



**Bureau for Workers Activities
INTERNATIONAL LABOUR ORGANIZATION**

Trade union unity and principles of freedom of association in Eastern Africa

Sub-regional workshop

(as a follow up to the Conclusions of the Regional Trade Union Conference on Global Development Agenda, Decent Work and Social Justice: Challenges for African Trade Union Movement, Nairobi 12-14 February 2014)

Boma inn, Mombasa, Kenya

23-25 October 2014

Target countries: Burundi, Ethiopia, Kenya, Rwanda, South Sudan, Sudan, Tanzania, and Uganda

Benefits of freedom of association

Freedom of association refers to the right of workers and employers to create and join organizations of their choice freely and without fear of reprisal or interference. This includes the right to establish and affiliate to confederations and international organizations. Linked to freedom of association is the right to collective bargaining, which allows workers to negotiate their working conditions freely with their employers. These rights are universal and apply irrespective of race, creed, religion, gender, occupation, nationality or political opinion.

Freedom of association and the right to collective bargaining are enshrined in the ILO's Convention on Freedom of Association and Protection of the Right to Organize, 1948 (No 87) and Convention on the Right to Organize and Collective Bargaining (No 98). These rights are recognized as fundamental rights in the ILO's 1998 Declaration on the Fundamental Principles and Rights at Work. The right to freedom of association is also recognized as a basic human right in various international instruments, most notably the Universal Declaration of Human Rights. In the ILO's 2008 Declaration on Social Justice for a Fair Globalization, freedom of association and effective recognition of the right to collective bargaining were described as important pre-conditions for the attainment of decent work.

Additionally, the exercise of freedom of association and the right to organize and bargain collectively has a major impact on work and living conditions, as well as on the development and progress of economic and social systems. This can be done in a variety of ways such as:

- Worker and employer organizations ensuring a robust debate on economic and social policy issues facilitate consultation with a broad cross-section of different interest groups and spur employment-rich growth;
- Where government reaches agreement with employers' and workers' organizations and ensuring broad-based support for policy and legal reforms across a variety of social and economic areas;
- Trade unions and employers' organizations enabling a more equitable distribution of income through collective negotiations; and
- Workers' ability to join together in organizations and collectively defend their interests helps them to ensure that other labour standards – such as working time, health and safety or wages – are put into practice.

Overall, as membership organizations, trade unions and employer organizations can provide an effective and independent vehicle for voicing and representing the interests of their members, who often represent a broad and diverse cross-section of the community.

Freedom of association is necessary to ensure that trade unions and employer organizations can contribute fully to development processes: the ability of trade unions and employer organizations to participate is only possible where their representatives can speak freely and advocate on behalf of their members.

For this to happen, several conditions must be provided:

- Trade unions and employer organizations must be free to conduct their activities without interference or harassment;
- Workers must be free to sign up with the union of their choice; and
- Trade unionists must not fear dismissal, intimidation or persecution by virtue of their trade union membership or activities.

In addition to its status as a basic human right, freedom of association should be recognized as an *enabling* right that underpins sustainable development and the decent work strategy. Freedom of association empowers individuals to realize their potential and safeguard a whole series of other rights at work; for example, by enabling collective negotiations to ensure fair wages and working hours. Respect for rights at work and decent working conditions enable individuals and communities to achieve their full human potential and claim their fair share of economic and social development. As such, freedom of association is not just a desired outcome of development, but an integral part of the broader *process* of development and a critical component of all free and open societies. Without it, there can be no genuine or effective dialogue or cooperation between workers, employers and government on development and labour issues.

Challenges of freedom of association in Eastern Africa

Despite the fact that freedom of association represents a fundamental human right and the benefits it can bring for development, this right is not universally recognized or uniformly implemented in all countries. By June 2014, the ILO Committee on Freedom of Association was dealing with 134 cases, in which complaints have been submitted to the governments concerned for their observations. Some of these cases were considered of extreme seriousness and urgency.

