

SECTORAL ACTIVITIES PROGRAMME

Working Paper

**Social dialogue in the education sector:
An overview**

by Anamaria Vere
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Working papers are preliminary documents circulated
to stimulate discussion and obtain comments

**International Labour Office
Geneva
December 2007**

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First published 2007

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Vere, Anamaria

Social dialogue in the education sector: An overview Working paper / by Anamaria Vere; International Labour Office, Sectoral Activities Programme. – Geneva: ILO, 2008
52 p. (Working Paper, No. 256)

ISBN: 9789220209707; 9789220209714 (web pdf)

International Labour Office; Sectoral Activities Programme

social dialogue / ILO Convention / ratification / application / education / educational institution / developed countries / developing countries

13.06.1

ILO Cataloguing in Publication Data

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Printed in Switzerland

Foreword

The ILO's Sectoral Activities Branch commissioned the research leading to this working paper in preparation for the Ninth Session of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel, held in Geneva from 30 October to 3 November 2006. The CEART has since 2000 placed the question of social dialogue in education systems at the heart of its concerns and efforts to ensure application of the international recommendations on teachers, calling social dialogue the "glue for successful educational reform". Among the future recommendations to improve the climate and support for effective social dialogue in education, the CEART called on the ILO and UNESCO to undertake systematic collection of best practices on social dialogue in education. The present paper results from that request. It is presented in its full English version, with extracts of key sections translated into French.

The paper was prepared by Ms Anamaria Vere, consultant on education issues, who has previously co-authored an international review of workplace violence in services with implications for education, and who is a former staff member of the ILO. Based on an extensive review of existing literature on the subject, the paper provides a broad interregional review of the trends in social dialogue, including the state of ratification and progress in application of relevant ILO Conventions as they affect education workers and systems, as well as the climate, legal guarantees and institutional mechanisms for effective information sharing, consultation and collective bargaining – the key components of social dialogue. A number of more in-depth country case studies are presented to underscore important points. The paper argues that within the education sector, social dialogue is vital in achieving the objective of quality education for all because of the essential role of teachers and their responsibility for implementing educational reform, which is difficult to obtain, or often falls short of its goals when teachers and their unions are not fully involved in decisions. The paper illustrates a number of good practices that foster such objectives, as well as continuing obstacles to their achievement in various countries and regions.

Without being exhaustive, the paper is intended to shed further light on trends in one of the most significant questions facing education systems that wish to avoid conflict and establish dialogue as the foundation for improved quality and access. As such, it is intended to further stimulate exchanges of information, debate and revisions as needed in current policies so as to ensure universal respect for decent work conditions in education for highly trained, professional teaching staff – the objectives set out in the international recommendations on teachers. ILO working papers are a vehicle for disseminating information on topics related to the world of work and the evolution of social and labour policies and practices. The opinions expressed are those of the author and do not necessarily reflect those of the ILO.

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Executive summary

Social dialogue is a key element in achieving decent work for men and women, in conditions of freedom, equality, security and human dignity. Decent work is achieved through the implementation of four strategic objectives: creating jobs; guaranteeing rights at work; extending social protection at work; and promoting dialogue and conflict resolution; with gender equality as a cross-cutting objective. The main goal of social dialogue is to promote consensus building and the democratic involvement of the principal stakeholders in the world of work. Social dialogue gives workers, through collective bargaining and consultation, a voice in the decisions affecting them, thus promoting consensus building and democratic involvement at work.

Within the education sector, social dialogue is a vital component in achieving the objective of quality education for all. Teachers are the persons most responsible for implementing educational reform and without their full involvement in key aspects of educational objectives and policies, the objectives cannot be obtained or often fall short of their goals. The crucial role of social dialogue in the education sector is further underscored by the importance given in the 1966 Recommendation concerning the Status of Teachers to the need for teachers and/or their organizations to be consulted and negotiated with on the provisions of the Recommendation.

There are four ILO Conventions that are considered important when examining labour relations and social dialogue:

- the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
- the Right to Organise and Collective Bargaining Convention, 1949 (No. 98);
- the Labour Relations (Public Service) Convention, 1978 (No. 151); and
- the Collective Bargaining Convention, 1981 (No. 154).

Conventions Nos 87 and 98 are among those Conventions identified by the ILO's Governing Body as covering subjects that are considered to be fundamental principles and rights at work. Convention No. 151 covers public service sectors and is therefore of particular relevance to the education sector. Convention No. 154 defines collective bargaining and calls for its promotion in all branches of economic activity, including public service.

Within Africa, the climate for social dialogue in education varies greatly from one country to another. In the most common cases, teachers are granted these rights but these rights are restricted through law or practice. For example, Nigeria is a country that provides for the right to organize and bargain collectively, but places some restrictions on these rights. Accordingly, the state of social dialogue in the education sector is mixed. While there is a fair amount of informal and some institutional social dialogue, there is no institutional collective bargaining.

In Latin America, despite many positive changes in its legislative framework for social dialogue, the enabling conditions for social dialogue have not yet been met in many of the countries of this region. As in Africa, the most common social dialogue situation is one in which teachers' rights are provided for by law but are in some way restricted. On the other hand, Chile is a case where legislation is not in line with international standards,

but where practice seems to be so. Certain legislative changes would have to be made therefore, to ensure compliance with international standards, not just in practice but also in law.

North America has a very low ratification level of the four ILO Conventions considered important for social dialogue (Conventions Nos 87, 98, 151 and 154) and teachers' right to strike remains restricted in some areas. Nonetheless, considerable social dialogue takes place at the local or state/provincial level. That said, since June 2003, Canadian teachers' organizations have submitted five separate complaints to the Committee on Freedom of Association.

While there are some ratifications of Conventions Nos 87 and 98, there are no Arab State ratifications of Conventions Nos 151 and 154. Generally speaking, conditions for social dialogue in this region remain adverse. There does seem to be progress, however, within some countries of the Gulf subregion.

Ratification of ILO Conventions remains low in Asia, and this continues to coincide with a low level of observance of workers' rights to strike and unionize. Difficult situations for social dialogue remain, including in education. The Republic of Korea is one country that has not ratified any of the four important ILO Conventions on social dialogue (Conventions Nos 87, 98, 151 and 154). However, since the 1990s, many advances have been made both legislatively and practically to guarantee teachers' rights. Although some restrictions remain on these rights, and although the social partners are still uncertain of their roles within the emerging social dialogue mechanisms, a positive forward momentum has been achieved.

Within the Central Asia region, there is a high level of ratification of Conventions Nos 87 and 98, but a low level of ratification for Conventions Nos 151 and 154. Generally speaking, in spite of some advances, the social dialogue situation in this region remains difficult. There is no reason to suppose the picture is better in the education sector.

While all Caribbean member States have ratified Conventions Nos 87 and 98, there are very low levels of ratification for Conventions Nos 151 and 154. Nonetheless, trade union rights continue to be widely respected in this region. In spite of a few difficult situations, the Caribbean is a region conducive to social dialogue in education.

All member States of Eastern Europe have ratified Conventions 87 and 98; a smaller number have ratified Conventions Nos 151 and 154. As a whole, Eastern Europe seems to be taking the necessary steps towards creating and sustaining effective social dialogue mechanisms, confirming the trends noted in the 2003 CEART report.

All member States in Western Europe have ratified Conventions Nos 87 and 98 and a fair number have ratified Conventions Nos 151 and 154. Accordingly, social dialogue in education continues to be widely respected in this region.

Approximately half of all Pacific region member States have ratified Conventions Nos 87 and 98; none have ratified Conventions Nos 151 and 154. During the last decade, Australia has seen changes in its industrial relations legislation, which have introduced restrictions on trade unions, the right to strike and collective bargaining. Conditions in the Pacific Island nations are more positive, although none of these countries' legislation provides the basis for collective bargaining and dispute resolution between teachers, their organizations and the education authorities.

Introduction

Social dialogue is a key element in achieving decent and productive work for men and women, in conditions of freedom, equality, security and human dignity. Decent work is achieved through the implementation of its four strategic objectives, with gender equality as a cross-cutting objective: creating jobs with opportunities for investment, entrepreneurship, skills development, job creation and sustainable livelihoods; guaranteeing rights at work for all workers based on representation, participation and enforced labour laws; extending social protection in the form of safe working conditions, respecting family values, provision of health care and social security; and promoting dialogue and conflict resolution through negotiation to solve problems peacefully, involving strong and independent workers' and employers' organizations.

It is for this reason that the ILO has identified social dialogue as one of its four strategic objectives. Social dialogue is defined by the ILO to include all types of negotiation and consultation, and also the exchange of information between, or among, representatives of governments, employers and workers on issues of common interest relating to economic and social policy. The main goal of social dialogue is to promote consensus building and the democratic involvement of the main stakeholders in the world of work. Successful social dialogue structures and processes have the potential to resolve economic and social issues, encourage good governance, advance social and industrial peace and stability, and boost economic progress. One of the main objectives of social dialogue is to give workers, through collective bargaining and consultation, a voice in decisions affecting them, thus promoting consensus building and democratic involvement at work.

Within the education sector, social dialogue is a vital component in achieving the objective of quality education for all. Teachers are the persons most responsible for implementing educational reform and without their full involvement in key aspects of educational objectives and policies, the objectives cannot be obtained or often fall short of their goals.¹ The crucial role of social dialogue in the education sector is further underscored by the importance given in the 1966 Recommendation concerning the Status of Teachers to the need for teachers and/or their organizations to be consulted and negotiated with on the provisions of the Recommendation. Approximately one-sixth of the Recommendation's provisions refer to consultation or negotiation.

This paper attempts to provide an overview of the current state of social dialogue in the primary and secondary education sector by presenting a regional summary of the climate for social dialogue, its application in the education sector in countries of each region, as well as a number of more in-depth country case studies to underscore important points on use of various forms of social dialogue to make decisions affecting the teaching profession.

The climate for social dialogue is provided by examining the ratifications of specific ILO Conventions and the indicators of practical application of standards. The four ILO Conventions that are considered important when examining labour relations and social dialogue are:

¹ CEART/8/2003/11, p. 7. See B. Ratteree: *Teachers, their unions and the Education for All campaign* (UNESCO, background paper for the Global Monitoring Report, 2005), for positive and negative consequences on educational quality and reforms when teachers' voices are or are not heard in decision-making forums.

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- the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
 - the Right to Organise and Collective Bargaining Convention, 1949 (No. 98);
 - the Labour Relations (Public Service) Convention, 1978 (No. 151); and
 - the Collective Bargaining Convention, 1981 (No. 154).

Conventions Nos 87 and 98 are among those Conventions identified by the ILO's Governing Body as covering subjects that are considered to be fundamental principles and rights at work. These two Conventions are also part of the ILO's Declaration on Fundamental Principles and Rights at Work (1998). Convention No. 151 covers public service sectors and is therefore of particular relevance to the education sector. Convention No. 154 defines collective bargaining and calls for its promotion in all branches of economic activity, including public service.

In addition to this overview of international standards, several brief country case studies are presented to provide a snapshot of educational social dialogue within specific settings. The countries have been selected to provide examples of different social, political and economic environments, and also of more and less developed social dialogue structures. Much of the information for the country case studies has been taken from the national reports prepared by the participants of the ILO Education Action Programme – Teachers for the future: Meeting education shortages to achieve Education for All.² Each case study provides a summarized overview of the educational system, its context and main actors, and then examines the trends in social dialogue.

² Additional information is available on the action programme web site: <http://www.ilo.org/public/english/dialogue/sector/ap/educat/index.htm>

Africa

1. Assessing the climate for social dialogue

A. Ratifications of ILO Conventions

A large majority of African member States have ratified Conventions Nos 87 and 98. Of the 47 African member States, only four (Guinea-Bissau, Kenya, Somalia and Sudan) have not ratified Convention No. 87. The two most recent African ratifications of this Convention came from Mauritius and Uganda in 2005. All African member States have ratified Convention No. 98, with the exception of Somalia, which has not ratified any of the four Conventions in question.

Conventions Nos 151 and 154, which are newer Conventions, have a much lower rate of ratification. Eight African member States (Botswana, Chad, Ghana, Guinea, Sao Tome and Principe, Seychelles and Zambia) have ratified Convention No. 151, with the most recent ratification coming from Sao Tome and Principe in 2005. Six African member States (Gabon, Niger, Sao Tome and Principe, United Republic of Tanzania, Uganda and Zambia) have ratified Convention No. 154, and again the most recent ratification was by Sao Tome and Principe in 2005. Sao Tome and Principe and Zambia stand out as the only two African member States to have ratified all four of the Conventions in question.

B. Indicators of practical application of standards

An examination of the practical application of standards in Africa indicates that the general climate for social dialogue varies greatly from one country to another.

In one group of countries, the social dialogue climate is quite adverse and has not improved in recent years, despite the formal acceptance of ILO standards. Teachers are still excluded by legislation from enjoying full rights to freedom of association, to organize independent organizations to represent their interests and bargain collectively, or even to engage in other forms of social dialogue.

In **Ethiopia** the situation remains difficult: the Labour Proclamation of 2003 specifically excludes teachers in the public sector from the right to unionize¹ and violations confirmed by ILO reports on the situation in the country include deaths, detentions, discrimination and interference in internal administration.² Authorities have sealed the offices of the Ethiopian Teachers' Association (ETA) on more than one occasion³ and there are reports of the intimidation of ETA members and limitations on freedom of speech and movement of trade unionists.⁴ The Committee on Freedom of

¹ CEACR: Individual Observation concerning Convention No. 87, Freedom of Association and Protection of the Right to Organise Convention, 1948. Ethiopia (ratification: 1963), published: 2005.

² Background document CEART/9/2006/4(Add.2) (unpublished).

³ EI Barometer 2004, p. 115.

⁴ *EI Worlds of Education*, No. 12, Mar./Apr. 2005.

Association's 2003 decision concerning Ethiopia,⁵ the further developments described by the Joint Committee following an allegation brought to it by EI and ETA,⁶ as well as reports of recent tensions between authorities and ETA,⁷ seem to indicate that the situation has not improved and that the Government remains unwilling to take the steps required to bring about an improvement.

In **Zimbabwe**, recent years have been marked by violence and intimidation against trade unionists.⁸ The Amnesty International reported that a 2002 teachers' strike was met with excessive force by the police, and over 600 teachers were subsequently dismissed by the Government.⁹ Recent legislation further restricts the right to strike¹⁰ generally and makes it unlikely that the situation will improve in the near future in the area of education.

Similarly, **Togo**, in spite of its legislation allowing teachers to unionize, has been accused of violating their right to strike, of arresting unionists during strikes and demonstrations, and of carrying out acts of violence against trade unionists.¹¹

The previous examples represent cases of the non-existence of teachers' union rights or their systematic violation. The more common practice in a second group of countries in Africa, however, are cases where these rights exist but are limited or impeded through law and/or practice.

In **Equatorial Guinea**, the act covering trade unions and collective labour relations stipulates, "the unionization of public administration officials will be governed by a specific law".¹² This law has not yet been approved however. In addition, unions are required to register in order to receive legal recognition and these registration requests are not always dealt with in a transparent or expeditious manner.¹³ Several other countries require unions to provide prior notice of a strike well in advance (e.g. **Kenya**)¹⁴ or complete lengthy and complicated procedures (e.g. **Democratic Republic of the Congo**,

⁵ Committee on Freedom of Association, 332nd Report, GB.288/7 (Part I) (ILO, Geneva, 2003), pp. 16–17.

⁶ CEART/8/2003/11.

⁷ *EI Worlds of Education*, No. 17, Jan./Feb. 2006; ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), p. 40.

⁸ *EI joins protest against anti-union repression in Zimbabwe*. <http://www.ei-ie.org/en/news/show.php?id=263&theme=rights&country=zimbabwe>. Retrieved on 25 Sep. 2006.

⁹ EI Barometer 2004, p. 317.

¹⁰ ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), p. 86.

¹¹ Background document CEART/9/2006/4(Add.2) (unpublished).

¹² Committee on Freedom of Association, 340th Report, GB.295/8/1 (ILO, Geneva, 2006), p. 301.

¹³ Committee on Freedom of Association, 340th Report, GB.295/8/1 (ILO, Geneva, 2006), pp. 300-303.

¹⁴ EI Barometer 2004, p. 165.

Ghana and United Republic of Tanzania)¹⁵ before allowing a strike. In the most extreme cases, this makes the organization of a legal strike virtually impossible.

Finally, in many countries it is not uncommon for teachers to be denied the right to unionize and to strike because they are considered to be providing essential services. This interpretation is not in line with ILO guidelines, which stipulate that essential services are those whose “interruption would endanger the life, personal safety or health of the whole or part of the population or in case of an acute national crisis”.¹⁶

In spite of these difficulties, positive examples can be found in a third group of countries. In **Namibia**, the Namibian National Teachers’ Union (NANTU) engages in regular negotiations for teachers’ service conditions. These negotiations result in three-year agreements, which are subsequently the subject of occasional discussions on implementation. In addition, NANTU and the Ministry of Education have formed a Technical Committee that meets monthly to share information and discuss education issues. NANTU is also represented in several other bodies that deal with issues such as standards setting, qualifications and conditions of service.¹⁷ **Mauritius** also holds regular tripartite meetings to discuss increases in the cost of living allowances.¹⁸ In **South Africa**, the Ministry of Education and the teachers’ organizations have jointly agreed to a labour relations framework that encompasses both the traditional areas of negotiation, as well as issues of pedagogy.¹⁹ The Education Labour Relations Council (ELRC) is a permanent body constituted to manage labour relations issues in the education sector.

2. Case study of social dialogue in the education sector – Nigeria²⁰

General

Introduction to education

Nigeria’s education system is composed of nine years of a compulsory and free basic education (six years of primary and three years of junior secondary), three years of senior secondary, and four years of tertiary education. In addition to state schools, there are also

¹⁵ EI Barometer 2004, pp. 80, 129 and 284.

¹⁶ Committee of Experts on the Application of Conventions and Recommendations, Report III – IA (ILO, Geneva, 2003), p. 261.

¹⁷ Information on Namibia is based on the national country report prepared by the Namibia National Steering Group for the ILO action programme on teacher shortages.

¹⁸ National country report prepared by the Mauritius National Steering Group for the ILO action programme on teacher shortages. Available at: <http://www.ilo.org/public/english/dialogue/sector/ap/educat/forums/docs/pretoria-mauritius-report.pdf>

¹⁹ National country report prepared by the South Africa National Steering Group for the ILO action programme on teacher shortages. Available at: <http://www.ilo.org/public/english/dialogue/sector/ap/educat/forums/docs/pretoria-safrica-report.pdf>

²⁰ This section is based primarily on the national country report prepared by the Nigeria National Steering Group for the ILO action programme on teacher shortages. The report is available at <http://www.ilo.org/public/english/dialogue/sector/ap/educat/forums/docs/pretoria-nigeria-report.pdf>

private schools; in 1995, private education accounted for at least 19 per cent of primary schools and 12 per cent of enrolled students.²¹ Quranic schools also form an important part of the education system in some geographic regions.

Educational reform

Nigeria has seen several educational reforms, the most recent beginning in 1999 with the launching of the Universal Basic Education (UBE) scheme, which has as its goals a free and compulsory nine-year basic education programme and to provide functional literacy for illiterate adults. In 2004, the UBE was passed into law. UBE goals imply that 40,000 teachers will be required per year for the next nine years in order to meet increasing education demands.²² Strategies in this area include a pivotal teacher training programme and the establishment of a teacher registration council.

Legal framework

Of the four important ILO Conventions on social dialogue, Nigeria has ratified Conventions Nos 87 and 98. Both of these ratifications took place in 1960.

The law provides for both the right to organize and to bargain collectively, but prohibits national strikes and strikes on many issues. The 2005 Trade Union Act amendment limits the right to strike to matters pertaining to breach of contract, or wages and conditions of work, while prohibiting strikes over matters of national economic policy. The 2005 amendment also includes a strike ban for essential services, which according to the existing law, includes education. Collective bargaining rights are also restricted through a requirement that every agreement on wages must be registered with the Ministry of Labour, which then decides whether the agreement will become binding.

Social partners in education

Due to its federal Government and decentralized system, there are many different government actors at the different levels of government. The Federal Ministry of Education (FME) is generally responsible for the regulation and management of education. There are also state-level ministries of education, and 23 parastatals working in several different fields. At the local level, there are local government education authorities.

The registered trade union for the education sector is the Nigerian Union of Teachers (NUT), which has approximately 350,000 members. However, NUT represents teachers in the public sector only, and a significant percentage of Nigerian teachers are employed in the private sector.

