

ICFTU

BFTU/ICFTU Panafrican Conference

**on Democracy,
Development,
and the Defence of
Human and
Trade Union Rights**

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Botswana Federation of Trade Unions
BFTU
International Confederation of Free Trade Unions
ICFTU

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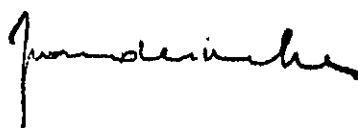
Cover photo: The August 1990 pro-democracy rally in Zambia. Photo AP.

FOREWORD

Following long periods of repression and a generalized denial of basic rights, 1990 and 1991 have seen the beginnings of a democratic breakthrough in many African countries. The leading agents of change have frequently been the trade unions. To meet the urgent need to discuss developments and build strong links of international solidarity, the International Confederation of Free Trade Unions (ICFTU) took the initiative to sponsor a Panafrican Conference on Democracy, Development and the Defence of Human and Trade Union Rights, hosted and co-organized with the Botswana Federation of Trade Unions (BFTU). From 9-11 July 1991, 75 African trade unionists from 31 countries, joined by trade unionists from industrialized countries and international trade secretariats and by international intergovernmental and non-governmental organizations, met in Gaborone, Botswana for the purposes of this Conference.

The Conference concluded by adopting the Gaborone Declaration of Basic Rights, a 31-paragraph series of principles and proposals which encapsulate the discussions of the meeting. The Gaborone Declaration provides trade unions with a reference point in their efforts for democracy and basic rights, and in support of those struggles this document, which comprises the background report to the Conference, the Gaborone Declaration and the list of participants, is being published. The Gaborone Declaration is being given the widest possible dissemination by all those present at the Conference and is being submitted to national governments and relevant international institutions.

The holding of the Conference was evidence of the turning point which has been reached in the history of basic rights in Africa. Much has been accomplished; but much remains to be done. Working together in solidarity, the African and international trade union movement can achieve the consolidation of the pro-democracy movement and the extension of basic rights and economic and social justice to all countries of Africa.



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DEMOCRACY, DEVELOPMENT AND THE DEFENCE OF HUMAN AND TRADE UNION RIGHTS IN AFRICA

INTRODUCTION

1. Ever since people have worked together in large numbers, they have formed organizations to defend their rights and advance their interests. From the beginning, these efforts have been resisted by employers and governments. Many trade unionists have suffered from repression and still suffer in defence of their human and trade union rights. The fight for trade union rights has therefore gone hand in hand with endeavours to guarantee the democratic rights of workers as members of society. The struggles for independence during the colonial era, popular participation in development, equal rights for women, and an end to the apartheid regime all bear witness to the role of trade unions in advancing basic human rights. The International Confederation of Free Trade Unions (ICFTU) has always been closely involved in the promotion, consolidation and active defence of human and trade union rights.
2. Africa has long experienced serious violations of human and trade union rights. It was, perhaps naively, expected that decolonization would lead to democracy, but instead elective rule has been the exception. However, the last years have seen signs of encouraging change. Campaigns for more open, democratic and pluralistic political systems are prominent across the African continent, in many cases with trade unions at the forefront. Often those calling for democracy face intimidation, victimization, arrest and even death. Despite these hurdles, there has been some success in overcoming political resistance to democratization, and in several countries a process of opening up is underway. Such accomplishments are fragile and to prevent a reversal of the trend, steps must be taken to consolidate these achievements.

3. These changes within the African continent have been mirrored by a growing awareness at international level of the importance of human rights. The old argument that human and trade union rights are a matter for the sovereignty of each state, which the ICFTU and the International Labour Organisation (ILO) have always rejected, is becoming more and more unacceptable. Intergovernmental organizations like the United Nations Economic Commission for Africa (ECA) and the World Bank are all now emphasizing that economic development depends upon accountability, democracy and genuine popular participation.
4. For too long, the human rights of Africans have been neglected. Considerations of "real-politik" in the context of East-West rivalry all too often resulted in major aid donors joining African countries in remaining silent when governments used repression in order to retain their hold on power. In return for foreign policy support and privileged access to natural resources, industrialized countries of East and West often supplied economic and military aid to the ruling elites on a very large scale. However, the old separation of the world into two competing systems has to all intents and purposes disappeared, to be



180,000 people trapped in refugee camp, Liberia, 1990. Photo AP.

replaced by a general agreement on the guiding principles and objectives of civic society. In this less polarized world, greater international cooperation should make it possible to return to the principles behind the Universal Declaration of Human Rights and to base economic and political agreements upon its articles. However as yet respect for human and trade union rights remains at the level of empty declarations in many countries and a huge gulf exists between rhetoric and reality. The major challenge for the present era is how to translate a growing worldwide consensus over the universality of human rights from a mere expression of good intent into an effective instrument to uphold the freedom and dignity of all people.

5. The right to life is the most fundamental human right of all. At the present time, the number of Africans facing the threat of starvation stands at over 20 million. The causes

vary from natural catastrophe to protracted civil war. Whatever the reason, the innocent victims of these tragedies must not be made to pay the price for developments over which they had no control. African governments must take all possible domestic measures to aid the people of disaster-stricken regions; they should provide assistance to other African countries facing catastrophe; and they must make it impossible for the international community to ignore the urgent needs of Africa. Humanitarian aid on a massive scale is urgently required in order to avoid a repetition on a far larger scale of the famine of 1984 which so shocked the consciences of people around the world. At the same time, the world's major powers must devote their greatest efforts to finding a durable solution to the many military conflicts which are at the source of much of the present misery. The natural body to coordinate efforts in both areas is the United Nations. The UN needs to build on its recent successes in facilitating a peaceful outcome to conflicts (for example, in the case of Namibia) by assuming a far more prominent world role in the 1990s, on the basis of increased resources from its member states.

6. **T**he surest guarantee of lasting peace, freedom, democracy, social and economic justice and, indeed, avoiding famine is an interlinking framework of democratic institutions which can provide genuine channels for the peaceful resolution of conflict and the promotion of development. Of these, strong free trade union organizations are among the most important. The ability of unions to secure improvements in the living standards of working people through established procedures for negotiation makes them an integral element of stability and social consensus. The African continent hosts a multiplicity of trade unions, some vigorous in their promotion of their members' interests and at the forefront of the movement for political pluralism and human rights, others closely identified with unrepresentative regimes and reluctant to support any change in the status quo. There is an evident need for African trade unions to define a common position on the promotion of freedom and democracy and the defence of human and trade union rights.
7. **A**n earlier opportunity for discussions took place at the ICFTU-sponsored trade union conference on «The African Development Challenge» held in Nairobi in October 1989, which in very many ways was the precursor of the outbursts of democratic expression which have since made themselves evident in so many African countries. The Nairobi Conference was also the scene of lengthy debates concerning the economic development of the African continent, and its conclusions are included in this document as Annex I. There is now a great need to go beyond economic policy to discuss the institutional underpinnings of democracy and human and trade union rights which are the prerequisite for successful economic development. In order to build upon the debates of Nairobi and to update the trade union position in the light of the democratic change, the ICFTU and the Botswana Federation of Trade Unions (BFTU) are sponsoring this Conference on Democracy, Development and the Defence of Human and Trade Union Rights. The Conference aims to enable full and open discussions on the trade union role in democracy and development, with the objective of promoting free trade unionism and supporting the process of democratic renewal in Africa.
8. **T**his background document to the Conference is divided into three parts. Part I discusses the nature of human and trade union rights and their relation to economic and social development. Part II describes the present situation in Africa. Taking basic issues such as democracy, trade union independence, the right to strike, and the possibilities for effective collective bargaining, it looks at the actions of trade unions around Africa in the struggle for justice and human rights. Part III provides recommendations for trade union actions to promote human and trade union rights at national and international levels.

PART I: TRADE UNIONS AND THE PROTECTION OF HUMAN AND TRADE UNION RIGHTS

INTRODUCTION

- 1.1** This first part of the report «Democracy, Development and the Defence of Human and Trade Union Rights in Africa» defines the most fundamental human and trade union rights and considers their relation to sustained economic development. The first section details the basic human rights, as defined by the United Nations Declaration of Human Rights and the Conventions of the International Labour Organisation (ILO), and considers how they can be upheld. The second looks at the specific rights of free trade unions as detailed in the relevant ILO conventions. The third section considers the link between economic development and democracy, with particular reference to the positive influence trade unions could have on structural adjustment programmes.

THE BASIC HUMAN RIGHTS

- 1.2** Support for democracy and human rights is at the core of trade union actions and a prerequisite to citizens' enjoyment of a full and rewarding life in freedom and security. Everyone, without discrimination, is entitled to voice an opinion, to associate with other people as they choose, and not to suffer on account of race, sex, political belief or any other status. Everyone is entitled to live secure in the knowledge that they will not be subject to arbitrary intimidation, arrest, or imprisonment. Such points may appear obvious. However, the fact that human rights are truly universal needs constantly to be stressed, for many unrepresentative governments and powerful political groups would seek to deny their importance, perhaps on the grounds of "underdevelopment" or "national security considerations". Human rights are not some luxury reserved for the developed and richer countries in the world, but apply equally to all societies. Whether poor or rich, every human being has the right to freedom of speech, the right to vote in free and fair elections and all the other basic human rights.
- 1.3** The internationally accepted basis for the protection of human rights is provided by the Universal Declaration of Human Rights adopted by the United Nations in 1948 (Annex II). The Universal Declaration is complemented by other human rights instruments of the United Nations. These have been ratified by countries at all levels of development and all economic and social structures. The many conventions of the International Labour Organisation cover the specific human rights of workers. There are two important covenants of the United Nations, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. In addition, the Organization of African Unity (OAU) adopted the African Charter of Human and Peoples' Rights in 1986 and the African Charter for Popular Participation in Development in 1990. The 1986 Charter is less satisfactory than the UN Declaration in that it does not mention the right to form trade unions, and indeed supports freedom of association only subject to «necessary restrictions.... in the interest of national security». Still, the 1990 Charter specifically endorsed the rights of free trade unions, including in particular the right to strike. Full implementation of both the African Charters, including the complaints procedures of the 1986 Charter, would give Africa an important supplementary instrument to ensure respect for human rights.

1.4 Virtually every country in the world has a constitution or framework of laws which provides a basic legitimacy for government actions and guarantees the protection of human rights. Yet many governments have paid no more than lip service to the respect of human rights. Strong mechanisms to promote respect for the Universal Declaration have never existed. The concept of "national sovereignty" was for a long time elevated into an over-riding consideration which stifled criticism of human rights abuses. But history shows, and the events of 1990 and 1991 in Africa confirm, that the denial of human rights can never succeed in the long term. Sometimes, government abuses have caused such anger that an immediate popular rebellion has swept the repressive regime from power. At most, they may succeed in buying time, but sooner or later the opposition they provoke will erupt anew in confrontations, protests, strikes and maybe even revolution. The wiser of the old-school dictators saw the writing on the wall and arranged for a peaceful transition of power to a representative and democratically elected government.

1.5 For democracy to have real meaning for ordinary people, it must mean the full enjoyment of all their human rights, which taken together constitute one interlinking and mutually supportive network. Thus, a free media relies upon an independent judiciary which will provide objective judgements if the media comes into conflict with government and news reporters are arrested. But the judiciary itself can be fragile, and easily subverted, unless a free media is standing by ready to protest at any evidence of government interference in judicial independence. Trade unions are by their very nature important defenders of human rights. By defending rights to assemble, associate, speak out and take action, including strikes, they uphold important civil liberties. By protecting their members' rights to a decent standard of living, they provide a guarantee for the economic rights of their members. Equally, trade unions require the full respect for civil liberties if they are to function freely. Trade unionists are among the first in the line of attack once human rights cease to be respected. The existence of a strong framework of civil liberties provides trade unionists with an essential guarantee that they can carry out their work without risk of intimidation or arrest. Thus the freedom of trade unionists to represent their members is intimately bound up with respect for a broader range of human rights. Trade unionists



therefore often find themselves allied with other groups such as students, teachers, professional organizations, journalists, judges, lawyers, church groups, and other defenders of human rights in their struggle for freedom of expression.