In Africa, in spite of the existence of clearly defined and coherent international legal instruments that protect and promote freedom of association and the right to collective bargaining, trade unions and their members are still exposed to severe violations of their rights. In the latest edition of the ITUC Global Rights Index (2014), there seem to be a marginal improvement for Sub-Saharan Africa in freedom of association, a rare advance in a world that is increasingly restricting the activities of trade unions, non-governmental organizations and other sectors of civil society. Sub-Saharan Africa has been ranked fifth overall in terms of general freedoms of association, beating only the former Soviet Union and the Middle East/North Africa regions.

Some of the main challenges to freedom of association are:

- Some categories of workers face particular practical or legal barriers to achieving collective representation. There may be laws that hinder the formation or recognition of unions, for example in the public sector, export processing zones or agriculture. Conversely, workers in the informal economy or migrant workers may face practical barriers to collective organization. Women and young people in developing countries are often disproportionately affected by these constraints, as they are often clustered in the informal economy.
- Another major challenge is interference in the internal affairs of trade unions and employer organizations. This can include government regulation of such matters, appointment of officials and, in certain countries, trade unionists and representatives of employer organizations are discriminated against or intimidated, and in extreme cases, arrested, physically harmed or killed.
- Monopolies are another form of repression of freedom of association, where laws effectively prescribe that workers or employers must belong to one particular organization, leading to the suppression of independent worker movements.
- The right to freedom of association may also be discouraged by government or employer interference or pressure in trade union activities. In recent years, the ILO supervisory bodies have witnessed a surge in complaints concerning acts of anti-union discrimination and interference.

Aims and objectives of the workshop

The proposed workshop aims to highlight the pivotal role of freedom of association in fostering and maintaining sustainable development. As such, it seeks to provide ideas for trade

unions organizations on how to work together to achieve real and tangible results for development.

The trade union leaders participating at this workshop will exchange information on the practice of freedom of association in their respective countries and demonstrate the positive effect on economic growth and development that freedom of association can have when governments, employers' organizations and trade unions work together. Necessarily, the way in which these groups work towards sustainable development depends significantly on local conditions and context, but there are useful lessons that can be applied across varying country contexts. As such, the experience sharing at the workshop will provide concrete guidance and ideas for participants on some of the ways in which governments, workers and employers can work together constructively for greater economic and social development.

The workshop will also utilize the experience and understanding of international instruments to foster a united and strong labour movement at the national, sub-regional and regional levels. By bringing national unions together at regional meetings and subsequently national seminars the participants will have the opportunity to share experiences and understand the value and advantage of working together, union solidarity and establishing of common national action platforms. It is expected that this approach will be continued, particularly in countries with the potential of multiplicity of unions.

The development objective:

The rights of freedom of association and collective bargaining in target countries are more widely recognized and realized.

Immediate objectives:

Immediate objective 1: Concrete steps are taken for the introduction of legislation and/or policies to improve the framework for realizing the freedom of association and collective bargaining rights in targeted countries.

Immediate objective 2: Trade union organizations are better equipped to implement freedom of association and collective bargaining rights in practice.

Immediate objective 3: Lessons learned and good practices are disseminated widely within the trade unions to inform future activities of national organizations.

Expected outcomes of the workshop

- Awareness raising activities that may bring about consensus, among the tripartite constituents on the way forward to respect and realize the principle of freedom of association and the right to collective bargaining. These awareness raising activities will be developed taking into consideration the specific needs of women workers;

- Technical legal and policy advice to amend national legislation and/or adopt policies that promotes and ensures respect of freedom of association and collective bargaining;
- Specific capacity building activities that will assist governments in improving their administration and enforcement of freedom of association and collective bargaining rights;
- Specific capacity building activities for the social partners to assist them in better representing and servicing the interests and rights of their members, in particular women members, possibly including workplace level activities.