The National Association of Proprietors of Private Schools groups together some employers from the private sector, but it is not clear how representative this body is. Parent teacher associations also take an active role in the implementation of education policy and are grouped together under the National Parent Teacher Association of Nigeria.

²¹ <http://jds.sagepub.com/cgi/reprint/20/1-2/79.pdf>

²² *Our Youth, Our Hope*, Report presented at the 47th Session of the International Conference on Education in Geneva, 2004, p. 14. Available at: <http://www.ibe.unesco.org/International/ICE47/english/Natreps/nigeria.pdf>

Trends in social dialogue

The recent evidence of the state of education sector social dialogue in Nigeria is mixed. On the one hand, as the report produced for the ILO education sector action programme suggests, there is a fair amount of informal, and some institutional consultation; however, there is no institutionalized collective bargaining.

Collective bargaining

In the absence of formal mechanisms for collective bargaining in the public or private education sectors, NUT uses other means to bring about negotiation, including strikes, demonstrations, work to rule and legal action.

The 1966 Recommendation concerning the Status of Teachers states that there should be close cooperation between the competent authorities and organizations of teachers for the purpose of defining educational policy (Chapter VI, paragraph 10(k)); that all teachers should have the right to negotiate their salaries and working conditions (Chapter VII, paragraph 82); and that a machinery should be established to assure this right (Chapter VII, paragraph 83). Implementing these recommendations might be helpful in fostering more consensus building dialogue and assist in moving away from the more confrontational methods being employed currently.

Consultations

Consultation occurs in a variety of manners, both formal and informal, in both the public and private education sectors. The Joint Consultative Committee on Education and the National Council on Education are examples of formal structures. There are also state and local government consultative structures. Finally, there are federal, state and local government regulatory bodies that cover issues such as teacher professionalization, the development of curriculum, in-service training, the provision of universal basic education, and teacher professional conduct and ethics. These bodies either include teacher representatives or consult with teachers' associations.

Information sharing

Information sharing appears to occur through a variety of different non-formalized avenues, such as conferences, seminars, workshops and retreats organized by the various education stakeholders; publications issued by the FME and the parastatals; dissemination of information through the media; and activities of the National Parent Teacher Association of Nigeria.

The sharing of information between education authorities and private school management and teachers is a more recent phenomenon, and limited in scope. A recent survey carried out by the National Steering Group for the ILO-sponsored Education Action Programme on teacher shortages found that the main method for this kind of information sharing was through the use of circulars, implicitly a unilateral, top-down approach with little real consultation. There are also government briefings for private school management and teachers on topics of particular importance, such as the UBE. It would appear, however, that this is an area that requires additional work. For example, in spite of the Government's efforts to disseminate information on the new UBE programme, there still

remains much confusion and misinformation regarding its actual content and implications.²³

Information sharing forms the foundation for effective social dialogue. This would argue for the creation of regular and permanent information sharing bodies, which would help to reduce the kind of misinformation seen in relation to the UBE programme.

Conclusions

The 2005 amendments to the Trade Union Act lifted some restrictions on freedom of association by allowing more labour centres, but also weakened the National Labour Congress, the country's largest labour organization. It also introduced a ban on striking in essential services, which include the education sector, thus contravening international standards.

As indicated in the description of the government education actors, the management of the education system is subject to complex interrelationships between the different levels of government. In terms of social dialogue, the multiplicity of lines of responsibility can cause difficulties in identifying the appropriate interlocutor for a particular issue. When consultations do occur, it is not clear if all the participants believe them to be effective. In the survey conducted by the National Steering Group for the ILO Education Action Programme, 90 per cent of respondents felt that there had been no "policy shift" as a result of consultations.

It is clear that although certain positive advances have been made, work needs to be done to bring legislation and practice into line with international standards in order to ensure that teachers are granted their fundamental rights. As was recommended in the Pretoria Declaration on Teachers, countries such as Nigeria, which do not already have institutionalized structures for social dialogue between education employers and teachers by means of regular information sharing and consultation on policy issues and negotiation of employment and working conditions, should develop such structures as a matter of priority.²⁴

Latin America

1. Assessing the climate for social dialogue

A. Ratifications of ILO Conventions

With the exception of Brazil, El Salvador and Mexico, all 22 Latin American member States have ratified Conventions Nos 87 and 98.

²³ Ozor, Fabian. "UBE: Why FG must enlighten the people", *The Daily Independent* (Nigeria), 18 Sep. 2006. Available at: <http://www.independentngonline.com/news/45/ARTICLE/11410/2006-09-18.html>. Olatunji, Bukola. "Nigeria: A policy so misunderstood", *The Daily* (Nigeria), 5 Sep. 2006. Available at: <http://fr.allafrica.com/stories/200609060637.html>

²⁴ *Pretoria Declaration on Teachers*. ILO Southern African Policy Dialogue Forum on Teachers for the Future, Pretoria, Republic of South Africa, 8 December 2005. Available at <http://www.ilo.org/public/english/dialogue/sector/ap/educat/forums/docs/pretoria-decl.pdf>

Conventions Nos 151 and 154 have lower ratification rates. Convention No. 151 has been ratified by nine Latin American member States (Argentina, Belize, Chile, Colombia, Cuba, Guyana, Peru, Suriname and Uruguay). Convention No. 154 has been ratified by seven Latin American member States (Argentina, Belize, Brazil, Colombia, Guatemala, Suriname and Uruguay).

Argentina, Belize, Colombia, Suriname and Uruguay stand out for having ratified all four of the Conventions in question; El Salvador for having ratified none. The most recent ratifications by Chile and Colombia occurred in 2000.

B. Indicators of practical application of standards

Although Latin America is linguistically homogenous and the education sectors in Latin American countries share common features and are confronting similar challenges, the region is notable for the many different types of social dialogue that can be found. The legislative framework for social dialogue improved greatly in this region during the latter part of the twentieth century. Enabling conditions for social dialogue have not yet been met, however, in many Latin American countries.²⁵

On one end of the spectrum, there are countries that appear to be unwilling or unable to protect trade unionists. These types of States do not have the political conditions for consensus building and are experiencing critical situations of governance. **Colombia** has a record of murders and other acts of violence against trade union officials and members, and of anti-union dismissals, including members of teachers' unions.²⁶ In 2005, trade unionists were victims of 444 attacks, including 70 murders.²⁷ The education sector is the most affected by these murders.²⁸ The case of Colombia is even more notable given that it is one of the few Latin American countries to have ratified Conventions Nos 87, 98, 151 and 154. **Guatemala** also has a difficult climate for general social dialogue. The Committee of Experts has expressed concern at the acts of violence against trade union leaders and members, noting that trade union rights can only be exercised in a climate that is free of violence.²⁹ According to information from Education International, there have been reports of harassment and intimidation of a teachers' union³⁰ and a complaint has

²⁵ Gajardo, Marcela and Gómez, Francisca. *Social dialogue in education in Latin America: A regional survey* (ILO, Geneva, 2005), p. 46.

²⁶ Committee on Freedom of Association, 340th Report, GB.295/8/1 (ILO, Geneva, 2006), pp. 109-154.

²⁷ ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), p. 114.

²⁸ Committee on Freedom of Association, 340th Report, GB.295/8/1 (ILO, Geneva, 2006), p. 192.

²⁹ CEACR: Individual observation concerning Convention No. 87, Freedom of Association and Protection of the Right to Organise Convention, 1948. Guatemala (ratification: 1952), published: 2006.

³⁰ EI Annual Report 2005. Available at http://www.ei-ie.org/annualreport/ei-ie/uk/part_01_aim_024768.html?Open=2.2

been submitted to the Committee on Freedom of Association concerning the disruption of union activities.³¹

These cases are quite extreme ones, however, and are not representative of the social dialogue climate in the entire region. Less extreme examples, which nonetheless lead to conditions that are detrimental to social dialogue, can be seen in countries whose legislation does not allow for teachers' trade union rights. In **Ecuador**, severe restrictions exist on teachers' trade union rights: public sector employees in non-revenue producing entities are not free to form trade unions; teachers can bargain at the national level, but legislation prohibits them from negotiating locally or at the workplace; and public workers, including education workers, do not have the right to strike.³² **El Salvador**, which has not ratified either Conventions Nos 87 or 98, also does not allow teachers to unionize and places restrictions on their right to strike³³ and bargain collectively.³⁴

Far more common, are situations where teachers' union rights are provided for by law but are in some way restricted. Labour legislation in **Argentina** provides for collective bargaining, freedom of association and the right to strike. Nonetheless, recent social and economic crises during the 1990s and early 2000s at times led authorities to adopt a decision-making style that did not include negotiations or consultations.³⁵ The result has been a climate of confrontation and a breakdown in consensus-building social dialogue, as evidenced by the fact that since 2003, teachers' organizations have submitted five complaints to the Committee on Freedom of Association.³⁶ During the period from April to June 2005 only three of the 24 provincial regions did not experience a teacher strike.³⁷

In the **Bolivarian Republic of Venezuela**, the Labour Code extends to all public and private workers and guarantees the right to form unions, strike and bargain collectively.³⁸ Nonetheless, social dialogue in the education sector has been frozen for some time, in part due to the ongoing social and political crisis, which has taken precedence over the issue of social dialogue in education.³⁹ There are also reports of other restrictions on social dialogue in education. According to the 2006 ICFTU annual survey, 18,000 teachers protested a policy which unilaterally eliminated a teachers' compensation that had been

³¹ Background document CEART/9/2006/4(Add.2) (unpublished).

³² ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), p. 126.

³³ *ibid.*, p. 129.

³⁴ Gajardo, Marcela and Gómez, Francisca. *Social dialogue in education in Latin America: A regional survey* (ILO, Geneva, 2005), p. 30.

³⁵ *ibid.*, p. 17.

³⁶ Background document CEART/9/2006/4(Add.2) (unpublished).

³⁷ *Situación docente – Escasez de personal: Informe preliminar*, p. 85. Report prepared by the Argentina National Steering Group for the ILO Education Action Programme on teacher shortages. Available at <http://www.ilo.org/public/english/dialogue/sector/ap/educat/forums/docs/santiago-argentina-informe.pdf>

³⁸ EI Barometer 2004, p. 313.

³⁹ Gajardo, Marcela and Gómez, Francisca. *Social dialogue in education in Latin America: A regional survey* (ILO, Geneva, 2005), p. 34.

obtained through collective bargaining.⁴⁰ There are also reports of threats against teachers for their political views and their union activities.⁴¹

Similarly, in **Peru**, the law guarantees all workers the right to form unions, to strike and to bargain collectively. There have been reported trade union rights violations, however, including the declaration of a state of emergency, which involved the suspension of the right to assembly, the repression of demonstrations, the investigation and search of trade union headquarters without the authorization of trade union officials and without legal warrants and the arrest of more than 150 trade union officials and workers, including members of teachers' unions.⁴²

Although the national contexts across the Latin American region vary greatly from one country to another, it is clear that there remains much to do in order to foster a positive climate for social dialogue. In spite of some positive legislative changes made in the last two decades, the proper conditions to enable social dialogue still do not exist in many countries. It is worth noting that of the 38 cases submitted by teachers' organizations to the Committee on Freedom of Association since June 2003, almost half (17) come from Latin America.

2. Case study of social dialogue in the education sector – Chile⁴³

General

Introduction to education

The Chilean education system consists of a compulsory eight-year primary level and four-year secondary level. The Chilean educational system is decentralized, a by-product of the military dictatorship which lasted for nearly 20 years from 1973. As such, the Government does not maintain any schools or employ any teachers. The administration of the public school system is in the hands of 345 municipalities.

Legal framework

Chile has ratified three of the four important ILO Conventions on social dialogue: Conventions Nos 87, 98 and 151. It has not ratified Convention No. 154.

The conditions of employment and remuneration of teachers employed in the municipal sector are determined between the teacher and the municipality in each particular case, within the framework of the Statute on Education Professionals, which is a

⁴⁰ ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), p. 167.

⁴¹ *ibid.*

⁴² Background document CEART/9/2006/4(Add.2) (unpublished).

⁴³ This section is based primarily on the national country report prepared by the Chile National Steering Group for the ILO action programme on teacher shortages. The report is available at <http://www.ilo.org/public/english/dialogue/sector/ap/educat/forums/docs/santiago-chile-informe.pdf>

regulation protecting workers in this sector. This regulation does not provide these workers with the right to strike or to bargain collectively, although strikes do occur in practice. Similarly, the recognition of, and negotiation with, teachers' professional organizations are practices that have been legitimized over time and which have played an important role in improving remuneration and career structures.

Social partners in education

The Ministry of Education (*Ministerio de Educación de Chile* (MINEDUC)) acts as a coordinator for the education system by regulating, evaluating and supervising all aspects of education.

The Teachers' Association of Chile (*Colegio de Profesores de Chile* (CP)) as the most representative teachers' organization represents primarily public school teachers. Legally, it is an association of professionals, but in practice it acts as a trade union. There are also organizations that group together teachers from the private school system, however, these represent a minority of the education sector, compared to the CP.

As for employers' organizations, the municipalities employ a significant proportion of teachers and are organized in the Association of Chilean Municipalities.

Trends in social dialogue

Social dialogue in Chile is generally consensus-building in nature and there has been a certain public validation of social dialogue mechanisms. That said, there is not a permanent institutionalized forum in which the Government, teachers, employers and other education stakeholders can meet regularly to share information and hold consultations. Nonetheless, MINEDUC has established relationships with the various educational actors and ad hoc consultation and information sharing mechanisms exist.

Collective bargaining

Given the decentralized nature of the Chilean education system, collective bargaining assumes different characteristics within public and private municipal establishments. Teachers and administrators within municipal schools do not have the right to regulated collective bargaining. Therefore, there are no formal mechanisms for municipal teachers and their employers to collectively bargain working conditions. There are also no fixed dispute resolution mechanisms.

There is, however, a long-existing practice of de facto bargaining based on the good will of the Government and the CP. The issues that are negotiated are the legal and financial national frameworks of the basic remuneration scheme, as well as certain working conditions and general contractual conditions. There are also similar negotiations between the municipal employers and their teaching personnel. The issues negotiated at this level usually include any possible additional remuneration beyond the basic remuneration scheme, as well as appropriate methods for the implementation of national standards. An example of good practice in this area would be the comprehensive career plan, the Teachers' Statute (*Estatuto Docente*), which was the result of negotiations that involved bipartite and tripartite social dialogue mechanisms and lasted almost ten years. Included in the Teachers' Statute was a teacher assessment programme, featuring peer assessment, which was based on tripartite agreement between MINEDUC, CP and the Association of Chilean Municipalities.

Despite the progress in negotiating key terms and conditions of teachers' employment, there is room for improvement in order to bring the Chilean system in line with international standards. The 1966 Recommendation concerning the Status of Teachers

states that all teachers should have the right to negotiate their salaries and working conditions and that machinery should be established to assure this right. In addition, the Recommendation calls for the establishment of a joint dispute resolution mechanism – a gap in current Chilean legislation and practice.

In the private sector, the rights to unionize, strike and collective bargaining are legally recognized. According to the Labour Code, the issues that can be dealt with through collective bargaining are all of those dealing with remuneration or other financial benefits and common working conditions. In spite of having the right to unionize and collective bargaining, the unionization level of private schools is fairly low and there are very few second and third level organizations to group together individual unions. For these reasons, the collective bargaining capacities of these teachers are fairly weak.

Consultations

As indicated earlier, there is not a permanent formal mechanism for consultations. However, since 1990, the Government has established several consultative or advisory commissions. These have been established with the purpose of recommending education policies or reforms and have had varying levels of representation. Some of the more notable commissions have dealt with issues such as the teacher assessment programme, the extension of the school day, and initial teacher training.

As an example, the educational reform that began in 1996 made use of these informal consultation mechanisms. The reform was based on studies and proposals produced by a commission of experts that collected the points of view of a wide range of organizations and institutions. The report produced by this commission was accompanied by the results of consultations held during regional seminars and through the internal consultation processes of the major educational organizations. Nonetheless, certain organizations that participated in the debates and studies, later expressed their dissatisfaction at the extent of consultations that had been held. The CP was one of these organizations.

Clearly, these commissions that have led to new evaluation, career and professional development systems in consultation with the CP and the municipal authorities have been a success. This does raise the question however, of why this type of good practice could not be transformed into a more widespread and permanent form of consultation, as recommended by the 1966 Recommendation (Chapter IV, paragraph 10(k)). This more widespread and permanent consultation might reduce the dissatisfaction expressed by the CP in relation to the 1996 education reform mentioned above and solidify gains in teachers' professional standards which impact on the quality of education.

Information sharing

In the absence of formal information sharing structures, education authorities use various methods to disseminate information. These range from a formal annual message from the President and an inaugural speech at the beginning of each school year, to a magazine on education issues and an online portal on the MINEDUC web site. For its part, the CP also enjoys fairly wide media coverage, which it uses to communicate its positions. Information sharing is an important prelude to effective social dialogue. The ad hoc nature of these methods therefore, is not a substitute for regular and permanent national or municipal-level educational council.

In August 2003 a National Forum on Education for All was created. This Forum has a wide range of participants, including MINEDUC, CP and the Association of Chilean Municipalities. In the course of the activities carried out by the Forum, the CP has been able to express teachers' positions on EFA goals and their implementation in Chile. This

Forum, already significant in the framework of international efforts to integrate civil society voices in EFA decision-making, is an institutional mechanism that could be used as a model for a broader range of information sharing through a national education council.

Conclusions

Chile is an example of a State whose legislation is not in line with international standards, but whose practice seems to be so. Despite the lack of an explicit regulatory framework, the Government has, since 1990, negotiated the terms and conditions of teaching personnel and complied with the agreements concluded. These agreements have led to, among other things, an increase in teachers' wages for the years 2004, 2005 and 2006, a cash bonus for teachers for 2004 and 2006, as well as one of the world's most sophisticated and forward-looking career structures, designed to motivate teachers' professional development and performance as part of higher educational outcomes and standards. These negotiations have been held on the basis of customary practice and good will, however, and as a safeguard to ensure their continuation, should be codified in law. There is some indication that Chile might be moving in this direction, as a 2004 Congressional Commission of Inquiry on Workers' Rights was set up to study workers' rights, with a view to finding legal solutions to remedy the law's failings with respect to workers' fundamental rights, freedom of association and other issues.

North America

1. Assessing the climate for social dialogue

A. Ratifications of ILO Conventions

Only Canada has ratified any of the Conventions under consideration (Convention No. 87). The United States has not ratified any of the Conventions in question.

B. Indicators of practical application of standards

In the **United States**, teachers' trade union rights are determined by state legislation. Currently, 12 states give teachers the right to strike;⁴⁴ 45 states and the District of Columbia have laws either permitting or requiring collective bargaining with organized teachers;⁴⁵ and all states permit teachers to join unions. In spite of the relatively high level of restrictions on the right to strike, these still occur, although the rate of teacher strikes has

⁴⁴ Price, Heidi. "Efforts to ban teacher strikes in Pennsylvania gain interest" *Observer Reporter* (Pennsylvania, USA) 12 Feb. 2006. Available at: <http://www.observer-reporter.com/main.asp?SectionID=6&SubSectionID=15&ArticleID=11402>

⁴⁵ National Educators Association, *Collective Bargaining Rights for Education Employees in the United States* (2003); quoted in Hess, Fredrick and West, Martin R., *A Better Bargain: Overhauling Teacher Collective Bargaining for the 21st Century* (Programme on Education Policy and Governance at Harvard University, 2006), p. 16. Available at <http://www.ksg.harvard.edu/pepg/PDF/Papers/BetterBargain.pdf>

declined from 241 in 1975, to 99 in 1991, and 15 in 2004.⁴⁶ An example of a recent case in the United States comes from the state of Michigan. Approximately 7,000 teachers in Detroit went on strike in 2006 to protest wage cuts and increased health-care expenses. State law prohibits striking and, after ignoring a back-to-work order, these teachers have been issued an injunction imposing fines if they do not return to work by a specific date.

Canada also places restrictions on social dialogue and has been accused of interfering in teachers' right to strike, as well as interfering in collective bargaining, denying the right to organize and not providing protection against anti-union discrimination and employers' discrimination.⁴⁷ Teachers' organizations in British Columbia have submitted a complaint to the Committee on Freedom of Association alleging that the adoption of several pieces of legislation contravened ILO Conventions and affected the rights of public service employees.⁴⁸ Since June 2003, Canadian teachers' organizations have submitted five separate complaints to the Committee on Freedom of Association.

