

COOK ISLANDS (2016-2018)¹

FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING

REPORTING	Fulfillment of Government's reporting obligations	YES, for the first time under the 2016 Annual Review (AR). Cook Islands joined ILO in June 2015.			
	Involvement of Employers' and Workers' organizations in the reporting process	2018 AR: The Government indicates that the report was sent to: the Cook Islands Chamber of Commerce and the Cook Islands Workers Union Association.			
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations				
	Workers' organizations				
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Cook Islands has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No.98) (C.98).		
		Ratification intention	Under consideration for both C.87 and C.98 2018 AR: The Government indicated that C.87 and C.98 were unlikely to be ratified. 2016 – 2017 AR: According to the Government: Ratification of both C.87 and C.98 are under consideration. Cook Island is a recent member of the ILO, since 2015. It is still in the process of familiarizing itself with the whole ILO mechanism.		
	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution			
		Policy, legislation and/or regulations			
		Basic legal provisions			
		Judicial decisions			
	Exercise of the principle and right	At national level (enterprise, sector/ industry, national)	For Employers	Employers can exercise freedom of association at enterprise, sector, industry and national level.	
			For Workers	Workers can exercise freedom of association at enterprise, sector, industry and national level.	
			Special attention to particular situations	Nil	

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have



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been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.

			Information/ Data collection and dissemination	
		At international level		
	Monitoring, enforcement and sanctions mechanisms			
	Involvement of the social partners			
	Promotional activities	<p>2016 AR: According to the Government: the following specific measures are envisaged to respect, promote and realize freedom of association and effective recognition of the right to collective bargaining: a) training and capacity building of responsible government officials as well as employers' and workers' organizations; b) tripartite consultations; and c) awareness raising and advocacy.</p>		
	Special initiatives/Progress	<p>2018 AR: The Government reported that in light of the number of disputes received from MW, the Labour Division has proceeded to raise awareness with migrant workers on how to join together and negotiate better treatment from their employers.</p> <p>2017 AR: According to the Government: In late 2016, the Tripartite Council was established. This has helped to strengthen dialogue between the social partners and can be a foundation to future bilateral relation between the employers and workers. Also, the labour inspections begun in 2017 and through the inspection, awareness raising is done on freedom of association and collective bargaining. However, there has been no successful yet examples of these rights being actioned nor implemented.</p>		
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations		
		Workers' organizations		
	According to the Government	<p>2017-2018 ARs: The Government reported that the main challenges facing Cook Islands in relation to realizing the rights and principle are: a) Lack of public awareness and/or support; b) Lack of information and data; c) Prevailing employment practices; d) Lack of capacity of responsible government institutions; e) Lack of capacity of employers' organizations; f) Lack of capacity of workers' organizations; and g) Lack of social dialogue on this principle. The Government underlines that the Tripartite is not keen on ratifying any new Conventions until the capacity and resources to actually implement and monitor their respective obligations and responsibilities are gathered.</p> <p>2016 AR: The Government reported that the following main difficulties are encountered with respect to realizing the principle of the freedom of association and the effective recognition of the right to collective bargaining: a) lack of public awareness and support; b) lack of capacity of responsible government institutions, and employers' and workers' organizations; and c) absence of social dialogue.</p>		
TECHNICAL COOPERATION	Request	<p>2016 – 2018 ARs: The Government indicated the need for technical cooperation with ILO to facilitate the realization of the principle of the freedom of association and the effective recognition of the right to collective bargaining. The technical cooperation needs of the Government include: a) Awareness raising, legal literacy and advocacy; b) Capacity building of relevant government institutions, and employers' and workers' organizations; c) Strengthening tripartite social dialogue; d) Strengthening data collection and capacity for statistical analysis; e) Training of other officials (police, judiciary, social workers, teacher); f) Legal reform (labour law and other relevant legislations); g) Experience sharing; and h) Assessment in collaboration with the ILO of the difficulties identified and their</p>		



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		implications for realizing the principle.
	Offer	

<p>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</p>	<p>NIL</p>
<p>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</p>	<p>2015 AR: At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p>2013 AR: At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p>2011 AR: At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101st Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p>2009 AR: During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>
<p>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</p>	<p>2013 AR: In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316th Session in November 2012.</p> <p>2011 AR: Following a tripartite debate at the Committee on the 1998 Declaration, the 99th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf.</p>