

## Social Dialogue and Industrial Relations: Global Trends, Challenges and Opportunities

### GLOBAL TRENDS

For the purpose of this note, *social dialogue includes all types of negotiation, consultation and exchange of information between and among representatives of governments, employers and workers on issues of common interest relating to economic and social policy*. Social dialogue is *both* a means to achieve social and economic progress and an end in itself, as it gives people a voice and a stake in their societies and workplaces. It is central to the functioning of the ILO and is practiced in the majority of its member states, albeit to varying degrees and levels of efficiency. Around 90 per cent of ILO member states have some kind of tripartite institution in place to enable social dialogue at the national level.

Social dialogue is widely recognised as an important component of good governance of labour-related matters. It has key significance for the implementation of the UN 2030 Sustainable Development Agenda and its goals (SDGs) at the national level. It is linked, in particular, to Goal 16 that requires, among other things, the development *of effective, accountable and transparent institutions at all levels and of responsive, inclusive, participatory and representative decision-making*.

Over the years, social dialogue has become a widely recognised and respected method for addressing labour-related challenges and as a means to achieve social equity, economic efficiency and democratic participation. In many countries, it has contributed to

the protection of labour rights, improved working conditions and sustainable enterprise development, facilitated wage determination and enhanced social peace and stability. It also proved its value during the recent economic and financial crisis by helping to generate socially acceptable solutions at national and regional levels, and by mitigating negative impacts in many countries, especially by maintaining employment and income levels during the economic downturn. ILO research has shown that collective bargaining plays an important role in reducing inequality, and has specifically shown the correlation between higher levels of collective bargaining coverage and lower levels of inequality.

However, a number of challenges are prompting social dialogue actors around the world to consider how best to adapt to developments in the world of work, so as to ensure the continued relevance of social dialogue in varied national contexts. The most significant challenges worldwide, including (to varying degrees) in the BRICS, include widening income inequality and declining labour share in gross domestic product (in part related to the erosion of collective bargaining in some countries), the changing nature of work and the employment relationship, the weakening of labour market institutions, the growing incidence of informal employment and an associated lack of worker protection and pressures to curb public spending. Against this backdrop, questions have been raised concerning the effectiveness of social dialogue and its

outcomes. Despite the existence of formal tripartite and bipartite institutions, evidence points to some decline in the use of forms of social dialogue that produce binding commitments, such as tripartite social pacts and collective bargaining agreements.

To remain relevant, social dialogue must help tripartite partners to address the above-mentioned challenges and to respond to a number of “mega-drivers” of change which are likely to significantly impact labour relations. Firstly, the world of work is being transformed by technological revolution such as increasing automation and digitization. Secondly, demographic developments, migration, refugee crises, climate change and poverty may reinforce the duality between the aging global North and the young global South, with profound impacts on labour markets. Thirdly, facing climate change may require moving towards a low-carbon future, the costs and benefits of which will need to be fairly distributed. And lastly, while globalization has contributed to the reduction of poverty in many parts of the world, the rise of popular disillusionment in some countries and population groups potentially threatens not only the free market concept but very basic democratic values.

Social dialogue must help government and the social partners anticipate and manage these challenges and threats, turning them into opportunities for sustainable development. It needs to adapt to the new economic, social and political realities while avoiding the imposition of one-size-fits-all approaches. Experience of the BRICS can make a valuable contribution to these debates, which will also be on the agenda of the forthcoming 107th International Labour Conference, to be held in Geneva from 28 May to 8 June 2018.

## SOCIAL DIALOGUE IN BRICS COUNTRIES

While industrial relations show some rather distinctive regional and sub-regional patterns, they also remain country-specific, shaped by unique historical and social contexts. This diversity is particularly notable among the BRICS countries, which not only span different regions, but have experienced very diverse political and economic developments that have shaped their respective legal and institutional frameworks as well as their national labour policies. The main measurable industrial relations parameters, such as trade union density, collective bargaining structures and coverage, present important differences across the BRICS.<sup>1</sup> While in some countries, industrial relations have remained relatively stable for decades, in others they have changed profoundly, in line with national political and economic developments, especially with the liberalization of product markets, which is a common feature of all BRICS countries.

In all the BRICS, social dialogue and industrial relations have contributed, to varying extents, to inclusive economic development, to enhanced coherence between economic and social policies and to addressing key social challenges such as wage inequalities, worker protection, conditions of work, regulation of non-standard forms of employment, compliance with labour laws and respect for the rule of law in general. In some countries, tripartite dialogue at the peak level has helped to mitigate the social costs of market-oriented reforms. And in others, social dialogue has been an important element in the democratization of political life or resulted in the conclusion of social pacts and tripartite agreements.

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<sup>1</sup> See Table 1: Trade union density rate and collective bargaining coverage rate

While all the BRICS countries have enacted various laws needed for tripartite and bipartite dialogue, in some countries there is still a gap between their national legislation and international labour standards. Above all, there is scope for improvement among certain BRICS in terms of the ratification of ILO conventions which frame such fundamental issues as freedom of association, the right to bargain collectively or tripartite consultations on ILO matters.<sup>2</sup> Some governments, in consultation with social partners, are considering measures to pursue the ratification of these standards.

The BRICS countries have established a whole range of institutions at the national and regional levels, with either general or more specialized mandates.<sup>3</sup> However, there are marked differences in the structure and impact of these institutions and in the architecture of the institutional framework. In countries with a federal organization, for example, the often complex relationships between central and regional governments require special efforts for effective cooperation and coordination.

There appears to be a common implementation challenge across the BRICS countries, as in other countries. The conclusions adopted by tripartite and bipartite instances have been most often of a recommendatory nature, and not binding on the government authorities responsible for their implementation.

It therefore seems that in most countries there is considerable scope for improvement of the functioning of the tripartite institutions themselves. Even with solid legal foundations, the everyday functioning of these institutions is highly dependent on the will and capacity of all stakeholders and, in some cases, on the financial and technical support provided by governments. In some cases, these institutions do not meet on a

regular basis or do not meet at all for rather extended periods.