Social dialogue in North America, therefore, remains difficult, and teachers' rights to unionize and strike are restricted. Given the political climate of the region, it is not clear that any change will be forthcoming in the immediate future.

Arab States

1. Assessing the climate for social dialogue

A. Ratifications of ILO Conventions

Of the 17 Arab member States, seven (Algeria, Egypt, Kuwait, Libyan Arab Jamahiriya, Syrian Arab Republic, Tunisia and Yemen) have ratified Convention No. 87. Convention No. 98 enjoys a slightly higher ratification rate with ten Arab member State ratifications (Algeria, Egypt, Iraq, Jordan, Lebanon, Libyan Arab Jamahiriya, Morocco, Syrian Arab Republic, Tunisia and Yemen).

No Arab member States have thus far ratified Conventions Nos 151 or 154.

There have been no ratifications of the four Conventions in question in the past three decades, with the exception of the ratification of Convention No. 87 by the Libyan Arab Jamahiriya in 2000. All other Arab member State ratifications were received between 1950 and 1970, with the vast majority of these being received in the 1950s and 1960s.

⁴⁶ McDonnell, Lorraine and Pascal, Anthony, *Organized Teachers in America's Schools* (Santa Monica, CA: RAND Corporation, 1979) and Boyko, Ann, "School Employee Strikes Fell in 2003-2004 School Year" *The School Leader News* (Pennsylvania School Boards Association, Cumberland, PA, 23 Jul. 2004); quoted in Hess, Frederick and West, Martin R., op. cit.

⁴⁷ Background document CEART/9/2006/4(Add.2) (unpublished).

⁴⁸ *ibid.*

B. Indicators of practical application of standards

Algeria remains a relatively positive example within the region.⁴⁹ Workers are allowed to form unions, although with some restrictions, and the right to strike is allowed, but also severely restricted. In spite of these restrictions, Algerian teachers have held several strikes in recent years. At the beginning of 2006, prospects seemed to improve further when the dialogue between union members and the Ministry of Education was re-established.⁵⁰ The Minister of Education agreed to meet with representatives of teacher unions that are not currently recognized by the Government.⁵¹

With the assistance of the Gulf Cooperation Council, countries in the Gulf region are also making progress in improving trade union rights. **Bahrain** continues to build on progress made in previous years, as was noted by the ILO Declaration Expert-Advisers.⁵² The 2002 Workers' Trade Union Law established the General Federation of Bahrain Trade Unions (GFBTU) and since then, the GFBTU has been actively involved in tripartite discussions, including those on a new labour law, which will contain provisions on collective bargaining.⁵³ In December 2004, it became the first organization from the Gulf States to become a member of the ICFTU. In **Qatar** a new Labour Code came into force in 2005, which allows for free trade unions, collective bargaining and strikes, although with many restrictions. In the **United Arab Emirates**, teachers are allowed to establish professional organizations and the Government submitted a draft law on workers' organizations and other amendments to the Labour Relations Act to the ILO for review. Progress in **Saudi Arabia** continues,⁵⁴ but at a slower pace, and the Labour Law approved in 2005 does not grant workers the right to organize, bargain collectively or strike. **Kuwait** has established a tripartite committee to review its new draft Labour Code and has sought the technical assistance of the ILO to ensure that the Code is in conformity with international standards.⁵⁵ It also indicated that it had promulgated a decree concerning ratification of Convention No. 98.⁵⁶ Improvements in the general social dialogue climate in this region are most likely representative of the trends for social dialogue in education as well.

Unfortunately, the situation in the rest of the region of the Middle East is less positive. In the **Islamic Republic of Iran**, the law does not allow for independent trade

⁴⁹ Background document CEART/8/2003/SD1, p. 8 (unpublished).

⁵⁰ *EI Worlds of Education*, No. 18, Mar./Apr. 2006.

⁵¹ *ibid.*

⁵² Review of annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, GB.292/4 (ILO, Geneva, 2005), p. 26.

⁵³ ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), p. 350.

⁵⁴ Review of annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, GB.292/4 (ILO, Geneva, 2005), p. 26.

⁵⁵ ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), p. 365.

⁵⁶ Review of annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Part II: Compilation of annual reports by the International Labour Office (ILO, Geneva, 2006), p. 74.

unions; all collective agreements must be submitted to the Ministry of Labour for examination and approval; and the law does not provide the right to strike.⁵⁷ In spite of these restrictions, worker protests and work stoppages occur almost daily. These protestors often find themselves subjects of intimidation, and sometimes violence and judicial proceedings.⁵⁸ Specifically, the Islamic Republic of Iran has been accused of violent police repression of strikes; the arrest, detention and conviction of several trade union leaders and activists for their trade union activities; the arrest of trade union leaders of the Teachers' Guild Association; interventions in a strike and subsequent harassment of the workers' representatives; and the proposal and the adoption of legislation that would restrict the trade union rights of a large number of workers.⁵⁹ The Government has not provided information on several of these allegations to the ILO.

Similarly, in the **Libyan Arab Jamahiriya** trade union activities are forbidden and in the **Syrian Arab Republic** they are strongly restricted.

In summary, although adverse social dialogue conditions continue to exist in a large number of countries in this region, it appears that within a certain group, progress is being made in creating the conditions necessary for social dialogue.

Asia

1. Assessing the climate for social dialogue

A. Ratifications of ILO Conventions

Of the 19 Asian member States, eight (Bangladesh, Cambodia, Comoros, Indonesia, Japan, Pakistan, Philippines and Sri Lanka) have ratified both of the fundamental Conventions in question. In addition, Myanmar has ratified Convention No. 87 and Malaysia, Nepal and Singapore have ratified Convention No. 98.

No Asian member States have ratified Conventions Nos 151 or 154.

A significant number of Asian member States (Afghanistan, China, India, Republic of Korea, Lao People's Democratic Republic, Thailand and Viet Nam) have not ratified any of the four Conventions in question. No ratifications have been received in the last seven years, with the most recent ratifications coming from Cambodia in 1999.

B. Indicators of practical application of standards

Ratifications remain low in Asia and this continues to coincide with a low level of observance of workers' rights to strike and unionize and difficult conditions for social dialogue, including in education.

⁵⁷ ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), p. 355.

⁵⁸ *ibid.*

⁵⁹ Committee on Freedom of Association, 342nd Report, GB.296/4 (ILO, Geneva, 2006), p. 166.

The most serious case of violations of trade union rights probably remains **Nepal**, due in large part to the country's political instability. Trade union rights were suspended in the first part of 2005 when a state of emergency was declared. Later in the year, public servants' right to belong to unions was revoked. During this political upheaval, civil society leaders were pursued and incarcerated, and in some cases killed; teachers were particularly affected.⁶⁰ An allegation concerning these events has been brought to the Committee on Freedom of Association, noting in particular acts of harassment against the teachers' unions⁶¹ and the Committee found these allegations to be particularly serious and urgent.⁶² Changes in the overall political situation in the country in the course of 2006 have potential for improving the situation.

The situation in **Japan** also remains complicated. Trade union rights in the public sector remain heavily restricted: collective bargaining is limited and strikes are prohibited.⁶³ These restrictions are reflected in the allegation brought to the Committee on Freedom of Association by a teachers' union, which accuses authorities of restrictions on the right to bargain collectively, and the absence of impartial and speedy conciliation and arbitration proceedings in the case of a breakdown in negotiation.⁶⁴

Due to the political climate, the situation in **Afghanistan** also presents complicated, although very different, challenges. Government ministries are not fully functioning, current law is not fully in compliance with internationally recognized standards, and there is not a tradition of genuine labour management bargaining.⁶⁵ Teachers are affected by the current situation in a very specific manner, however; they are targeted by the efforts of the Taliban religious movement to stop children, especially girls, from receiving an education.⁶⁶ Within this context, there have been several reports of extreme violence against teachers.⁶⁷ Clearly a basic level of security and stability must be introduced before work can begin in developing social dialogue mechanisms.

⁶⁰ ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), pp. 245–246.

⁶¹ Committee on Freedom of Association, 340th Report, GB.295/8/1 (ILO, Geneva, 2006), p. 358.

⁶² *ibid.*, p. 1.

⁶³ ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), pp. 224 and 225.

⁶⁴ Background document CEART/9/2006/4(Add.2) (unpublished).

⁶⁵ EI Barometer 2006, p. 17.

⁶⁶ Bredin, Miles. "Class war: Battle to educate Afghan girls and boys hindered by fear of Taliban retribution", *The Independent* (London), 12 Sep. 2006. Available at: <http://news.independent.co.uk/world/asia/article1521835.ece>

⁶⁷ *EI Worlds of Education*, No. 18, Mar./Apr. 2006.

Although not as extreme as the case of Afghanistan, the situation in the rest of the region remains difficult. Several countries still do not grant the right to form independent unions, or exclude teachers from this right (**Bangladesh**,⁶⁸ **Cambodia**,⁶⁹ **China**,⁷⁰ **Lao People's Democratic Republic**,⁷¹ **Pakistan**⁷² and **Viet Nam**⁷³) and continue to prohibit teachers' right to strike (**Malaysia**,⁷⁴ **Philippines**⁷⁵ and **Thailand**⁷⁶). Difficulties in education sector social dialogue in Cambodia are further illustrated in the country's development of an education sector strategic plan and national EFA plan, in which teacher participation was notably absent and there was "no consultation, much less negotiation, with teachers or their representatives concerning any of the salary or workplace issues".⁷⁷

There are some positive examples, however. For example, **Indonesia's** 2003 Manpower Act meets many ILO standards, although it also introduces certain restrictions on strikes.⁷⁸ Also, a new dispute settlement act established a system of tripartite labour courts.⁷⁹ The Teachers' Association has faced some difficulties with the Indonesian Corps of Civil Servants that have lead to undercounting of its members and negatively affected its capacity to operate.⁸⁰

⁶⁸ ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), p. 176.

⁶⁹ *ibid.*, p. 187.

⁷⁰ *ibid.*, p. 193.

⁷¹ *ibid.*, p. 234.

⁷² *ibid.*, p. 248.

⁷³ *ibid.*, p. 278.

⁷⁴ *ibid.*, p. 238.

⁷⁵ EI Barometer 2004, p. 237.

⁷⁶ ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), p. 271.

⁷⁷ Knight, Karen and MacLeod, Kurt. *Integration of teachers' voices into Education for All in Cambodia: Teacher status, social dialogue and the education sector* (ILO, Geneva and Phnom Penh, 2004), p. 13.

⁷⁸ ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), p. 217.

⁷⁹ *ibid.*

⁸⁰ *ibid.*, p. 216.

2. Case study of social dialogue in the education sector – The Republic of Korea⁸¹

General

Introduction to education

In the Republic of Korea, basic school consists of a compulsory six years of elementary school and three years of middle school, as well as three years of high school and four years of university education. There are national, public and private schools within the educational system. The percentage of private schools at the secondary school level is fairly high: in 2002, 24.2 per cent of all middle schools and 46.1 per cent of all high schools were private.⁸²

Educational reform

With the arrival of a civilian government after years of military rule, a comprehensive educational reform was undertaken in 1994. This reform sought to prepare the Republic of Korea to enter the “knowledge economy” by enhancing the quality of its primary and secondary education, increasing public investment in higher education, and placing an emphasis on lifelong learning. The new Government that was inaugurated in 1998 continued with these reforms, introducing new priorities, including strengthening the status of teachers as professionals and forming an educational community, based on autonomy and participation.

Legal framework

The Republic of Korea has not ratified any of the four important ILO Conventions on social dialogue (Conventions Nos 87, 98, 151 and 154).

The Labour Standards Act defines minimum conditions for a worker from employment to retirement. National and public school teachers are considered as “special post public servants” and thus are also governed by the Education Public Servant Law. Private school teachers fall under the purview of the Private School Law. The treatment and salary of teachers, as well as their right to teach, their legal status, and the collective bargaining and negotiation rights of teachers’ organizations are guaranteed by the Special Law to Improve the Teacher Status. The 1999 Law for Establishing and Managing Teachers’ Labour Unions allowed for the establishment and operation of trade unions for teachers, but also prohibited their right to strike on the grounds of protecting students’ right to learn.

Social partners in education

The Ministry of Education and Human Resources Development (MOEHRD) is responsible for formulating and implementing education and teacher policies, for

⁸¹ Except where noted, this case study draws primarily on the information in: Kim, Ee-gyeong and Han, You-Kyung. *Attracting, developing and retaining effective teachers: Background report for Korea* (Korean Educational Development Institute, Seoul, 2002); and Coolahan, John; Santiago, Paulo; Phair, Rowena and Ninomiya, Akira. *Attracting, developing and retaining effective teachers – Country note: Korea* (OECD, 2004).

⁸² Kim, Ee-gyeong and Han, You-Kyung. *Attracting, developing and retaining effective teachers: Background report for Korea* (Korean Educational Development Institute, Seoul, 2002), p. 18.

formulating the national curriculum, and providing administrative and financial support to schools at all levels. There are also 16 metropolitan and provincial offices of education and 180 district offices that oversee the management of schools.

About 70 per cent of all teachers belong to a teachers' organization, with higher levels of membership in public schools and in secondary schools.⁸³ The two main organizations that represent teachers are the Korean Federation of Teachers' Associations (KFTA) and the Korean Teachers and Education Workers Union (KTU). KFTA is the largest and oldest teachers' organization and currently has approximately 180,000 members.⁸⁴ KTU was founded in 1989 but did not become a legal entity until the passing of the 1999 Law mentioned above. KTU has approximately 87,000 members and is also active in matters only indirectly linked to education, such as trade agreements, according to some sources.⁸⁵ A third union, the Korean Union of Teaching and Educational Workers, represents far fewer teachers than KFTA or KTU.

Trends in social dialogue

Collective bargaining

Under the Establishing and Managing Teachers' Labour Unions Act, as well as the Special Law to Improve the Teacher Status, teachers' unions have the right to enter into collective bargaining and negotiate with the Deputy Prime Minister and Minister of Education and Human Resources Development (MOEHRD), heads of boards of education in provinces and cities or persons who operate schools.⁸⁶ To this end, the MOEHRD holds biannual meetings to negotiate various issues with teachers. Issues that come under negotiation include: salaries and allowances; working hours, leave and vacation; safety and health; welfare; and professional improvement and training. In addition, the 16 metropolitan and provincial offices also bargain with local teachers' associations. A special Act prescribes that the educational curriculum and the management of educational administrative offices cannot be the subject of negotiation.

The Government maintains a dual policy in its negotiation with teachers' organizations. Since KFTA is legally a professional organization and KTU is legally a union, the Government tends to negotiate with KFTA on matters of teacher policies and teacher professionalization, while negotiating with KTU on salaries and working conditions. A clear-cut definition of bargaining areas does not exist, however, which results in a certain amount of redundancy of negotiations and ineffectiveness of agreements.

⁸³ Reeher, Mark. *The South Korean teacher workforce – Professional organization and development*. Available at: <http://www.personal.psu.edu/users/m/a/mar389/Edthp401/organization.htm>

⁸⁴ Ministry of Education and Human Resources Development web site. Available at: <http://english.moe.go.kr/html/education/?menuno=09>

⁸⁵ *ibid.*

⁸⁶ Information in this paragraph was taken from the *2006 Korean Federation of Teachers' Association Info Book*. Available online at: <http://eng.kfta.or.kr/files/engboard/KFTA%20Info%20Book.pdf>

Consultation

The MOEHRD has the lead role in the development and implementation of educational policies. Part of this development process includes consultation. Some of these consultations occur in an ad hoc manner. For example, the *2001 Comprehensive Plan to Develop the Teaching Profession* was the result of a three-year consultation process with school administrators, teachers, teacher educators and parents. One of the reform tasks identified by the *Comprehensive Plan* was the promotion of teacher participation in policy decisions.

Other consultations occur through more established mechanisms, such as the recently introduced school councils, which include parents, teachers and community members. The school councils currently have advisory roles, and their degree of intervention depends to a great extent on the authority of the principal. There are also informal mechanisms, such as Internet bulletin boards on the MOEHRD web site.

The Republic of Korea appears to be following good practices in this area, although it remains to be seen how the recently introduced school councils will function in practice. In addition, as indicated in the *Comprehensive Plan*, it is important to ensure that teachers are consulted in matters relating to policy. As noted above, matters related to the curriculum cannot be the subject of negotiation. The 1966 Recommendation concerning the Status of Teachers emphasizes, however, that teachers should be regularly consulted on educational policy (Chapter VIII, paragraph 75) and should be given an essential role in the choice of teaching materials, and the application teaching methods (Chapter VIII, paragraph 61).

Information sharing

Given the Republic of Korea's high usage of ICT,⁸⁷ much information sharing occurs through the Internet. Two major online services exist: EduNet and the Teaching and Learning Centre. These services provide a variety of educational information, including curriculum information, and innovative teaching strategies and best practices. Similarly, the web sites of the various education stakeholders, in particular the MOEHRD and KFTA, are well developed and contain a wide range of information. School web sites also function as strong communication channels within communities. In addition, all the education stakeholders also produce a variety of more traditional information-sharing materials, such as regular newsletters and other publications.

Conclusion

Since the Republic of Korea's entry to the ILO in 1991 and the OECD in 1996, many advances have been made both legislatively and practically to recognize and guarantee teachers' right to unite freely and bargain collectively. However, certain restrictions still remain on these rights, and the right to strike is still prohibited. In addition, the ICFTU's 2006 annual survey found that the year had been marked by continued heavy persecution of certain unions. Although this does not appear to have been the case for teachers, this type of climate raises some concerns.

Furthermore, an OECD review team visiting the Republic of Korea in 2003 found that, as teachers' unions had only been formed in the past few years, there remained

⁸⁷ According to the OECD, the Republic of Korea has the second highest number of broadband internet connections per capita (<http://www.oecd.org/sti/ict/broadband>).

uncertainty on all sides concerning each stakeholders' role.⁸⁸ The review team also found that the relationship between educational authorities and unions could be described as mutually suspicious, and even confrontational in certain respects. They concluded that it was important for all education stakeholders to ensure that their relationships remain based on consensus-building attitudes so as to not become permanently adversarial. In this respect, effective social dialogue carried out in a transparent manner could assist in creating less confrontational relationships between the stakeholders.

In conclusion, the Republic of Korea must sustain the forward momentum it has achieved in assuring teachers' rights and ensuring that social dialogue becomes an integral part of its culture. In a region with a predominantly difficult climate for social dialogue, the Republic of Korea remains a positive example.

Central Asia

1. Assessing the climate for social dialogue

A. Ratifications of ILO Conventions

Convention No. 87 has been ratified by all Central Asia member States, with the exception of Uzbekistan. Convention No. 98 has been ratified by all Central Asia member States.

In contrast, Conventions Nos 151 and 154 have received only two and three ratifications respectively. Azerbaijan and Georgia have ratified Convention No. 151 and Azerbaijan, Kyrgyzstan and Uzbekistan have ratified Convention No. 154.

Azerbaijan is the only Central Asia member State to have ratified all four of the Conventions in question. The most recent ratifications were received in 2003 from Georgia for Convention No. 151 and Kyrgyzstan for Convention No. 154.

B. Indicators of practical application of standards

Conditions for social dialogue in **Georgia** remain difficult. Georgia was accused of interfering in trade union activities, in particular, by forcing the central trade union to return its property to the State, intimidating trade union leaders by publicly and privately threatening them with imprisonment and making derogatory statements in the mass media.⁸⁹ The overall situation in **Azerbaijan** remains satisfactory according to the ICFTU, although it bears watching. In 2004, the Government ratified the European Social Charter, notably the articles on freedom of association and collective bargaining.⁹⁰ However, the Committee of Experts' repeated requests to bring the Act on Trade Unions into line with international standards by eliminating the absolute prohibition of all types of political

⁸⁸ Coolahan, John; Santiago, Paulo; Phair, Rowena and Ninomiya, Akira. *Attracting, developing and retaining effective teachers – Country note: Korea* (OECD, 2004), p. 32.

⁸⁹ Committee on Freedom of Association, 338th Report, GB.294/7/1 (ILO, Geneva, 2005), p. 204.

⁹⁰ ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), p. 284.

activity by trade unions have thus far gone unheeded.⁹¹ In **Tajikistan**, strikes and collective bargaining do take place, in spite of ambiguous legislation, which could lead to serious restrictions. In **Kyrgyzstan**, the situation is also tenuous. New legislation was adopted strengthening the protection of trade union rights, but in practice there seems to be some hostility towards trade union rights.⁹²

On the whole, it would appear that in spite of some positive advances, the social dialogue situation in this region remains difficult in general terms, and there is no reason to suppose that the picture is better in education.

