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## **Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART)**

**Social dialogue in education:  
National good practices and trends**  
by Bill Ratteree

**Background paper for discussion at the 11th Session of the CEART**  
(Geneva, 8–12 October 2012)

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*Social dialogue in education: National good practices and trends*, by Bill Ratteree

This paper served as a background study for the 11th Session of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART), held in Geneva, 8-12 October 2012.

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# Social dialogue in education: National good practices and trends <sup>1</sup>

by Bill Ratteree <sup>2</sup>

## 1. Introduction

### Definitions and concepts

Based on fundamental concepts defined by the ILO to explain one of the four main pillars of what has come to be known as “Decent Work” for all workers, the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART) set out a definition of social dialogue specific to education and teachers in its Eighth Session report: <sup>3</sup> “Social dialogue is understood to mean all forms of information sharing, consultation and negotiation between educational authorities, public and private, and teachers and their democratically elected representatives in teachers’ organizations.”

The definition encompasses three principal zones of dialogue and means of settling disputes between education employers and members of the teaching profession, acting individually or collectively through their unions or organizations according to the nature and objectives of the dialogue process. These may be broadly summarized as follows: <sup>4</sup>

- *Information sharing* means a wide array of communications between educational authorities and teachers and their organizations at all organizational levels. These can range from high-level policy meetings at different political or administrative levels to workplace discussions. Communications can be oral or written with various degrees of formality.
- *Consultation* means education authorities, employers or managers and teachers (education workers generally) or their organizations exchange views on issues without any necessary commitment to agree or to act on those views. The discussions can be formal or informal, with or without a written record. To avoid that “pro forma” consultation occurs without any intention to alter existing policies or practices, discussions should be “meaningful”, i.e., the parties should approach the process open

<sup>1</sup> Background paper prepared for the 11th Session of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART), October 2012.

<sup>2</sup> The paper is based in part on initial research and writing of Roosa Makipaa, Sectoral Activities Department, notably Part 1. Introduction, and country case study on Finland, and of Lee Nordstrum, education consultant, for Part 2, Context and current trends in social dialogue, section on Dialogue in the context of financial crisis and recession.

<sup>3</sup> ILO/UNESCO: Report of the Eighth Session, Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel, Paris, 15–19 September 2003 (Paris, 2003), p. 6, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---sector/documents/meetingdocument/wcms\\_162311.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/meetingdocument/wcms_162311.pdf) [accessed 4 June 2012].

<sup>4</sup> ILO: *Handbook of good human resource practices in the teaching profession* (Geneva, 2012), p. 205.

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to the possibility of changing policies or procedures based on proposals from other parties engaged in consultation. Consultation is more likely to be meaningful if it occurs before policies are drafted or practices altered.<sup>5</sup> Consultation is often practised at higher levels of decision-making, such as for education policy, curriculum or teacher education, etc., and is a regular occurrence at the level of the workplace where day-to-day issues on the organization of work, such as schedules, allocation of tasks, etc. are subject to consultation.

- “*Negotiation*” is considered the highest form of social dialogue, and often takes the form of collective bargaining. This process requires full representation of education workers’ organizations and competent management authority, exchanges of positions and a formal statement of the results of bargaining, usually a written agreement. Questions of representation and management authority are especially important in public sector bargaining where restrictions are sometimes applied on negotiations derived from the concept that democratically elected public authorities are sovereign in matters of policy, administrative and financial decisions. Collective bargaining agreements normally have a fixed term. Negotiation frequently occurs in the determination of terms and conditions of employment, including salaries and social benefits. Since conditions of employment for teachers often have policy implications, e.g. class size and hiring procedures, negotiation on such issues may be contested by education management or be the subject of other forms of social dialogue.
- *Dispute resolution* is the process by which parties in negotiations or collective bargaining resolve disputes when they are unable to voluntarily reach agreement. Either the agreements create a mechanism to resolve disputes over the application of the agreement, or other formal systems exist to resolve such differences, including mediation and arbitration by a specially designated individual or agency. Courts or other judicial bodies, specialized or not in labour matters, are often the final authorities for the resolution of disputes arising from the application of a negotiated agreement or from the employment relationship determined by public or private labour codes. With or without dispute resolution, teachers’ organizations may strike to achieve a better resolution of their demands.

As the CEART has also pointed out,<sup>6</sup> these forms of dialogue variously apply to the major concerns of the teaching profession: educational objectives and policies; preparation for the profession and further education for teachers; employment, careers and salaries of teachers; rights and responsibilities; and conditions for effective teaching and learning.

## International standards

The normative roots of social dialogue at international level may be found in international labour standards adopted by the ILO and designed to be applied in all national contexts through relevant legislation and practices. The most important ones concerning social dialogue in education have been cited in previous CEART background papers and reports<sup>7</sup> and relevant ILO publications.<sup>8</sup> Three Conventions apply to all

<sup>5</sup> T. Fashoyin: “Tripartite cooperation, social dialogue and national development”, in *International Labour Review* (Vol. 143, No. 4), pp. 341–371.

<sup>6</sup> ILO/UNESCO: 2003, op. cit., p. 6.

<sup>7</sup> ILO/UNESCO: 2003, *ibid.*, p. 7.

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workers, including professionals such as teachers, and a fourth is specific to the public service (Appendix I for the Conventions and a summary of the basic provisions).

The ILO/UNESCO *Recommendation concerning the Status of Teachers (1966)* situates these basic principles and standards in the context of good practices for the teaching profession,<sup>9</sup> as does the UNESCO *Recommendation concerning the Status of Higher-Education Teaching Personnel (1997)*. At least 20 provisions of the ILO/UNESCO Recommendation refer to information sharing, consultation or negotiation of teaching profession policies or practices, and nearly as many provisions are contained in the UNESCO Recommendation (Appendix I for a summary of the Recommendations' most relevant provisions).

## Applying standards and principles

The CEART has outlined certain prerequisites for effective social dialogue that apply equally to education, namely: “a democratic culture, respect for rules and laws, and institutions or mechanisms that permit individuals to express their views individually or collectively through unions or associations on issues that affect their daily lives on both a personal and professional basis”. The CEART has also insisted that social dialogue in education “implies respect for professional freedom and the active participation of individual teachers in deciding a range of professional issues – curricula, pedagogy, student assessment and issues relating to the organization of education”.<sup>10</sup>

Echoing conditions set out in the CEART's Eighth Session report,<sup>11</sup> the ILO has recently<sup>12</sup> elaborated on what constitutes good practice in education labour relations and social dialogue:

- (1) *Respect for the fundamental rights of freedom of association and collective bargaining* is a basic prerequisite of institutionalized social dialogue: unless strong, independent, representative and democratic teachers' organizations are able to form, independently exercise their internal functions, be recognized as genuinely representative of teachers and negotiate free of outside interference with public or private education employers, social dialogue will not succeed. Freedom of association also implies respect for pluralism amongst unions where more than one organization represents teachers, and where private education exists, respect for independent employers' organizations.

<sup>8</sup> ILO: *Handbook of good human resource practices in the teaching profession* (Geneva, Sectoral Activities Department, 2012), p. 206.

<sup>9</sup> The ILO/UNESCO Recommendation refers specifically to ILO Conventions Nos 87 and 98 in its preamble. The fundamental principles contained in these two historic international labour standards heavily influenced the authors and final provisions of the 1966 Recommendation on consultation and negotiation.

<sup>10</sup> ILO/UNESCO: *Report of the Ninth Session, Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel*, Geneva, 30 October–3 November 2006 (Geneva, 2007), p. 8, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/--sector/documents/meetingdocument/wcms\\_162313.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/--sector/documents/meetingdocument/wcms_162313.pdf) [accessed 4 June 2012].

<sup>11</sup> ILO/UNESCO: 2003, op. cit., p. 6.

<sup>12</sup> ILO: 2012, op. cit., pp. 206–208.

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- (2) *Political will, trust and commitment of all parties to engage in these processes* is also required. Teachers' organizations must embrace the various forms of social dialogue, and governments, educational authorities and private education management must be willing to accept teachers' organizations as potential partners in providing the best possible educational services. Mindful of the management prerogatives of educational authorities, social dialogue depends on the willingness to consult, listen and take into consideration the views of teachers' organizations before exercising that authority.
  - (3) Representative organizations must have *access to relevant information to participate in social dialogue and the technical expertise* to analyse information, formulate positions that accurately reflect their members' views and to communicate with their members meaningfully. This condition requires adequate financial resources, training for officers, staff and members of organizations in both the subject matter of social dialogue and the processes themselves.
  - (4) Social dialogue should be institutionalized as far as possible, since informal or ad hoc forms of social dialogue are unlikely to have a lasting impact. Institutionalized social dialogue requires *appropriate institutional support*, in the form of a statutory framework for the conduct of social dialogue, laws regulating the practice of collective bargaining in education, and formally constituted consultative bodies with defined responsibilities and structures for representation.

## 2. Context and current trends in social dialogue

The importance of social dialogue as a factor in determining sustainable reforms and progress in education has been underlined in CEART reports for more than a decade. Social dialogue can promote democratic governance, build consensus around reforms and therefore social cohesion, enabling parties to adjust to new challenges and exploit opportunities to improve education.<sup>13</sup> Noting that social dialogue is the “glue for successful education reform”, the CEART has observed that without the full involvement of teachers – those most responsible for implementing reform – in helping to define key aspects of educational objectives and policies, quality education for all objectives often cannot be obtained or fall short of their goals. The benefits of social dialogue apply equally to higher education, notably in addressing “brain drain” of talented teachers and researchers from developing to developed countries.<sup>14</sup> Beginning in 2006, the CEART noted progress in many regions or countries towards strengthened social dialogue (from what it earlier termed a very “fragile” environment), although improvements still varied greatly by region. Nevertheless, the CEART concluded at its Tenth Session in 2009 that “the benefits of social dialogue are still not widely appreciated”.<sup>15</sup>

<sup>13</sup> ILO/UNESCO: *Report of the Seventh Session*, Joint ILO/UNESCO Committee of Experts on the Application of the Recommendation concerning the Status of Teachers, Paris, 11–15 September 2000 (Paris, 2001), p. 19, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---sector/documents/meetingdocument/wcms\\_162310.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/meetingdocument/wcms_162310.pdf) [accessed 4 June 2012].

<sup>14</sup> ILO/UNESCO: 2003, op. cit., p. 7.

<sup>15</sup> ILO/UNESCO: 2007, op. cit, pp. 8–9; ILO/UNESCO: *Report of the Tenth Session*, Joint ILO/UNESCO Committee of Experts on the Application of the Recommendation concerning the Status of Teachers, Paris, 28 September–2 October 2009 (Paris, 2010), pp. 17–19, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---sector/documents/meetingdocument/wcms\\_162310.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/meetingdocument/wcms_162310.pdf) [accessed 4 June 2012].



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## Progress in education social dialogue

Education social dialogue has advanced in a number of countries in recent years, often as part of public service labour relations reforms. Since 2008 **Botswana**, **Mozambique** and **Uruguay** have adopted legislation to enable collective bargaining in public administration,<sup>16</sup> which should open the door for better negotiating possibilities for public school teachers. Following reported agreement in principle between the Government of **Colombia** and the country's major trade union confederations on public sector collective bargaining in 2011, a decree came into force in May 2012 establishing procedures for bargaining and dispute resolution.<sup>17</sup> Implementation of the legislation is often more complicated as the case of Botswana illustrates. The creation of a statutory Public Services Bargaining Council (PSBC) in 2010 that includes the teachers' union (BTU) still had not led to negotiations on salaries and conditions as of May 2012, due to delays provoked by Government backtracking on this new forum in 2011, inter-union disputes and more recently the lack of Government nominations of its representatives.<sup>18</sup>

Information sharing and consultation on education and teaching profession policy are now more widely used as tools to seek consensus on important education and teacher policy matters. At a very basic level of communication, almost all education ministries maintain a website for informing teachers about questions that concern national education policy or about their employment or professional careers, some more targeted to teachers than others. Consultation continues to show results on broader national policy issues affecting teachers in countries with cultures oriented towards consensus and strong institutional frameworks to facilitate social dialogue. These factors encourage the main actors and education stakeholders towards partnership arrangements to link advances in education and teacher policy, as country cases of **Finland**, **Norway** and **South Africa** outline. Dialogue through the political process involving alliances between teachers' organizations and other stakeholders has proved crucial to augmenting national education (and teacher) investment in **Brazil**, and may yield an improvement in an impasse over teacher career reforms in **Chile**, both described in more detailed country case studies. A nascent form of regional social dialogue between employers and teachers' unions described in the summary on the **European Union** holds promise for sharing information and advice on recruitment and retention of teachers and other issues as a basis for policy reforms in countries throughout the region.

<sup>16</sup> ILO: *Manual on collective bargaining and dispute resolution in the public service* (Geneva, Sectoral Activities Department, 2011), p. IX.

<sup>17</sup> Government of the United States, Executive Office of the President: "Fact sheet: Historic Progress for Labor Rights in Colombia" (Washington, DC, 15 April 2012), <http://www.ustr.gov/about-us/press-office/fact-sheets/2012/april/historic-progress-labor-rights-colombia>; ILO: NATLEX database of national labour legislation, Colombia (Geneva, International Labour Standards Department, 2012), [http://www.ilo.org/dyn/natlex/natlex\\_browse.details?p\\_lang=en&p\\_country=COL&p\\_classification=22.10&p\\_origin=COUNTRY&p\\_sortby=SORTBY\\_COUNTRY](http://www.ilo.org/dyn/natlex/natlex_browse.details?p_lang=en&p_country=COL&p_classification=22.10&p_origin=COUNTRY&p_sortby=SORTBY_COUNTRY) [both sources accessed 22 July 2012].

<sup>18</sup> S. Makgapha: "Government delays salary negotiations", in *The Botswana Gazette* (Gaborone, 23 May 2012), [http://www.gazettebw.com/index.php?option=com\\_content&view=article&id=13474%3Agovt-delays-salary-negotiations&catid=18%3Aheadlines&Itemid=1](http://www.gazettebw.com/index.php?option=com_content&view=article&id=13474%3Agovt-delays-salary-negotiations&catid=18%3Aheadlines&Itemid=1) [accessed 22 July 2012].

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Progress in collective bargaining has been marked by innovations in a number of areas. In one of the world's most dangerous countries for teacher trade unionists, **Colombia**, and on the heels of the accord in principle on public sector collective bargaining, the Government signed an agreement with the largest teacher's union, the Colombian Federation of Educators (FECODE), in June 2011 that covers 22 teachers' issues (reportedly the first time such a broad range of issues was covered in negotiations). The agreement notably strengthens the teacher protection programme by eliminating disincentives for relocation so as to favour temporary or permanent reassignment for threatened teachers, and aims to enhance rights to association and to organize. Though a major advance derived from social dialogue, the agreement has yet to prevent continued murders of teacher trade unionists.<sup>19</sup>

In other countries with strong collective bargaining cultures and institutions, agreements in recent years have yielded enhanced (or at least stable) terms and conditions of employment. They have also set the stage for advances on other issues such as raising the status of early childhood educators and long-term solutions to secondary class size and staffing dilemmas in **New Zealand**, or teacher preparation, staffing and working environment advances linked to better student learning outcomes in **Canada (Ontario)**, details of which are set out in the case studies.

### **Threats, violations and attacks on social dialogue rights and principles**

Despite progress in some countries, social dialogue remains very fragile as the CEART previously noted, and has come under increasing threat from several angles. Setbacks may be considered on several planes. One is outright violence or harassment against union members or organizations, new or ongoing, stemming from governmental hostility and repressive force or indifference to physical attacks on teacher union members/officials by third parties, whether for political reasons or internal conflict. Such situations deprive the trade unions and other organizations that collectively represent teachers from functioning independently from the government or security apparatus or simply engaging in any effective social dialogue. Politically or ideologically motivated attacks on consultative and particularly collective bargaining rights mark a second level. A third and more recent factor has been the financial/economic austerity faced by many developed countries particularly since 2008–09. Austerity has either been an excuse employed to attack previously established social dialogue rights and procedures, or served as the backdrop for unilateral government imposition of cutbacks on education and teachers, frequently rendering social dialogue a mere pro forma exercise.

As a caveat to this sombre picture, one indicator of trends, complaints about violations of teachers' freedom of association, the right to organize or engage in collective bargaining, which are regularly examined by the ILO, have declined since 2009. A report to the CEART in 2009 summarized more than 50 new or ongoing cases involving 30 countries in all major regions in the period mid-2006 to mid-2009. In the same time frame from mid-2009 to mid-2012 the number of complaints registered by the ILO that involved teachers or their unions declined by more than a third, to 33 cases involving

<sup>19</sup> Government of the United States, 2012, op. cit.; ILO: "363rd Report of the Committee on Freedom of Association", Governing Body, 313th Session, Geneva, 15–30 March 2012 (Geneva, Mar. 2012), pp. 104–124.

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22 countries.<sup>20</sup> Many of these cases concerned countries where such complaints are recurrent. Similarly, the number of allegations from teachers' organizations to the CEART about the non-application of provisions in the 1966 and 1997 Recommendations that affect social dialogue in one form or another appears to be stable or declining.<sup>21</sup> These trends indicate that there is at least no dramatic increase in cases regarding social dialogue environment in education, but any links between cases in the ILO supervisory bodies and realities at the national level need to be interpreted carefully and would have to be compared with other indicators.