Collective bargaining is, by and large, restricted to bigger enterprises or selected industrial sectors, while its scope and coverage has been progressively constrained by changes in the employment relationship or in work organization, such as contractualization, casualization or outsourcing. Countries where collective bargaining coverage has remained stable, or has increased, are those which have used a range of policy measures to promote collective bargaining more generally, and bargaining coordination in particular. These include lowering of thresholds for the introduction of public-interest considerations in policy decisions to extend a collective agreement, such as the proportion of non-standard workers in a particular sector.

While there are some interesting cases of workplace cooperation, for example on the reorganization of enterprises, introduction of new technologies and occupational health and safety issues, the relationship between collective bargaining and workplace cooperation is sometimes blurred. Efforts to introduce more formal forms of workplace cooperation have in some cases received a mixed reception by both employers and workers.

## OPPORTUNITIES FOR EXCHANGE AND MUTUAL LEARNING

This heterogeneity in industrial relations and social dialogue mechanisms and practices, while possibly challenging for researchers to analyse, provides governments as well as the social partners with an interesting opportunity to compare national experiences and identify approaches and practices of potential interest for the BRICS group as a whole.

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<sup>2</sup> See Table 2: Ratification of social dialogue-related ILO conventions

<sup>3</sup> See Table 3: BRICS: Main national social dialogue institutions

There are some common issues that may call for joint reflection, experience sharing or further research.

First, in all countries, governments play a key role in shaping social dialogue patterns at all levels. They still have a major impact on the functioning of social dialogue, in particular by establishing the appropriate legal and institutional frameworks and – above all – by their willingness to make social dialogue a systematic part of the national policy making process. While in some countries, governments still dominate industrial relations, in others, the social partners and sometimes other stakeholders have considerable autonomy in organizing tripartite and bi-partite relationships. National experiences with different roles played by state and non-state actors in shaping industrial relations may thus represent a potential theme for discussion.

Second, the contribution of industrial relations to an inclusive development which combines economic growth with respect for fundamental rights and freedoms and progress in working conditions, is an important indicator to assess the quality and value-added of social dialogue to society as a whole. It is therefore fundamental to observe and measure the impact of social dialogue on issues such as unemployment, informal employment or income insecurity within individual countries. Similarly, BRICS may be interested to discuss the role of social dialogue in the promotion and implementation of public policy revision in areas such as regulatory reform, labour market measures or the strengthening of social protection.

Third, successful social dialogue develops only on the basis of solid political will and mutual trust. It is very apparent that social dialogue has greater impact in those countries with a long-standing tradition of dialogue and tripartite cooperation and where the strong relationship between the main stakeholders was further reinforced by a sense of shared responsibility, especially during times of economic

crisis. Indeed, if social dialogue is to be useful in difficult times, it must be built on a firm foundation of cooperation laid down in good times. The question is thus how to reinforce mutual cooperation and transform it into a durable and lasting partnership that will withstand periods of economic hardship.

Fourth, social dialogue works only in an environment framed by appropriate laws and institutions that themselves need to adapt to changing conditions in the world of work. All BRICS countries have recently adapted their legislative frameworks and these efforts are still ongoing. Progress has been achieved, in most countries, in the field of minimum wage setting; it may be profitable to analyse national experiences on this topic.

Five, social dialogue is highly dependent on the competence of its tripartite actors: on the quality of the government bodies as well as on the technical capacity and representativeness of social partners' organizations. Ministries of labour are not always considered as the strongest or most influential of government departments, and labour policies are not always given sufficient priority in government budgets; moreover, collective labour relations are not always high on their own policy agendas.

Finally, in most countries, high levels of informal employment represent a significant challenge for the development of meaningful social dialogue.

Traditional industrial relations institutions need to make special efforts to reach out to workers and economic units in the informal economy and support their transition into the formal economy. A number of governments have recently made progress in extending the scope of labour administration, including social protection, into the informal economy while trade unions are increasingly organizing informal workers. These initiatives could represent an interesting area for exchange of good practice and mutual learning among BRICS countries.

**Table 1. Trade union density rate and collective bargaining coverage rate**

		Brazil	Russian Federation	India	China	South Africa
Trade union density rate %	2014	16.9	31.2	--	43.2	29
	2015	19.5	30.5	--	44.9	27.4
	2016	18.9	--	--	--	28.1
Collective bargaining coverage rate %	2014	16.9	31.2	--	43.2	29
	2015	19.5	30.5	--	44.9	27.4
	2016	18.9	--	--	--	28.1

Source: ILOSTAT

**Table 2. Ratification of social dialogue-related ILO conventions**

	Brazil	Russian Federation	India	China	South Africa
<b>Convention No.87</b> <i>Freedom of Association and Protection of the Right to Organise Convention, 1948</i>	--	10-Aug-1956	--	--	10-Aug-1956
<b>Convention No.98</b> <i>Right to Organise and Collective Bargaining Convention, 1949</i>	18-Nov-1952	10-Aug-1956	--	--	10-Aug-1956
<b>Convention No.135</b> <i>Workers' Representatives Convention, 1971</i>	18-May-1990	06-Sep-2010	--	--	--
<b>Convention No.144</b> <i>Tripartite Consultation (International Labour Standards) Convention, 1976</i>	27-Sep-1994	18-Dec-2014	27-Feb-1978	02-Nov-1990	18-Feb-2003
<b>Convention No.151</b> <i>Labour Relations (Public Service) Convention, 1978</i>	15-Jun-2010	06-Sep-2010	--	--	--
<b>Convention No. 154</b> <i>Collective Bargaining Convention, 1981</i>	10-Jul-1992	06-Sep-2010	--	--	--