Opposition rally in Zaire, 18 May 1991, one of the first for 26 years. Photo AP.

1.6 The most basic human right is, of course, the right to life. Yet this right is denied each year to thousands of people. It can be denied by wars between states, or as a result of long-running insurrections and civil war. It is equally denied by unrepresentative government

leaders who do everything to enrich themselves and leave millions of their subjects to die of famine. It is further denied when strikes or trade union demonstrations, even when lawful, are repressed by armed forces or police with resultant loss of life. On many occasions in the history of Africa, the right to life has been denied when undemocratic and dictatorial regimes have been confronted by popular movements for democracy, and have replied with repression. Sometimes the police have used brutality against opposition parties or against different ethnic groups. Many have died under suspicious circumstances following their detention by the police. Assassinations have taken place at the instigation of political leaders, seeking to eliminate someone they saw as a potential rival. The starting point for the establishment of full respect for all human rights must be the restoration of popular confidence that the right to life will be observed. This will require the promotion of democratic structures which enjoy general support and can provide genuine alternatives to violent conflicts or civil war. Faith in the forces of the law must be restored, through independent mechanisms to monitor human rights observance. Deaths in custody must trigger automatic public enquiry proceedings, with the full penalty of the law invoked against any member of the security forces found guilty.

- 1.7** The right to vote in free, democratic elections is part of the Universal Declaration, which states that: «Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.... The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.» These conditions are not fulfilled where there is only one political party, where the government has the right to pre-select or veto potential candidates, where the press is biased or controlled by the ruling party, or where the ballots are rigged. For these rights to give people a real degree of democracy, they must allow for the formation of political parties. There must be a real choice between different independent political parties. Elections must take place under free conditions, with the media able to report accurately and equally on each party's programme and activities, and independent electoral commissions must verify the results of each election.
- 1.8** The Universal Declaration opposes all discrimination «such as race, colour, sex, language, religion, political or other opinion or national or social origin, property, birth or other status.» This basic right is elaborated upon with respect to employment in ILO Convention 100, Equal Remuneration, 1951, and ILO Convention 111, Discrimination (Employment and Occupation), 1958.
- 1.9** Apartheid, which sustains a society where political, economic and social privileges are reserved for the white members of the population only, constitutes a direct violation of this provision. The perpetuation of such discrimination for so many years resulted in large part from the international economic links which continued to benefit a great many countries, regardless of the price paid by the majority black population of South Africa. The international free trade union movement was for many years one of the only voices calling for comprehensive measures to bring apartheid to an end. Until there exists a democratic constitution which guarantees all South Africans one-person, one-vote for large-scale assistance to the trade unions and other anti-apartheid pressure groups in South Africa must be maintained together with economic measures against apartheid, including sanctions, as called for by the independent democratic trade union movement of South Africa. This is discussed further in Part II of this report.
- 1.10** Discrimination against women is contrary to the Universal Declaration. Equality is required with regard to political rights, employment rights such as wages, security of employment, and promotion possibilities, and all other areas of life such as sharing of household responsibilities. Yet little has been done to translate this commitment into reality. The situation of women appears even to have worsened over the past decade, with

women hit harder than men by the world economic crisis because they were in the more vulnerable position to begin with. On the positive side, the need to improve women's position is increasingly being recognized and most countries have specific machinery aimed at achieving equality. Enforcement of equal rights legislation, better education and other actions are needed to redress this abuse of human rights.

- 1.11** Judicial rights are required to ensure that people are protected by fair procedures against arbitrary treatment and will be guaranteed a fair trial. The Universal Declaration states that, «No one shall be subjected to arbitrary arrest, detention or exile. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him... No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.» These judicial rights are of fundamental importance because they provide legitimacy for the whole legal system. The rule of law is essential for the protection of the rights and interests of ordinary citizens. If the legal structure ceases to enjoy popular confidence, the basic fabric and stability of society stands to be undermined. Legal provisions can then be abused against particular citizens or organizations to further the interests of the people in power. In many countries, the police are so identified with particular interests and so unaccountable for their actions that their very appearance provokes fear among ordinary people. Trade unions have suffered forced entry into, and the searching of, trade union premises without due cause. Unionists have been arrested under other pretexts when in fact they were engaged solely in legitimate trade union actions. Where military or security courts are empowered to try political or other offenders, the potential for human rights abuse is particularly great. Therefore constitutions must stipulate the independence of the judiciary, providing them with a basic tenure of position so that they may be free from outside interference. All political prisoners should be released. In order to enjoy full public confidence, the police need to be accountable to complaints commissions. The composition of the police force should be representative of the make-up of the population as a whole. The objective of such procedures should be to make it impossible for dictatorial regimes to abuse the function of the police force by making it an organ of repression. The police would thus be able to carry out their proper job of protecting the general public within a framework of laws decided by a democratic legislature, and so become a respected and trusted part of the community.



- 1.12** The Universal Declaration states, «No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.» This right has been violated in many countries. To eliminate such human rights abuses, it must be made clear from the highest levels of government down that such actions will not be tolerated. Independent bodies

Abuse of human rights of detainees: women raped and beaten in detention, Rwanda, October 1990. Photo AP.

such as civil rights tribunals or enquiry commissions should investigate any allegations of such human rights abuses.

1.13 The Universal Declaration proclaims, «Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontier.» These clauses provide for people to hold different political or religious views. They defend the right of the media to publish opinions and to report the news as it sees fit. Thereby, they provide for the media to play its proper role in ensuring the good functioning of democracy, by keeping politicians accountable to their electorate through reporting accurately on their actions, by allowing opposing points of view to be heard, and by providing people with accurate information so as to make a genuine choice in election campaigns. These rights are not observed where the government controls all the media; where all reports have to be cleared by a government censor before publication; or where there is frequent detention or intimidation of journalists or editors. The law must clearly establish a right to freedom of information in compliance with the Universal Declaration. Actions against the media for malicious inaccuracies should be through established legal procedures.

1.14 The Universal Declaration states, «Everyone has the right to freedom of peaceful assembly and association.» These clauses protect the right to engage in meetings, rallies and demonstrations, and to form parties or groups to defend peoples' interests. They



Baton-wielding troops disperse a school students' demonstration, Togo, 14 March 1991. Photo AFP.

should allow unions to hold meetings in their own premises without prior authorization of the authorities, or their presence at the meetings. These rights are notoriously abused. Even in countries where the right exists in law, peaceful demonstrations have been fired upon by the army or police with resultant loss of life. To protect these freedoms, they

- 1.25** The acceptance of the importance of trade union rights arises from a general recognition that trade unions provide an essential channel for the peaceful resolution of social conflicts. Through their ability to secure workers' demands for better working and living standards, free trade unions represent an integral element of stability and social consensus. Indeed, the repression of trade unions in Europe in the 1930s was one of the causes of the polarization into political extremes which led to world war. In Africa, many countries have experienced serious instability as a result of their failure to allow trade unions to negotiate freely on behalf of their members. It must be recognized that respect for trade union rights, which is in the immediate interests of their members, is also in the ultimate interests of the whole of society. The importance of union rights has been restated in many international instruments, most recently by the 1990 African Charter for Popular Participation in Development. Despite this, many African governments appear to consider trade union rights to fall into a separate category from other human rights, like some "optional extra" which they can afford to ignore. The situation is examined in detail in Part II of this report.
- 1.26** The record of trade unionism in Africa has been a troubled one, dominated first by the colonial struggles, and later by repression from national governments. Early workers' protests in the days before independence was spontaneous, and sudden outbreaks of violence or strikes were characteristic demonstrations of discontent. Over a long period, colonial authorities gradually extended restricted rights to belong to trade unions to more categories of workers until eventually all workers won such rights. Trade unions played a vital role in many countries in freeing their nations from colonialism. Following independence, many governments saw independent trade unions as a potential source of political opposition and moved to keep trade unions, and especially national centres, under tight control. For a long time, this situation was perpetuated through the continuation in power of either one-party regimes or the military.
- 1.27** At present, a variety of different situations exist. In some African countries, unions are able to operate freely and in a framework of law which provides a basis for independent action. However even here, unions face difficulties as a result of the practice of the law and government intervention. In other countries, freedom of association and the right to collective bargaining are considerably restricted both in law and in practice. In many countries, political involvement to prevent lawful strike action is a fact of life, and independent trade union action is heavily restricted. A new and disturbing trend concerns the creation in some countries of export processing zones (EPZs), areas where multinational companies are encouraged to set up production on the basis of certain guarantees, such as a trouble-free workforce and severe constraints on the right to strike. However, it is to be hoped that the present moves to open up the political process in Africa will create the potential for African trade unions to enjoy full independence of action for the first time.
- 1.28** Basic union rights are covered in unequivocal terms in ILO Convention 87, Freedom of Association, 1948, and Convention 98, the Right to Organize and Collective Bargaining, 1949 (Annex III). Many other conventions extend upon these rights, which have been further refined and extended by many authoritative decisions by the ILO Committee on Freedom of Association and the ILO Committee of Experts on the Application of Conventions and Recommendations. Freedom of association is considered such a fundamental principle of the ILO that all members are bound to observe it, even if they have not ratified these conventions.
- 1.29** Convention 87 provides for all workers without distinction to have the right to establish and to join organizations of their own choosing without previous authorization. This right applies in both private and public sectors, with the sole exception of members of the police and the armed forces. It applies to all employees in managerial and supervisory

posts apart from those few who genuinely represent the employers. The Convention requires trade union diversity to remain possible in all cases, so that national unity in one single trade union centre must be attained on an absolutely voluntary basis. The imposition of a single trade union structure by law is contrary to Convention 87.

- 1.30** Convention 87 provides for the free functioning of trade unions, stipulating that unions should have the right without any interference from the public authorities to draw up their constitutions and rules, to elect their representatives, to organize their administration and activities and to formulate their programmes. Laws banning the re-election of trade union officials are incompatible with Convention 87. Trade union office should not be restricted to persons actually employed in the branch of activities, or exclude individuals convicted to imprisonment for activities connected with the exercise of trade union rights. Any removal from office of trade union leaders in cases of violation of the law or trade union rules should only be effected through the courts, following proper judicial procedures.
- 1.31** Convention 87 specifies that trade unions should not be liable to be dissolved or suspended by administrative action. Any attempt to do so must be confirmed by judicial authority, to ensure a proper right of defence. Any deregistration of unions, in the same way, must pass through proper judicial channels.
- 1.32** The right of trade unions to establish and join federations and confederations is provided by Convention 87. One important application is that public sector workers' organizations have the right to federate among themselves or jointly with organizations of the private sector. Any prohibition or restriction on affiliation of rural workers' organizations to other workers' organizations is equally incompatible with this right. Restrictions on the right of federations or confederations to bargain collectively on behalf of their member unions are contrary to the Convention. Furthermore, all the other guarantees mentioned concerning free functioning, judicial procedures, etc., apply equally to federations and confederations.
- 1.33** Convention 87 refers specifically to the right to affiliate with international trade union organizations. Thus, any legislative provisions which require government permission for international affiliation are incompatible with this Convention. The right to international affiliation carries with it the right to receive the benefits that may result from such affiliation, the right to participate in the work of the international organizations and the right of national and international organizations to maintain contacts and exchange publications.
- 1.34** Convention 98 covers adequate protection for workers against acts of anti-union discrimination in respect of employment, and protection of trade unions against any acts of interference in their establishment, functioning or administration. This applies to attempts to stop workers from joining a trade union or to give up their union membership, for example by threat of dismissal. It is particularly important to enable trade union officers to carry out their actions without fear of victimization. Trade unions can complain about alleged discrimination, for example if their officers are dismissed on supposedly unrelated grounds, and ILO rulings stipulate that machinery to examine their complaints should be speedy and impartial. It should be noted, however, that Convention 98 does not apply to civil servants working in ministries or comparable bodies. Their rights are, of course, protected by Convention 87 as well as by Convention 151, *Labour Relations (Public Services)*, 1978.
- 1.35** Both Conventions 87 and 98 emphasize that trade unions have the right to bargain collectively on the regulation of the terms and conditions of employment and all other matters affecting the livelihood of the workers. This includes matters of promotion,

discipline, appointment, dismissal, reinstatement and assignment of duties to a worker. Governments may only over-rule a collective agreement, for example by imposing a wage freeze, in the event of serious economic problems, and then must only do so for a reasonable period and must provide adequate safeguards to protect workers' living standards. Convention 98 provides in addition that governments should encourage collective bargaining by measures including laws to enforce recognition of the most representative trade union as collective bargaining agents, the establishment of joint committees for bargaining, and the provision of conciliatory machinery to assist collective bargaining. The rights to free and voluntary collective bargaining are further strengthened in Convention 154, the Collective Bargaining Convention, 1981.

