

Global Report under the Follow-up to the ILO Declaration 2004

Freedom of Association & the Right to Collective Bargaining: The Americas

OVERVIEW

Freedom of association and the right to collective bargaining are fundamental human rights at work that form an integral part of democracy. They underpin civil liberties and guarantee protection against discrimination, interference and harassment. These rights also play a vital role in sustainable economic and social development in the Americas, helping connect social goals and the demands of the globalized economy. They can promote productivity, adjustment measures and industrial peace, and ensure the benefits of growth are shared.

Under the ILO Declaration on Fundamental Principles and Rights at Work, adopted by the International Labour Conference in 1998, all ILO members "even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the (ILO) Constitution, the principles concerning the fundamental rights which are the subject of those Conventions." This includes freedom of association and the effective recognition of the right to collective bargaining.

KEY FACTS

- Ratification levels for the eight ILO core Conventions, including those on freedom of association and collective bargaining, in the Americas are encouraging. Some 91 per cent of member States in the Americas have ratified the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and 86 per cent have ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- Still, some groups of workers face challenges in terms of freedom of association and collective bargaining: Public sector employees are among those most often subjected to restrictions on the right to organize and bargain collectively. Today, economic trends and privatization pose challenges and potential for confrontation seems high. Agricultural workers face difficulties ranging from exclusion under the law to violence and harassment of those who try to organize. Changes in employment patterns linked to globalization contribute to difficulties facing workers, including the shedding of permanent employees, use of labour contractors and greater reliance on independent suppliers. Worldwide, some 1.33 billion people were engaged in agriculture in 2001, while 2.58 billion were dependent on the sector. In export processing zones worldwide, reports continue of difficulties organizing, although in most countries national labour and industrial relations legislation applies to the zones. EPZs have grown rapidly. In 1975 there were 79 zones in 25 countries around the globe, but in 2002 there were 3000 in 116 countries, employing at least 43 million people. Migrant workers are among those most often denied the right to organize in law or practice, and those who are undocumented or in an irregular situation are especially vulnerable. Worldwide, more than 80 million people are economically active in countries other than their own.

Domestic workers are vulnerable to abuse and the denial of fundamental rights at work, although they play a growing socio-economic role in the global labour market. Sometimes there are legal obstacles to domestic workers organizing, while isolation is another practical barrier. In the informal economy, ambiguous and disguised employment relationships are widespread, creating uncertainty about the scope and protection of labour law, including rights to organize and bargain collectively.

MOVING FORWARD

- Employers' organizations in El Salvador and Guatemala have developed relationships with groups normally beyond their reach. In El Salvador, the employers' organization helped women market vendors in their dealings with the authorities; while in Guatemala, emergency assistance was given to micro entrepreneurs affected by climatic disasters.
- In Colombia, an ILO project brought government, employers' and workers' representatives together to discuss proposed legislation on collective bargaining. A series of regional and national seminars were also held to allow drafting of a unified proposal.
- In the United States in recent years most new trade union members have been women including members of minorities, with a high percentage of new immigrants. In Canada, trade union density is higher among women than men..
- In Colombia and Honduras, an international framework agreement in the banana industry has helped increase representation for agricultural workers. The Chiquita accord helped one Colombian union recruit 1500 new members and sign seven collective agreements.
- Agreements between trade unions in sending and receiving countries can help safeguard migrant workers' rights. In Morocco, Senegal and Tunisia, for example, unions have such links with counterparts in receiving countries.
- In Latin America, new strategies and definitions are being developed to help organize in the informal economy, where as many as 70 per cent of new jobs occur. For example, the Confederation of Mexican Workers incorporates organizations that may not fit into the classical definition of a union, such as cooperatives, production associations and more.
- In the Caribbean, an ILO project working in 21 countries is helping convince business and labour to abandon a tradition of confrontation and move towards cooperation.

WHAT IS THE ILO'S ROLE?

The ILO Declaration adopted in 1998 obliges the Organization to assist member States' efforts to respect fundamental principles and rights at work, including freedom of association and collective bargaining. It sets out a new framework for technical assistance that is producing positive results. These efforts range from advice on law reform to longer-term, multi-faceted projects. In 2000, the first action plan prepared under the Follow-up to the Declaration listed more than 50 countries that had requested technical assistance. Since then, many of those have negotiated projects or other activities with the ILO, aided by significant donor funding. Technical assistance focused on freedom of association and collective bargaining has helped build institutional capacity within governments, employers' and workers' organizations, thereby improving relations between the three parties. In the Americas, work includes projects serving Central America, the Caribbean and Colombia, as well as a range of other initiatives