricultural workers during the harvest, as in Chile. Restrictions on the right to strike are sometimes imposed by classifying agriculture or agriculture related industries as 'essential services.' For example in Dominica, banana, citrus and coconut industries have been classified as 'essential services.'³⁵

The right to strike may also be impaired if the law prescribes excessive pre-requisites to calling a strike, provides for compulsory arbitration to prevent or end strikes, or imposes excessive penalties in the case of unlawful strikes.

h) Inadequate Protection against Anti-Union Discrimination and Interference

In some countries, while rural workers may be permitted to form and join trade unions, they may not be afforded protection under the law against acts of anti-union discrimination, and their organizations may not enjoy protection against acts of interference. India is an example of such a country.

Even when the law affords protection against acts of anti-union discrimination and interference, the protection afforded may not be adequate if the law does not provide for speedy and effective procedures to address complaints of anti-union discrimination or interference and effective remedies in such cases. For instance, the protection may be defined as inadequate if the law does not provide for reinstatement of unjustly dismissed workers, or appropriate punishment for employers who refuse to hire, or unlawfully dismiss workers exercising their rights.

³² ITUC, *Annual survey of violation of trade union rights*, Brazil-2011. <http://survey.ituc-csi.org/Brazil.html?lang=en#tabs-3>

³³ Such a restriction appears to be in place in Jordan; see ITUC, *Annual survey of violation of trade union rights*, Jordan-2011 <http://survey.ituc-csi.org/Jordan.html?lang=en#tabs-3>

³⁴ For example, see CEACR, 2010, 81st session, Convention No.87, observation, Philippines

³⁵ See CEACR, 2009, 80th session, Convention No.87, observation, Dominica

i) **High Percentage Requirements to Secure Recognition**

High percentage requirements in some countries for unions to secure recognition or bargain collectively adversely affect workers in various sectors, including in the rural sector. The Dominican Republic, Ecuador, Fiji, Jamaica, Lebanon, Peru, Swaziland, Uganda and Venezuela are examples of countries where such requirements could potentially deter workers from forming or joining trade unions of their choosing.

j) **Restrictions on Access for Trade Union Representatives**

The law may make it difficult for trade union officials to meet with workers in plantations, farms and other establishments by imposing unreasonable requirements for a trade union to have access to the employer's premises to recruit members. For instance, as per the Labour Relations Act (No. 66 of 1995) of South Africa, only officials of a trade union that is 'sufficiently representative' of the employees in a workplace are entitled to enter the employer's premises in order to recruit members.³⁶

The absence of legal provisions providing for access for trade union representatives to workers in the employer's premises could also make it difficult for unions to organize rural workers considering that many rural workers actually live in the farms and plantations where they work.

k) **Legal Obstacles Specific to Women Workers**

While there may be no explicit discrimination under the law against women workers in relation to the right to organize, other discriminatory legal provisions, such as parallel legal systems or a discriminatory Family Code that perpetuate women's unequal status, can add to the challenges of organizing women rural workers. In a few countries women's access to employment is limited by laws requiring one's husband's authorization to work outside the home, as in Syria. In Indonesia, a married woman requires the authorization of her husband to sign an employment contract. In the province of Oaxaca in Mexico, a married woman can work outside the house only if this does not prejudice her primary responsibility as housewife.³⁷ In countries where such legal restrictions are in place, it may be more difficult for women rural workers to freely exercise their right to form and join organizations of their own choosing.

In agrarian societies, the social status and ability of women to advocate for their rights is linked to the right to ownership and control of land. Thus, laws that discriminate against women in relation to ownership and control of land may affect their exercise of other rights. Moreover, even when national legislation stipulates that women have equal access as men to property and equal inheritance rights, customary law and traditions often make it difficult for women to enforce these rights.

Aside from such national or provincial laws, women's participation in collectives such as agricultural cooperatives and farm associations may be restricted by their internal by-laws that make membership conditional on land ownership, or by stipulations that make them open only to the head of the household.

³⁶ Sections 11 and 12 read together impose such a requirement.

³⁷ FAO, *Gender and Law: Women's Rights in Agriculture*, FAO Legislative Study, 76, Rev.1, 2005, pp.99, 101 and 121

4.2. Practical Challenges

Even when the freedom of association of rural workers is protected under the law, in practice, the workers may face several challenges in forming and joining organizations of their own choosing and exercising their other right to freedom of association. These may include the unlawful practices often adopted by employers. The trainer will need to identify the specific practical challenges in the national context, requiring him/her to be familiar with employers' attitudes, employer practices and with the workings of the labour inspection system and enforcement and adjudication mechanisms. The major practical challenges to the free exercise by rural workers of their right to freedom of association are briefly discussed below.

Lack of Access

It is common for plantation and farm workers to live on a property owned by the employer. Employers often deny union organizers' access onto farms and plantations making it difficult for trade union representatives to establish initial contact with workers, inform them about their rights, and recruit them as members of trade unions. At times, they threaten union organizers to dissuade them from entering farms. There have even been instances when union organizers have even been illegally detained for trespassing onto farms.³⁸

Precarious Nature of Work

As they lack job security, precarious workers such as temporary workers, seasonal workers and workers engaged through contractors and labour brokers face greater challenges in organizing themselves and engaging in union activities. Precarious employment is widespread in the rural sector and women are often engaged in precarious work in much larger numbers than men.³⁹ It is very easy for employers of precarious workers to hire and fire them. Thus, precarious workers could immediately stand to lose their jobs if they joined a union or engaged in union activities. Apart from losing their jobs, they could also lose their housing if they happen to live on farms or plantations where they are employed. The threat of losing their jobs and/or housing can dissuade precarious workers from joining a union or engaging in union activities.

Anti-Union Discrimination

The adoption by employers of anti-union discriminatory practices such as unjust dismissals, suspensions, transfers of trade union officials and members, and the maintenance of blacklists by employers to screen out workers who are unionized from employment, present a serious challenge to the free exercise of trade union rights by rural workers. In the case of workers who live on farms or plantations along with their families, threats by the employer of eviction or denial of burial rights may also dissuade them from joining unions or engaging in union activities.

Acts of Interference

The rights to freedom of association of rural workers are also curtailed when employers resort to acts of interference. The establishment of solidarity associations by employers with a view to undermine representative rural workers' organizations is an example of an act of interference. Giving economic incentives only to workers who are not unionized is another example of an act of interference.

³⁸ Human Rights Watch, *Ripe with abuse, Human rights conditions in South Africa's fruit and wine industries*, 2011, pp.72-73

³⁹ FAO, *Gender dimensions of rural and agricultural employment: differentiated pathways out of poverty*, 2010 <http://www.fao.org/docrep/013/i1638e/i1638e00.htm>

Violence against Trade Union Officials and Members

Officials and members of rural workers' organizations can, in some countries, be subjected to intimidation, physical attacks, torture and brutal killings by employers and by the armed forces, the police, paramilitary forces and armed bands acting at the instance of employers to dissuade them from engaging in union activities. In addition, the police often use disproportionate force to disperse workers engaging in peaceful protests, demonstrations and strikes. Violence against trade unionists is a serious impediment to the exercise of their trade union rights.

