



Social standards in the context of employment and income Fact Sheet 1

Freedom of Association and the Effective Recognition of the Right to Collective Bargaining – ILO Co 87 and Co 98

What does "Freedom of Association and the Right to Collective Bargaining" stand for?

• **Understanding what it means** - Freedom of Association includes, at a minimum, the right of workers to form or join an association that can operate freely as a group. In combination with the right to Collective Bargaining, it serves a dual purpose of:

- A fundamental human right at work, by enabling workers to express aspirations not only to defend economic interests, but also to protect their dignity by defending civil liberties (such as security or personal and collective freedom) and protection against discrimination and harassment.
- A stabilising factor for sound economic development, by working towards an equal sharing of economic benefits through social dialogue/collective bargaining, and therefore as a connecting mechanism between social goals and the demands of the marketplace

• **Understanding what it represents** - In many countries the right to collective bargaining is not granted and many large companies outsource jobs in an attempt to escape collective bargaining. In countries where these rights are granted, only the workforce in the formalised sector benefits from them.

Estimating a global workforce of about 3 billion people, a global unemployment of about 186 millions, and a rate of informal labourers in developing countries of around 50-70%, it can be said that only around one third of the global workforce might be in a position to claim the right to collective bargaining (ILO, Economic Security for a Better World, 2004).

What does the law say about it?

The "Freedom of Association and the Effective Recognition of the Right to Collective Bargaining" were declared a core labour standard in the [Declaration on Fundamental Principles and Rights at Work](http://www.ilo.org/dyn/declaris/DECLARATIONWEB.INDEXPAGE) (<http://www.ilo.org/dyn/declaris/DECLARATIONWEB.INDEXPAGE>) which was adopted by the International Labour Conference in June 1998.

This core labour standard, whose roots lie in the 1919 ILO Constitution, refers to the ILO Convention 87: [Freedom of Association and Protection of the Right to Organise](http://www.ilo.org/ilolex/english/convdisp1.htm) (<http://www.ilo.org/ilolex/english/convdisp1.htm>) and Convention 98: [Right to Organise and to Collective Bargaining](http://www.ilo.org/ilolex/english/convdisp1.htm) (<http://www.ilo.org/ilolex/english/convdisp1.htm>)

In spite of the widespread ratification of the related conventions, surveys such as those of the OECD (2000) and ILO (2004) do not report any substantial progress, in many countries, when it comes to implementation. The root causes for low compliance can be traced between a low workers' capacity to defend their rights and the absence of political will or a lack of capacities to implement an agreed policy. Some of the challenges in implementation being:

- **Human rights' violations** - In many countries, organisations are still denied basic legal rights and their members deprived of fundamental rights, risking harassment, dismissal and even often threatened with detention or murder. This is often especially truer for union activists, for example in Colombia, the most hostile country for trade unionists, a staggering total of 90 trade unionists were assassinated during 2004. At the same time, there was an increase in the number of death threats to 295, and other forms of repression, in particular arbitrary arrests. For more details read the International Conference of Free Trade Unions (ICFTU) report 2004:

<http://www.icftu.org/survey2004.asp?language=EN>

- **Fear of income disparities and economic disadvantages** - Many developing countries, whose economies are characterised by low percentages of trained workers and large reserves of unskilled wage labourers, fear that a compulsory introduction of free collective bargaining might further widen the already considerable income gap between workers in different parts of the economy (<http://www.southcentre.org/publications/labour/labourstandards-05.htm>). A second concern is that higher labour costs will lead to a decrease of exports and thus weaken their cost competitiveness and position in global trade.

- **Organisation of workers within international supply chains** - In the industrialised world, Unions have developed their strategies on the basis of stable employment relations, a significant public sector and organised social partners. In a globalised economy characterised by a high volatility of capital, competing markets, and international supply chains, these Unions have now to adjust their structures and create new tools to defend the rights of workers.

International co-operation of Trade Unions has not moved far beyond the exchange of information, collective bargaining does still mainly take place at local and national levels, and within selected industrial sectors. As yet, only one global agreement has been reached. This took place in 2003 between maritime employers and the International Transport Workers Federation (ITF) and relates to working conditions on flag-of-convenience ships. However, at company level, global company councils and framework agreements with Trade Unions are emerging (e.g. [Declaration on Social Rights and Industrial Relationships at Volkswagen](http://www.vw-personal.de/www/en/arbeiten/werte/nachhaltigkeit.html):
(<http://www.vw-personal.de/www/en/arbeiten/werte/nachhaltigkeit.html>))

- **Representing workers from informal economies** - At global level, large numbers of workers fall outside the protection of labour laws. The growing amount of unemployed or underemployed; seasonal or temporary work; agricultural migrants; domestic workers; workers in export processing zones; as well as self-employed all belonging to the informal economy is difficult to access. However, what is known is that they all lack of effective self-organisation, that therefore their rights and interests are not adequately represented in social dialogue and industrial relations.

- **Building of independent workers' representation** - In some countries, Trade Unions have the reputation of "transmission belts" for ruling parties and state policy. This is especially true in single-party countries and in countries where Unions are directly associated with a specific political party for which they ensure voters. In the transition countries of Eastern Europe and Central Asia workers' representation is slowly building up alongside with the promotion of a multi-party democracy.

