

# Labour rights: the rules of the game in the world of work

Vision and strategies of social movements



## TABLE OF CONTENTS

### INTRODUCTION

<b>1. LABOUR RIGHTS: THE GENERAL FRAMEWORK</b>	<b>5</b>
<b>1.1. THE PLAYING FIELD</b>	<b>7</b>
<b>1.2. THE STAKEHOLDERS OF THE WORLD OF WORK: WORKERS, EMPLOYERS AND THE STATES</b>	<b>11</b>
<b>1.3. THE MECHANISMS FOR SUPERVISION AND CONTROL OF LABOUR RIGHTS</b>	<b>14</b>
<b>2. A GENERAL CONTEXT ANALYSIS</b>	<b>18</b>
<b>2.1. WITHIN THE FRAMEWORK: FROM LABOUR RIGHTS UNDER PRESSURE TO THE POINT OF DEREGULATION</b>	<b>18</b>
<b>2.2. OUTSIDE THE LEGAL FRAMEWORK: THE INFORMAL ECONOMY = THE ECONOMY WITHOUT RIGHTS?</b>	<b>21</b>
<b>2.3. THE GREY AREA: THE URGENT NEED TO GUARANTEE LABOUR RIGHTS</b>	<b>23</b>
<b>3. TRANSFORMATION REGARDING LABOUR RIGHTS: THE VISION OF SOCIAL MOVEMENTS</b>	<b>25</b>
<b>3.1. DIFFERENT MOVEMENTS, DIFFERENT APPROACHES</b>	<b>25</b>
<b>3.2. TRANSFORMATION AT LABOUR RIGHTS LEVEL</b>	<b>25</b>
<b>4. TAKING A LOOK AT THE FIELD: THE STRATEGIES OF SOCIAL MOVEMENTS IN THE FIGHT FOR BETTER LABOUR RIGHTS</b>	<b>31</b>
<b>4.1. THE STRATEGIES OF SOCIAL MOVEMENTS</b>	<b>31</b>
<b>4.2. INTERNATIONAL SOLIDARITY</b>	<b>32</b>
<b>4.3. TAKING A LOOK AT THE FIELD</b>	<b>32</b>
• <b>FREE-TRADE ZONE = ZONE WHERE LABOUR RIGHTS CAN BE FREELY VIOLATED?</b>	
<b>THE STRUGGLE IN TOGO AND GUATEMALA</b>	<b>33</b>
• <b>DOMESTIC WORK: FINALLY RECOGNITION AFTER A LONG BATTLE</b>	
<b>THE STRUGGLE IN INDIA, NIGER AND PERU</b>	<b>36</b>
• <b>THE INFORMAL ECONOMY: THE CONGOLESE TRADE UNION ORGANIZES INFORMAL WORKERS</b>	<b>39</b>
• <b>THE STRUGGLE FOR CLEAN CLOTHES: BANGLADESH</b>	<b>40</b>
• <b>LABOUR RIGHTS OFF SIDE IN THE INVESTMENT AGREEMENT WITH QATAR</b>	<b>41</b>

## Labour rights: the rules of the game in the world of work Vision and strategies of social movements

**Authors:** Fabien Habimana, Gijs Justaert, Bart Verstraeten, Andrée Debrulle, Ann De Jonghe, Ellen Verryt, Jef Van Hecken, Jeroen Roskams, Thomas Miessen, Sara Ceustermans.

**With contributions from:** Véronique Rousseau, Thierry Manhaeghe, Leo Doise, Leen Van de Wiele and Marie-Line Simon.

**Photos:** Wereldsolidariteit-Solidarité Mondiale (WSM) (World Solidarity), Sofie Hendrickx, Bas de Meijer, Gert de Herdt.

**Posters:** Wereldsolidariteit-Solidarité Mondiale (WSM) (World Solidarity)

### Published by:

**Wereldsolidariteit-Solidarité Mondiale asbl**  
Chaussée de Haecht 579 | 1030 Brussels | Belgium  
Tel: +32 (0)2 246 36 71 | Fax: +32 (0)2 246 38 85

### ACV-CSC

Chaussée de Haecht 579 | 1030 Brussels | Belgium  
Tel: +32 (0)2 246 31 11 | Fax: +32 (0) 2 246 30 10  
[www.wsm.be](http://www.wsm.be) | <http://www.csc-en-ligne.be/>

**Lay-out:** Gevaert Graphics

**Printing:** Gevaert Printing

© January 2015, WSM and ACV-CSC

This document has been produced with the support of the Belgian Directorate General for Development Cooperation (DGD). Printed on recycled paper.

An electronic version of this publication is available on the website: [www.wsm.be](http://www.wsm.be).

Any parts of this publication may be reproduced if WSM and ACV-CSC are clearly credited. Please send us a copy of or a web link to the relevant article.

# Labour rights:

the rules of the game in the world of work

Vision and strategies of social movements



## ACKNOWLEDGMENTS

Labour rights are essential for all workers, for men and women alike, independent of their profession or where they work around the world. However, these rights did not come out of nowhere. They came about when women and men had the courage to denounce their horrendous working and living conditions, often at the expense of their freedom and physical integrity. By doing so they sowed the seeds of social change: the collective organisation of working men and women.

In the past as well as in the present day, these collective organisations and social movements constitute real forces of 'transformation' in their relation to governments and economic actors. They interact with these stakeholders in order to achieve social changes in the world of work, at different levels: to develop labour rights as a part of the legislative and regulatory framework; to ensure their adequate and effective implementation; and to denounce their violation. In the past as well as in the present day, this commitment of social movements is noble, but also often risky.

This vision paper pursues several objectives. Firstly, it presents the vision and strategies of social movements regarding labour rights. It underlines their commitment and capitalises on their experience, which is its source and inspiration. Secondly, this document can serve as a training tool since it provides the general framework regarding labour rights, it contains a context analysis and it illustrates the actions undertaken by social movements with very concrete examples. Thirdly, it targets the policy-making level: practice shows that social movements do bring about many 'changes' in terms of labour rights. For this very reason, we ask policy makers worldwide to take part in this movement for social change. Because the world of work needs binding rules.

Finally, we wish to dedicate this document to all those who are devoted to and work for this common cause. We must maintain solidarity among us in order to ensure that the working men and women of this world could work and live in dignity.



# Introduction

World Solidarity (Wereldsolidariteit – Solidarité Mondiale –WSM) supports social movements worldwide so they can take up their social role in transforming their societies towards more sustainability and inclusion. Together with the organisations of Beweging.net and MOC<sup>1</sup>, WSM builds and strengthens networks of social movements in Belgium, Africa, Latin America and Asia. As such, they want to “internationalise” their joint struggle and fight it together at local, national, regional and international level.

For these social movements, labour rights and the right to social protection are crucial strategies to realise that transformation. Based on the right to organise themselves, they empower people in their struggle for labour rights and the right to social protection.

WSM and its network are working for **inclusive and sustainable development**. What does this imply?

- *Development must be understood in its broader sense of society building.* It is clear that in the process of building societies, several possible paths can be followed. WSM and its network obviously opt for a society with greater social justice and solidarity (and thus reduced poverty, social exclusion, inequality, and vulnerability). International cooperation is one of the means to contribute to building societies.
- *This development must be inclusive:* the key (political, economic and social) stakeholders must work together while acknowledging their respective roles. Together they must define how they want to build up their society and where their responsibilities lie in this process.
- *This development must also be sustainable:* social, economic and environmental development must go hand in hand.

**WSM and its network can contribute to this inclusive and sustainable development if social movements constitute a genuine social power which is able to interact effectively with the political and economic stakeholders.** Social movements are indeed a force of transformation, a force of social change for the community, for the society. A force which starts at the grass-roots level and then grows (bottom-up).

To successfully achieve this development, Beweging.net and MOC as well as its founding organisations firmly believe that **decent work strategies must be implemented**. The concept of decent work was launched and is actively promoted by the International

Labour Organisation (ILO) and is based on 4 pillars: a **productive and freely chosen employment** (1) for which **international labour rights** (including the core labour standards) are respected (2), which provides access to **social protection** (3) and where the workers' voices are heard through **social dialogue** (4).

Indeed, work represents an important part of a person's daily life, both for earning a living and for fulfilling one's potential. Decent work is the best guarantee against poverty and deprivation both at material and immaterial (physical, intellectual, spiritual, etc.) level. As a result, **labour rights are one of the four pillars of the ILO's Decent Work Agenda**. These rights are the demands which workers can enforce from their employer and which the latter must respect. These are the rules of the game which employers and workers must comply with in order to ensure economic development and social progress in their countries. Finally, the State is called on to protect and guarantee these rights in case one of the two parties disputes, impedes or violates the exercise of these rights. Of course the role of the state is not solely to play referee; it must also create the framework within which the two parties can discuss and negotiate labour rights.

These few principles seem fairly logical but hide a complex reality in which the aim of the labour law is to re-establish a balance between two situations which are inherently opposed: the situation of the workers (and their families) who literally have the power of labour, and the employer, who owns the means of production (raw materials, production tools, technology and capital).

Social movements play an essential role in balancing this unequal relationship: they unite workers, organise them in a collective movement, giving them the power to analyse, talk and act together (empowerment). Organised, these working men and women build up a social power which can transform this unequal power relation. As such, they can achieve and, subsequently, maintain the balance between the interests of the workers and those of the employers. Employers also protect their interests through their representative organisations.

Given that the world of work is constantly evolving, stakeholders - workers, employers and the State - must always guard this balance through adequate mechanisms of consultation, negotiation, control and supervision. Social movements contribute to this cause.

1. *Beweging.net is a network of eleven social organisations: the trade union ACV, the mutuality LCM, the movement for adults KWB, the women's movement Femma, the youth movement KAJ, the movement for elderly people OKRA as well as the organisations World Solidarity, Pasar, Familiehulp, Ziekenzorg CM and the International Committee. More information can be found on [www.beweging.net](http://www.beweging.net). In the French speaking part of Belgium, it is the Christian Labour Movement MOC (Mouvement Ouvrier Chrétien) which is the umbrella organisation of the trade union CSC, the mutuality ANMC, the movement for adults Equipes Populaires, the women's movement Vié Féminine and the youth movement JOC. More information can be found on [www.moc.be](http://www.moc.be).*

For over 40 years, WSM, together with the entire Christian Labour Movement and its founding organisations, have worked with organisations in Africa, Latin America and Asia which empower workers to organise themselves and to know and demand respect of their labour rights. They are **the rules of the game which ensure that working men and women can work and live in dignity and fulfil their potential.**

This document lays out the vision and strategies of social movements, partners of WSM and ACV-CSC, in relation to **labour rights**. These can trade unions that organise workers because their collective organisation is the springboard towards the negotiation and the collective enforcement of labour rights. They can also be social movements of women, youth, migrants and rural workers who raise the awareness of their member about and provide them with training on their rights, advocate for the respect of these rights and put them on the agenda of policymakers.

In the following pages, we will deal with the following key issues. The first chapter zooms in on the general framework regarding labour rights. It is important to properly define the 'playing field' and the different stakeholders before explaining the rules of the game. The context analysis, in the second chapter, demonstrates the relevance of labour rights, from their inception to the present day. Moreover, the reality in all parts of the world shows that these rights can never be taken for granted. We always need to be alert, every day. Based on the general framework and the context analysis, the third chapter describes the vision of social movements on labour rights in the world of today. In the fourth and final chapter, we make a tour around the world to discover which innovative strategies social movements implement to improve and enforce labour rights.



*The lack of labour rights for workers from the informal economy is one of the main challenges in the global labour market. Therefore the International Labour Organisation is developing a Recommendation in order to facilitate transitions from the informal to the formal economy. In Latin America, the informal economy represents no fewer than 51% of the global employment.*

# 1 LABOUR RIGHTS: THE GENERAL FRAMEWORK

## 1.1. THE PLAYING FIELD

In terms of the playing field, a distinction must be made between *the right to work*, *labour law*, and *labour rights*.

### 1.1.1. THE RIGHT TO WORK

“Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment” as stated in Article 23 of the Universal Declaration of Human Rights (hereafter UDHR) adopted in 1948<sup>2</sup>. As a consequence, **the right to work is a human right**, an inalienable right of all human beings.

Without productive employment, it is an illusion to hope for decent standards of living, social and economic development, and fulfilment of the individual. The State is thus obliged to develop and to put active employment policies in place, in accordance with ILO Convention n°122<sup>3</sup>, which guarantee:

- (a) that there is work for all who are available and seeking work;
- (b) that such work is as productive as possible;
- (c) that there be freedom of choice of employment and that each worker has the fullest possible opportunity to qualify for the employment that suits him/her, and that he/she has the opportunity to use his/her qualifications and skills in this employment.

“The Global Employment Agenda” of the ILO goes even further by placing the emphasis on the *quantity of employment possibilities* while also improving the *quality of employment*<sup>4</sup>. Social and economic policies must therefore combine the creation of employment with **the qualitative elements of the Decent Work Agenda, which are labour rights, social protection and social dialogue**.

### 1.1.2. LABOUR LAW

**Labour law refers to a set of standards and regulations which govern the relationship between an employer and his/her worker(s).** This set of standards and regulations defines the rights and responsibilities of the two parties from the moment

they are engaged in an employment relationship.

In **Recommendation 198 on the employment relationship**<sup>5</sup>, adopted by the International Labour Conference (hereafter ILC) of 2006, it is stipulated that labour law seeks in particular to address what can be an unequal bargaining position between the two parties, who are on the one hand the employer, who owns the raw materials, technology, tools and capital, and on the other hand **the workers**, whose asset (and their family's) is their labour. As the worker is often the weak party in this uneven balance of power, **labour law attempts to restore a balance between them by conferring rights to the workers which they can enforce from their employer**.

Therefore, those who are in an employment relationship with an employer benefit from labour rights. According to labour law, the basic criterion for establishing this employment relationship between the employer and the worker is the fact that **the work is carried out according to instructions and subject to the control of another person**. However, for some time, the world of work has become aware that this criterion itself is no longer sufficient: due to globalisation and with the influence of new technology, the methods of production and the general organisation of work have radically and rapidly changed. There is a drastic trend towards informal and precarious employment. The inevitable result of this process is the difficulty to determine the existence of an employment relationship. And unfortunately, this difficulty implies that labour law is not applied and that workers can not exert their labour rights.

As a response to this challenge, Recommendation 198 on employment relationships asks the member states of the ILO to define in their legislation, or through other means, specific indications of the existence of an employment relationship. These indications could be<sup>6</sup>:

- the fact that **the work is carried out according to instructions and subject to the control of another person**; that the worker is integrated in the organisation of the company; that it is carried out solely or mainly on behalf of another person; that it is carried out personally by the worker; that it is carried out according to a given timetable or at the location as specified or accepted by the party requesting the work; that it

2. Article 23, §1 of the Universal Declaration of Human Rights, adopted on the 10th of December 1948. This right to work is also included in the International Covenant on Economic, Social and Cultural Rights of 1966 (art. 6 ICCPR), and in the African Charter on Human and Peoples Rights of 1981 (art. 15).

3. ILO Convention n°122 concerning employment policy, adopted in 1964 during the 48th session of the ILC, Geneva. This convention was completed with several other international labour standards. For an overview: General Survey concerning convention 122 and recommendation 169, Report III, 92nd session of the ILC, 2004, Geneva.