- 1.36** The right to strike is protected by Article 3 of Convention 87 which provides that trade unions should be able to organize their activities and formulate their programmes in full freedom. The Committee on Freedom of Association of the ILO has further stated that «the right to strike is one of the essential means through which workers and their organizations may promote and defend their occupational interest.» Thus, although the right to strike is not covered specifically by any ILO Conventions, the ILO has always firmly upheld this basic right of workers. Over the years, the ILO has built up a detailed set of principles on the right to strike, allowing for its limitation only in circumstances of genuine emergency, for public servants engaged in the administration of the state, and in the case of essential services such as the hospital sector. Essential services are defined in the strict sense of the term as services on which life, personal safety and health depend. The ILO has stressed that where strikes are forbidden or restricted, there should be other compensatory mechanisms to safeguard the interests of the workers thus deprived of the tool for defending their occupational interests.
- 1.37** Rights of freedom of association for rural workers are strengthened by Convention 141, Rural Workers' Organizations, 1975, which calls on governments to take concrete steps to facilitate the establishment and functioning, on a voluntary basis, of strong and independent organizations of rural workers.
- 1.38** The rights of trade unions to take part in tripartite consultation are stressed in Convention 144, Tripartite Consultation (International Labour Standards), 1976. This deals in particular with the tripartite consultations that must take place at national level in the formulation and implementation of laws to comply with ILO standards.

DEVELOPMENT, ACCOUNTABILITY, ADJUSTMENT AND TRADE UNION RIGHTS

- 1.39** The preceding sections have defined basic human rights necessary for the freedom and dignity of all people. In addition to this intrinsic value, respect for human rights constitutes the sine qua non for a stable and economically productive society. Development requires public accountability, participation, and dialogue. It is evident that many unrepresentative governments have failed to accept this fact. The prospects for real economic recovery in Africa will become brighter once it is recognized.
- 1.40** Democratic freedoms oblige governments to respect their responsibilities to their people, and as such they are not some adjunct to development, but its essential basis. Lack of faith in the fairness and incorruptability of governments is one of the first reasons for an erosion of popular support. The lack of accountability of many administrations has much to do with the setbacks of development in the past. Many governments have squandered precious resources, including development assistance from the industrialized countries, on establishing a luxurious way of life for a privileged few. In some celebrated



Soldier watching over voters in Côte d'Ivoire elections, 25 November 1990. Photo AP.

cases, aid money has no sooner arrived than it has been diverted straight back to the personal bank accounts of government officials in Europe or North America. It is well-known that in some countries, the personal wealth of the ruler would suffice to repay their country's entire foreign debt burden. Military elites have in addition engaged in huge armaments expenditure and built up their armed forces. It is evident from the events of 1990 and 1991 that their main motivation was often fear of popular resentment and rebellion. All too often, these armies have been used against the very people they were supposed to be defending.

1.41

Confidence in the future is essential, for the small farmer to plant a coffee tree today, secure in the knowledge that he or she will be able to harvest it in three years' time, or for someone with a few savings to buy the necessary tools to start up in small-scale production. This confidence can be provided by the building of social, economic and political institutions which enable working people to express their aspirations and concerns. If important development decisions are to be supported by the people, they need to be taken after a process of open debate involving the whole population, with full reporting of discussions in the media. Solutions to Africa's crisis must entail democratic systems where the different possible national development strategies can be debated in an environment which properly takes into account the needs of working people. In this regard, the UN Economic Commission for Africa (ECA), in its report on an African Alternative Framework for Structural Adjustment Programmes, stated:

«to achieve [the objectives of development] will call for wide-ranging changes in the democratization of society within the social and economic framework as well as in

development strategies and policies. The political systems will need to evolve to allow for full democracy and participation by all sections of the society. Only in this way will it be possible to persuade people to accept sacrifices and give their best energies to the task of transformation. Also, national programmes of adjustment have to take these objectives as the basis for their design, content and monitoring if they are to lead to recovery and transformation.»

- 1.42** One of the lessons of development is that it can only be sustained if working people receive a fair share of its benefits. Economic progress can be undermined by inequality just as surely as by misguided economic policies, and the phenomenon of extremes of wealth and poverty leading to popular resentment and social unrest has been seen on countless occasions around the world. Where people do not receive a fair return for their work, productivity falls below its potential level because motivation is low. Government intervention has often prevented unions from negotiating freely on behalf of their members. This has undermined the legally recognized trade unions, led to an upsurge of wildcat strikes and other spontaneous protests, and caused poor morale, high absenteeism and even lower productivity. The alternative is to provide freely organized, independent workers' organizations with the freedom to pursue the legitimate demands of their members through agreed negotiating procedures and attain for them a fair return for their labour, resulting in an equitable distribution of income and higher economic growth in general.
- 1.43** The record of structural adjustment programmes provides evidence of the consequences of a failure of democratic consultation. With some rare exceptions, their record has not been very positive, and failures in the conception of the programmes has been largely to blame. Structural adjustment, as defined by the World Bank and the International Monetary Fund (IMF), may have enabled countries to pay some of their bills, but at the price of economic stagnation, immense hardship and high unemployment. There are grounds for serious doubts that this strategy has laid the foundations for future development. The programmes have laid too much emphasis on a free market approach, and have failed to acknowledge that efficient markets need a sound and democratic institutional base to ensure economic, social and political confidence in the rules of the game. Many structural adjustment programmes have put too much strain on inflexible economic, social and political systems which could not handle the pressure and simply cracked. The consequences have been the popular protests and then repression and even deaths which have followed. Much has been asked of governments whose legitimacy is often fragile; and all too often, either governments have dropped the structural adjustment programme, or else they have fallen.
- 1.44** The recent World Bank report on Africa, «From Crisis to Sustainable Growth», revealed a growing appreciation of the importance of institutional factors in development. It emphasized good governance, a reliable judicial system and an accountable administration. But it did not go far enough. The striking omission was any awareness of the role played in development and economic adjustment programmes by a well-functioning, resilient industrial relations system. Where workers' organizations operate in a free and democratic environment, agreed negotiating procedures can evolve and provide channels for the constructive settlement of conflicts. Where this does not exist, the consequence has been social and political instability, frequently leading to the abandonment of the economic programme in question. Indeed, the frustration and dissatisfaction have at times burst out into damaging and recurrent confrontations which have weakened the ability of the country to develop and thus tackle the fundamental problem of poverty.
- 1.45** The international financial institutions must comprehend the fundamental inter-relationship of the industrial relations system in any society with the workings of all other economic relationships. A sound industrial relations system provides a stabilizing factor

in social relations, and thus a basis for the extension of civil liberties, the rule of law, security for investment, and ultimately growth and development. This consideration needs to be fully assimilated into development policy if there is indeed to be a reversal of the disappointing record of past efforts.

- 1.46** The objective of structural adjustment should be to lay a sound economic and institutional basis for successful development. It needs to be linked to a deeper process of reform and the construction of a tripartite basis for change. Trade unions have an important role. They can help provide the social dimension to adjustment programmes which until now has been conspicuously absent. They have a unique place in pointing out to government the consequences for workers of economic measures, and in proposing alternatives which eliminate or reduce adverse effects. Unions can press for a fair distribution of the costs of adjustment, ensure that austerity measures are kept to a minimum, and encourage the growth-oriented policies which ultimately are the only way forward. The more that governments respect the role of trade unions, the more they will find that trade unions become a responsible partner in the process of building economic and social development, and thus broaden the basis of popular support and understanding for needed reforms.
- 1.47** In 1988, the Social Dimensions of Adjustment (SDA) programme was set up by the World Bank, the African Development Bank and the United Nations Development Programme (UNDP), and now covers virtually every country of sub-Saharan Africa. The aim of SDA is to carry out poverty alleviation programmes to ease the burden of adjustment on the most vulnerable groups in society. However, the programme needs to incorporate the concept of consultation with the people intended to benefit from the projects. Trade unions, as representatives of an important part of society, should be involved in the SDA programme. An important opportunity for trade union participation is through the national consultative committees which have been set up in countries with SDA programmes to identify projects and discuss their implementation. In some countries, including Niger and Tanzania, trade unions have now been invited to take part in these national consultative committees. It is too early to evaluate whether such trade union involvement has been real enough to give the trade unions concerned an effective say in decision-making. In the long run, however, trade union participation needs to work if these programmes are to be successful, and trade union involvement should be extended to the other countries taking part in the SDA programme, which now constitute most of the countries of Africa.
- 1.48** Beyond SDA, the international organizations need to incorporate the concept of democratic and trade union consultation into further aspects of their day-to-day work and ultimately all their activities. When IMF and World Bank missions visit countries, for example under the auspices of the «Article 4» Surveillance missions of the IMF, or to draw up the Policy Framework Papers (PFPs) which form the basis of IMF/World Bank programmes, they need to meet trade unions and take their views into account if they and the government wish to ensure general support for the programmes under discussion. Tripartite consultation has a vital role in establishing popular support for development programmes. At global level, the International Confederation of Free Trade Unions (ICFTU) can channel the experiences of trade unions worldwide into IMF and World Bank policy discussions and meetings.
- 1.49** The ILO can play a major role in facilitating the involvement of trade unions in democratic consultations over structural adjustment programmes. The ILO High Level Meeting on Employment and Structural Adjustment, held in November 1987, called on the ILO to take an important role in structural adjustment, including through the promotion of tripartite consultation and co-operation. The tripartite constituency of the ILO is at the heart of fundamental economic relations, and in an increasingly interdependent world, the ILO can constitute a forum for evolving consensual approaches to global

issues. The role of the ILO should be expanded so that it is routinely consulted by other international institutions in its capacity as the expert agency of the United Nations for labour matters. In particular, the ILO has played an important role in the development of the SDA programme to date, and needs to remain closely associated in the design of SDA by providing advice, participating in missions and contributing discussion papers to the programme. The ILO is in a position to make a major contribution to preparation of World Bank and IMF studies. The IMF and World Bank need to draw upon the experience of the ILO in social and labour considerations and should invite it to form a standard element of their missions.

PART II: HUMAN AND TRADE UNION RIGHTS IN AFRICA

INTRODUCTION

- 2.1** This section of the report looks at the practical application of human and trade union rights in Africa. In priority, it covers the massive human rights abuse which is constituted by the persistent situation of apartheid in South Africa. It goes on to consider prevailing political systems throughout the African continent, further looking at the infrastructure of human rights provided by the media and judiciary. The rights to freedom of association, the right to strike and the right to collective bargaining are then studied in some detail. The last part introduces the international perspective.