Arrests and Detention of Trade Union Officials and Members

Arbitrary arrests and detention of officials and members of rural workers' trade unions by the police on account of their engaging in trade union activities present another serious challenge to the exercise of trade union rights by rural workers.

Lack of Effective Enforcement of the Law

Workers in rural areas can effectively exercise their freedom of association and collective bargaining rights only when there is an effective system of labour inspection and when they are able to easily access labour law enforcement mechanisms including the courts. It is also essential that these enforcement mechanisms function in a speedy and impartial manner and that their decisions be promptly implemented. An effective system of enforcement of criminal law also needs to be in place to ensure that complaints of threats, harassment and violence are promptly investigated by the police and that penalties imposed on those found guilty of such acts. The lack of effective enforcement of the law may mean that employers and others acting at their behest can engage in anti-union acts and violence with impunity. Unfortunately, labour inspection is often weak and law enforcement ineffective in rural areas.



4.3. Socio-Economic Barriers

The trainer will need to examine the context-specific socio-economic barriers to the organization of rural workers, such as those listed below:

Lack of Awareness and Low Levels of Literacy

The lack of awareness of their right to freedom of association, and to the benefits of union membership may act as an impediment to rural workers joining unions. Negative images of unions can also deter the organization of rural workers. In rural areas where access to education is difficult and levels of literacy are low, there is a greater likelihood of such lack of awareness. The incidence of illiteracy is greater among women, who comprise two out of every three adults who cannot read or write.⁴⁰

Poverty

Poverty is high in rural areas and the incidence of poverty is higher among women, relative to men.⁴¹ When people are struggling for survival, they may not have the time or energy to engage in forming unions or participating in union activities.

Geographical Dispersion

Rural workers are geographically scattered in different places, some of which are remote and roads and transportation systems are often underdeveloped. Thus, the geographical dispersion of rural workers can also be a barrier to collective action.

Lack of Homogeneity

Rural workers are engaged in different occupations and in a variety of employment arrangements. The lack of homogeneity in the sector is also a factor accounting for their low levels of organization and unionization.

The Situation of Migrant Workers

In the case of migrant workers, apart from the aforesaid factors, the fact that they may not speak the language of the country or province of employment reduces their scope to get organized. In addition, women migrant workers at times face restrictions on their mobility and social interactions. Curfews stipulated for women migrant workers and restrictions on their receiving visitors imposed by employers are examples of such restrictions.

The fear of encountering problems with the employers or the police may also prevent migrant workers from exercising their right to freedom of association. In the case of undocumented migrant workers, the fear of deportation may act as an additional deterrent.

⁴⁰ <http://www.un.org/apps/news/story.asp?NewsID=35859&Cr=literacy&Cr1>

⁴¹ FAO, "Gender dimensions of rural and agricultural employment: differentiated pathways out of poverty", 2010 <http://www.fao.org/docrep/013/i1638e/i1638e00.htm>

4.4. Specific Challenges to Women Rural Workers

Apart from the kinds of obstacles discussed above, women workers may face additional constraints on account of patriarchal, social and cultural norms and stereotypes related to gender roles.

Women rural workers are usually expected to perform multiple roles. They are expected to manage the home and do the household work including cooking, cleaning and fetching water and firewood. They are considered the primary care givers for children, the aged and the sick. In addition, they are expected to shoulder other family related responsibilities including arranging for funerals, weddings and other social events. Apart from all this, they may have to cope with heavy occupational workloads. As a result, women rural workers may have little time and energy for union activities.

Moreover, in patriarchal societies, women may be expected to be subservient to men in the family as well as to male employers. Social and cultural norms in such societies may condition women to be non-assertive and follow the men in the family, particularly their husbands in decision-making. In addition, there may be restraints on the mobility of women, and their ability to access public spaces and engage in social interactions. Such factors could limit the ability of women to exercise their right to freedom of association.

Even when women workers in such societies do join trade unions, it may be difficult for them to access leadership positions on account of stereotyped notions that only men are fit for leadership or make better leaders than women. Women themselves may have internalized such stereotypes on account of their socialization and be reluctant to aspire for leadership.



PART II

Conducting the Training

Below is a suggested outline for the training in two parts. The first section (see chapter 5) offers an outline for the trainer to share some preliminary information and promote some initial discussion. It offers an approach whereby women workers participating in the training can arrive at own analysis of the obstacles they face. The second section (see chapter 6) offers an outline to facilitate a discussion among the workers about developing strategies to overcoming obstacles to freedom of association.

CHECKLIST

This section envisions that the training will involve information-sharing and discussion of the following areas:

- ✓ A discussion on preliminary concepts, especially the difference between sex and gender
- ✓ A presentation of the key elements of workers' rights under international law, and an overview of relevant domestic law
- ✓ Discussions of the problems that women workers face in their own workplaces
- ✓ Information and discussion about what a union is, how it is formed, and how it could help address violations in the workplace
- ✓ Trainer and workers looking together at the laws to see whether they present an obstacle to organizing. Also, are there problems with the legal framework particularly relevant to women workers?
- ✓ Discussion of state enforcement mechanisms – inspection, adjudication and implementation – with a particular focus on women workers' experiences with the system
- ✓ Discussion of employer policies and practices – both legal and illegal – in terms of obstacles to organizing
- ✓ Discussion on the social environment, such as gender stereotypes, as it may enable or inhibit organizing

Developing strategies for organizing

- ✓ Describing strategies such as collective bargaining, advocacy, litigation, and/or the ILO supervisory mechanisms, and discussing if, how and when to use them
- ✓ Reviewing the possible focus points of a collective strategy – the state, the employer, society and unions – and discussing possible ways of approaching and engaging them.

CHAPTER 5 Discussing the Rights and the Violations

The suggested outline below divides the training, roughly speaking, into four portions:

- 1) What are your rights, as workers and as women?
- 2) What are the most common violations of women workers' rights, in your workplace?
- 3) What is a union, and how could a union help?
- 4) What are the main obstacles for women EPZ workers to exercise freedom of association and to forming/joining a union, and how might you overcome them?

Throughout the training it will be important to combine sharing information with facilitating discussion, to make the session as interactive as possible. The mode of presentation may vary – posters, booklets with drawings, plays or songs, for example, are all good ideas – but it is important to consider carefully what formats will work best for each specific audience.