What is being done about it? Who are the main actors and what are their strategies for effective implementation?

- **ILO** (<http://www.ilo.org/public/english/standards/norm/enforced/foa/cfa.htm>) - To improve compliance and implementation of the Fundamental Right to Freedom of Association and the Effective Recognition of the Right to Collective Bargaining, the ILO is collecting data, conducting surveys and publishing regular reports. Together with some of its member countries, the ILO supports a variety of programmes in developing and transition countries, with focus on awareness raising, training, and capacity building regarding labour law reform; promoting cooperation between social partners; tripartite consultations between government, employers' and workers' organisations; labour administration and dispute settlements.
- **Trade Unions** - Trade Unions and their international associations such as the **International Confederation of Free Trade Unions ICFTU** (<http://www.icftu.org/>) or the **Trade Union Advisory Committee to the OECD (TUAC)** (<http://www.tuac.org/>) collect data about violations of workers' rights and support capacity building among their members. In Germany, the **Friedrich-Ebert-Foundation** (http://www.fes.de/index_g.htm) supports workers' representation worldwide. The UK Department for International Development (DFID) is supporting the British Trade Union Congress in capacity building among its member Unions, with the aim that they promote a pro-development agenda among their international partners.
- **Civil Society Initiatives and New Social Alliances** - NGOs actively take part in multi-stakeholder initiatives which define and monitor social standards within specific industry branches or regions. Examples of these are the British **Ethical Trading Initiative ETI** (<http://www.ethicaltrade.org/Z/abteti/index.shtml>), the international **Clean Clothes Campaign CCC** (<http://www.cleanclothes.org/>), the **UN Global Compact** (<http://www.unglobalcompact.org/>), and the **Instituto Observatorio Social** (<http://www.observatoriosocial.org.br/>) in Brazil. An OECD review of the contents of 246 codes of corporate conduct (2000), however reveals that fewer than 50% of them mention freedom of association among their voluntary commitments. Further, the use by companies of corporate codes of labour practice, or multistakeholder codes, such as the ETI's, are not a substitute for good law or for social dialogue.

Civil society organisations are keeping track of violations of workers' rights, generally from a human rights based perspective, such as **Human Rights Watch** (<http://www.hrw.org/doc/?t=labor>). A number of NGOs and self-help initiatives are working towards an improved representation of workers from the informal sector and from less organised workers' categories, sometimes with support from development agencies. Examples of such initiatives are the international network for home based workers **HomeNet** (<http://www.newethic.org/homenet/home.html>), the Indian Self-Employed Women's Association **SEWA** (<http://www.sewa.org/>) and the South African **StreetNet** (<http://www.streetnet.org.za/>).

Where to learn more from?

Links to main actors

International organisations:

- ILO Committee on Freedom of Association
<http://www.ilo.org/public/english/standards/norm/enforced/foa/cfa.htm>
- UN Global Compact: <http://www.unglobalcompact.org>

Representation of workers and employers:

- International Confederation of Free Trade Unions (ICFTU): www.icftu.org
- World Confederation of Labour: www.cmt-wcl.org
- Trade Union Advisory Committee to the OECD (TUAC): www.tuac.org
- International Organisation of Employers: <http://www.ioe-emp.org/>

Organisations of workers in the informal economy:

- HomeNet : www.newethic.org/homenet/home.html
- SEWA (Self-Employed Women' Association), India: www.sewa.org
- StreetNet: www.streetnet.org.za
- WIEGO (Women in Informal Employment Globalizing and Organizing): www.wiego.org

Civil society organisations and social alliances:

- Friedrich Ebert Stiftung: www.fes.de
- Human Rights Watch on violations of workers' rights: <http://www.hrw.org/doc/?t=labor>
- Clean Clothes Campaign: www.cleanclothes.org
- Ethical Trading Initiative: www.ethicaltrade.org
- Observatorio Social: <http://www.observatoriosocialeuropa.org/>

Links to other related documents

- ILO (2004), Organizing for social justice, Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work:
http://www.ilo.org/dyn/declaris/DECLARATIONWEB.GLOBALREPORTDETAILS?var_language=EN&var_PublicationsID=2973&var_ReportType=Report#
- Ethical Trading Initiative (2005), ETI Briefing, Freedom of Association and Collective Bargaining:
<http://www.ethicaltrade.org/Z/lib/2005/03/brief-foa-cb/index.shtml>
- About the implications of free association and the right of collective bargaining for developing countries: Singh, A. & Zammit, A. (2000) The Global Labour Standard Controversy – critical issues for developing countries, The South Centre, Geneva
- About effects in OECD countries: Aidt, T., Tzannatos, Z. (2001) The cost and benefits of collective bargaining: a survey, Social Discussion Series 120, World Bank, Washington D.C.:
<http://www.worldbank.org/sp>
- Case study on Azerbaijan: Columbia University Budapest Law Center (Source book, 2003): Enabling Civil Society. Practical Aspects of Freedom of Association: <http://www.pili.org/2005r/content/view/52/53/>