IN THE SHADOW OF APARTHEID

- 2.2** The continuing crime of apartheid in South Africa stands out as a uniquely evil violation of human rights. The denial of basic freedoms has been developed and institutionalized to the point where it systematically invades every aspect of the lives of all those who are its victims. In its conception apartheid is a rejection of humanity, and in practical application for half a century it has involved the massive and cruel repression of the basic freedoms of the great majority of the population of South Africa.
- 2.3** Developments over the last two years give hope that the shadow of apartheid will soon be lifted from the African continent. Positive steps have included the February 1990



release of Nelson Mandela, and unbanning of the liberation movements, and the announcement one year later of the government's intention to repeal the Population Registration Act, the Group Areas Act, and the Land Acts. But formidable obstacles remain to the creation of a unitary, democratic, non-racial South Africa founded on the principle of one person one vote. Until the irreversible changes that would guarantee the attainment of that goal and the final destruction of apartheid have taken place, the ICFTU insists that sanctions against the Pretoria regime must be maintained, as called for by the independent democratic trade union movement of South Africa. The ICFTU has, therefore, criticized strongly the recent decisions of the European Community to relax its sanctions.

Robben Island prison, South Africa. Photo AP.

- 2.4** The international community has major responsibilities in the struggle against apartheid. This is not to deny that the final victory over apartheid will be the achievement of South Africa's black majority and, particularly, of its independent trade unions. After having won the basic right to organize at the beginning of the 1980's, and despite the major restrictions and brutal repression to which it has been subjected since, the independent

democratic trade union movement has become the locomotive force of the anti-apartheid struggle. The role of the other nations of the world should be to provide the most favourable conditions for the success of the struggle inside the country, and here the record is mixed. Undoubtedly, many initiatives taken at the international level have been important factors in the progress made in South Africa. But too often they have been undermined, circumvented, or simply rejected by those for whom commercial self interest has weighed more heavily than other considerations.

- 2.5 While their effectiveness is open to debate, it is clear that the international community has established more formal bodies concerned with the anti-apartheid struggle than it has in respect of any other single situation of violation of basic rights. A significant number of organs of the United Nations system are dedicated to that struggle, while the ILO itself has set up unparalleled mechanisms for the examination of the situation in South Africa. The ICFTU supports fully, and participates actively, in the work of these procedures which reflect the unique nature of apartheid.
- 2.6 For the same reasons that it places the highest priority on the anti-apartheid struggle, the ICFTU cannot but regret the very limited attention that has been given internationally to the human and trade union rights situation in the rest of the continent of Africa. This neglect is evident, for example, in the work of the UN Commission on Human Rights. South Africa apart, only one of the Commission's special procedures relates specifically to an African country, and this in the form of a limited programme of advisory services to Equatorial Guinea which, by the admission of the responsible expert, has in the nine years of its existence proved totally ineffectual in promoting the observance of fundamental rights and freedoms in that country. African governments have resisted strongly proposals - often put forward by non-governmental organizations such as the ICFTU - to subject the rights situations in the countries of the continent to effective scrutiny, and their counterparts from other regions have also shown a marked reluctance to support such initiatives.
- 2.7 The situation is not dissimilar in the case of the ILO. Detailed examination of the performance of African countries in respect of international labour standards is obstructed by the fact that some have ratified very few ILO Conventions. But even in the case of the Committee on Freedom of Association, where complaints for violation of trade union rights can be presented against governments which have not ratified the relevant Conventions, Africa has received only limited attention. In the period 1986-1989, for example, only 8.6% of all complaints submitted to the Committee were against African governments. When the Committee last met in February, it had 77 cases under consideration, of which just four concerned African countries, three of these having been submitted by the ICFTU or associated international trade secretariats (ITS). Since then, the ICFTU together with the Zambia Congress of Trade Unions (ZCTU) has submitted a further complaint against Zambia. According to ILO records, the Organization of African Trade Union Unity (OATUU) has submitted only four freedom of association complaints since its creation in 1973, the last one in 1983. Two were against Kenya and one each against Ghana and Tunisia.
- 2.8 There are a number of possible explanations for the meagre use made of available international human and trade union rights mechanisms in respect of Africa. Some might argue that no rights problems exist. The evidence presented in this document shows that this argument cannot be sustained. An alternative explanation is that obstacles to the flow of information on human rights prevent initiatives at international level. This would seem likely to be a significant factor. UN and ILO procedures are not widely known in Africa, and there are probably less independent human rights organizations active there of the type which might be expected to make use of them than there are elsewhere. The fact that until the present time only a small minority of African trade union centres have ever made

complaints against their governments raises basic questions about the independence and freedom of action of the labour movement in many countries.

- 2.9** But, underlying these possibilities, lies the suspicion of a deeper-rooted, and ultimately more damaging tendency to apply to Africa a double standard in regard to basic human and trade union rights. Proponents of such double standards can be found inside and outside Africa. In April 1990, the Executive Committee of the African Regional Organization (AFRO) of the ICFTU, meeting in Chad, condemned the comments of former French Prime Minister Jacques Chirac who, in a visit to Côte-d'Ivoire, had said that African peoples were insufficiently mature to enjoy freedom and democracy. Parallel views have been expressed by African leaders who have spoken of the unaffordable luxury of basic human and trade union rights which, they have argued, can act only as obstacles to their countries' pressing development objectives.
- 2.10** Closely linked to, but distinct from, the development-based apologia of rights abuses are those which argue that there are some generally unspecified, but peculiarly African, factors in the situation on the continent that make basic democratic freedoms inappropriate to its societies. Jerry Rawlings, Chairman of Ghana's ruling Provisional National Defence Council (PNDC) has referred to the idea of civilian government as «a colonial heritage».
- 2.11** The ICFTU has, without exception, rejected any recourse to double standards to justify human and trade union rights violations in any country and on whatever grounds. It believes that African workers are badly served by those who argue that developmental, post-colonial, security, or any other considerations justify the denial of basic freedoms. More importantly, the experience of the last two years shows that those workers are themselves rejecting such arguments in the most emphatic manner.

THE PUSH FOR DEMOCRACY

- 2.12** On 25 March 1991 votes in the second round of Benin's Presidential elections brought a democratic and almost entirely peaceful end to the rule of President Mathieu Kerekou who had ruled for 17 years at the head of a one-party Marxist-Leninist dictatorship. The newly-elected President Soglo will rule under the terms of a democratic constitution adopted in December 1990, and with 16 parties represented in Parliament as a result of the legislative elections contested by 24 parties in February.
- 2.13** On the very day that Benin completed its transition to multi-party democracy, members of Mali's armed forces were tracking down General Moussa Traoré whose dictatorial one party rule went back to his assumption of power by coup d'état in 1968. Traoré's regime was deposed and replaced by a military-led committee, the Comité de Transition pour le Salut du Peuple (CTSP), which undertook to convene a national conference within three months, and organize multi-party elections by the end of the year.
- 2.14** Events in Benin and in Mali illustrate some of the common elements and some of the contrasts of the experience of a large number of African countries which, in different ways and to differing extents, are experiencing an upsurge of popular demands for the installation of pluralist democracies. The contrasts are to be found between the peaceful process of transition in Benin, where a discredited regime readily complied with a timetable of constitutional and electoral change laid down by a national conference in February 1990, and the mounting violence with which Traoré's regime in Mali reacted to the growing popular demands for his resignation and rejected any genuine dialogue with the democratic opposition. Official figures put at 112 the number of lives lost in the last days of Traoré's rule, as the General sought to impose a Tienanmen solution against those

demonstrating for his departure. There are contrasts too in the extent and the solidity of the changes so far obtained. Benin's formal transformation from dictatorship to democracy started early and, by the end of March 1991, appeared complete and stable. In Mali, the true intentions of the military-led transition committee, whose leader Lieutenant Colonel Toumani Touré declared its aim of «completing the struggle of the democratic and trade union movement.... to build a democratic society free of social injustice», and its ability to fulfil them remain uncertain.

- 2.15 The common factors between Benin and Mali are to be found in the absolute bankruptcy of the long-established single party systems over which Kerekou and Traoré had presided, their complete lack of legitimacy in the eyes of a people who demonstrated unequivocally their desire for basic democratic pluralistic freedoms, and the role of the trade union movement of each country in bringing an end to dictatorship.
- 2.16 The decision in January 1990 by the single trade union centre in Benin, the Union Nationale des Syndicats des Travailleurs du Bénin (UNSTB), to put an end to the special relationship that had linked it since 1974 with the ruling Parti Révolutionnaire du Peuple du Bénin (PRPB) (under which it was attributed the classic Marxist-Leninist function as a transmission belt of state policy) marked the first step in Benin's transformation. In declaring its desire to become independent of government, the UNSTB was reacting belatedly to widespread social and economic unrest, and to the demands of working people whose interests it had previously failed notably to represent. By the time that President Kerekou announced the following month the restoration of a multi-party system, many civil servants had not been paid for 14 months. In this sense it can be argued that the UNSTB was jumping an already fatally damaged ship rather than contributing significantly to its sinking.
- 2.17 In Mali, the single legal trade union centre, the Union Nationale des Travailleurs du Mali (UNTM), in the course of 1990 and early 1991 asserted itself as the leading opposition force in the country. The UNTM declared formally its full independence of the ruling party, the Union Démocratique du Peuple Malien (UDPM), and government in April 1991 and was the first major organization to call, in May, for the introduction of a multi-party system. The UNTM reacted to violent repression of pro-democracy demonstrations in December 1990 and January 1991 and to continuing economic and social decline by calling a widely observed 48 hour general strike on 8 and 9 January. It was the convening by the UNTM of further mass demonstrations and an indefinite general strike that finally brought about Traoré's downfall. UNTM General Secretary Bakary Karambe, as President of the coordinating committee of the movement for democracy which unites civilian opposition groups, also warned, in the wake of the military intervention, that the general strike could be reconvened if the military did not adhere to the undertakings it had given concerning a timetable for democratic change.
- 2.18 To date, the number of African countries that have, like Benin, completed the process of electing freely chosen governments is relatively small. They include the notable case of Cape Verde where the single party system that had prevailed since independence was abolished in October 1990. The ruling African Party for the Independence of Cape Verde (PAICV) was decisively beaten in legislative elections in January, and the President since independence Aristides Pereira lost to opposition leader Mascarenhas Monteiro in Presidential elections in February. A similar chain of events in the other Portuguese-speaking island state of Sao Tomé and Príncipe saw the introduction of a multi-party system by decision of a national referendum in August 1990. Opposition victory in legislative elections in January led President Pinto da Costa to decide not to try to extend his 15 years tenure, and were followed by the subsequent unopposed election of Miguel Trovada in March. In neither country is there evidence of the trade union movement having played a significant role in the process of change.



Namibia on the road to independence: May Day Rally, Windhoek, 1 May 1989. Photo AP.

2.19 There are, then, an increasing number of countries in Africa where political pluralism is practised. Benin, Cape Verde, and Sao Tomé and Príncipe have now joined the hitherto alarmingly restricted group of functioning multi-party democracies in Africa, whose most prominent members are Botswana, the Gambia, Mauritius, Senegal, Zimbabwe and, since independence in March 1990, Namibia.

2.20

Parliamentary systems in place in a number of other countries, including Egypt, Morocco, and Tunisia, allow limited multi-party activity but do not appear to provide, in practice, full democratic representation of competing political opinions. In Morocco, the Union Marocaine du Travail (UMT) has consistently denounced the unrepresentative nature of local and national parliamentary assemblies as a facade of democracy. In Tunisia, widespread abuses of human and trade union rights took place under the government in place until 1987. There has since been some improvement, strongly supported by the Union Générale Tunisienne du Travail (UGTT).