5.1. Why is Gender Relevant?

The trainer could begin discussing the subject by asking their participants to share their thoughts on what it means for them to be coming together at the training as women workers. The trainer could thereafter explain the basic difference between sex and gender⁴² and facilitate a discussion on gender stereotypes, and how they can lead to discrimination. Role plays could be used. Materials produced by the ILO can be useful in shaping this, including “Gender Mainstreaming Strategies in Decent Work Promotion: Programming Tools”.⁴³

This could be followed by a brief introduction to the ILO and its international labour standards. The tripartite character of the ILO - that it works with governments, workers' and employers' organizations - to promote the rights of workers should be emphasized. The trainer could then present the key elements of the international labour standards relating to gender equality, outlined in chapter 3 of this Manual.

⁴² While sex refers to the universal biological differences between men and women, gender refers to the differences that are determined by culture and environment and change over time and across societies.

⁴³ ILO, 2010, pp. 9-11 http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_143849.pdf

5.2. Workers' Rights

Trainers should discuss the key elements of international labour standards, as well as domestic law, as outlined in chapters 3 and 4.

A possible way of generating a discussion around rights issues could include alternating between sharing information, and asking questions. Discussion could be framed around topics such as:

- ⊙ What are your rights at work?
- ⊙ What are your rights as women workers?

The trainer may wish to mention some of the ways in which domestic laws may not be in conformity with international standards, based on the preparatory research, and try to engage workers in discussion. The issue will also come up again for discussion later, when considering obstacles to freedom of association.

5.3. Problems in the Workplace

An initial discussion on the problems faced by the workers would help them identify and understand the commonalities of their experiences and concerns and the need to act collectively. The trainer should make a note of the issues raised so that they could be incorporated into the later discussions on reasons to organize and the obstacles to organizing.

5.4. Unions, and How They Can Help

Given that many women rural workers would not have had much prior exposure to trade unions, it may be necessary to begin the training session with preliminary information on the need for solidarity among workers and how membership of a union could help them.

The trainer could point out that workers are always at a disadvantage when they fight for their rights as individuals. When they get together and collectively fight for their rights, their power is increased and they are in a better position. They can collectively negotiate with their employer to secure better terms and conditions of service. They are also better placed to enforce other rights guaranteed to them by the law.

The trainer could thereafter briefly explain what a trade union is. A trade union is an organization created and run by workers to protect their rights. Members of trade unions pay subscription fees to the union and this generally provides the financial resources needed to run unions. The officials and members of registered trade unions are entitled to certain rights and privileges afforded under national laws.

The trainer could also point out that:

- ⊙ There is a legal framework in place in most countries to support negotiation through trade unions and to protect the agreements arrived at with employers through collective bargaining.
- ⊙ As democratic organizations with established procedures, unions have the potential for greater accountability than other forms of association. The law also generally contains provisions to protect the independence of unions and for ways of challenging non-independent structures.
- ⊙ Trade unions can form federations and confederations and be affiliated to organizations at the international level, enabling workers to have a voice not just at the local level but also at the national and international levels.

The trainer should also acquaint the participants with the various types of trade unions that represent rural workers. The types of trade unions that rural workers join include:

- ⊙ occupational trade unions, the membership of which is confined to workers engaged in a particular occupation, for example, agricultural workers' unions or weavers' unions
- ⊙ general workers' unions having rural workers also as their members
- ⊙ unions exclusively for women workers.

Agricultural workers' trade unions include:

- ⊙ unions whose members are wage earners in agriculture
- ⊙ unions of self-employed agricultural workers
- ⊙ unions of workers engaged in the cultivation of a single crop
- ⊙ unions representing the workers of a single enterprise.



The trainer could begin by facilitating a discussion of women workers' hopes and expectations about a union in their workplace. Subsequently, the trainer may wish to address one or more of the following:

- ⊙ The union's role in negotiating with employers on wages and terms and conditions of work, and representing the interests of workers in tripartite processes involving employers and the government.
- ⊙ The union's role in addressing issues of particular concern to women workers such as equal pay for work of equal value, maternity leave and benefits, child care issues, gender-based discrimination and sexual harassment.⁴⁴

⁴⁴ *Gender Equality: A Guide to Collective Bargaining*, ILO, Geneva, 2002 http://www.ilo.org/actrav/what/pubs/lang-en/docName--WCMS_113700/index.htm

- ⊙ The union's role in providing support on individual grievances, disciplinary action, and dismissals.
- ⊙ Collective action, directly addressing the employer through strikes, or making a broader point through public protest.
- ⊙ The union's role beyond the work place. The trainer may want to point out that unions have been involved in broader campaigns such as that of education for all, eradication of child labour, eradication of poverty, HIV/AIDS prevention and the promotion of human rights. Unions have also supported people's struggles for democratic rights.⁴⁵



Trainers should draw on their research with respect to domestic law to convey information about the legal requirements for establishing a trade union. The trainer would need to share information concerning:

- ⊙ Eligibility of different categories of workers for membership of trade unions: The trainer will need to inform the participants about the types of rural workers that are eligible for membership of a union under the domestic law, including information about whether contract workers, temporary workers, part time workers, seasonal workers, workers in small enterprises, home based workers, self employed workers and migrant workers are eligible for union membership.
- ⊙ Minimum membership requirements: The trainer will need to inform the participants about the minimum number or percentage of workers stipulated by the law for the establishment of a union.
- ⊙ Other prescribed requirements for the establishment and registration/certification of trade unions: The trainer will need to inform the participants about the requirements prescribed under the law for registration/certification of trade unions such as that of;
  - framing the constitution/statute/bye-laws/regulations of the union as prescribed by the law
  - election of officials/office bearers of the union
- ⊙ The process of applying for registration/certification: The trainer will need to inform the participants about the prescribed process of applying for registration/certification of a trade union, including the forms that need to be completed and the documents that need to be furnished to the concerned labour authorities. The trainer could also inform the participants about the procedures to be adopted in the case of any unreasonable refusal by the authorities to register the union.
- ⊙ Recognition: The trainer will need to convey information about the legal requirements, if any, for the union to secure recognition by employers/employers' organizations and the procedures involved.

⁴⁵ For example, the Congress of South African Trade Unions (COSATU) participated in the struggle against apartheid in South Africa.

The trainer will need to inform the participants who do not belong to any union that they could either choose to join an existing trade union representing women rural workers or form a new trade union, if it is permissible under the law and if they wish to. In countries where the law places restrictions on trade union pluralism, the trainer will need to inform the participants about such restrictions and the circumstances under which they could establish and secure registration/certification for a new union.

5.3. Other Types of Organizations

Apart from trade unions, rural workers form and join other kinds of collectives including peasant associations, producers' associations, cooperatives, self help groups, susu groups, credit unions and women's groups. Rural workers may also be members of local community organizations, religious associations or other cultural groups. They may belong to political organizations.

Drawing upon the experiences of the participants in forming and joining trade unions or other kinds of organizations, the trainer could facilitate a brief discussion that would enable the participants to understand and appreciate the differences between trade unions and other kinds of collectives that rural workers form and join. It would also help them understand why unions have an important role to play, even for those who are members of other associations or groups.

Given that cooperatives, self help groups, susu groups and credit unions have empowered rural women in many countries, these kinds of collectives are briefly described below.