Caribbean

1. Assessing the climate for social dialogue

A. Ratifications of ILO Conventions

All 12 Caribbean member States have ratified Conventions Nos 87 and 98.

Antigua and Barbuda has also ratified Conventions Nos 151 and 154, thus making it the only Caribbean member State to have ratified all four of the Conventions in question. Saint Lucia has also ratified Convention No. 154. The most recent Caribbean ratifications were received from Antigua and Barbuda in 2002, thus no significant change has occurred since the report to the 2003 Session.

B. Indicators of practical application of standards

Although very few Caribbean countries have ratified Conventions Nos 151 and 154, workers' trade union rights continue to be widely respected in the Caribbean. A large number of countries (**Antigua and Barbuda, Bahamas, Barbados, Dominica, Grenada, Saint Kitts and Nevis, Saint Lucia and Saint Vincent and the Grenadines**) allow teachers to unionize and are in compliance with the Conventions ratified.⁹³

There are some less positive examples, however. The **Jamaican** legislation has been criticized in the past for prohibiting workers from striking if they provide "essential services" and then defining "essential services" too broadly.⁹⁴ This legislation remains unchanged.⁹⁵ Similarly, **Trinidad and Tobago** prohibits "essential personnel" from striking and employs a broad definition that includes teachers. These countries' legislation would have to be amended in order to bring them into line with the ILO Conventions they have ratified.

⁹¹ CEACR: Individual Observation concerning Convention No. 87, Freedom of Association and Protection of the Right to Organise Convention, 1948. Azerbaijan (ratification: 1992), published: 2006.

⁹² ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), p. 217.

⁹³ Background document CEART/8/2003/SD1, p. 12 (unpublished).

⁹⁴ EI Barometer 2001, p. 275.

⁹⁵ *ibid.*, p. 158.

Serious hindrances to social dialogue continue to be present in **Haiti**. The Labour Code does not recognize the right of public sector workers to organize. Collective bargaining is non-existent and employers set wages unilaterally. The Government's failure to address these issues is compounded by the country's political instability. 2005 was a year of great upheaval, with violent confrontations and a human rights situation that was described as catastrophic.⁹⁶ Under these conditions, it is unlikely that the climate for social dialogue will improve in the near future.

In spite of the difficult situation encountered in Haiti, the Caribbean remains a region conducive to effective social dialogue in education.

Eastern Europe

1. Assessing the climate for social dialogue

A. Ratifications of ILO Conventions

All 20 Eastern Europe member States have ratified both Conventions Nos 87 and 98.

Six Eastern Europe member States (Albania, Armenia, Belarus, Hungary, Latvia and Republic of Moldova) have ratified both Conventions Nos 151 and 154, making these the only Eastern Europe member States to have ratified all four of the Conventions in question. Convention No. 151 has also been ratified by Poland and Convention No. 154 by Lithuania, Romania, Slovenia and Ukraine.

The most recent ratifications from Eastern Europe were received in 2003, 2005 and 2006 from Armenia (Conventions Nos 98, 154 and 87) and from Slovenia in 2006 (Convention No. 154).

B. Indicators of practical application of standards

In **Bosnia and Herzegovina**, freedom of association, the right to strike, and collective bargaining are all recognized in law⁹⁷ and it appears teachers are availing themselves of these rights. Primary teachers went on strike to have four arrears paid and were able to reach a settlement and receive an arrears payment. In December 2003, the secondary teachers in Sarajevo went on strike over the issue of a salary adjustment for teachers. By mid-December an agreement was reached and the strike stopped.⁹⁸

A large number of other States (**Estonia, Lithuania, Republic of Macedonia, Poland, Slovakia and Slovenia**) also recognize freedom of association, the right to strike, and collective bargaining in their legislation, although in some cases (e.g. **Poland**,

⁹⁶ ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), p. 142.

⁹⁷ *ibid.*, p. 294.

⁹⁸ EI Barometer 2004, p. 48.

Slovenia) these rights are restricted.⁹⁹ In **Slovakia**, approximately 65 per cent of the education sector workforce is organized, which is substantially higher than for the workforce as a whole.¹⁰⁰

Hungary¹⁰¹ and **Latvia**¹⁰² have made improvements in recent years to their labour laws, and Hungary initiated a review of its entire Labour Code, although it appears the process has been delayed.¹⁰³

Other cases are less positive, however. The **Republic of Moldova** recognizes the right to form a trade union, but there are restrictions on the right to strike and the Penal Code abolished any sanctions for violations of the Trade Union Law. There have been reports of pressure on the education and science union to leave the Confederation of Trade Unions of Moldova (CSRM) and join another trade union confederation with closer government ties.¹⁰⁴ These allegations form part of a case brought to the Committee on Freedom of Association, in which the complainants alleged that the Government attempted to adopt legislation contrary to freedom of association, and that public authorities and employers interfere in the internal matters of their organizations and pressure their members to change their affiliation and become members of the trade union supported by the Government.¹⁰⁵

In **Serbia**, teachers fall into the category of “essential services” and are therefore forbidden from striking¹⁰⁶ and in the **Russian Federation** the new Labour Code is said to weaken trade union rights and favour short-term contracts.¹⁰⁷ In 2004, **Belarus** was the subject of an ILO Commission of Inquiry that found that the trade union movement had been, and continued to be, the subject of significant interference on the part of government authorities, and that the independence of the Federation of Trade Unions of Belarus had been seriously compromised.¹⁰⁸ In 2006, the Committee expressed its deep concern that, “rather than making good faith efforts to implement the recommendations of the Commission of Inquiry, the Government was on a path to eliminating all remnants of an independent trade union in Belarus, apparently hoping that in this way there in effect

⁹⁹ *ibid.*, pp. 113, 180, 183, 239, 263 and 264.

¹⁰⁰ *ibid.*, 263.

¹⁰¹ *ibid.*, p. 46.

¹⁰² *ibid.*, p. 176.

¹⁰³ ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), p. 309.

¹⁰⁴ *ibid.*, pp. 318 and 319.

¹⁰⁵ Background document CEART/9/2006/4(Add.2) (unpublished).

¹⁰⁶ ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), p. 329.

¹⁰⁷ EI Barometer 2004, p. 245.

¹⁰⁸ Trade Union Rights in Belarus: Report of the Commission of Inquiry appointed under article 26 of the Constitution of the International Labour Organization to examine the observance by the Government of the Republic of Belarus of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ILO, Geneva, 2004).

would be no further sources of complaint.”¹⁰⁹ Such a climate of intimidation would apply to education as well.

In spite of these latter less positive examples, Eastern Europe seems to be taking the necessary steps towards creating and sustaining effective social dialogue mechanisms, confirming trends noted in the 2003 CEART report.

2. Case study of social dialogue in the education sector – Bulgaria¹¹⁰

General

Introduction to education

Education in Bulgaria is compulsory until the age of 16. The educational system is comprised of a four-year primary level, a four-year lower secondary level and a four-year upper secondary level. Development of the Bulgarian education system is overshadowed by many societal and economic factors related to its political transition.

Education reform

Educational reform in Bulgaria is based on moving from a centralized system with state-based planning to a decentralized system. In 2002, the Government reached an agreement with the World Bank and the International Monetary Fund to undergo educational reform as part of a structural adjustment programme. The decision to undergo these reforms was taken without consulting teachers’ organizations.¹¹¹

Legal Framework

Of the four ILO Conventions of particular importance to social dialogue, Bulgaria has ratified Conventions Nos 87 and 98. It has not ratified Conventions Nos 151 and 154.

The Constitution provides all workers with the right to join and form trade unions and the Labour Code allows for collective bargaining and contains provisions prescribing the manner in which this is to be carried out.

Social partners in education

The principal government actor in the field of education is the Ministry of Education (MES), which is responsible for the implementation of national education policies. There are also regional inspectorates, which manage the public education system and municipal education bodies that function as administrative units.

¹⁰⁹ Committee on Freedom of Association, 341st Report, GB.295/8/2 (ILO, Geneva, 2006), p. 11.

¹¹⁰ This section is based primarily on the national country report prepared by the Bulgaria National Steering Group for the ILO action programme on teacher shortages.

¹¹¹ EI Barometer 2004, p. 57.

The two principal teachers' organizations are the *Syndicat des Enseignants Bulgares* (SEB) and the *Syndicat des Enseignants* (PODKREPA). SEB has a membership of approximately 82,000 and PODKREPA has a membership of approximately 10,000.¹¹²

Trends in social dialogue

Collective bargaining

Collective agreements represent a major form of social dialogue in education sector labour relations. In recent years, collective agreements were concluded at the branch level. The latest of these was signed in 2004 for a two-year period. Once a collective agreement has been reached, its provisions must be applied immediately to the members of a trade union in all schools where there is a trade union party to that agreement. The branch-level collective agreements must be applied even if there are agreements at the school and/or municipal level. Teachers that are not members of a union may only join a school-level agreement, not a branch- or municipal-level agreement. Teachers in schools without trade union representation at the school may not join any branch-level agreements.

There is also a certain level of bargaining that occurs around salary issues, although it is restricted. Development of policies on teachers' salaries is carried out within the context of the overall revenue policy for the country. Social partners discuss the main principles of the revenue policy, including minimum salaries, salary increases and mechanisms for defining salaries. The Minister of Education and Science then approves and issues an ordinance on teacher salaries. The results of this process are not always satisfactory to teachers, however, as was seen in 2005 when teachers protested the wage increase that had been announced for 2006.¹¹³

Consultations

One of the principal social dialogue mechanisms in education is the Branch Council for Tripartite Cooperation (BCTC), established to deal with issues related to secondary education. The main function of the BCTC is to discuss, develop and propose positions on education-specific draft legislation related to labour relations and social security issues, among others. Passing an Act or regulation without carrying out these preliminary consultations is an infringement of statutory regulations. There are similar bodies, the Municipal Councils for Tripartite Cooperation, which carry out the same function at the municipal level.

Another important channel for teachers' voices are the teachers councils. These are autonomous institutions found within each educational institution. As members of the council, teachers participate in decision-making on issues such as the school's code of regulations, the curriculum and rules of admission.

Teachers also form part of the school boards. School boards develop and present proposals to the relevant authorities concerning overall school development. They also carry out other administrative and logistical tasks related to the running of the school. A new chapter was recently added to the Education Act to fully define the functions and activities of the school boards, and thus provide impetus for their work.

¹¹² *ibid.*, p. 57.

¹¹³ "The Bulgarian Teachers' Trade Union protests against the 2006 education budget", *European Industrial Relations Observatory Online*. Available at: <http://www.eiro.eurofound.eu.int/2005/12/inbrief/bg0512101n.html>

There is also a working group with representatives from academic staff that is developing new requirements for teacher certificates and qualifications.

Information sharing

Many of the consultative and decision-making bodies appear to also function as information-sharing mechanisms. There appears to be a lack of a formal, dedicated mechanism for this purpose, however. In particular, members of the National Steering Group for the ILO action programme on teacher shortages highlighted the lack of an information system to disseminate information on new trends and practices in education, educational methodology and technology. The establishment of such a mechanism would be in keeping with the provisions of the 1966 Recommendation concerning the Status of Teachers.

Conclusions

While there are certainly social dialogue mechanisms in place in Bulgaria, these need to be strengthened and made more effective to avoid the type of demonstrations that took place at the end of 2005. In addition, the adoption of an education reform plan without consulting teachers' unions indicates a breakdown in social dialogue mechanisms. The National Policy Dialogue Forum held in Bulgaria, within the framework of the ILO action programme on teacher shortages, found that there were two important conditions for the preparation and further application of legislative changes: transparent and regular consultations between the Government and the tripartite council; and the establishment of two-way exchanges of information. Given the changes under way in the education sector, this type of communication is essential. Only in this manner will teachers be able to take an active part in making strategic decisions in the field of education.

Western Europe

1. Assessing the climate for social dialogue

A. Ratifications of ILO Conventions

All twenty-three of Western Europe member States have ratified the two fundamental Conventions in question, Conventions Nos 87 and 98.

Ten Western Europe member States (Belgium, Cyprus, Finland, Greece, Netherlands, Norway, San Marino, Spain, Sweden and Switzerland) have also ratified Conventions Nos 151 and 154, meaning that just under half of the Western Europe member States have ratified the four Conventions in question. In addition, Denmark, Italy, Luxembourg, Portugal, Turkey and United Kingdom have ratified Convention No. 151.

B. Indicators of practical application of standards

In Western Europe, the social situation of teachers remains generally good and freedom of association continues to be overwhelmingly respected. As was the case in previous years, however, collective bargaining is not always respected in the education sector.

In the past, **Germany** had been repeatedly criticized for denying civil servants, including teachers, the right to strike¹¹⁴ and for denying teachers the right to bargain collectively¹¹⁵ and did not seem inclined to bring its legislation into line with ILO standards. In 2005, however, the Committee of Experts noted that work was being carried out, in collaboration with the trade unions concerned, on draft legislation that would entail the comprehensive modernization of the law governing civil servants.¹¹⁶ However, under the new administration, it is unclear if these changes will be forthcoming.¹¹⁷

Turkey is another State to have been criticized for violation of teachers' trade union rights.¹¹⁸ A case submitted to the Committee on Freedom of Association concerns allegations made by the Egitim Sen teachers' union that the Attorney-General of Ankara filed a lawsuit requesting the dissolution of Egitim Sen due to a clause in its by-laws defending the right of education in a citizen's mother tongue.¹¹⁹ After protracted legal proceedings, in which Turkey's Supreme Court ordered the closing of the union,¹²⁰ Egitim Sen deleted the clause in question from its provisions and the case was eventually dismissed. The Committee on Freedom of Association expressed serious concerns that references in a union's by-laws to the right to education in a mother tongue could give rise to the call for dissolution of the trade union.¹²¹

Bearing in mind these exceptions, however, social dialogue in education continues to be widely respected in Western Europe.

Pacific (including Australia)

1. Assessing the climate for social dialogue

A. Ratifications of ILO Conventions

Of the nine Pacific ILO member States, four (Australia, Fiji, Kiribati and Papua New Guinea) have ratified both Conventions Nos 87 and 98. New Zealand has ratified Convention No. 98.

¹¹⁴ CEACR: Individual Observation concerning Convention No. 87, Freedom of Association and Protection of the Right to Organise Convention, 1948. Germany (ratification: 1957), published: 2005.

¹¹⁵ CEACR: Individual Observation concerning Convention No. 98, Right to Organise and Collective Bargaining, 1949. Germany (ratification: 1956), published: 2004.

¹¹⁶ CEACR: Individual Observation concerning Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). Germany (ratification: 1957), published: 2006.

¹¹⁷ ICFTU *Annual survey of violations of trade union rights 2006* (International Confederation of Free Trade Unions, Brussels, 2006), pp. 307 and 308.

¹¹⁸ Background document CEART/9/2006/4(Add.2) (unpublished).

¹¹⁹ Committee on Freedom of Association, 342nd Report, GB.296/4 (ILO, Geneva, 2006), pp. 230-231.

¹²⁰ *EI Worlds of Education*, No. 14, July/Aug. 2005.

¹²¹ Committee on Freedom of Association, 342nd Report, GB.296/4 (ILO, Geneva, 2006), p. 233.

No ratifications for Conventions Nos 151 and 154 have been received from this region.

Samoa, Solomon Islands, Timor-Leste and Vanuatu have not ratified any of the four Conventions in question, but, with the exception of the Solomon Islands, these countries only became member States of the ILO in the last three years.

B. Indicators of practical application of standards

During the past decade, **Australia** has seen great changes in its industrial relations legislation. The 1996 Workplace Relations Act (WRA) contained a number of restrictions on trade unions, strikes and collective bargaining. These rights were further diminished with the WRA amendments that came into effect at the end of 2005. The Committee of Experts found that the WRA was in breach of Convention No. 98, but the federal government rejected this finding, contending that it was not relevant to the Australian workplace.¹²² The Australian Education Union is campaigning against these changes, stating that the new system “will try to force state and territory governments to introduce individual employment contracts and performance pay into preschools, schools and colleges.”¹²³

Conditions in the rest of this region are more positive. In **Kiribati**, there is a relatively strong and effective trade union movement and the law provides the right to strike.¹²⁴ Similar conditions are found in **Samoa, Vanuatu** and **Solomon Islands**. In **New Zealand**, an Employment Relations Amendment Act came into force at the end of 2004, with the objectives of promoting union access, representation rights and collective bargaining.¹²⁵

This legislative foundation is not complete, however, as with one exception, none of the Pacific islands’ legislation establishes the basis for collective bargaining and dispute resolution between teachers, their organizations and the education authorities.¹²⁶ In addition, there is a weakened capacity for social dialogue on the part of all the stakeholders due to lack of information and human resources.

¹²² EI Barometer 2006, p. 30.

¹²³ Australian Education Union, *Workers’ Right Campaign*. Available at: <http://www.aeufederal.org.au/Campaigns/workersrights.html>

¹²⁴ EI Barometer 2006, p. 166.

¹²⁵ Review of annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Part II: Compilation of annual reports by the International Labour Office (ILO, Geneva, 2006), p. 103.

¹²⁶ Tuisawau, Susana. *Survey on social dialogue in education in the Pacific: Participation, consultation and negotiation of teachers and their organizations in education reform* CEART/8/2003/SD-4 (ILO, Geneva, 2003), p. 9.

Appendix

Table of ratifications of relevant labour standards as of September 2006

Africa	C.87	C.98	C.151	C.154
Angola	13.06.2001	04.06.1976		
Benin	12.12.1960	16.05.1968		
Botswana	22.12.1997	22.12.1997	22.12.1997	
Burkina Faso	21.11.1960	16.04.1962		
Burundi	25.06.1993	10.10.1997		
Cameroon	07.06.1960	03.09.1962		
Cape Verde	01.02.1999	03.04.1979		
Central African Republic	27.10.1960	09.06.1964		
Chad	10.11.1960	08.06.1961	07.01.1998	
Congo	10.11.1960	26.11.1999		
Côte d'Ivoire	21.11.1960	05.05.1961		
Democratic Republic of the Congo	20.06.2001	16.06.1969		
Djibouti	03.08.1978	03.08.1978		
Equatorial Guinea	13.08.2001	13.08.2001		
Eritrea	22.02.2000	22.02.2000		
Ethiopia	04.06.1963	04.06.1963		
Gabon	14.10.1960	29.05.1961		06.12.1988
Gambia	04.09.2000	04.09.2000		
Ghana	02.06.1965	02.07.1959	27.05.1986	
Guinea	21.01.1959	26.03.1959	08.06.1982	
Guinea-Bissau		21.02.1977		
Kenya		13.01.1964		
Lesotho	31.10.1966	31.10.1966		
Liberia	25.05.1962	25.05.1962		
Madagascar	01.11.1960	03.06.1998		
Malawi	19.11.1999	22.03.1965		
Mali	22.09.1960	02.03.1964	12.06.1995	
Mauritania	20.06.1961	03.12.2001		
Mauritius	<u>01.04.2005</u>	02.12.1969		
Mozambique	23.12.1996	23.12.1996		
Namibia	03.01.1995	03.01.1995		
Niger	27.02.1961	23.03.1962	05.06.1985	
Nigeria	17.10.1960	17.10.1960		
Rwanda	08.11.1988	08.11.1988		
Sao Tome and Principe	17.06.1992	17.06.1992	<u>04.05.2005</u>	<u>04.05.2005</u>
Senegal	04.11.1960	28.07.1961		
Seychelles	06.02.1978	04.10.1999	23.11.1999	

Africa	C.87	C.98	C.151	C.154
Sierra Leone	15.06.1961	13.06.1961		
Somalia				
South Africa	19.02.1996	19.02.1996		
Sudan		18.06.1957		
Swaziland	26.04.1978	26.04.1978		
Tanzania, United Republic of	18.04.2000	30.01.1962		14.08.1998
Togo	07.06.1960	08.11.1983		
Uganda	<u>02.06.2005</u>	04.06.1963		27.03.1990
Zambia	02.09.1996	02.09.1996	19.08.1980	04.02.1986
Zimbabwe	09.04.2003	27.08.1998		
Total 47	43	46	8	6

Note: Dates in **bold underline** represent ratifications received since the Eighth Session of the Joint Committee.