Street scene, Fez, Morocco, December 1990. Photo AP.

2.21

In two further countries considerable popular unrest in 1990 brought about abrupt moves from single to multi-party systems and elections which returned existing leaderships to power. In Côte-d'Ivoire President Houphouët Boigny, who has led the country since independence in 1960 at the head of a de facto one party system, reacted to increasing opposition to austerity programmes, including strike actions and large scale demonstrations, by announcing at the end of April 1990 the establishment of a multi-party system. He subsequently won a large majority in Presidential elections in October, while his party, the Parti Démocratique de la Côte-d'Ivoire (PDCI) claimed 163 of 175 national assembly seats at stake in November. The lack of time, resources, and experience available to opposition parties, together with such direct obstacles as the requirement that candidates provide large financial deposits, and restrictions on meetings, mean that



Riot police disperse opposition demonstration in Côte d'Ivoire, 14 July 1990. Photo AFP.

major doubts must persist as to the extent that the election results represent a genuine reflection of popular will.

2.22

Similar, if less acute, reservations surround the electoral process that has taken place in Gabon. Here too, a political opening was forced on a longstanding one party system as a result of widespread strike action and demonstrations in early 1990. They led President Bongo, in power at the head of a Parti Démocratique Gabonais (PDG) monopoly government since 1967, to convene a national convention in April 1990 in which 74 political associations participated. Legislative elections were called in October and were contested by 37 parties resulting in the PDG winning 59 of 120 seats. It was, however, able to control a majority through alliance with a minority grouping. Although the new government has called for the establishment of a fully functioning democratic system, President Bongo has resisted calls to bring forward scheduled Presidential elections from 1993.

2.23

In other African countries, recent undertakings concerning transitions to multi-party systems have not yet led to the holding of legislative or presidential elections, but in a large number of cases, timetables for elections and for constitutional change have been established. They vary greatly in respect of the time scale and extent of the changes foreseen and the genuine commitment of existing authorities to democratization.

2.24

The process of democratic change is well-advanced in Zambia where elections are scheduled for October 1991, as a result of a December 1990 referendum on the introduction

of multi-party system and constitutional amendments which brought to an end the political monopoly of the ruling United National Independence Party (UNIP). The campaign for democratization has been led by the single trade union centre the ZCTU, whose Chairman-General Frederick Chiluba is the candidate of the Movement for Multi-Party Democracy in October's Presidential contest. The ZCTU's outspoken support for democracy has led it into frequent and acute conflict with the government of President Kaunda, who resisted strongly popular calls for change until growing unrest and food riots in the summer of 1990 forced his hand. The highly restrictive industrial relations legislation to which the President gave his assent in January 1991 is widely seen as a punitive measure against the ZCTU for its spearheading of the pro-democracy movement.

2.25 Another single trade union centre which has played a central role in major political changes in recent months is the Confédération Syndicale du Congo (CSC), which seems to have been a crucial actor in the erosion of the Marxist-Leninist dictatorship of President Sassou Nguesso's Parti Congolais du Travail (PCT) which had been largely unchallenged since 1979. PCT attempts to obstruct democratization initially included postponement of the CSC congress scheduled in July 1990. When the congress finally met in September and adopted a clear position in favour of a multi-party system, the government moved in to stop the congress. This action provoked the CSC to convene a general strike which, in turn, led the regime to legalize the activities of opposition parties. As of the end of the year over 50 were officially registered. Pressure from the pro-democracy movement, including the CSC, was maintained in early 1991 until the head of state agreed to convene a national conference, which opened on 25 February. Initial conflict over its powers, mandate, and composition was followed by the decision that the conference was a sovereign body and that its recommendations for the country's future political process would therefore be binding. While, at the time of writing, the outcome of the conference remained uncertain, there has as yet been no indication that the regime will be prepared to bring forward presidential elections from 1994 when they are presently scheduled to take place.

2.26 In Niger, the strong support for democratic change of the single trade union centre, the Union des Syndicats des Travailleurs du Niger (USTN), was voiced explicitly by its General Secretary, Laouali Moutari in his 1990 May Day speech in which he called for the immediate introduction of political pluralism. His call came just 7 months after a new constitution had been introduced sanctioning an authoritarian one party system as a result of which voters in Presidential and legislative elections were only able to vote for or against the candidates of the ruling Mouvement pour la Société de Développement (MNSD). Repeated general strikes convened by the USTN combined calls for democratization with protests against the government's austerity policies and with demands for the punishment of those responsible for major human rights abuses, including the killing of student demonstrators in February 1990. USTN leaders were detained in June 1990, and strikers subjected to violent repression. Nevertheless, the government that had previously rejected «the luxury of multi-party politics» as inappropriate to Niger's stage of development was pressured into agreeing to introduce constitutional amendments in 1991 that would open the way to a multi-party system, and to the convening of a national conference in May 1991. The USTN campaigned for a role in the preparation of the conference, and for it to have sovereign decision-making powers.

2.27 In March and April 1991, popular pressure for democracy grew in Togo and in Cameroon, and was met with violence by regimes which, initially at least, showed no inclination to loosen their monopoly grip on political power. In neither case did the single trade union centre, the Confédération Nationale des Travailleurs du Togo (CNTT), or the Organisation des Syndicats des Travailleurs Camerounais (OSTC), express support for change or play a significant role in representing popular demands. Only after repeated interventions by the army against demonstrators calling for his departure, the imposition of a curfew, and finally the recovery of the bodies of 19 victims of repression from a Lomé lagoon, did

Togo's President Eyadema, who has ruled at the head of the single party monopoly of the Rassemblement du Peuple Togolais (RPT) since the military coup of 1976, hurriedly announce legislation opening the way to a multi-party system and amnestying political offenders. In Cameroon, President Biya's concessions to pro-democracy pressures in 1990



Pro-democracy demonstrators fight police and troops in Togo, 16 March 1991. Photo AFP.

was limited to the enactment of legislation in December laying down the framework for the operation of parties in opposition to his Rassemblement Démocratique du Peuple Camerounais (RDPC) which had enjoyed a legal monopoly since 1966. However, the founding of the first opposition parties in February 1991, which numbered at least 11 by April, merely intensified pressure for total democratization, the convening of a national conference, and Biya's departure from the Presidency. Significant numbers of supporters of democracy, including many workers, lost their lives in repression of demonstrations and general strikes in April.

2.28

The situation in Zaire remains equally unclear. President Mobutu has sought to preserve his own powers and prerogatives by making successive concessions to the growing tide of pro-democracy sentiment. By announcing on 24 April 1990 the end of the 25 year monopoly on power of the Mouvement Populaire de la Révolution (MPR), from whose presidency he also resigned, Mobutu sought to remain in control of a limited modification of the country's political system. But as each concession failed to meet the demands of the mounting opposition, Zaire moved towards full party pluralism by October. By April 1991, some 70 parties had been established but the legislative framework for democratization had yet to be elaborated. Having previously rejected the convocation of a national conference to address these issues, Mobutu finally announced that one would meet from 29 April. However, it was subsequently again postponed. The uncertain and confused events of 1990 were reflected in the single trade union centre the Union Nationale des Travailleurs du Zaire (UNTZa), which played no initial role in opening the

way to political reform. Elections in September were reported to have led to wholesale changes in the UNTZa leadership, but by this time large numbers of newly created national trade union centres were in operation. At the end of the year and early in 1991, widespread strike action took place. The UNTZa organized a December general strike against rising prices.

- 2.29** An abrupt reversal of position on democratization was announced by President Kolingba of the Central African Republic on 22 April, after an extraordinary meeting of the Rassemblement Démocratique du Peuple Centafricain (RDPC) which has enjoyed monopoly party status since its setting up in 1986, that a multi-party system would be introduced through constitutional reform "in a reasonable period of time". This followed the rejection of pluralist change by an RDC Congress the previous October, when several activists of the coordinating group for the convocation of a national conference were detained. The rapid change can best be explained as being the result of pressure from unofficial opposition parties which managed to gain support from the international community, notably France. Trade unionism in the Central African Republic, which had been banned under the terms of the so-called "trade union truce" imposed by Kolingba from 1981, was re-established in May 1990 with a new trade union centre, the Union Syndicale des Travailleurs du Centafricain (USTC). A general strike convened by the USTC in November brought a violent response from the authorities. In a 30 November speech, President Kolingba declared that while «the trade unions have been talking a lot about democracy ... if they are characterized by violence, intolerance, and barbaric acts, what would happen to the political pluralism that some people have been using as a pretext to undermine our dearly won social peace?»
- 2.30** Developments in the countries of the Maghreb have tended to be regarded as independent of those in sub-saharan Africa. Indeed, the far-reaching changes in Algeria pre-date those in Benin to which vanguard status is generally attributed. The constitutional changes of February 1989 brought to an end the political monopoly held by the Front de Libération Nationale (FLN) throughout the country's independent history, and followed serious popular unrest in which the then single trade union centre, the Union Générale des Travailleurs Algériens (UGTA), had been a target for criticism, rather than a mouthpiece for popular demands. Subsequently, local elections were held in June 1990, with opposition parties, notably those of explicitly Islamic inspiration, making important gains. Legislative elections scheduled for late June 1991 are likely to give important indications concerning the democratic evolution of Algerian society. It may be noted that the UGTA has, in the context of trade union pluralism, attracted wide support for its protests and alternative proposals concerning government economic policies.
- 2.31** Important developments in Mauritania have, by contrast, taken place only recently. In early 1991, discontent with the rule of the military committee of national salvation, the Comité Militaire pour le Salut National (CMSN), in power since 1978 and recognized constitutionally as the «custodian of the nation's sovereignty» grew against the background of alleged torture of detainees reported to have been involved in a plot to overthrow the regime of President Taya. The Union des Travailleurs de Mauritanie (UTM) published an open letter to the President calling for democracy on 4 April. It later declared its willingness to go «all the way» in its actions in favour of the convening of a national conference. Faced with this and other internal opposition, linked to growing international pressure, President Taya announced on 15 April that a referendum on a new constitution would be held before the end of the year, to be followed, in the event of a positive outcome, by the formation of parties and free legislative elections.
- 2.32** In other African countries, democratic openings remain at the level of statements of intent, timetables of varying duration and uncertain reliability, or continuing dialogue over the framework for change.



2.33 In Mozambique, the constitution adopted in November 1990 ended the Front for the Liberation of Mozambique (FRELIMO)'s single-party status and opened the way to multi-party elections planned for later this year. However, durable progress will depend critically on settlement of the long standing and highly destructive civil war. In Angola, which has experienced civil war for the last 17 years, the two warring factions the Popular Movement for the Liberation of Angola (MPLA) and the National Union for the Total Independence of Angola (UNITA) finally signed a protocol agreement in April 1991 which has created a possibility of freedom, political pluralism and multiparty elections in 1992.

Famine striking Mozambique, the consequence of South African-backed destabilization. Photo AP.

2.34 Fora of various descriptions have examined possible future options in Burkina-Faso and Sierra Leone, where they included trade union representatives, and are at work in Burundi. Burkina Faso is due to hold a referendum on a new constitution in June 1991, with presidential elections planned for November. Sierra Leone was due to hold multiparty legislative elections in May 1991, but these have been postponed due to border incursions by rebel forces from neighbouring Liberia. The Sierra Leone Labour Congress (SLLC) has maintained its independence from the single political party, the All People's Congress (APC). In April, Rwanda's President Habyarimana announced an acceleration of the previously decided timetable for multi-party elections, from 1992 to the summer of this year. In Guinea-Bissau, the ruling African Party for the Independence of Guinea-Bissau and Cape Verde (PAIGC) has announced a two year transition period during which internal debate inside the party is to be promoted. In Guinea a December referendum overwhelmingly supported the installation of a similar period of up to 5 years at the end of which contested legislative and presidential elections are envisaged. Nigeria's strictly controlled and delayed return to civilian rule by 1992 allows for the activities of two approved parties, and while Madagascar's President Ratsiraka permitted, as of January 1990, the formation of parties outside the ruling Front National pour la Défense de la

Révolution (FNDR) coalition, under current arrangements they will be unable to contest Presidential or legislative elections before 1996 and 1994 respectively.