Cooperatives

A cooperative is an association of persons who have voluntarily joined together to achieve a common objective. They make equitable contributions to the capital required. The profits earned from the project are equitably distributed among the members. Rural workers have formed different types of cooperatives such as agricultural producers' cooperatives, dairy cooperatives and weavers' cooperatives. Women-only cooperatives have also been formed.⁴⁶

Self Help Groups

A self help group is formed when a group of persons from a common socio-economic background voluntarily come together to serve the different needs of their members such as savings and credit groups, or how-to-start-a-business groups. Self-help groups help economically empower poor women workers.

Susu Groups

Susu groups are savings groups formed by people in rural areas who have little or no access to formal banking facilities. Susu groups help people save and gain access to credit, with group members arranging for collection and payment.

Credit Unions

A credit union is a cooperative microfinance organization usually formed by people living in the same village or neighbourhood to promote savings and provide credit at reasonable rates to its members.

⁴⁶ The ILO *Promotion of Co-operatives Recommendation* (Recommendation No. 193) requires special consideration to be given to increase the participation of women at all levels, particularly at the management and leadership levels of cooperatives. It also stipulates that national policies on cooperatives should promote gender equality in cooperatives and their work. <http://www.ilo.org/ilolex/cgi-lex/convde.pl?R193>

5.6. Analyzing the Legal Framework

The trainer should emphasize that freedom of association, including the right of workers to form and join trade unions is a basic human right, i.e. a right that all human beings have simply because they are human beings, regardless of their race, colour, sex, language, national origin or political belief.

Thereafter, the trainer could present the key elements of the relevant international labour standards contained in ILO Conventions Nos. 87, 98 and 141 that have been discussed in chapter 3 of this Manual. The fact that all ILO member states have a constitutional obligation to respect and observe the right to freedom of association, as per the ILO Declaration on Fundamental Principles and Rights at Work, 1998 should be emphasized.

Following this, the right to freedom of association of workers under the Constitution of the concerned country and/or under domestic legislation could be discussed. The trainer may wish to mention some of the ways in which domestic laws may not be in conformity with international labour standards. The issue will also come for discussion again later, while considering obstacles to the exercise of right to freedom of association.

5.7. Obstacles to the Free Exercise of Right to freedom of association by Rural Workers

The trainer will need to firstly point out that domestic law may not always be in conformity with the relevant international labour standards. Furthermore even when the domestic law is in conformity with international standards, workers may not enjoy right to freedom of association in practice. The trainer could thereafter lead a discussion on the legal impediments and practical challenges to the free exercise of right to freedom of association as experienced by the women rural workers themselves.



The trainer could introduce the subject by pointing out that legal obstacles to the exercise of right to freedom of association by rural workers are of two kinds:

- (a) Those specific to the rural sector: e.g. a prohibition on workers in small farms employing less than 10 workers joining unions, and
- (b) Those of a more general nature: e.g. a prohibition on foreign or migrant workers employed anywhere in the country joining unions is a legal obstacle of a more general nature.

The trainer could then give the participants an overview of the kinds of possible legal impediments that exist to the free exercise of right to freedom of association by rural workers, which have been set out in chapter 3 of this manual. The kinds of legal impediments enumerated in chapter 3 of the manual include:

- (a) Impediments to the organization of rural workers, and
- (b) Impediments to the exercise of right to freedom of association even after they are organized; for instance, restrictions on the right to strike.

Thereafter, based on an analysis of the relevant national and state/provincial laws, the trainer could highlight the actual legal impediments, if any, to the exercise of right to freedom of association by rural workers in the country, and in particular women rural workers.

While discussing the legal obstacles, the trainer may wish to point out how legal restrictions on the right to organize for a particular category of workers in the rural sector such as workers engaged through a contractor or migrant workers could affect all workers.

After discussing the legal impediments, if any, under national legislation, the trainer could cite examples of such restrictive legal provisions that have been repealed and legislative reforms that have come about as a result of workers' struggles and the intervention of the ILO (see Appendix B).



The trainer will need to point out that it is not enough that right to freedom of association be protected under the law. It ought to be respected in practice, and the state should also have the political will to enforce the law.

The trainer could lead a discussion on the following issues:

- ⊙ employers' attitudes to unionization;
- ⊙ the increase in precarious employment and its impact on unionization;
- ⊙ employer practices, such as denial of access to union organizers, anti-union discrimination, acts of interference, and threats and violence that act as obstacles to the exercise of right to freedom of association by rural workers;
- ⊙ labour inspection in rural areas and its efficacy;
- ⊙ the enforcement mechanisms available under the law to deal with complaints of violation of the law;
- ⊙ the accessibility of the mechanisms, the effectiveness of their procedures, and the time taken to address such complaints;
- ⊙ the role of the judiciary; and
- ⊙ the implementation of the decisions of the courts and other statutory bodies.

The trainer may ask the workers to share their fears, if any, about victimization and harassment by the employer if they attempt to organize themselves. The trainer may wish to ask participants who have had personal experience of confronting anti-union discrimination and interference to share their stories. The trainer could also ask the participants to share their perceptions about how the inspection and enforcement mechanisms work.

The trainer should encourage the workers to organize themselves despite such challenges. Citing examples of trade unions of rural workers that have been established in spite of such challenges, and that have succeeded in getting benefits such as wage increases and better health and safety conditions may be helpful. Citing case studies of unions that have successfully dealt with cases of anti-union discrimination would also be helpful.



Problems in Law Specific to Women Workers

Drawing upon research of the relevant domestic laws, the trainer could highlight any laws in force, if any, that have the effect of discrimination against women. It is suggested that the trainer thereafter lead a discussion on the impact of laws that perpetuate the unequal status of women and hamper their ability to freely exercise their rights, including their right to freedom of association and collective bargaining.

While facilitating a discussion on the subject, the trainer could refer to the struggles, if any, by women workers in the country to secure legislative reforms.



Social Environment

The trainer will need to make the participants aware that the social environment of women workers could also act as an obstacle to unionization and participation in trade union activities. The trainer could facilitate a discussion on how gender stereotypes impact women's lives in the family as well as workplace context.

Considering that the participants may come from different religious, regional, ethnic and linguistic backgrounds, the trainer will have to carefully handle the conversation so as to ensure that none of the participants feel judged or mocked by other participants or by the trainer.

It is suggested that the trainer also bring up the issue of how gender stereotypes prevent women from assuming leadership roles. While discussing the issue, the trainer could cite examples, particularly from the local context, of women who have emerged as successful leaders, defying such stereotypes.

5.8. Organizing Women Rural Workers

The trainer could facilitate a discussion on effective methods to organize women rural workers. Possible strategies include the following:

- a) Making women rural workers aware of the benefits of acting collectively, the benefits of unionization and their right to freedom of association. Awareness camps, meetings and training sessions could be held for this purpose. Interacting with the workers at their homes to inform them about the benefits of unionization may be advisable when workers find it difficult to attend meetings/camps on account of their work-related and domestic responsibilities. Community radio could also be used for the purpose.
- b) Apart from bringing about such awareness among women rural workers themselves, it may also be necessary to convince their spouses and other family members about the need for them to join unions.