Latin America	C.87	C.98	C.151	C.154
Argentina	18.01.1960	24.09.1956	21.01.1987	29.01.1993
Belize	15.12.1983	15.12.1983	22.06.1999	22.06.1999
Bolivia	04.01.1965	15.11.1973		
Brazil		18.11.1952		10.07.1992
Chile	01.02.1999	01.02.1999	17.07.2000	
Colombia	16.11.1976	16.11.1976	08.12.2000	08.12.2000
Costa Rica	02.06.1960	02.06.1960		
Cuba	25.06.1952	29.04.1952	29.12.1980	
Dominican Republic	05.12.1956	22.09.1953		
Ecuador	29.05.1967	28.05.1959		
El Salvador				
Guatemala	13.02.1952	13.02.1952		29.10.1996
Guyana	25.09.1967	08.06.1966	10.01.1983	
Honduras	27.06.1956	27.06.1956		
Mexico	01.04.1950			
Nicaragua	31.10.1967	31.10.1967		
Panama	03.06.1958	16.05.1966		
Paraguay	28.06.1962	21.03.1966		
Peru	02.03.1960	13.03.1964	27.10.1980	
Suriname	15.06.1976	05.06.1996	29.09.1981	05.06.1996
Uruguay	18.03.1954	18.03.1954	19.06.1989	19.06.1989
Venezuela, Bolivarian Republic of	20.09.1982	19.12.1968		
Total 22	20	20	9	7

North America	C.87	C.98	C.151	C.154
Canada	23.03.1972			
United States				
Total 2	1	0	0	0

Arab States	C.87	C.98	C.151	C.154
Algeria	19.10.1962	19.10.1962		
Bahrain				
Egypt	06.11.1957	03.07.1954		
Iran, Islamic Republic of				
Iraq		27.11.1962		
Jordan		12.12.1968		
Kuwait	21.09.1961			
Lebanon		01.06.1977		
Libyan Arab Jamahiriya	04.10.2000	20.06.1962		
Morocco		20.05.1957		
Oman				
Qatar				
Saudi Arabia				
Syrian Arab Republic	26.07.1960	07.06.1957		
Tunisia	18.06.1957	15.05.1957		
United Arab Emirates				
Yemen	29.07.1976	14.04.1969		
Total 17	7	10	0	0

Asia	C.87	C.98	C.151	C.154
Afghanistan				
Bangladesh	22.06.1972	22.06.1972		
Cambodia	23.08.1999	23.08.1999		
China				
Comoros	23.10.1978	23.10.1978		
India				
Indonesia	09.06.1998	15.07.1957		
Japan	14.06.1965	20.10.1953		
Korea, Republic of				
Lao People's Democratic Republic				
Malaysia		05.06.1961		
Myanmar	04.03.1955			
Nepal		11.11.1996		
Pakistan	14.02.1951	26.05.1952		

Asia	C.87	C.98	C.151	C.154
Philippines	29.12.1953	29.12.1953		
Singapore		25.10.1965		
Sri Lanka	15.09.1995	13.12.1972		
Thailand				
Viet Nam				
Total 19	9	11	0	0

Central Asia	C.87	C.98	C.151	C.154
Azerbaijan	19.05.1992	19.05.1992	11.03.1993	12.08.1993
Georgia	03.08.1999	22.06.1993	<u>10.10.2003</u>	
Kazakhstan	13.12.2000	18.05.2001		
Kyrgyzstan	31.03.1992	31.03.1992		<u>22.12.2003</u>
Mongolia	03.06.1969	03.06.1969		
Tajikistan	26.11.1993	26.11.1993		
Turkmenistan	15.05.1997	15.05.1997		
Uzbekistan		13.07.1992		15.12.1997
Total 8	7	8	2	3

Note: Dates in **bold underline** represent ratifications received since the Eighth Session of the Joint Committee.

Caribbean	C.87	C.98	C.151	C.154
Antigua and Barbuda	02.02.1983	02.02.1983	16.09.2002	16.09.2002
Bahamas	14.06.2001	25.05.1976		
Barbados	08.05.1967	08.05.1967		
Dominica	28.02.1983	28.02.1983		
Grenada	25.10.1994	09.07.1979		
Haiti	05.06.1979	12.04.1957		
Jamaica	26.12.1962	26.12.1962		
Saint Kitts and Nevis	25.08.2000	04.09.2000		
Saint Lucia	14.05.1980	14.05.1980		06.12.2000
Saint Vincent and the Grenadines	09.11.2001	21.10.1998		
Trinidad and Tobago	24.05.1963	24.05.1963		
Total 11	11	11	1	2

Eastern Europe	C.87	C.98	C.151	C.154
Albania	03.06.1957	03.06.1957	30.06.1999	24.07.2002
Armenia	<u>02.01.2006</u>	<u>12.11.2003</u>	29.07.1994	<u>29.04.2005</u>
Belarus	06.11.1956	06.11.1956	08.09.1997	08.09.1997
Bosnia and Herzegovina	02.06.1993	02.06.1993		
Bulgaria	08.06.1959	08.06.1959		
Croatia	08.10.1991	08.10.1991		
Czech Republic	01.01.1993	01.01.1993		
Estonia	22.03.1994	22.03.1994		
Hungary	06.06.1957	06.06.1957	04.01.1994	04.01.1994
Latvia	27.01.1992	27.01.1992	27.01.1992	25.08.1994
Lithuania	26.09.1994	26.09.1994		26.09.1994
Moldova, Republic of	12.08.1996	12.08.1996	04.04.2003	14.02.1994
Poland	25.02.1957	25.02.1957	26.07.1982	
Romania	28.05.1957	26.11.1958		15.12.1992
Russian Federation	10.08.1956	10.08.1956		
Serbia	24.11.2000	24.11.2000		
Slovakia	01.01.1993	01.01.1993		
Slovenia	29.05.1992	29.05.1992		02.02.2006
The former Yugoslav Republic of Macedonia	17.11.1991	17.11.1991		
Ukraine	14.09.1956	14.09.1956		16.05.1994
Total 20	20	20	7	10

Note: Dates in **bold underline** represent ratifications received since the Eighth Session of the Joint Committee

Western Europe	C.87	C.98	C.151	C.154
Austria	18.10.1950	10.11.1951		
Belgium	23.10.1951	10.12.1953	21.05.1991	29.03.1988
Cyprus	24.05.1966	24.05.1966	06.07.1981	16.01.1989
Denmark	13.06.1951	15.08.1955	05.06.1981	
Finland	20.01.1950	22.12.1951	25.02.1980	09.02.1983
France	28.06.1951	26.10.1951		
Germany	20.03.1957	08.06.1956		
Greece	30.03.1962	30.03.1962	29.07.1996	17.09.1996
Iceland	19.08.1950	15.07.1952		
Ireland	04.06.1955	04.06.1955		
Israel	28.01.1957	28.01.1957		
Italy	13.05.1958	13.05.1958	28.02.1985	
Luxembourg	03.03.1958	03.03.1958	21.03.2001	
Malta		04.01.1965	04.01.1965	
Netherlands	07.03.1950	22.12.1993	29.11.1988	22.12.1993

Western Europe	C.87	C.98	C.151	C.154
Norway	04.07.1949	17.02.1955	19.03.1980	22.06.1982
Portugal	14.10.1977	01.07.1964	09.01.1981	
San Marino	19.12.1986	19.12.1986	19.04.1988	01.02.1995
Spain	20.04.1977	20.04.1977	18.09.1984	11.09.1985
Sweden	25.11.1949	18.07.1950	11.06.1979	11.08.1982
Switzerland	25.03.1975	17.08.1999	03.03.1981	16.11.1983
Turkey	12.07.1993	23.01.1952	12.07.1993	
United Kingdom	27.06.1949	30.06.1950	19.03.1980	
Total 23	23	23	16	10

Pacific	C.87	C.98	C.151	C.154
Australia	28.02.1973	28.02.1973		
Fiji	17.04.2002	19.04.1974		
Kiribati	03.02.2000	03.02.2000		
New Zealand		09.06.2003		
Papua New Guinea	02.06.2000	01.05.1976		
Samoa				
Solomon Islands				
Timor-Leste				
Vanuatu				
Total 9	4	5	0	0

Member States	C.87	C.98	C.151	C.154
Total 178	145	154	43	38

**Le dialogue social dans le secteur de l'éducation:
Tour d'horizon (extraits de la version originale anglaise)**

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Résumé

Le dialogue social est un élément fondamental destiné à faire en sorte que chaque femme et chaque homme puissent accéder à un travail décent dans des conditions de liberté, d'équité, de sécurité et de dignité. La réalisation du travail décent suppose la mise en œuvre de quatre objectifs stratégiques – avec, en filigrane, la promotion de l'égalité entre hommes et femmes –, à savoir: la création d'emplois; la garantie des droits au travail; l'extension de la protection sociale au travail; et la promotion du dialogue et de la résolution des conflits du travail. Le dialogue social vise avant tout à favoriser un consensus qui repose sur la participation démocratique des principaux partenaires dans le monde du travail, en offrant aux travailleurs, par le biais de la négociation collective et de la consultation, la possibilité de participer à la prise de décisions sur des questions qui les concernent au travail.

Dans le secteur de l'éducation, le dialogue social est l'un des éléments clés permettant de réaliser l'objectif d'une éducation de qualité pour tous. Sans la pleine participation des enseignants – premiers responsables de la mise en œuvre de la réforme – aux aspects clés des objectifs et des politiques de l'éducation, aucun système éducatif ne peut espérer atteindre les objectifs d'une éducation de qualité pour tous dans son intégralité. En faisant état de l'importance accordée à la nécessité de consulter les enseignants et/ou leurs organisations et de les associer aux négociations, les dispositions de la Recommandation de 1966 concernant la condition du personnel enseignant mettent encore davantage l'accent sur le rôle déterminant que joue le dialogue social dans le secteur de l'éducation.

Quatre conventions de l'OIT sont considérées comme déterminantes dès lors qu'il est question de relations professionnelles et de dialogue social, à savoir:

- la convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948;
- la convention (n° 98) sur le droit d'organisation et de négociation collective, 1949;
- la convention (n° 151) sur les relations de travail dans la fonction publique, 1978; et
- la convention (n° 154) sur la négociation collective, 1981.

Le Conseil d'administration du BIT estime que les conventions n^{os} 87 et 98 comptent parmi celles qui couvrent le mieux les aspects considérés comme principes et droits fondamentaux au travail. La convention n° 151 porte sur le service public et est, à cet égard, particulièrement pertinente pour le secteur de l'éducation. La convention n° 154 définit la négociation collective et encourage sa promotion dans tous les secteurs d'activité économique, y compris dans le service public.

En Afrique, le climat de dialogue social dans le secteur de l'éducation varie considérablement d'un pays à l'autre. Le plus souvent, les enseignants ont accès aux droits énoncés précédemment, qui sont toutefois restreints par la législation ou la pratique. Ainsi, la législation du Nigéria prévoit le droit de s'organiser et de négocier collectivement, tout en imposant certaines restrictions. De même, le niveau de dialogue social dans le secteur de l'éducation est variable: si le dialogue social est généralement informel et, plus rarement, institutionnalisé, la négociation collective, pour sa part, ne revêt pas de caractère officiel.

En Amérique latine, malgré les nombreux progrès constatés en ce qui concerne le cadre législatif du dialogue social, dans bon nombre de pays de la région, les conditions propices à l'établissement d'un dialogue social n'ont pas encore pu être réunies. De même qu'en Afrique la situation de dialogue social la plus fréquente est celle où les droits des

enseignants sont prévus par la loi, tout en étant restreints dans une certaine mesure. Par ailleurs, il arrive que la législation ne satisfasse pas aux normes internationales mais qu'en revanche la pratique s'y conforme – c'est le cas du Chili notamment. Il conviendrait donc d'apporter certains amendements au plan législatif par souci d'harmonie avec les normes internationales non seulement dans la pratique, mais aussi dans les textes.

Pour ce qui est de l'Amérique du Nord, le taux de ratification des quatre conventions de l'OIT jugées importantes eu égard au dialogue social – à savoir les conventions n^{os} 87, 98, 151 et 154 – est très bas et, dans certaines régions, le droit de grève des enseignants continue de se heurter à certaines restrictions. Néanmoins, c'est le plus souvent aux plans local et provincial des Etats que s'établit le dialogue social. Reste que, depuis juin 2003, des organisations canadiennes d'enseignants ont présenté séparément cinq plaintes au Comité de la liberté syndicale.

En ce qui concerne les Etats arabes, si certains d'entre eux ont ratifié les conventions n^{os} 87 et 98, aucun en revanche n'a ratifié les conventions n^{os} 151 et 154. D'une manière générale, les conditions qui prévalent dans la région sont peu propices au dialogue social. On constate toutefois que des progrès ont été réalisés dans certains pays de la région du Golfe.

En Asie, on déplore un taux de ratification des conventions de l'OIT plutôt bas, qui semble aller dans le sens des sérieuses lacunes constatées en matière de respect du droit de grève et d'organisation des travailleurs. Le dialogue social connaît bien des difficultés, en particulier dans le secteur de l'éducation. La République de Corée est l'un des rares pays à n'avoir ratifié aucune des quatre conventions de l'OIT importantes eu égard au dialogue social – à savoir les conventions n^{os} 87, 98, 151 et 154. Cependant, depuis les années quatre-vingt-dix, de nombreux progrès ont été effectués tant au plan législatif que dans la pratique en vue de garantir les droits des enseignants. Bien que ces droits soient restreints dans une certaine mesure et que les partenaires sociaux demeurent dans l'incertitude quant à leur rôle au sein des nouveaux mécanismes de dialogue social, une dynamique du progrès est désormais lancée.

Dans la région d'Asie centrale, le taux de ratification des conventions n^{os} 87 et 98 est élevé, tandis que celui des conventions n^{os} 151 et 154 reste bas. D'une manière générale, malgré les progrès accomplis, l'établissement du dialogue social dans la région connaît encore des difficultés, et rien ne laisse supposer qu'il en est autrement dans le secteur de l'éducation.

Pour ce qui est des Caraïbes, si tous les Etats Membres ont ratifié les conventions n^{os} 87 et 98, le taux de ratification des conventions n^{os} 151 et 154 reste très bas. Néanmoins, les droits syndicaux continuent d'être largement respectés dans la région. Malgré quelques cas délicats, le bassin des Caraïbes est une région propice au dialogue social dans le secteur de l'éducation.

Tous les Etats Membres de l'Europe orientale ont ratifié les conventions n^{os} 87 et 98 et, dans une moindre mesure, les conventions n^{os} 151 et 154. Dans l'ensemble, il semblerait que l'Europe orientale adopte des mesures nécessaires pour créer et maintenir des mécanismes de dialogue social efficaces, confirmant ainsi la tendance constatée dans le rapport du CEART de 2003.

En Europe occidentale, tous les Etats Membres ont ratifié les conventions n^{os} 87 et 98, et bon nombre d'entre eux ont ratifié les conventions n^{os} 151 et 154, ce qui confirme que le dialogue social dans le secteur de l'éducation continue d'être largement respecté dans la région.

Près de la moitié de l'ensemble des Etats Membres de la région du Pacifique ont ratifié les conventions n^{os} 87 et 98, tandis qu'aucun n'a ratifié les conventions n^{os} 151 et 154. Au cours des dix dernières années, la législation australienne sur les relations professionnelles a été modifiée avec l'introduction de restrictions imposées aux syndicats, au droit de grève et à la négociation collective. La situation dans les îles-Etats du Pacifique est meilleure, même si la législation d'aucun d'entre eux ne jette les bases de la négociation collective et de la résolution des conflits du travail entre les enseignants, leurs organisations et les autorités pédagogiques.

Introduction

Le dialogue social est un élément fondamental destiné à faire en sorte que chaque femme et chaque homme puissent accéder à un travail décent dans des conditions de liberté, d'équité, de sécurité et de dignité. La réalisation du travail décent suppose la mise en œuvre de quatre objectifs stratégiques – avec, en filigrane, la promotion de l'égalité entre hommes et femmes –, à savoir: la création d'emplois, via la promotion de l'investissement et du développement de l'entreprise, le renforcement des compétences, et des possibilités de sources de revenus durables; la garantie des droits au travail pour tous les travailleurs, fondés sur la représentation, la participation et l'application des législations du travail; l'extension de la protection sociale grâce à la mise en place de conditions de travail sûres qui respectent les valeurs familiales, et à la mise à disposition de soins de santé et d'une sécurité sociale; et la promotion du dialogue et de la résolution des conflits du travail par le biais de la négociation, aux fins de résoudre les problèmes pacifiquement, en faisant intervenir des organisations de travailleurs et d'employeurs puissantes et indépendantes.

C'est pour cette raison que l'OIT identifie le dialogue social comme l'un de ses quatre objectifs stratégiques et le définit tant comme une structure incluant toutes formes de négociation et de consultation que comme un échange d'informations entre représentants des gouvernements, des employeurs et des travailleurs sur des questions d'intérêt commun liées à la politique économique et sociale. Le dialogue social vise avant tout à promouvoir un consensus qui repose sur la participation démocratique des principaux partenaires dans le monde du travail. Grâce à la réussite des structures et processus de dialogue social, on peut envisager de résoudre les problèmes économiques et sociaux, d'encourager la bonne gestion des affaires publiques, de promouvoir la paix et la stabilité sociales, et de favoriser le progrès économique. L'un des principaux objectifs du dialogue social est de donner aux travailleurs, par le biais de la négociation collective et de la consultation, la possibilité de participer à la prise de décisions sur des questions qui les concernent, de façon à favoriser le consensus et la participation démocratique des principaux partenaires dans le monde du travail.

Dans le secteur de l'éducation, le dialogue social est l'un des éléments clés permettant de réaliser l'objectif d'une éducation de qualité pour tous. Sans la pleine participation des enseignants – premiers responsables de la mise en œuvre de la réforme – aux aspects clés des objectifs et des politiques de l'éducation, aucun système éducatif ne peut espérer atteindre les objectifs d'une éducation de qualité pour tous dans son intégralité¹. En faisant état de l'importance accordée à la nécessité de consulter les enseignants et/ou leurs organisations et de les associer aux négociations, les dispositions de la Recommandation de 1966 concernant la condition du personnel enseignant mettent encore davantage l'accent sur le rôle déterminant que joue le dialogue social dans le secteur de l'éducation. Près d'une disposition de la recommandation sur six porte sur la consultation ou la négociation.

Le présent document vise à fournir un aperçu du niveau du dialogue social actuel dans le secteur de l'éducation primaire et secondaire en présentant une synthèse, par région, du climat de dialogue social, son application dans le secteur de l'éducation dans les

¹ CEART/8/2003/11, p. 7; cf. Bill Ratteree, *Teachers, their unions and the Education for All Campaign* (UNESCO, Document du travail en préparation du Rapport mondial de suivi sur l'EPT) eu égard à l'impact positif et négatif sur la qualité et les réformes de l'éducation de la possibilité offerte, ou non, aux enseignants de faire entendre leur voix au sein des instances où sont prises les décisions.

pays de chaque région étudiée, ainsi qu'un certain nombre d'études de cas par pays plus approfondies visant à souligner les points importants en matière de recours aux différentes formes de dialogue social pour la prise de décisions concernant la profession d'enseignant.

L'évaluation du climat de dialogue social repose sur l'examen des ratifications des conventions spécifiques de l'OIT et des indicateurs relatifs à l'application pratique des normes. Les quatre conventions de l'OIT considérées comme déterminantes dès lors qu'il est question de relations professionnelles et de dialogue social sont:

- la convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948;
- la convention (n° 98) sur le droit d'organisation et de négociation collective, 1949;
- la convention (n° 151) sur les relations de travail dans la fonction publique, 1978; et
- la convention (n° 154) sur la négociation collective, 1981.

Le Conseil d'administration du BIT estime que les conventions n^{os} 87 et 98 comptent parmi celles qui couvrent le mieux les aspects considérés comme principes et droits fondamentaux au travail. Ces deux conventions s'inscrivent également dans la Déclaration de l'OIT relative aux principes et droits fondamentaux au travail (1998). La convention n° 151 porte sur le service public et est, à cet égard, particulièrement pertinente pour le secteur de l'éducation. La convention n° 154 définit la négociation collective et encourage sa promotion dans tous les secteurs d'activité économique, y compris dans le service public.

Outre cette synthèse des normes internationales, plusieurs études de cas par pays sont brièvement présentées (voir document anglais) afin d'offrir un aperçu du dialogue social dans le secteur de l'éducation, compte tenu des spécificités de chaque situation. Les pays ont été choisis pour fournir des exemples de différents environnements sociaux, politiques et économiques, ainsi que de structures de dialogue social plus ou moins élaborées. La plupart des informations recueillies pour chaque étude de cas proviennent des rapports nationaux par pays préparés par les participants au programme d'action de l'OIT pour l'éducation intitulé *Des enseignants pour le futur: remédier à la pénurie d'enseignants pour un accès universel à l'éducation*². Chaque étude de cas offre un aperçu du système éducatif, du cadre dans lequel il s'inscrit et de ses principaux acteurs, avant d'examiner les tendances observées en matière de dialogue social.