4. ILO, Global Jobs Pact, 2009. More information on: <http://www.ilo.org/jobspact/about/lang--en/index.htm>.

5. ILO Recommendation concerning the employment relationship (R198), 2006, adopted by the 95th session of the ILC, 15th of June 2006, Geneva.

6. Article 13 of Recommendation 198.

has a specified duration and some kind of continuity; that it assumes the worker is available, or that it implies the provision of tools, materials or machinery by the party requesting the work;

- the periodic payment of **remuneration to the worker**; the fact that such remuneration constitutes the worker's sole or principal source of income; payment in kind, such as food, lodging, transport or other;
- the recognition of entitlements such as weekly rest and annual holidays; payment by the party requesting the work for travel undertaken by the worker in order to carry out the work; and absence of financial risks for the worker.

### 1.1.3. LABOUR RIGHTS

As indicated above, labour law is the source of **labour rights**. Workers **are the right holders** of these rights and can assert them as claims towards their employer. These rights have in fact been obtained by the workers' movements: they have truly 'transformed' the world of work by defining these rights in legal texts, to ensure that work is not a commodity and that workers are not treated as tools. Indeed, these labour rights are **a very important vector of the quality of the work** which workers perform daily worldwide.

It is often said that these rights protect the worker from birth – by means of maternity protection – through the worker's own professional life to his/her death. While not exhaustive, these labour rights cover fairly diverse aspects, such as:

- The freedom of association;
- The right to collective bargaining;
- Contract regulation: whether it is written or not, fixed-term duration or not, full time or not, with a probation period or not, suspension and breach of contract, etc.;
- Rules relating to working hours, bank holidays, annual leave etc.;
- Protection of the salary;
- Rules relating to health and safety at work;
- Maternity protection;
- Combination of work and family life; and
- The right to life-long learning; etc.

### 1.1.4. THE SOURCES OF LABOUR RIGHTS

Considering the importance of these labour rights to ensure a decent and dignified life for the worker, it is of course necessary to know the sources of these rights. Before we focus on the international and national sources of these rights, we take a brief look at the historical origins of labour rights.

#### 1.1.4.1. The origin of labour rights

Industrialisation in the 19<sup>th</sup> century was a turning point in recent history; this industrialisation saw the emergence of entrepreneurs on the one hand and a working class on the other. The former wanted to produce goods, so they built factories and went in search of a workforce. The working class, in search of an income to support their family, came to offer their labour at the doors of the factory.

It soon became clear that the principle of **individual liberty** particularly favoured the entrepreneur: the supply of labour was enormous, so he had the liberty to unilaterally define work conditions which were therefore often appalling.

In order to change this unequal bargaining relationship, the working class needed **a kind of collective liberty**, a freedom which would allow them to join together in order to defend and assert their labour rights from their employers.

This idea of the "freedom of association" was at the origin of the emergence of the first workers' organisations, which wanted to change the social conditions of the working class. At first, the "change" they brought about remained limited, considering the power of the economic elite who often held not only the economic, but also the political power.

#### 1.1.4.2. The international sources

In the aftermaths of the devastating First World War, in 1919 to be precise, the signatory States of the Treaty of Versailles acknowledged for the first time that "*conditions of labour exist which involve such injustice, hardship and deprivation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled*".<sup>7</sup> SO they created **the International Labour Organisation (ILO)**.<sup>8</sup> In conclusion, what the founders of the ILO recognised in 1919 was that the economy needed precise rules in order for economic progress to be a synonym of social justice.

To fulfil this mandate, the Organisation has **a tripartite structure**, thanks to which **the representatives of governments, employers and workers** meet to develop its policies and programmes on an equal basis. In 1946, the ILO became the first specialised agency of the United Nations system. **The International Labour Conference (ILC)** is the supreme authority of the ILO, defining the general orientation of the organisation, adopting international labour standards and ensuring their supervision.

7. Preamble of the ILO Constitution, 2nd paragraph.

8. The International Labour Organisation (ILO) was founded in 1919, in the aftermath of a devastating war, to make every effort to improve workers' conditions and thus to bring about lasting universal peace.



### a. International labour standards

To meet this challenge, the Organisation devised a **system of international labour standards** which covers all matters related to the world of work. Since 1919, these international labour standards have constituted *the first international source of labour rights*.

These international labour standards are legal instruments developed by the three constituents of the ILO: governments, employers and workers. The standards are:

- either **conventions**, which are legally binding international treaties, which need to be ratified by the Member States;
- or **recommendations**, which serve as guiding principles, of a non-binding nature<sup>9</sup>.

A convention often states the fundamental principles which must be applied by States that ratified it, while the corresponding recommendation completes the convention by proposing more precise guiding principles on the method in which this convention could be applied. There are also autonomous recommendations, in other words, recommendations which are not linked to any convention. To date, the ILO has adopted 189 Conventions and 203 Recommendations. All these standards are the result of collective tripartite negotiation at the international level.

In 1998, eight conventions were described as “fundamental” by the International Labour Conference, since they deal with matters considered to be fundamental principles and rights at work:

- the freedom of association and the effective recognition of the right to collective bargaining: Convention (n°87) on the freedom of association and protection of the right to organise, 1948 and Convention (n°98) on the right to organise and collective bargaining, 1949<sup>10</sup>;
- the elimination of all forms of forced or compulsory labour: Convention (n°29) on forced labour, 1930 and in 2014 completed with a Protocol and Convention (n°105) on the abolition of forced labour, 1957<sup>11</sup>;
- the effective abolition of child labour: Convention (n°138) on minimum age, 1973 and Convention (n°182) on the worst forms of child labour, 1999<sup>12</sup>; and
- the elimination of discrimination in respect of employment and occupation: Convention (n°100) on equal pay, 1951 and Convention (n°111) regarding discrimination (employment and occupation), 1958<sup>13</sup>.

In the “**ILO Declaration on fundamental principles and rights at work**”<sup>14</sup> the members of the ILO recognise that they are obliged, even when they have not ratified these 8 conventions, to respect, promote and implement the principles relating to these



*In 2009 and 2010, a coalition of Belgian ngo's and trade unions, among which World Solidarity and ACV-CSC, conducted a public campaign for Decent Work all over the world. During the first year of campaign, World Solidarity and ACV-CSC focused on the right to freedom of association.*

fundamental rights<sup>15</sup>. The Declaration comprises a follow-up mechanism, which is merely promotional.

Apart from these 8 fundamental conventions, four other conventions were designated “**Governance conventions**”, described as being the most important standards in terms of governance of the world of work<sup>16</sup>.

- Convention (n°81) on labour inspection, 1947;
- Convention (n°122) on employment policy, 1964;
- Convention (n°129) on labour inspection (agriculture), 1969;
- Convention (n°144) on tripartite consultation relating to international labour standards, 1976.

9. Article 19 of the ILO Constitution.

10. Convention 87 received 150 ratifications while Convention 98 received 160 ratifications.

11. Convention 29 received 175 ratifications while Convention 105 received 171 ratifications.

12. Convention 138 received 161 ratifications while Convention 182 received 174 ratifications.

13. Convention 100 received 168 ratifications while Convention 111 received 169 ratifications.

14. Declaration of the ILO regarding fundamental labour principles and rights at work and its follow-up, adopted by the International Labour Conference during its 86th Session, Geneva, 18th of June 1998 (Annex reviewed on the 15th of June 2010).

15. To date, more than 1 200 ratifications have been registered for these conventions, which represent 86 percent of the total possible number of ratifications.

16. Earlier, these conventions were described as 'priority' instruments. Since the 'ILO declaration on social justice for a fair globalisation' they have been labelled governance conventions.

### **b. International human rights law**

In 1945, after the Second World War, the normative action of the ILO is completed with the international codification of human rights. This is yet another important step which further advances the legal framework regarding labour rights.

Firstly, **“the Universal Declaration of Human Rights”<sup>17</sup>** (UDHR) is generally recognised as being the basis for international human rights law. In articles 23 and 24, the UDHR establishes certain labour rights, such as the right to form a trade union, the right to be paid a fair wage, and the right to work, as human rights.

On the basis of the UDHR, the International Covenant on Civil and Political Rights (hereafter ICCPR) and **the International Covenant on Economic, Social and Cultural Rights** (hereafter ICESCR) entered into force in 1976<sup>18</sup>. Both Covenants developed a number of articles embedded in the UDHR in order to render them effectively binding for the States which ratified them. Labour rights are in particular<sup>19</sup> included in articles 6 (the right to work), 7 (the right to just and favourable working conditions) and 8 (the right to form unions) of the ICESCR<sup>20</sup>:

The UDHR and the two covenants have indeed inspired more than 80 international declarations and treaties relating to international human rights, as well as many regional conventions on human rights, national human rights bills, and constitutional provisions, which constitute a legally binding global system for the promotion and protection of human rights, including labour rights.

In conclusion, **several labour rights are effectively recognised as human rights** and so as having a fundamental importance for the dignity of the working people of this world. From a legal point of view, the States which ratified the ICESCR (or other regional conventions which recognise the abovementioned rights) are obliged to **respect, protect and guarantee these human rights**. It is important to further clarify these obligations which stem from international human rights law.

- **The obligation to respect** means that the **State must abstain** from intervening in the exercise of human rights or from restraining them. Regarding the freedom of association, for instance, this means that the State cannot intervene in the governance of trade unions or it must ensure that there are no obstacles (in law or in practice) to the establishment of a trade union.
- **The obligation to protect** requires the State **to protect individuals against violations of these fundamental rights by a third party**. The State must therefore ensure that employers respect their workers’ labour rights by means, for instance, of a system of labour inspection which is entitled to go to the workplace to verify that these rights are indeed respected.
- **The obligation to guarantee** means **the State must take positive measures** to facilitate the exercise of these fundamental rights. To determine the minimum wage, the State must set up a tripartite mechanism of consultation (by sector or inter-professional). To achieve the right to life-long learning, the State must create training centres and equip them with qualified personnel.



17. Universal Declaration of Human Rights, adopted on the 10th of December 1948 by the 58 Member States which constituted the United Nations at the time. To commemorate its adoption, Human Rights Day is celebrated every year on the 10th of December.

18. Along with the UDHR, these Covenants constitute the International Bill of Human Rights. For further information, see the following website: <http://www.ohchr.org/en>.

19. However, certain labour rights also appear in the International Covenant on Civil and Political Rights, such as: freedom of association (article 22) and prohibition of forced or compulsory labour (article 8).

20. The International Covenant on Economic, Social and Cultural Rights, adopted by the General Assembly in its resolution 2200 A (XXI) of the 16th of December 1966, entered into force on the 3rd of January 1976.

### 1.1.4.3. The national sources

For the purpose of this paper, it is impossible to take into account all the different sources that can be found at the national level. We thus limit ourselves to the 2 most recurrent sources: the legislation and collective bargaining agreements (CBA).

#### a. The legislation

At the national level, legislation is often the first source of labour law and thus of labour rights<sup>21</sup>. This legislation can take on different forms (Constitution, laws, executive regulations, etc.) depending on the legal system, but what is sure is that it is directly or indirectly influenced by international sources, i.e. international and/or regional human rights treaties, and more specifically, by Conventions and Recommendations developed by the three constituents of the ILO.

Labour law is traditionally divided into two sections: individual labour law and collective labour law. **Individual labour law** deals with the basic protection of the worker in terms of contract and working conditions and is often incorporated in national legislation.

#### b. Collective Bargaining Agreements (CBA)

This basic protection offered by individual labour law, and thus the rights which relate to it, can be improved progressively, as a result of **collective bargaining** either at the level of the company, or at a sectoral or inter-professional level. Only the sectoral or inter-professional levels are guarantors of greater solidarity between workers. As a result, social dialogue and collective bargaining are very important for the development of this **collective labour law**.

Mostly this collective labour law takes the form of a collective bargaining agreement (hereafter CBA). A CBA is an agreement between one or several organisations who represent workers and one or several employers (organisations). It is a very important legal instrument of labour law.

CBA's cover very diverse matters, such as salary levels, organisation of work, duration of work, distribution of work, employment and job security, training, social support, consultation in the company, etc. And in this sense, CBA's can be a source of labour rights for workers (of one company, of a sector, or for the totality of workers).

Collective bargaining and social dialogue practices are multiple and diverse, depending on the country, as they are closely linked to very different legal contexts as well as social or economic historical evolutions.

The fundamental principle is that collective bargaining is an essential tool to develop labour rights in a balanced manner. But this is only possible if strong trade unions and interested employers take part in it and that the legal framework recognises social dialogue and its results, especially CBA's, by making them binding "erga omnes" (towards all).

In countries where the evolution of industrial relations have allowed for the development of organised and effective social dialogue, and where collective bargaining, especially at sectoral or inter-professional levels, function efficiently, both sections of labour law (individual and collective) are closely interlinked.

## 1.2. THE STAKEHOLDERS OF THE WORLD OF WORK: WORKERS, EMPLOYERS AND THE STATES.

To restore the balance between workers on the one hand and employers on the other, the former enjoy labour rights which are essentially demands which they can enforce from their employer (public and private) and which the latter must respect. Finally, the State is also called upon to respect, protect and guarantee these rights in case one of the two parties challenges the existence or exercise of these rights. Of course the role of the State is not limited to that of referee: it must also create the framework in which the two parties can discuss and negotiate the rules which govern their relationships.

### 1.2.1. THE WORKERS

3.3 billion individuals make up the labour force, an impressive number. But one worker in three is at present unemployed or lives in poverty, i.e. 200 million without employment, and 900 million individuals and their dependents living below the poverty threshold, the so-called poor workers<sup>22</sup>. A harsh reality.

Finding work is currently not an issue for the global workforce, but finding productive work, which provides a decent salary and acceptable working conditions is the greater challenge. The informal economy is the most conspicuous example of this: this economy generally absorbs workers, who are without formal work or income. But at what price? Their work is generally conducted outside the legal framework, in poor conditions, without any social protection or collective representation. Similarly, the employment of workers in agriculture (often in subsistence farming) is very vulnerable.

21. The ILO has a database, NATLEX, on national legislations relating to labour, social security and human rights. The records available in NATLEX contain summaries of the legislations and bibliographical information. NATLEX contains over 80 000 records concerning 196 countries and more than 160 territories and subdivisions:  
[http://www.ilo.org/dyn/natlex/natlex\\_browse.home?p\\_lang=en](http://www.ilo.org/dyn/natlex/natlex_browse.home?p_lang=en).

22. ILO, *Global Employment Trends 2012: Preventing a deeper job crisis*, Geneva, 2012, p. 35.

### Organising: together, we are stronger!

Social movements can play an essential role in confronting these challenges, for two main reasons:

- They are organisations which are made up of **individuals who organise themselves around their rights and needs**. Together, these individuals constitute the collective movement and give it its transformative power: here they unite their human and social capital, their ability to analyse, to talk and to act together (empowerment). Workers who join their forces thus build a real social power which can interact with the economic power. Through this interaction, social movements will attempt to change the unequal power relation in order to achieve and, where possible, maintain the balance between the interests of the workers and those of the employers. As a collective movement, they make their voices heard and seek to achieve the social changes to which they aspire.
- Social movements are **open to anyone, without distinction, but pay particular attention to those whose voice is little or not heard by society**: excluded, vulnerable or poor segments of the population, who, as indicated above, constitute the great majority of the world population. Unfortunately, these people are too often deprived of their fundamental rights.