- c) Such awareness could also be brought about by information campaigns using the audio-visual and print media; through the publication and distribution of posters, leaflets and booklets; and by using street theatre and other innovative methods

Apart from such rights based approaches, women rural workers could also be organized using a service-based approach or through a combination of a rights-based and service-based approaches. For example, unions could:

- i. provide workers with vocational training or skills development or income generating programmes. The beneficiaries of such programmes could be educated about their labour rights and encouraged to join a trade union;
- ii. help workers form self-help groups and cooperatives. The formation of self help groups could aid the socio-economic empowerment of poor women workers. Once they benefit from self-help groups, the workers could gradually be encouraged to join a trade union;
- iii. enable workers to avail the benefits of welfare and rural development schemes and gradually encourage them to join a trade union to protect their rights; and
- iv. undertake welfare oriented activities such as the provision of drinking water or health care services or child care facilities at their place of work. The goodwill generated by such activities can aid organizational efforts.

Aside from such strategies, trade unions representing women rural workers may need to review their constitutions/statutes/bye-laws so as to ensure that membership of the union is open to all categories of women rural workers. Taking into consideration the poverty of women rural workers, the membership subscription rates may also need to be lowered. The option for payment of a one-time subscription could be considered.

The trainer could cite examples of unions that have successfully used such strategies to organize rural workers.

5.9. Representation of Women in Decision Making Bodies

The trainer could point out that in trade unions representing men and women workers, women are generally underrepresented at the leadership level and in decision making bodies. The trainer could ask the participants to identify the factors that in their view are responsible for this. Such factors include:

- ⊙ Stereotyped ideas about women's abilities, preferences and roles. The assumption that women are incapable of making decisions independently and performing a leadership role is an example of such a stereotype.
- ⊙ Women's lack of confidence in their own abilities
- ⊙ High rates of illiteracy among women
- ⊙ Discouragement or hostile reactions from male colleagues or family members.
- ⊙ Family responsibilities borne by women workers
- ⊙ The high proportion of women who work overtime
- ⊙ Lack of child care facilities that make attendance at union meetings difficult for women.

5.10. Representation of Women Workers in Trade Unions

Having identified the factors responsible for the under representation of women in decision making bodies and at leadership levels of trade unions, the trainer could ask the participants to share their thoughts about how to increase the participation of women workers in male-dominated trade unions. Possible measures could include:

- ⊙ Framing a policy aiming on equal rights, treatment and opportunities for women members of the union
- ⊙ Setting up women's committees to ensure their effective representation within the union and to create awareness of their special needs at work. Women's committees could also be involved in the training of women members. Such committees must have adequate funding and be closely linked to the decision making structures of the union. Women's committees should also be involved in the formulation of demands for collective bargaining purposes. Women's departments that are complementary to the women's committees could also be established to take up issues concerning women in the workplace and in the union.
- ⊙ Reserving seats for women within the policy making bodies of the union.
- ⊙ Requiring that a certain percentage of the executive body consist of women.

- ⊗ Affirmative action⁴⁷ to have a specific number of women workers in decision making posts by a certain date.
- ⊗ Gender sensitization of the male members of the organization
- ⊗ Scheduling trade union meetings at times convenient for women members, taking into consideration that many have family responsibilities.
- ⊗ Providing child care facilities during trade union meetings and other trade union activities.
- ⊗ Negotiating with employers to ensure that women workers have paid time off work to enable their participation in union activities.
- ⊗ Ensuring that women members are represented in negotiating teams and all education and training programmes by following a proportionality principle.

5.11. Enhancing the Capacity of Women Leaders

The trainer should ask the participants to reflect on and share their thoughts on the concept of leadership and the qualities needed for success as a leader. These qualities include courage, patience, perseverance, being sensitive to the needs of others in the organization, motivating others, fostering teamwork and the ability to build consensus.

The trainer should, through group exercises, games and role plays and the use of audio-visual aids, foster the following skills:

- ⊗ Listening and effective communication skills
- ⊗ Relationship skills
- ⊗ Public speaking
- ⊗ Management and planning techniques
- ⊗ Management of trade union funds
- ⊗ Group management
- ⊗ Problem solving skills
- ⊗ Conflict resolution
- ⊗ Negotiating skills
- ⊗ Planning campaigns
- ⊗ Mobilizing people and other resources for campaigning
- ⊗ Maintaining and sustaining networks and linkages

Having identified the obstacles to the exercise of right to freedom of association for rural workers, we turn to strategies that could be considered to overcome them and create greater opportunities for women rural workers to organize themselves. In this chapter of the training, helping the workers to choose some priority areas to focus on, supporting their participation, and helping them develop the confidence to share ideas and challenge each other respectfully will be an important part of the process.

⁴⁷ See “Affirmative action” in ILO, ABC of Women Workers’ Rights and Gender Equality, 2nd edition, 2007. http://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_087314.pdf

CHAPTER 6 Overcoming the Obstacles

The trainer may want to structure the discussion by firstly presenting the different means of action that could be taken, as described in section 6.1. Awareness of such means would be useful to the participants who could either take recourse to such means to advance their causes, either acting in collaboration with unions or on their own. Role plays, practical exercises and audio-visual aids could be used to demonstrate means of action such as collective bargaining and advocacy. It must be noted though that there can not be one universal blueprint applicable across countries in this regard, and that the strategies that could be adopted will vary within and between countries depending upon context, specific needs and issues and cultural specificities.

Following this, the trainer could focus on possible targets for advocacy as outlined in section 6.2. Again, it should be emphasized that not everything outlined below will apply to every situation; the trainer will have to exercise judgment.

6.1. Strategies

Trade unions use several strategies to further and defend the interests of their members, as listed below.

a) Advocacy

Advocacy has been defined as any activity intended to raise consciousness among decision makers and the general public about an issue or a disadvantaged group with a view to bringing about changes in policy and improvements in their situation.

Legal advocacy

Trade unions may engage in legal advocacy to bring about legal reforms. In the first instance, this would require a study of the relevant existing laws and an identification of the inadequacies in the law. In order to amend or repeal existing laws that impair the rights of workers or have new laws enacted, trade unions may engage in campaigns. They may also lobby with Members of Parliament and other politicians for this purpose.

Media advocacy

The media can be a powerful tool to advance workers' and women's rights issues. Trade unions may strategically get issues of concern to them and their activities covered by the media. For this purpose, they may hold press conferences, prepare press releases and arrange for their spokespersons to be interviewed. The use of social networking media – particularly internet-based resources – can also be a powerful tool.

