

Tripartite Meeting on the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), in relation to the right to strike and the modalities and practices of strike action at the national level

Geneva, February 23-25, 2015

Statement of the United States

We would like to thank the Director-General and the Office for their work in preparing this special tripartite discussion on the right to freedom of association and the right to strike. It is our sincere hope that we can agree on a way forward within the confines of this organization, and we commend all parties participating in this session for working toward that end.

We recognize that, in its current formulation, the question of the relationship between Convention 87 and the right to strike is connected to that of the mandate and role of the ILO's Committee of Experts on the Application of Conventions and Recommendations. Regrettably, that has impelled some to question the functioning of the Committee of Experts, and even other supervisory bodies.

The United States Government views the ILO supervisory system as a unique and essential element of the ILO's mandate and mission. For over six decades, every United States administration has strongly endorsed and supported this system. The ILO's longstanding and well-respected supervisory system -- regarded as one of the most advanced and best functioning within the international community -- has served the interests of governments, workers and employers throughout the world, and of democracy itself.

As we address the issue of the right to strike, it is vital that we do so in a manner that will strengthen, not diminish, the effectiveness, credibility, and integrity of the ILO supervisory system.

A key concern of the ILO has always been the real-world impact of the instruments it adopts; and the role of the supervisory machinery has always been to examine and provide observations and recommendations regarding the application of these instruments in specific cases. The drafters of Convention 87 set out to create an instrument that would not only protect freedom of association, particularly the right of workers and employers to establish and join organizations to further and defend their interests, but also to organize their activities and formulate their programs to that end.

In the decades since the adoption of C. 87, the Committee of Experts and the Committee on Freedom of Association have provided observations and recommendations with regard to the right to strike. Working within their mandates—through the examination of specific cases—they have observed that freedom of association, and in particular the right

to organize their activities for the purpose of promoting and protecting workers' interests, cannot be fully realized without protecting the right to strike.

This same logic has prevailed in the United States. Our National Labor Relations Act protects workers' right not only to form and join labor organizations and bargain collectively, but also "to engage in other concerted activities for the purpose of collective bargaining or mutual aid or protection." The United States Supreme Court has deemed strikes to be among the concerted activities protected.

We would note that in numerous other countries, and most recently in Canada in January 2015, the right to strike has been held to be an essential and indispensable component of a meaningful collective bargaining process in its labor relations system. Legislatures and courts as well as legal scholars throughout the world have similarly underscored the necessary and ineluctable relationship between the right to freedom of association and the right to strike.

It is worth recalling that the tripartite Committee on Freedom of Association has confirmed and applied the relationship between the right to strike and the right to freedom of association in almost 3000 cases without any dissent from the social partners. It has been the express view of the committee that:

The right to strike is one of the essential means through which workers and their organizations may promote and defend their economic and social interests. The right to strike is an intrinsic corollary to the right to organize protected by Convention No. 87.

We concur that the right to organize activities under Convention 87 protects the right to strike, even though that right is not explicitly mentioned in the Convention.

We are also in full support of the dedicated work of the Committee of Experts and the Committee on Freedom of Association over more than 60 years to provide non-binding observations and recommendations addressing the protection, scope and parameters of the right to strike.

We welcome the opportunity to consider together this week the issue of the right to strike and to share information on how our countries promote and protect that right.

We recognize that the issues before us cannot be resolved speedily or easily but hope that the parties can at the very least ensure that, as this process continues to unfold, we do not interfere with the integrity, role, or operations of the supervisory bodies so that the ILO can continue its essential role in promoting a fair, rights-based and democratic world of work.