Source: NORMLEX

Table 3. BRICS: Main national social dialogue institutions

Country	Name of the institutions (date of establishment)	Composition (number of members; % women <sup>1</sup> )	Mandate
Brazil	Economic and Social Development Council (CDES) (2003)	Tripartite-plus (98 members, 34% women)	Advice on social and economic policies; chaired by the President of Brazil
	National Labour Council (CNT) (2017)	Tripartite 30 members	Advice on issues related to labour relations
China	National Tripartite Consultation Committee	Tripartite (42 members, 31% women)	Consultation, information sharing and joint analysis of issues and trends; dialogue for the formulation of legislation, policies and action programmes; chaired by the Vice-Minister; ACFTU, CEC and ACFIC serve as vice-chairs.
	China Economic and Social Council (CESC) (1997)	Tripartite-plus (210 members, 12% women)	Consultative platform for civil society, including on social and economic issues
India	Indian Labour Conference (1942)	Tripartite (approx. 200 participants, around 10% women in 2013)	Consultations on social, labour and economic policies
Russian Federation	Russian Tripartite Commission for Regulating Social and Labour Relations (RTK) (1999)	Tripartite (90 members, 17% women)	Consultations and advice on social, labour and economic policies; negotiation of national General Agreements; chaired by the Vice Prime-Minister
	Civic Chamber (2005)	Tripartite-plus (166 members, 27% women)	Consultative platform for civil society
South Africa	National Economic Development and Labour Council (NEDLAC) (1994)	Tripartite-plus (76 members, 25% women)	Negotiation of national agreements; advice on social, labour and economic policies; four overall convenors (government, business, labour and community)
<sup>1</sup> The composition by gender is constantly changing depending on nominations by the participating organizations. In some cases, gender-disaggregated statistics could not be obtained. Figures on gender composition relate mainly to 2016-18.			
Source: ILO			



# BRAZIL: SOCIAL DIALOGUE AND INDUSTRIAL RELATIONS

## The enabling legal and policy frameworks

Brazil has recently undergone sweeping labour law reforms, which aim in particular to increase the flexibility of the labour code. In June 2017, the Government of Brazil enacted Law 13.467, which introduces amendments to the Consolidated Labour Laws (CLT), 1943. Under the amended law, collective agreements negotiated between employers and workers at enterprise-level prevail over the federal law (known in Brazil as *negotiation over legislation*), provided that they do not violate the Constitution or health and safety regulations. Prior collective negotiation is no longer needed with regards to collective dismissals. The law also allows all workers who have monthly salaries equal to or greater than twice the maximum benefit set in the General Social Security Scheme (currently R\$ 11,062 or USD 3,520) to individually negotiate their employment contracts with their employer without union representation (art. 444).

In addition, important institutional changes were introduced in 2016, including the restructuring of the Council for Social and Economic Development (CDES). There were also changes in the Superior Labour Court, namely the suspension of its 2012 ruling on the 'ultractivity' of collective agreements, whereby collective conventions or agreements remained in force until the conclusion of a new agreement.

## Key actors

### Employers' organisations

The employers' organisations are as follows:

- National Confederation of Agriculture and Livestock (CNA), which is composed of 3 entities: the Confederation of Agriculture and Livestock;

National Rural Apprenticeship Service (SENAR); and the CAN institute that develops studies and research in agro-business.

- National Confederation of Trade in Goods, Services and Tourism (CNC): CNC represents close to 5 million businesses in the goods, services and tourism sectors. It brings together 34 state and national level employers' federations that comprise 1,035 organizations.
- National Confederation of Industry (CNI): It represents 27 industry federations and 1,250 employers' organizations. CNI manages the Social Service of the Industry (SESI), the National Service of Industrial Learning (SENAI) and the Euvaldo Lodi Institute (IEL).
- National Confederation of Health (CNS): It brings together 8 federations and 90 organizations in the health sector and represents all the health services establishments in the country.
- National Confederation of Transport (CNT): The CNT is composed of 37 federations, 5 national organizations and 19 national associations. It represents more than 200,000 transport businesses and 2 million truck and taxi drivers.
- National Confederation of Financial Institutions (Consif): It is composed of 4 national federations.

### Workers' organisations

The largest trade unions in Brazil are as follows: Unified Workers' Union (CUT), General Union of Workers (UGT), Workers' Union of Brazil (CTB), Union Force (FS) and the New Workers' Union (NCST).

According to data from the Brazilian Institute of Geography and Statistics (IBGE), in 2015, 19.5% of workers were unionized. According to IBGE, 82.5% of union members reported that the unions to which they belonged had not participated in collective bargaining. Among those which had participated in collective

bargaining, 92% reported that this concerned wages, 57% benefits, 47% training or equality of opportunity and treatment, 43% working hours, and 40% occupational health and safety.

The amended labour law abolished compulsory contributions to the union by workers; these are now voluntary. The impact of this new provision on the bargaining power of unions is still to be seen.

### **Labour administration**

The Ministry of Labour and Employment (MTE) is responsible for elaborating public policies on labour and for providing information and data on the labour market. The Ministry includes Secretariats of industrial relations, work inspections and supervision and combating slavery and child labour; and has Commissions on gender and racial equality and on ethics, among others. The MTE is also in charge of the registration of all workers' and employers' organizations. It determines the most representative trade unions in each jurisdiction.

## **Key forms of social dialogue**

### **Tripartite social dialogue**

In 2017, the government created the tripartite National Labour Council - a new council specialized in labour relations - that is composed of representatives of government (10), workers (10) and employers (10). It aims to promote a common understanding of strategic issues related to labour relations and to seek agreed solutions.

The Tripartite Commission on International Relations (CTRI) under the Ministry of Labour and Employment is the main tripartite body for consultations on international legislation. The CTRI meets at least three times a year, depending on the needs. Its main focus is on ILO activities, but it also examines issues related to other labour forums, such as the G20, MERCOSUR, the Organization of American States

and BRICS. Other tripartite bodies exist such as the Council for Social and Economic Development (CDES), which was restructured in 2016. The CDES Secretariat proposed four selection criteria for its new members, namely: i) influence on public opinion; ii) activism in social, cultural and business issues; iii) economic relevance of the represented sector; and iv) social and political impact of the represented institution. Gender, racial and regional balance complemented the scope of the selection criteria. In 2017, there were 107 members, 14 per cent of whom were women.

Other instances of tripartite consultation and dialogue include: the Tripartite Commission for Equal Opportunity and Treatment of Gender and Race at the Workplace (CTIO), the Quadripartite Commission for Strengthening the Minimum Wage, the Tripartite Commission of Permanent and Equal Representation (Safety and Health) (CTPP), the National Council on Immigration (CNIg), the National Council on Social Security, the National and Permanent Commission on Ports (CNPP), the National Commission for the Eradication of Slave Labour (CONATRAE), and the National Commission for the Eradication of Child Labour (CONAETI).