Campaigns

Trade unions may engage in campaigns to bring about a change in the law or to make governments change their policies. A campaign refers to a series of coordinated events undertaken with a common aim. Campaign activities may include:

- ⊙ Presenting petitions to the concerned authorities
- ⊙ Printing and distributing fliers and information sheets
- ⊙ Public meetings



- ⊙ Demonstrations, strikes and processions
- ⊙ Printing and distributing fliers and information sheets
- ⊙ Street theatre
- ⊙ Speaking to the media
- ⊙ Getting people and organizations that support the cause to sign petitions, or mail letters to the government or the concerned employer.
- ⊙ Internet or online campaigns where websites and online petitions can be used to get support for a cause. Social networking sites could also be used for the purpose.

Campaigns may go on for several months or even years. Holding events on commemorative days such as May Day (May 1st) and International Women's Day (March 8th) would help the campaign get media attention.

Networking

Unions may network with other organizations working on similar issues at the national, regional and international levels and this helps to:

- ⊙ share information
- ⊙ broaden the support for their struggles
- ⊙ broaden their perspective on labour issues
- ⊙ organize transnational campaigns
- ⊙ raise resources to help sustain their organizations
- ⊙ organize training programmes and other activities
- ⊙ get the requisite technical assistance

Apart from discussing such methods, the trainer may also wish to consider bringing up the issue of the need for women rural workers to gain political influence. Rural workers need to gain political

influence so that their needs and concerns are taken into account while the government frames laws or makes policy decisions in respect of issues such as agrarian reforms, economic reforms and social security that concern them. Gaining political influence may also enable them to influence the policies of financial and trade institutions and companies. In order to gain political influence, rural workers would need to be conscious of the notion of workers as a class within society and the need to build solidarity with different sections of the working class and other social movements supporting workers' causes. Being part of federations and confederations at the national and international levels representing women rural workers may strengthen the capacity of trade unions to influence policy decision making at the national and international levels. The involvement of women rural workers in electoral politics and their representation in political institutions may also enable them to gain political influence.

Pressure group activities

Trade unions may resort to pressure group activities when employers are perceived to act unjustly against workers and trade unions. They may also resort to pressure group activities to exert pressure on the employer or the government to take into consideration the needs and concerns of workers. Pressure group activities include:

- ⊙ Demonstrations
- ⊙ Strikes
- ⊙ Processions

b) Legal Remedies

Trade unions may take recourse to legal remedies to:

- ⊙ enforce the rights of their officials and members under existing laws and collective agreements;
- ⊙ enable their officials and members to engage in trade union activities; and
- ⊙ fight against acts of anti-union discrimination and acts of interference by employers.

Litigation can be strategically used to advance women workers' causes. Public interest litigation is an example of the kinds of strategic litigation that trade unions may have recourse to, with a view to bring about changes in the law or achieve better law enforcement.

Trade unions may also have recourse to the alternative dispute resolution measures provided for under the law including mediation, conciliation and arbitration.⁴⁸ Apart from this, in appropriate cases, trade unions may petition bodies such as the National or State Human Rights Commissions and the National Women's Commission.

Accessing the ILO Supervisory Mechanisms

When there are violations of the freedom of association and collective bargaining rights of workers either under the law or in practice and the governments of ILO member states fail to take the necessary action to protect the rights of the concerned workers, the unions

⁴⁸ The definition of "arbitration" is "A means of resolving disputes outside the courts through the involvement of a neutral third party, which can either be a single arbitrator or an arbitration board. In non-binding arbitration, the disputing parties are free to reject the third party's recommendation, whilst in binding arbitration they are bound by its decision. Compulsory arbitration denotes the process where arbitration is not voluntarily entered into by the parties, but is prescribed by law or decided by the authorities". From ITUC glossary: <http://survey.ituc-csi.org/glossary.html?lang=en>

representing the workers may consider accessing the ILO supervisory and complaints mechanisms. Information about these mechanisms is contained in Appendix A to this manual.

c) Collective Bargaining

Trade unions hold negotiations with employers in respect of the terms and conditions of employment of the workers and other matters of mutual interest. The process of holding negotiations between a collective group of workers and the employers is referred to as 'collective bargaining.' Collective bargaining may result in the union and the employer arriving at an agreement, referred to as a 'collective agreement.' In some countries, a collective agreement is referred to as a 'settlement'.

The ILO publication "Gender Equality: A Guide to Collective Bargaining"⁴⁹ contains suggestions on how to effectively prepare for collective bargaining.

Representing the Interests of Workers

Trade unions represent the interests of workers by

- ☉ taking up cases of workers who have been treated unfairly with the employer;
- ☉ representing the interests of their members before the labour law enforcement authorities, government officials, rural development agencies etc.; and
- ☉ participating in tripartite discussions with representatives of employers and representatives of the government.

6.2. Target Groups

As women rural workers become aware of their rights and means of action, they may want to focus on one or more of the following entities to target through their advocacy efforts to generate change. The trainer using their knowledge of the local context, together with the participants, should identify the best strategies to achieve the desired goals. The means of action described above in section 6.1. can be used to address the issues highlighted below.

a) The State

Based on the discussion of the particular issues related to the legal framework and enforcement, the trainees may choose to consider the possibility of joining with allies to engage the state on the issues of legislative reform or improvement of enforcement mechanisms.

Approaches could include the following:

Campaigning: The trainer may wish to point out that campaigning for law reform or improved enforcement mechanisms may involve a series of activities and require sustained efforts over a period of time. In the case of countries that have not ratified Conventions Nos. 87 or 98, the trainer may wish to draw the attention of the trainees to the need for campaigning efforts to be aimed at the larger goal of ratification of these Conventions. The trainer may choose to cite examples of successful campaigns led by workers, particularly rural women workers on such issues, in other countries. While discussing such examples, the trainer may wish to point how several actors such as different trade unions, workers' organizations and networks and civil society organizations have worked together for a common cause and how successful campaigning involves enlisting media and public support. The trainer could invite the participants to share their thoughts on the kind of campaign that they would like to organize

⁴⁹ http://www.ilo.org/actrav/what/pubs/lang--en/docName--WCMS_113700/index.htm

to achieve the aforementioned objectives. The trainer may suggest that the participants consider approaching the groups active in the areas where they live or work to see if any of them would be willing to support them in the campaign for changes in the law or state practice.

Lobbying: The trainer may wish to point out that meeting with legislators and other policy makers in the country to convince them of the need to take expeditious action on the aforementioned issues may be an effective method. The trainer may also wish to suggest some talking points that could be used. For example, it could be emphasized that studies have shown that the exercise of freedom of association and collective bargaining rights will not harm the level of exports or foreign direct investment in a country, and thus will not have any negative impact on the economic performance or the competitiveness of a country.⁵⁰ The trainer may suggest options for the workers to begin lobbying efforts at a very local level by leading a delegation to speak with locally elected officials and then contacting other groups to reach higher level officials.

Litigation: The trainer may wish to cite examples from the country and from other countries of how litigation has been used successfully as a strategy for achieving the goal of legal reforms. While discussing the subject, the trainer may choose to point out the limitations of the process including the fact that it could be a time-consuming and expensive.