The power of the gun: a soldier in Rwanda, 11 October 1990. Photo AP.

2.35 Ghana has a strong, influential, and representative trade union movement, whose activities are restricted by the absence of fundamental civil liberties such as the existence of alternatives to the ruling party, the Provisional National Defence Council (PNDC). The Ghana Trades Union Congress (GTUC) has joined in the demands for political pluralism in Ghana. As a result, the PNDC started a slow process of political reform with elections to district assemblies in 1989 and a process of national dialogue in the construction of genuine democratic institutions. In May 1991, the PNDC finally announced that Ghana will revert to a multi-party system. In Tanzania, while no concrete institutional change has yet been accomplished, increasing internal debate is taking place in the single ruling party, the Chama Cha Mapinduzi (CCM), and President Mwinyi has made reference to a possible future referendum on a multi-party system. In Lesotho, where party politics are forbidden, a process of constitutional revision was underway in conformity with the scheduled withdrawal of the military from government in 1992. However the coup in April 1991 may affect this process.

2.36 While Zimbabwe remains a multi-party democracy, concern grew at the narrowing space for free and democratic opposition in the wake of the overwhelming victory of the ruling Zimbabwe African National Union - Patriotic Front (ZANU-PF) at March 1990 elections when it claimed 117 of 120 available parliamentary seats. However, following a debate within the governing body of the ZANU-PF, the party subsequently undertook not to legislate for the introduction of a single party monopoly, but rather to «organize and mobilize» in its support. Later comments by President Mugabe, to the effect that recent events in Eastern Europe had led him to a change of opinion on the matter, give

hope that the people of Zimbabwe will continue to be able to exercise basic democratic freedoms.

- 2.37 The extent of positive political change in different African countries, varying greatly as it does, should not obscure the fact that in a significant number of countries formal political liberties are still denied by governments that continue to refuse to submit themselves to the elementary test of obtaining a popular mandate through free elections. The reaction of the Kenya African National Union (KANU) party, which has enjoyed a political monopoly since 1982, to expressions of opposition has been deeply disappointing. In July 1990 it arrested large numbers of pro-democracy activists, and brought treason charges against several of their leaders. Subsequently, the proposed establishment of the National Democratic Party by former Vice-President Oginga Odinga was not permitted. Neither has any progress been made in Swaziland where trade unionists were among those arrested in June 1990 and later charged with high treason for their alleged involvement in the formation of a political party. In Uganda, there is presently no political party, and President Yoweri Museveni asserts that his government is chosen so as to incorporate a broad spectrum of popular opinion. He acknowledges, however, that multipartism should ultimately be restored. Following two decades of very difficult existence, the National Organization of Trade Unions (NOTU) of Uganda is now moving towards being a fully independent national centre.
- 2.38 More predictably, but no less disturbingly, a number of Africa's most unrepentantly repressive regimes have shown no indication that they have any intention of meeting their elementary responsibilities in respect of human and trade union rights. The regime of President Obiang Nguema in Equatorial Guinea, which inherited the catastrophic heritage of the Macias tyranny in 1979, has not succeeded in making any decisive break with the practices of its predecessor, nor indeed has it shown any genuine willingness to do so. The President, who set up a single-party in 1987 as a vehicle for his personal rule recently reaffirmed that «political monolithism remains the only way» for his country.
- 2.39 In similar vein, the Rassemblement Populaire pour le Progrès (RPP) of President Hassan Gouled, the only legal party in Djibouti since 1981, issued a statement in March 1991 that «it would remain until further notice, and taking into account the specific conditions of the country, the only political formation, and guarantor of national unity, stability, and development». The following month, a leading opponent of the regime was detained after having attempted to open an office of his opposition group, the Mouvement pour l'Unité et la Démocratie (MUD).
- 2.40 Since independence in 1964, Malawi has been under the highly personalized and increasingly autocratic rule of President for Life, Hastings Banda. There has been no sign that events in other parts of the continent have in any way penetrated the political hegemony of the Malawi Congress Party (MCP) which serves as the vehicle of the President's power, nor brought about any relaxation of the rigorous repression of any expression of dissent. Comparable circumstances and immobility prevail in the Seychelles under the political monopoly of President Rene's Seychelles People's Progressive Front (SPPF) which dispensed with all opposition in 1979. This, undoubtedly, explains Rene's winning 96% of the popular vote in Presidential elections in 1989.
- 2.41 In Ethiopia, a coalition of opposition rebel groups composed largely of Eritrean and Tigrayan separatists finally took power in May 1991, and promised to hold multi-party elections at the earliest opportunity. The regime they replaced, the military dictatorship of President Mengistu, had been almost without parallel in its wilful and massive disrespect of basic freedoms since its assumption of power in 1974.

- 2.42 The military regime that overthrew the elected government of Sudan in June 1989 is one of the few that can rival its Ethiopian neighbour in this regard. Its first act was to dissolve the country's trade union movement as well as all political organizations, many of whose leaders were detained and brutally tortured. While President Al Bashir's military junta has attempted to set up new structures for workers' representatives under its close control, it has also undertaken to allow no return to multi-party politics, and in October 1990 rejected even the establishment of a single state party monopoly. In May 1991, «popular people's assemblies» were set up in place of a parliamentary system and given the task of governing within the principles of Sharia law. It should be noted that the very existence of trade unions is decreed by the Sudanese government to be incompatible with Sharia law.
- 2.43 Nor is there any place for democratic institutions such as political parties or free trade unions in Colonel Gadhafi's Libyan Arab Jamahariya, whose instruments of mass mobilization and control are pyramid-like structures of people's congresses whose apex is formed by the annual General People's Congress and General Federation of Producers' Trade Unions (GFPTU).
- 2.44 The prospects for progress in the human and trade union rights performance of a significant number of African countries are retarded considerably by the military conflicts in which they are engaged. The examples of Ethiopia, Angola and Mozambique have already been mentioned, and to them may be added those of Sudan, Rwanda and Uganda, all of which are involved in violent confrontations of differing scales and intensities which all have appreciable rights implications. Tragic as the consequences are, none has yet come to the point of bringing about the total disintegration of society in the same way as have the recent civil wars in Liberia and in Somalia.
- 2.45 In Liberia, attempts at arranging a ceasefire and convening a national reconciliation conference look to be undermined by the refusal by one of the major armed factions to participate. There is no indication that Somalia is in a position to bring an end to the chaotic factional violence that has persisted in the wake of the military defeat of the 21 year old Barre dictatorship in January.



The reality of civil war: refugees killed during fighting in Liberia, 1990. Photo AP.

- 2.46** The overthrow of the Habré regime in Chad in December 1990, which brought an end to its civil war, and the installation of Colonel Idriss Déby as President the following March brought respite from long-running hostilities. However, his promise of an immediate return to multipartism has yet to materialize, although the terms of the national charter drawn up in February foresee movement towards a new constitution and political pluralism in the course of a 30 month transition period under a strong Presidency. As in so many other cases, it remains to be seen if this long term blueprint for Chad's future can win the type of popular support and political commitment needed to make it reality.

MAKING DEMOCRACY A REALITY: THE HUMAN RIGHTS INFRASTRUCTURE

- 2.47** The holding of elections at all levels, contested by political parties operating without restriction, is indispensable to significant progress in the respect of basic rights in Africa. But such elections, alone, are not a sufficient condition for improvement. They need to be accompanied by a series of other guarantees and practices in such fields as freedom of expression and association, and by legal and judicial rights which, combined, constitute the type of human rights infrastructure that make democracy a reality, and freedom more than an abstract ideal.
- 2.48** This infrastructure is either absent or inadequate in much of Africa, and means that many countries, including those where there may be a genuine commitment to democratic change, face a major challenge in creating the conditions in which multi-party elections can be truly free and fair and the outcome can be regarded as an authentic expression of popular will. Experience from outside Africa, from Albania and Bulgaria to Paraguay, demonstrates that those who have held a longterm monopoly on power, and their direct successors, go into elections with advantages that may be impossible to overcome. Lack of previous experience of pluralist politics; habits of obedience to traditional political bosses, sometimes reinforced by coercion and intimidation; ethnic loyalties; concentration of resources and patronage in the hands of existing elites; and electoral systems tailored to the advantage of those previously in power are all potentially distorting factors in the process of democratization. However, that such problems need not fatally undermine all efforts to bring about change has been shown by the events in Benin, Cape Verde and Sao Tomé and Príncipe.
- 2.49** Appreciation of this type of danger explains the importance attached by the democratic opposition in practically all of French-speaking Africa to the convocation of national conferences as a key element of the transition from one-party to pluralist systems, and the controversy that has frequently surrounded their mandate and powers. Such conferences offer a mechanism for breaking the single-party's dominance of decision making and of ensuring that elections are held on terms that, so far as possible, offer the chance of a fair contest. Controversy in this area is likely to grow as democratization advances in Africa. An example of what might be expected to come about is the dispute which took place over the electoral law that is to regulate the June 1991 elections in Algeria. Opposition parties objected that the law, elaborated by FLN-controlled bodies, by virtue of the constituency boundaries it establishes and the over-representation of rural areas is designed to promote unfairly the FLN's chances of success.
- 2.50** Restrictions on freedom of expression in Africa come from various sources. The effect, however, is the same, limiting the ability of one of the most important defenders of human rights, the media, to perform its proper function in a democratic country of reporting freely on all developments and hence keeping the authorities accountable to the people.

In a great many countries, specific legislation places explicit limits on the scope of accepted debate and the extent to which criticism of the government is permitted. In another group of countries, freedom of expression is restricted by the type of self-censorship exercised by media which operate within the terms of unwritten but generally understood tolerance thresholds. National experience in respect of free expression varies enormously between the nations of Africa; in some, no dissenting views may be expressed, while in others the media distinguish themselves by their outspoken coverage of major issues. As the process of democratization evolves, it is to be hoped that the space within which Africa's media is able to operate freely will expand. The proliferation of magazines



and newspapers which has accompanied the increased freedom of political debate in Cameroun and Zaire provides some indication of the extent to which the desire for a free press is presently restrained. If Africa's media can achieve greater freedom, they are liable to run up against more indirect obstacles to their ability to report objectively. In the case of the electronic media this is particularly evident in the concentration of ownership in government hands, and the minimal degree of private broadcasting on most of the continent. The written press, too, will need to confront the need to expand circulation in the context of major practical problems and, in some cases, significant levels of illiteracy. The information and communications revolution has not yet hit most of Africa. If and when it does it will be a potent weapon in the struggle for basic rights.

Banning of newspapers under state of emergency legislation, South Africa, February 1990. Photo AP.