At the level of violence, imprisonment or physical harassment of teacher trade unionists, the situation has not improved in countries that have for many years been hostile to the exercise of freedom of association and the right to organize. **Colombia** continues to be a dangerous place for trade unionists, with teachers, especially those who work in rural and remote areas, particularly at risk. More than 40 officials or members of teachers' unions or associations were reported killed throughout the country between 2009 and 2011, with many others the target of threats or actual attacks, despite special Government efforts to protect teachers and teacher unionists as noted above, and to prosecute suspected murderers.<sup>22</sup> Teacher trade unionists have been the targets of violence, intimidation or arrests in a number of other countries over the last three years, of which notably, **Cameroon, Djibouti, Ethiopia, Honduras, Islamic Republic of Iran, Republic of Korea, and Turkey.**<sup>23</sup> Often stemming from allegations of political engagement not related to recognized union work, arrests of officials or members of teachers' organizations or other acts of intimidation nevertheless have a chilling effect on the overall climate and capacity of teachers' organizations to engage in social dialogue. Arrests of union representatives and large-scale dismissals of teachers in Honduras have accompanied Government repeal of the Teachers' Statute and proposed reforms of the basic education law to decentralize education without apparent consultation with the teachers' organizations.<sup>24</sup> Genuine social dialogue is difficult to affirm in Ethiopia where the Government continues to harass and deny recognition to the independent teachers'

<sup>20</sup> ILO: "Complaints received from teachers' organizations and submitted to the ILO Committee on Freedom of Association, 2006–09", background document for the Tenth Session of CEART, 2009, doc. CEART/10/2009/WGSD2 (Geneva, unpublished, 2009); "Freedom of association cases" using the search keyword "teachers", reports 355–362 (NORMLEX Information System on International Labour Standards, 2012), <http://www.ilo.org/normes> [accessed 21–22 July 2012]. A document submitted to CEART 2012, ILO: "Complaints received from teachers' organizations and submitted to the ILO Committee on Freedom of Association, 2009–12" doc. CEART/11/2012/WGSD2 (Geneva, unpublished, 2012), enumerates 21 cases submitted to the CFA concerning teachers' organizations.

<sup>21</sup> In 2009, the CEART dealt with cases about restrictions on collegial governance in higher education from Australia and Denmark, and about social dialogue involving school teachers from Ethiopia and Japan (ILO and UNESCO, 2010, op. cit.). While some of these cases continue to be examined in 2012, only one new case concerning non-respect of collective bargaining in Portugal has been added to the list (information from the joint secretariat of CEART).

<sup>22</sup> ILO: "363rd Report of the Committee on Freedom of Association", Governing Body, 313th Session, Geneva, 15–30 March 2012 (Geneva, Mar. 2012), pp. 104–124.

<sup>23</sup> Education International (EI): "Urgent Action Appeals" (Brussels, 2012), <http://www.ei-ie.org/en/items/search/types:uaa#> [accessed 22 July 2012]; ILO: "Freedom of association cases", NORMLEX, 2012, *ibid.*

<sup>24</sup> EI: "Honduras: Stop the brutal repression of teacher unionists" (Brussels, 30 Mar. 2011).

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organization (National Teachers' Association, formerly Ethiopian Teachers' Association) but recognizes an organization (now called ETA) that it helped to create.<sup>25</sup>

Popular political movements such as the "Arab Spring" pro-democracy movements in 2011–12 have impacted on teachers' freedom of association (and directly or indirectly on social dialogue) in the form of arrests, detentions or violence directed at teachers or union officials in **Bahrain, Egypt and Yemen**.<sup>26</sup> The emergence of an independent teachers' union in Egypt to demand improvements in teachers' status and a greater voice in education decision-making nevertheless illustrates the potentially positive fallout of greater democracy on social dialogue. Similar advances have been made in other regional settings in the past, Africa and Latin America, for example, as signalled by the CEART in 2009.<sup>27</sup>

Intimidation – arrests, teacher dismissals or threats of dismissals – continues to accompany teachers' organizations' use of strikes as part of the negotiating process over terms of employment, whether or not the right is legally established. Complaints of actions taken by government authorities to deny this basic right recognized by international labour standards and the 1966 Recommendation have been registered in **Kiribati and Uganda**.<sup>28</sup>

A second major impediment to education social dialogue comes from legal denial of basic rights that permit dialogue in the first place through failure to bring national legislation and practice into line with international standards. Many countries still deny or restrict freedom of association, teacher union recognition or collective bargaining of public servants, including teachers. Higher education is not exempt from such legal or administrative vacuums. Full-time university professors, public and private, have to date been excluded from the right to organize (therefore restricting access to bargaining rights as well) in the **Republic of Korea**, while higher education teaching assistants who teach many basic university and college courses have been denied collective bargaining in private higher education institutions of the **United States** by a decision of the National Labour Relations Board.<sup>29</sup>

Where social dialogue rights and institutions are legally established, threats in recent years have come from legislative or administrative "rollbacks" in the form of decisions to penalize teacher unionists, remove previously guaranteed rights to negotiations/collective bargaining or deny legal rights to strike. **Fiji** illustrates a prime example of anti-union employment decisions. The President of the teachers' association (Fiji Teachers' Association) was dismissed from his job as a principal after 20 years of service amidst allegations that he called for the restoration of democracy following a military coup. His removal also meant losing representation on a number of social dialogue instances – Education Forum, the Fiji Teachers' Registration Board, the Joint Consultative Committee (JCC) and the Staff Board (CSB). A similar situation arose in **Botswana** with the dismissal of the President of the teachers' union (Botswana Teachers' Union) from his job as head teacher amidst allegations of conflicts over time off for union representation, parallel to a

<sup>25</sup> ILO: "Freedom of association cases", NORMLEX, 2012, *ibid*. The Ethiopian case has been on the CEART's docket for many years with no visible signs of resolution that would respect the standards of the 1966 Recommendation.

<sup>26</sup> EI: "Urgent Action Appeals", 2012, *op. cit*.

<sup>27</sup> ILO and UNESCO, 2010, *op. cit.*, p. 18.

<sup>28</sup> EI: "Urgent Action Appeals", 2012, *op. cit.*; ILO: "Freedom of association cases", NORMLEX, 2012, *op. cit*.

<sup>29</sup> ILO: "Freedom of association cases", NORMLEX, 2012, *ibid*.

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slow start to establishment of formal negotiating machinery in the public service noted above. In recent years, suspension from teaching and/or salary penalties has also been imposed on national or local/institutional teacher union representatives in the **Democratic Republic of the Congo** and the **Philippines** (higher education).<sup>30</sup>

A far broader attack on social dialogue stems from political attempts to remove collective bargaining rights of public sector teachers. One of the most high profile examples in recent years has been the **United States** (box 1), where education provision and social dialogue in the highly decentralized education system is almost exclusively the domain of local (county or municipal) school districts. During the period 2011–12, many states that had previously accepted public service and teacher collective bargaining began to change laws that either explicitly removed or severely restricted this right. As of July 2012, debates in several state legislatures continued over these issues in a context of increasingly difficult state and local budgetary constraints with significant ramifications for education policy and teachers.

#### Box 1

##### Attacks on education sector collective bargaining in the United States

Up to the end of 2011, 70 per cent of states in the United States legally permitted teacher collective bargaining, while only 6 per cent (three states, all in the southern region of the country) prohibited it. Two-thirds of the states made provision for one or more forms of dispute resolution (mediation, fact-finding, voluntary or mandatory arbitration) in the event that the parties could not resolve differences. Nearly half of the states prohibited strikes. Collective bargaining constituted one of the most important vehicles for social dialogue between employers and teachers in the thousands of local school districts that ensure pre-university education.

Beginning in 2011, several states amended or proposed changes in collective bargaining that severely restricted collective bargaining rights and scope, despite fierce opposition from teachers' unions. State fiscal difficulties and the costs of teacher pensions, health care and other benefits have usually been cited as the prime reasons for often drastic changes in bargaining scope and capacity. However, evidence also points to a political/ideological agenda among right-wing politicians, think tanks, private foundations and business leaders advocating a reduction across the board in public sector bargaining power and, by extension, weakening the engagement of teacher unions in the political process. Such strategies aspire to more unilateral managerial authority in education, less job security based on tenure (therefore more flexibility to hire, transfer, restructure working time and fire teachers), substantial changes in teacher performance appraisal to reduce professional autonomy and impose more accountability and, in many cases, to enlarge scope for privatization.

These objectives are clearly present in the state reforms imposed so far:

- replacement of collective bargaining by a concept known as “collaborative conferencing” between employers and staff, and only if requested by a majority of the concerned education professionals (Tennessee);
- restricting collective bargaining to teacher salaries or compensation, or generally limiting the scope of bargaining, variously excluding in the process according to the state legislation, issues such as: placement of teachers; teacher discipline and dismissal procedures and criteria, including staffing decisions when reducing the number of teachers due to financial constraints (reduction in force) or their recall; teacher evaluation and performance management criteria and systems, including performance-based compensation; hours of work and the school calendar (thus working days); and restructuring options, including outsourcing and public–private partnerships (Idaho, Indiana, Michigan, Tennessee, Wisconsin);
- limiting the duration of collective agreements (Indiana, Wisconsin);
- reduced dispute resolution procedures (Indiana, Tennessee);
- imposing unilateral rejection, modification or termination of the collective bargaining agreement by an appointed emergency manager under fiscal accountability legislation (Michigan);
- prohibition or extended union member approval requirements for strikes (Illinois, Wisconsin).

<sup>30</sup> ILO: “Freedom of association cases”, NORMLEX, 2012, *ibid*.

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Restrictions on collective bargaining were also initially proposed in the State of Ohio, but reversed by popular referendum following strong lobbying by teacher unions and other education stakeholders arguing that universal, free and high-quality public education depended on a defence of teachers' collective bargaining. Opponents also contested the changes in Wisconsin, but these were narrowly upheld in the legislature and in the defeat of a popular recall effort aimed at the State Governor who initiated the changes.

Sources: S. Cavanagh: "Ohio Voters Reject Law Limiting Teachers' Collective Bargaining" in *Education Week* (Bethesda, MD., 8 Nov. 2011), [http://blogs.edweek.org/edweek/state\\_edwatch/2011/11/ohio\\_1.html?qs=Collective+bargaining](http://blogs.edweek.org/edweek/state_edwatch/2011/11/ohio_1.html?qs=Collective+bargaining); E. Workman: "State Collective Bargaining Policies for Teachers" (Denver, CO., Education Commission of the States, Dec. 2011), <http://www.ecs.org/clearinghouse/99/78/9978.pdf> [all sources accessed 22 July 2012].

Complaints of violations of the legally recognized right to strike have also been registered in provinces of **Argentina**, in **Botswana**, **Bulgaria** and **Peru**, in some cases related to the authorities' unilateral imposition of minimum service conditions on teachers contrary to international standards.<sup>31</sup>

## Dialogue in the context of financial crisis and recession

The financial crisis that swept many developed countries in late 2008, resurging again in 2010 in the form of a debt crisis in notably the "Eurozone" group of countries, and the resulting economic downturn (even recession) continues to put pressure on public and private capacity to finance education. Economic austerity represents the most recent threat to social dialogue and has severely tested CEART's previous affirmations about the beneficial role that social dialogue can play in education decision-making and progress. Despite its (potential) centrality to overcoming the recent challenges, ILO papers reviewing the impact of the crisis and recession on education have found that social dialogue, while well established in some regions and countries, and initially employed at the beginning of the financial crisis in some of them, has been relatively little utilized since as an explicit tool to shape public policy responses.<sup>32</sup> Even in the initial response to the financial crisis and economic recession by countries who adopted economic stimulus packages targeting education, a survey of its national member organizations by Education International (EI)<sup>33</sup> revealed that only a small minority were consulted (six countries: Belgium, Finland, Republic of Moldova, Nicaragua, South Africa and the United Kingdom; see table 1).

Prolonged economic difficulties and public policy responses based on austerity have further marginalized social dialogue. For example, collective bargaining in Europe, traditionally one of the strongest regions as a whole for this form of dialogue, has become more conflictual or has simply been abandoned in many countries as a mechanism for the settlement of public sector (therefore most teacher) wages – governments unilaterally impose the reduction of public sector salaries to consolidate budgets in European countries,

<sup>31</sup> EI: "Botswana: Government takes away teachers' right to strike" (Brussels, 7 July 2011) [http://www.ei-ie.org/en/news/news\\_details/1870](http://www.ei-ie.org/en/news/news_details/1870) (accessed 22 July 2012); ILO: Comments adopted by the CEACR: Argentina, Bulgaria, Peru, NORMLEX, 2012, op. cit.

<sup>32</sup> ILO: *Impact of the global economic recession on education*, SECTOR Notes (Geneva, Sectoral Activities Programme, July 2009), pp. 11–12, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---sector/documents/publication/wcms\\_162171.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_162171.pdf); ILO: "Update of sectoral aspects in the context of economic recovery: Education and research", Governing Body, 310th Session, Geneva, March 2011, GB.310/STM/4, p. 8, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/--relconf/documents/meetingdocument/wcms\\_152028.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/--relconf/documents/meetingdocument/wcms_152028.pdf) [both accessed 8 June 2012].

<sup>33</sup> Education International (EI): *The global economic crisis and its impact on education* (Brussels, 2009), pp. 21–25.

a policy promoted by the European Union.<sup>34</sup> An early 2012 survey of education sector worker unions by the European Trade Union Committee for Education (ETUCE) covering 40 European and non-European countries reported that 80 per cent or more of the reporting organizations had engaged in social dialogue with the relevant ministry or government on education reforms or the impact of austerity measures on education since 2008. Yet, more than half of the responding organizations noted that their countries had imposed freezes or reductions in teacher salaries, allowances or pensions, closed schools and/or reduced the number of teachers.<sup>35</sup>

Table 1. Union's involvement in stimulus packages targeting education, 2008–09

Country	Stimulus package	Infrastructure	Human resources	Which levels	Union consulted
Australia	Yes		Yes	P, S	No
Austria	Yes				No
Azerbaijan	No				
Belgium	Yes	Yes	Yes	All	Yes
Brazil	Yes				
Canada	Yes	Yes		P, S, T, VET, adult	No
Chile	Yes	No	No		No
Congo	Yes		Yes	ECD, P	No
Costa Rica	Yes	Yes		P	No
Cyprus	No				
Denmark	Yes	No	No		
Finland	Yes	Yes	Yes	T, adult	Yes
Georgia	Yes			All	No
Germany	Yes	Yes	Yes	All	No
Ireland	No				
Italy	Yes	No	No		
Jamaica	Yes				
Japan	Yes			ECD, P, T	No
Korea, Rep. of	Yes	Yes		S	No
Malta	No				
Moldova, Rep. of	Yes	Yes	Yes	S, VET, adult	Yes
Mongolia	No				
Netherlands	Yes	Unknown	Unknown		No
New Zealand	Yes	Yes		P, S	No
Nicaragua	Yes	Yes		P, S, VET, adult	Yes

<sup>34</sup> V. Glassner: *The public sector in the crisis*, Working Paper 2010.07 (Brussels, European Trade Union Institute), p. 26.

<sup>35</sup> European Trade Union Committee for Education (ETUCE): "ETUCE Action and Campaign Framework on the Economic Crisis, 2012 – Analysis of the mini-survey" (Brussels, 2012), pp. 5–15, [http://etuce.homestead.com/Crisis/Crisis\\_survey/Minisurvey\\_-\\_ETUCE\\_Action\\_and\\_Campaign\\_framework\\_on\\_the\\_economic\\_crisis\\_final\\_29.3.12.pdf](http://etuce.homestead.com/Crisis/Crisis_survey/Minisurvey_-_ETUCE_Action_and_Campaign_framework_on_the_economic_crisis_final_29.3.12.pdf) [accessed 20 July 2012].

Country	Stimulus package	Infrastructure	Human resources	Which levels	Union consulted
Norway	Yes		Yes	P, S	
Poland	Yes	No			No
Portugal	Yes	Yes		ECD, P, S	No
Russian Fed.	Yes			ECD, P, S	
Saint Kitts and Nevis	No				
South Africa	Yes	Yes	Yes	P, S, VET, adult	Yes
Spain	No				
Sweden	Yes				
Switzerland	Yes				No
Taiwan (China)	Yes	No	No		
Togo	No				
Tonga	No				
United Kingdom	Yes	Yes	Yes	All	Yes
United States	Yes			P, S, T	No
Zambia	No				

Note: ECD = Early childhood development; P = Primary; S = Secondary; T = Tertiary; VET = Vocational education and training.  
Source: EI, 2009, pp. 21–25.

An example is **Spain**, which is facing severe public sector deficits. The Government adopted measures by decree in April 2012, which reportedly would reduce the education budget and directly impact education services through cuts in staffing levels, increased class sizes, a freeze on new vocational training courses, privatization of education services, increased university fees, fewer scholarships and a loss of labour rights for teaching staff. Teacher unions have contended that the Ministry of Education has refused to discuss the new measures with them through the legally recognized channels, imposing “reforms” that run counter to existing constitutional laws and regulations on educational governance. A national strike over these issues was called in May 2012.<sup>36</sup>

At the same time, some nations, both developed and emerging, have explicitly employed social dialogue to ameliorate specific conditions of teaching and learning despite a generally morose economic climate. Some good practices are summarized in the section on “Prospects” and outlined in more detail in the country case studies.

However, these positive steps forward took place in countries that have not been as severely affected by economic recession, debt and severe strains on education budgets. In those countries facing this cocktail of economic difficulties, effective social dialogue requires more than merely offering unions a rather modest (sometimes meaningless) consultative role in a decision-making process that is ultimately controlled at the political level. Rather, as suggested by previous CEART analysis of this theme, true social dialogue involves governments, employers’ and workers’ organizations working together as equal

<sup>36</sup> EI: “Spain: A red-hot spring in defence of state education”, *Education International News*, 16 May 2012, Brussels, [http://www.ei-ie.org/en/news/news\\_details/2164](http://www.ei-ie.org/en/news/news_details/2164); “Spain: new cuts hit public education”, *ibid.*, 18 Apr. 2012, [http://www.ei-ie.org/en/news/news\\_details/2141](http://www.ei-ie.org/en/news/news_details/2141) [both accessed 11 June 2012].



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partners in devising policy responses to the crisis that meet the needs of all education stakeholders, including children and families.

### 3. Prospects

#### Addressing economic austerity through social dialogue

The economic austerity imposed on countries by the collapse of overly extended (not to say reckless) financial institutions and public deficits provoked in no small part by bank bailouts have seriously undermined education social dialogue as noted above. The picture is not entirely black. Case studies described in more detail in section 3 suggest some alternative policy options based on genuine social dialogue, even though very different in diversified national settings ranging from very informal to highly institutionalized.