² D'autres informations sont disponibles sur le site Web du programme d'action de l'OIT: <http://www.ilo.org/public/french/dialogue/sector/ap/educat/index.htm>

Afrique

Indicateurs relatifs à l'application pratique des normes

Un examen de l'application pratique des normes en Afrique permet de relever que le climat général de dialogue social varie considérablement d'un pays à l'autre.

Dans un premier groupe de pays, le climat de dialogue social est plutôt défavorable et il ne s'est guère amélioré au cours des dernières années, malgré l'adhésion formelle aux normes de l'OIT. La législation continue d'exclure les enseignants du droit de liberté syndicale, de constituer des organisations indépendantes pour représenter leurs intérêts et négocier collectivement, et même de s'engager dans d'autres formes de dialogue social.

En **Ethiopie**, la situation est toujours très tendue: aux termes de la Proclamation du travail de 2003, les enseignants du secteur public sont exclus du droit de former des syndicats et d'y adhérer³, et les rapports de l'OIT sur la situation dans le pays confirment ces violations – meurtres et détentions de syndicalistes, discrimination antisyndicale et ingérence dans l'administration interne d'un syndicat⁴. Les pouvoirs publics ont à plusieurs reprises mis sous scellés les locaux de l'Association des enseignants éthiopiens (ETA)⁵, et des rapports font état d'actes d'intimidation exercés à l'encontre de membres de l'ETA, ainsi que de restrictions à la liberté de parole et de mouvement de militants syndicaux⁶. Les recommandations formulées par le Comité de la liberté syndicale en 2003 concernant l'Ethiopie⁷, les nouveaux progrès décrits par le comité conjoint suite à une allégation lui ayant été présentée par l'IE et l'ETA⁸, ainsi que des rapports faisant état des tensions récentes entre les pouvoirs publics et l'ETA⁹ semblent indiquer que la situation ne s'est pas améliorée et que le gouvernement demeure peu enclin à prendre les mesures qui s'imposent en vue d'y remédier.

Au **Zimbabwe**, les dernières années ont été marquées par un haut degré de violence et d'intimidation à l'encontre de syndicalistes¹⁰. Amnesty International rapporte qu'en octobre 2002 une grève des enseignants a dû faire face à une force de police excessive et

³ Commission d'experts sur l'application des conventions et des recommandations (CEACR): Observation individuelle concernant la convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948. Ethiopie (ratification: 1963); publication: 2005.

⁴ Document de discussion CEART/9/2006/4, annexe 2 (non publié).

⁵ Baromètre de l'IE 2004, p. 115.

⁶ IE, *Mondes de l'Education*, n° 12, mars/avril 2005.

⁷ Comité de la liberté syndicale, 332^e rapport, document GB.288/7 (partie I) (Genève, BIT, 2003), pp. 16-17.

⁸ CEART/8/2003/11.

⁹ IE, *Mondes de l'Education*, n° 17, janv./fév. 2006; CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), p. 40.

¹⁰ *L'IE se joint aux protestations contre la répression antisyndicale au Zimbabwe*. Disponible sur: <http://www.ei-ie.org/fr/news/show.php?id=211&theme=rights&country=zimbabwe>. Lettre du 22 septembre 2006.

que plus de 600 enseignants ont ensuite été licenciés par le gouvernement ¹¹. La législation adoptée récemment restreint encore davantage le droit de grève ¹², et il est peu probable que la situation dans le secteur de l'éducation s'améliore dans un futur proche.

De même, au **Togo**, malgré une législation autorisant les enseignants à former des syndicats et à y adhérer, le gouvernement a été accusé de violer le droit de grève des enseignants, d'arrêter des syndicalistes lors de grèves et manifestations, et d'exercer des actes de violence contre des syndicalistes ¹³.

Les exemples cités précédemment portent sur des cas de non-existence ou de violation systématique des droits syndicaux des enseignants. Or la pratique la plus courante est constatée dans un deuxième groupe de pays d'Afrique, où ces droits existent, bien qu'ils soient restreints ou limités par la législation et/ou la pratique.

En **Guinée équatoriale**, la loi sur les syndicats et les relations collectives de travail établit que «la syndicalisation des agents de l'administration publique sera régie par une loi spécifique» ¹⁴, loi qui n'a cependant pas encore été adoptée. En outre, les syndicats doivent se soumettre à une procédure d'enregistrement afin de bénéficier d'une reconnaissance légale, mais leurs demandes ne sont pas toujours traitées avec la transparence et la rapidité souhaitées ¹⁵. Plusieurs autres pays imposent aux syndicats de remettre longtemps à l'avance un préavis de grève (par exemple au **Kenya** ¹⁶) ou d'obtenir une autorisation préalable au terme de procédures de médiation et de conciliation longues et compliquées (c'est notamment le cas du **Ghana**, de la **République démocratique du Congo** et de la **Tanzanie** ¹⁷). Dans les cas les plus extrêmes, ces formalités rendent l'organisation d'une grève légale pratiquement impossible.

Enfin, dans de nombreux pays, il n'est pas rare que les enseignants se voient interdire le droit de former des syndicats et d'y adhérer ainsi que le droit de grève, au motif qu'ils assurent des services essentiels. Or cette interprétation n'est pas conforme aux directives de l'OIT, qui prévoient que le droit de grève ne saurait être restreint ou interdit que dans les services essentiels au sens strict du terme, à savoir ceux dont «l'interruption mettrait en danger, dans l'ensemble ou dans une partie de la population, la vie, la sécurité ou la santé de la personne», ou encore «en cas de crise nationale aiguë» ¹⁸.

En dépit de ces difficultés, un troisième groupe de pays offre des exemples de situations satisfaisantes. En **Namibie**, le Syndicat national des enseignants de Namibie (NANTU) engage régulièrement des négociations sur les conditions de service des

¹¹ Baromètre de l'IE 2004, p. 317.

¹² CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), p. 86.

¹³ Document de discussion CEART/9/2006/4, annexe 2 (non publié).

¹⁴ Comité de la liberté syndicale, 340^e rapport, document GB.295/8/1 (Genève, BIT, 2006), p. 301.

¹⁵ Comité de la liberté syndicale, 340^e rapport, document GB.295/8/1 (Genève, BIT, 2006), pp. 300-303.

¹⁶ Baromètre de l'IE 2004, p. 165.

¹⁷ Baromètre de l'IE 2004, pp. 80, 129 et 284.

¹⁸ CEACR, *Rapport III(IA)* (Genève, BIT, 2003), p. 261.

enseignants. Ces négociations aboutissent à des accords triennaux, qui font ensuite l'objet de débats épisodiques portant sur leur application. En outre, le NANTU et le ministère de l'Éducation nationale ont constitué un comité technique, qui se réunit chaque mois pour échanger des informations et débattre de questions relatives à l'éducation. Le NANTU est également représenté au sein de plusieurs autres organes chargés d'examiner des sujets tels que la normalisation, les qualifications et les conditions de service ¹⁹. A **Maurice** également se tiennent régulièrement des réunions tripartites en vue de débattre de l'augmentation de l'allocation de vie chère ²⁰. En **Afrique du Sud**, le ministère de l'Éducation nationale et les syndicats d'enseignants ont collaboré à l'établissement d'un cadre de relations professionnelles qui englobe à la fois les aspects traditionnels de la négociation et les questions liées à la pédagogie ²¹. Le Conseil des relations de travail de l'éducation (ELRC) est un organe permanent chargé de gérer les problèmes liés aux relations professionnelles dans le secteur de l'éducation.

Amérique latine

Indicateurs relatifs à l'application pratique des normes

Bien que l'Amérique latine soit un continent homogène du point de vue linguistique, et que les secteurs de l'éducation dans les pays latino-américains présentent les mêmes caractéristiques et soient confrontés aux mêmes problèmes, la région est connue pour la diversité des formes de dialogue social qui y sont pratiquées. Si le cadre législatif de dialogue social s'est considérablement amélioré vers la fin du XX^e siècle, dans bon nombre de pays d'Amérique latine, les conditions propices à sa mise en œuvre n'ont toutefois pas encore été réunies ²².

D'un côté se trouvent les pays qui semblent peu enclins ou inaptes à protéger les syndicalistes. Il s'agit d'États dont le contexte politique ne permet pas de créer de consensus et qui doivent faire face à des situations critiques dans la gestion des affaires publiques. La **Colombie** détient le triste record des assassinats et autres actes de violence perpétrés à l'encontre de dirigeants et de membres syndicaux ainsi que des licenciements antisyndicaux, y compris de membres affiliés à des syndicats d'enseignants ²³. En 2005, les

¹⁹ Les informations concernant la Namibie se fondent sur le rapport national par pays préparé par le Groupe directeur national de Namibie pour le programme d'action de l'OIT pour l'éducation intitulé *Des enseignants pour le futur: remédier à la pénurie d'enseignants pour un accès universel à l'éducation*.

²⁰ Rapport national par pays préparé par le Groupe directeur national de Maurice pour le programme d'action de l'OIT pour l'éducation intitulé *Des enseignants pour le futur: remédier à la pénurie d'enseignants pour un accès universel à l'éducation*. Disponible sur: <http://www.ilo.org/public/english/dialogue/sector/ap/educat/forums/docs/pretoria-mauritius-report.pdf>

²¹ Rapport national par pays préparé par le Groupe directeur national d'Afrique du Sud pour le programme d'action de l'OIT pour l'éducation intitulé *Des enseignants pour le futur: remédier à la pénurie d'enseignants pour un accès universel à l'éducation*. Disponible sur: <http://www.ilo.org/public/english/dialogue/sector/ap/educat/forums/docs/pretoria-safrica-report.pdf>

²² *Social Dialogue in Education in Latin America: A Regional Survey*, Marcela Gajardo et Francisca Gómez (BIT, Genève, 2005), p. 46.

²³ Comité de la liberté syndicale, 340^e rapport, document GB.295/8/1 (Genève, BIT, 2006), pp. 109-154.

syndicalistes ont été la cible de 444 attaques, parmi lesquelles 70 ont été meurtrières²⁴. Le secteur de l'éducation est celui où l'on déplore le plus d'homicides²⁵. Le cas de la Colombie est d'autant plus caractéristique qu'il s'agit de l'un des rares pays d'Amérique latine à avoir ratifié les conventions n^{os} 87, 98, 151 et 154. Le **Guatemala** doit également faire face à un climat tendu pour ce qui est du dialogue social en général. Le comité conjoint s'est montré préoccupé par les actes de violence perpétrés à l'encontre de dirigeants et de membres syndicaux, et il a fait observer que les droits syndicaux ne peuvent s'exercer que dans un environnement libre de toute violence²⁶. Selon les informations fournies par l'Internationale de l'éducation (IE), des rapports font état de harcèlement et d'actes d'intimidation exercés à l'encontre de syndicats d'enseignants²⁷, et une plainte a été déposée auprès du Comité de la liberté syndicale pour perturbation des activités syndicales²⁸.

Or ces cas, qui reflètent des situations plutôt extrêmes, ne sont pas représentatifs du climat de dialogue social qui prévaut dans l'ensemble de la région. D'autres exemples, plus modérés mais néanmoins peu favorables à l'établissement d'un dialogue social, peuvent être observés dans des pays dont la législation n'autorise pas les enseignants à exercer leurs droits syndicaux. En **Equateur**, des restrictions sévères sont imposées aux droits syndicaux des enseignants: les employés du secteur public dans les entités non génératrices de revenus ne peuvent pas former de syndicats et y adhérer; les enseignants peuvent négocier au plan national, mais la législation leur interdit de négocier au niveau local ou sur le lieu de travail; enfin, les travailleurs du secteur public, y compris les travailleurs de l'éducation, ne sont pas autorisés à exercer le droit de grève²⁹. **El Salvador**, qui n'a pas ratifié les conventions n^{os} 87 et 98, n'autorise pas les enseignants à former des syndicats et à y adhérer, et impose des restrictions à leur droit de grève³⁰ et de négociation collective³¹.

La situation la plus fréquente est celle où les droits syndicaux des enseignants sont prévus par la loi, mais où ils sont, dans une certaine mesure, restreints. En **Argentine**, la législation du travail garantit la négociation collective, la liberté syndicale et le droit de grève. Cependant, les crises économiques et sociales qui ont marqué les années quatre-vingt-dix et le début des années deux mille ont conduit les pouvoirs publics à adopter un

²⁴ CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), p. 114.

²⁵ Comité de la liberté syndicale, 340^e rapport, document GB.295/8/1 (Genève, BIT, 2006), p. 192.

²⁶ CEACR: Observation individuelle concernant la convention (n^o 87) sur la liberté syndicale et la protection du droit syndical, 1948. Guatemala (ratification: 1952), publication: 2006.

²⁷ Rapport annuel 2005 de l'IE. Disponible sur: http://www.ei-ie.org/annualreport/ei-ie/uk/part_01_aim_024768.html?Open=2.2

²⁸ Document de discussion CEART/9/2006/4, annexe 2 (non publié).

²⁹ CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), p. 126.

³⁰ CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), p. 129.

³¹ *Social Dialogue in Education in Latin America: A Regional Survey*, Marcela Gajardo et Francisca Gómez (BIT, Genève, 2005), p. 30.

mode de prise de décisions excluant toute forme de négociations et de consultations³². D'où l'apparition d'un climat de confrontation et de dégradation du dialogue social – sur lequel repose tout consensus –, comme en témoignent les cinq plaintes déposées depuis 2003 par des organisations d'enseignants auprès du Comité de la liberté syndicale³³. D'avril à juin 2005, seules trois des 24 provinces du pays n'ont pas connu de mouvement de grève des enseignants³⁴.

En **République bolivarienne du Venezuela**, le Code du travail étend aux travailleurs et aux bénéficiaires tant du secteur public que du secteur privé le droit de former des syndicats et d'y adhérer, ainsi que le droit de grève et de négociation collective³⁵. Néanmoins, le dialogue social dans le secteur de l'éducation a été bloqué pendant un certain temps, en partie à cause de la crise sociale et politique persistante qui l'a relégué au second plan³⁶. En outre, des rapports font état de restrictions imposées au dialogue social dans le secteur de l'éducation. Selon le Rapport annuel des violations des droits syndicaux de la CISL de 2006, 18 000 enseignants ont protesté contre les nouvelles politiques introduites par le gouvernement, qui éliminent des compensations versées aux enseignants travaillant dans des zones éloignées ou difficiles, qu'ils avaient obtenues par le biais de la négociation collective³⁷. D'autres rapports révèlent des menaces proférées contre les enseignants en raison de leurs opinions politiques et de leurs activités syndicales³⁸.

Au **Pérou** également, la loi garantit à tous les travailleurs le droit de former des syndicats et d'y adhérer, ainsi que le droit de grève et de négociation collective. Des violations des droits syndicaux ont cependant été signalées, et l'état d'urgence a été décrété le 28 mai 2003, impliquant la suspension de la liberté de réunion, la répression des manifestations, des perquisitions au siège de syndicats sans l'autorisation des dirigeants syndicaux et sans mandat légal, et l'arrestation de plus de 150 dirigeants syndicaux et travailleurs, y compris des syndicalistes³⁹.

Bien que la situation sur l'ensemble du continent latino-américain varie considérablement d'un pays à l'autre, il va de soi qu'il reste encore beaucoup à faire pour promouvoir un climat de dialogue social favorable. Malgré certaines améliorations apportées au plan législatif au cours des vingt dernières années, les conditions propices au dialogue social n'ont toujours pas été réunies dans bon nombre de pays du continent. Il

³² *Ibid.*, p. 17.

³³ Document de discussion CEART/9/2006/4, annexe 2 (non publié).

³⁴ *Situación docente – Escasez de personal: Informe Preliminar*, p. 85. Rapport national par pays préparé par le Groupe directeur national d'Argentine pour le programme d'action de l'OIT pour l'éducation intitulé *Des enseignants pour le futur: remédier à la pénurie d'enseignants pour un accès universel à l'éducation*. Disponible sur: <http://www.ilo.org/public/english/dialogue/sector/ap/educat/forums/docs/santiago-argentina-informe.pdf>.

³⁵ Baromètre de l'IE 2004, p. 313.

³⁶ *Social Dialogue in Education in Latin America: A Regional Survey*, Marcela Gajardo et Francisca Gómez (BIT, Genève, 2005), p. 34.

³⁷ CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), p. 167.

³⁸ *Ibid.*

³⁹ Document de discussion CEART/9/2006/4, annexe 2 (non publié).

convient de relever que, sur les 38 cas soumis par des organisations d'enseignants au Comité de la liberté syndicale depuis juin 2003, près de la moitié (soit 17) concerne l'Amérique latine.

Amérique du Nord

Indicateurs relatifs à l'application pratique des normes

Aux **Etats-Unis**, les droits syndicaux des enseignants sont définis par la législation de chaque Etat. Actuellement, 12 Etats accordent le droit de grève aux enseignants⁴⁰; 45 Etats plus le district de Columbia disposent de lois qui autorisent ou exigent la négociation collective avec des enseignants syndiqués⁴¹; et tous les Etats autorisent les enseignants à s'affilier à des syndicats. Si l'on constate un nombre relativement élevé de restrictions au droit de grève, il arrive toutefois que des actions de grève soient menées, bien que le nombre de mouvements de grève d'enseignants soit passé de 241 en 1975 à 99 en 1991, puis à 15 en 2004⁴². Le cas du Michigan est représentatif à cet égard, avec environ 7 000 enseignants de Détroit ayant mené des actions de grève en 2006 pour protester contre des baisses de salaires et une augmentation des dépenses de santé. Or la loi de cet Etat interdit le droit de grève, et les enseignants, faisant fi de l'ordre de retour au travail, ont reçu une injonction les menaçant d'une amende s'ils ne reprenaient pas le travail à une date donnée.

Le **Canada** impose également des restrictions au dialogue social, et il a été accusé d'ingérence dans le droit de grève des enseignants et dans le processus de négociation collective, de déni de liberté syndicale, de manquement à la protection contre la discrimination antisyndicale, et de discrimination à l'encontre des employeurs⁴³. Des organisations d'enseignants de la Colombie-Britannique ont soumis au Comité de la liberté syndicale une plainte alléguant que l'adoption de plusieurs lois viole les conventions de l'OIT et porte préjudice aux droits des employés des services publics⁴⁴. Depuis juin 2003, des organisations d'enseignants canadiennes ont présenté séparément cinq plaintes au Comité de la liberté syndicale.

Le dialogue social en Amérique du Nord demeure donc en délicate posture, et le droit des enseignants de former des syndicats et d'y adhérer, tout comme le droit de grève, sont

⁴⁰ *Efforts to ban teacher strikes in Pennsylvania gain interest*, Heidi Price, Observer Reporter (Pennsylvanie, E.-U.), 12 fév. 2006. Disponible sur: <http://www.observer-reporter.com/main.asp?SectionID=6&SubSectionID=15&ArticleID=11402>

⁴¹ National Educators Association, *Collective Bargaining Rights for Education Employees in the United States* (2003); extraits de Fredrick Hess et Martin R. West, *A Better Bargain: Overhauling Teacher Collective Bargaining for the 21st Century* (Programme on Education Policy and Governance at Harvard University, 2006), p. 16. Disponible sur: <http://www.ksg.harvard.edu/pepg/PDF/Papers/BetterBargain.pdf>

⁴² *Organized Teachers in America's Schools*, Lorraine McDonnell et Pascal Anthony (Santa Monica, CA: RAND Corporation, 1979) et Boyko, Ann, *School Employee Strikes Fell in 2003-2004 School Year* The School Leader News (Cumberland, PA: Pennsylvania School Boards Association, 23 juillet 2004); extraits de Frederick Hess et Martin R. West, *op. cit.*

⁴³ Document de discussion CEART/9/2006/4, annexe 2 (non publié).

⁴⁴ *Ibid.*

soumis à des restrictions. Compte tenu du climat politique de la région, on doute que des changements se produisent dans un futur proche.

Etats arabes

Indicateurs relatifs à l'application pratique des normes

L'**Algérie** demeure un exemple relativement positif pour la région⁴⁵. Les travailleurs ont le droit de former des syndicats et d'y adhérer, quoiqu'avec certaines limitations, et le droit de grève est autorisé, mais il est lui aussi soumis à de sévères restrictions. Malgré toutes ces restrictions, les enseignants algériens ont suivi plusieurs mouvements de grève au cours des dernières années. Au début de l'année 2006, la situation semble s'être encore améliorée avec la relance du dialogue entre les syndicats et le ministère de l'Education nationale⁴⁶. Le ministre de l'Education nationale a accepté de recevoir les représentants des syndicats enseignants non agréés par le gouvernement⁴⁷.