2.51

The role of the judiciary as an effective guarantee of the rule of law will, clearly, be of critical importance in the evolution of the basic rights situation in Africa. The judiciary must have proper legal qualifications; it needs to have sufficient resources at its disposal to do its job properly; but most importantly it needs to be independent of outside interference from the government or any other source. Africa's past record in this area has been mixed, with examples of courageous judicial defence of fundamental rights interspersed with others of blatant subservience to the executive or of the simple non-functioning of the formal legal system. Zimbabwean courts, operating in a multi-party system, have played a notable role in protecting trade unionists subjected to illegal persecution. It was the High Court, for example, which twice ordered the release of Zimbabwe Congress of Trade Unions (ZCTU) General Secretary Morgan Tsvangirai after his detention under emergency powers in October 1989, and which ruled that the government had acted improperly in June 1990 in the dismissal of over 1,000 striking teachers, and in favour of their reinstatement. Similarly in Mauritius in July 1988, after three union leaders had been arrested on the charge of incitement of an illegal strike in the Mauritius export processing zone, the court rejected the government allegation and ruled the charges unfounded. But in Niger and in Zaire, under single party rule, the judiciary, faced with official obstruction, has failed to mount credible investigations of notorious killings allegedly perpetrated by the security forces. Killings, suspected assassinations, disappearances and other violence have taken place in a great many countries, frequently carried out by irregular forces under direct control of one-party dictators. Often, relatives and friends have been too intimidated to protest, the local press has been silenced, and the judiciary has failed to take actions. Often the same countries have also been the

location of serious violations of suspects' rights, with torture of detainees reported in, for example, Mauritania and Sudan.

- 2.52 A particularly damaging encroachment on proper judicial protections is to be found in the extensive national security powers and procedures that are available to the authorities on a largely discretionary basis in a large number of African nations. Given that so-called «national security doctrines» have been recognized as having provided the pretext for gross and massive rights violations, in particular in Latin America in past decades, such dangers merit serious examination by trade unionists. Special national security mechanisms, including security courts which are in some cases under military jurisdiction, and powers of arbitrary and prolonged detention exist in the majority of African countries and constitute a source of grave concern. While situations of genuine emergency may justify exceptional measures, on too many occasions special powers have been retained by governments in circumstances which provide no justification for them. Until its lifting in July 1990, Zimbabwe's state of emergency, inherited from the former minority regime of Ian Smith, had been in force since independence. Zambia provides the even more extreme example of a 26 year uninterrupted state of emergency.

TRADE UNION INDEPENDENCE AND PLURALISM

- 2.53 The ICFTU's major concern is, naturally, to see that independent and democratic trade unions take a prominent place in the composition of the basic rights infrastructure in African nations, as they must do in any healthy democracy. This will require, in the first place, full and universal implementation of the right to organize guaranteed by ILO Convention 87, article 2 of which provides that: «workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization».
- 2.54 The fundamental importance of this principle to the practice of free trade unionism is self-evident, and yet its full application has been a matter of considerable difficulty in Africa. In Zambia, trade unions are prohibited from organizing self-employed workers. The right of civil servants to organize is denied or severely restricted in, for example, Botswana, Burkina Faso, Cameroon, Ethiopia, Gabon, Ghana, Kenya, Liberia, Madagascar, Malawi, South Africa and Uganda.
- 2.55 The right to organize has been the object of a further controversy that has left an indelible mark on the evolution of the continent's trade union movement. It follows from article 2 of Convention 87 that any system in which a single trade union structure is imposed on working people who have no right to organize outside officially recognized structures represents a major violation of the most basic element of the right of freedom of association. Nevertheless, this is precisely the situation that has prevailed in a significant number of African countries for considerable periods of time.
- 2.56 Those African governments that have ratified Convention 87, and which are therefore required to respond to ILO criticism of their monopoly trade union systems have justified the situation in their countries on various grounds. In the case of Egypt, the government has sought to justify the trade union monopoly conferred by law on the Egyptian Trade Union Federation (ETUF) because it «represents the wish of the workers and corresponds to the needs of many countries, including developing countries, of which Egypt is one». In similar vein, the government of Nigeria has claimed that its intervention to impose a single trade union centre «responded to the desires of workers to amalgamate the many trade unions and four central organizations which had existed». The Seychelles government

has told the ILO that the National Workers' Union (NWU)'s legal monopoly came «after the voluntary dissolution of all trade unions». The Ethiopian government has claimed that the All Ethiopian Trade Union (AETU)'s legal monopoly did no more than reflect the «common will of workers», and the Togolese authorities that the CNTT's privileged status was, likewise, the «result of the will of the workers». The Congolese government's explanation of the CSC's legally enforced monopoly which prevailed until very recently was that it resulted from «the common will of all workers... (and)... political, historic, and economic development», while Gabon's authorities' justification of their recourse to legislation to confirm COSYGA's exclusive trade union status (which has also recently ceased to exist) was that it «met the desire of the occupational organizations to unite, and not the will of the government to interfere with the freedom of workers to set up unions».

- 2.57** The ICFTU does not accept that any circumstance, whatsoever, can justify restrictions on the basic right to organize of any category of workers, and has consistently opposed imposed trade union monopolies. It is important to stress that in insisting that workers should have the right to belong to the union of their choice, the ICFTU in no way underestimates the advantages to working people that generally result from unity of the trade union movement. On the contrary, it devotes considerable efforts to promoting this type of unity, so long as it is the result of the free choice of trade unionists. As the ILO's Committee on Freedom of Association has stated repeatedly, «while it may be to the advantage of workers to avoid a multiplicity of trade union organizations, unification of the trade union movement imposed through state intervention by legislative means runs counter to... Convention 87... there is a fundamental difference... between a situation in which a trade union monopoly is instituted or maintained by legislation, and the factual situations... in which all the trade union organizations join together voluntarily in a single federation or confederation».
- 2.58** A review of the evolution of the trade union movement in a large number of African countries shows that trade union unity was frequently imposed in the post-independence period in a manner that violates the principles of freedom of association. The provisions of the French Labour code (Overseas Territories) of 1953 that were generally applied to its colonies in the period up to independence permitted trade union pluralism, as did the legislation prevailing in the former British colonies. Legislation imposing obligatory trade union unity came in some cases a considerable time after independence: for example in Algeria after 9 years, in Benin after 14 years, in Cameroon after 10 years, in Gabon after 9 years, in Nigeria after 18 years, in Zambia after 7 years, and in Togo after 13 years (by virtue of the fact that union funds are derived by check-off, which the government compulsorily directs solely to the CNTT). Rather than being a direct colonial heritage, then, it has grown up as a phenomenon of post-independence Africa, and frequently, but not invariably, as a concomitant of one party rule. Major exceptions to this general circumstance are the ex-Portuguese colonies where single trade union movements grew up in exile as labour wings of the movements for national liberation.
- 2.59** Each African trade union centre which, willingly or not, has operated as a legal monopoly has by definition done so in an environment where the basic right to organize has been severely restricted. The argument that the imposition of such monopolies simply reflected the will of workers is illogical; if such a will existed it would have led to trade union unity without recourse to legislation. Moreover it is frequently belied by the circumstances in which unification was imposed, and more recently by the rapid and sometimes explosive growth of union pluralism once those monopolies are removed.
- 2.60** Perhaps the most damaging effect of such systems has been the manner in which they have compromised the ability of trade unions to act independently of government and possibly in opposition to government policy, and to represent freely and solely the

interests of their members. The total loss of independence of trade unions has been most clearly evident within the avowedly Marxist-Leninist regimes where they have been formally subordinated to the control of the ruling party and assigned the role of a transmission belt of state policy. The AETU of Ethiopia provides the most extreme example of this type of situation which, at least up until the current wave of reform, could be found also in Angola, Mozambique, Benin, and Congo. Under governments of other hues, too, the close association or personal or organic integration of union and party has severely limited the extent of union independence. Throughout his 25 years as dictator of Guinea, President Sekou Touré combined the role as leader of the ruling Parti Démocratique de Guinée (PDG) with that of the then single national centre the Confédération des Travailleurs de Guinée (CTG); President Buyoya of Burundi has habitually nominated the leadership of the Union des Travailleurs du Burundi (UTB) trade union monopoly; the leaders of the OSTC in the Cameroon have been picked by the ruling party; the Centrale Syndicale des Travailleurs du Rwanda (CESTRAR) has been integrated into the structures of the ruling Mouvement Révolutionnaire National pour le Développement (MRND) single party in Rwanda; and the income of the NWU in the Seychelles is derived as a percentage of social security contributions, which are controlled by the ruling SPPF front. Many other, albeit less extreme, examples might be quoted.

- 2.61** Nevertheless, the extent to which a considerable number of single trade union centres have asserted and maintained their independence of government over prolonged periods, and frequently under conditions of extreme difficulty, is cause for comment and encouragement. Indeed, the manner in which such organizations have retained popular support as genuine representatives of working people cannot be explained solely by reference to the nature of the legislative restrictions under which they have had to operate, but would probably require also detailed examination of social, cultural and historical factors. Suffice to say that centres like the GTUC in Ghana and the Nigerian Labour Congress (NLC) in Nigeria have remained consistently combative advocates of worker interests.
- 2.62** The same is true of the Zambian ZCTU whose outspoken opposition to the policies of the government and advocacy of multi-party pluralism has led to the paradoxical situation in which it is now apparently to be deprived of the monopoly status accorded by 1971 legislation when a new law is applied. While the ZCTU accepts this modification as being in full conformity with the overall process of democratization of the country, it rightly regards as punitive, and a direct attack, the other provisions of the new law which automatically disaffiliate all of its current member unions and require them to obtain a two thirds majority decision for reaffiliation.
- 2.63** Between those union centres that have seldom demonstrated any significant independence of government, and those that have done so consistently and courageously are a number which have shifted ground in recent months so as to distance themselves from regimes facing growing popular opposition. Prime examples, already referred to, are the UNSTB of Benin, the CSC in the Congo which declared its independence of government in September 1990, the CNTT of Togo which announced its independence of the ruling party on 5 April 1991, and the USTN Niger which put a final end to its participation in all MNSD structures on 10 January.
- 2.64** In Tanzania, the single centre, Jumuiya ya Wafanyakazi wa Tanzania (JUWATA), set up in 1978 within the structures of the ruling CCM party is to hold an extraordinary congress in July 1991 with the aim of establishing itself as an independent democratic organization.
- 2.65** In some of these cases, the centres concerned have had a positive influence on the process of democratization and can be expected to continue to play leading roles in the future development of their societies as credible representatives of workers under conditions of

trade union pluralism. The UGTA, Algeria, provides a powerful example of a former trade union monopoly which, following a major leadership change in July 1990, has retained very wide popular support in radically changed circumstances. That was clearly shown by the estimated 90% support for the 12-13 March 1991 general strike it called to protest against the economic and social policies of the FLN government with which it was previously closely associated.

- 2.66** Nevertheless, there are likely to be other centres whose prolonged and uncritical adherence to discredited and undemocratic regimes and failure to promote the interests of working people will weigh more heavily in the minds of African workers than any belated attempts to assert their independence and representative nature. Once the unrestricted right to organize prevails they are likely to face an acute struggle for credibility and competition from other newly created organizations. This is the scenario confronting the UNSTB in Benin where 38 of 80 trade unions were reported to be operating independently by the end of 1990, and the UNTZa, Zaire, which despite a leadership change faces a major challenge from a multiplicity of new trade union centres, reported to number 17 in March 1991.
- 2.67** The process of reconstruction of some national trade union movements is likely to be difficult. But in many cases conditions are increasingly prevailing in which workers will at last be able to exercise their right to establish and join organizations of their own choice.

