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Appendix B

CATEGORIZATION SCHEME of the ILO FIFTH DIGEST (2006) ON FREEDOM OF ASSOCIATION

NB: This is the outline of substantive topics used by the ILO Committee on Freedom of Association in its most recent summary of the ILO jurisprudence on freedom of association and collective bargaining.

1. Trade union rights and civil liberties

General principles

Right to life, security and the physical and moral integrity of the person

Arrest and detention of trade unionists

Preventive detention

Detention during a state of emergency

System of education through labor

Special bodies and summary procedures

Internment in psychiatric hospitals

Bringing of charges and sentencing of trade unionists to imprisonment

Guarantee of due process of law

Freedom of movement

Rights of assembly and demonstration

A. Meetings of organizations in their premises and in relation to labor disputes

B. Public meetings and demonstrations

C. International trade union meetings

Freedom of opinion and expression

A. General principles

B. Authorization and censorship of publications

C. Publications of a political character

D. Seizure of publications

Freedom of Speech at the International Labor Conference

Protection against disclosure of information
on trade union membership and activities

Protection of trade union premises and property

State of emergency and the exercise of trade union rights

Questions of a political nature affecting trade union rights

2. Right of workers and employers, without distinction whatsoever,
to establish and to join organizations

General principle

Distinctions based on race, political opinion or nationality

Distinctions based on occupational category

A. General principles

B. Public servants

(a) Members of the armed forces and the police

(b) Civilian staff in the armed forces

(c) Local public service employees

- (d) Firefighters
- (e) Prison staff
- (f) Customs officials
- (g) Employees in the labor inspectorate
- (h) Teachers
- (i) Locally recruited personnel in embassies

- C. Security agents
- D. Agricultural workers
- E. Plantation workers
- F. Employees of airlines
- G. Port workers
- H. Hospital personnel
- I. Managerial and supervisory staff
- J. Self-employed workers in the liberal professions
- K. Temporary workers
- L. Workers undergoing a period of work probation
- M. Workers hired under training contracts
- N. Persons working under community participation programs intended to combat unemployment
- O. Workers in cooperatives
- P. Distributors and sales agents

Q. Workers in export processing zones

R. Domestic workers

S. Workers who have been dismissed

T. Retired workers

Other distinctions

3. Right of workers and employers to establish organizations without previous authorization

Requirement of previous authorization

Legal formalities for the establishment of organizations

Requirements for the establishment of organizations (minimum number of members, etc)

Registration of organizations

4. Right of workers and employers to establish and join organizations of their own choosing

General principles

Trade union unity and pluralism

Freedom of choice of trade union structure

Sanctions imposed for attempting to establish organizations

Favoritism or discrimination in respect of particular organizations

Admissible privileges for most representative unions

Right to join organizations freely

Union security clauses

5. Right of organizations to draw up their constitutions and rules

Legislation on the subject and interference by the authorities

Model constitutions

Racial discrimination

Relations between first-level trade unions and higher-level organizations

6. Right of organizations to elect their representatives in full freedom

General principles

Electoral procedures

Eligibility conditions

- A. Racial discrimination
- B. Employment in the occupation or enterprise
- C. Duration of membership of the organization
- D. Political opinions or activities
- E. Moral standing of candidates for office
- F. Nationality
- G. Criminal record
- H. Re-election

Obligation to participate in ballots

Intervention by the authorities in trade union elections

Challenges to trade union elections

Removal of executive committees and the placing of trade unions under control

7. Right of organizations to organize their administration

General principles

Internal administration of organizations

Control over the internal activities of organizations

Financial administration of organizations

A. Financial independence in respect of the public authorities

B. Union dues

C. Control and restrictions on the use of trade union funds

8. Right of organizations freely to organize their activities and to formulate their programs

General principles

Political activities and relations

Other activities of trade union organizations
(protest activities, sit-ins, public demonstrations, etc.)