### **Collective bargaining**

With the recent labour law reform (Law 13.467), several important changes were made in relation to collective bargaining. The most important of these is the *negotiation over legislation* provision discussed in Section I above. This applies with respect to 15 issues listed in Article 611-A of the law (e.g. hours of work, wages, annual leave, teleworking and others). Article 611-B lists 30 issues that cannot be subject to negotiation to diminish or suppress rights as established in national law.

A decree regulating collective bargaining in the public sector, based on ILO Convention No. 151 and Recommendation No. 159, has been drafted and approved by Congress, but was vetoed in December



2017 by the President as being unconstitutional. Collective bargaining in the public sector currently remains without a specific regulation. However, a binding decision of 2003 by the Federal Supreme Court (679) specifies that the remuneration of public servants cannot be subject to collective agreement.

### **Workplace cooperation and consultation**

Collective bargaining and workplace cooperation practices are expected to change considerably in the future, as the amended labour law opens up new possibilities that did not previously exist. For example, the reform provides for the election of three workers' representatives, who need not be members of a union, at enterprises employing more than 200 workers. These representatives would participate in collective bargaining with the employer.

# RUSSIAN FEDERATION: SOCIAL DIALOGUE AND INDUSTRIAL RELATIONS

## The enabling legal and policy frameworks

The concept of social partnership was introduced in Russia in the 1990s. The Labour Code of the Russian Federation of 2001 is the main source of regulation of employment relations and other matters related to employment, including social dialogue. Social partnership, 'including the right of employees, employers and their associations to contractual regulation of employment relations and other relations directly related to employment', has been declared one of the fundamental bases and principles of labour relations.

The regulation of employment relations is subject to the joint authority of the Russian Federation and of its administrative districts or territories. Regulation of the social partnership, collective bargaining and collective agreements, and resolution of labour disputes is under the authority of the Russian Federation only (at the federal level).

In 2014, the Labour Code was amended to provide that, in the case of economic, organizational or technological difficulties, an employer and the elected body of the local trade union (or other workers' representative) may request the temporary suspension of the implementation of a collective agreement. The parties to the collective agreement may agree to such a suspension.

Some changes concerning the resolution of collective labour disputes and strikes were adopted in 2011, including to shorten the periods for conciliation procedures.

## Key actors

### Employers' organisations

According to data from the Ministry of Justice, 364 employers' associations are registered in Russia. The Coordination Council of Employers' Associations of Russia (CSRD), a non-profit organization whose main objectives are to assist its members and coordinate their activities in the field of social, labour and related economic relations, has been operating in Russia since 1994. At present, the CSRD has 41 member organizations.

The largest national employers' association is the Russian Union of Industrialists and Entrepreneurs (RSPP), which has a membership of over 100 branch and regional associations representing key sectors of the economy.

OPORA RUSSIA is a nationwide association of small and medium-sized employers and more than 100 business organizations. It encompasses about 450,000 entrepreneurs, who create more than 5 million jobs.

Nationwide sectoral associations include, for example, the Russian national branch association of electric energy employers, the Russian National Association of Employers of the Oil and Gas Industry, and the Russian Association of Light Industry Employers. Regional employers' associations are established in a majority of the federal districts of the Russian Federation.

### Workers' organisations

According to data from the Ministry of Justice, 21,648 trade unions at different levels are registered in Russia. There are no official statistics on trade union density. According to ILO statistics, trade union density in Russia was 30.5% in 2015.

There are several nationwide federations of trade unions. The largest is the Federation of Independent Trade Unions of Russia (FNPR), established in 1990 as the successor to the Soviet Association of Trade Unions (AUCCTU). It had about 20 million members in 2015. FNPR has 120 affiliated trade unions (42 sectorial trade unions and 78 regional organizations). Its affiliates are present in the majority of sectors and regions of Russia, mainly in large companies.

The second largest trade union association is the Confederation of Labour of Russia (KTR), created in 1995, which unites trade unions established after the collapse of the USSR and has about 2 million members. Both FNPR and KTR are affiliated to the ITUC.

SOCPROF is another national confederation of trade unions that has 23 national and interregional trade unions as affiliates.

### **Labour administration**

The Ministry of Labour and Social Protection (Mintrud) is the federal executive body responsible for the development and implementation of state policy and legal regulation in the fields of labour, living standards and incomes, wages, pensions, social insurance, labour conditions and safety, social partnership and labour relations, employment and unemployment, labour migration, etc.

Mintrud coordinates and controls the Federal Service for Labour and Employment (Rostrud), the agency responsible for the registration of collective agreements and collective disputes, training of arbiters for collective labour disputes and assistance in the resolution of collective labour disputes at federal level. Labour inspection plays an important role in the supervision of workplace compliance, including occupational health and safety.

## **Key forms of social dialogue**

According to the Labour Code, there are four main forms of social partnership: consultations; collective bargaining on collective agreements; workers' participation in the management of enterprises; and the participation of workers' representatives in labour disputes' resolution.

### **Tripartite social dialogue**

The Russian Tripartite Commission for the Regulation of Social and Labor Relations (RTK), a national tripartite institution, was created in 1999. It consists of representatives of all-Russia associations of trade unions, all-Russia associations of employers, and the Government of the Russian Federation, and each party independently determines who shall represent it in the Commission. The number of members from each party cannot exceed 30. The Commission is chaired by the Deputy Prime Minister. In 2017, the RTK had 90 members of whom 17 per cent were women. The RTK conducts sittings once per month. Between plenary sittings, the work is organized in seven working groups.

The RTK leads consultations (between the all-Russia associations of trade unions, all-Russia associations of employers and the government) for preparation of the draft General Agreement, and monitors its implementation. The General Agreement establishes general principles for regulation of social and labor relations and related economic relations at the federal level. The last General Agreement was signed in December 2017 covering the period 2018-2020. It also serves as a platform for consultations on development of draft federal laws and other regulatory legal acts in the field of social and labor relations, federal programmes in the sphere of labour, employment, labour migration and social security. All draft laws on social and labour relations should be approved by the three parties before adoption by the Parliament of the Russian Federation.