Grâce à l'assistance du Conseil de coopération du Golfe, certains pays de la région du Golfe font eux aussi des efforts pour renforcer les droits syndicaux. **Bahreïn** confirme les progrès accomplis au cours des dernières années, comme l'ont indiqué les experts-conseillers sur la Déclaration de l'OIT⁴⁸. La loi de 2002 sur les syndicats de travailleurs a institué la Fédération générale des syndicats de Bahreïn (GFBTU) et, depuis lors, la GFBTU participe activement aux discussions tripartites, notamment au sujet d'une nouvelle législation du travail comportant des dispositions sur la négociation collective⁴⁹. En décembre 2004, la GFBTU est devenue la première organisation des Etats du Golfe à adhérer à la CISL. Au **Qatar**, un nouveau Code du travail est entré en vigueur en 2005, qui autorise l'existence de syndicats libres, la négociation collective et la grève, bien qu'en y imposant de nombreuses restrictions. Aux **Emirats arabes unis**, les enseignants sont autorisés à mettre sur pied des organisations professionnelles, et le gouvernement a soumis à l'OIT, pour examen, un projet de loi sur les organisations de travailleurs ainsi que d'autres amendements à la loi sur les relations professionnelles. L'**Arabie saoudite** continue de faire des progrès⁵⁰, bien qu'à un rythme moins soutenu. Cependant, la législation du travail adoptée en 2005 n'octroie aux travailleurs ni le droit de former des syndicats et d'y adhérer ni le droit de négociation collective et de grève. Au **Koweït**, une commission tripartite a été mise en place en vue d'examiner le nouveau projet de Code du travail, et le gouvernement a demandé l'assistance technique de l'OIT pour veiller à la

⁴⁵ Document de discussion CEART/8/2003/SD1, p. 8 (non publié).

⁴⁶ IE, *Mondes de l'Education*, n° 18, mars/avril 2006.

⁴⁷ *Ibid.*

⁴⁸ Examen des rapports annuels en vertu du suivi de la Déclaration de l'OIT relative aux principes et droits fondamentaux au travail, document GB.292/4 (Genève, BIT, 2005), p. 26.

⁴⁹ Examen des rapports annuels en vertu du suivi de la Déclaration de l'OIT relative aux principes et droits fondamentaux au travail, document GB.292/4 (Genève, BIT, 2005), p. 26.

⁵⁰ Examen des rapports annuels en vertu du suivi de la Déclaration de l'OIT relative aux principes et droits fondamentaux au travail, document GB.292/4 (Genève, BIT, 2005), p. 26.

conformité dudit code avec les normes internationales⁵¹. Il a également promulgué un décret portant sur la ratification de la convention n° 98⁵². Les améliorations apportées au climat général de dialogue social dans le pays se répercutent sur les tendances du dialogue social dans le secteur de l'éducation également.

Malheureusement, la situation dans le reste du Moyen-Orient est moins favorable. En **Iran**, la loi n'autorise ni l'existence de syndicats indépendants ni le droit de grève, et toutes les conventions collectives doivent être soumises au ministère du Travail pour examen et approbation⁵³. En dépit de l'interdiction de mener des actions de grève, des protestations, grèves et autres arrêts de travail sont observés quotidiennement dans les entreprises iraniennes. Les travailleurs qui protestent sont bien souvent victimes d'intimidations, voire d'actes de violence et de procédures judiciaires⁵⁴. L'Iran, en particulier, fait l'objet de multiples accusations: répression violente des grèves par les forces de police; arrestation, détention et condamnation de plusieurs dirigeants et membres syndicaux dans l'exercice de leurs activités syndicales; arrestation des dirigeants de l'Association des syndicats enseignants; ingérence dans une grève et harcèlement des représentants des travailleurs; et proposition d'adoption d'une législation visant à restreindre les droits syndicaux d'un grand nombre de travailleurs⁵⁵. Le gouvernement a omis de fournir des informations sur certaines de ces allégations soumises à l'OIT.

Il en va de même pour la **Jamahiriya arabe libyenne**, où les activités syndicales sont interdites, et pour la **République arabe syrienne**, où elles sont sévèrement restreintes.

En résumé, bien que la situation politique continue d'être peu propice au dialogue social dans bon nombre de pays de la région, il semble toutefois que, dans un certain groupe de pays, des progrès aient été accomplis pour créer les conditions nécessaires à l'établissement du dialogue social.

Asie

Indicateurs relatifs à l'application pratique des normes

En Asie, on déplore un taux de ratification des conventions toujours très bas, phénomène qui reflète à la fois l'absence de respect des droits des travailleurs, en particulier le droit de grève et le droit de former des syndicats et d'y adhérer, et la difficulté d'établir un dialogue social, notamment dans le secteur de l'éducation.

⁵¹ CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), p. 365.

⁵² Examen des rapports annuels en vertu du suivi de la Déclaration de l'OIT relative aux principes et droits fondamentaux au travail, partie II: Compilation des rapports annuels par le Bureau international du Travail (Genève, BIT, 2006), p. 74.

⁵³ CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), p. 355.

⁵⁴ *Ibid.*, Iran.

⁵⁵ Comité de la liberté syndicale, 342^e rapport, document GB.296/4 (Genève, BIT, 2006), p. 166.

C'est sans doute au **Népal** que l'on relève encore les cas les plus graves de violation des droits syndicaux, en grande partie à cause de l'instabilité politique du pays. Les droits syndicaux ont été suspendus au cours du premier semestre de l'année 2005 en raison de l'état d'urgence. Puis ce fut au tour du droit des fonctionnaires de s'affilier à un syndicat d'être supprimé. Après le coup d'Etat, des dirigeants d'organisations de la société civile ont été poursuivis et incarcérés, parfois même tués; et les enseignants étaient particulièrement visés⁵⁶. Des allégations faisant état, entre autres, de harcèlement et de menaces à l'encontre des syndicats d'enseignants⁵⁷ ont été présentées au Comité de la liberté syndicale, qui les a jugées particulièrement graves et urgentes⁵⁸. L'évolution de la situation politique globale du pays au cours de l'année 2006 laisse augurer une éventuelle amélioration de la situation.

Au **Japon**, la situation demeure compliquée. Les fortes restrictions aux droits syndicaux des employés de la fonction publique ont été maintenues, la négociation collective est limitée et les grèves interdites⁵⁹. Ces restrictions sont traduites dans l'allégation présentée au Comité de la liberté syndicale par une association d'enseignants, qui accuse les pouvoirs publics de restreindre le droit de négociation collective et dénonce l'absence de procédures de conciliation et d'arbitrage impartiales et rapides en cas d'échec des négociations⁶⁰.

Compte tenu du climat politique, le cas de l'**Afghanistan** offre également un exemple de situation complexe, bien que dans un registre tout à fait différent. Les ministères et autres secrétariats d'Etat ne sont pas pleinement opérationnels, la législation actuelle n'est pas pleinement conforme avec les normes reconnues au plan international, et il n'existe pas de véritable tradition de négociation travailleurs-employeurs⁶¹. Les enseignants sont tout particulièrement touchés par la situation actuelle puisqu'ils sont la cible du mouvement religieux taliban, qui s'emploie à empêcher la scolarisation des enfants, en particulier des filles⁶². Plusieurs rapports font état d'actes d'une violence extrême perpétrés à l'encontre d'enseignants⁶³. Il va de soi qu'un niveau minimal de sécurité et de stabilité est indispensable pour élaborer des mécanismes de dialogue social.

Bien que la situation dans le reste de la région ne soit pas aussi extrême qu'en Afghanistan, elle reste cependant difficile. Plusieurs pays n'autorisent toujours pas le droit de former des syndicats indépendants et d'y adhérer, ou excluent les enseignants de ce

⁵⁶ CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), pp. 245-246.

⁵⁷ Comité de la liberté syndicale, 340^e rapport, document GB.295/8/1 (Genève, BIT, 2006), p. 358.

⁵⁸ *Ibid.*, p. 1.

⁵⁹ CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), pp. 224-225.

⁶⁰ Document de discussion CEART/9/2006/4, annexe 2 (non publié).

⁶¹ Baromètre de l'IE 2006, p. 17.

⁶² *Class war: battle to educate Afghan girls and boys hindered by fear of Taliban retribution*, Miles Bredin, The Independent (Londres), 12 sept. 2006. Disponible sur: <http://news.independent.co.uk/world/asia/article1521835.ece>

⁶³ IE, *Mondes de l'Education*, n° 18, mars/avril 2006.

droit (en particulier dans les pays suivants: **Bangladesh**⁶⁴, **Cambodge**⁶⁵, **Chine**⁶⁶, **République démocratique populaire lao**⁶⁷, **Pakistan**⁶⁸ et **Viet Nam**⁶⁹), et continuent d'interdire le droit de grève des enseignants (c'est notamment le cas de la **Malaisie**⁷⁰, des **Philippines**⁷¹ et de la **Thaïlande**⁷²). Les difficultés rencontrées au **Cambodge** en matière de dialogue social dans le secteur de l'éducation se reflètent dans le Plan stratégique du secteur de l'éducation et le plan national EPT, élaborés par le gouvernement, qui ne font clairement pas référence aux enseignants et qui ont été élaborés sans consultation, encore moins de négociation, avec les enseignants ou leurs représentants, sur les salaires ou toutes questions relatives au milieu de travail⁷³.

Il existe toutefois des exemples positifs, tels que la loi sur la main-d'œuvre adoptée en 2003 par l'**Indonésie** qui, bien qu'imposant certaines restrictions au droit de grève, est conforme à de nombreuses normes de l'OIT⁷⁴. De même, une nouvelle loi sur le règlement des conflits du travail prévoit la mise en place d'un système de tribunaux tripartites des conflits du travail⁷⁵. L'Association des enseignants a dû faire face à certaines difficultés avec le Groupement des fonctionnaires indonésiens, qui se sont traduites par une sous-estimation du nombre de ses adhérents et un préjudice porté à sa capacité de fonctionnement⁷⁶.

⁶⁴ CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), p. 176.

⁶⁵ *Ibid.*, p. 187.

⁶⁶ *Ibid.*, p. 193.

⁶⁷ *Ibid.*, p. 234.

⁶⁸ *Ibid.*, p. 248.

⁶⁹ *Ibid.*, p. 278.

⁷⁰ *Ibid.*, p. 238.

⁷¹ Baromètre de l'IE 2004, p. 237.

⁷² CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), p. 271.

⁷³ *Integration of Teachers' Voices into Education for All in Cambodia: Teacher status, social dialogue and the education sector*, Karen Knight et Kurt MacLeod (Genève et Phnom Penh, BIT, 2004), p. 13.

⁷⁴ CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), p. 217.

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*, p. 216.

Asie centrale

Indicateurs relatifs à l'application pratique des normes

Les conditions de dialogue social en **Géorgie** demeurent difficiles. La Géorgie a été accusée d'ingérence dans les activités syndicales, en particulier en forçant l'Union des syndicats de Géorgie à céder ses biens à l'Etat, en menaçant d'emprisonnement les dirigeants syndicaux, en public et en privé, pour les intimider, et en faisant des déclarations désobligeantes dans les médias⁷⁷. Selon la CISL, la situation en **Azerbaïdjan** demeure satisfaisante, même si la vigilance reste de mise. En 2004, le gouvernement a ratifié la Charte sociale européenne, et notamment les articles relatifs à la liberté syndicale et à la négociation collective⁷⁸. Or le comité conjoint a demandé à plusieurs reprises au gouvernement de mettre sa loi sur les syndicats en harmonie avec les normes internationales en supprimant les dispositions relatives à l'interdiction absolue faite aux syndicats d'exercer des activités politiques, demandes qui sont restées lettre morte⁷⁹. Au **Tadjikistan**, des mouvements de grève ont parfois lieu et la négociation collective existe, malgré une législation ambiguë qui pourrait conduire à de sévères restrictions. Au **Kirghizistan** également, la situation est précaire. Une nouvelle législation a été adoptée en vue de renforcer la protection des droits syndicaux, mais la pratique reflète une certaine hostilité à l'égard des syndicats⁸⁰.

Dans l'ensemble, il semblerait que, malgré certains progrès, le climat de dialogue social dans la région demeure globalement difficile, et rien ne laisse supposer que la situation soit meilleure dans le secteur de l'éducation.

Caraïbes

Indicateurs relatifs à l'application pratique des normes

Bien que très peu de pays du bassin des Caraïbes aient ratifié les conventions n^{os} 150 et 151, les droits syndicaux des travailleurs continuent d'être largement respectés dans la région. Bon nombre de ces pays (**Antigua-et-Barbuda, Bahamas, Barbade, Dominique, Grenade, Saint-Kitts-et-Nevis, Sainte-Lucie, et Saint-Vincent-et-les Grenadines**) octroient aux enseignants le droit de former des syndicats et d'y adhérer, et leur législation est en conformité avec les conventions ratifiées⁸¹.

⁷⁷ Comité de la liberté syndicale, 338^e rapport, document GB. 294/7/1 (Genève, BIT, 2005), p. 204.

⁷⁸ CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), p. 284.

⁷⁹ CEACR: Observation individuelle concernant la convention (n^o 87) sur la liberté syndicale et la protection du droit syndical, 1948. Azerbaïdjan (ratification: 1992), publication: 2006.

⁸⁰ CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), p. 217.

⁸¹ Document de discussion CEART/8/2003/SD1, p. 12 (non publié).

Il existe cependant des situations moins favorables. La législation de la **Jamaïque** a été critiquée par le passé car elle interdisait le droit de grève aux travailleurs fournissant des «services essentiels», la liste de ces services ayant été jugée trop étendue⁸². Or aucun amendement n'a été apporté à cette législation⁸³. De même, **Trinité-et-Tobago** interdit au personnel affecté aux «services essentiels» d'entamer des mouvements de grève et inclut dans sa liste un grand nombre de professions, y compris la profession enseignante. La législation de ces deux pays mériterait d'être amendée pour s'aligner sur les conventions de l'OIT qu'ils ont ratifiées.

En **Haïti**, le dialogue social continue de se heurter à de nombreux obstacles. Le Code du travail ne reconnaît pas le droit syndical pour les travailleurs du secteur public. La négociation collective est inexistante, et les employeurs fixent les salaires de façon unilatérale. L'incapacité du gouvernement à examiner ces questions est encore renforcée par l'instabilité politique du pays. L'année 2005 fut marquée par de graves bouleversements politiques, de violentes confrontations et une situation des droits de l'homme qualifiée de catastrophique⁸⁴. Dans ces conditions, rien ne permet de supposer que le climat de dialogue social s'améliorera dans un futur proche.

Malgré les difficultés que connaît Haïti, la région des Caraïbes demeure propice à l'établissement d'un dialogue social efficace dans le secteur de l'éducation.

Europe orientale

Indicateurs relatifs à l'application pratique des normes

En **Bosnie-Herzégovine**, la liberté syndicale, le droit de grève et la négociation collective sont reconnus par la législation⁸⁵, et il semblerait que les enseignants se prévalent de ces droits. Les enseignants des écoles primaires ont entamé une grève afin d'obtenir quatre mois d'arriérés de salaire; un accord a été conclu quelques semaines plus tard et les arriérés salariaux ont été payés. En décembre 2003, les enseignants du secondaire dans le canton de Sarajevo ont également mené une action de grève pour les adaptations salariales des enseignants. Vers la mi-décembre, la grève a été interrompue et un accord a été trouvé⁸⁶.

La liberté syndicale, le droit de grève et la négociation collective figurent également dans la législation d'un grand nombre d'autres Etats (**Estonie, Lituanie, ex-République yougoslave de Macédoine, Pologne, Slovaquie et Slovénie**) bien que, dans certains cas (par exemple en **Pologne** et en **Slovénie**), ces droits soient restreints⁸⁷. En **Slovaquie**, près

⁸² Baromètre de l'IE 2001, p. 275.

⁸³ *Ibid.*, 158.

⁸⁴ CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), p. 142.

⁸⁵ *Ibid.*, p. 294.

⁸⁶ Baromètre de l'IE 2004, p. 48.

⁸⁷ *Ibid.*, pp. 113, 180, 183, 239, 263 et 264.

de 65 pour cent du secteur de l'éducation est syndiqué, taux considérablement plus élevé que pour le reste de la population active⁸⁸.

La **Hongrie**⁸⁹ et la **Lettonie**⁹⁰ ont accompli d'importants progrès au cours des dernières années en matière de législation du travail, et la **Hongrie** a entrepris de réviser intégralement son Code du travail, révision qui a toutefois été différée⁹¹.

Cependant, dans d'autres pays, la situation est moins encourageante. La **République de Moldova** reconnaît le droit de former des syndicats et d'y adhérer, tout en imposant des restrictions au droit de grève, et le Code pénal a aboli les sanctions prévues pour des infractions commises à la loi sur les syndicats. Des rapports font état de pressions exercées sur des militants syndicaux pour qu'ils quittent la Confédération des syndicats de Moldavie (CSRM) et qu'ils s'affilient à la confédération «*Solidaritatea*», soutenue par le gouvernement⁹². Dans ces allégations soumises au Comité de la liberté syndicale, les plaignants allèguent que le gouvernement tente d'adopter des dispositions législatives contraires à la liberté syndicale, et que les pouvoirs publics et les employeurs s'ingèrent dans les affaires internes de leurs organisations et font pression sur leurs membres pour qu'ils changent d'affiliation au profit du syndicat soutenu par le gouvernement⁹³.

En **Serbie**, les enseignants relèvent de la catégorie des «services essentiels» et, par conséquent, ils n'ont pas le droit de mener des actions de grève⁹⁴, tandis qu'en **Russie** il semblerait que le nouveau Code du travail affaiblisse les droits syndicaux et encourage les contrats à court terme⁹⁵. En 2004, le **Bélarus** a fait l'objet d'un rapport d'une commission d'enquête de l'OIT, qui a conclu que le mouvement syndical bélarussien a fait, et continue de faire, l'objet d'ingérences importantes de la part des autorités gouvernementales, et que l'indépendance de la Fédération des syndicats du Bélarus (FSB) est gravement compromise⁹⁶. En 2006, le Comité de la liberté syndicale a exprimé sa profonde préoccupation car, «plutôt que de faire des efforts de bonne foi pour mettre en œuvre les recommandations de la commission d'enquête, le gouvernement s'est engagé dans la voie de l'élimination de tout vestige de syndicat indépendant au Bélarus, espérant apparemment

⁸⁸ *Ibid.*, p. 263.

⁸⁹ *Ibid.*, p. 46.

⁹⁰ *Ibid.*, p. 176.

⁹¹ CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), p. 309.

⁹² *Ibid.*, pp. 318-319.

⁹³ Document de discussion CEART/9/2006/4, annexe 2 (non publié).

⁹⁴ CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), p. 329.

⁹⁵ Baromètre de l'IE 2004, p. 245.

⁹⁶ *Droits syndicaux au Bélarus: Rapport de la Commission d'enquête instituée en vertu de l'article 26 de la Constitution de l'Organisation internationale du Travail pour examiner l'application par le gouvernement de la République du Bélarus de la convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948* (Genève, BIT, 2004).

que, de la sorte, il n'y aura effectivement plus de sources de plaintes»⁹⁷. Il semblerait que ce climat d'intimidation prévaille également dans le secteur de l'éducation.

Malgré ces derniers exemples moins positifs que les précédents, l'Europe orientale semble prendre les mesures nécessaires pour créer et maintenir des mécanismes de dialogue social efficaces, ce qui confirme la tendance constatée dans le rapport du CEART de 2003.

Europe occidentale

Indicateurs relatifs à l'application pratique des normes

En Europe occidentale, la condition sociale des enseignants demeure globalement satisfaisante, et la liberté syndicale continue d'être largement respectée. Or, comme on a pu le constater lors des années précédentes, la négociation collective n'est pas toujours respectée dans le secteur de l'éducation.

L'**Allemagne** a été critiquée par le passé à plusieurs reprises pour avoir interdit, d'une part, le droit de grève pour les employés de la fonction publique, y compris les enseignants⁹⁸ et, d'autre part, le droit de négociation collective pour le personnel enseignant⁹⁹, et pour s'être montrée peu disposée à mettre sa législation en harmonie avec les normes de l'OIT. En 2005, le comité conjoint a toutefois relevé qu'un examen approfondi de la législation régissant la fonction publique avait été promis, en collaboration avec les syndicats concernés¹⁰⁰. Or le programme de grande coalition formée à la suite des élections de septembre 2005 n'a offert aucune perspective de changement¹⁰¹.