9. Right to strike

Importance of the right to strike and its legitimate exercise

Objective of the strike (strikes on economic and social issues, political strikes, solidarity strikes, etc)

Types of strike action

Prerequisites

Recourse to compulsory arbitration

Cases in which strikes may be restricted or even prohibited, and compensatory guarantees

- A. Acute national emergency
- B. Public service
- C. Essential services
- D. Compensatory guarantees in the event of the prohibition of strikes in the public service or in essential services

Situations in which a minimum service may be imposed to guarantee the safety of persons and equipment (minimum safety service)

Situations and conditions under which a minimum operational service could be required

Examples of when the Committee has considered that the conditions were met for requiring a minimum operational service

Non-compliance with a minimum service

Responsibility for declaring a strike illegal

Back-to-work orders, the hiring of workers during a strike, requisitioning orders

Interference by the authorities during the course of the strike

Police intervention during the course of the strike

Pickets

Wage deductions

Sanctions

- A. In the event of a legitimate strike
- B. Cases of abuse while exercising the right to strike
- C. In cases of peaceful strikes

D. Large-scale sanctions

Discrimination in favor of non-strikers

Closure of enterprises in the event of a strike

10. Dissolution and suspension of organizations

General principles

Voluntary dissolution

Dissolution on account of insufficient membership

Dissolution and suspension by administrative authority

Cancellation of registration or trade union status

Dissolution by legislative measures

Reasons for dissolution

Intervention by the judicial authorities

Use made of the assets of organizations that are dissolved

A. General principles

B. Transition to a situation of trade union pluralism

11. Right of employers' and workers' organizations to establish federations and confederations and to affiliate with international organizations of employers and workers

Establishment of federations and confederations

Affiliation with federations and confederations

Rights of federations and confederations

Affiliation with international organizations of workers and employers

- A. General principles
- B. Intervention by the public authorities
- C. Consequences of international affiliation

Participation in ILO meetings

12. Protection against anti-union discrimination

General principles

Workers protected

Forms of discrimination

- A. General principles
- B. Discrimination in relation to hiring
- C. Discrimination during employment
- D. Discriminatory dismissal

Trade union leaders and representatives

- A. General principles
- B. Blacklisting
- C. Dismissal of trade union leaders

Need for rapid and effective protection

Reinstatement of trade unionists in their jobs

Discrimination against employers

13. Protection against acts of interference

General principles

Solidarist or other associations

A. Definition

B. Safeguards to prevent associations from carrying out trade union activities

14. Collective bargaining

The right to bargain collectively – General principles

Workers covered by collective bargaining

Subjects covered by collective bargaining

The principle of free and voluntary negotiation

Mechanisms to facilitate collective bargaining

The principle of bargaining in good faith

Collective bargaining with representatives of non-unionized workers

Recognition of the most representative organizations

Determination of the trade union(s) entitled to negotiate

Rights of minority unions

Determination of employers' organizations entitled to negotiate

Representation of organizations in the collective bargaining process

Level of bargaining

Restrictions on the principle of free and voluntary bargaining

A. Compulsory arbitration

B. Intervention by the authorities in collective bargaining

- (a) General principles
- (b) The drafting of collective agreements
- (c) Administrative approval of freely concluded collective agreements and the national economic policy
- (d) Administrative interventions which require the renegotiation of existing collective agreements
- (e) Compulsory extension of the period for which collective agreements are in force
- (f) Restrictions imposed by the authorities on future collective bargaining
- (g) Restrictions on clauses to index wages to the cost of living
- (h) Budgetary powers and collective bargaining
- (i) Other forms of intervention by the authorities

Time limits for bargaining

Duration of collective agreements

Extension of collective agreements

Relationship between individual employment contracts and collective agreements

Incentives to workers to give up the right to collective bargaining

Closure of the enterprise and application of the collective agreement

Relationship between ILO Conventions

15. Consultation with the organizations of workers and employers

General principles

Consultation during the preparation and application of legislation

Consultation and employment flexibility

Consultation and processes of restructuring, rationalization and staff reduction

Consultation concerning the bargaining process

Consultations on the redistribution of the assets of trade unions which have been dissolved

16. Participation of organizations of workers and employers in various bodies and procedures

17. Facilities for workers' representatives

General principles

Collection of dues

Access to the management

Access to the workplace

Free time accorded to workers' representatives

Facilities on plantations

18. Conflicts within the trade union movement