It is clear that *the transformative power of a social movement comes from its basis*: **the workers get organised to be able to analyse their situation together, speak with one voice and act collectively.**

In this regard, the key challenge for social movements lies now in being able to organise those without a voice, such as workers of the informal economy and from rural areas, most of which are women, young people and migrants. Their effective participation has a double impact for social movements:

- They can better respond to the needs and defend the rights of these categories of vulnerable workers;
- Their basis (constituency) better represents the diversity of the world of work and that gives them a greater legitimacy in dealing with the political and economic stakeholders.

That is why we stress the importance of an **inclusive social dialogue**. The principle of tripartism must remain the cornerstone of social dialogue. Trade unions, however, could open up for a closer cooperation with other social, representative organisations that organise people in those sectors where trade unions are not or barely present nowadays. First of all, this cooperation should result in joint positions regarding the needs of these working people. Secondly, the trade union could commit itself to defend the interests of these working people in their social dialogue with employers and the government.

Further in this paper, we will describe in more detail how social movements organise workers and defend their interests.

### Promoting equality and confronting discrimination

Certain categories of workers are particularly affected by unemployment and poverty at work.

**Women:** Considerable progress has been made in recent decades on the way to gender equality in the world of work. National laws and policies have improved, but major obstacles remain. Women continue to suffer from discrimination in terms of their employment opportunities, salaries and benefits, working conditions and access to senior positions. Recent data show that, worldwide, 829 million women, as opposed to 522 million men, live in poverty. Women's salaries are, on average, 10% to 30% lower than men's. The difference in salary levels between the sexes remain in spite of progress in education; and women continue to be over-represented in the most vulnerable jobs<sup>23</sup>.

**Youth:** in 2011, 74.8 million youngsters between the ages of 15 to 24 were unemployed. On a global scale, young people are three times more likely to be unemployed than adults. In developing countries, young people also make up a considerable proportion of poor workers, reaching 23.5%. On the labour market, they are disproportionately over-represented in the informal economy. In the formal economy, they are often forced to accept temporary contracts<sup>24</sup>.

**Migrant workers:** in many countries, migrant workers constitute between 8 and 20 percent of the active population. All studies show that these workers are generally discriminated against at the time of recruitment and quite often also in the course of employment. They do not enjoy fair conditions of employment either in developed or in developing countries and often fall prey to exploitation and human trafficking.

23. "Equality at work: The continuing challenge", ILO Director-General's report, 100th Session of the ILC, 2011, Geneva, p. xi.

24. ILO, *Global employment tendencies for youth 2012*, May 2012, Geneva, p. 7.





### 1.2.2. EMPLOYERS

The other key stakeholder in the world of work is the employer. Entrepreneurs are clearly not a large homogeneous mass, but rather a differentiated group. This refers not only to large multinational companies, but also to the entire network of small and medium sized enterprises (SME's), as well as own-account workers and cooperatives, which contribute substantially to economic growth, at the local and national level. Employers can operate in the private, as well as public and parapublic sectors. The vast majority aim to make a profit, but some may operate on a not-for-profit basis. In order to achieve his/her goal, whether it is for or not for profit, the employer needs raw materials, production tools, technology and capital, as well as labour.

Employers, like workers, have their own interests. For this reason, the employers also benefit from the so-called springboard rights, such as the freedom of association and the right to collective bargaining. Social dialogue implies at least two parties at the discussion table!

Organisations of employers are institutions which were created to organise and promote the collective interests of employers, be it on a sectoral or inter-professional level. In 1920, "**International Organisation of Employers**" (IOE) was founded. The IOE presently groups together 150 national organisations of employers from 143 countries across the world. It assists and provides advice to its affiliated members and it represents the entrepreneurial world on a global scale, in particular within the framework of the ILO<sup>25</sup>.

Employer organisations work mainly to create an environment that is favourable to the development of businesses in the broader sense of the term. Although the contribution of companies to the prosperity of our societies is essential, we become more and more aware that this "favourable environment" must not only favour profit: it must also promote the well-being of workers, and respect the environment. The economic and financial crises have clearly demonstrated what deregulation leads to: a fierce competition for the means of production. This competition, in turn, results in social and ecological degradation.

### 1.2.3. THE STATE

The State has a double role. On the one hand, **it must create the framework for social dialogue**, which can be bipartite or tripartite.

- *Bipartite social dialogue* brings together representatives of the workers and of the employers. Convention 98 focuses on this dialogue, calling on member States of the ILO to encourage and promote the development and use of procedures for voluntary negotiation between employers and organisations of employers on one side, and organisations of workers on the other, in view of settling the conditions of employment by means of collective agreements.
- *Tripartite social dialogue* brings together representatives of the public authorities and those of employers and workers. This type of dialogue seeks, on an industrial and national level, to ensure an efficient consultation and cooperation to find solutions, accepted by all three stakeholders, to problems of mutual interest. Moreover, the relevant public authorities seek, by

25. To find out more, consult the IOE website: <http://www.ioe-emp.org/en/index.html>.

means of this dialogue, the views, advice and cooperation of the organisations of employers and workers relating to all relevant aspects of the economic and social policies.

As mentioned above, resorting to collective bargaining, involving strong trade unions and interested employers, in a legal context which recognises social dialogue and its results, is an essential tool to advance the rights of workers.

On the other hand, **the State is also called upon to ensure that all the stakeholders - employers, workers and government, respect, protect and guarantee labour rights.** This raises the question of the supervision and control mechanisms for labour rights, which will be discussed in the following chapter.

### Conclusion

The world of work has its rules. Labour rights are a part of it, some are even recognised as being fundamental for the well-being and dignity of the different stakeholders. When worker organisations, employer organisations and public authorities assume their respective responsibilities and play their part as they should, they have a direct impact on the social, economic and environmental development of a country as they reconcile protection, security and training of workers from all walks of life with the productive and competitive nature of companies within the environmental limits of our planet.

## 1.3. THE MECHANISMS FOR SUPERVISION AND CONTROL OF LABOUR RIGHTS

Labour rights stem from several sources: conventions and recommendations of the ILO, international and regional human rights treaties, constitutions, the legislation, collective bargaining agreements etc. To ensure that these rights are applied and that violations are sanctioned, specific mechanisms for supervision and control of these rights are in place both at the national and international level.

### 1.3.1. AT THE NATIONAL LEVEL

#### 1.3.1.1. The labour administration and inspection

Governments generally set up a labour administration system which is responsible for the preparation, implementation, coordination, supervision and evaluation of the national labour policy<sup>27</sup>. In this system, the public labour administration, often under the authority of a Labour and Employment Ministry, is an important intermediary for the prevention and, when they arise, the resolution of labour conflicts.

Labour inspection is one of the essential functions of the labour administration system. The role of labour inspection is to **ensure compliance with the labour law** of a country and particularly the promotion and implementation of decent working conditions as well as the occupational health and safety standards and **the respect of fundamental principles and rights at work**<sup>28</sup>.



26. The ILO's conventions and recommendations frequently refer to tripartite dialogue. To be clear, tripartite social dialogue finds its expression in Recommendation 113 concerning consultation and co-operation between public authorities, and employer and worker organisations on industrial and national levels and Convention 144 concerning tripartite consultations aimed at promoting the implementation of international labour standards.

27. As defined by ILO Convention n° 150.

28. International standards in this field include convention n° 81 on labour inspection and its recommendation and convention n° 129 on labour inspection (agriculture) and its recommendation. Other conventions include provisions relating to labour inspection: convention (n° 155) on safety and health of workers, 1981, convention (n° 187) on the promotional framework for occupational safety and health, 2006, and convention (n° 178) on labour inspection (seafarers), 1996. See also 'Conclusions on labour administration and labour inspection', International Labour Conference, 100th session, June 2011, § 17.

Convention n° 81 of the ILO defines the three principle functions of the labour inspectors:

- monitor the implementation of the legislation;
- give advice to employers and workers; and
- provide information to the relevant authorities.

In order to effectively control the implementation of the legislation, Convention 81 also defines **the prerogatives of the labour inspectorate** such as the prerogative *to enter the premises, carry out investigations, interrogate, examine documents and take samples*.

In case one or more rights are being violated, the inspectors can provide instructions for remedying the situation; they can also decide whether it is appropriate to give a warning or advice or they can launch or recommend legal proceedings.

To fully carry out their mandate, **the labour inspection must have at its disposal broad prerogatives and sufficient means, including the power to impose coercive measures as well as dissuasive sanctions** to prevent violations of labour legislation<sup>29</sup>.

Despite its fundamental importance in ensuring the respect of labour rights on the workforce, labour inspectorates face two major challenges, namely:

a lack of political support and of financial, human and material resources for the Labour and Employment Ministries in many countries<sup>30</sup>; and  
the rapid and profound changes in the world of work. This last point is discussed in the context analysis.

#### 1.3.1.2. Legal action

The quality of the administration and the labour inspection are important determinants of good governance of the world of work. However, they are not able to detect or remedy all violations of labour rights which take place on the work floor. Furthermore, it must be recognised that mediation does not always result in the settlement of a dispute.

In such cases, each person must have useful and effective recourse to a **fair and public hearing of his/her cause by an independent and impartial judicial body**.

The form and functioning of such a judicial body can vary from country to country, but in terms of respect of labour rights, they are the instances which have the authority to examine and settle individual disputes between employers and workers. They will de-

cide about their rights and obligations. Trade unions often support their members with advice or even represent them in such litigation cases.

#### 1.3.2. AT INTERNATIONAL LEVEL

As the international labour standards are an important source of labour rights, the ILO has set up a supervisory system which allows for the regular examination of the effect given to the conventions and recommendations, in law and in practice, from the moment of their ratification by States<sup>31</sup>.

The ILO has two types of supervisory mechanisms: (1) a regular system of supervision and (2) the special procedures.

##### 1.3.2.1. The regular supervisory system: periodic reports

Member States of the ILO are obliged, at regular intervals, to submit reports which describe in detail the measures which they have taken, in law and in practice, to implement ratified conventions.

Governments must provide a copy of their report to the employers and workers organisations who can comment on the subject; these organisations can also send their observations on the progress and setbacks of the implementation of the conventions directly to the ILO. The International Labour Office must receive all comments before the 1<sup>st</sup> of September each year. Two authorities take part in the examination of these comments, namely the Committee of Experts, and the Committee on the Application of Standards of the Conference.

■ **Committee of Experts:** This Committee, made up of 20 eminent lawyers, provides an impartial and technical evaluation of the reports received. On this basis it provides, each year, an analysis of the application of international labour standards which underlines the legal or practical problems experienced in the implementation of a convention in any of the member States.

■ **The Committee on the Application of Standards of the Conference:** The Committee of Experts' report, published in December, is later submitted to the Committee on the Application of Standards of the International Labour Conference (hereafter referred to as the Committee of Standards), a permanent Committee of the Conference. Made up of delegates from Governments, employers and workers, this Committee examines the report and chooses **25 cases of countries which require a specific assessment**. In other words, the Governments of these countries must answer to the Commit-

29. Conclusions on labour administration and labour inspection, International Labour Conference, 100th session, June 2011, § 12.

30. Resolution concerning labour administration and labour inspection, International Labour Conference, 100th session, June 2011, introduction/preamble §6 of the preamble.

31. The IESCR also has a follow-up system through the 'Committee on Economic, Social and Cultural Rights' (hereafter CESCR): this Committee is a body composed of independent experts who supervise the implementation of the IESCR based on reports which the States are obliged to present to the Committee, at regular intervals, regarding the implementation of rights accepted in the Covenant. The Committee also encourages NGOs to present written information on this matter, often included in a 'parallel report'. The Committee examines these reports, hears the State and, if applicable, the NGOs who submitted a parallel report. The Committee then shares its concerns and recommendations with the State in the form of 'final observations'.

From 2005 to 2007, ACW and Social Alert International, with the support of World Solidarity and ACV-CSC, contributed to the 'Common parallel report of the Coalition of Belgian civil society for the respect of economic, social and cultural rights'. For further information, see: <http://www2.ohchr.org/english/bodies/cescr/cescr39.htm>.



tee of Standards on the legal and/or practical problems identified in the report of the Committee of Experts. Worker and employer representatives can also present their position. The Committee will often identify specific measures to resolve the problem, or request that the government accept ILO missions or technical assistance<sup>32</sup>.

### 1.3.2.2. Special procedures

#### a. Representations

This procedure allows trade unions (or employer organisations) to make a complaint to the ILO's Governing Body against a State which is not respecting one or more ratified conventions. A tripartite committee made up of three members of the Governing Body is appointed to examine both the claim and the government's response. The report this committee submits to the Governing Body describes the legal and practical aspects of the case, evaluates the information presented, and provides a conclusion in the form of recommendations.

#### b. Committee on Freedom of Association

Freedom of association and collective bargaining are among the ILO's founding principles. Immediately after the adoption of convention n°87 and convention n°98, the ILO came to the conclusion that these principles had to be subject to another supervisory procedure to *guarantee their compliance and application in countries which had not ratified these conventions*. As a result, in 1951, the Committee on Freedom of Association was established to examine complaints reporting violations of the principles of freedom of association, even where the State in question has not ratified the related conventions.

If the committee deems the complaint receivable, it will establish the facts by initiating a dialogue with the country in question. If it concludes that there was violation of ILO standards or of principles relevant to freedom of association, it prepares a report to be submitted to the Governing Body and it formulates its recommendations regarding ways to remedy the situation. The government is then invited to provide an account on the implementation of these recommendations. The Committee can also choose to propose a process of direct contacts to the government in order to deal directly with both those persons in charge on the side of the government and the social partners by way of dialogue<sup>33</sup>.

#### c. Complaints procedure

A complaint can be filed against a Member State for not complying with a convention it ratified. This complaint can be filed *by another member state which ratified the same convention or by a Conference delegate or the Governing Body in its own capacity*. On receiving a complaint, the Governing Body may form a **Commission of Inquiry, consisting of three independent members**, whose mission is to proceed to an in-depth examination of the complaint to establish the facts and formulate recommendations on measures to be taken to address the problems which were raised.

When a country refuses to fulfil the recommendations of a Commission of Inquiry, the Governing Body can take action under article 33 of the ILO constitution.

### 1.3.2.3. Technical cooperation and advisory services

The ILO does not just supervise the implementation of ratified conventions. It also provides technical assistance in various forms. In the framework of this technical assistance, officials of the Office or other experts help countries to find solutions to problems that they encounter in the legislative field or in practice to ensure conformity to the standards.

#### Conclusion

To ensure that labour rights are applied and that violations are sanctioned, the stakeholders - workers, employers or governments- can turn to several supervisory and control mechanisms, both at national and international level.

For these mechanisms to be truly perceived as guarantors of labour rights, political support, as well as financial, human and material resources are necessary for their implementation and efficient functioning. They must then take charge of their mission impartially and with full independence: because those who resort to them must have complete trust in them.

32. The debates and conclusions on the cases studied by the Committee of Standards are published in its report. Cases of particular concern are highlighted in the special paragraphs of this report. Thus the Committee functions as a sort of 'tribunal' which imposes moral sanctions. For further information, see 'The Committee on the application of standards of the International Labour Conference: A dynamic and impact built on decades of dialogue and persuasion', Geneva, April 2011, p. 198.

33. Since its creation over 50 years ago, the Freedom of Association Committee has examined 2.300 cases. Over the last 25 years, more than 60 countries on the 5 continents have taken measures after recommendations were formulated by the Committee, and have informed it of a positive evolution of the situation in terms of freedom of association.