La **Turquie** est un autre Etat Membre ayant fait l'objet de critiques pour violation des droits syndicaux des enseignants¹⁰². Un cas soumis au Comité de la liberté syndicale fait état d'allégations présentées par le syndicat d'enseignants *Egitim Sen*, selon lesquelles le procureur général d'Ankara a engagé une action en justice par laquelle il demandait aux tribunaux d'ordonner la dissolution dudit syndicat parce que ses statuts prévoyaient de défendre «le droit de tous les citoyens de recevoir un enseignement dans leur langue maternelle»¹⁰³. Après une longue procédure judiciaire, par laquelle la Cour suprême de

⁹⁷ Comité de la liberté syndicale, 341^e rapport, document GB.295/8/2 (Genève, BIT, 2006), p. 11.

⁹⁸ CEACR: Observation individuelle concernant la convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948. Allemagne (ratification: 1957), publication: 2005.

⁹⁹ CEACR: Observation individuelle concernant la convention (n° 98) sur le droit d'organisation et de négociation collective, 1949. Allemagne (ratification: 1956), publication: 2004.

¹⁰⁰ CEACR: Observation individuelle concernant la convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948. Allemagne (ratification: 1957), publication: 2006.

¹⁰¹ CISL, *Rapport annuel des violations des droits syndicaux 2006* (Bruxelles: Confédération internationale des syndicats libres, 2006), pp. 307-308.

¹⁰² Document de discussion CEART/9/2006/4, annexe 2 (non publié).

¹⁰³ Comité de la liberté syndicale, 342^e rapport, document GB.296/4 (Genève, BIT, 2006), pp. 230-231.

Turquie a ordonné la dissolution du syndicat ¹⁰⁴, *Egitim Sen* a supprimé la disposition en cause, et l'affaire a finalement été classée. Le Comité de la liberté syndicale s'est montré gravement préoccupé par le fait que la référence, dans les statuts d'un syndicat, au droit à l'éducation dans sa langue maternelle puisse conduire à la dissolution dudit syndicat ¹⁰⁵.

Sans pour autant perdre de vue ces exceptions, on peut affirmer que le dialogue social dans le secteur de l'éducation continue d'être largement respecté en Europe occidentale.

Pacifique (y compris l'Australie)

Indicateurs relatifs à l'application pratique des normes

Au cours des dix dernières années, la législation sur les relations professionnelles en **Australie** a connu de grands changements. La loi de 1996 sur les relations dans le milieu de travail (*Workplace Relations Act*, WRA) impose un certain nombre de restrictions aux syndicats, au droit de grève et à la négociation collective. Ces droits ont été encore restreints par les amendements apportés à la WRA, qui sont entrés en vigueur fin 2005. Le comité conjoint a jugé que la WRA était contraire aux dispositions de la convention n° 98, mais le gouvernement fédéral a rejeté ses conclusions, affirmant qu'elles ne s'appliquent pas au milieu de travail en Australie ¹⁰⁶. Le syndicat australien du personnel de l'éducation (*Australian Education Union*) fait campagne contre ces changements, estimant que le nouveau système risque de contraindre l'Etat et les gouvernements territoriaux à introduire dans les écoles maternelles, primaires et secondaires des contrats d'emploi individuels ainsi qu'un système de rémunération d'après le mérite ¹⁰⁷.

Les conditions en vigueur dans le reste de la région sont plus favorables. A **Kiribati**, il existe un mouvement syndical relativement fort et efficace, et le droit de grève est prévu par la législation ¹⁰⁸. Des conditions similaires sont appliquées à **Samoa**, au **Vanuatu** et aux **Iles Salomon**. En **Nouvelle-Zélande**, une loi sur l'amendement des relations d'emploi est entrée en vigueur fin 2004 dans le but de promouvoir l'accès aux organisations syndicales ainsi que les droits de représentation et la négociation collective ¹⁰⁹.

Ces bases législatives demeurent toutefois incomplètes étant donné qu'aucune île du Pacifique, à une exception près, ne dispose d'une législation prévoyant les fondements de la négociation collective et de la résolution des conflits du travail entre les enseignants,

¹⁰⁴ IE, *Mondes de l'Education*, n° 14, juillet/août 2005.

¹⁰⁵ Comité de la liberté syndicale, 342^e rapport, document GB.296/4 (Genève, BIT, 2006), p. 233.

¹⁰⁶ Baromètre de l'IE 2006, p. 30.

¹⁰⁷ Australian Education Union, *Workers' Right Campaign*. Disponible sur: <http://www.aeufederal.org.au/Campaigns/workersrights.html>

¹⁰⁸ Baromètre de l'IE 2006, p. 166.

¹⁰⁹ Examen des rapports annuels en vertu du suivi de la Déclaration de l'OIT relative aux principes et droits fondamentaux au travail, partie II: Compilation des rapports annuels par le Bureau international du Travail (Genève, BIT, 2006), p. 103.

leurs organisations et les autorités pédagogiques¹¹⁰. En outre, la capacité de dialogue social de toutes les parties prenantes est affaiblie par le manque d'information et de personnel.

¹¹⁰ *Survey on social dialogue in education in the Pacific: Participation, consultation and negotiation of teachers and their organizations in education reform*, Susana Tuisawau, CEART/8/2003/SD-4 (Genève, BIT, 2003) p. 9 (document non publié).

Annexe

Tableau des ratifications des normes du travail pertinentes en septembre 2006

Remarque: les dates en gras et italique correspondent aux ratifications reçues depuis la huitième session du comité conjoint.

Afrique	C.87	C.98	C.151	C.154
Afrique du Sud	19.02.1996	19.02.1996		
Angola	13.06.2001	04.06.1976		
Bénin	12.12.1960	16.05.1968		
Botswana	22.12.1997	22.12.1997	22.12.1997	
Burkina Faso	21.11.1960	16.04.1962		
Burundi	25.06.1993	10.10.1997		
Cameroun	07.06.1960	03.09.1962		
Cap-Vert	01.02.1999	03.04.1979		
République centrafricaine	27.10.1960	09.06.1964		
Congo	10.11.1960	26.11.1999		
Côte d'Ivoire	21.11.1960	05.05.1961		
Djibouti	03.08.1978	03.08.1978		
Erythrée	22.02.2000	22.02.2000		
Ethiopie	04.06.1963	04.06.1963		
Gabon	14.10.1960	29.05.1961		06.12.1988
Gambie	04.09.2000	04.09.2000		
Ghana	02.06.1965	02.07.1959	27.05.1986	
Guinée	21.01.1959	26.03.1959	08.06.1982	
Guinée-Bissau		21.02.1977		
Guinée équatoriale	13.08.2001	13.08.2001		
Kenya		13.01.1964		
Lesotho	31.10.1966	31.10.1966		
Libéria	25.05.1962	25.05.1962		
Madagascar	01.11.1960	03.06.1998		
Malawi	19.11.1999	22.03.1965		
Mali	22.09.1960	02.03.1964	12.06.1995	
Mauritanie	20.06.1961	03.12.2001		
Maurice	01.04.2005	02.12.1969		
Mozambique	23.12.1996	23.12.1996		
Namibie	03.01.1995	03.01.1995		
Niger	27.02.1961	23.03.1962		05.06.1985
Nigéria	17.10.1960	17.10.1960		
Ouganda	02.06.2005	04.06.1963		27.03.1990
République démocratique du Congo	20.06.2001	16.06.1969		
Rwanda	08.11.1988	08.11.1988		
Sao Tomé-et-Principe	17.06.1992	17.06.1992	04.05.2005	04.05.2005
Sénégal	04.11.1960	28.07.1961		
Seychelles	06.02.1978	04.10.1999	23.11.1999	
Sierra Leone	15.06.1961	13.06.1961		

Afrique	C.87	C.98	C.151	C.154
Somalie				
Soudan		18.06.1957		
Swaziland	26.04.1978	26.04.1978		
Tanzanie, République-Unie de	18.04.2000	30.01.1962		14.08.1998
Tchad	10.11.1960	08.06.1961	07.01.1998	
Togo	07.06.1960	08.11.1983		
Zambie	02.09.1996	02.09.1996	19.08.1980	04.02.1986
Zimbabwe	09.04.2003	27.08.1998		
Totaux	47	43	8	6

Amérique latine	C.87	C.98	C.151	C.154
Argentine	18.01.1960	24.09.1956	21.01.1987	29.01.1993
Belize	15.12.1983	15.12.1983	22.06.1999	22.06.1999
Bolivie	04.01.1965	15.11.1973		
Brésil		18.11.1952		10.07.1992
Chili	01.02.1999	01.02.1999	17.07.2000	
Colombie	16.11.1976	16.11.1976	08.12.2000	08.12.2000
Costa Rica	02.06.1960	02.06.1960		
Cuba	25.06.1952	29.04.1952	29.12.1980	
République dominicaine	05.12.1956	22.09.1953		
El Salvador				
Equateur	29.05.1967	28.05.1959		
Guatemala	13.02.1952	13.02.1952		29.10.1996
Guyana	25.09.1967	08.06.1966	10.01.1983	
Honduras	27.06.1956	27.06.1956		
Mexique	01.04.1950			
Nicaragua	31.10.1967	31.10.1967		
Panama	03.06.1958	16.05.1966		
Paraguay	28.06.1962	21.03.1966		
Pérou	02.03.1960	13.03.1964	27.10.1980	
Suriname	15.06.1976	05.06.1996	29.09.1981	05.06.1996
Uruguay	18.03.1954	18.03.1954	19.06.1989	19.06.1989
République bolivarienne du Venezuela	20.09.1982	19.12.1968		
Totaux	22	20	9	7

Amérique du Nord	C.87	C.98	C.151	C.154
Canada	23.03.1972			
Etats-Unis				
Totaux	2	1	0	0

États arabes	C.87	C.98	C.151	C.154
Algérie	19.10.1962	19.10.1962		
Arabie saoudite				
Bahreïn				
Egypte	06.11.1957	03.07.1954		
Emirats arabes unis				
Iran, République islamique d'				

Etats arabes	C.87	C.98	C.151	C.154
Iraq		27.11.1962		
Jordanie		12.12.1968		
Koweït	21.09.1961			
Liban		01.06.1977		
Jamahiriya arabe libyenne	04.10.2000	20.06.1962		
Maroc		20.05.1957		
Oman				
Qatar				
République arabe syrienne	26.07.1960	07.06.1957		
Tunisie	18.06.1957	15.05.1957		
Yémen	29.07.1976	14.04.1969		
Totaux	17	7	0	0
Asie	C.87	C.98	C.151	C.154
Afghanistan				
Bangladesh	22.06.1972	22.06.1972		
Cambodge	23.08.1999	23.08.1999		
Chine				
Comores	23.10.1978	23.10.1978		
Corée, République de				
Inde				
Indonésie	09.06.1998	15.07.1957		
Japon	14.06.1965	20.10.1953		
République démocratique populaire lao				
Malaisie		05.06.1961		
Myanmar	04.03.1955			
Népal		11.11.1996		
Pakistan	14.02.1951	26.05.1952		
Philippines	29.12.1953	29.12.1953		
Singapour		25.10.1965		
Sri Lanka	15.09.1995	13.12.1972		
Thaïlande				
Viet Nam				
Totaux	19	9	0	0
Asie centrale	C.87	C.98	C.151	C.154
Azerbaïdjan	19.05.1992	19.05.1992	11.03.1993	12.08.1993
Géorgie	03.08.1999	22.06.1993	10.10.2003	
Kazakhstan	13.12.2000	18.05.2001		
Kirghizistan	31.03.1992	31.03.1992		22.12.2003
Mongolie	03.06.1969	03.06.1969		
Ouzbékistan		13.07.1992		15.12.1997
Tadjikistan	26.11.1993	26.11.1993		
Turkménistan	15.05.1997	15.05.1997		
Totaux	8	7	2	3

Caraïbes	C.87	C.98	C.151	C.154
Antigua-et-Barbuda	02.02.1983	02.02.1983	16.09.2002	16.09.2002
Bahamas	14.06.2001	25.05.1976		
Barbade	08.05.1967	08.05.1967		
Dominique	28.02.1983	28.02.1983		
Grenade	25.10.1994	09.07.1979		
Haïti	05.06.1979	12.04.1957		
Jamaïque	26.12.1962	26.12.1962		
Saint-Kitts-et-Nevis	25.08.2000	04.09.2000		
Sainte-Lucie	14.05.1980	14.05.1980		06.12.2000
Saint-Vincent-et-les Grenadines	09.11.2001	21.10.1998		
Trinité-et-Tobago	24.05.1963	24.05.1963		
Totaux	11	11	1	2

Europe orientale	C.87	C.98	C.151	C.154
Albanie	03.06.1957	03.06.1957	30.06.1999	24.07.2002
Arménie	02.01.2006	12.11.2003	29.07.1994	29.04.2005
Bélarus	06.11.1956	06.11.1956	08.09.1997	08.09.1997
Bosnie-Herzégovine	02.06.1993	02.06.1993		
Bulgarie	08.06.1959	08.06.1959		
Croatie	08.10.1991	08.10.1991		
Estonie	22.03.1994	22.03.1994		
Ex-République yougoslave de Macédoine	17.11.1991	17.11.1991		
Hongrie	06.06.1957	06.06.1957	04.01.1994	04.01.1994
Lettonie	27.01.1992	27.01.1992	27.01.1992	25.08.1994
Lituanie	26.09.1994	26.09.1994		26.09.1994
Moldova, République de	12.08.1996	12.08.1996	04.04.2003	14.02.1994
Pologne	25.02.1957	25.02.1957	26.07.1982	
Roumanie	28.05.1957	26.11.1958		15.12.1992
Russie, Fédération de	10.08.1956	10.08.1956		
Serbie	24.11.2000	24.11.2000		
Slovaquie	01.01.1993	01.01.1993		
Slovénie	29.05.1992	29.05.1992		02.02.2006
République tchèque	01.01.1993	01.01.1993		
Ukraine	14.09.1956	14.09.1956		16.05.1994
Totaux	20	20	7	10

Europe occidentale	C.87	C.98	C.151	C.154
Allemagne	20.03.1957	08.06.1956		
Autriche	18.10.1950	10.11.1951		
Belgique	23.10.1951	10.12.1953	21.05.1991	29.03.1988
Chypre	24.05.1966	24.05.1966	06.07.1981	16.01.1989
Danemark	13.06.1951	15.08.1955	05.06.1981	
Espagne	20.04.1977	20.04.1977	18.09.1984	11.09.1985
Finlande	20.01.1950	22.12.1951	25.02.1980	09.02.1983
France	28.06.1951	26.10.1951		
Grèce	30.03.1962	30.03.1962	29.07.1996	17.09.1996
Irlande	04.06.1955	04.06.1955		

Europe occidentale	C.87	C.98	C.151	C.154
Islande	19.08.1950	15.07.1952		
Israël	28.01.1957	28.01.1957		
Italie	13.05.1958	13.05.1958	28.02.1985	
Luxembourg	03.03.1958	03.03.1958	21.03.2001	
Malte	04.01.1965	04.01.1965		
Norvège	04.07.1949	17.02.1955	19.03.1980	22.06.1982
Pays-Bas	07.03.1950	22.12.1993	29.11.1988	22.12.1993
Portugal	14.10.1977	01.07.1964	09.01.1981	
Royaume-Uni	27.06.1949	30.06.1950	19.03.1980	Royaume-Uni
Saint-Marin	19.12.1986	19.12.1986	19.04.1988	01.02.1995
Suède	25.11.1949	18.07.1950	11.06.1979	11.08.1982
Suisse	25.03.1975	17.08.1999	03.03.1981	16.11.1983
Turquie	12.07.1993	23.01.1952	12.07.1993	
Totaux	23	23	16	10
Pacifique	C.87	C.98	C.151	C.154
Australie	28.02.1973	28.02.1973		
Fidji (les)	17.04.2002	19.04.1974		
Iles Salomon				
Kiribati	03.02.2000	03.02.2000		
Nouvelle-Zélande		09.06.2003		
Papouasie-Nouvelle-Guinée	02.06.2000	01.05.1976		
Samoa				
Timor-Leste, République démocratique du				
Vanuatu				
Totaux	9	4	5	0
TOTAUX Etats Membres	C.87	C.98	C.151	C.154
178	145	154	43	38

Sectoral working papers ¹

	<i>Year</i>	<i>Reference</i>
The Warp and the Web Organized production and unorganized producers in the informal food-processing industry: Case studies of bakeries, savouries' establishments and fish processing in the city of Mumbai (Bombay) (Ritu Dewan)	2000	WP.156
Employment and poverty in Sri Lanka: Long-term perspectives (Vali Jamal)	2000	WP.157
Recruitment of educational personnel (Wouter Brandt and Rita Rymenans)	2000	WP.158
L'industrie du textile-habillement au Maroc: Les besoins des chefs d'entreprise et les conditions de travail des femmes dans les PME (Riad Meddeb)	2000	WP.159
L'évolution de la condition des personnels enseignants de l'enseignement supérieur (Thierry Chevaillier)	2000	WP.160
The changing conditions of higher education teaching personnel (Thierry Chevaillier)	2000	WP.161
Working time arrangements in the Australian mining industry: Trends and implications with particular reference to occupational health and safety (Kathryn Heiler, Richard Pickersgill, Chris Briggs)	2000	WP.162
Public participation in forestry in Europe and North America: Report of the Team of Specialists on Participation in Forestry	2000	WP.163
Decentralization and privatization in municipal services: The case of health services (Stephen Bach)	2000	WP.164
Social dialogue in postal services in Asia and the Pacific: Final report of the ILO-UPU Joint Regional Seminar, Bangkok, 23–26 May 2000 (edited by John Myers)	2000	WP.165
Democratic regulation: A guide to the control of privatized public services through social dialogue (G. Palast, J. Oppenheim, T. McGregor)	2000	WP.166
Worker safety in the shipbreaking industries: An issues paper (Sectoral Activities Department and InFocus Programme on Safety and Health at Work and the Environment)	2001	WP.167
Safety and health in small-scale surface mines – A handbook (Manfred Walle and Norman Jennings)	2001	WP.168

¹ Working Papers Nos 1–155 are not included on this list for reasons of space, but may be requested from the Sectoral Activities Branch (SECTOR), Social Dialogue, Labour Law, Labour Administration and Social Activities Department, Social Dialogue Sector, International Labour Office (ILO).

	<i>Year</i>	<i>Reference</i>
Le rôle des initiatives volontaires concertées dans la promotion et la dynamique du dialogue social dans les industries textiles, habillement, chaussures (Stéphanie Faure)	2001	WP.169
The role of joint voluntary initiatives in the promotion and momentum of social dialogue in the textile, clothing and footwear industries (Stéphanie Faure)	2001	WP.170
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1st European Forest Entrepreneurs' Day, 16 September, 2000 (European Network of Forest Entrepreneurs ENFE)	2001	WP.178
The world tobacco industry: trends and prospects (Gijsbert van Liemt)	2002	WP.179
The construction industry in China: Its image, employment prospects and skill requirements (Lu You-Jie and Paul W. Fox)	2001	WP.180
The impact of 11 September on the aviation industry (Peter Spence Morrell and Fariba Alamdari)	2002	WP.181
The impact of 11 September on the civil aviation industry: Social and labour effects (Prof. Peter Turnbull and Geraint Harvey)	2002	WP.182
Employment trends in the tobacco sector in the United States: A study of five states (Maureen Kennedy)	2002	WP.183
Tobacco: An economic lifeline? The case of tobacco farming in the Kasungu Agricultural Development Division, Malawi (Michael Mwasikakata)	2002	WP.184
A study of the tobacco sector in selected provinces of Cambodia and China (Yongqing He, Yuko Maeda, Yunling Zhang)	2002	WP.185

	<i>Year</i>	<i>Reference</i>
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Informal labour in the construction industry in Nepal (Kishore K. Jha)	2002	WP.187
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	<i>Year</i>	<i>Reference</i>
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International migration of health workers: Labour and social issues (Stephen Bach)	2003	WP.209
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Violence and stress in hotels, catering and tourism sector (Helge Hoel and Ståle Einarsen)	2003	WP.211
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	<i>Year</i>	<i>Reference</i>
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	<i>Year</i>	<i>Reference</i>
Vocational education and training in the chemical industry in Germany and the United Kingdom (Steffen A. Rogalski)	2006	WP.242
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