Accessing the ILO supervisory mechanisms: The trainer may wish to point out the benefits of accessing the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and the Committee on Freedom of Association (CFA) by citing examples. The trainer may wish to remind the participants that the CEACR examines reports from governments on the application of ratified Conventions under the law as well as in practice, and also takes note of the observations received from workers' and employers' organizations on the subject. The CFA is a special supervisory/complaints mechanism of the ILO that examines complaints of violation of freedom of association and collective bargaining rights. It is suggested that the trainer point out that workers' and employers' organizations from countries that have not ratified Conventions Nos. 87 and 98 could also make a complaint to the CFA.

b) The Employer

The trainer may wish to begin by stating that there are a number of options available to workers when attempting to counter employer practices that serve as obstacles to organizing and the free exercise of trade union rights. These practices include those that may be illegal such as anti-union discrimination as well as those that are not illegal but are nevertheless unfair, such as that of the engagement of workers through labour-only contractors for work of a permanent nature. Possible strategies may include:

- ⊙ Campaigning against such employer practices
- ⊙ Engaging in pressure group activities such as demonstrations and strikes
- ⊙ Resorting to the legal remedies such as litigation, conciliation, mediation and arbitration.
- ⊙ Making a complaint to the CFA

While some of the strategies may be in common with those for engaging the state, such as campaigning and litigation, the points below include only those specific to employers. The trainer should ensure that there is ample opportunity for discussion.

⁵⁰ ILO, David Kucera, *The effects of core workers rights on labour costs and foreign direct investment: Evaluating the "conventional wisdom"*, 2001. <http://ilo.org/public/english/bureau/inst/publications/discussion/dp13001.pdf>

Talking points: When dealing with an employer who refuses access to union organizers or otherwise interferes with rural workers' rights, would it be possible for the workers to nominate one or more representatives to approach the employer for a face-to-face meeting? The trainer may suggest some talking points that may be used. For example, the benefits of having a trade union at the workplace could be stressed. It could be emphasized that respecting the right to freedom of association of workers makes good business sense for employers. Trade unions can lead to better employer-worker relations and also contribute to an increase in productivity and efficiency.

Complaints procedures under Framework Agreements and Codes of Conduct: A framework agreement is directly negotiated between a company and a trade union on labour rights and standards that is applicable in all areas of the company's operations. For example, in 2001, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Association (IUF), a global federation of trade unions entered into a framework agreement with Chiquita, an multinational banana company. The agreement requires not just the company but also its suppliers, contract growers and joint venture partners to respect the core labour standards. The agreement also provides for joint evaluation and monitoring to ensure that labour standards are being met.⁵¹ Such framework agreements may provide for complaints procedures in the case of violations of core labour standards. Workers may consider accessing such complaints procedures in the case of violation of their right to freedom of association where their employer being covered by such an agreement.

Codes of Conduct applicable to multinational enterprises' supply chains may require compliance with international labour standards concerning the freedom of association. Such codes may provide for investigation of alleged code violations and for the remediation of violations. This also could be a avenue that workers could consider in the case of violation of their right to freedom of association, in the case of their employer being required to abide by such a code of conduct.

Building alliances with trade unions and NGOs: Workers could seek the support of trade unions, global union federations and NGOs in other countries to ensure respect for their right to freedom of association. For instance, workers at one end of an international supply chain supplying agricultural produce could seek the support of trade unions and NGOs in countries buying the produce to facilitate dialogue with employers in buyer countries. Building solidarity in this manner could help organize campaigns, such as campaigns targeting supermarket chains in buyer countries.

The trainer may wish to share success stories of unions that have used such strategies with the participants. The trainer may consider asking trade union officials or members, particularly women who have participated in such efforts to address the workers.

c) Society

The trainer could ask the women workers to share their thoughts on how they could combat cultural attitudes towards women and traditional practices which limit their ability to fully exercise their right to freedom of association. The trainer may wish to point out that changing cultural attitudes towards women and addressing gender stereotypes may be a long and hard but important process. The trainer may wish to suggest that the workers consider reaching out to women's organizations and networks active on the issue of gender stereotypes and working with them to develop a shared agenda on the specific issue of women rural workers.

⁵¹ ILO, FAO and IUF, *Agricultural workers and their contribution to sustainable agriculture and rural development*, 2007, p. 62 http://www.fao-ilo.org/fileadmin/user_upload/fao_ilo/pdf/engl_agricultureC4163.pdf



d) Trade unions

The trainer could facilitate a discussion on ways that women workers can be better integrated in, and represented by, existing trade unions. In agreement with a trade union the women might find it useful to develop formal women's committees as a step towards full integration and gender balance at all levels of the union. To read more about women's committees and how trade unions can work to achieve gender equality, the trainer might find it useful to consult the manual "Achieving Gender Equality – A Trade Union Manual" by the International Trade Union Confederation (ITUC).⁵²

In facilitating a conversation about engagement with an existing union, the trainer could also refer to the compilation "Gender Equality and Decent Work - Good Practices at the Workplace"⁵³ developed by the ILO, identifying practices around the world promoting gender equality and decent work. There is a trade union "diversity and gender equality" policy designed to push internal transformation and more effective organizing, which could offer some guidelines.⁵⁴ The basic elements of that trade union policy include:

- ⊙ A method of electing union representatives and leaders that ensures representation of women.
- ⊙ Checking that times for union meetings do not conflict with work schedules or family obligations.
- ⊙ Developing collective bargaining agendas that address harassment, gender-based violence, employment equity, pay equity, parental leave and child care.
- ⊙ Hiring and training women organizers.

⁵² http://www.ituc-csi.org/IMG/pdf/manuel_ENGOK.pdf

⁵³ ILO, *Gender Equality and Decent Work: Good Practices at the Workplace*. 2004. p.37. The reference is to the diversity and gender equality policy of the Canadian Auto Workers union. <http://www.ilo.org/dyn/gender/docs/RES/398/F1448380228>

⁵⁴ ILO, Bureau of Gender Equality. *Gender Equality and Decent Work: Good Practices at the Workplace*, 2004, p.37. The reference is to the diversity and gender equality policy of the Canadian Auto Workers union. http://www.ilo.org/gender/Informationresources/Publications/lang--en/docName--WCMS_087647/index.htm

CHAPTER 7 Long term follow-up

This manual will always be a work in progress. The learning points from the trainings conducted on the basis of this manual will lead to a better understanding of how to plan training programmes aimed at building the capacity of women rural workers to exercise their right to freedom of association. Regular follow up of the trainings conducted will give an insight into the effectiveness of the trainings. The manual is thus as much a tool to learn about how to conduct trainings for women rural workers on their right to freedom of association as it is a tool aimed at educating them about their right to freedom of association.