*Aung San Suu Kyi, opposition leader in Myanmar, contributing to International Labour Conference in 2012. Next to her, Luc Cortebeeck, president of the workers' group and vice-president of the ILO.*

### **The ILO supervision mechanisms in full action: the Myanmar case**

Article 33 was used for the first time in the history of the ILO in the year 2000, when the Governing Body asked the International Labour Conference to take measures to force Myanmar to end the use of forced labour.

In 1996, a complaint was filed against this country for violation of the Forced Labour Convention (n°29), 1930. The Commission of Inquiry, which had been established, found “widespread and systematic use” of forced labour in the country. Several recommendations had been made regarding necessary changes in legislation and practice. In 2000, the Conference stated that Myanmar was not implementing these recommendations. The Conference therefore decided that Myanmar could no longer benefit from ILO technical cooperation, unless to fight explicitly the practice of forced labour. As a result, Myanmar was no

longer invited either to participate in ILO meetings or activities on the different questions relating to the world of work.

During the 2012 International Labour Conference, the ILO re-evaluated its decisions from 2000 in view of the process of democratisation which had begun to take root since early 2012. A strict prohibition of the practice of forced labour is now included in the legislation, and all military units have been instructed that impunity is no longer permitted. Moreover, the Government guaranteed the safe return of some FTUB members (Federation of Trade Unions of Burma) to the country, for the FTUB’s official registration under the new legislation and for it to be able to pursue its activities without any interference.

Following this evolution, the Conference has lifted the restrictions on the full partici-

pation of Myanmar to ILO activities, and asked that all necessary attention be given to the priorities of Myanmar in terms of technical cooperation. The priorities which have already been fixed relate to the full and complete implementation of the freedom of association as well as the eradication of forced labour<sup>34</sup>.

This decision was favourably received by the FTUB representatives as well as Aung San Suu Kyi, President of the National League for Democracy (NLD) and Member of Parliament in Myanmar who addressed the Conference in plenary session on Thursday 14 June 2012. They hope that this new dynamic will finally put Myanmar on a path to durable and inclusive development.

34. The government of Myanmar and the ILO have agreed on a common strategy to eliminate forced labour. The government acknowledges the need to take immediate measures to implement this strategy before the announced deadline of 2015.

## 2 A GENERAL CONTEXT ANALYSIS

The general framework described above, though clear in its principles, does, in practice, experience multiple shortcomings. This is true, first of all, **for those who play within the framework** and must remain watchful that their labour rights are respected. Then, **for those who find themselves 'outside the framework'**, the informal economy being the most notorious example, don't they have any rights? Finally, rapid and profound changes to the world of work over the last decades demonstrate that there is **a large grey area**. In this grey area, the world of work is currently facing difficulties in ensuring implementation of and compliance with labour rights.

In whichever situation one finds him or herself, the trend is generally the same: labour rights are often neglected or violated. In the following pages, we provide an overview of some tendencies which contribute to this. It is worth bearing in mind that violations of labour rights occur in all countries, but to varying degrees depending on the level of development, the deep-rootedness of democracy and of the culture of social dialogue. The weakening of social movements is yet another regrettable trend, which can be linked to external (persistent violations of labour rights and the refusal to work with social movements) and/or internal factors (lack of democratic governance, transparency and autonomy).

Finally, the globalization of economic activities and, as a result thereof, the complex supply chains worldwide are important challenges to the world of work, especially when it comes to ensuring compliance with labour rights. International labour standards and national labour legislation apply at the national level: governments need to ratify and apply the ILO Conventions; parliaments have to establish labour legislation. Multinationals, whose activities are not limited to one country, often escape the application of national legislation. Moreover, because of their strong economic position and complex chain of subsidiary companies, subcontractors and suppliers, they manage to avoid the application of those labour rights they do not like. In order to respond to this enormous challenge, the ILO decided to put the theme of global supply chains on the 2016 agenda of the International Labour Conference.

### 2.1. WITHIN THE FRAMEWORK: FROM LABOUR RIGHTS UNDER PRESSURE TO THE POINT OF DEREGULATION

**For those who play within the framework described above,** there are recurrent problems, such as the lack of knowledge about labour rights, their ineffective implementation and/or the deficiency of recourse mechanisms in case of violation. But there are also more profound problems which undermine labour rights in a structural manner, such as the well-known "race to the bottom", the persistent violations of the freedom of association and the right to collective bargaining as well as the tendency towards deregulation.

#### 2.1.1. THE INTERNATIONAL COMPETITION: "THE RACE TO THE BOTTOM"

The current global economic architecture is putting more and more pressure on labour rights. In the international race for growth, governments and companies often try to reduce or avoid the implementation of labour rights, by any means: the well-known 'race to the bottom'.

First of all, there are employers and governments who look for ways to **weaken the application of labour legislation**, which would put their competitive position at a disadvantage on the (inter)national market. Setting up export processing zones (hereafter EPZs) is a good example of this. These EPZs are spaces which are specifically established by certain countries to attract export-oriented companies by offering them tax, tariff and regulatory advantages. Sometimes other advantages are offered. This frequent-





ly refers to a flexible regulatory framework, including in terms of respect of labour rights and standards. In a recent report, the International Labour Office specified that the workers of EPZs in many countries cannot efficiently exercise their right to organise due to discriminatory anti-union practices.

With this tendency towards deregulation and the increasing competition between countries, companies are often easily tempted to move from one area (or country) to another in order to reduce labour costs as much as possible and thus to maximise their benefits. As a result, labour rights, social protection and wages are under pressure.

Those countries, with a solid labour legislation and a track record of respecting labour rights, often witness this race to the bottom without being able to intervene. Worse yet, despite political changes having been announced, the World Bank (WB) and the International Monetary Fund (IMF) continue to advocate **the idea of deregulation of the labour market and budgetary austerity in social terms.**

Considering these evolutions, the economic and financial crises, which started in 2008, have at least one advantage: they demonstrate once again that only strong regulation, including in the field of social rights of workers, can ensure the protection of those who are most affected by such a crisis. **Countries, which have good social protection and good regulation of employment relationships, are best equipped to resist the effects of the crisis.** While several countries increased their minimum wage during the crisis, and some even improved their labour legislation<sup>35</sup>, we noted that many other countries weakened their labour legislation, especially the rules about engaging and dismissing workers. By doing so, they hope to keep more people on the labour market and in employment. But what type of employment and at what price for the workers?

### 2.1.2. VIOLATIONS OF THE FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING

Freedom of association and collective bargaining are fundamental rights, often perceived as 'springboard' rights for workers as they form a base from which they can change their working and living conditions. This change or transformation begins with negotiating their rights and subsequently demanding the adequate implementation of these rights. Too frequently, though, these basic rights are not respected at all. Every day, the ILO, the ITUC as well as many trade unions and NGOs receive numerous messages and reports concerning these violations. The most perverse effect of these violations is the weakening of social movements: they progressively lose their membership. Either because people do not wish to lose their job or because they no longer believe that social movements can bring about change and can structurally transform the unequal power relations.

Statistics show that freedom of association can still not be taken for granted nowadays. The 2014 report of the ITUC on violations of basic trade union rights indicated that trade unions in numerous countries are confronted with severe repression by governments and employers. In 35 countries workers were arrested and/or received a prison sentence for demanding democratic rights, decent wages, safer work and more secure jobs. In 9 countries trade union leaders were killed or disappeared; in 53 countries worker representatives were dismissed because they wanted to enforce better working conditions<sup>36</sup>. The dismissal of trade union representatives is always the most effective way to silence trade unions.

But many cases are not being reported, particularly because of the climate of fear and intimidation in which numerous workers have to conduct their trade union activities. Once the trade unions are silenced, the workers no longer have a voice.

35. *Global wage report 2010/11*, ILO, Geneva, 2011.

36. *ITUC Global Rights Index 2014*, <http://www.ituc-csi.org/ituc-global-rights-index-2014?lang=en>



Moreover, anti-democratic forces are more than ever targeting trade unions throughout the world, because they take the lead in the struggle for a democratic and just society. This was the case in Honduras, at the time of the violent events which followed the coup d'état in 2009. In Guinea-Conakry, the trade union movement, as spokesperson of the civil society, became the favourite target of the security forces during the political crisis between 2006 and 2010.

The list of examples is growing every year: Brasil, in the run-up to the World Cup of 2014; the fight for higher wages in the textile sector in Cambodia; the protests in Hong Kong of October 2014; etc. Trade unions, fighting for more democracy and a fair society, are often ignored or simply silenced.

### 2.1.3. RECURRENT PROBLEMS AT THE NATIONAL LEVEL

*The transposition of international labour standards to national legislation* often remains a delicate issue. Governments often delay ratification and implementation of the ILO conventions. As such, they try to avoid the application of new labour standards, despite the fact that a convention has been adopted by the worker, employer and government representatives during the ILO Conference.

*The deficient organisation of an efficient labour inspection* at the national level is a general and well-known problem in most countries. In many countries, the changes taking place in the world of work, marked by new forms of employment, have gone hand in hand with a steady decrease in State interventions (labour inspections) in the workplace. But even in those countries where the advantages of adequate labour inspection are widely acknowledged, the real impact remains often limited due to the lack of inspectors and financial resources.

In many countries, *structural social dialogue* is either too weak or even *inexistent*. This deprives workers and employers of an opportunity to define - with or without the help of the government - the outlines of a balanced social policy and labour legislation.

In addition, social dialogue is often difficult or even impossible due to the significant fragmentation of the trade union movement. The actions of representative and independent trade unions are often compromised by the large number (sometimes thousands) of company unions as well as "yellow unions". The latter are set up by the State or the employer, and are used at their discretion. Moreover, there is still a barrier between workers in the formal and the informal economy, which limits the representative power of the unions, even though all these workers are faced with the same challenges. Some employers and multinationals engage workers in the informal economy to continue to dismantle the labour movement, their bargaining power as well as employment in the formal sector.

### The trade union movement restores democracy and the rule of law in Guinea

Between 2006 and 2010, there was a fierce battle in Guinea for political power during which the trade union movement took the lead in defending the people's rights. The National Confederation of Workers in Guinea (CNTG – *Confédération Nationale des Travailleurs de Guinée*), a partner organisation of WSM and ACV-CSC, became the spokesperson of the people and the civil society of Guinea, which was organised in the National Council of Organisations of the Guinean Civil Society (CNOSCG – *Conseil National des Organisations de la Société Civile guinéenne*). But taking this opposition role was not without danger. The military command, which had seized power, repeatedly called on security forces to break civil protest, which in September 2009 reached its climax when 50 people got killed and hundreds were wounded during a manifestation against the military command in the capital city Conakry.

But the civil movement continued fighting against corruption and impunity while striving for national unity, democracy and the rule of law, the restoration of peace, safety and social dialogue and a modern organisation of the State which guarantees essential services to everyone: water, electricity, access to health care, education, etc.

Finally, on the 15<sup>th</sup> of January 2010 in Ouagadougou (Burkina Faso), an agreement was signed between the different Guinean stakeholders. They agreed to the establishment of an interim government and a National Council for the Transition, chaired by Rabiattou Serah Siallo, then Secretary General of CNTG. In the end, Guinea has found a way out of the crisis and has restored democracy thanks to the presidential (end 2010) and legislative (end 2012) elections, which were carefully prepared by the National Council for the Transition.

The efforts of the Guinean trade union movement were noticed by the African and international community. The African Union, the West-African Economic Community, the European Union, etc. have valued them for the work they have done in those difficult circumstances. Their commitment is still an example for many political and social actors in and outside Africa, in their fight for democracy and respect for the rule of law.





*In many African countries, the vast majority of people work in the informal economy. The market vendors are a good example of it, such as this fish saleswoman in a market of Benin, West Africa.*

## 2.2. OUTSIDE THE LEGAL FRAMEWORK: THE INFORMAL ECONOMY = THE ECONOMY WITHOUT RIGHTS?

The term “informal economy” actually refers to **all economic activities of workers and economic entities that are not or insufficiently covered by the existing legislation**. Nowadays, the informal economy – agricultural activities not included - represents approximately 51% of total employment in Latin America, 82% in South Asia, 65% in East and Southeast Asia, 66% in Africa and at least 10% in East and Central Europe<sup>37</sup>. The informal economy is without any doubt the largest employer worldwide. The large majority of people work in the informal economy not by choice but because it is an absolute necessity to survive.

This general term covers many different realities. On the one hand, the informal economy refers workers and economic units that operate on their own account (taxi drivers, street vendors, owners of small restaurants, shoe shiners, etc.). On the other hand, it also refers to workers and economic units that are “informally” employed by formal and informal employers. In this case, the employment relationship is often hidden or disguised (like in the transport sector, construction and mining industry or domestic work, etc.)<sup>38</sup>

**In the informal economy, the decent work deficit is particularly striking:** their income is very low and variable and their job security is nearly nonexistent. They are often excluded from social protection and they have very little chance of getting access to education or to professional training. In general, they are difficult to organise in unions and, as a result, they have no collective representation towards the public authorities or their employers.

37. ILO, *Transitioning from the informal to the formal economy*, Report V(1), 103rd Session ILC, Geneva, 2014, p. 6

38. Further information: ILO, « *The transition from the informal to the formal economy*, Report V(1), 104th Session ILC, Geneva, 2015, p. 23 ; ILO, “*Decent Work and Informal Economy* », Report VI, International Labour Conference, 90th session, Geneva, 2002, p.11

The idea that workers of the informal economy fall outside the scope of application of international labour standards is a very common misunderstanding. First of all, it is widely recognised that **the labour rights covered by the 8 ILO fundamental conventions constitute a minimum social floor which should apply to all workers**, whether they work in the formal or informal economy<sup>39</sup>. Apart from the fundamental conventions, there are also ILO conventions and recommendations with provisions that are relevant in the context of the informal economy<sup>40</sup>.



However, the ILO realised that this was not sufficient and in March 2013 the Governing Body decided to elaborate **a new international labour standard**. It will take the form of a "Recommendation" and will be elaborated during the 2014 and 2015 sessions of the International Labour Conference. This new Recommendation will call upon the member states to develop an integrated policy framework that **needs to include different policy measures**, such as:

- A full employment policy that aims at creating decent, productive jobs;
- The explicit recognition that workers in the informal economy have the same labour rights as other categories of workers, in particular the fundamental labour rights;
- The extension of social protection to workers of the informal economy;
- The necessity to elaborate this policy framework by means of social dialogue involving the representative workers and employers organisations. Moreover, the social partners are requested to work closely with other social, representative organisations which organise people in the informal economy. That should result in a more inclusive, social dialogue.

Member states should pay specific attention to the situation of women, youngsters, migrants and elderly people who are strongly over-represented in the informal economy. Moreover, also an effective labour inspection should be organised so that this policy framework does not remain a dead letter. All these measures should contribute to the gradual transition of these workers and economic units from the informal to the formal economy.

39. "Extending the scope of application of labour laws to the informal economy – digest of comments of the ILO's supervisory bodies related to the informal economy", ILO, Geneva, 2010, p. 9. The supervising entities of the ILO recognize the relevance of certain international labour standards for the informal economy. Since 2009, the Committee of Expert of the ILO asks governments to mention in their reports the initiatives they have taken to make sure that these workers have freedom of association, according to Convention 87. Moreover, the Committee on Freedom of Association was already consulted by the trade unions of the workers from the informal economy to denounce the violation of freedom of association and the right to collective bargaining of their members.