At the edge of informal but ultimately very effective political social dialogue, engagement by the principal teachers' union and civil society in **Brazil** has led to a national commitment to double investment in education within ten years, much of which will inevitably go to improving the quality of teachers given education spending patterns. The proposals have defied more pessimistic assessments by some Government representatives that such commitments are not sustainable.

In social dialogue environments that have traditionally relied on broad tripartite consensus that also included other major stakeholders, successes have arguably been more impressive. Confronting persistent European economic difficulties, and working through their central trade union organizations, teachers' unions in **Finland** have agreed with the respective government authorities (national and municipal) on a national plan to ensure continued economic growth, components of which establish the parameters for sectoral (including education) salary agreements and establish a permanent negotiating body to improve labour relations' cultures based on continuous dialogue, application of agreements and dispute resolution. Broadly participative social dialogue in **South Africa** that includes the teachers' unions directly or through the central trade union confederations along with principal education stakeholders has produced national agreements on improving the quality of teachers and instruction, support to schools and skills development, inspired by perceived needs to bolster economic growth faced with an uncertain economic climate.

In another set of countries, well-anchored collective bargaining thrives as a means of addressing challenges facing the teaching profession, regardless of the pressures posed by economic and budgetary constraints. In **New Zealand**, collective agreements between the Ministry of Education and the primary and secondary teachers' unions respectively improve working conditions, teachers' voice and rights at work in early childhood centres and establish an ongoing dialogue on class size in secondary schools despite a government commitment to fiscal constraint. In **Germany** in 2012, teacher unions in some states (*Länder*) were involved in several rounds of negotiations with the federal Government over teachers' pay and their professional status<sup>37</sup> that demonstrated a willingness on the part of relevant education authorities to engage in social dialogue. This appears to indicate some progress in extending collective bargaining to teachers with civil servant status in

<sup>37</sup> EI: "German teachers set to strike over low pay", *Education International News*, 9 Mar. 2011, Brussels, [http://www.ei-ie.org/en/news/news\\_details/1690](http://www.ei-ie.org/en/news/news_details/1690) [accessed 11 June 2012].

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Germany, despite ongoing questions in this regard by the ILO's Committee of Experts on the Application of Conventions and Recommendations.<sup>38</sup>

The caveat is that these positive examples occur in countries that have been spared the worst of economic austerity. Still they point the way to other countries tempted by largely ideologically motivated calls for restraints on or elimination of social dialogue for supposed economic or public sector budgetary reasons. As the CEART has correctly pointed out, and a number of countries have confirmed in their national practice, social dialogue offers a unique opportunity to address economic crisis if it is effectively used.

## Changing teacher roles and responsibilities and social dialogue

As with efforts to address the impact of economic and budgetary austerity, and as the CEART has previously underlined, social dialogue has a potentially large role in helping both education to meet new demands and the teaching profession to adjust to new roles and responsibilities, particularly in helping achieve the “buy-in” or commitment by teachers that enable reforms to be effective and sustainable.<sup>39</sup> To date, the evidence on this linkage remains thin but progress is being made in some countries.

One platform for social dialogue on professional issues should be teacher professional bodies where they exist. One of these, the Teaching Council of **Ireland** published a new Code of Professional Conduct for Teachers in June 2012 as part of its mandate to promote and regulate teaching as a profession. Dialogue takes place within the Council, whose membership is two-thirds elected teachers or those appointed by teachers' unions from primary and post-primary education, along with representatives of education authorities, school management, teachers' education institutions and parents' associations. The elaboration of the Code also derived from an extensive consultation process with education partners and stakeholders, including the general public, teachers and interested bodies. The process explicitly took account of a number of developments since the publication of the first Code in 2007, including the Council's own policy on a teacher education continuum, the broader context of teaching, and changes in the factors influencing teachers' work (some beyond their control) such as the engagement of parents and the wider community, opportunities for teachers' professional development; and the accelerated degree of educational change. The new Code contains 33 such standards covering areas such as communication and relationships, equality and inclusion, compliance with national and school policies, professional development and pupil/student welfare.<sup>40</sup>

Although relatively weak in technical and vocational education and training (TVET), social dialogue engaging the social partners on skills development policy as part of responses to economic recession and unemployment is becoming more common. Such dialogue has increasingly looked at teacher/trainer preparation and professional

<sup>38</sup> Observation of the CEACR on Germany and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), adopted 2011, published 101st ILC Session (2012) [accessed via NORMLEX, 23 July 2012].

<sup>39</sup> A major theme also of the ILO's 2000 meeting on the subject of new teachers' roles; see: *Note on the proceedings*, Joint Meeting on Lifelong Learning in the Twenty-first Century: The Changing Roles of Educational Personnel, JMEP/2000/10 (Geneva, Sectoral Activities Programme).

<sup>40</sup> The Teaching Council (Ireland): “Purpose of the Council”, “Structure of the Council”, “Code of Professional Conduct for Teachers” (Maynooth, Ireland, 2012) <http://www.teachingcouncil.ie/> [accessed 23 July 2012].

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development (including training placements of teachers in private enterprise) to ensure better quality and especially more relevant student training. The Foundation for Cooperation on Vocational Education, Training and the Labour Market (SBB) is a recent innovation (2012) in the **Netherlands** designed to help education and business stakeholders in the sector resolve differences on problems such as the qualification framework, practical occupational training, macro-efficiency and examinations. Of the six education representatives on the 12-member Executive Board, one represents staff. Dutch teachers in secondary vocational education schools (MBOs) have the right to 60 hours each year for learning and keeping professional skills up-to-date under the collective agreement for the sector.<sup>41</sup>

Collective bargaining has also allowed social partners to address changing expectations, new roles and responsibilities. As this report's more detailed case studies suggest, innovative reforms in teacher preparation to improve pedagogical practices and student learning in **Canada (Ontario)**, to develop better staffing formulas to meet the needs of secondary teachers and small schools faced with particular learning challenges in **New Zealand**, and to change teacher salary scales to better reflect competencies based on school leader assessments in **Norway** have all derived from collective bargaining agreements. The national campaign to improve teacher status and recruitment in Norway also depends, if not on a classic collective agreement, at least on an agreed partnership formalized by a signed agreement among the diverse partners. These examples show that collective bargaining in education can help transform teaching, not simply determine standard employment terms. In this logic, collective bargaining becomes a solution to new education challenges, not a hindrance as many anti-teacher union and bargaining academics and political leaders insist in countries such as the United States.

## 4. Conclusions

The CEART has observed that social dialogue can promote democratic governance in education, build consensus around reforms and therefore social cohesion. In the process, it enables stakeholders in education to adjust to new challenges and exploit opportunities to improve education. If effectively applied, it can serve as the “glue” for successful education reform, enabling a fuller involvement of teachers, who are in the front lines of implementing new learning policies and approaches, to help design what is likely to work, apply agreed approaches, analyse and adapt practice where necessary and acquire a commitment to success over the long haul. Social dialogue therefore becomes a key factor in defining the right policies necessary for learners' progress, ensuring that they are actually used effectively and adapted to meet changing needs, and in sustaining reform. These objectives are far more ambitious than merely negotiating higher salaries and better working conditions.

There are certain prerequisites for successful social dialogue, with roots in international standards and years of good practice. First, respect for the fundamental rights of freedom of association, to organize independent, representative organizations and to engage in negotiations/collective bargaining is a must. Virtually all of the country cases adhere to this “package” of rights, legally or de facto. Second, political will, trust and commitment of all parties to engage in these processes in good faith are also required, as Finland, Norway, and South Africa have consistently shown, and other countries such as Brazil, Canada and Chile have done on a periodic basis. Third, representative organizations

<sup>41</sup> G. van Liemt: “Business and initial vocational education and training (IVET) in the Netherlands: A schematic overview”, paper commissioned for the Sectoral Activities, and Skills and Employability Departments (Geneva, June 2012, unpublished).

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need access to relevant information to participate in social dialogue and the technical expertise to see it through. One of the primary reasons more good practices are not available from the poorest countries is that these conditions are lacking. It is a gap that international development assistance would do well to focus on.

A fourth, and arguably one of the most important prerequisites, is that the processes of dialogue should be institutionalized as far as possible, since informal or ad hoc forms of social dialogue are not certain to have lasting impact, although where part of the give and take of democratic politics, informal dialogue may periodically yield major advances. Formal dialogue in turn requires a fifth prerequisite: appropriate institutional support in the form of a statutory framework for the conduct of social dialogue, formally constituted consultative bodies with defined responsibilities and structures for representation, and laws regulating the practice of negotiation/collective bargaining and dispute resolution means when voluntary agreement is not possible. Most of the good practices cited in this report – Canada, Finland, Norway, South Africa, but also Ireland and the Netherlands – have strong institutional frameworks, rooted in legal guarantees and defended as essential by the major social dialogue partners, employers and teachers' unions alike.

In addition, the CEART and other observers have remarked that education social dialogue especially requires respect for professional freedom and the active participation of individual teachers in deciding a range of professional issues, including curricula, pedagogy, student assessment and issues relating to the organization of education in schools and classrooms. Respecting certain limits on education authority responsibilities to decide on policy and basic management, the best practice countries largely adhere to the idea that education works best (and job satisfaction and teacher motivation are highest), when well-prepared teachers are accorded a large degree of professional autonomy and have a strong voice in decisions on curricula, learning needs and approaches. Conversely, where learning outcome assessments as the basis for education policy are based on centrally imposed, "high stakes" standardized testing with little or no input from teachers, education outcomes are much less successful.

Information from a number of sources and country case studies prepared for this report provide solid evidence that education social dialogue in its various forms – information sharing, consultation, negotiations/collective bargaining – is a proven value in addressing new expectations and challenges to teacher policy, in addition to underpinning conditions that create a high-status profession. Both processes serve to maximize the major objectives of any societies' education "system": universal access, relevance and the best possible quality of education, however difficult it is to define concepts like relevance and quality. An increasing body of evidence reinforces the CEART's 1988 affirmation that as teachers are regarded, so are education and schools. Social dialogue is a major means to this end. The successes cited in this report derive from a range of social dialogue practices and settings:

- achieving commitments to double national investment in education in Brazil, and by extension more investment in teacher professional development, remuneration and teaching/learning conditions, through political dialogue and stakeholder alliances;
- initial success in agreeing on a teacher career structure that required time, commitment and trust in consultations and de facto bargaining in Chile, and, as a counterpoint, more conflict over recent teacher career reforms when social dialogue was not employed along these lines;
- new professional standards adapted to the changing education environment and set out in a code of conduct (Ireland) or a new partnership for TVET standards (Netherlands), both relying on consultative processes engaging teachers and their representatives;

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- national accords on the need for a higher quality teaching profession to address teacher recruitment difficulties, to be achieved through a long-term strategy (South Africa) or national campaign (Norway), and implemented by a broad-based partnership constructed by means of social dialogue;
  - against a backdrop of economic uncertainty and slow growth, national tripartite framework agreements developed from social dialogue institutions that focus on skills development, innovation, employment restructuring, compensation boundaries and working environment improvements (Finland) or in association with teacher professional development plans (South Africa), in both cases with long-term social dialogue plans to follow progress and improve labour relations based on transparency, respect, trust, continuous dialogue, application of agreements and dispute resolution;
  - changes in teacher professional development, encouragement to innovation in pedagogical practices and improvements in school staffing (or class size) in Canada (Ontario) and New Zealand as part of collective bargaining outcomes;
  - protections accorded to teachers who are the targets of violence through a new collective bargaining agreement in Colombia, against a backdrop of movements forward on public sector labour relations.

Although not yet producing concrete results from social dialogue, the trend towards legal and institutional confirmation of public sector bargaining, which would positively impact on most teachers, contains potential for advances in countries such as Botswana, Brazil, Mozambique and Uruguay.

There is thus no universally best practice of social dialogue. Still, the “success stories” that tend towards a positive impact on a high-status teaching profession and high-quality learning outputs, sustainable over time, point to reliance on the cocktail of prerequisites cited above. Where success is less sure, for example, recent conflict over the previous agreement on teachers’ career structure and appraisal systems in Chile, or the uncertainty that an ambitious national investment plan will actually come about in Brazil, at least one of the prerequisites is missing. There is yet no legal framework (though it may be coming) for public sector or teacher collective bargaining in Brazil, nor in Chile. Deprived of this institutional framework, teachers and their organizations revert to forms of political dialogue to defend and promote teaching, but where the political winds have changed (Chile) or could in the future (Brazil), social dialogue achievements may be reversed. The legal and institutional framework also helps to sustain ongoing dialogue in support of at least incremental improvements in teachers’ conditions in countries (such as Canada), even if major collective bargaining achievements can also be bargained down (or away) in a more hostile political or economic environment. Ontario and other provincial cases not cited in this report are illustrative. The report argues that where all of the prerequisites are met, largely the case in countries like Finland, New Zealand, Norway and South Africa, the most significant and broadly consensual achievements for both teaching and education have the highest chance of realization.

Despite the value shown in obtaining consensus and broad partnerships to build better education and professional teacher systems, and in the process avoiding labour and social conflicts that disrupt education provision, this tool remains underutilized. Its continued viability has also been weakened by a combination of factors: violations of basic rights (unfortunately present in a wide range of countries, for the most part developing ones); weak or absent institutional frameworks to channel dialogue towards consensus and away from conflict; continuing economic austerity; and rising ideological and political hostility promulgated by anti-teacher and anti-trade union intellectuals and political leaders.

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The latter two factors in particular are increasingly exacerbating a long-standing conservatism in according basic rights to professional workers such as teachers. The trend runs the gambit from authoritarian political regimes (Islamic Republic of Iran is a prime example) where rights are purely and simply denied to more democratic political entities such as states in the United States that are reluctant to cede managerial prerogatives, or try to re-establish unilateral decision-making. More broadly, the thrust against negotiation and other forms of dialogue with teachers and their collective representatives in unions or professional bodies, which inevitably implies compromise by education authorities, is increasingly rooted in a culture of managerial thinking that emphasizes rigid, centralized accountability for education results in opposition to professional autonomy on which demonstrated good teaching and learning practice thrives.

In conclusion, the social dialogue “gap” represents one of the biggest holes in ILO “Decent Work” and other international agendas for teachers and education. This gap has been noted in a number of international frameworks or forums such as the Global Jobs Pact adopted by the ILO in 2008, and global dialogue forums on skills and on teaching held by the ILO in recent years.<sup>42</sup> The gap is widening in the area of public policy to deal with economic austerity, fiscal constraints and government under-investment in education, as trends in Europe demonstrate. The greatest threat to broadly participative and effective social dialogue may very well be these trends towards limiting decades-old rights frameworks (United States) or rendering them shadows of formerly vibrant consultation and negotiation frameworks (many countries of Europe), ostensibly in order to deal with economic crisis. One of the causal factors is the wilful denial or downplaying of provisions in international labour standards and those specific to teachers, combined with blindness to demonstrated good country practices and recommendations put forward by international experts bodies such as the CEART. This report argues that such approaches need serious reconsideration if governments and educational stakeholders are to find innovative and lasting solutions to current financial challenges in ways that are collaborative rather than driven by labour conflicts, are sustainable in the long run, and work for and are valued by communities, schools, teachers and children.

<sup>42</sup> ILO: “Update of sectoral aspects in the context of economic recovery: Education and research”, 2011, op. cit., p. 9.

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## Appendix I

### International labour and teacher-specific standards relevant to education social dialogue

#### *ILO Conventions*

- The *Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)* sets out the basic principles of freedom of association and independence in organizing representative organizations (the means that permit individuals to collectively express their views as noted by the CEART).
- The *Right to Organise and Collective Bargaining Convention, 1949 (No. 98)* provides further guidance on the basic right to form independent organizations and on collective bargaining.
- The *Collective Bargaining Convention, 1981 (No. 154)* outlines the principles under which collective bargaining should be conducted in any workplace setting, including educational institutions.
- The *Labour Relations (Public Service) Convention, 1978 (No. 151)*, covers the specifics of labour relations in public services, therefore relevant to the vast majority of teachers employed by public employers.

#### *ILO/UNESCO Recommendation concerning the Status of Teachers, 1966*

- Paragraph 9: Teachers' organizations to be associated with the determination of educational policy.
- Paragraph 10(k): Close cooperation between competent authorities, teachers', workers' and employers' organizations, research institutions and parents to define education policy and objectives.
- Paragraphs 27–28: Staff to express their views on teacher preparation institutions, whose programmes to reflect the experiences of teachers.
- Paragraph 32: Authorities to consult teachers' organizations on establishment and functioning of in-service teacher training programmes.
- Paragraph 38: Policies and rules determining teacher recruitment and employment to be established in collaboration with teachers' organizations.
- Paragraph 44: Professional criteria for teacher promotions to be laid down in consultation with teachers' organizations.
- Paragraph 49: Teachers' organizations to be consulted on the establishment of disciplinary procedures.
- Paragraph 62: Teachers and their organizations to participate in the development of courses, textbooks and teaching aids.
- Paragraph 71: Professional standards relating to teacher performance to be defined and maintained with the participation of teachers' organizations.
- Paragraph 75: Authorities to establish and regularly use means of consultation with teachers' organizations on education policy, organization of services and new developments in education.
- Paragraphs 82–84: Statutory or voluntary machinery to be established for negotiation and dispute resolution between public and private employers and teachers' organizations on salaries and working conditions.
- Paragraph 89: Teachers' daily and weekly hours of work to be established in consultation with teachers' organizations.

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- Paragraph 99: Teachers to be accorded occasional leave to participate in their organizations and to have the right to hold office in teachers' organizations as for public offices.
  - Paragraph 110: Representative teacher views to be sought in planning new schools and facilities.
  - Paragraph 116: Teacher salary scales to be established in agreement with teachers' organizations.
  - Paragraph 123(2): Salary adjustment indexes to be determined with the participation of teachers' organizations.
  - Paragraph 124: Merit rating systems for purposes of salary determination to be introduced or applied in consultation with teachers' organizations.
  - Paragraph 140: administration of teacher social security schemes, including investment of funds, to include participation of teachers' organizations.

