

FACB Q&A

What is freedom of association?

Freedom of association is *the* fundamental principle of the ILO. It means the right of workers and employers to freely form or join organizations that promote and defend their interests at work, without interference from one another or the State. The right to organize applies to all workers and employers, including persons in the “informal sector,” ie, generally those not working under contracts of employment. This right should be guaranteed by the State, regardless of occupation, sex, colour, race, creed, nationality or political opinion.

What is collective bargaining?

Collective bargaining is a voluntary process through which employers (or their organizations), and trade unions (or in their absence, workers’ representatives) discuss and negotiate their relations and interaction at the workplace, such as pay and other terms and conditions of work. This process of bargaining aims to reach mutually acceptable collective agreements.

What is meant by effective recognition of the right to collective bargaining?

Important conditions for effective recognition of the right to collective bargaining are that workers’ organizations are independent and not under the control of employers, or employers’ organizations – and that the process of collective bargaining can proceed without undue interference by the authorities.

Why are these rights called fundamental?

Both freedom of association and effective recognition of the right to collective bargaining are fundamental human rights at work, enshrined in the ILO Constitution since 1919. Freedom of association is closely linked with freedom of expression, the media, assembly and universal suffrage. These rights underpin democratic representation and governance. Freedom of association and collective bargaining are among the four categories of principles and rights at the heart of the ILO Declaration on Fundamental Principles and Rights at Work, adopted by ILO member States at the International Labour Conference in 1998. This Declaration underscores that all member countries have an obligation to respect the fundamental principles involved, whether or not they have ratified the relevant ILO Conventions.

How can freedom of association and the right to collective bargaining contribute to economic development and growth?

Research shows they play an important role. Recent studies by the ILO and others suggest these rights, combined with democracy can also enhance export competitiveness and are associated with higher exports of labour intensive goods, productivity growth and innovation. In addition, collective agreements between workers and employers can make business negotiations more predictable, accountable and transparent. This contributes to the certainty and stability in the workplace that is essential for making sound investment decisions. There is also growing recognition that greater involvement of workers in the enterprise can improve the quality of management decision-making.

Does everyone have the right to strike? What about essential services?

The right to strike is generally recognized but it is not absolute. Governments may restrict strike action of workers in certain professions and sectors because of their status, the essential service functions they perform, or their hierarchical rank. A service is considered essential if its interruption would endanger the life, personal safety or health of the population at large or individuals. Examples include the hospital sector, electricity, water supply and telephone services, and air traffic control. (Prohibitions on strikes in essential services should be accompanied by compensatory guarantees – including adequate, impartial and timely conciliation and arbitration proceedings, well as prompt implementation of awards.)

What workers face particular challenges in terms of freedom of association and collective bargaining?

These include those in the public sector, export-processing zones, agriculture, migrant and domestic workers and those in the informal economy. Women tend to be disproportionately represented in these categories.

Who is covered by freedom of association and collective bargaining?

All workers and employers have a right to organize. The only exceptions are the armed forces and the police. (The State may decide how the right of freedom of association is applied to the armed forces and the police, but these categories must be strictly defined.) Restrictions placed on senior public officials' organizations are acceptable if they are limited to persons exercising senior managerial or policy-making responsibilities, and do not limit their right to establish their own organizations. The same rule is applied to restrictions imposed by the State on the right of managerial or executive staff in the private sector to organize.