40. As a result of this, the following distinction can be made: (a) certain standards refer explicitly to the informal economy. There are instruments regarding labour inspection, labour administration and occupational safety and health that explicitly mention that they are also for workers of the informal economy; (b) There are also standards for certain categories of workers that are frequent in the informal economy, such as, for example, standards that apply to workers who work on plantations or in mines, migrant workers, domestic workers, etc.



### 2.3. THE GREY AREA: THE URGENT NEED TO GUARANTEE LABOUR RIGHTS

Under the influence of globalisation and of new technologies, the methods of production and the general organisation of work have changed rapidly and radically. We are more and more frequently confronted with **workplaces which are difficult to detect** (for example in the agricultural and construction sectors) or with **special employment relationships** (home-based work, domestic work) or with **employment relationships which are difficult to identify** (new, atypical forms of employment, complex supply chains). In this grey zone, the administration and in particular labour inspection have problems in determining the existence of an employment relationship. The result is that labour law is not applied and that workers can not enforce their labour rights.

#### 2.3.1. ATYPICAL AND PRECARIOUS WORKPLACES

**Domestic work** is a good example. It is one of the eldest and one of the most important occupations for millions of women around the world<sup>41</sup>.

For a long time, domestic work was neither recognised nor regulated by national labour legislation, for two main reasons: domestic work was not considered 'normal employment' and a home not a 'workplace'. As a consequence, these millions of women were not recognized as workers and could not, apart from a few exceptions in some countries, enjoy the same labour rights as other workers. Fortunately, the recent adoption of Convention 189 in 2011 by the International Labour Conference will change this. The Convention recognises domestic work as an employment in its own right and domestic staff as workers who have the same rights as other categories of workers.

#### 2.3.2. SPECIAL EMPLOYMENT RELATIONSHIPS OR EMPLOYMENT RELATIONSHIPS WHICH ARE DIFFICULT TO IDENTIFY

Globalisation offers enormous opportunities to companies which are prepared to face unlimited competition. Production must be very flexible to respond to changing demands of the market. Hence **the success of temporary labour**: workers are hired for just a day, a week, a few months or a season. Hired with **fixed-term contracts**, these same workers are made redundant when the contract expires and hired again with a similar contract a few days later. Through this method, the employers avoid the full application of labour legislation. Whether these workers are employed directly by the company or through **temporary employment agencies**, they have very few means of being heard. On one side, the trade unions have difficulties organising them. On the other side, if they make too much of a fuss, there are always many other candidates to replace them.

Another trend is that of **subcontracting**. Companies call on individual workers or economic units for a part of the production process. This new method puts the responsibility for the means of production on the worker, and the absence of an 'employer-employee' relationship absolves the business from any liability. Workers are more and more isolated, *engaged in a purely commercial relationship*, without a real contract and in which the very low prices are dictated by the company<sup>42</sup>.



41. *Decent work for domestic workers. Report (IV)1*, ILO Geneva, 2009, p. 1.

42. *Thematic report 'Cahier Oxfam', 'Travailleurs sous pression' or Workers under pressure, Mai 2009, Brussels*, p. 38.

**MONDIAL 2014, LA BELGIQUE ENTIÈRE SOUTIENT LES DIABLES.**  
**COMBIEN SERONS-NOUS POUR SOUTENIR**  
**LES TRAVAILLEURS BRÉSILIENS?**



*In 2014, World Solidarity and ACV-CSC drew media attention to the Football World Cup in Brazil to condemn the appalling working conditions of the Brazilian orange gatherers.*

**“Squeezed like oranges”<sup>43</sup>**

Orange-picking in Brasil is such an example of outsourcing and subcontracting in the production chain of orange juice. In the run-up to the 2014 World Cup in Brasil, *World Solidarity* and ACV-CSC launched a campaign to highlight the exploitation and indecent working conditions in the Brazilian sector of orange-picking.

The Brazilian state São Paulo is responsible for an important part of the world's production of oranges. It is widely known as one of the richest regions in Latin America, but that does not count for the approximately 238.000 workers who pick

the oranges. Only 58.000 of them have a contract. The pickers are paid per kilo and if they want to earn the minimum wage of 9 euros a day (i.e. 260 euros a month), they should pick two tons of oranges every day. But even then the minimum wage is not enough to survive.

The owners of the orange plantations have very little bargaining power themselves, it seems. They are the subcontractors of multinationals like Citrusuco, Cutrale and Louis Dreyfus, who control the production chain of oranges. Their market position allows them to determine themselves the prices they pay to the producers. These multinationals have even concluded agreements between themselves about this. In 2012, different large companies from the sector were condemned by the Brazilian government for having formed a cartel. But it has not been able to stop their monopoly position. The campaign of *World Solidarity* and ACV-CSC has encouraged about 2.000 people to write a letter to the former EU Trade Commissioner Karel De Gucht requesting him to include respect for labour rights as an important issue in the negotiations for a trade agreement between the European Union and Mercosur<sup>44</sup>.

## Conclusion

Labour rights are under pressure. Workers are increasingly at the service of the economy and growth, rather than the other way round. Over the years, there has been a significant shift in the balance between the interests of companies (economic and financial growth) and the interests of workers (their well-being and that of their families, the equitable distribution of the benefits of growth, etc.). Labour seen as a commodity: today deregulated, tomorrow more flexible, and the next day informal. Working women

and men considered as tools: today fewer rights, tomorrow even less rights, and the next day no rights.

As shown above, some categories of workers are even more affected today by this evolution, because they are disproportionately represented in precarious jobs, whether in the formal or the informal economy or in rural areas. Women, young people, migrant workers and indigenous people often remain in the margins of collective organisation. More-

over, strategic alliances, between movements from the different sections of the economy to confront common challenges together, are rarely built.

These trends are not easy to reverse but the daily struggle of social movements around the world, as described in the following chapter, show that they can really make a difference.

43. <http://www.solmond.be/-Bresil-on-se-bouge-avec-les- en www.pressescommedesoranges.be>.

44. Mercosur is a customs union between Brasil, Argentina, Uruguay, Paraguay and Venezuela.



# 3 TRANSFORMATION REGARDING LABOUR RIGHTS: THE VISION OF SOCIAL MOVEMENTS

For WSM and ACV-CSC and our partners, social movements worldwide, labour rights constitute the basic rules which are needed to allow workers to work in dignity and to fulfil themselves completely. Labour rights frame employment relationships and can prevent labour conflicts as well as lead to increased productivity, economic growth, individual and collective progress of society. They make it possible to establish the power relations between the government and the economic and social stakeholders and to keep these balanced, with a view to guaranteeing the inclusive development of society, with justice and solidarity for and between all working women and men.

However, labour rights did not come out of nowhere. On the contrary, these rights were developed when certain workers had the courage, often at the cost of their freedom and physical integrity, to report their appalling working and living conditions, and by doing so, sowed the seeds of social change: the collective organisation of workers.

## 3.1. DIFFERENT MOVEMENTS, DIFFERENT APPROACHES

From the emergence of these first initiatives to the present day, the essential role of these worker movements is transformative in nature: workers join together and as a collective force, they attempt to change the power relation with the employers.

Based on this conviction, WSM, along with the organisations of *beweging.net* and MOC, supports social movements such as trade unions, socio-cultural movements, mutual health organisations and cooperatives. The focus of the latter two is specifically centred on social protection and on generating employment<sup>45</sup>. The focus of the first two is more generally on the promotion and improvement of labour rights.

### 3.1.1. TRADE UNIONS

Without distinction of any kind, workers have the right, without prior authorisation, to establish and to join organisations of their own choosing. These organisations are generally called trade unions.

Just like sociocultural movements, trade unions organise workers, train them, make them aware of their rights, and undertake actions to promote labour rights (through analysing their situation, mobilisation, lobbying, etc.). However, **the right to strike and the participation in social dialogue are the prerogative of trade union organisations** which other social movements cannot exercise. Trade unions are generally recognised by the public authorities and the employers, and thus serve as spokespersons or social partners in bi- and tripartite dialogue structures. Unfortunately, there are many obstacles, in law and in practice, to this formal recognition, which means that trade unions can not always take on their role of spokespersons.

#### The history of the 1<sup>st</sup> of May

During their 1884 congress, the main workers' unions in the United States had given themselves two years to impose on their employers the 8 hours working day. They had chosen to start their action on a 1<sup>st</sup> of May, as this was the first day of the financial year for many American companies. On the 1<sup>st</sup> of May 1886, the 8 hour working day became a reality for 200.000 American workers. But another 340.000 workers were less lucky and they had to go on strike to force their employers to concede. On the 3<sup>rd</sup> of May, the Chicago police opened fire to break up a demonstration, killing 3 workers. In 1889, the European trade unions established the 1<sup>st</sup> of May as 'an international day of the workers' or 'Labour day', a day which they dedicate to presenting their demands to the government and the employers.

45. Their actions are covered in another vision paper by WSM, ANMC et ACV-CSC: "Social protection: a question of social change", Brussels, September 2010, p. 31. This document is available on the website (link): <http://wsm.be/en/search-by-theme/social-protection/item/36-la-protection-sociale-une-question-de-changement-social/36-la-protection-sociale-une-question-de-changement-social>.



YCW Kikwit, in the Democratic Republic of Congo, organises the youth between 15 and 35. Through the method 'see-judge-act', they find solutions to their day-to-day issues and help the youth enter the labour market through training and capacity building.

Another characteristic of the trade union movement is **its structured organisation**. In ILO Convention 87, it is clearly stipulated that trade union organisations have the right to establish federations and confederations. And every trade union organisation, federation or confederation has the right to join international workers' organisations. Trade union organising starts often at company level; these grassroots unions generally join a federation at the level of their sector. These federations then join a confederation at the national level and also often a sectoral federation at the international level. National confederations often join an international structure. The most well-known is certainly the '**International Trade Union Confederation**', better known as the ITUC<sup>46</sup>.

### 3.1.2. SOCIO-CULTURAL MOVEMENTS

Sociocultural movements organise people according to their socio-cultural status: as such, they include women's organisations, youth organisations, organisations of elderly people, farmers' organisations, etc. The founding of a sociocultural movement is also an expression of the freedom of association of its members as well as their commitment to be actors of social change.

Though trade unions are the first point of reference in the world of work, one can observe that workers around the world feel the need to organise into socio-cultural movements, for various reasons:

- People do not only need to defend their rights as workers. Women, youth, elderly people, migrant workers or farmers: these people also have other needs and specific aspirations. In the framework of 'their movements', which can often be real 'schools of life', they can express these needs and translate them into concrete actions through the 'see, judge, act' method.
- In some professional sectors, trade union organisations are not (very) present, for instance in the sector of domestic work, the informal economy, rural economies, free trade zones, etc. This absence can be explained by a lack of interest or by the difficulty of organising trade unions in a given sector. Often, though, there are socio-cultural organisations active in these sectors.

These sociocultural movements are also established with the purpose of being actors of social change at the local, national, regional and international levels. At present, WSM works with:

- **Youth movements**, where young workers from all walks of life meet regularly in base groups at the grassroots level. An important movement has been established by the '**Young Christian Workers' (YCW)**', which is in fact a space for discussion, sharing experiences, and permanent training<sup>47</sup>.
- There are also **movements where adult workers** of all walks of life meet to discuss their living and working conditions. These include women's movements, farmers' movements, etc. One important actor is the Christian Workers Movement (CWM) which also provides a space for discussion, for sharing experiences and permanent training<sup>48</sup>.

46. The International Trade Union Confederation (ITUC) is the most significant international trade union organisation, defending the interests of workers around the world. The ITUC was born at the time of its Founding Convention, which was held in Vienna from the 1st to the 3rd of November 2006. It groups the organisations that were previously members of the International Confederation of Free Trade Unions (ICFTU) and of World Confederation of Labour (WCL), as well as members of trade union organisations who did not have any international affiliation. The first mission of the ITUC consists in promoting and defending labour rights and workers interests through international cooperation between trade unions, international campaigns, and advocacy within the main international institutions. The regional organisations of the ITUC are the Asia-Pacific Regional Organisation (ITUC-AP), the ITUC Regional Organisation for Africa (ITUC-AF) and the American Regional Organisation (TUCA).

47. The YCW is currently active in 48 countries, it has 4 regional secretariats and 1 international secretariat. For further information, please see <http://www.joci.org/en.html>.

48. There are Christian Workers Movements (CWM) in over 50 countries; together they founded a global structure, the 'World Movement of Christian Workers', in 1966. For further information, please see <http://www.mmtc-infor.com/m/en.html>.

### 3.1.3. OTHER SOCIAL MOVEMENTS

In view of the context described above, other types of social movements develop which also seek to respond to the needs of their members, when it comes to protecting economic, social and cultural rights.

Amongst these movements, one can find cooperatives, mutual health organisations, human rights associations, micro-finance institutions, etc.

## 3.2 TRANSFORMATION AT LABOUR RIGHTS LEVEL

The challenges faced by social movements are enormous. This has been described in detail in the context analysis above. Social movements, trade unions and other organisations develop different strategies to realise transformation when it comes to labour rights. In brief, this transformation aims at developing labour rights, ensuring their appropriate implementation as well as denouncing and remedying violations of them.

### 3.2.1 THE DEVELOPMENT OF LABOUR RIGHTS

The fact that an important number of labour rights can be found in international human rights treaties, ILO Conventions, national constitutions and legislation as well as in collective bargaining agreements is an important achievement of social movements. Nevertheless, the world of work is permanently evolving and they continuously seek to make the legislative and regulatory framework evolve in the same way. Through social dialogue, bi- or tripartite, trade unions contribute to the development of new labour legislation; social movements undertake political actions and make proposals to policymakers for new laws.

Also at the international level, social movements contribute to the development of labour rights within the framework of the ILO. Trade unions work together with governments and employers during the annual International Labour Conference to develop new international labour standards in the form of conventions and/or recommendations.

### 3.2.2. THE APPROPRIATE IMPLEMENTATION OF LABOUR RIGHTS

#### **a. Compliance with legislation, conventions and recommendations**

A binding legislative and regulatory framework is not sufficient in itself. Social movements also want to ensure that these rights are respected, protected and guaranteed. They do so through social dialogue and by keeping an eye on the appropriate implementation of the legislation. Apart from that, they also take action, organise campaigns to draw attention to and improve compliance

with labour rights and they raise the awareness of their members about these rights.

This also includes the appropriate implementation of international conventions and recommendations. Developing conventions and recommendations is one thing, but the application of both is another one: they need to be ratified and implemented by national governments. However, that does not yet guarantee that they are well applied. Social movements also have an important role to play in this matter.

#### **b. Guidelines for multinational companies**

Globalization of production processes and corporate activities have forced governments and international organisations to develop other levers for the good application of labour rights, often under pressure and with the cooperation of social movements. Different international organisations (like the OECD, ILO and UN<sup>49</sup>) developed “guidelines for multinational enterprises”, to ensure the appropriate implementation of human rights, labour rights and environmental norms in their corporate activities. These different guidelines all have their own particular characteristics but are in general not binding and have only weak follow-up mechanisms.