### ***UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel, 1997***

- Paragraph 8: Organizations representing higher-education teaching personnel to be involved in determining higher-education policy.
- Paragraph 21: Self-governance and collegiality are essential elements of higher education autonomy.
- Paragraph 22(k): Statements or codes of ethics to guide teaching, scholarship, research and extension work of higher education staff to be established through collegiality and/or through negotiations with organizations of higher education teaching personnel.
- Paragraph 24: Organizations representing higher-education teaching personnel to participate at institutional level or to negotiate state-designed systems of accountability and quality assurance mechanisms and their implementation.
- Paragraph 28: Higher-education teaching personnel to play a significant role in determining curriculum.
- Paragraphs 31–32: Higher-education teaching personnel to have the right to take part in and elect representatives to institutional collegial bodies, to participate in institutional decision-making mechanisms and development of consultative mechanisms.
- Paragraph 34(l): Teaching staff to undertake the duties necessary for collegial governance of institutions and professional bodies.
- Paragraph 43(b): Higher-education staff to enjoy an effective, fair and just system of labour relations within institutions consistent with international standards.
- Paragraphs 52–56: Higher-education teaching personnel to benefit from the right to freedom of association, collective bargaining to be promoted in accordance with ILO standards, salaries and terms and conditions of employment to be voluntarily negotiated between employers and organizations representing teaching personnel, whether determined by laws, collective bargaining agreements or by equivalent procedures, and appropriate dispute settlement procedures established through grievance procedures or arbitration.
- Paragraphs 60–62: Salary scales to be established in agreement with organizations of higher-education teaching personnel, or through equivalent procedures consistent with international labour standards, prior consultation to be assured on merit-rating performance systems and workload to be negotiated with representatives of higher education teachers' organizations.
- Paragraph 64: Organizations representing higher-education teaching personnel to participate in the governance and administration of staff pension systems.



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## Appendix II

### Country case studies <sup>1</sup>

#### A. *Brazil*

##### The social dialogue context and legal framework

The Constitution recognizes the right of public sector workers (the majority of teachers up to secondary education inclusive are in public education) to organize trade unions and to strike, but the law is not explicit in guaranteeing collective bargaining, and a 1992 Supreme Court decision considered such a right unconstitutional. <sup>2</sup> Labour relations are regulated in the first place by the Consolidation of Labour Laws (CLT), which does not clarify such issues, but progress towards greater coherence for public sector teachers is part of a movement in recent years towards alignment with international labour standards, specifically the ILO Labour Relations Convention, 1977 (No. 151) (see below).

Responsibility for education in Brazil is divided between public authorities – federal, state (there are 27) and municipal (there are several thousand), each with a high degree of administrative and operational autonomy – and the private sector. More than 40 per cent of early childhood educators are privately employed, whereas local municipal authority schools or centres employ more than 80 per cent of the public sector educators. Of the more than 80 per cent of primary and lower secondary teachers employed by public authorities, the majority (60 per cent or more) are engaged by municipal authorities and almost all the remainder by state employers. Upper secondary teachers are overwhelmingly public (over 70 per cent) and employed at the state level (80 per cent). The Federal Government is responsible for higher education, directly in the form of federally financed universities. <sup>3</sup>

Education social dialogue is fragmented as well along these lines and therefore between public and private employers and teachers' unions representing one or more categories. Despite restrictions noted above, one source has contended that public sector bargaining does take place, with nearly half of such occurrences at federal level on issues of salaries, careers and working conditions. <sup>4</sup> Informal means of social dialogue can also be important in Brazil: a large number of social dialogue conferences have reportedly been organized in past years to address labour relations issues. Government sources have also announced future changes in public sector bargaining and the right to strike in order to allow application of the ILO's Convention No. 151. <sup>5</sup> Unions are registered by the

<sup>1</sup> The first four country case studies contain more detailed information and analysis of the social dialogue context, legal and institutional framework, main actors and identified good practices. For reasons of research time and length of the paper, the case studies that follow are shorter.

<sup>2</sup> A. Cardoso and J. Gindin: *Industrial relations and collective bargaining: Argentina, Brazil and Mexico compared*, Working Paper No. 5, Industrial and Employment Relations Department (Geneva, ILO, October 2009), p. 20, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---dialogue/documents/publication/wcms\\_158020.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/publication/wcms_158020.pdf) [accessed 30 June 2012]; ILO: *Decent Work Country Profile: Brazil* (Geneva and Brasilia, 2009), pp. 49–50, [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---integration/documents/publication/wcms\\_124376.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---integration/documents/publication/wcms_124376.pdf) [accessed 30 June 2012].

<sup>3</sup> B.A. Gatti and E.S. de Sá Barreto: *Teachers of Brazil: obstacles and challenges* (Brasilia, UNESCO, 2011), pp. 27–28, 223, <http://unesdoc.unesco.org/images/0021/002119/211927e.pdf> [accessed 5 July 2012].

<sup>4</sup> Cardoso and Gindin, op. cit., p. 42.

<sup>5</sup> J. Drummond and D. Paiva Ferreira: “Report on public sector labour relations in Brazil”, presented at the validation workshop, Turin, Italy, 28 July 2011, cited in ILO: *Manual on collective*

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Ministry of Labour, which also applies the monopoly principle (one union per administrative jurisdiction or “unicidade” that applies to other Latin American countries). Labour courts are responsible for the administration of labour justice and play a central role in deciding most cases concerning individual rights, supplemented by the Public Labour Attorney (Ministério Público do Trabalho, MPT), which may oblige public and private employers to adopt “terms of adjustment” relating to working conditions (even if not defined by labour law), for example, in cases of discrimination or dangerous working conditions.<sup>6</sup>

Brazil has adopted three of the four principal international labour standards relevant to the education sector: Conventions Nos 98, 151 and 154 (see section 1 and Appendix I), but not the fundamental Convention No. 87 on freedom of association. In terms of applying these standards, there have been no recently reported complaints to the ILO’s Committee on Freedom of Association (CFA) directly concerning teachers. In 2006, a national teachers’ union representing higher-education teachers complained of a pattern of violations of freedom of association among private higher-education institutions. The ILO’s Committee on Freedom of Association observed that the case pointed to deficiencies in Brazilian labour law which, as noted above, focuses on federal, state and local (municipal) levels, since labour law did not adequately provide for such rights at institutional level.<sup>7</sup>

There have also been persistent comments from the principal ILO supervisory body for international labour standards about gaps in two areas of Brazil’s social dialogue framework. One concerns the lack of public sector collective bargaining rights, a matter that affects most teachers. The Government reported to the ILO in 2011 that a working group had been established with the social partners in the Ministry of Labour to formulate legislative proposals and a draft constitutional amendment in order to apply Convention No. 151, which was ratified in 2010, the result of a process of several years of lobbying by workers’ organizations and discussions at national level through the Public Service Board.<sup>8</sup> At the time of writing of this report, no further information was available on progress towards this goal. An additional issue stems from previous observations on the need to repeal section 623 of the CLT, by which the provisions of a collective agreement or accord that are in conflict with the orientations of the Government’s economic and financial policy or the wage policy that is in force may be declared null and void, a direct challenge to voluntary collective bargaining.<sup>9</sup>

There have been no reported cases of allegations to CEART about the international Recommendations on teachers.

*bargaining and dispute resolution in the public service* (Geneva, Sectoral Activities Department, 2011), p. 20, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---sector/documents/instructionalmaterial/wcms\\_180600.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/instructionalmaterial/wcms_180600.pdf) [accessed 6 July 2012]; Government of Brazil, Ministry of Planning: “Collective Bargaining and ILO Convention No. 151 in Brazil” presented at the validation workshop, Turin, Italy, 28 July 2011.

<sup>6</sup> Cardoso and Gindin, *op. cit.*, p. 22.

<sup>7</sup> ILO: “Report in which the Committee requests to be kept informed of developments – Case No. 2523 (Brazil)”, Committee on Freedom of Association, Report No. 346, June 2007 (Geneva), [http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:2810987631937732::NO:50002:P50002\\_COMPLAINT\\_TEXT\\_ID:2910424](http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:2810987631937732::NO:50002:P50002_COMPLAINT_TEXT_ID:2910424) [accessed 1 July 2012].

<sup>8</sup> Cardoso and Gindin, *op. cit.*, p. 21.

<sup>9</sup> ILO: “Observation of the Committee of Experts on the Application of Conventions and Recommendations (CEACR): Right to Organise and Collective Bargaining Convention, 1949 (No. 98) – Brazil”, International Labour Conference, 101st Session, June 2012 (Geneva), [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:4224284247205923::NO:13100:P13100\\_COMMENT\\_ID:2698922:NO](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:4224284247205923::NO:13100:P13100_COMMENT_ID:2698922:NO) [accessed 1 July 2012].

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Consultation between government, private employers and workers' organizations also takes place in constitutionally based national councils, some of which have a stake in decision-making while others are only consultative bodies. One of the most important is the Conselho Nacional de Educação (CNE – see below).<sup>10</sup>

Less formally, education social dialogue in recent years has relied in no small part on the election of a popular and “worker-friendly” Government, led by Presidents Lula da Silva and Dilma Roussef of the Workers' Party (PT), which has largely controlled the national legislature outright or through coalition since 2003. The CNTE has been closely associated with this Government through political elections or appointments to key Government education portfolios of former CNTE officials and to lobbying efforts. One concrete result was the adoption in 2008 of legislation on a national minimum wage for teachers, a basis for improving teacher salaries and reducing inequities between states and municipalities.<sup>11</sup>

## The main actors

The main education sector employers are the:

- federal Government for higher education, acting through the federally financed institutions of higher education;
- state governments, responsible for the financing and organization of most upper secondary schools and considerable numbers of lower secondary schools;
- municipal governments, responsible for the financing and organization of public pre-primary and basic education institutions;
- private school education employers.

The principal teachers' unions engaged in various forms of social dialogue are the:<sup>12</sup>

- Confederação Nacional dos Trabalhadores em Educação (CNTE), which claims approximately 1 million members, most but not all teachers from early childhood to secondary education (of an estimated 2.6 million teachers from pre-primary to secondary education, 2010)<sup>13</sup>, and the CNTE's state and municipal level affiliates;
- PROIFES Federação, which represents higher education teaching staff (the number of members is not available);
- Confederação Nacional dos Trabalhadores em Estabelecimentos de Ensino (CONTEE), which claims to represent 800,000 teachers, technical and administrative staff in private education from early childhood to higher education inclusive.

<sup>10</sup> Cardoso and Gindin, op. cit., p. 47.

<sup>11</sup> J. Fontoura, P. Gentili and J. Gindin: “Os sindicatos docentes e as reformas educacionais na América Latina: O caso brasileiro”, in *Sindicatos Docentes e Reformas Educacionais na América Latina – Brasil* (Rio de Janeiro, Konrad Adenauer Stiftung, 2009), pp. 30–39.

<sup>12</sup> Confederação Nacional dos Trabalhadores em Educação (CNTE): “A CNTE” (Brasília, 2012), <http://www.cnte.org.br/index.php/institucional/a-cnte> (accessed 5 July 2012); Confederação Nacional dos Trabalhadores em Estabelecimentos de Ensino (CONTEE): “Apresentação” (Brasília, 2012), <http://contee.org.br/contee/index.php/apresentacao/> [accessed 5 July 2012].

<sup>13</sup> UNESCO Institute for Statistics (UIS): “Table 4: Teaching staff by ISCED level”, (Montreal, UIS Data Tables, 2012) <http://stats.uis.unesco.org/unesco/TableViewer/tableView.aspx?ReportId=181> [accessed 5 July 2012].

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## Good practices in information sharing, consultation and negotiations

A major consultative form for education actors, including employers and teachers' union is the CNE. This national council was set up to advise the federal Ministry of Education on its work at the national level, notably in evaluating the national education policy, ensuring the quality of teaching, ensuring compliance with education laws, and enabling the participation of civil society representatives, including employers' and workers' organizations, but also non-governmental organizations (NGOs) and other collective bodies directly affected by its policy-making or advisory activities. The CNE carries out its work through national boards for basic and higher education. Teachers' organizations are not formal members of the CNE but are invited to share their views on major education policy issues such as future directions of the National Education Plan (PNE) adopted in 2010, which includes questions of education financing/investment, coordination/governance within a large federal State with differentiated education responsibilities between federal, state and municipal levels, teacher training and professional development, salaries and careers.<sup>14</sup>

## Challenges and responses through social dialogue

By international comparative measurements, Brazilian learning standards and teacher status are relatively low,<sup>15</sup> with the twin challenges closely linked. To redress the perceived low status of teachers, national campaigns in recent years have focused on improvements in career plans, a nationally applied salary floor, and large increases in the national investment in education. In the absence of formal collective bargaining rights for public servants, two major recent advances affecting teachers can be attributed to efforts by teachers' organizations, notably CNTE, to affect change through the political arena by means of public campaigning in association with like-minded civil society organizations and by means of direct influence and lobbying through elected bodies – national and state assemblies and municipal councils.

One is the decision taken in February 2012 to raise the base (minimum) salary of teachers nationally by more than 20 per cent to BRL1,451 (about US\$849) with an increase to a working week of 40 hours, in accordance with the 2008 law on a national minimum salary for school teachers. The change reflects adjustments in the minimum annual amount of funds per student set nationally in 2011 through the Fund for the Development of Basic Education and Valorization of Education Professionals (FUNDEB) in relation to 2010 values.<sup>16</sup>

A second major advance for teachers and education resulting from more informal and politically based social dialogue processes occurred in June 2012 when a special committee of the National Assembly approved a plan to nearly double national investment in education to 10 per cent of GDP by 2012 to give effect to commitments made in the 2010 PNE. Again the decision was attributed to strong lobbying from teachers' organizations and civil society education campaigners.

<sup>14</sup> Conselho Nacional de Educação (CNE): “Apresentação” (Brasília, 2012), [http://portal.mec.gov.br/index.php?option=com\\_content&view=article&id=12449&Itemid=754](http://portal.mec.gov.br/index.php?option=com_content&view=article&id=12449&Itemid=754) [accessed 5 July 2012]. “Seminário sobre o Nacional de Educação: Relatório” (Brasília, May 2011), [http://portal.mec.gov.br/index.php?option=com\\_content&view=article&id=16671&Itemid=1111](http://portal.mec.gov.br/index.php?option=com_content&view=article&id=16671&Itemid=1111) [accessed 5 July 2012].

<sup>15</sup> T. Kuehne: “In Brazil, teachers struggle for fair pay” (United Press International, 5 April 2012), [http://www.upi.com/Top\\_News/World-News/2012/04/05/In-Brazil-teachers-struggle-for-fair-pay/UPIU-7201331691154/#ixzz1zkAQo5WP](http://www.upi.com/Top_News/World-News/2012/04/05/In-Brazil-teachers-struggle-for-fair-pay/UPIU-7201331691154/#ixzz1zkAQo5WP) [accessed 5 July 2012]; OECD: “Overview of country results in TALIS: Brazil” (Paris, 2009), <http://www.oecd.org/dataoecd/8/52/43071730.pdf> [accessed 5 July 2012]; *PISA 2009 Executive Summary* (Paris, 2010), <http://www.oecd.org/dataoecd/54/12/46643496.pdf> [accessed 5 July 2012].

<sup>16</sup> CNE: “Piso do magistério deve ser reajustado em 22,22% e passar para R\$1.451” (Brasília, February 2012), [http://portal.mec.gov.br/index.php?option=com\\_content&view=article&id=17542:piso-do-magisterio-deve-ser-reajustado-em-2222-e-passar-para-r-1451&catid=211&Itemid=86](http://portal.mec.gov.br/index.php?option=com_content&view=article&id=17542:piso-do-magisterio-deve-ser-reajustado-em-2222-e-passar-para-r-1451&catid=211&Itemid=86) [accessed 5 July 2012].

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It may also result from the pressure applied by a national teachers' strike in March 2012 over non-implementation of the national minimum salary agreement (according to the CNTE more than half of the state and many municipal authorities have failed to apply the 2008 agreement) and in favour of increased educational investment.<sup>17</sup> These advances remain to be confirmed: as of the writing of this report, as the National Senate has yet to adopt the 10 per cent investment target, and conflicts continue over the implementation of the national salary floor.

Increased investment would also benefit higher education, where strikes are not infrequent due in part to a lack of formal negotiating outlets on salaries and working conditions of higher education teachers, as the June–July 2012 strike at federal universities of Rio de Janeiro attests.<sup>18</sup>

## Summing up

Social dialogue in Brazil's education sector is based in part on constitutionally protected rights to freedom of association and to strike, at least one national consultative forum which reviews key policy and application of decisions affecting teachers and on strong informal dialogue through the political process at various administrative levels responsible for education, especially national. The latter avenue has proved to be the most promising in terms of realizing improvements in the teaching profession in recent years (national teachers' salary floor, even if it is not fully implemented, and a 2012 decision on doubling of national income investments for education), but could also prove to be a fragile basis for sustained improvements if and when the political environment shifts in the future. A major gap exists in the lack of statutory rights and a framework for public sector collective bargaining, although recent developments point to a resolution of this challenge in the near future.