Tripartite commissions have been established in most territories (e.g. regions, municipalities).

### **Collective bargaining**

Collective agreements may be concluded at federal, interregional, regional, branch, territorial and enterprise levels. Both public and private sectors are covered by collective bargaining.

Collective agreements at all levels are usually concerned with wages, other working conditions and procedural provisions. Depending on the financial and economic situation of the employer, guarantees and working conditions more favorable than those established by laws, normative legal acts, and other collective agreements, may be agreed by parties in the enterprise-level collective agreement.

The OECD has estimated 42% collective wage bargaining coverage in the Russian Federation.

The parties to collective bargaining are free to decide on how to regulate working conditions; they are not obliged to bargain collectively, and the employer has the right to refuse to negotiate on any issues. An employer may regulate working conditions through the adoption of a local normative act, in some cases after considering the opinion of workers' representatives.

For two types of agreements (branch agreements at the federal level and regional agreements on minimum wage), extension policies are applied. For branch agreements at the federal level, parties to the collective agreement may suggest its extension, under certain conditions, to all employers in the branch.

Russia has a minimum wage, established by federal law, which will be set at the subsistence level as of May 1, 2018. Regional tripartite commissions have the right to negotiate regional tripartite agreements on minimum wages, applicable to all employees except those paid from the federal state budget.

There is no strict coordination between collective agreements at different levels. FNPR encourages its

affiliates to conduct collective bargaining on the basis of the general agreement, and provides some orientation on collective bargaining purposes and suggested demands. However, no formal authorization is given at the upper level for collective bargaining at lower levels. According to the law, if there are several collective agreements applicable to employees, the terms of the most favorable agreement for employees should be applied.

### **Workplace cooperation and consultation**

Various forms of exchange of information and mutual consultation are listed in the Labour Code as forms of workers' participation at the workplace. Under the Labour Code, it is obligatory for employers to consider the opinion of the employees' representative body in various cases, and local normative acts should be adopted only after consultation with the employees' representative body (the biggest local trade union) in thirty specific cases listed in the Labour Code, and in other cases, when the parties agree on this.

Employees have the right to receive information from the employer on the reorganization or liquidation of the employer's business; on technological changes that may cause changes in working conditions; and on other issues stipulated in legislation, statutory documents of the employer, or the collective agreement.

Consultations and collective bargaining in the workplace are often applied to the same topics.

# INDIA: SOCIAL DIALOGUE AND INDUSTRIAL RELATIONS

## The enabling legal and policy frameworks

In mid-2014, the Government of India embarked on a major labour law reform agenda with the objective of addressing informality and bringing informal workers and businesses within the purview of labour legislation. India's labour laws are rather outdated (dating back to just after the end of British rule) and fragmented (certain sectors are covered by specific legislation), which creates a series of challenges. At present, there are 44 labour-related statutes enacted by the central government dealing with minimum wages, accident and social security benefits, occupational safety and health, conditions of employment, disciplinary action, formation of trade unions, industrial relations and labour welfare. These labour laws are in the process of being consolidated into four new codes, one of which is an Industrial Relations Code. The Industrial Relations Bill is a consolidation of three existing pieces of legislation: the Trade Unions Act, the Industrial Employment (Standing Order) Act and the Industrial Disputes Act. Tripartite consultations on the Bill were held in 2016 and 2017; it is currently in the process of being tabled to Parliament.

In parallel, state governments have implemented substantial labour law reforms with the aim of streamlining their respective labour legislation in line with the four new codes. In this regard, for example, the Maharashtra state government, under its legislative and governance reform, has formulated a "Self-Certification Scheme-Cum-Consolidated Annual Return Scheme" for all the shops/establishments/factories.

## Key actors

### Employers' organisations

The ILO works with three employers' organisations, which fall under the umbrella of the Confederation of Indian Employers. These are the All India Organisation of Employers (AIOE), the Employers' Federation of India (EFI) and the Standing Conference of Public Enterprises (SCOPE). While SCOPE's focus is the public sector, the EFI and AIOE represent the private sector and membership is voluntary.

### Workers' organisations

There is a multiplicity of trade unions in India, with 12 central trade union organisations representing workers in both the formal (6%) and the informal economy (94%). Trade union density across the total workforce stood at 10.7 per cent in 2011-12 (the last census); among female workers, union density was half that of male workers.

### Labour administration

India has a federal system, in which the central and state-level authorities share responsibilities in policy making and implementation of labour laws. The central labour administration has overall responsibility for basic labour issues such as minimum wages, social security, occupational safety and health, conditions of employment and industrial relations.

Within this structure, central and state governments have their own systems of labour administration. At the state level, labour secretariats are comprised of different tripartite units (e.g. Boards) which discharge various responsibilities including maintaining harmonious industrial relations, implementation of labour laws, administering social security schemes, facilitating employment creation, etc.

Labour administration in India has been through considerable modernization using information and communications technology. The priorities of labour administration have changed considerably over the last three decades. For example, measures have been adopted to reach out to the informal economy. Compliance with labour laws has also been a recent focus. As part of the Government's initiative on *Ease of Doing Business*, the Ministry of Labour and Employment has launched a unified Web Portal (*Shram Suvidha*) in order to improve enforcement of labour laws and increase transparency and accountability.

## Key forms of social dialogue

### Tripartite social dialogue

Numerous tripartite institutions exist on specific issues at both central and state levels, constituted under different Acts. At the national level, there are approximately 21 statutory tripartite fora. They include the Indian Labour Conference (ILC) and Standing Labour Committee (standing advisory committee). Meetings of the ILC and Standing Labour Committee are held annually and play a significant role in the review and formulation of labour policies. However, the last ILC was held in September 2015 and the session scheduled for February 2018 was postponed. Participation in the ILC changes from one session to the other. In 2013, the ILC inaugural session gathered 222 participants, 10 per cent of whom were women. Other statutory tripartite fora include the Minimum Wages Advisory Board, National Social Security Board, Child Labour Technical Advisory Committee and the Central Advisory Committee. In addition, there are some 17 non-statutory fora, which include the National Council of Vocational Training, National Safety Awards Committee (mining) and the National Committee on Safety.