#### **c. New instruments of international social dialogue**

Like social dialogue between workers and employers at national level results in collective bargaining agreements at company, sectorial or inter-professional level, international social dialogue has also produced results recently. Two kinds of agreements can be distinguished: International Framework Agreements on the one hand, which were negotiated in some multinational enterprises at



49. More information on guidelines: <http://www.oecd.org/corporate/mne/>; [http://www.ilo.org/empent/Publications/WCMS\\_094386/lang-en/index.htm](http://www.ilo.org/empent/Publications/WCMS_094386/lang-en/index.htm); [http://www.ohchr.org/docu-ments/publications/GuidingprinciplesBusinesshr\\_en.pdf](http://www.ohchr.org/docu-ments/publications/GuidingprinciplesBusinesshr_en.pdf)

### International Framework Agreements

An International Framework Agreement is an agreement between one or more representatives of a multinational enterprise on the one hand and one or more worker organisations or global union federation on the other hand. It includes mutual commitments regarding labour and working conditions, wages, the relations between workers, their representatives and employers, that are applicable to the different entities of the company across different countries. These agreements can have a European, international or mixed scope, but up until now they are not binding. Nowadays, there are about 230 such agreements which include measures on a wide range of themes. In the case of European agreements, it is often about job creation, the anticipation of restructuring, training and education, health and safety, human resources, subcontracting, gender equality. In case of agreements with an international dimension, applying also outside Europe, it often includes stimulating social dialogue, human rights, corporate social responsibility and respecting the fundamental labour standards of the ILO.

In 2013, the construction multinational Lafarge concluded an agreement with BWI and IndustriAll which is applicable to all Lafarge entities and activities around the world. In the agreement, the company recognizes the freedom of association and membership of a trade union, the right to collective bargaining and the importance of an open and respectful social dialogue. The agreement also includes measures on forced and child labour, the protection of migrant workers, the promotion of diversity and non-discrimination, social security, occupational health and safety, minimum wages. Lafarge also commits to communicate about and ensure compliance with the provisions of the agreement by its subcontractors and suppliers in the entire production chain. The agreement includes a complaint mechanism where complaints can be handled first at local and subsequently at international level<sup>50</sup>.

Such agreements can be an important instrument to improve compliance with labour rights worldwide. But then an efficient follow-up and control mechanism is essential. In that sense, it is important that trade unions from the different entities are in touch with one another and collaborate to turn the agreement into a real instrument.

the end of the nineties of the previous century. These are international or global agreements between the management and workers of the multinational enterprise, defining a number of basic rules and rights that apply to all entities of the enterprise, all around the world.

On the other hand, there are more recent international agreements specifically for a sector and/or a country. Nowadays there are two examples: the *Indonesia Protocol on Freedom of Association* (2011), which is an agreement between the Indonesian trade unions and international sports brands, and the *Bangladesh Accord on Fire and Building Safety*. This agreement was concluded in 2013 between the government of Bangladesh and trade unions, global unions and international clothing brands after the dramatic collapse of the Rana Plaza building.

In both cases, social movements play an important role. Trade unions and global unions put a lot of pressure on governments, international organisations and multinational enterprises to reach such agreements.

### **d. Fostering labour rights through international trade and investments**

Just like the global supply chain, the international trade and investment regime constitutes a big challenge for labour rights. In a globalized economy trade and investment agreements mainly serve the purpose of liberalising trade by eliminating as many barriers as possible, both tariff and non-tariff barriers. As a result, these agreements maintain and even increase the downward pressure on labour rights.

For social movements, the transformation they aim at is clear: how can these trade and investment agreements become levers for the better application of labour rights? Trade unions and social movements try to follow up these negotiations, which often take place behind closed doors, as good as possible. They take actions and launch campaigns, both for their members as for the politicians they negotiate with, and they push for enforceable social clauses. These should stop the “race to the bottom” of traders and investors who do not comply with international labour rights.

---

50. More detailed information on: [http://ec.europa.eu/employment\\_social/empl\\_portal/transnational\\_agreements/Lafarge-Global\\_FR.pdf](http://ec.europa.eu/employment_social/empl_portal/transnational_agreements/Lafarge-Global_FR.pdf)



#### e. Self-regulating initiatives

There is no doubt that, because of the globalization of their activities, companies have a social responsibility which goes beyond their own activities. Enterprises have launched initiatives themselves to promote their social responsibility.

*Corporate Social Responsibility (CSR)* gives enterprises the opportunity to integrate economic, ecological and social considerations, **spontaneously and without any obligation**, in their corporate policy. Unfortunately, the spontaneous and non-binding character of it results in as many good as bad examples of CSR.

That is why *trade unions and North-South organisations are more and more critical about CSR*. They feel that CSR wants to weaken or even do away with legislative and contractual provisions and replace them by non-binding instruments that do not have any legal value. It is the government's task, in consultation with the workers and employers' organisation, to introduce a binding framework and provide the necessary supervisory mechanisms.

'Multi-stakeholder initiatives' (MSI) are the most far-reaching form of self-regulation and companies adhere to them voluntarily. These initiatives have their own Code of Conduct and have an auditing mechanism to monitor compliance with the Code of Conduct. Most often they promote social and environmental standards, certify good practices and encourage dialogue between the different stakeholders. Such initiatives bring together business representatives, trade unions, civil society and in some cases also governments and international organisations<sup>51</sup>.

---

51. Definition of P. Utting, "Regulating business via multistakeholders-initiatives", <http://www.people.fas.harvard.edu/~hiscox/Utting.pdf>



### 3.2.3 DENOUNCING AND REDRESSING VIOLATIONS

Despite a vast international regulatory framework, violations of labour rights are a daily reality in many countries. These violations constitute a constant challenge for social movements worldwide. Denouncing, sanctioning and redressing these violations is therefore an important pillar of the transformation they aim for.

To that end, social movements dispose of a number of tools to take action, which range from exposing violations publicly to calling for international solidarity to denounce the most serious violations.

#### Conclusion

The relationship between workers on one side and employers on the other is unequal. Reaching a balance in this relationship implies first of all the collective organisation of workers. Individually, we have too little weight in the relationship with the employer. Organised, we can transform this power balance. What kind of transformation do they aim at?

In the field of labour rights, this transformation aims at:

- **The development of labour rights**, for which two things are crucial: there has to be a framework for dialogue, both at national and international level, and the stakeholders involved need to recognise each other. Each stakeholder should recognize that the others defend legitimate interests. The framework for dialogue has to allow consensus-building on the basis of these often opposing interests.
- **The appropriate implementation of labour rights**, which includes the obligations to respect, protect and guarantee these rights. Increasingly, social movements use different (international) means to promote the proper implementation of labour rights.
- **Denouncing, sanctioning and redressing rights that are not implemented and/or violated.**

In these fields, important progress has been achieved, thanks to **the continuous and courageous actions and struggles of numerous men and women** who have organised into workers' movements since the second half of the 19<sup>th</sup> Century. Nowadays, social movements worldwide share the responsibility of defending what they have achieved and responding to the challenges which they face:

- organising men and women working in the informal economy, in rural areas and in precarious employment;
- ensuring the empowerment of vulnerable groups, like women, youth, and migrant workers.

To face these multiple challenges, it is reassuring to observe that **these organisations are aware of the need to work in synergy or as part of a network**: trade unions and sociocultural movements need each other now more than ever to really create a social force which can take on its transformative role in dealing with political and economic forces.

As a result, we highlight the importance of an **inclusive social dialogue**. The principle of tripartism must remain the cornerstone of social dialogue. Trade unions, however, could open up for a closer cooperation with other social, representative organisations that organise people in sectors where trade unions are not or rarely represented nowadays. First of all, this cooperation should aim at taking joint positions regarding the needs of these working people. Secondly, the trade union could commit itself to defend the interests of these working people when they are in social dialogue with the employers and the government.

# 4

## TAKING A LOOK AT THE FIELD: THE STRATEGIES OF SOCIAL MOVEMENTS IN THE FIGHT FOR BETTER LABOUR RIGHTS

This chapter will illustrate how and therefore with which strategies and actions social movements contribute both to the development as well as the proper implementation of labour rights. Social movements around the world rely on different strategies and action models, often they use different ones at the same time to reinforce their impact: from the grassroots level – where individual workers are being organised in unions and other social movements – to the macro-level – where they seek to get a grip on global supply chains by promoting respect for labour rights. The examples given in this chapter demonstrate the broad spectre of strategies developed by social movements to achieve the transformation they seek.

### 4.1. THE STRATEGIES OF SOCIAL MOVEMENTS

- **Organisation and representation:** bringing together and uniting workers in a collective organisation is the first step to take. They join together their human and social capital, and thus reinforce their ability to analyse, judge, and act together, a sign of their empowerment. Together, they constitute the basis of a solidarity and social movement which will change the power balance between them and the other stakeholders in order to achieve the social changes they seek. Those who join the movement also give it the mandate to represent them and to defend their interests in their relation with the other stakeholders.
- **Developing and structuring the organisation:** for a social movement, it is essential to develop from the base to the top (bottom-up). To achieve this, they set up structures to promote the participation of the members as well as the democratic and transparent governance of the organisation. In as far as the movement develops and structures itself, it gains and consolidates its transformative power. As the movement develops and gains structure, it grows and consolidates its power to change. In that process, social movements must also see to it that they remain independent and autonomous from political parties and from employers organisations, in order to be the legitimate and representative defenders of the interests of their members.
- **Service delivery:** given the diversity of needs and interests of their members, social movements develop a range of adequate services. Examples of these services are training, legal services or building their members' awareness and knowledge of their rights - how to enforce them, how to negotiate them etc. In case of violations of labour rights, social movements often provide assistance to their members. This assistance can take different forms: calling upon the employer (by means of a written complaint or the labour inspection), mediation, legal advice or even a representation in case of litigation before a judicial body. There exist several mechanisms and procedures at national, regional and international level.
- **Social dialogue:** as indicated above, social dialogue includes all forms of bargaining, consulting or simply exchanging information between representatives of governments, employers and workers on different topics. Social dialogue is a joint instrument at political, economic and social level. As such, social dialogue is the most appropriate tool to improve living and working conditions as well as to promote greater social justice. Often the framework of social dialogue is also used for conflict resolution in case of problems occurring in the implementation of labour rights. Therefore, it is an instrument of democracy, which can contribute to better governance in numerous fields.
- **Collective action:** thanks to their collective weight, social movements can mobilise their members for collective actions such as awareness raising campaigns, mobilisations, protest marches, strikes, etc. With these collective actions, social movements bring forward their demands and demonstrate their members' support. Striking is an essential and legitimate tool for trade unions to promote and defend the interests of the workers: it is often used as a last resort, when all other strategies have proved inadequate.
- **Political action:** the proposals and demands of social movements regarding labour rights must also be endorsed by decision makers. By means of lobbying, social movements seek this support in order to put their priorities on to the political agenda.
- **Synergy:** faced with the complexity of the world of work (formal, informal, and rural economy) and the need to respond to the needs of all categories of workers, including women and youth, working in synergy and in a network becomes an increasingly important strategy for the different social movements. As an alliance, they often have a bigger impact in their bargaining position with the political and economic forces.



### Free the 23!

Early 2014, the Cambodian trade unions took to the streets for higher minimum wage in the textile industry. Unfortunately, the protest took a dramatic turn: four people were killed, 38 seriously wounded and 23 trade union activists, amongst them several leaders, were arrested.

Considering the gravity of the situation, C.CAWDU, the Cambodian trade union partner organisation of ACV-CSC and World Solidarity, called for international support to free the 23 trade union activists who were arrested. As a result, the **“urgent appeal machinery”** entered into force: several letters were sent to embassies and governments to demand the release of the arrested activists. On the 10<sup>th</sup> of February, different international trade union organisations and NGO's organised a global day of action. In Brussels, ACV, ABVV, ACLVB, World Solidarity, Schone Kleren Camapgne, FOS, Oxfam Solidarity and the International Trade Union Confederation (ITUC) gathered 200 militants before the Cambodian Embassy. Despite de worldwide pressure, the trade union activists arrested were not released.



*In February 2014, the Clean Clothes Campaign and its members took joint action in front of the Cambodian embassy in Brussels to call for the release of the 23 arrested trade union activists.*

At the same time, pressure was put on clothing brands to take position. Successfully, because brands like H&M, Adidas, C&A, Gap, Esprit and others sourcing from Cambodia, urged the Cambodian Prime Minister in a joint letter to restore social peace and pay a decent minimum wage.

Finally, the trade union activists were released on the 30<sup>th</sup> of May 2014. While they were convicted, their punishments were suspended.

During the International Labour Conference in June 2014, Cambodia was brought to account in the Committee on the Application of Standards for having violated the freedom of association.

## 4.2. INTERNATIONAL SOLIDARITY

It is important that social movements all around the world can rely on each other and can form networks of international solidarity. Workers worldwide are not competing against each other. On the contrary, the well-known “race to the bottom” demonstrates that international solidarity between workers around the world is essential for putting an end to and reversing the unlimited pressure which weighs on labour rights. As a result, WSM and ACV-CSC support many social movements in Africa, in Latin America and in Asia in a structural manner. This support aims at helping them and their members to develop the most adequate strategies and actions to strengthen the development and appropriate implementation of labour rights in their context.

In order to reinforce this link of international solidarity, WSM and ACV-CSC mobilise their members, militants, collaborators and volunteers in the framework of the following actions:

- **Technical and financial support for social movements in Africa, Asia and Latin America** allows them to develop their own capacities and to set up their own strategies relating to labour rights.

- **Campaigns and communication** aim to raise the awareness of members and activists of the Christian Labour Movement about the importance of the struggle of our partner organisations for the respect of labour rights.
- **Research** aims at gathering the experiences of our partner organisations as well as the “best practices”, so as to be able to make strategic choices about reinforcing the impact of actions in the field.
- **Advocacy** is intended to put the respect, protection and guarantee of labour rights on the political agenda at national, regional and international levels, while also having the fundamental role of social movements in this field recognised.

## 4.3. TAKING A LOOK AT THE FIELD

The case studies that follow underline the diversity of approaches by different social movements in terms of labour rights. A movement identifies its strategy and actions in relation to several elements: the target group, the challenge at stake, and the positioning of the other stakeholders.



## 1. FREE-TRADE ZONE = ZONE WHERE LABOUR RIGHTS CAN BE FREELY VIOLATED?

### 1.1. GENERAL ISSUE

**Export Processing Zones (EPZs)** are official zones in certain countries, the objective of which is to attract export companies by offering them **tax benefits, cut rates and statutory benefits**. Specific benefits generally granted in Export Processing Zones are, amongst others:

- Total or partial exemption of export taxes;
- Total or partial exemption of customs duties on import of raw materials or intermediate goods;
- Exemption of direct taxes like taxes on profits; etc.

Sometimes other, though less transparent, measures, characteristic of EPZs, are used to encourage companies to invest and export.

**It is often a statutory but flexible framework, also when it comes to complying with labour rights and standards.** A recent ILO report shows that workers in EPZs in many countries can-

not efficiently exercise their freedom of association because of anti-trade union and discriminating measures, like illegal dismissal, suspension, illegal blacklists of trade union representatives and members, physical violence to prevent workers from setting up or affiliating to a freely chosen trade union. The lack of effective law enforcement in the EPZs<sup>52</sup> often reinforces this problem.

### 1.2. SOCIAL MOVEMENTS IN ACTION

There are EPZs in Africa, Latin America and Asia. In all 3 continents there are trade unions, sociocultural organisations and human rights organisations, supported by WSM and ACV-CSC, which focus on this issue. Their main concern is organising workers in trade unions and making sure that labour legislation is being complied with.

---

52. W. Milberg and M. Amengual, *Economic development and working conditions in export processing zones: a survey of trends*, ILO, Geneva, 2008, pp. 32 ff.





At the end of December 2010 and the beginning of January 2011, SADD launched a huge solidarity campaign with the workers of Sprukfield. Several national and international organisations, including WSM and ACV-CSC, denounced the situation to the Ministry of Labour and the SAZOF management. At the same time, SADD and CSTT mobilized the workers and organised press conferences. They even called out to the Prime Minister of Togo.