## B. Chile

### The social dialogue context and legal framework

Rights to freedom of association and to organize and participate in independent employers' and workers' (teachers') organizations, public and private, are guaranteed in the Constitution, and by implementing legislation. Public servants do not have the right to bargain collectively nor to strike, and dispute resolution procedures do not exist for them.<sup>19</sup>

Chile has ratified three of the four important ILO Conventions on social dialogue: Conventions Nos 87, 98 and 151 (see section 1 and Appendix I). It has not ratified Convention No. 154. In terms of their application to social dialogue in Chile, the principal ILO supervisory body for international labour standards for many years has requested changes in the Labour Code and

<sup>17</sup> A. Cieglinski: "Câmara aprova Plano Nacional de Educação com destinação de 10% do PIB" (Brasília, Agência Brasil, 28 June 2012), <http://agenciabrasil.ebc.com.br/noticia/2012-06-26/camara-aprova-plano-nacional-de-educacao-com-destinacao-de-10-do-pib> [accessed 5 July 2012]; CNTE: "Professores de 24 estados aderem à greve nacional", *CNTE Informa* 613 (Brasília, 23 Mar. 2012), <http://www.cnte.org.br/index.php/comunica%C3%A7%C3%A3o/cnte-informa/440-cnte-informa-613-23-de-marco-de-2012/9924-professores-de-24-estados-aderem-a-greve-nacional> [accessed 5 July 2012]; EI: "Brazil: Teachers strike over low pay" (Brussels, 14 Mar. 2012), <http://www.ei-ie.org/northamerica/en/newsshow.php?id=6053&theme=statusofteachers&country=Brazil> [accessed 5 July 2012].

<sup>18</sup> Agência Brasil: "Professores, servidores e alunos de universidades federais fazem protesto no Rio" (Rio de Janeiro, 28 June 2012), <http://agenciabrasil.ebc.com.br/noticia/2012-06-28/professores-servidores-e-alunos-de-universidades-federais-fazem-protesto-no-rio> [accessed 6 July 2012].

<sup>19</sup> Grupo Directivo Nacional de Informe de Chile (GDN): *Personal docente para el futuro: remediar la escasez de personal docente para alcanzar el objetivo de Educación para Todos – Informe nacional de Chile*, Programa de Acción sobre Educación 2004–05 (Geneva, ILO, 2005), p. 69, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---sector/documents/publication/wcms\\_161966.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_161966.pdf) [accessed 5 July 2012].

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national penal law that restrict collective bargaining in public institutions or private ones in which the State finances 50 per cent or more of the budget (for instance, municipalities that organize education), and set limitations on the right to strike, including for public servants. Over the years, several complaints have been made to the ILO about violations of teachers' collective bargaining and trade union rights; the last concerned a complaint about private schools in 2008–09.<sup>20</sup>

Since the prevailing legislation does not provide teachers employed by municipalities with the legal right to bargain collectively or to strike (although bargaining and strikes do occur in practice), the conditions of employment and remuneration of teachers are legally determined between the teacher and the municipality in each particular case, within the framework of the Statute on Education Professionals (*Estatuto Docente*), which regulates and protects teachers in the state-subsidized municipal sector, but also extends to those in the subsidized private sector. Such “negotiations” may also set higher remuneration than the minimum national levels applicable to all teachers (*Remuneración básica Nacional*) and adjustments in other employment terms. Notwithstanding the legislation, the recognition of, and negotiation with, teachers' organizations, notably the Colegio de Profesores (CPC) (see below), are practices that have been legitimized over time and which have played an important role in improving remuneration and career structures at both national and municipal levels since the 1990s. Agreements are reached between the principal teachers' union and educational authorities through joint ad hoc commissions, which are then codified in legislation.<sup>21</sup>

The Labour Code accords teachers in private schools collective bargaining and strike rights, as well as the possibility of individual negotiations with their employer on terms and conditions of employment. Questions relating to an employer's right to “organize, direct and manage” schools are excluded from bargaining. Private school teachers are automatically extended the subsidized municipal sector salary floor and may negotiate additional benefits on their own based on the amounts of public subsidies to private schools. Nonetheless, trade union organization and collective bargaining power in private schools is judged to be low.<sup>22</sup>

The Ministry of Education maintains a website and distributes printed materials to teachers but there are no permanent, formal mechanisms for information sharing or consultations on educational policy or issues with teachers' organizations. However, since the restoration of democracy in 1990, successive Governments have established several consultative or advisory commissions for purposes of recommending education policies or reforms. These usually include key education stakeholders, including the municipal authorities that employ a majority of school teachers and the principal union representing teachers, the CPC. Some of the more notable commissions have dealt with issues such as the teacher assessment and career programme, the extension of the school day, initial teacher training and the Education for All (EFA) campaign. The CPC has also been invited repeatedly to share its views with the national legislature on important education reform issues, a recent example being a seminar on the teachers' career structure organized jointly with the

<sup>20</sup> ILO: “Observation (CEACR): Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) – Chile”, International Labour Conference, 101st Session (Geneva, 2012), [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:2625372140322660::NO:13100:P13100\\_COMMENT\\_ID:2698635:NO](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:2625372140322660::NO:13100:P13100_COMMENT_ID:2698635:NO) [accessed 6 July 2012]; “Observation (CEACR): Right to Organise and Collective Bargaining Convention, 1949 (No. 98) – Chile”, International Labour Conference, 101st Session (Geneva, 2012), [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:4280330683222226::NO:13100:P13100\\_COMMENT\\_ID:2698925:NO](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:4280330683222226::NO:13100:P13100_COMMENT_ID:2698925:NO) [accessed 6 July 2012]; “Report in which the Committee requests to be kept informed of developments – Case No. 2653 (Chile), Committee on Freedom of Association Report No. 354, Governing Body (Geneva, June 2009), [http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:1649020988146795::NO:50002:P50002\\_COMPLAINT\\_TEXT\\_ID:2911485](http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:1649020988146795::NO:50002:P50002_COMPLAINT_TEXT_ID:2911485) [accessed 8 July 2012].

<sup>21</sup> GDN: op. cit., pp. 69–71; G. Pérez and G. Sandoval: “Los sindicatos y la educación en América Latina: El caso chileno”, in *Sindicatos Docentes y Reformas Educativas en América Latina – Chile* (Rio de Janeiro, Konrad Adenauer Stiftung, 2009), pp. 27–37.

<sup>22</sup> GDN: *ibid.*, p. 71; Pérez and Sandoval: *ibid.*, p. 34.

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Education Commission of the National Assembly in July 2012.<sup>23</sup> Nevertheless, the CPC among other organizations has expressed dissatisfaction in the past with the ad hoc manner and “quality” of many consultative mechanisms.<sup>24</sup>

A civil society educational advisory council (*Consejo de la Sociedad Civil de Educación*) was established by law in 2011 and will begin functioning in the second half of 2012. Meeting between one to five times per year, the Consejo’s functions are to advise on the design, implementation and evaluation of policies, plans, programmes and actions of the Ministry of Education, at its request, and to undertake consultations and make observations on various educational topics. Of the 19 members appointed in their individual capacity according to specified profiles that represent the main actors in Chilean education, three are teachers or educators from municipal or private schools, while three positions are specified for directors or academic staff of higher or technical education institutions.<sup>25</sup>

## The main actors

The principal employers of teachers or those responsible for terms and conditions of employment,<sup>26</sup> which are in various ways engaged in social dialogue in the education sector, are the:

- Ministry of Education (Ministerio de Educación de Chile – MINEDUC), which acts as a coordinator for the education system by regulating, evaluating and supervising all aspects of education, including various employment aspects (financing of most salaries for example) of more than 180,000 teachers (2009)<sup>27</sup> in basic and secondary education, though it is not the direct employer of these teachers;
- more than 300 public municipalities, which employ 45 per cent of early childhood, basic and secondary education teachers (more than 50 per cent of those in basic education) and are organized in the Association of Chilean Municipalities (ACHM);
- state-subsidized private schools, which employ 43 per cent of school teachers, have increased this percentage considerably in the last decade, and now employ more than the municipalities in early childhood, special and secondary education; they are collectively represented principally by the Subsidized Private Schools Association (CONACEP);
- private, fee-paying schools, employing 11 per cent of the nation’s school teachers, and grouped in the Private Schools Association (FIDE);
- a very small number of public schools delegated to private corporations (*corporaciones*) by the Ministry, employing 1 per cent of teachers;
- more than 200 higher and further education institutions (universities, professional learning centres), employing higher education staff.

<sup>23</sup> Colegio de Profesores (CPC): “Seminario de Carrera Docente confirma exponentes que fortalecen debate”, website page *Inicio* (Santiago, 5 July 2012), <http://www.colegiodeprofesores.cl/?q=node/586> [accessed 9 July 2012].

<sup>24</sup> GDN: *ibid.*, pp. 68–69.

<sup>25</sup> Ministerio de Educación (MINEDUC), Government of Chile: “Se realiza sorteo para designar a los 19 integrantes del primer Consejo de la Sociedad Civil en Educación”, *Noticias* (Santiago, 5 July 2012), [http://www.mineduc.cl/index2.php?id\\_contenido=19562&id\\_portal=1&id\\_seccion=10](http://www.mineduc.cl/index2.php?id_contenido=19562&id_portal=1&id_seccion=10) [accessed 9 July 2012].

<sup>26</sup> Ministerio de Educación (MINEDUC): *Attracting, developing and retaining effective teachers OECD activity: Country background report for Chile* (Paris, OECD, November 2003), pp. 2, 20–22, 30–31, <http://www.oecd.org/dataoecd/37/31/26742861.pdf> [accessed 5 July 2012]; GDN, *ibid.*, pp. 70–71.

<sup>27</sup> Ministerio de Educación (MINEDUC): *Anuarios Estadísticos* (Santiago, December 2010), [http://w3app.mineduc.cl/DedPublico/anuarios\\_estadisticos](http://w3app.mineduc.cl/DedPublico/anuarios_estadisticos) [accessed 9 July 2012].

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The principal education sector trade unions in Chile engaged in social dialogue of one form or another are the:

- CPC, which is by far the largest organization, claiming more than 100,000 members (2012)<sup>28</sup> and representing primarily public school teachers, although it has membership in a variety of schools. Legally, it is an association of professionals, but in practice it acts as a trade union;
- other organizations representing teachers or auxiliaries in public or private schools such as the Confederation of Chilean Education Workers (CONATECH), and local or regional associations; their membership is not known.

## Good practices in information sharing, consultation and negotiations

The CEART previously took note of several negotiated issues concerning teachers, among which the teacher performance evaluation system linked to the career structure that was agreed in the early part of the century after many years of negotiation between education authorities and the CPC.<sup>29</sup> The success of this negotiated outcome has been attributed to a number of factors, among which were: trust, in the form of a willingness by the negotiating parties to talk to each other with clear positions on the issues but eventually open to finding a negotiated solution; the quality of the negotiating teams (capacity) at the MINEDUC, the CPC and the ACHM; and time to reach an agreed settlement.<sup>30</sup> Proposals for a new career structure were also elaborated in a joint MINEDUC and CPC commission in the period 2008–09, though not acted on at the time.<sup>31</sup>

This recent history of reliance on social dialogue to achieve agreement on teacher policy reforms has been called into question as tensions arose in 2012 between the Government and the CPC over plans for a new teacher career structure (summarized below) that the Government is seeking to have adopted without prior agreement with the CPC. The CPC considers that the social dialogue climate with the current Government has seriously deteriorated, as evidenced by the lack of any union input into the initiative until recently.<sup>32</sup> A July 2012 seminar organized by the CPC and the Education Commission of the National Assembly may or may not open up renewed dialogue that leads to a solution to the impasse.

## Challenges and responses through social dialogue

Chile's education system faces learning equity and quality and teacher status and employment challenges. The last PISA (Programme of International Student Assessment) results (however questionable these may be as a real gauge of learning) place Chile relatively high up in reading, mathematics and science compared to other middle-income countries, but well below the country average for OECD countries, of which Chile is now a member. Chile is also near the bottom of the comparisons among OECD countries in terms of education equity issues, although it made

<sup>28</sup> CPC: "Quienes somos?", website (Santiago, 2012).

<sup>29</sup> ILO and UNESCO: op. cit., 2003, p. 9.

<sup>30</sup> Paper provided by the authors, published as B. Avalos and J. Assael: "Moving from resistance to agreement: The case of the Chilean teacher performance evaluation", in *International Journal of Educational Research* (2006, Vol. 45, Issues 4–5), pp. 254–266.

<sup>31</sup> ElegiEducar and Centro de Políticas Públicas UC: *Propuestas para una carrera docente* (Santiago, January 2012), p. 10, <http://www.politicaspubblicas.uc.cl/media/publicaciones/pdf/20120130122547.pdf> [accessed 11 July 2012]; CPC: *Carrera Profesional Docente – Propuestas del Colegio de Profesores de Chile* (Santiago, June 2010), pp. 3, 11–15, <http://www.colegiodeprofesores.cl/sites/default/files/pdf/pdf2012/carreraprofesional2010.pdf> [accessed 12 July 2012].

<sup>32</sup> Personal communication from the General Secretary of the CPC, 15 June 2012.



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impressive gains to improve low-performing student results in the period 2000–09.<sup>33</sup> Assessments of teaching conditions and status suggest a professional status in decline and salary levels that remain uncompetitive with other professions despite considerable improvements in salaries and career terms since the restoration of democracy in 1990. Other challenges are quality problems in initial teacher education, lack of systematic continual professional development and support, excessive contact hours leading to lack of teaching preparation time and intense working days, and generally poor working conditions. As a result, some reports show a declining interest in joining the profession, motivation of serving teachers and substantial departures of teachers by the fifth year of service, notably private.<sup>34</sup>

In this context, in February 2012 the Government introduced legislation in the National Assembly for a new career system applicable to all new teachers in municipal schools and for those teachers in service who wish to accept such a system if adopted, therefore abandoning their status under the prevailing *Estatuto Docente*. Features of the reform include: a requirement to pass an entrance-level teacher professional excellence exam (*Examen Inicial de Excelencia Profesional Docente*) demonstrating competency to be a teacher in state-supported schools; a promotion and professional development plan with four levels – beginning, qualified, advanced and expert – based as much on demonstrated competencies and skills through assessments as on seniority, with specified time lines for advancing from one level to the next; increased teacher remuneration at each level; sanctions for beginning teachers who fail to advance after eight years in the entry level, reduced salaries at other levels for teachers who are not positively assessed every five years; and reduced classroom instruction/contact time in favour of lesson preparation. Among the more contested proposals are those that increase the power of school directors to assess teachers based on classroom observation, attribute bonuses for excellence and possibly fire negatively assessed teachers and to employ hiring bonuses to meet shortages. The scheme is to be financed with a 25 per cent increase in subsidies to municipal authorities and subsidized private schools over ten years.<sup>35</sup>

The Government's stated reasons for the reform (based on international evidence to this effect, specifically PISA results) are to improve the quality, equity and effectiveness of education by means of improving teacher quality and effectiveness, at the same time as augmenting teacher professional development and career opportunities. The reform aims to: increase the percentage of top secondary school graduates entering university teacher education programmes; enhance initial teacher education and teacher pedagogical competency (results of existing teacher entrance exams and international comparisons supposedly show very weak levels for Chilean teachers); provide more stimulus for serving teachers via a reformed career structure plus better remuneration levels compared to equivalent professionals, rather than seniority and job security as the major basis for salaries and teacher employment; and in particular bring teacher assessment down to school (director) rather than centralized level.<sup>36</sup>

The teachers' union has challenged the reform on several grounds, beginning with the charge that the Government has taken the initiative without seeking a consensus through dialogue with teachers, collectively represented by the CPC, despite its deep involvement on the issue since the 1990s and the previous agreement on appraisal and careers. On the content, the CPC opposes the emphasis on more job flexibility and less security, potential for abuse and arbitrary actions by school directors, increased competition, more working-time pressure and the selective application of

<sup>33</sup> OECD: *PISA 2009 results: Executive summary* (Paris, 2010), pp. 8, 11, 19.

<sup>34</sup> ElegiEducar and Centro de Políticas Públicas UC: op. cit., pp. 7–10.

<sup>35</sup> Centro de Estudios Políticas y Prácticas en Educación (CEPPE): *Proyecto de Ley de Nueva Carrera Docente: algunas consideraciones publicados en los medios de comunicación* (Santiago, March 2012), p. 1; Government of Chile: “Mensaje de S. E. el Presidente de la Republica con el que Inicia un Proyecto de Ley que Establece el Sistema de Promoción y Desarrollo Profesional Docente del Sector Municipal – Mensaje 456-359” (Santiago, 29 Feb. 2012), pp. 1–39.

<sup>36</sup> Government of Chile: *ibid.*, pp. 3–14.

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the reform only to public municipal teachers. The latter critique has been raised by other education sector experts in Chile, urging coverage of those in the private sector as well.<sup>37</sup>

## Summing up

Social dialogue in Chile's education sector is based on a mixture of legal guarantees and informally based practice that has been transformed into a de facto negotiating framework resulting in national agreements. Once confirmed by national legislation, these have yielded substantial benefits for the teaching profession in the last decade. Rights to freedom of association and to strike are constitutionally protected. Given the decentralized nature of educational provision, divided between public municipalities, state-subsidized and fee-paying private schools, no uniform institutional framework for information sharing, consultation or negotiations exist. A recently created national advisory body opens up possibilities for teachers and other stakeholders to advise MINEDUC on education reform, although membership is on an individual basis and does not constitute a forum for collective representation. Public sector teachers do not have legal guarantees of collective bargaining to help determine employment and professional conditions, whereas private sector workers do, but in practice the collective voice of teachers in such schools is considered weak.

Despite the lack of legal provisions and an institutionalized framework, de facto collective consultation and negotiations between the national education authorities and the principal teachers' organization, the CPC, variously associating the public municipal authorities, has been vibrant in the past and has led to major steps forward on teaching conditions and professional performance in recent years. Strong informal dialogue also exists through the national political process and resulting legislation that confirms negotiated agreements. This provides some guarantees against arbitrary actions by changing governments in the absence of an institutionalized framework with binding, negotiated agreements.<sup>38</sup> Despite the history of social dialogue over the last 20 years, a significant challenge to agreement on a key reform – teacher careers, assessment, individual performance incentives and school director's authority – remains to be resolved in 2012. In addition, a major deficiency in Chile is the lack of dispute resolution mechanisms for collective disputes, with one result that after a period of relative labour peace in the first half of the century, and in the context of a worsened social dialogue environment, several national strikes involving teachers have erupted in the last five years.