There exist as well several tripartite bodies at state level for consultations between state governments and the social partners. These include the Minimum Wage Advisory Board, Contract Labour Advisory Board, State Labour Welfare Board and Board for the Unorganized Sector. The scope of these boards is wide and they include trade union representatives from all categories. Some boards focus on workers in specific activities or services, such as the Mathadi workers in Maharashtra, which aim to effectively formalize informal workers; others focus on Building and Construction Workers, Domestic Workers, Security Guards, etc. Their number differs from state to state. All boards have only recommendatory powers. Some of the important ones, such as the State Labour Advisory Board in Tamil Nadu and the Industrial Relations Committee in Kerala, function effectively in respect of industrial relations.

### Collective bargaining

The industrial relations system in India has been progressively decentralized to the enterprise and sector levels.

- In the private sector, enterprise-level bargaining takes place with enterprise-based unions, which are either affiliated to political parties or are independent. Within an individual enterprise, there may be separate unions for shop-floor workers, support staff and supervisory staff. When there are several unions in an enterprise, they are proportionally represented on the bargaining council or negotiating committee. In industries such as cotton, jute and textile industries and tea plantations, bargaining takes place at the sector and/or regional level.
- Sector-based collective bargaining is common in public sector enterprises such as banks, coal, steel, ports and docks and oil, where the central government is the major employer. It is conducted at the national level, through a coordination



committee comprising representatives of the government and the trade unions. Within the public sector, there exist multiple unions. Wages and working conditions of central and state government employees in the services sector (e.g. transportation, postal services, insurance, etc.) are determined through pay commissions; these workers belong to unions affiliated to political parties, which lobby the pay commissions at national level.

- The wages of casual and unskilled workers, who are not covered by collective bargaining, are covered by schedules of employment under the Minimum Wages Act. There should be at least 1,000 workers engaged in the activity in the state concerned, and the wages are fixed by the state government at intervals not exceeding five years. In recent years, new workers' organizations, such as Self-Employed Women's Association (SEWA), have succeeded to negotiate wages for informal workers through collective bargaining.

Recently, the governments of Tamil Nadu and of Karnataka have permitted Information and Communication Technology (ICT) workers to unionise.

### **Workplace cooperation and consultation**

Indian multinationals such as Mahindra, Titan and TATA, promote workplace cooperation in their enterprises. Work and Safety Committees are present in many of their workplaces. In micro, small and, to a certain extent, medium-sized enterprises, unions are not present. Contractualization, casualization, outsourcing and insourcing are currently on the rise, with very limited consultation occurring between workers, workers' representatives (if they exist) and managers. However, more recently, there has been a renewed recognition of trade unions in some enterprises.

# CHINA: SOCIAL DIALOGUE AND INDUSTRIAL RELATIONS

## The enabling legal and policy frameworks

Industrial relations in China have in recent years experienced rapid change and development, in line with the market-oriented economic reform process.

Ratification of the Tripartite Consultation Convention, 1976 (No. 144) in 1990 laid the foundation for the development of tripartite mechanisms and processes. In 2008, these resulted in the adoption of three key laws in the labour field - the *Labour Contract Law*, the *Labour Dispute Mediation and Arbitration Law*, and the *Employment Promotion Law*. The *Social Insurance Law* came into effect in 2011.

The collective contract system was put in place under the *Trade Union Law* (1992) and the *Labour Law* (1994). According to Article 20 of the *Trade Union Law*, the role of trade unions is to represent employees in equal negotiations and in signing collective contracts. *Provisions on collective contracts* issued in 2004 specified the issues that can be covered including remuneration, working time, rest and holidays, occupational safety and health, professional training and insurance and welfare, special protection for women and minors.

Provincial governments have also issued regulations to foster harmonious industrial relations; by the end of 2017, 29 provinces had put in place regulations/rules on collective consultation, and 15 provinces on collective wage consultation.

Supply-side reforms undertaken since 2015 have also impacted employment and industrial relations, triggering new legislative initiatives that are still underway. The views of the Central Party Committee regarding the construction of harmonious labour relations, issued in 2015, were a milestone to guide tripartite social dialogue in support of China's

development from "high-speed" to "quality-oriented" growth.

In the 13<sup>th</sup> Five-Year Plan (2016-20), the Ministry of Human Resources and Social Security (MoHRSS) identified priorities for law-making in the areas of wages and wage protection, collective negotiation and labour inspection. In 2018, MOHRSS and the social partners are discussing the legislation on collective consultation.

## Key actors

### Employers' organisations

There are two national employers' organisations, the China Enterprise Confederation (CEC) and the All-China Federation of Industry and Commerce (ACFIC).

CEC is composed of stated-owned and private companies, national industry associations and trade associations, as well as provincial and municipal business associations. Membership is voluntary. CEC has approximately 500,000 enterprise members. It provides advisory services with a focus on enhancing productivity and competitiveness, lobbying for a more favourable business environment, promoting corporate social responsibility and assisting in sustainable overseas investments.

ACFIC represents non-public enterprises, including small and medium sized enterprises (SMEs), and its leaders are members of China's Political Consultative Committee. ACFIC has approximately 4.72 million members (enterprises account for 55.2%, individual members for 43.5%, and group members for 1.3%). Around 10% of all private enterprises are ACFIC members. ACFIC has strong institutional capacity at the local level.

## **Workers' organisations**

The All-China Federation of Trade Unions (ACFTU) is the only national organisation of trade unions, composed of 31 federations organised at the provincial level and 10 industrial federations. The ACFTU has 303 million members (of which women are 38%), while 46% are migrant workers.

With the growth in new forms of employment and the increasing complexity of labour relations, ACFTU is devising new measures to strengthen workers' representation; these include measures to promote the democratic election of trade union officials at enterprise level, and to improve the quality of collective bargaining.

ACFTU has established a three-tier system of collective negotiation instructors (at provincial, municipality and county/district levels), with 150,000 trained instructors in place.

