

COMMITTEE ON ARRANGEMENTS FOR CONSULTATION WITH  
NON-GOVERNMENTAL ORGANIZATIONS

INTERNATIONAL FEDERATION OF CHRISTIAN TRADE UNIONS

STATEMENT ON FREEDOM OF ASSOCIATION, PRESENTED FOR THE INTERNATIONAL  
FEDERATION OF CHRISTIAN TRADE UNIONS, BY MR. P.J.S. SERRARENS  
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(Circulated to the Members of the Council for their information  
in pursuance of paragraph 2 of Chapter IV of the Report of the  
Committee on Arrangements for Consultation with Non-Governmental  
Organizations (E/43/Rev.2, 1 July 1946).)

I.

Freedom of association is a natural unalienable right of man.

According to his nature man is not self-sufficient; he is bound to unite  
with others because he needs them and because his very nature impels him to  
look for their help. Society springs from this characteristic of mankind as  
do private societies with a limited purpose.

They do not derive their right of existence from the State and the State  
cannot but recognize their natural right which it may not annihilate.

Rights do not exist without obligations. Every arbitrary use of rights  
is limited by the obligation to respect the rights of others.

In case of a private society or association of any kind which pursues  
aims or uses methods which are contrary to the commonweal or in contradiction  
with moral law, the State has the right to protect the general welfare against  
such abuses.

Nobody will now recognize the freedom or right of an association to be  
a guild of thieves and robbers such as is said to have existed and been  
recognized in Ancient Egypt.

However, the State has to be very careful not to deprive its citizens  
of rights and freedoms which natural law gives them.

If freedom of association is a right of man which he may exercise for  
all lawful purposes, it is equally a right of the workers. It was a tragedy  
that on the eve of the capitalist era the French Revolution deprived the  
workers of this right by the law of June 14th, 1791; in the name of freedom  
the freedom of association was denied to the workers and therefore the only  
other means which in a time when the State took no action to protect labour,  
could have prevented the enslavement of the workers was prohibited.

/So the workers

So the workers "isolated and defenceless have been given over to the callousness of employers and the greed of a wild competition", "a small number of very rich men had been able to lay a yoke little better than that of slavery on the shoulders of the immense mass of proletarians" as Pope Leo XIII wrote in his Encyclical Rerum Novarum in 1891.

For though England had already relaxed its hostile attitude towards trade-unionism in the first part of the 19th century at the end of the same century the right of association was still denied to the workers in several countries and, even where it was recognized, the State often watched the development of trade-unions with suspicious eyes. At the same time the State was unwilling to help them by protective legislation. The position of the worker taken individually is economically weak as compared with that of the employer. He cannot defend his interests unless he unites his forces with those of his colleagues.

His rights are at least as sacred as those of others who unite for purposes of industrial or commercial activity.

His trade-union is the organization by which he defends his own interests and thereby those of his family and those of his fellow-workers in the branch of economic life in which they earn their living.

The possibility for the worker to develop his personality and to assure the welfare of the members of his family, depends upon his working conditions. It is of the highest interest for society that the workers and their families which form the greater part of society in all industrialized countries should obtain such conditions of living as are just and equitable and spread prosperity in the country.

The State, far from being indifferent to their activity or even oppressing trade-unions, must realize that they are in the first place instruments for social justice and must be helped and supported on account of their contributions to the general welfare.

Freedom of association is not to be considered as a right which the State reluctantly grants. The State should, on the contrary, realize the full importance of this inalienable right of the workers and protect it accordingly.

The Constitution of the ILO, creating in 1919 this new organization for the establishment of social justice by the international adoption of humane conditions of labour, rightly recognized the associations of employers and workers as co-partners with governments.

The rights given to the employers' and workers' organizations in this Constitution place them in several respects on the same footing as governments (equal rights of their delegates with those of the governments; autonomous vote; special rights with regard to the application of conventions). This

/demonstrated

demonstrated that States had begun to realize the importance of trade-unions as such. The creation of the ILO itself was, however, the strongest proof of this recognition. Since the ILO was a tripartite organization it meant that the writers of its Constitution realized that there ought to be in every state an organization of employers and one of workers independent from the State and independent from each other.

The whole system of the ILO is devoid of sense if e.g. the organization of workers, in agreement with which the Member States must nominate the workers' delegates, is an institution of the same State and an instrument of the Government.

Freedom of association for employers and workers is therefore the foundation-stone of the ILO.

When facism and national-socialism tried to destroy that foundation the workers organizations tried to repel that attack with all their energy.

The International Federation of Christian Trade-Unions fully realizing the importance of this struggle for life for trade-unionism, never shrunk back from denouncing the deliberate attacks of several governments which in many cases succeeded in destroying free trade-unionism and in setting up fake organizations under their direction, the representatives of which they even dared to send as workers' delegates to the International Labour Conferences.

The bitter experience of the occupation of Western Europe by the German army and the destruction of the free workers organizations under Nazi tyranny will not soon be forgotten by the workers belonging to the I.F.C.T.U.

After the military defeat of fascism and national-socialism it appears to an absolute necessity to reaffirm the principle of freedom of association and to make sure that all the nations of the world guarantee that in every country the workers will have full freedom of association and that it will be possible everywhere for free-trade-unions to accomplish their tasks. In this respect the Charter of San Francisco and the practice of the Economic and Social Council justify the expectations of the workers of the world; the Charter by reaffirming faith in fundamental human rights, in the dignity and value of the human person, in "promoting and encouraging respect for human rights and for fundamental freedoms for all"; the Economic and Social Council by granting consultative status to the various international trade-union organizations.