#### A. SADD AND CSTT IN TOGO ARE GRADUALLY IMPROVING THE SITUATION

Solidarity and Action for Sustainable Development (SADD - Solidarité et Action pour le Développement Durable) is a citizens movement in Togo and was founded in October 2001 by former representatives of the Young Christian Workers (YCW) in Togo.

Since 2008, SADD has done a huge job together with the Trade Union Confederation of Togolese Workers (CSTT - Confédération Syndicale des Travailleurs du Togo) in the Free-trade zone of Togo. It resulted in the **foundation of a trade union in 3 companies and a joint forefront between 2009 and 2010.**

Sprukfield is a company specialised in making pharmaceutical products (capsules, syrups, pills ...). Since 2007 the company has been located in the Free-trade zone and employs 132 people who work in very precarious working conditions: they don't have a written employment contract, not even after having worked for 4 years without interruption. Sometimes workers are dismissed without being informed beforehand or without rights, sometimes contracts are ended and renewed on the discretion of the employer and according to the market needs. Workers do not have the right to take holidays and are obliged to work between 57 to 63 hours a week, without the extra hours being paid. Women workers do not have the right to take maternity leave. Health and safety at work are not taken serious, while trade union representatives are not recognized by the management.

##### The strategies of SADD and CSTT

- Organisation and representation of the workers
- Joint action
- Offering legal advice

In order to denounce the violation of their rights, **120 workers of Sprukfield decided to go on strike on the 9th of November 2011.** Negotiations started on the 15<sup>th</sup> of November but failed because the terms of the companies were unacceptable for the workers: they were asked to send a letter to the employer in which they stated that the trade union representatives obliged them to go on strike and to accept remuneration for the striking days as a

severance pay in order to be recruited again by the company. **All 120 workers, 3 of whom were trade union representatives, were dismissed** with approval of the "Administration of the Companies in the Free-trade Zone". (SAZOF- Société d'Administration de la Zone Franche).

Because of the national actions and international pressure, a tripartite committee (representatives of the SAZOF management, the employer and trade union representatives) was formed in the beginning of February 2011 in order to find a solution. In May 2011, the committee reached an agreement, approved by the cabinet of the Prime Minister, which required that the dismissed workers would be re-integrated. But during a local visit in November 2012, WSM and ACV-CSC found that only 12 workers were back at work. As a result, a press conference was organised with a clear message of the trade unions of the Free-trade zone: immediate reintegration of all 120 male and female workers.

It is a ray of hope that since September 2012 the trade union confederations, SADD and the employers of the Free-trade zone have negotiated a **"sectorial collective bargaining agreement for the Free-Trade zone"**. This Collective Bargaining Agreement, signed on the 16<sup>th</sup> of October 2012, regulates the working conditions in the Free-trade zone and entered into force on the 1<sup>st</sup> of January 2013. For the workers of the Free-trade zone and for SADD and CSTT it is an important legal basis to improve respect for labour rights. But there is still a long way to go. Despite the force of the law, the Sprukfield management does not comply with its terms. Three and a half years after the tripartite agreement of May 2011 to reinstall the dismissed workers and two years after the collective bargaining agreement for the Free-trade zone, only 12 of the 120 dismissed workers were back at work; in the meantime 8 of them are unemployed for an undetermined period due to "technical reasons" – which actually comes down to a hidden dismissal.

Moreover, the working conditions have even worsened, because the employer does not comply with the agreements made. Workers are continuously dismissed and recruited again so the employer doesn't need to give a permanent contract to workers who, according to the labour law, qualify for a permanent contract. On the 1<sup>st</sup> of July 2014, sixty workers have filed an appeal against the company for having violated the right to take holidays, in spite of



the legal and other regulatory dispositions on this topic. Up until now, December 2014, three hearings have taken place but there is still no clear answer.

## B. THE “MAQUILAS”: AN EXAMPLE OF MODERN SLAVERY

The *Maquilas* – literally ‘assembly plants’- are a typical phenomenon of Central America, Guatemala being the number one. They are large companies owned by foreigners that governments attract with low taxes, exemption of social contributions and sometimes even free company infrastructure. Guatemalan law stipulates that during the first ten years a *maquila* does not have to pay any taxes on the rent of infrastructure. Most of the *maquilas* are located in free-trade zones. The International Trade Union Conference says Guatemala is the worst pupil in Central America when it comes to complying with labour rights and says the entire *maquila* sector in Central America is against trade unions. As a result, in Guatemala trade unions exist only in some companies and their job is being complicated in all possible ways not only by the companies but also by the government.

### The KOA MODAS case

In KOA MODAS, a medium-sized textile company, some brave workers decided to create a trade union. From the beginning they were sabotaged and eventually their initiative ended up in an illegal collective dismissal.

First of all, it took ages before the trade union was recognized: more than a year, from December 2011 to January 2013, while according to the law the deadline is twenty working days. When the employer was aware of the plans, the personnel manager called the administration of the trade union, trying to bribe them in exchange for ending their demand for recognition. When the trade union did not accept this, its first members were dismissed: in April 2012, 13 of the 45 trade union members were fired on the spot. One year later, in June, 32 other members were fired, after the Guatemalan Trade Union Confederation CGTG had mentioned the case during the hearing on Guatemala for the Commission on the Application of Standards during the International Labour Conference. The Minister of Labour suddenly promised to negotiate the case, but up until now nothing much has been done.

Despite that, the trade union has continued its actions, which convinced other workers to affiliate. They filed a complaint with the labour inspection because the company fails to pay social contributions. Of the 1.200 workers, only 300 were paid social security. The other 900 do not receive contributions for medical care but will also not receive pension at the age of 65. In all, six complaints were filed with the labour inspection: salaries and contributions that were not completely paid; social contributions that were not declared; dismissal because of membership of the trade union CGTG; threats and intimidation of the employer and its confidential advisor; threats to close down the company.

#### The strategies of CGTG

- Organizing and representing workers
- Offering legal advice
- Carrying out political actions



*The trade union's work in Guatemala cannot be taken for granted. Nevertheless, CGTG, a partner of World Solidarity and ACV-CSC, strives tirelessly for better working conditions.*

### Follow-up of CGTG

The trade union CGTG has been following the case for several years now and has filed several complaints with the Public Prosecutor because KOA MODAS does not comply with the judicial orders to recruit the 45 dismissed workers. CGTG also gives legal advice during hearings, offers protection in different cases and accommodates trade unions which are threatened. Moreover, the trade union demands a broader investigation of violence against and intimidation of female workers.

CGTG works actively with the group of *maquiladoras* – the female workers of the *maquilas* – and organizes meetings every week. Several single women who got fired were supported by the CGTG to set up a small micro company and, as a result, create an alternative source of income.

Up until now, only two of the 45 workers fired have been re-employed. The aim of the CGTG is to get all workers who got fired back to work. The fact that the workers recruited are pressured to resign under the promise that they will receive compensation, shows that it is not that simple. KOA MODAS tries to keep its company free from trade unions. But even in this difficult context, CGTG does not give up and continues its fight.

In many *maquilas* too little attention is given to *feminicide* or the killing of women for being a woman. A large group of young female workers of the *maquilas* has been victim of feminicide: between 2000 and 2010 Guatemala registered 6.717 victims of feminicide.

Five of the twelve countries with the highest rate of feminicide are Latin American countries, but despite the seriousness of the problem, this brutal form of violence against women hardly gets any political attention.

## 2. DOMESTIC WORK: FINALLY RECOGNITION AFTER A LONG BATTLE

### 2.1. GENERAL PROBLEM

Domestic work is one of the oldest and most important activities of millions of women all around the world. The ILO estimates that worldwide 53 million people are employed as domestic workers. Other sources say 100 million people because many countries do not have reliable statistics and do not count children as domestic workers<sup>53</sup>, 85% of them being female.

Unfortunately, this kind of work is not recognized: on the economic level it is not regarded as a “normal job”, and on the sociocultural level it is regarded as something “typical of women”, the consequence being that in many countries domestic violence is not recognized or defined in national labour legislation. Whenever workers are protected by the law, the law is not properly applied for several reasons, for example because a house is not recognized as a place of work.

**Many social movements in all continents organize domestic workers.** They support them and show them they are not on their own. They make them aware of their rights, which most of the domestic workers don't know. Moreover, they show them that they have the capacity to change their situation and be actors of their own development.

Their persistence has had positive results: by organizing and mobilizing these workers, who by doing so were given a face and a voice, their inhumane working conditions in the sector were put on the agenda of the international community. On the 16<sup>th</sup> of June 2011, the International Labour Conference approved Convention 189 and Recommendation 201, which for the first time in history offer a regulating framework for domestic work.

Convention 189 recognizes domestic work as work as such and gives domestic workers the same rights as other categories of workers<sup>54</sup>: freedom of association, the right to collective bargaining, a minimum wage, social security and protection of maternity, one day off a week, annual leave, etc. Moreover, Convention 189 stipulates that labour inspection should be possible, even if this kind of work is done in private houses. Recommendation 201 calls on the ILO member states to finally make sure that domestic workers in diplomatic positions are really protected.

### 2.2. SOCIAL MOVEMENTS IN ACTION

#### A. FROM SOCIAL MOVEMENT TO TRADE UNION IN INDIA

Many social organizations focus on domestic workers in India, but it leaves no doubt that the “National Domestic Workers Movement” (NDWM) is a pioneer within the sector. Since it was founded 27 years ago, the organization has organized more than 2 million members, children and migrants included, in no less than 17 states. Based on this enormous experience, NDWM participated in the negotiations on Convention 189 and Recommendation 201.

#### **From an international convention to a national legislation**

Since June 2011, NDWM organizes at the right moments political actions to ratify C189 and turn both labour standards into a fitting regulation. In India there are different states where domestic work is recognized and where specific labour legislation exists<sup>55</sup>. But the central government keep its distance. Nevertheless, NDWM has been successful in a number of cases.

#### **Extending the public health insurance to domestic workers was an important breakthrough for the central government in June 2011.**

As a result, domestic workers and their families are better protected against expenses that, in case of illness, can sometimes be very high. A domestic worker and her family (up to 5 people) have now right to medical care for the amount of Rs. 30.000 per year (393 EURO). The insurance contribution is divided: domestic workers pay Rs. 30 membership fee every year (0.39 Euro), the other costs are covered by the central government (75%) and the states (25%). Currently, NDWM puts a lot of its energy in sensitizing state governments, which now have to put the system into practice, for example by drawing up and distributing the membership cards. Furthermore, the movement trains its members so they know their rights that count within the new insurance system.

#### **In September 2012 the Indian Parliament decided to extend the application of the Law on Sexual Harassment in the Workplace to domestic work,**

which was an enormous victory for NDWM because every day domestic workers are victim of sexual harassment, just because their “workplace” is so invisible. This should open the way to make cases of sexual harassment public and to pursue possible offenders.

But the battle for a national policy framework for domestic workers remains top priority for the movement. In July 2013, they handed over 120.000 signatures to the Minister of Labour and

53. <http://www.ilo.org/global/topics/domestic-workers/lang--en/index.htm>.

54. 16 countries have currently ratified Convention 189. For an overview: [http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0:NO:11300:P11300\\_INSTRUMENT\\_ID:2551460](http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0:NO:11300:P11300_INSTRUMENT_ID:2551460). Other countries, like Brasil, Spain, Thailand and Zambia have adapted their legislation.

55. Seven states, including Andhra Pradesh, Bihar, Jharkhand, Karnataka, Kerala, Odisha and Rajasthan, have introduced a minimum wage for domestic workers. In Kerala, Maharashtra and Tamil Nadu a “Board for Well-being” was set up where domestic workers can register themselves and ask the Board payment of social contributions. Despite the efforts, however, a large majority of the foreign workers is not yet covered by the labour legislation.



they had several meetings to convince members of Parliament of the importance of such a framework.

### **From social movement to trade union**

An international convention exists. Hopefully there will soon also be a national legislation. This means that a domestic worker is basically recognized as a worker who has labour rights. It does not necessarily mean that labour rights are respected. Domestic workers understand that very well. And for NDWM it has already been clear for a long time: to assert your labour rights, an active trade union is indispensable.

#### **The strategies of NDWM**

- Organization and representation
- Structuring the movement and training to become trade union
- Collective and political actions

In October 2010, it was therefore decided to create a trade union named NDWU (National Domestic Workers Union). A steering committee took the lead of the process and organized trainings on trade unions all over the country. They got technical support and support regarding content of their colleagues of ACV-CSC Food and Services (*ACV-CSC Voeding and Diensten*). Trainings found their way to different parts of the country, which resulted in the success of solid trade union work within the broader movement.

**Finally, on the 9th of October 2013, the National Domestic Workers Trade Union Federation (NDWTUF) was officially launched.** It is the first trade union federation that consists of and is led by domestic workers – a first in India. There are currently 7 states affiliated to the federation, and in 3 states there is a growing interest in affiliating. During the last General Assembly of November 2014, the official name was shortened to “**National Domestic Workers Federation**” (NDWF).

#### **B. THANKS TO THE ILO, THE DOMESTIC WORKERS OF NIGER HOPE FOR A BETTER FUTURE. BUT DO GOVERNMENT AND EMPLOYERS AGREE?**

In 2007, the “Nigerian Confederation of Work” (CNT – Confédération Nigérienne du Travail or the Trade Union of Niger) and the “Christian Workers Movement (CNT – Mouvement des Travailleurs Chrétiens)” made a study which showed that of the 500 families questioned in the cities of Niamey and Dosso, 98% employed domestic workers who, however, did not enjoy the same basic rights as other workers.

The study was the beginning of different actions: collective organization of the domestic workers, trainings on labour rights as well as lobby and policy work with the government for a specific collective bargaining agreement to be negotiated that takes into account the characteristics of this profession.



*Members of National Domestic Workers Movement demonstrating with posters for the ratification of ILO's Convention on Decent work for domestic workers.*

#### **Strategies of CNT Niger**

- Organization of domestic workers
- Collective actions
- Legal assistance

As a result the first trade union of and for domestic workers was founded (SYNTRAMAN) with representatives in the 5 districts of Niamey. Apart from that, CNT Niger provided a permanent consultation forum between the trade unions and other social organisations that fight for the rights of domestic workers. On the 1<sup>st</sup> of May 2009, the former Minister of Work reacted positively when he was proposed a specific Collective Bargaining Agreement, but the coup d'état spoiled it.

This didn't stop CNT Niger to lobby, together with ACV-CSC and WSM, during the International Labour Conference of 2011 to get a firm Convention and Recommendation. Apart from that, it still offers its services, including giving legal advice, to domestic workers:

- 20 violations of labour rights were filed with the labour inspection, which resulted in the restoration of 17 people's rights: in some cases their dismissal was rectified, others affiliated to the National Social Security Service or got a written contract.
- In 38 cases, domestic workers were reemployed in accordance with the relevant labour legislation.

CNT Niger keeps on fighting for the ratification of Convention 189. They managed to have the “Social-Economic Board” of Niger make a recommendation to the government. In parliament they have found several supporters who are willing to demand explanations from the Minister of Labour.

Apart from that CNT Niger tries to win public opinion on its side by making gadgets such as table-mats for plates and glasses. This helps to easily draw attention to the topic. They also made their opinion publicly clear during several radio and television broadcasts.