## C. Finland

### The social dialogue context and legal framework

Rights to freedom of association, to freely organize and to bargain collectively are guaranteed by the country's Constitution and national legislation, notably: the Collective Agreements Act (1946), which provides for binding agreements between employers' and employees' organizations and was extended in the 1970s to cover public sector employees; the Employment Contracts Act (1970) as amended in 2001, which governs all employment contracts in the country; and the Mediation in Labour Disputes Act of 1962 as amended in 1987, which provides for the regulations and functions of the labour court and specifies conciliation procedures in case of labour disputes. The public sector has specific legislation, notably the Local Authority Collective Agreement Act (1970) as amended in 1993, which includes provision for arbitration.<sup>39</sup>

<sup>37</sup> CEPPE: op. cit., pp. 3–7; ElegiEducar and Centro de Políticas Públicas UC: op. cit., pp. 7–10.

<sup>38</sup> Pérez and Sandoval: *ibid.*, p. 35.

<sup>39</sup> G. Casale and J. Tenkorang: *Public service labour relations: A comparative overview*, Paper No. 17 (Geneva, ILO, Social Dialogue, Labour Law and Labour Administration Branch, 2008), pp. 12–13; Finland, Ministry of Labour: *Industrial relations and labour legislation in Finland* (Helsinki, nd), pp. 18–19.

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Finland has adopted the four principle international labour standards relevant to the education sector: Conventions Nos 87, 98, 151 and 154 (see section 1 and Appendix I). There have been no reported complaints to the ILO's Committee on Freedom of Association (CFA) concerning teachers in relation to these standards, or allegations to CEART about the international Recommendations on teachers, suggesting a high compliance with these standards in Finland's education sector.

There is a high degree of union "density" or membership in Finland. An estimated 70–75 per cent of all workers, public and private, belong to trade unions, reportedly the highest in Europe. The rates are even higher in the public and education sectors according to official estimates, and because of the public sector's composition where almost all teachers work, more women are considered "organized" into unions than men. In education, union members account for an estimated 95 per cent of school teachers who are organized by the principal teachers' union (see below), and between 70–80 per cent of university teachers and researchers are members of two organizations representing higher education staff.<sup>40</sup> The high rate of union membership in turn influences the collective bargaining and other social dialogue coverage as indicated below.

Public sector collective bargaining parallels the three main levels of collective bargaining that exist in the private sector but with some differences specific to the public sector. In 1993, local contractual rights were enhanced in the municipal and state sector, a reflection at the time of a national economic crisis and a sign of the ability of the Finnish public sector to adapt its social dialogue approach to new and difficult circumstances. As a result, general agreements concluded by central public sector employer and worker organizations serve as "income policy agreements", and establish a general framework for the contents of more comprehensive collective agreements at the sectoral (education) and local (municipal, where schooling is organized) levels. Within defined limits, sectoral and local agreements may differ from the central public agreements on salaries and other terms. The possibility also exists to agree on an individual employment contract at the workplace that may offer more advantageous conditions above the terms established by other collective agreements. Since collective agreements in Finland's labour relations system are applicable to all workers, whether unionized or not, average recorded collective bargaining coverage of the labour force in the country has remained over 90 per cent in the last two decades. It is reported to be 100 per cent in the education sector.<sup>41</sup>

## The main actors

Employers' organizations responsible for education sector labour relations and their coverage<sup>42</sup> are the:

- State Employer's Office (VTML), which negotiates with the grouping of public sector unions, the Negotiation Organisation for Public Sector Professionals (JUKO, including education sector unions – see below), a national, generally binding agreement for employees (school teachers and higher education professors and university lecturers) in the central government education sector;
- Commission for Local Authority Employers (KT), which negotiates with JUKO, a national, generally binding agreement for employees (mainly teachers) in the local government education sector, including the more than 300 municipalities and 160 joint municipality authorities;

<sup>40</sup> Casale and Tenkorang: *ibid.*, pp. 11–13; Finland, Ministry of Labour: *ibid.*, p. 14; P. Jokivuori: "Representativeness study of the European social partner organizations: Education sector – Finland" (Dublin, European Industrial Relations Observatory On-Line – Eironline, July 2011), <http://www.eurofound.europa.eu/eiro/studies/tn1001017s/fi1001019q.htm> [accessed 12 June 2012].

<sup>41</sup> Casale and Tenkorang: *ibid.*, pp. 13–15; Finland, Ministry of Labour: *ibid.*, pp. 18–20; Jokivuori: *ibid.*

<sup>42</sup> Jokivuori: *ibid.*; website of Yksityisen Opetusalan Liitto, [http://ek2.ek.fi/yksityisen\\_opetusalan\\_liitto/fi/esittely/index.php](http://ek2.ek.fi/yksityisen_opetusalan_liitto/fi/esittely/index.php) [accessed 25 June 2012].

- Employers' Association of Private Education Institutions (or Association of Independent Finnish Education Employers (Yksityisen Opetusalan Liitto), affiliated to the Finnish Confederation of Industries (EK)), which negotiates with JUKO for those teaching staff in universities considered to have independent status under the reformed 2010 University Act and those teachers or trainers engaged in private, non-profit education institutions or providers, including schools, technical and vocational institutions, and specialized institutions receiving public subsidies;
- Employers' Association of Special Services (Erytispalvelujen Työnantajaliitto), which negotiates with the Transport Workers' Union (AKT) on behalf of driving instructors and with Trade Union of Education in Finland (OAJ) on behalf of adult education centre teachers.

The principal education sector trade unions in Finland engaged in labour relations<sup>43</sup> are the:

- OAJ, which represents school teachers from early childhood to higher education levels, including adult and vocational education;
- Finnish Union of University Professors (FUUP), which represents professors in universities and corresponding positions in research institutions;
- Finnish Union of University Researchers and Teachers (FUURT), which represents staff such as researchers, assistants, doctoral students, senior assistants and librarian/information specialists in universities; and
- AKT, which represents driving instructors.

The OAJ, FUUP, and FUURT conduct negotiations at the municipal and/or state levels through the JUKO, which includes other professional organizations such as the Finnish Association of Graduate Engineers (TEK). The OAJ is by far the largest trade union organization representing teachers, with membership of nearly 120,000.<sup>44</sup>

## Good practices in information sharing, consultation and negotiations

Officially, most if not all legislation concerning working life is prepared on the basis of tripartism – consultation and cooperation between government authorities, employer and worker representatives. Because of its size and position as the chief negotiating partner at school and municipal level, the OAJ is particularly consulted on education policy issues. In addition to the periodic collective agreements at state, municipal or institutional level, important national tripartite agreements resulting from the consultative process that have been enshrined in statutes in recent years include:

- a pay reform agreement that provides for a component of pay based on individual competence, involving the rewarding of employees' skills, knowledge and performance;
- revision of the Universities Act that provides greater leeway for university self-governance and autonomy, and transforms university staff civil service employment status into contractual employment relationships.<sup>45</sup>

Regardless of the content of such statutory agreements, that they have been the subject of national information sharing and consultation on a tripartite basis indicates a high degree of consensus on the value of social dialogue in Finland.

<sup>43</sup> Jokivuori: *ibid.*

<sup>44</sup> OAJ: "Trade Union of Education in Finland" (website, Helsinki, 2012), [http://www.oaj.fi/portal/page?\\_pageid=515,452376&\\_dad=portal&\\_schema=PORTAL](http://www.oaj.fi/portal/page?_pageid=515,452376&_dad=portal&_schema=PORTAL) [accessed 25 June 2012].

<sup>45</sup> Finland, Ministry of Labour: *op. cit.*, p. 18; Jokivuori: *ibid.*

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An additional value of Finland's labour relations and social dialogue framework resides in the mutually reinforcing levels of national and local (municipal) consultation and negotiation. A consensus on the desirability of a minimum salary level that is nationally binding establishes a floor that helps to avoid or at least reduce income disequilibria and avoid teacher shortages based on remuneration in less advantaged areas (Finland has one of the lowest percentages of science and mathematics teacher shortages among OECD countries),<sup>46</sup> while permitting flexibility to respond to local and school conditions on a range of employment terms and conditions. These include: working hours; the work performed; mediation, conciliation and arbitration; training and professional development; social protection measures such as continued wage payment in case of sickness, holidays, unemployment benefits, study, family and maternity leave, and family life arrangements. In certain cases, issues concerning gender equality and low pay supplements are also contained in collective bargaining agreements. Workers' and employers' organizations tend to agree on issues such as flexible working hours, improvements in productivity and staff remuneration schemes.<sup>47</sup>

## Challenges and responses through social dialogue

Despite the largely positive social dialogue framework, some issues that affect teachers directly or indirectly are excluded from collective bargaining agreements. For teachers who are civil servants at state level, these include: establishing, filling, rearranging and abolishing offices or posts, the eligibility requirements and responsibilities of officials; granting discharge or leave of absence for reasons other than training, studying, sickness, pregnancy or childbirth; issues related to supervision of work; and grounds for termination and pension matters. A wider number of issues are subject to bargaining at municipal level (for example grounds for employment termination may be negotiated), but a collective agreement may not lead to the undermining of the minimum provisions for the employees, nor can it cover issues regarding organizational matters, management or supervision of work.<sup>48</sup>

Potential or actual difficulties specific to teachers currently the subject of studies or debate include safety and health. Following highly publicized school shootings in 2007 and 2008 and other acts of violence, a study published by the Ministry of Interior Affairs indicated that 358 threats targeted to education institutions such as schools were made between November 2007 and September 2009, in comparison to five to ten threats against schools in other Nordic countries annually.<sup>49</sup> The school environment (air quality and mould problems), which affect the well-being of both students and teachers, have also been under discussion in the Parliament.<sup>50</sup>

<sup>46</sup> Results from the PISA database 2009, in A. Schleicher (ed.): *Preparing teachers and developing school leaders for the 21st century: Lessons from around the world* (Paris, OECD, 2012), pp. 56, 82–84, <http://www.oecd.org/dataoecd/4/35/49850576.pdf> [accessed 25 June 2012].

<sup>47</sup> Casale and Tenkorang: *ibid.*, p. 15.

<sup>48</sup> Finland, Ministry of Labour: *ibid.*, p. 18.

<sup>49</sup> Publication by the Ministry of Interior 40/2009, available at: [http://www.intermin.fi/intermin/biblio.nsf/6302A1CE9D552758C22576B0002390F2/\\$file/402009.pdf](http://www.intermin.fi/intermin/biblio.nsf/6302A1CE9D552758C22576B0002390F2/$file/402009.pdf) [in Finnish, last accessed 25 June 2012].

<sup>50</sup> The discussions during the 60th Session of 2011 on the topic available at (page 3): [http://www.eduskunta.fi/triphome/bin/thw/trip?\\${APPL}=utpptk&\\${BASE}=faktautpPTK&\\${THWIDS}=0.38/1329097118\\_202083&\\${TRIPPIFE}=PDF.pdf](http://www.eduskunta.fi/triphome/bin/thw/trip?${APPL}=utpptk&${BASE}=faktautpPTK&${THWIDS}=0.38/1329097118_202083&${TRIPPIFE}=PDF.pdf).

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Towards the end of 2011, as the financial crisis in the Eurozone group of countries showed no signs of fading, the central organizations of employers and workers<sup>51</sup> and the Government agreed on means to ensure Finland's continued economic growth, productivity, employment and the economic foundations for the welfare state amidst the uncertain global economic climate.<sup>52</sup> The signed framework agreement focuses attention on the broad-based development of skills and innovation, and places special emphasis on in-service training. It includes provisions to address working life that are either state- or municipal-specific (ageing workers, flexible work, workers with disabilities), employment restructuring, workplace well-being (increased family leave for fathers, equal pay) and social security. The agreement sets a time framework and conditions for sectoral wage settlements until the end of 2013. It looks to the future by proposing a multi-year action plan and the establishment of a permanent negotiating body composed of the social partners, with links to the sectoral level, to build labour market and labour relations' cultures based on transparency, mutual respect, trust, continuous dialogue, application of agreements and dispute resolution. The negotiating body is designed to cover government programme projects, bipartite projects, EU social dialogue and legislation, compatibility of economic and labour market policies and other measures to promote the economy and employment in cooperation with the Government. The agreement came into effect in November 2011 and covers all public sector and 90 per cent of private sector workers,<sup>53</sup> thus all teachers.

## Summing up

The strong tradition of social dialogue among the social partners at national, local and institutional levels and tripartite consensus on many national economic and social challenges offer forums for discussion and the search for solutions to identified difficulties that correspond broadly to the highest international labour and education standards. Finland is regularly cited in OECD reports as an educational "star" with high learning achievement levels (consistently in the top three countries or territories surveyed in the periodic PISA learning achievement reports). The results are based in large part on a teaching profession considered to be among the world's best in terms of conditions and status, featuring high initial teacher education standards (Master's degree level, including a research-based thesis), extensive autonomy in classrooms and over-working conditions (there is no national curricula or inspection system), a deep sense of individual responsibility for student success and well-being based on mastery of both pedagogical and knowledge skills and comparatively good salaries and working environments (comparatively good, though not the highest salaries compared to other tertiary-trained workers, relatively low required teaching hours and pupil-teacher ratios compared to other European and OECD countries).<sup>54</sup> The high standards, status and comparatively good working environment for teachers in turn are built on a strong social dialogue system that ensures teachers at all levels an effective voice in defining professional standards and employment terms as part of the collaborative partnership that characterizes Finland's education system.<sup>55</sup>

<sup>51</sup> The agreement was signed among others by the Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA, of which affiliates are inter alia OAJ, FUUP, FUURT and TEK), the Central Organisation of Finnish Trade Unions (SAK, whose affiliates include AKT), the VTML, and the KT.

<sup>52</sup> Framework agreement by the central labour market organizations of Finland to ensure competitiveness and employment, Agreement Settlement 13.10.2011, available at: [http://www.akava.fi/files/5828/Framework\\_agreement\\_13102011.pdf](http://www.akava.fi/files/5828/Framework_agreement_13102011.pdf) [accessed 25 June 2012].

<sup>53</sup> J. Artto: "The framework agreement will regulate working conditions of 94 per cent of wage and salaries earners for next two years", in *Trade Union News from Finland*, 28 Nov. 2011, <http://www.artto.kaapeli.fi/unions/T2011/o48> [accessed 25 June 2012].

<sup>54</sup> Schleicher: op. cit., pp. 39, 62, 89–94.

<sup>55</sup> J. MacBeath: *Future of teaching profession* (Brussels, Education International, 2012), pp. 107–108, <http://download.ei-ie.org/Docs/WebDepot/EI%20Study%20on%20the%20Future%20of%20Teaching%20Profession.pdf> [accessed 8 June 2012]; P. Sahlberg: *Finnish lessons: What can*

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## D. South Africa

### The social dialogue context and legal framework

Rights to freedom of association and to organize for all workers and employers, as well as the right to strike are enshrined in the South African Constitution's Bill of Rights. The Labour Relations Act (1995) established statutory forums to negotiate terms and conditions of employment in the form of bargaining councils, of which the central Public Sector Co-ordinating Bargaining Council (PSCBC) and the sectoral Education Labour Relations Council (ELRC), which covers the teaching profession. The increasing importance of public sector collective bargaining is reflected in estimates that more than 50 per cent of bargaining council coverage of the workforce is linked to the public service (including local government), higher than the overall coverage of about one third of the workforce nationwide. Framework agreements are largely negotiated in the PSCBC with details and implementation of such agreements dealt with at a sectoral level, i.e. through the ELRC. A National Economic Development and Labour Council (NEDLAC) brings together government, employer and labour representatives and – to a lesser extent – community representatives to discuss economic and development policy and new legislation which extends beyond a particular sector or workplace. Private education sector employers and teacher unions are represented through the central employers' organization and national trade union confederations.<sup>56</sup>

Until recently, there was little evidence to indicate significant impact of NEDLAC consultations on education sector decisions. Consultation and negotiations on key education and teacher policy issues have to date largely been the domain of the ELRC and direct interaction between the relevant government ministries and teachers' unions. However, in the context of concerns over national economic development, NEDLAC-brokered agreements between the constituencies – Government, business and labour – in 2011 signalled a new role for NEDLAC in education policy. The agreements are the Accord on Basic Education, which includes the Adopt-A-School programme for employers to support schools and links to the Quality Learning and Teaching Campaign (QLTC), and the National Skills Accord, designed to increase skills training but also placements of further education teachers in businesses.<sup>57</sup>

South Africa has ratified two of the four main international labour standards applicable to social dialogue, Conventions Nos 87 and 98, but not Conventions Nos. 151 or 154 (see section 1 and Appendix I). Since the end of apartheid and the foundation of a multiracial, democratic political system in the country in 1994, there have been no reported complaints to the ILO's Committee on Freedom of Association (CFA) concerning teachers (principally termed "educators" in South Africa) in relation to these standards, nor allegations to CEART about the international Recommendations on teachers, suggesting a high compliance with these standards in South Africa's education sector. Strikes in education have nevertheless occurred frequently, most recently in 2010,

*the world learn from educational change in Finland?* (New York, Teachers College Press, 2011), Ch. 4.

<sup>56</sup> ILO: Decent Work Profile South Africa (Geneva, 2011), pp. 51–53, [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---integration/documents/publication/wcms\\_180322.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---integration/documents/publication/wcms_180322.pdf) [accessed 26 June 2012]; R. Grawitsky: *Collective bargaining in times of crisis: A case study of South Africa*, ILO Industrial and Employment Relations Department and DWT for Eastern and Southern Africa, Working Paper No. 32 (Geneva, Dec. 2011), pp. 35–36, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---dialogue/documents/publication/wcms\\_175009.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/publication/wcms_175009.pdf) [accessed 26 June 2012].

<sup>57</sup> National Economic Development and Labour Council (NEDLAC): "Forward from Executive Director – Mr Alistair Smith" (South Africa, Centurion, 2012), <http://www.nedlac.org.za/about-us/foreword-from-executive-director.aspx>; Government of South Africa, Economic Development Department: *New Growth Path: Accord 1: National Skills Accord and Accord 2: Basic education and partnerships with schools* (Pretoria, nd), <http://www.info.gov.za/view/DownloadFileAction?id=149083> and <http://www.education.gov.za/LinkClick.aspx?fileticket=yiU46%2BzMM5c%3D&tabid=93&mid=1722> [all sources accessed 20 July 2012].