## II.

Employers and workers must be free to create their own organizations. This freedom of association means, as was said in a manifesto signed by trade-union leaders of the General Confederation of Labor (CGT) and the Christian Trade-Unions (CFTU) in France during the occupation, the right of workers to adhere to an organization of their own choice or not to adhere to it.

/Freedom is

Freedom is no freedom at all if it has the form of a monopoly.

Even when trade-unions have organized the vast majority of workers there may come a time when a part of them become so completely dissatisfied with the policy of the union that they decide to form a new organization. Even he who regrets this, must recognize that the workers have a full right to take such action.

This right must be respected and guaranteed.

All the workers must have the right to organize without regard to their occupation, to sex, race, colour, creed or nationality.

Human rights exist for all men. The workers organizations must have full autonomy in drawing up their rules, in appointing their officers, in determining their programme of activities, joining together into national trade-unions and into organizations grouping such national unions. The State should not hamper their development with formalities and should not restrict their activity by arbitrary decisions.

The organizations of employers and workers must be recognized by the the State and must recognize each other as representative of the groups they organize. The organizations of employers and workers must be independent from the State and independent from each other.

A company union will always be dependent on the management; it will exclude or try to exclude any intervention regarding the conditions of labour in this enterprise by other trade unions.

It is impossible to recognize such an organization as a bonafide trade-union because it lacks the autonomy which is one of the essential features of trade-unionism.

Employers have freedom of association. They should always realize that he who respects the rights of others alone, shows himself really worthy of having rights of his own.

Wherever it is necessary, the State has to protect the workers against every effort of the employers, their agents or organizations, to influence the workers with regard to their free choice of a trade union.

The mutual recognition of employers and workers forms the basis for collective agreements.

It is sometimes suggested that these agreements should be concluded by the organizations which have organized the majority of the workers in the enterprise or the branch of industry concerned.

This system is, however, incompatible with full freedom of association. If several organizations exist and are the real representatives of a part of the workers why should they not all be recognized as parties to the collective agreement?

/The experience in

The experience in several countries proves that this method gives very satisfactory results. In Holland smooth working arrangements were in operation for several years prior to the war, and are still maintained.

The fact that in fifteen countries there is more than one trade-union movement shows that the question is of general interest and that a sound solution is needed.

This solution may be found by analogy in consultative opinion of the Permanent Court of International Justice (1922) with regard to the appointment of the workers' delegate to the International Labour Conferences.

Here the Court gave as its opinion that all the different central trade-union organizations had to be taken into account.

It is in this way, and in this way only, that collective agreements binding the whole of the organized workers can form a basis on which a mechanism for permanent co-operation between employers and workers organizations may be established.

Thus, on the basis of mutual respect, it has been possible to have in the Netherlands during the years of occupation a clandestine co-operation between the leaders of employers and of workers which led to the creation of the "Foundation of Labour" born in secrecy and appearing in public immediately after the liberation. This is a central body for co-operation between the different organizations of employers and workers based on mutual recognition of a difference in point of view which does however not form an obstacle to agreement on policy or joint action.

This Foundation of Labour has been recognized by the government as an advisory board of all labour questions. It plays a very important part in the regulation of conditions of labour and it paves the way toward permanent harmonious co-operation between the different organizations of employers and workers existing in that country.

Here is an example of complete freedom of association giving the best results based on mutual respect for the freedom of others.

History proves that the system of free enterprise may lead to serious abuses when it is not associated with guarantees for the workers.

In some cases it may be necessary to nationalize certain industries. The I.F.C.T.U. recognizes this as remedy in certain cases, but it does not believe in nationalization as a general system. The rights of the workers are not better guaranteed in an economy which is completely State-dominated. On the other hand it will only be possible to maintain a system of free enterprise if it is associated with democracy in industry, if the workers by the instrument of their trade-unions have their share in the management of economic life and in addition have certain rights with regard to the management of the enterprise in which they work.

III.

The resolution adopted unanimously by the thirtieth session of the International Labour Conference is not in itself a complete document. It leaves a certain number of questions unsolved, but it forms a basis on which it will be possible to establish effective protection of the freedom of association.

The International Labour Conference will certainly remain the most appropriate body for the elaboration of a draft convention on this subject. We must however, be aware of the fact that the enforcement of such a convention is an absolute necessity.

The conventions adopted under the Constitution of the International Labour Organization are not always ratified and in many cases their application is not complete.

Each year the International Labour Conference examines the applications of the conventions after a very thorough examination by a Committee of Experts on the basis of the annual reports presented by Governments. This system has furthermore been ameliorated and extended by the recent revision of the Constitution.

This Constitution provides for complaints being lodged against a State which does not apply a convention it has ratified, with the possibility of appointing a Commission of Enquiry and having the recommendations of this Commission referred to the International Court of Justice.

Before this Constitution was revised there was even the possibility of economic sanctions, but such sanctions were never applied.

The way in which the ILO tries to secure complete compliance is through the force of public opinion.

Under these circumstances it will be of the highest importance if the drafting of a convention on the freedom of association receives the complete backing of the Economic and Social Council and eventually of the General Assembly of the United Nations and if this would be done in such a form that from the outset it would be clear that the United Nations would lay great value on a general ratification and on a full enforcement of such a convention.

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