### C. JOC PERU: THE YOUTH TAKES CONTROL

In Peru, domestic workers represent an important part of the working population. According to the Ministry of Work, there are about 450.000 people, other sources say 700.000, 89% of whom are native women and children who migrate from rural areas to the cities to escape poverty.

Because so many children work in this sector, the Young Christian Workers of Peru (JOC Peru) decided more than 40 years ago to do something for them. In the beginning, they organized mainly sociocultural activities during their day off. As of the 70s, they tried to convince them to found their own trade union. Together with other social organizations, a first founding congress was organized in 1973, but the Ministry of Work refused to recognize the trade union. They had to wait until 2006 for the first trade union of and for domestic workers, SINTRAHOGARP, to be legally recognized.

In the meantime, JOC Peru lobbied together with other social organizations of and for domestic workers to improve the situation of domestic workers. As a result, the law of the 2<sup>nd</sup> of June 2003, better known as “**Act n°27986 on Domestic Workers**” was elaborated and approved by Congress. Even though the Act did not meet all the requirements of the domestic workers and their representative organizations, it was a step in the good direction: a working day of 8 hours (Art 15), one day off a week (Art.10), paid holidays (Art.12) and obligatory membership of social security (Art.18) were officially recognized.

JOC Peru also keeps on offering services to domestic workers, especially through the “Institute for the Promotion and Training of Domestic Workers (IPROFOTH), which gives **trainings on labour laws** to all young girls who arrive in the capital. They also have **a nursery** where their children can stay during the day while they go to work in private houses.

#### Strategies of JOC Peru

- Organisation of Domestic Workers
- Political lobbying
- Trainings and offering services



*The image of the Women, Life and Rights campaign.*

Since the adoption of C189, JOC Peru and its partners have founded the “Collective of Domestic Workers in Peru”<sup>56</sup>. This group keeps fighting for the ratification of the Convention and adaptation of Act N°27986 regarding Domestic Workers to the Convention. In October 2013 they organized a parliamentary session in Congress: all 200 female participants made the members of parliament clear how important the ratification of Convention 189 is for them.

Moreover, the campaign “Women, Lives and Rights” helped the network between JOC Peru and its Peruvian partners on the one hand and the “National Federation of Domestic Workers in Bolivia” (FENATRAHOB) on the other hand. Exchanges were regularly organized in Peru and Bolivia to learn from each other’s experiences and to support each other’s policy. As a result, Bolivia ratified Convention 189 on the 15<sup>th</sup> of April.

At the continental level, the “Trade Union Conference of the Americas” (TUCA) and the campaign “Women, Lives and Rights” joined forces regarding their aim to achieve ratification of Convention 189. At the end of 2013, they again demanded an explanation from the representative of the Peruvian Ministry of Work, handing over 150.000 signatures proving the support for their demand.

#### The campaign Women, Lives and Rights

This campaign was launched by 22 partner organizations of WSM in Latin America between 2009 and 2013, the aim of which was triple:

1. Informing women on their labour rights and how they can defend these.
2. Raising awareness with employers’ organisations to introduce an internal policy in favour of an active and representative participation of women, particularly in authorities with power of decision.
3. Countries in Latin America ask to ratify certain ILO Conventions which are relevant for the promotion of equality between men and women, amongst others Convention 189.

56. The “Collective on Domestic Workers in Peru” consists of the National Trade Union of Domestic Workers in Peru (Sindicato Nacional de Trabajadoras del Hogar del Perú, SINTRAHOGARP), the National Federation of Domestic Workers in Peru (Federación Nacional de Trabajadoras del Hogar del Perú, FENATRAHOGARP), the Training centre for Domestic Workers (Centro de Capacitación de Trabajadoras del Hogar, CCTH), the institute for the Promotion and Training of Domestic Workers (Instituto de Promoción y Formación de las Trabajadoras del Hogar, IPROFOTH), the Young Christian Workers (Juventud Obrera Cristiana, JOC), the National Association of Workers (Asociación Nacional de Trabajadoras, ANTRA) and the International Federation of Domestic Workers (IDWF).

### 3. THE INFORMAL ECONOMY: THE CONGOLESE TRADE UNION ORGANIZES INFORMAL WORKERS

Exact figures of the impact of the Congolese informal economy do not exist. It is generally said that about 80% of the population works in the informal economy, but in reality it may be more. Probably everyone in the Democratic Republic of Congo – except babies, children who go to school, sick and old people – works, although in the informal economy. Even people who work in the public or private sector, which, according to the Congolese Central Bank<sup>57</sup> comprises about 3% of the active population, often earn some extra money in the informal economy.

The CSC, the Trade Union Confederation of Congo (*Confédération syndicale du Congo*), tries to gradually organize the numerous workers in the informal economy to defend their interests. They focus in the first place on some specific sectors in big cities like Kinshasa and Lubumbashi: motorcycle taxis, money dealers, market vendors, street restaurants, informal hairdressers, etc.

#### **The money dealers or “cambistes”**

“*Les cambistes*”, as they are called, dominate the informal capital market. It is said that in Kinshasa there are already more than 10.000 of them. They deal money on the street – Congolese Franks, Euros, and American Dollars. Every day millions pass through their hands. Congolese people don't trust the regular bank system. As only 15% of the population has a bank account a big part of the market is available for the money dealers.

Informal is not a synonym of illegal or irregular. The money dealers have organized themselves; they have a policy that determines the rules of the game. Every morning the exchange rate is determined, but from that point on everyone goes his own way. For them safety and security are very important; otherwise they risk falling victim of crime, extortion and corruption. Many money dealers are members of a trade union, where they learn to defend their interests together. CSC propagandists go on the street to convince money dealers to affiliate to a trade union and form base communities. In 2014, more than 2.000 money dealers were sensibilized and about 1.500 followed training with the trade union. It led, amongst others, to the foundation of a new trade union group with ten departments in the district of Gombé in the heart of Kinshasa. CSC gives training to the trade unions about labour rights, about how to manage small enterprises, save money, but also on how they can enforce access to health care by getting organized in mutual health organizations.

#### **The Gambela market**

The Gambela market is located in the district of Kasa-Vubu and is one of the many markets of Kinshasa. About 5.000 market vendors work 7 days out of 7, from 6 a.m. until 5 p.m., selling their products. This is 100% informal economy. The CSC tries to intervene in this sector, just like in the other 103 (at a rough estimate) markets in Kinshasa. The biggest markets employ up to 20.000 vendors. Their main task is to support, sensitize and protect their members. The two biggest challenges for the market vendors are illiteracy – which makes it very difficult for the market vendors to run their business – and threats from other market vendors.

Eight hundred of the 5.000 market vendors of Gambela are affiliated to the CSC. They get training from the trade union on how to better manage their market activities and the trade union speaks in defence of the market vendors with the market management (“*Maman administratrice*”) in case of conflicts with other market vendors.

2014 has been an important year for the CSC<sup>58</sup> activities on the informal markets: for the first time in Congolese social history, social elections were held in the informal economy, more particularly in the markets of Kinshasa. Elections were organized by the local councils. The CSC ended up winning the elections, giving them the formal mandate to negotiate and reach agreements with the local government on health care, security, taxation, etc., in the name of the informal workers.

The CSC asks that such social elections are also organized in other sectors of the informal economy, starting with, but not limited to the motorcycle taxis and carpenters.



57. [http://www.bcc.cd/downloads/pub/rapann/Rapport\\_annuel\\_2012\\_bcc\\_RDC.pdf](http://www.bcc.cd/downloads/pub/rapann/Rapport_annuel_2012_bcc_RDC.pdf)  
58. Numbers from 2012.



## 4. THE STRUGGLE FOR CLEAN CLOTHES

### **Bangladesh. Where trade unions can save lives.**

On the 24th of April, the inhumane circumstances of the Bengali textile sector were front page news all over the world. The Rana Plaza building had collapsed, killing 1.138 garment workers and injuring thousands of others. Less than a month later, famous brands, trade unions and NGOs – amongst others the “Clean Clothes Campaign” signed the so-called “Accord on Fire and Building Safety in Bangladesh”. Up until today, more than 180 brands who signed the accord, agree to a binding program to improve safety in the factories in which they produce.

However, the story of the “Safety Accord” started a lot sooner. The *Rana Plaza* collapse was not the first disaster in the textile industry of Bangladesh. In November 2012, the *Tazreen* garment factory not far from Dhaka burnt out, killing 120 people. A fire in the Garib & Garib Factory in November 2010 killed 21 garment workers. On the 11<sup>th</sup> of April 2005, the three top floors of the *Spectrum* factory, also a producer of garments, collapsed. They were illegally built on top of the factory, which resulted in a lousy security and no ways to escape. The three floors collapsed, killing 64 garment workers and injuring 80 others. The last 25 years at least 2.200 people got killed in 300 incidents. International brands are more and more under pressure to produce cheaper and faster, at the expense of labour rights and safety standards. The local government wants to keep investors in its country at any time and ignores the situation. Bangladesh depends on the textile sector for 70 to 80%, employing about 4 million workers, 80% of whom are women.

After the fire in the Garib & Garib Sweater Factory, the International Textile, Garment and Leather Workers’ Federation (ITGLWF – now part of IndustriALL) and the Bengali trade unions, the international Clean Clothes Campaign and three other NGOs elaborated proposals to improve the fire and building safety. Still it took 2 years to have the first two brands sign the predecessor of the Agreement.

### **Rana Plaza: a turning point**

On the 5th of May 2013, two weeks after the Rana Plaza building collapsed, IndustriALL, UNI and the International Clean Clothes Campaign and some other NGOs put a new text on the table, which was mostly based on the principles of the previous agreement, keeping in mind some preoccupations of the garment factories. On the 13<sup>th</sup> of May, H&M, the largest buyer of clothes from Bangladesh, signed the Agreement. In the meantime, the Safety Agreement has been signed by more than 160 fashion brands and garment companies, 2 global unions (UNI and IndustriALL) and several Bengali trade unions. The international Clean Clothes Campaign and 3 other NGOs have signed the Agreement as witnesses. The ILO acts as “independent chair”.



*After the Rana Plaza disaster, World Solidarity conducted a public campaign on clean clothes in 2014. People were asked to symbolically give their clothes labels in order to lobby the companies for better working conditions in the garment factories in Bangladesh and other countries. This campaign motivated the Belgian clothing chains JBC and Bel&Bo to join the multi-actors initiative Fair Wear Foundation.*

The agreement includes the following elements:

- Independent and transparent inspections of factories, with reports being published
- Improving defects on the buildings is obligatory.
- It is allowed to found trade unions in the factory.
- Committees on safety and health must be founded for workers
- Workers must have the right to refuse work that is not safe (in line with ILO convention 155).

### **A beginning**

The signing of the Safety Agreement shows the success of a structural approach. For years the International Clean Clothes Campaign, together with trade unions and NGOs, has taken the lead in its fight for safer factories in Bangladesh, also when brands didn't want to collaborate. Thanks to the hard work done, a complete text was put on the table just when the international brands were ready for it. The Clean Clothes Campaign in Flanders has contributed to the success as it put pressure on the brands to sign the Safety Agreement.

But signing the Safety Agreement doesn't mean all work is done: the Clean Clothes Campaign watches whether the Agreement is complied with and keeps putting pressure on companies that buy their clothes in Bangladesh to sign the agreement and, more important, to comply with it. Hopefully the agreement can be a good example for resolving other problems in the garment sector such as the lack of a minimum wage and short term contracts in several producing countries like Cambodia, Pakistan, China, Indonesia and Myanmar.

## 5. LABOUR RIGHTS OFF SIDE IN THE INVESTMENT AGREEMENT WITH QATAR

In 2022, Qatar will be organizing the World Cup Football and it is not saving money or efforts to build stadiums and infrastructure. Lucrative contracts can be obtained, also for Belgian investors who are encouraged by the Belgian government, which signed an investment agreement with the Qatari government in 2012. The agreement protects Belgian investors but does not really guarantee respect for labour rights for millions of migrants who work in Qatar.

Moreover, enormous investments in the run-up to the World Cup will attract more migrant workers than ever, about 1 million extra of them. Qatar counts 1,7 million inhabitants, 85% of whom are migrant workers (mostly from the Philippines, South-East Asia, East Africa). They represent 94% of the working population but their working conditions are very bad. Most work and live in inhumane circumstances, depending on the moods of their employer. They need to hand over their identity papers to prevent them from leaving before their contract expires; they are insufficiently protected by the current legislation and don't have the right to organize themselves. Trade union organizations are prohibited. According to the ITUC, in 2011 only, 162 Nepalese workers lost their lives, because of suicide and working accidents. In 2013, the total number of deaths was more than 1.200 workers. Three thousand Bengalis were arrested and deported for demanding a wage increase.

### **Trade and investment agreements: springboard to promotion of labour rights?**

The World Cup Football shows that the investment agreement with Qatar involves big economic interests. At the same time, however, it shows that such agreements pay far too little attention to their social impact and the fact that they do not guarantee that companies respect labour rights.

Since 2011, the Belgian Coalition for Decent Work has taken action to bring the lack of attention to labour rights in the agreement to the attention of Belgian policy makers. Letters and documents on the lack of rights for migrant workers in Qatar were sent to policy makers who negotiated the agreement and were expected to approve it afterwards. The Coalition for Decent Work regularly highlighted the theme in the press, which made policy makers aware of it.

In June 2012, all this resulted in a hearing, organized by the Belgian Senate, on the investment agreement with Qatar, which the government put forward to be ratified. The Coalition for Decent Work asked experts to testify on the horrible working conditions of migrants in Qatar and the risks involved in the investment

## Revealed: exploitation of Qatar's World Cup 'slaves'



*The appalling working conditions of numerous workers migrating to Qatar did not escape the global media's attention, as shows this article in the British daily The Guardian. In Belgium too, the Decent Work coalition led a campaign in order to improve these migrant workers' lot.*

agreements for social and environmental rights and general policy measures. The current investment agreements already include social and environmental clauses but without the necessary control mechanisms it is just keeping up appearances and of no value for the workers. Moreover, workers whose rights are violated, don't have access to the international procedures that can be enforced.

Despite the critical hearing, the Senate eventually approved the agreement. But the Coalition for Decent Work did not leave it at that. On the 7<sup>th</sup> of October 2013, on the occasion of the World day for Decent Work, the coalition, supported by an international campaign of the International Trade Union Confederation - ITUC<sup>59</sup>, organized a football match in front of the building of the Belgian Football Association, the motto being "Don't play with the lives of the workers". The Belgian Football Association promised to raise this with the FIFA and, by doing so, put pressure on Qatar to improve the respect for labour rights of millions of migrant workers.

The Belgian Minister of Foreign Affairs Reynders did not remain deaf to the pressure of the Coalition for Decent Work. Although the agreement has not been renegotiated to include binding social clauses, Minister Reynders expressed Belgium's concerns regarding the bad working conditions of migrant workers in Qatar

59. The campaign of the International Trade Union Confederation is "Re-run the vote: No World Cup without labour rights" and is still running today. More information can be found on <http://www.rerunthevote.org/?lang=en>

to his colleagues in Qatar in March 2014. According to the Coalition for Decent Work this was not enough to improve the situation of the migrant workers but it was a step in the good direction and a first result of many campaigns and much lobby work. World Solidarity and the Trade Union Federation ACV BIE (Building, Industry and Energy) keep a close eye on the theme, together with the trade union partner organizations in India, Bangladesh and Nepal, countries from which many migrant workers in Qatar come.