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when teachers and many other public sector workers undertook a three-week strike that ended with a wage settlement above prevailing inflation.<sup>58</sup>

Trade union density in South Africa is not particularly high: nationwide 30 per cent of the workforce is unionized but this appears to be higher among teachers. The two largest teacher unions claim a total of 290,000 members of all job categories. There are approximately 440,000 teachers in basic education (2010).<sup>59</sup>

Social dialogue in the education sector is carried out in the first place within the ELRC, whose employer and trade union members are noted below. The Council has two main functions: (1) to serve as a forum for consultation and negotiations between trade unions and the State as the employer in the public education sector at both national and provincial level (there are nine provinces in South Africa); and (2) to promote the maintenance of labour peace in the sector through the provision of dispute prevention and resolution services for grievances and disputes, by means of conciliation and/or arbitration. In the latter role, the ELRC also trains education employer and union dispute resolution practitioners and provides other training on labour law, dispute resolution procedures, disciplinary measures and related issues. In 2010–11, the ELRC dealt with nearly 600 disputes involving individual unfair labour practices and interpretation/application of agreements in basic and higher education and training combined, and facilitated the conclusion of two national and one provincial collective agreement. The ELRC also provides a forum for jointly agreed research into key issues facing the social dialogue partners (in 2011 on the existing salary structure and development of a revised model to address the key issue of entry level teacher salaries), as well as a facilitator of study visits to share information and consult on education innovations in other countries.<sup>60</sup> The ELRC has been cited in previous CEART reports as a good practice institution for social dialogue.<sup>61</sup>

## The main actors

Employers' organizations responsible for education sector labour relations as members of the ELRC are the:

- nine provincial Departments of Education;
- Department of Basic Education, which is responsible nationally for education from early childhood to secondary inclusive; and
- Department of Higher Education and Training, responsible for further and higher education and training.

The principal education sector trade unions engaged in labour relations in South Africa and members of the ELRC are the:

- South African Democratic Teachers Union (SADTU), the largest union of teachers, and associated with it in the ELRC, the Cape Teachers' Professional Association (CTPA);
- National Professional Teachers' Organisation of South Africa (NAPTOSA);
- Suid-Afrikaanse Onderwysersunie/South African Teachers' Union (SAOU/SATU);

<sup>58</sup> C. Dugger: "South African unions' strike suspended", in *The New York Times*, 6 Sep. 2010.

<sup>59</sup> ILO: op. cit., p. 54; NAPTOSA: "About NAPTOSA" (Pretoria, 2012) <http://www.naptosa.org.za/about.html> [accessed 26 June 2012]; SADTU: "History" (Pretoria, 2012) <http://www.sadtu.org.za/show.php?id=2448> [accessed 26 June 2012]; Republic of South Africa, Department of Basic Education: *Education Statistics in South Africa*, 2010 (Pretoria, February 2012), p. 2.

<sup>60</sup> ELRC: *Annual Report, 2010/11: Improving the quality of education through labour peace* (Pretoria, 2011), pp. 14–15, 35, <http://www.elrc.org.za/UploadedDocuments/ELRC%20Annual%20Report%202010-11.pdf> [accessed 25 June 2012].

<sup>61</sup> ILO/UNESCO: op. cit., 2003, p. 9; ILO/UNESCO: op. cit., 2010, p. 18.



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- Professional Educators Union (PEU); and
  - National Teachers Union (NATU).

### Good practices in information sharing, consultation and negotiations

A Teacher Development Summit brought the government authorities, teacher unions, and other stakeholders in teacher education and development<sup>62</sup> together in 2009 to highlight and address challenges to improving the quality of teachers and instruction. The outcome of the Summit was a declaration on the way forward, which in turn led to an ELRC-negotiated collective agreement in 2010 on implementing key provisions of the Declaration, followed by a national agreement in 2011 on a 15-year, comprehensive national teacher education and professional development plan, the *Integrated strategic planning framework for teacher education and development in South Africa* (ISPFTED, referred to as the “Plan”).<sup>63</sup> The Plan addresses initial teacher recruitment and preparation, school system induction and career-long professional development. Special features include: the planned launch of a national teacher recruitment campaign based on advocacy and strengthened national and provincial bursary programmes; establishment of national, provincial and district development institutes or centres and school-level professional learning communities (PLCs), with special attention to proximity in rural areas; an expanded and more accessible national teacher education system, including teaching and professional practice schools; and delinking teacher appraisal for purposes of development from appraisal for purposes of remuneration and salary progression, the latter to be taken up through the ELRC, which is currently working on a “Teacher Performance Appraisal Instrument”. The understanding on this point via the ELRC-negotiated collective agreement appears to have been a key to eventual agreement on the overall Plan.

Moreover, the Plan seeks increased collaboration between stakeholders, with teacher unions encouraged to promote higher teacher status and new teacher recruitment, support teachers to access development opportunities and promote teacher professionalism through active teacher participation in the Plan’s PLCs. The teachers’ unions will have representatives on a National Teacher Education and Development Committee (NTEDC) to advise on, and monitor the implementation of, the Plan.

A second achievement based on social dialogue in recent years was the signing in 2010 of a collective agreement that establishes parity of salaries of lecturing staff and office-based lecturers employed in the public further education and training colleges with salaries of educators in public basic education. As part of the services organized through the ELRC, training sessions on how to implement the agreement have been held with human resource departments of the colleges and with relevant officials in the provincial education departments,<sup>64</sup> a good example of the capacity-building efforts needed to see a negotiating process through to effective implementation of an agreement.

<sup>62</sup> The participants included: the two national education ministries (Departments of Basic Education and Higher Education and Training) and provincial education departments; the national teachers’ unions (SADTU, NAPTOA, SAOU/SATU, PEU, and NATU); the labour relations, professional standards and sectoral training bodies (ELRC, the South African Council for Educators (SACE) and the Education, Training and Development Practices Sector Education and Training Authority – ETDP SETA), and the Higher Education South Africa Education Deans’ Forum (HESA–EDF).

<sup>63</sup> ELRC: op. cit., p. 15; South Africa, Departments of Basic Education and Higher Education and Training: *Integrated Strategic Planning Framework for Teacher Education and Development in South Africa, 2011–2025* (Pretoria, 2011), <http://www.education.gov.za/LinkClick.aspx?fileticket=SE%2fqk1OumtE%3d&tabid=677&mid=1898> [accessed 26 June 2012].

<sup>64</sup> ELRC: op. cit., p. 16.

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## Challenges and responses through social dialogue

Quantitative and qualitative teacher shortages that were on the horizon at the beginning of the twenty-first century<sup>65</sup> represent a major challenge to education access and learning achievements. Official estimates put the number of new teacher entrants at 5,000 whereas more than 10,000 teachers leave the profession each year, and teacher training programmes produce about half of the desired number of graduates. The results are felt in classrooms, especially in rural areas: approximately half of South Africa's public school learners are in classes with more than 40 students, and approximately 15 per cent are in classes with more than 50, a situation that compares unfavourably with other middle-income countries and is one of the factors that negatively impacts both individual learning (national and international surveys suggest that South African students' literacy and numeracy skills are mediocre at best compared to other African and equivalent middle-income countries) and teaching profession attractiveness. Close to 25 per cent of schools in South Africa are also small, multi-grade schools, posing special challenges for teachers.<sup>66</sup>

Earlier improvements to teacher training bursary schemes and to overall salaries have clearly not had the desired impact on expanding teacher supply. Changes envisaged in the Integrated Plan have also not yet borne fruit. Although the situation has somewhat stabilized in recent years, a 2005 survey contends that 13 per cent of teachers are HIV positive.<sup>67</sup> Compounding the quantitative challenges, pre-service teacher training has been judged lacking in terms of knowledge and pedagogical competencies, and in-service training frequently lacks relevance, both gaps also considered contributing factors to poor quality learning outcomes and low teacher job satisfaction.<sup>68</sup>

In addressing these challenges, the engagement of teacher unions in the QLTC via consultation and more concretely through the negotiated agreement on the teacher education and development plan outlined above indicate a strong national reliance on social dialogue in various forms. At the same time, evidence is cited by analysts and the Government itself that teachers do not think there is sufficient consultation and dialogue on key policies; with complaints from teachers that their voices are not sufficiently listened to by education authorities.<sup>69</sup> This may imply a gap between the highly developed institutional frameworks for dialogue at national and provincial level, and the day to day realities of schools and other education institutions at local level, and if so, suggests room for improvement in school or local level social dialogue.

## Summing up

South Africa has strong institutional and well-utilized social dialogue channels at national and provincial level, which may be considered as models for other middle- and low-income countries. Government authorities regularly cite the need for engagement of stakeholders, including teachers' unions, in developing and applying educational policy. The regular conclusion of collective

<sup>65</sup> See for example Republic of South Africa, Department of Education: *Teachers for the future: Meeting teacher shortages to achieve education for all* (Pretoria and Geneva, ILO, Oct. 2005), pp. 7–8, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---sector/documents/publication/wcms\\_161964.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_161964.pdf) [accessed 25 June 2012].

<sup>66</sup> L. Chisholm: "The challenge of South African schooling: Dimensions, targets and initiatives", in J. Hofmeyr (ed.), *From inequality to inclusive growth: South Africa's pursuit of shared prosperity in extraordinary times* (Cape Town, Institute for Justice and Reconciliation, 2011), pp. 50–52, <http://transformationaudit.org/blog/wp-content/uploads/2012/02/TA%202011%20web.pdf> [accessed 26 June 2012]; Republic of South Africa, Department of Basic Education (DBE): *Action plan to 2014: Towards the realisation of schooling 2025* (Pretoria, Oct. 2011), pp. 100–103, <http://www.education.gov.za/LinkClick.aspx?fileticket=DmJw7rpw9wo%3d&tabid=418&mid=1211> [accessed 26 June 2012].

<sup>67</sup> DBE: *ibid.*, p. 117.

<sup>68</sup> L. Chisholm: *ibid.*, pp. 55–56; DBE: *ibid.*, pp. 108, 117.

<sup>69</sup> L. Chisholm: *ibid.*, p. 53; DBE: *ibid.*, p. 117.

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agreements resulting from negotiations between national and provincial education employers and teachers' unions determines major terms and conditions of employment and strongly influences other teacher policies such as the current teacher education and development plan. Some reports suggest that social dialogue at institutional level may be weaker and need improving. The social dialogue framework provides for a well-defined system of dispute resolution, but this has not succeeded in avoiding major strikes affecting the education sector in 2007 and 2010.

## Other case studies

### E. Canada

#### The social dialogue context and legal framework

Freedom of association and the right to organize in the public sector are guaranteed in Canada by the Charter of Rights and Freedoms. A 2007 Supreme Court decision established collective bargaining as a Charter right.<sup>70</sup>

Since education is a provincial responsibility, social dialogue in that sector is concentrated at provincial and local levels, sometimes both. There is no truly pan-Canadian example of social dialogue, consultative or otherwise. Educational services are delivered by elected local school boards, with funding and curriculum guides provided by provincial education ministries. Every province has legislative provisions for collective bargaining by teachers. In four provinces a specific teacher bargaining or general education statute regulates the process while in the other provinces a mixture of public sector or general labour relations statutes or a combination of statutes prevail. The most common model is bargaining for all public schools in a province with a single organization to represent teachers, although some provinces emphasize local bargaining or a combination of the two. Collective agreements regulate compensation, hours of work, fringe benefits, and procedures for the resolution of individual grievances. A wide range of collective dispute resolution procedures (mediation, conciliation, fact-finding and voluntary arbitration) are employed, and strikes also allowed without restrictions, in the majority of provinces. Some provinces restrict or exclude strikes. In most provinces, the Government determines the basic formulas for class sizes and some provinces specifically preclude issues of staffing and class sizes from collective bargaining. Other forms of social dialogue are limited. Teachers' organizations often participate in the administration of pension plans and ad hoc projects in which provincial governments choose to engage in consultation and information sharing. Canadian teachers' organizations are also active politically and seek to improve teachers' conditions or reform the education system through participation in electoral politics.<sup>71</sup>

Canada has ratified only one of the four principal conventions concerning social dialogue directly affecting education sector social dialogue, Convention No. 87. Over the years, many complaints or observations have been submitted to ILO supervisory bodies on freedom of association, the right to organize or collective bargaining concerning virtually all of the country's

<sup>70</sup> R. Lieberwitz: "International survey on social dialogue in education: Information sharing, consultation, negotiation", Background paper prepared for the Tenth Session of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel, Geneva, 28 September–2 October 2009, unpublished, p. 18.

<sup>71</sup> K. Schucher and S. Slinn: "Crosscurrents: Comparative review of elementary and secondary teacher collective bargaining structures in Canada", in S. Slinn and A. Sweetman (eds): *Dynamic negotiations: Teacher labour relations in Canadian elementary and secondary education* (Montreal and Kingston, McGill-Queens University Press, 2012), pp. 13–47; M. Thompson and P. Jalette: "Public-sector collective bargaining" in M. Gunderson and D. Taras (eds) *Canadian Labour and Employment Relations*, 2009, cited in ILO: *Handbook of good human resource practices in the teaching profession*, op. cit., 2012, pp. 211, 215.

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provinces. The most recent observations by the ILO supervisory bodies<sup>72</sup> concern the following provinces:

- *Alberta*: amendments needed in legislation to ensure that all university staff are guaranteed the right to organize without exception;
- *British Columbia, Manitoba, Quebec, Saskatchewan*: Clarification on provincial labour relations board rulings (British Columbia), court decisions (Saskatchewan) or needed amendments to laws (Manitoba and Quebec) that affect/restrict the right to strike in relation to essential service levels (minimum service) in public services, including teachers, or specific to the education sector;
- *Nova Scotia, Ontario, Prince Edward Island*: Amendments needed in laws concerning teachers or civil servants to ensure freedom of choice in trade union representation;
- *Ontario*: Progress to be confirmed in applying provincial standards of practice to assist school boards in respecting the right to representation by local principal and vice-principal associations in collective bargaining; confirmation by the provincial labour relations board that part-time higher education staffs' rights to organize for collective bargaining are fully respected.

No cases concerning teachers or the application of the international Recommendations on teachers have been referred to the CEART.

## Social dialogue good practices and challenges in Ontario

In the most populous province, Ontario, education reforms beginning in 2003 that were designed to improve education standards, student graduation rates and teaching, notably innovation and sharing of good pedagogical practices, have been cited internationally for their contributions to better teaching practices and innovation. The reforms were achieved through the support of teachers by means of a collective bargaining agreement which the four major teacher unions signed in 2005. The agreement dealt with key issues that reportedly met many of the needs of teachers and government objectives, in areas such as lower class sizes, increased teacher preparation time and hiring of more teachers.<sup>73</sup>

Government support and commitment to cooperation by the major stakeholders helped to ensure successful implementation of the reform process. The provincial Ministry of Education provided funding and external expertise to local school boards and especially those schools identified as “struggling” to back up the process. Local hiring and staffing policies were aligned with the agreement. An Ontario Education Partnership Table provided a forum for a wide range of stakeholders, notably the teachers represented by their unions, to meet Ministry officials two to four times a year and this led to regular round tables where smaller groups of stakeholders worked in more detail on particular issues. The collective bargaining agreement ensured labour relations stability over a four-year period, considered vital for the reforms to take hold. A second four-year agreement was signed in 2008.<sup>74</sup>

As with Chile, however (see case study), recent developments create uncertainty over the continuation of the previously negotiated agreements. In March 2012, the union representing secondary school teachers (OSSTF) announced a withdrawal from nine of the provincial Ministry of Education working tables set up in the framework of the reform agreements. Soon after, in the context of a public sector deficit, and consistent with requests from the Government to all public

<sup>72</sup> ILO: “Observation of the CEACR: Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) – Canada”, International Labour Conference, 101st Session, June 2012 (Geneva), [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID:2698634:NO](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2698634:NO) [accessed 15 July 2012].

<sup>73</sup> OECD: *Building a high-quality teaching profession: Lessons from around the world*, Background report for the International Summit on the Teaching Profession (Paris, 2011), p. 57, <http://www2.ed.gov/about/inits/ed/international/background.pdf> [accessed 13 July 2012].

<sup>74</sup> OECD: *ibid.*, p. 57.

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sector employers for no compensation increases during two years,<sup>75</sup> a July 2012 provincial Ministry of Education agreement with the association representing English-speaking Catholic teachers freezes salaries for two years, imposes unpaid days off, limits retirement benefits linked to unused sick leave, reduces some collective bargaining rights and is touted by the provincial government as a model for other agreements with teachers' unions. The agreement has been condemned by these unions, including the OSSTF, though bargaining with educational management is expected to continue up to the end of present agreements and possible strike action in September 2012.<sup>76</sup>

Another, long-standing demonstration of social dialogue in Ontario is the teacher's pension plan, governed jointly by the teacher's union, the Government and a jointly appointed board. The union and Government are responsible for dealing with scheme deficits and surpluses, determining the contribution rate and negotiating benefit changes, and appointing board members. The board is charged with overseeing investment of plan assets, collection of contributions and payment of benefits.<sup>77</sup>

## Summing up

In a large federal State with responsibilities for education sector provision focused at the provincial and local areas, education social dialogue at national level where it occurs is informal and through the political process. There is not much evidence of more formal consultative mechanisms at provincial level, but collective bargaining between education authorities and teachers' unions is a regular feature of provincial and local dialogue. As the case of Ontario demonstrates, where trust and mutual commitment to using social dialogue prevails, benefits for education and the teaching profession can be substantial. The history of conflicts over rights and interests around bargaining in most of Canada's provinces, exacerbated by public budget deficits in those like Ontario will put dialogue through bargaining to greater tests, although the relatively strong legislative and institutional basis that prevails at present provides strong guarantees for sustaining such dialogue through more difficult times.