## **Labour administration**

The MOHRSS is responsible for the formulation of labour laws and monitoring compliance, with support from the social partners. Labour inspection plays an important role in supervision of workplace compliance and preventing labour disputes, and special efforts are currently underway to address wage arrears' issues. MOHRSS also creates the enabling environment for social dialogue and coordination of industrial relations.

## **Key forms of social dialogue**

### **Tripartite social dialogue**

A National Tripartite Consultative Committee, comprising the Ministry of Human Resources and Social Security, the ACFTU and the CEC, was established in 2001 (ACFIC was invited to join in 2011). Its secretariat is located in the Labour Relations Department of the Ministry. Its mandate is to coordinate labour relations through consultation, information sharing and joint analysis of issues and

trends; facilitate dialogue for the formulation of legislation, policies and action programmes; and provide joint guidance on law enforcement. The Committee is chaired by the Vice-Minister, and ACFTU, CEC and ACFIC serve as vice-chairs. Specialised sub-committees exist on labour relations policy, compensation, collective consultation, social security policy and labour standards research. In 2016, the Committee had 42 members, 31 per cent out of which were women.

It has organised national conferences and working committee meetings, and contributed to the development of the above-mentioned labour laws, as well as to regulations on unemployment insurance, work injury insurance, collective contract provisions and wage payment provisions. It has issued a series of joint agreements, circulars and directives regarding the impacts of the economic downturn on workers and employers, promoting harmonious labour relations and the collective contract system. In 2016, it organised a national Future of Work dialogue; a second one is planned for 2018.

At the national level there is also the China Economic and Social Council, which promotes consultations. Tripartite mechanisms are replicated also at local and sectoral levels. There were a total of 24,000 lower-level tripartite bodies by the end of 2013, including two national tripartite mechanisms in the construction and maritime sectors, 32 at provincial level, 329 at city level, and 2,590 at county level.

### **Collective bargaining**

The term used in Chinese legislation and policy is collective consultation.

The government plays a leading role in promoting collective consultation at all levels from national to enterprise, with a special focus on wages. The promotion of collective consultation has been integrated as a key target for government and the Communist Party in 22 Provinces.

Since the 2000s, the role of the social partners in defining wage guidelines to frame the collective wage consultation at the local level has progressively increased. The current law provides for the minimum wage to be defined and adjusted through joint consultation between the labour department, workers' and employers' organisations at the provincial level. Their proposal is then submitted to the MOHRSS, which further consults the ACFTU and CEC on it.

The development of collective negotiation has shown regional variations in recent years. For example, in the Pearl River Delta, action to strengthen the role of grassroots trade unions is laying the foundations for a more regular practice of collective negotiation at the enterprise level. In the Yangtze River Delta, innovative approaches by higher level trade union organisations have given rise to a new wave of multi-employer collective negotiation. In the special industrial zones of the Northern region, trade union organisations, industrial zone authorities and employers' groups have developed a joint mechanism for compliance and dialogue.

At the end of 2008, CEC and ACFTU agreed on a "joint commitment" in response to the economic crisis whereby enterprises agreed not to lay-off workers in exchange for a postponement of the payment of their social security contributions.

In 2010 the ACFTU launched the "Two Universals" (i.e. two campaigns for universal union establishment and collective wage consultation at enterprise level), and recently it developed a five-year plan on collective negotiation (2014-18). By the end of 2016, 2.42 million collective agreements had been concluded nationwide, covering 6.794 million enterprises and 290 million workers. In recent years, the ACFTU has been making special efforts to promote sectoral collective consultation and to extend its coverage in the private sector, in particular in SMEs where trade unions tend to be weak or absent; by the end of 2016, sectoral

collective contracts covered 1.348 million enterprises and more than 43 million workers.

### **Workplace cooperation and consultation**

ACFTU, ACFIC and relevant government agencies issued the *Provisions on the Democratic Management of Enterprises* in 2012, which provided for the establishment of Workers' Congresses at company level. Their aim is to enable workers' representatives to participate in decision-making, through various systems which aim to guarantee workers' rights to information, participation, expression and supervision, and to support their participation in enterprise management.

The Workers' Congress is composed of elected representatives of all workers (both members and non-members of the union), who participate in collective consultation together with the union representatives. Collective contracts must be endorsed by the Workers' Congress.

Workers' Congresses are mandatory only in the public sector; in recent years, the local governments have also encouraged private enterprises to set them up.

By the end of 2014, Workers' Congresses had been established in 5.63 million enterprises and public institutions. Workers' Congresses are not yet widely established in private enterprises.

# SOUTH AFRICA: SOCIAL DIALOGUE AND INDUSTRIAL RELATIONS

## The enabling legal and policy frameworks

The enabling legislative framework for social dialogue is the National Economic Development and Labour Council Act No. 35 of 1994, which established the National Economic Development and Labour Council (NEDLAC). NEDLAC's operational functioning is regulated by the NEDLAC Constitution while negotiations are regulated by the Protocol for Tabling and Considering Issues. Recently, a Protocol for tabling the NEDLAC report in parliament was adopted, the purpose of which is to ensure that parliament is kept informed of, and takes into account, relevant NEDLAC processes in the legislative process.

In the area of labour relations, the main legal framework is the Labour Relations Act No. 66 of 1995 (LRA) whose main purposes are to regulate the organisational rights of trade unions; promote and facilitate collective bargaining; regulate the right to strike and the recourse to lockout; promote employee participation in decision-making; provide procedures for the resolution of labour disputes; and provide for a simplified procedure for the registration of trade unions and employers' organisations and for their regulation. The Basic Conditions of Employment Act No. 55 1998, Section 51, empowers the Minister to make a sectoral determination providing basic conditions of employment in a particular sector or area.

Since its promulgation, the LRA has been amended in 1998, 2000, 2002 and 2014. The main reforms introduced by the 2014 amendment include the following aims: to facilitate the granting of organisational rights to trade unions that are sufficiently representative; to strengthen the status of picketing rules and agreements; to amend the operation, functions and composition of the essential services committee; to provide greater protection for workers placed through temporary employment

services; to regulate the use of fixed term contracts and part-time employees earning below the earnings threshold determined by the Minister; and to further specify the liability for employers' obligations.