Engaging and training women rural workers ought to be followed up by sustained support and follow-up by the trade unions to ensure continued assistance of the activities initiated with this manual. The women workers should be represented by the unions in social dialogue, and their priorities included in collective bargaining agreements.

In most societies women face discrimination in the world of work. By ensuring that they have a voice to make their needs heard the first step is taken towards a more equitable and fair work environment. This manual will hopefully contribute to that happening.



APPENDIX A Information about the ILO's supervisory and special supervisory/complaints mechanisms

I. REGULAR SYSTEM OF SUPERVISION

a) **Committee of Experts on the Application of Conventions and Recommendations.**

A ratifying country is required to submit periodic reports to the ILO regarding the application of the Conventions under the law and in practice. Reports are due every other year for Conventions Nos. 87 and 98. Reports are due every five years for Conventions Nos. 111 and 141. Copies of the reports are required to be sent by the Government to representative employers' and workers' organizations in the country for their comments. Employers' and workers' organizations may also send their comments on the application of the Conventions directly to the ILO.

The application of ratified Conventions is supervised by the ILO Committee of Experts on the Application of Conventions and Recommendations, an independent 20 member body consisting of eminent jurists. It may request States to take the necessary action to apply the provisions of a Convention under the law or in practice.

When a workers' organization wishes to draw to the attention of the Committee of Experts any infringement of freedom of association and collective bargaining rights, it may send its comments in this respect to the International Labour Standards Department of the International Labour Office in Geneva.

b) **Committee on the Application of Standards**

The Committee is a tripartite body consisting of representatives of governments, employers and workers. The Committee examines the annual report submitted by the Committee of Experts on the Application of Conventions and Recommendations and discusses issues of concern. It invites representatives of the concerned governments to appear before it to respond to such issues. The Committee may recommend measures to be taken to apply the provisions of a Convention either in law or in practice.

II. SPECIAL PROCEDURES

a) **Committee on Freedom of Association**

The Committee is a tripartite nine-member body consisting of representatives of workers, employers and governments. It is headed by an independent Chairperson. The Committee examines complaints from workers' or employers' organizations concerning the infringement of freedom of association and collective bargaining rights. Such complaints may be referred even against Governments of countries that have not ratified either Convention No. 87 or 98. The Committee makes conclusions and recommendations on the basis of the information provided by the complaint and the government concerned with the complaint.

Complaints to the Committee on Freedom of Association may be made:

- by a national organization directly interested in the matter
- an international organization with ILO consultative status
- an international organization whose affiliates are directly affected by the matters raised in the complaint.

In the case of organizations making a complaint to the Committee for the first time, the following information should be provided:

- Information about its membership
- Its statutes/by-laws
- Information about its national/international affiliations
- Any information that would lead to an appreciation of the nature of the organization

The complaint must be signed by the representative of the complainant organization. If the complaint is sent by fax, it must be followed by the original signed document.

Complaints to the Committee on Freedom of Association may be sent to:

The Director-General
International Labour Organization
CH-1211, Geneva 22
Switzerland

b) Representation

The representation procedure is governed by articles 24 and 25 of the ILO Constitution. It grants an industrial association of employers or of workers the right to present to the ILO Governing Body a representation against any member state which, in its view, "has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party". A three-member tripartite committee of the Governing Body may be set up to examine the representation and the government's response. The report that the committee submits to the Governing Body states the legal and practical aspects of the case, examines the information submitted, and concludes with recommendations. Where the government's response is not considered satisfactory, the Governing Body is entitled to publish the representation and the response. Representations concerning the application of Conventions Nos. 87 and 98 are usually referred for examination to the Committee on Freedom of Association.

For more information on how to make a representation, see: <http://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/representations/lang--en/index.htm>

c) Complaints

The complaint procedure is governed by articles 26 to 34 of the ILO Constitution. Under these provisions, a complaint may be filed against a member state for not complying with a ratified convention by another member state which ratified the same convention, a delegate to the International Labour Conference or the Governing Body in its own capacity. Upon receipt of a complaint, the Governing Body may form a Commission of Inquiry, consisting of three independent members, which is responsible for carrying out a full investigation of the complaint, ascertaining all the facts of the case and making recommendations on measures to be taken to address the problems raised by the complaint. A Commission of Inquiry is the ILO's highest-level investigative procedure; it is generally set up when a member state is accused of committing persistent and serious violations and has repeatedly refused to address them.

When a country refuses to fulfill the recommendations of a Commission of Inquiry, the Governing Body can take action under article 33 of the ILO Constitution. This provision states that "[i]n the event of any Member failing to carry out within the time specified the recommendations, if any, contained in the report of the Commission of Inquiry, or in the decision of the International Court of Justice, as the case may be, the Governing Body may recommend to the Conference such action as it may deem wise and expedient to secure compliance therewith."

For more information on how to file a complaint, see <http://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/complaints/lang--en/index.htm>

More information about the supervisory mechanisms can be found in the *Guide to International Labour Standards*, International Training Centre of the ILO, 2008 available online at http://training.itcilo.it/ils/materials/public/English/Guide_ILS.pdf See "Supervising the application of standards," pp. 260-276.

APPENDIX B Case studies

The South Asian Wing of the Building and Woodworkers International in partnership with Orissa Workers Kendu Patra Karmachari Sangh (OKKS) and Orissa Forest and Minor Forest Workers' Union (OFMFWU) used a self help group model for organizing forest workers in the state of Orissa in India. It helped the workers form 15 self help groups, which were composed largely of women. It provided short term training to the workers to make plates and bowls with saal leaves. The unions marketed the products manufactured. The workers were paid piece-rate wages. The profits earned from production were distributed among the workers. The workers who were thus economically empowered were also recruited by the unions.

The Self-Employed Women's Association (SEWA) is the largest trade union of self-employed women workers in India. Its members include home based self-employed women such as weavers, potters, bidi workers, incense rollers and also agricultural workers. As part of its organizational efforts, SEWA team leaders and organizers visit villages, hold discussions with the women in the village and explain the benefits of SEWA. By paying a low membership fee, women in the village can join the organization. SEWA helps the women identify their urgent needs and builds their capacity to address these needs. SEWA has helped rural women form and join self help groups and cooperatives. It provides skills training for its members. It facilitates market access for the products manufactured by such initiatives. It also provides banking services for its members. In addition, it provides insurance, child care and health services for its members. By adopting such an approach, SEWA has built a large membership and also economically empowered its members.

The General Agricultural Workers Union (GAWU) is a trade union representing workers in the banana, cocoa, rubber, oil palm, mango and pineapple plantations/industries in Ghana. It has kept its membership open to different categories of rural workers. Its members include self-employed workers, subsistence farmers, waged workers in agriculture, casual labour-ers, and migrant workers. The organizing strategies adopted by the union include: provision to its members of services linked to farm production and income generating activities such as training, micro credit and group enterprise promotion; social and community development activities.

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FREEDOM OF ASSOCIATION FOR WOMEN RURAL WORKERS

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Declaration

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