## **F. New Zealand**

### The social dialogue context and legal framework

The rights basis and institutional framework of social dialogue in New Zealand are guaranteed by national legislation. The Bill of Rights Act, 1990, provides the legal foundation for fundamental rights such as freedom of association, freedom of peaceful assembly and freedom of expression. The Trade Unions Act 1908 sets out the legal basis for trade unions, including the requirement that they are independent of employers. The Employment Relations (ER) Act, 2000, and related statutes enact a number of core provisions on freedom of association, recognition and operation of unions, collective bargaining processes, agreements and their enforcement, other facets of employment relations, strikes and lockouts, individual grievances and dispute resolution, and institutions such as the Mediation Service, the Employment Court, and the Employment Relations Authority. Collective bargaining may occur at any level, from national to workplace, and may be concluded for as few as two employees. A notable feature of New Zealand labour relations is the statutory duty of unions and employers bargaining for a collective agreement to do so in "good faith", defined by a certain number of minimum requirements such as the obligation to meet and consider and respond to proposals made by each party, but does not compel agreement on any particular term or the ultimate

<sup>75</sup> Letter from the Deputy Premier and Minister of Finance to Broader Public Service (BPS) Employers, released by York University on 20 July 2012.

<sup>76</sup> Ontario Secondary School Teachers Federation (OSSTF): "Bargaining Bulletin" March 2–Issue 3 and "Bargaining Bulletins", 12 July, Issue 16 (Toronto), <http://www.osstf.on.ca/bargaining-bulletins> [accessed 15 July]; K. Rushowy and R. Benzie: "Ontario high school teachers willing to meet with Liberal government as other unions threaten action", in *Toronto Star*, 6 July 2012, <http://www.thestar.com/news/canada/politics/article/1222365--dwright-duncan-urges-other-unions-to-follow-catholics-teachers-lead> [accessed 14 July 2012].

<sup>77</sup> ILO: op. cit., 2012, p. 197.

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conclusion of a collective agreement. Collective agreements may contain any matter agreed to by the parties that is not contrary to the ER Act or other law (available information does not make clear to what extent key issues related to the organization of education are allowed or excluded from bargaining, but some typically “management” issues are the subject of agreements, see below). Failure to solve collective disputes through mediation may be taken up through the Employment Relations Authority and the Employment Court.<sup>78</sup>

Collective agreements cover virtually all teachers in New Zealand, including principals, teachers working in special areas and those in universities and other further and higher education staff.<sup>79</sup>

Teachers and their unions also participate directly in a professional regulatory body, the New Zealand Teachers Council, which registers teachers, approves initial teacher education programmes, supports the teaching profession through research and other professional projects, and supports professional standards through competence/discipline processes and bodies. Of the 11 governing Council members, four of which are appointed by the Minister of Education including the Council Chair, four are elected by registered teachers for early childhood, primary and secondary education, as well as principals, while three members are nominated by the teachers’ unions – New Zealand Educational Institute (NZEI) and Post Primary Teachers Association (PPTA) – plus school trustees (NZSTA).<sup>80</sup>

New Zealand has ratified ILO Conventions Nos 87 and 98. There have been no reported complaints to or observations from the ILO supervisory bodies concerning teachers in relation to these standards, or allegations to CEART about the international Recommendations on teachers, suggesting a high compliance with these standards in New Zealand’s education sector, similar to Finland.

## Social dialogue good practices and challenges

The strong legal foundation for rights and institutions to frame social dialogue set the stage for its widespread use in education. Sustained improvements in salary levels and therefore the attractiveness of teaching are among the more significant advances obtained through collective agreements. Overall teachers’ average pay increased by more than 60 per cent in the period 2000–12, well above consumer price indexes and more than measures of nationwide average earnings.<sup>81</sup>

Other significant advances through collective consultative forums or collective bargaining include:

- *Early childhood education:* The collective agreement (2010–12) between the teachers’ union, NZEI and the Ministry of Education provides a number of advances in an education sector that is traditionally characterized in many countries by a low status, poor terms of employment and a lack of social dialogue. The agreement stipulates numerous employer responsibilities

<sup>78</sup> G. Davenport: “National labour law profile: New Zealand” (Geneva, ILO Industrial and Employment Relations Department, 17 June 2011), [http://www.ilo.org/ifpdial/information-resources/national-labour-law-profiles/WCMS\\_158915/lang--en/index.htm](http://www.ilo.org/ifpdial/information-resources/national-labour-law-profiles/WCMS_158915/lang--en/index.htm) [accessed 15 July 2012].

<sup>79</sup> New Zealand Education Institute: “My agreement” (Wellington, 2012) <http://www.nzei.org.nz/My+Agreement.html>; Post-Primary Teachers Association: “Collective agreements for secondary teachers” (Wellington, 2012), <http://www.ppta.org.nz/index.php/collective-agreements>; Tertiary Education Union: “Collective agreements” (Wellington, 2012), <http://teu.ac.nz/collective-agreements/> [all sites accessed 16 July 2012].

<sup>80</sup> New Zealand Teachers Council: “About the New Zealand Teachers Council” and “The Governing Council” (Wellington, 2012), <http://www.teacherscouncil.govt.nz/abouttc/index.stm> [accessed 16 July 2012].

<sup>81</sup> Government of New Zealand, Ministry of Education: “Teacher average pay” (Wellington, 2012), <http://www.minedu.govt.nz/NZEducation/EducationPolicies/SchoolEmployment/TopicsOfInterest.aspx> [accessed 16 July 2012].

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concerning healthy and safe working conditions, hours of work, equal employment opportunities for ethnic or minority groups, women and persons with disabilities, salaries comparing favourably to primary teacher counterparts, opportunities for individual professional development, and paid leave for participation in union meetings;<sup>82</sup>

- *Secondary education:* In addition to covering basic employment terms such as salaries, allowances and leave for staff, the current collective agreement (2011–13) spells out new teacher support time and transition modalities to facilitate reduced working time for serving teachers. The agreement also established a jointly chaired Ministry of Education and teacher union (PPTA) working group to reflect on and make recommendations to the Government on one of the more sensitive policy issues in education: class size. The Secondary Schools' Staffing Group (SSSG) included representatives of NZSTA and principals' organizations. The group made a series of recommendations, largely consensual, on: reviewing staffing formulas; preserving class-size flexibility according to school needs and decision-making; and working together to develop a needs-based resourcing model that would improve secondary school staffing, time management and ability of teachers to use pedagogies for better learner-centred student outcomes in line with the national curriculum. The Secretary of Education's response was to accept all of the recommendations "in principle", bearing in mind the Government's fiscal constraints, and to request in June 2012 that the SSSG continue its work in a second phase,<sup>83</sup> in essence to continue searching for solutions on this key policy question through social dialogue.

## Summing up

New Zealand education is characterized by high learning achievement levels (among the top countries or territories surveyed in the periodic PISA learning achievement reports for reading and science and above average for mathematics). A contributing factor is a relatively high teacher status, professional standards, remuneration and working environments in all education sectors compared to other OECD countries at similar national income levels. These conditions derive from a strong social dialogue system that relies heavily on institutionalized collective bargaining and other institutions (Teachers Council) that provides teachers in the various sectors with an effective voice in defining professional standards and employment terms. The collective agreements and the social dialogue framework in general take into account the needs of Maori and other disadvantaged minority groups, whose education represents one of the major challenges of New Zealand's education system.

## G. Norway

### The social dialogue context and legal framework

Freedom of association and the right to organize are guaranteed in Norway. The Labour Disputes Act legalizes collective agreements as a basic instrument for determining salaries/wages and working conditions, plus establishing dispute resolution mechanisms, including mediation and a labour court for rights disputes. The Working Environment Act sets out employer obligations on employment protection and health and safety issues, specifying also the obligations of employees to cooperate in the design, implementation and follow-up on workplace environment, health and safety

<sup>82</sup> Government of New Zealand, Ministry of Education: "Te Aho o Te Kura Pounamu Early Childhood Teachers' Collective Agreement" (Wellington, 2012), <http://www.minedu.govt.nz/NZEducation/EducationPolicies/SchoolEmployment/TeachersPrincipals/TeKuraPounamuECTeachers/CollectiveAgreement.aspx>; New Zealand Education Institute: "Kindergarten, Head Teachers and Senior Teachers' Collective Agreement" (Wellington, 2012), <http://www.nzei.org.nz/site/nzeite/files/collective%20agreements/early%20childhood%20education//KTCA%202011-2013%20FINAL.pdf> [both sites accessed 16 July 2012].

<sup>83</sup> Government of New Zealand, Ministry of Education: "Secondary Schools Staffing Group – Secretary for Education's response to the SSSG report: Key points" (Wellington, 2012), <http://www.minedu.govt.nz/NZEducation/EducationPolicies/SchoolEmployment/TopicsOfInterest/SSSGReport.aspx> [accessed 16 July 2012].

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issues through elected safety representatives and working environment committees. National collective agreements cover all employees in a sector such as education. Local agreements, made at the local (municipal) level with the Norwegian Association of Local and Regional Authorities (KS) in bargaining covering teachers in primary and secondary schools may not derogate from a national agreement. National collective agreements may override other aspects of employment legislation. A labour “peace” clause prohibits strikes other than during bargaining in the second year of an agreement.<sup>84</sup>

In addition, a high degree of tripartite cooperation at central level prevails in Norway between Government, employers’ and workers’ organizations on legislation and regulations concerning labour relations and issues such as incomes policy.<sup>85</sup> The teachers’ organizations presumably participate in such consultations through their central trade union confederation, the Confederation of Unions for Professionals (UNIO). Such forms of structured social dialogue common in other Nordic countries (see Finland case study) may lead to policy changes on behalf of teachers and education as noted below.

Norway has ratified all four international standards of direct relevance to education social dialogue, Conventions Nos 87, 98, 151, and 154. No complaints of violation of these standards in relation to teachers have been made in recent years to ILO supervisory bodies, nor have there been any allegations of violation of the international standards applicable to teachers deposited with the CEART.

## Social dialogue good practices and challenges

In the recent past, some evidence of subject-specific teacher shortages, more difficulties in recruitment and the need for more teacher professional development have been the subject of new policies or programmes developed through social dialogue of one form or another. Although Norway is equal to the average of OECD countries in its capacity to recruit teachers in two of the most traditionally acute learning areas: mathematics and science, the shortages in these areas are still rather high. One of the explanations may lie in the relatively low teacher salaries, above OECD averages except at the top of the scale, but less than 80 per cent of average salaries of Norwegian workers with a university degree.<sup>86</sup> This could represent a significant difference when considering the relative prosperity and job alternatives of the country for high-quality graduates, and this despite the impact of strong education sector unions and prevalence of collective bargaining. Results from the OECD TALIS programme in 2009 showed a relatively high degree of job satisfaction and reported self-efficacy, but also concerns over greater student indiscipline and an expressed desire by Norwegian teachers to have more professional development to deal with this, as well as other learning challenges.<sup>87</sup>

In response to these challenges, and considering that there were too few career incentives for teachers, the Union of Education Norway (UEN – Urdanningsforbundet),<sup>88</sup> which represents most teachers from early childhood to secondary education, reached agreement with the KS in 2008 to introduce a new and higher wage scale for teachers to be promoted on the basis of competence as identified by the school leader. Also in 2008 the Ministry of Education, KS, the organization for teacher education institutions, and the UEN formed a partnership to introduce a system for in-service education for teachers on a full- or part-time basis. Participating teachers are granted leave of absence with full pay for 80 per cent normal study time, with costs for substitute teachers shared

<sup>84</sup> T. Løken and T.A. Stokke: *Labour relations in Norway*, Fafo report 209:33 (Oslo, Fafo, June 2009), pp. 15–19, 30–39.

<sup>85</sup> T. Løken and T.A. Stokke: *ibid.*, pp. 41–44.

<sup>86</sup> Schleicher: 2012, *op. cit.*, pp. 56, 63, 90.

<sup>87</sup> OECD: “Overview of country results in TALIS: Norway” (Paris, 2009) <http://www.oecd.org/dataoecd/8/28/43072672.pdf> [accessed 18 July 2012].

<sup>88</sup> UEN: “Union of Education Norway” (Oslo, 2012), <http://www.utdanningsforbundet.no/skjultesider/Supportmeny/English/> [accessed 18 July 2012].



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between the central government and the local employer. However, many municipalities have not implemented the initiatives for lack of funds or other reasons.<sup>89</sup>

To address the challenges posed by a perceived decline in teacher status, recruitment and lack of well-qualified teachers, beginning in 2009 a national campaign known as “spark” (GNIST in Norwegian) designed to raise the status of the teaching profession was launched as a partnership of the Ministry of Education and Research, the UEN and other teachers’ unions, and organizations representing school leaders, teacher education, students’ associations and central employers’ and workers’ organizations, at both national and regional levels. The campaign aims at stimulating teacher recruitment, improving teacher education and its links with careers, increasing the amount of high-quality professional development and knowledge base for professional practice, and improving the quality of school leaders. The Government actively sought the commitment and partnership of the main actors and stakeholders to guarantee success. The partnership established regular forums and a task force of the main partners to monitor and ensure implementation. As a result of this collaboration, positive portrayals of the teaching profession in the media rose from 14 per cent in 2008 to 59 per cent in 2010. The number of applications to teacher education institutions increased by up to 45 per cent in the period 2008–11, including a significant increase in the number of male applicants.<sup>90</sup>

## Summing up

Norway has a highly developed system of social dialogue in education based on a strong historical and cultural reliance on consultation and cooperation to develop and implement policy, along with institutionalized collective bargaining at national and local levels. Both forms of social dialogue have contributed to several recent improvements in teaching status based on broadly defined partnerships such as GNIST, as well as collective agreements on terms and conditions of employment.

## **H. Regional social dialogue: The European Union**

### The social dialogue context and legal framework

Although education social dialogue remains predominantly a national phenomenon, the legal and institutional framework has permitted its installation within the European Union. Pan-European social dialogue must respond to three criteria:

- Be organized at European level across an industry, specific sectors or categories.
- Consist of organizations that are an integral and recognised part of Member States’ social partner structures and have the capacity to negotiate agreements.
- Have adequate structures to ensure their effective participation in the consultation process.

Based on these criteria, a European Sectoral Social Dialogue Committee for Education (ESSDE) was set up by the European Commission on 11 June 2010. It covers all levels of education within the EU, from early childhood to higher education and research, and including vocational education and training. The main negotiating partners in this committee are the European Trade Union Committee for Education (ETUCE) representing education workers, including teachers, in the 27 member countries of the EU and the European Federation of Education Employers (EFEE), representing education employers. The ETUCE is supported by representatives of European public sector unions (EPSU) and independent trade unions (CESI). The EFEE is a mixture of government

<sup>89</sup> OECD: op. cit., 2011, p. 59.

<sup>90</sup> Asia Society: *Improving teacher quality around the world: The international summit on the teaching profession* (New York, Asia Society, 2011), p. 22, <http://asiasociety.org/files/lwtw-teachersummitreport0611.pdf> [accessed 13 July 2012]; G.H. Fosen: “GNIST-SPARK: Norwegian initiative on teachers” and “GNIST (spark) – Partnership for a coherent and comprehensive effort for teachers in Norway”, Presentations to the International Task Force on Teachers for EFA (Oslo and Paris, 2011 and 2012); Norwegian Ministry of Education and Research: “GNIST – Partnership for a coherent and comprehensive effort for teachers” (Oslo, February 2009).

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bodies, agencies and ministries, as well as organizations representing private sector education. The ESSDE's mandate is to discuss a range of issues that are pertinent to the education sector, including: improving the teaching, working and learning environment by identifying and exchanging good practices; impact of demographic trends on education; and the recruitment and retention of staff in the current era of public budgetary constraints. Initially, three working groups were set up to deal with the issues of education quality, demographic challenges and higher education and research.<sup>91</sup>

## Social dialogue good practices and challenges

Bearing in mind its original mandate and the pressing challenges facing EU member countries, to date the ESSDE has succeeded in agreeing mainly on joint declarations or guidelines on such topics as investments in education, training and research for sustainable growth, regional cooperation among education stakeholders on lifelong learning and third-party violence and harassment related to work. A number of joint projects or studies deal with school leadership and governance, teachers' work-related stress, teacher recruitment and retention (with a view to developing a joint approach among the social partners), and the feasibility of creating a sector skills council.<sup>92</sup> None of these have yet led to binding agreements on EU member country policies, but in so far as the negotiating partners within the committee commit themselves to action at national level, the ESSDE's outcomes could have important implications for the status of teachers and education throughout the EU in the future. At the least, the ESSDE serves as a useful forum for information exchange and consultation on issues vital to teaching in European countries as they seek to construct more durable institutions covering pan-European challenges.

<sup>91</sup> G. Adam: "European level of interest representation", in *Representativeness of the European social partner organisations: Education* (Dublin, European Foundation for the Improvement of Living and Working Conditions, European Industrial Relations Observatory Online (eironline), April 2011), pp. 47–55, [http://www.eurofound.europa.eu/eiro/studies/tn1001017s/tn1001017s\\_4.htm](http://www.eurofound.europa.eu/eiro/studies/tn1001017s/tn1001017s_4.htm); A. Broughton: "Social dialogue committee launched in education sector" (Dublin, European Foundation for the Improvement of Living and Working Conditions, eironline, 3 Sep. 2010), <http://www.eurofound.europa.eu/eiro/2010/06/articles/EU10060811.htm> [both accessed 20 July 2012].

<sup>92</sup> European Commission, Employment, Social Affairs and Inclusion: "Sectoral social dialogue – Education" (Brussels, nd), <http://ec.europa.eu/social/main.jsp?catId=480&langId=en&intPageId=1479> [accessed 20 July 2012]; European Trade Union Confederation for Education (ETUCE): "Social dialogue projects" (Brussels, 2012), [http://etuce.homestead.com/ETUCE\\_SD\\_projects.html#anchor\\_82](http://etuce.homestead.com/ETUCE_SD_projects.html#anchor_82) [accessed 20 July 2012].