## Key actors

### Employers' organisations

The main employers' organisation is Business Unity South Africa (BUSA) which is a non-profit organization with 36 affiliates. Its membership is drawn from uni-sectoral organizations, corporate representative organizations, chambers of commerce and industry, and professional organizations. It is the most representative organisation of employers recognised to represent employers in NEDLAC and other related social dialogue institutions and structures. The second organization is the Black Business Council, a confederation that represents black professional business associations and chambers.

### Workers' organisations

The main trade union federations are the Congress of South African Trade Unions (COSATU), Federation of Unions of South Africa (FEDUSA) and National Congress of Trade Union (NACTU). They are all recognised as the most representative organizations representing the interests of organised labour in NEDLAC and other associated structures.

The South African Federation of Trade Unions (SAFTU) has recently been established and has applied to be accepted into NEDLAC. The application is still under consideration.

### Labour administration

The key government entity responsible for labour administration is the Department of Labour which has offices at the Headquarters and throughout the

provinces. Regarding social dialogue, the main role of labour administration is to provide administrative support such as budgetary allocation for the functioning of social dialogue structures, provision of secretarial support, and the commissioning of research to assist the NEDLAC secretariat. With regards to labour relations, its role relates to the provision of training and budgets for bargaining councils accredited by the Commission for Conciliation, Mediation and Arbitration (CCMA) to perform the function of dispute prevention and resolution in the respective sector; publication of sectoral determinations to establish minimum standards of employment in vulnerable sectors or those where collective bargaining is weak; extension of collective bargaining agreements; enforcement of the national minimum wages legislation once approved by parliament; production of labour market information; and workplace capacity-building programmes regarding labour relations and dispute prevention and resolution.

## Key forms of social dialogue

### Tripartite social dialogue

The main body for social dialogue is NEDLAC, which is a tripartite-plus negotiating body. According to Section 5 of the NEDLAC Act, its mandate is to:

- Strive to promote goals of economic growth, participation in decision-making, and social equity;
- Seek to reach consensus and conclude agreements on matters pertaining to social and economic policy;
- Consider all proposed labour legislation relating to labour market policy before it is introduced in parliament;
- Consider all significant changes to social and economic policy before it is implemented or introduced in parliament; and
- Encourage and promote the formulation of co-ordinated policy on social and economic matters.

In 2017, NEDLAC had 76 members, 25 per cent of whom were women.

Alongside NEDLAC, other tripartite bodies deal with specific policy areas, namely the Advisory Council for Occupational Health and Safety; Employment Conditions Commission; Commission for Employment Equity; Employment Services Board; Essential Services Committee; and National Minimum Wage Commission. The final body is not yet operational; it is to be established under the National Minimum Wages Bill which is currently under debate in parliament.

Recent significant achievements and outcomes of tripartite social dialogue include the following:

#### *Legislative reforms*

NEDLAC engaged in extensive negotiations which resulted in the adoption of Basic Conditions of Employment (Amendment) Act, 2014; Labour Relations (Amendment) Act, 2014; Employment Equity Act (Amendment) Act, 2014; Employment Services (Amendment) Act, 2014; the Unemployment Insurance (Amendment) Act, 2016. A National Minimum Wages Bill and its subsidiary regulations were adopted by NEDLAC and are currently under discussion in parliament.

#### *Tripartite agreements*

During the State of the Nation Address, the President of the Republic urged NEDLAC to address wage inequalities in the country. This resulted in the issue being tabled in the NEDLAC Summit in September, 2014, and a subsequent decision to convene the Labour Relations Indaba in November, 2014 in order to start the process of establishment of a national minimum wage. The Indaba adopted the *Ekurhuleni Declaration* whereby the constituents acknowledged the challenges of unemployment, poverty and inequality facing the country. After technical



engagements and research by an Advisory Panel of Experts, NEDLAC constituents signed an agreement to establish a national minimum wage and undertake necessary labour reforms. They also agreed to address wage inequalities.

#### *Accords*

Parties to NEDLAC adopted and signed an Accord on Collective Bargaining and Industrial Action in July, 2017. This was in response to an increase in unprocedural strikes and incidents of violence that accompanied strike action. The Accord is a re-affirmation of the right to strike and an undertaking by the various parties to engage in peaceful industrial action and to promote the peaceful resolution of disputes. In order to give effect to the Accord, NEDLAC adopted a Code of Good Practice that provides detailed guidelines on collective bargaining processes, workplace democracy and dialogue.

#### *Summits*

NEDLAC held a national dialogue on the future of work in February 2017. The social partners have separately collaborated with the ILO to hold educational workshops on the future of work, in preparation for the final national engagement in NEDLAC where the parties will each report back. NEDLAC organised the National Informal Economy Indaba in Durban in March, 2018, where a draft national roadmap on transitioning from the informal to the formal economy was adopted; this is awaiting final approval through formal NEDLAC processes.

### **Collective bargaining**

Collective bargaining is largely multi-employer and takes place at the sectoral level. There are generally no limitations on the scope of collective agreements which range from issues related to wages, training to avoid lay-offs, to limitations on the use of temporary employment contracts.

In terms of the LRA, the Minister is empowered to extend a collective agreement concluded by a bargaining council to non-members, on condition that she/he is satisfied that the parties to the agreement are sufficiently representative of all employers' and workers' organizations in that sector. According to available data, there were 44 bargaining councils in 2014, five of which were in the public service. The number of workers covered by collective agreements was 2,505,074.

### **Workplace cooperation and consultation**

Section 80 of the LRA provides for the establishment of a workplace forum in workplaces which employ more than 100 workers. Its functions are to promote the interests of all employees, whether or not they are union members; to seek to enhance efficiency in the workplace; to be consulted by the employer with a view to reaching consensus; and to participate in joint decision-making.

Workplace forums have nevertheless received a mixed reception. Trade unions have sometimes perceived them as a way to frustrate collective bargaining processes at sectoral level. Some employers have alleged they engage in "double dipping" on issues that would normally be negotiated in the bargaining council while pursuing certain demands at the enterprise level.

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