THE RIGHT TO STRIKE

- 2.68** The right to strike is central to the effective functioning of free trade unions. Of course, trade unions have no general interest in calling strikes which can expose them and their members to hardship and loss of income. Rather, they prefer the resolution of conflict by negotiation and agreement, and work to that end. But this does not alter the fact that the possibility of ultimate recourse to strike action must remain open to unions. If it is not, then the whole process of industrial relations is prejudiced to the disadvantage of working people. It is for these reasons that the extremely widespread restrictions on the right to strike in a great many African countries are a source of deep concern and, uncorrected, will present a massive obstacle to the development of the exercise of basic rights.
- 2.69** A cursory examination of the constitution of a large number of African states would lead to the conclusion that the right to strike is amply respected. In only a limited number of cases - Angola, where change appears imminent, Equatorial Guinea, Somalia, and Sudan - can outright prohibitions on all strike action be found. But elsewhere, formal guarantees of the right to strike are rendered ineffectual by labour legislation that makes it impossible or impracticable to take legal strike action.
- 2.70** The most common type of denial of the right to strike is the power of authorities, or of one party to a dispute, to impose binding arbitration. This can pre-empt or bring to an end strikes, regardless of the wishes and interests of the workers concerned. While the details and the severity of such restrictions vary considerably between countries, situations essentially of this nature prevent practically all legal strikes in Cameroon, Côte-d'Ivoire, Gabon, Guinea, Lesotho, and Mauritania, and restrict them severely in countries like Egypt, Kenya, Mauritius, Nigeria, Swaziland and Zaire.
- 2.71** A related limitation of the right to strike, which in some cases co-exists with the power to impose an arbitrated settlement, is the requirement that trade unions fulfil long and cumbersome procedures, including going through prescribed conciliation processes and

observing cooling off periods, before a legal strike may be launched. Such situations might seem to preserve the ultimate right to strike, but in many cases the reality of the matter is that they make it impossible for strikes to be called as an effective, prompt response to the problems faced by workers. Trade unions in such countries as Botswana, Madagascar, Niger, Tanzania, and Zambia suffer from this type of restriction.

- 2.72 In other cases, governments are able to declare, often on a totally discretionary basis that has nothing to do with the accepted ILO definition, that a given enterprise or industry constitutes an essential service, and then impose a strike ban on it. Serious abuse of such strike exemptions exist in Ghana, Madagascar, Nigeria, Zambia, and Zimbabwe as well as Egypt where in addition to a public sector strike ban, the government may prohibit strikes it considers to be a threat to the national economy.
- 2.73 The requirement that legal strikes must be approved by the Ministry of Labour in Burundi, in the absence of which they constitute a criminal offence, is a further, blatant denial of the right to strike. In Rwanda and Tunisia, however, the real effect of legislation that requires the approval of national centres for strike action by unions must be judged in the light of the independence and representativeness of the organizations concerned.
- 2.74 Other factors not directly identifiable in legal texts further limit the right to strike. Most importantly, the lack of independence of some trade union movements means that they have no interest in convening strikes as they are theoretically able to do. One example, at least until its recent change of attitude to the regime, has been the CSC in the Congo. In other cases intimidation, the knowledge that strikers are liable to dismissal, or the expectation that stoppages will attract direct repression from the authorities act as strong disincentives to exercise of the right to strike.
- 2.75 Given all the above factors, one can only speculate as to how many of the large numbers of strikes that have taken place throughout Africa in the last 18 months have, in fact, been legal. They show that the right to strike is critically important to working people and that they are likely to occur despite the most draconian measures for their suppression. The fact that strikes took place in May 1990 in Sudan, although they could be punishable by death, is most eloquent proof of the point.
- 2.76 The generalized absence in most of Africa of appropriate legislation and institutions as a framework for the free exercise of the right to strike constitutes not only a grave injustice but also a potentially fatal flaw in the industrial relations systems of the continent. It means that there are few, or no, effective means of resolving conflicts legally and to the satisfaction of all parties and that disputes conducted outside the law are likely to degenerate into an escalating cycle of confrontation, repression, and violence, as has happened in several African countries referred to in previous sections. In this regard, the quite different experience of another, Mozambique, provides a positive example. Before the adoption of its new constitution recognizing the right to strike, Mozambique was faced in the early part of 1990 by widespread strike action conducted by ad hoc strike committees operating outside official Organização dos Trabalhadores de Moçambique (OTM) structures. The response of the government was not repression of illegal action, but rather its institutionalization via the establishment of provisional guidelines for the conduct of strikes. This represented an attempt on its part, albeit imperfect, to respond to the demands of working people in a manner that provided an opportunity for the peaceful resolution of conflict.

COLLECTIVE BARGAINING

- 2.77 While the right to collective bargaining is protected by ILO Convention 98, it is important to acknowledge that its realization in practice depends not only on the absence of violations from external sources but also on the capacity of the trade unions to act as effective and representative bargaining partners and to win recognition from employers as such.
- 2.78 Some African trade union movements have made considerable progress in establishing a solid base of organization among the population, and in undertaking the basic task of representing directly the interests of workers. But more often the coverage of collective bargaining arrangements is limited to small minorities of African working people. Even then, African governments, not infrequently citing the perceived weakness of trade unions as justification, have tended to intervene extensively in the bargaining process in a manner which poses a serious threat to basic trade union rights.
- 2.79 The view of a significant number of African governments is that collective bargaining, where it exists, should be subordinated to «the national interest» of which they are themselves the sole arbiter. Thus, collective agreements freely concluded by trade unions and employers may require government approval before coming into force, with such approval being granted only when their terms accord with targets or guidelines set unilaterally by the authorities. Countries in which this type of limitation on collective bargaining exist include: Chad; Egypt, where the government may declare null and void provisions of collective agreements which it regards as jeopardizing the economic interests of the country; Ethiopia where the government may refuse to register agreements that do not conform with its general policies; Libya, where agreements must be in conformity with the country's economic interests; Swaziland, where the government can refuse to register agreements that contravene its wage guidelines; Tanzania, where all agreements must be submitted to permanent labour tribunals which may reject or modify them in the event that they do not comply with the government's economic objectives; Kenya, where the Ministry of Labour has decreed that collectively agreed wage increases should not exceed 75% of the rate of inflation; the Seychelles, where the government reserves the right to review all agreements; and Zambia, where recent legislation makes the coming into force of collective agreements subject to official approval and modification.
- 2.80 In other cases, governments do not simply wait for the completion of independent bargaining before intervening but act to influence its outcome in the first place. In some cases this is achieved through their role as employers in the public sector. In Botswana, for example, the government negotiates agreements for its own employees, and then undermines private sector bargaining by requiring that no private employer may pay wage increases higher than those received by public employees in comparable jobs. The extent of Mauritian government intervention in wage determination has now grown to such an extent that an estimated 85% of the private workforce is covered by government-issued remuneration orders. In Malawi, too, the predominant form of wage determination is via the recommendations of tripartite wage advisory councils which are submitted to the Ministry of Labour before being promulgated as official orders.
- 2.81 The level at which collective bargaining takes place is a matter which should be left to the free decision of the parties directly involved. Clearly, this could legitimately result in centralized negotiations at national level of the type that exists in a number of countries particularly in French-speaking Africa, and result in nationwide inter-professional agreements. Nevertheless, there is evidence that in some cases, particularly where bargaining is for all practical purposes the exclusive purview of officially recognized

national centres, workers' organizations at enterprise and sectoral level may have no say at all in the selection of such centralized bargaining structures, which cannot, therefore, be properly regarded as freely chosen. Such situations will be severely aggravated if the independence of the union centre involved is compromised by its association with the government, and even more so if the government itself plays a direct role in national level discussions on pay and working conditions. Such government intervention in collective bargaining is sometimes camouflaged as the encouragement of tripartism. Tripartism is, in general, an important principle which, if put into practice in appropriate structures bringing together representatives of government, trade unions, and employers, can be of immense benefit in the development of industrial relations systems in Africa. But encouragement of tripartism has to be clearly distinguished from promotion of collective bargaining, which will not generally benefit from direct involvement of government in employer-worker negotiations.

THE INTERNATIONAL PERSPECTIVE

- 2.82 As a global trade union confederation, the ICFTU exists on the basis, and as an expression, of international worker solidarity. It believes that the ever greater interdependence of the world economy serves only to strengthen the imperative of international trade union activity and to highlight the role of union organizations operating across national and continental boundaries, free of governmental influence and control, to unite working people in the defence and promotion of their common rights and interests.
- 2.83 For these reasons, the limitations on the rights of international affiliation of a number of African trade union movements, in violation of article 5 of Convention 87 which provides that trade unions shall have the right to affiliate with international organizations of their choice, are of particular concern. The most blatant example is by Nigeria's Decree 35 of December 1989 which bans membership by individual unions of international trade union bodies and permits the NLC to belong only to OATUU, the Organization of Trade Unions of West Africa, or other organizations specifically approved by the military authorities. Cameroon and Swazi legislation requires government approval of international affiliation with the latter government justifying the restriction on the grounds that it is aimed at ensuring that unions do not join «undesirable organizations», while Ethiopia limits international contacts to the official centre, the AETU.
- 2.84 Probably more important than these legislative restrictions are less formal, but nonetheless powerful, discouragements to international affiliation by governments that see union contacts as a threat to their own prerogatives and, in some cases, to their ability to control the labour movement in their countries. Official distrust of international trade unionism, to put it no more strongly, is reflected in the statement of the government of Gabon to the 1989 ILO Conference that the deduction of a compulsory trade union solidarity tax from the wages of all workers and payable to COSYGA responds to the need to ensure its independence from all extra-national unions. Zambia's 1990 Industrial Relations Act requires that ministerial approval for the receipt by the union of outside technical and financial assistance shall be granted only when it has been established that it is not «prejudicial to public security».
- 2.85 An important element in the relations between African trade unions and the international union movement remains article 8 of the Constitution of the OATUU which, in opposition to the spirit of article 5 of Convention 87, provides that no OATUU member shall be affiliated to any other international trade union organization, and article 9 which gives extra voting rights to those which refrain from such affiliation.

2.86 A growing number of African trade union centres are increasingly calling for the repeal of those elements of the OATUU Constitution that aim at limiting the freedom of African trade unions to choose freely the international relations that they wish to establish. These obstacles to global worker solidarity, which today's social and economic conditions make of ever more critical significance, can have no justification and must be overcome to the mutual advantage of workers worldwide.

2.87 The important positive changes that are taking place on the African continent today require the support of the entire international community which must recommit itself, and redouble its efforts, to create just conditions under which Africa can pursue its development and human rights goals. The position adopted by the French government in June 1990 at the La Baule summit of French-speaking states, when it indicated that it would closely link its development assistance to countries with their commitment to basic democratic freedoms, was a welcome step in the right direction. Yet African governments

have repeatedly expressed their concern that the industrial world's preoccupation with developments in Central and Eastern Europe, with which changes on their own continent are frequently compared, will lead to neglect of their own needs and concerns. The reassurances that have been forthcoming from the developed world in this regard must not be simply ritualistic but backed up with extra resources which have to be used effectively in Africa.

2.88 According to the Red Cross in April 1991, 20 million Africans faced the threat of starvation. A later estimate puts the figure at 30 million. The right to life is the most fundamental of all human freedoms. The danger that it could be violated so massively is surely the most urgent of all imperatives to international action for Africa, and presents a sombre backdrop to the debate on the future of the continent.



Famine strikes Ethiopia again, June 1991. Photo AP.

PART III: NATIONAL AND INTERNATIONAL TRADE UNION ACTIONS

INTRODUCTION

- 3.1** This concluding section of the report considers a range of practical actions which must be undertaken to uphold human and trade union rights. The first part looks at union actions to defend human and trade union rights at national level. The second part provides recommendations for international solidarity action through the ICFTU, and the role of the ILO. The conclusion summarizes the arguments for development, democracy and the defence of human and trade union rights in Africa.

TRADE UNION DEFENCE OF HUMAN RIGHTS AND WORKERS' FREEDOMS

- 3.2** The defence of human and trade union rights begins at the workplace. It requires united and sustained efforts by all people and organizations supporting human rights and democracy. The contribution of trade unions can make a major difference to the success of such actions. As has been argued in this document, free trade unions have a major role in guaranteeing democratic observance of human rights, both by their actions to defend the human rights of their members to a decent wage and adequate working conditions, and because the many actions of trade unions uphold basic human rights to freedom of association and expression.
- 3.3** Trade unions have particular need of two types of civil liberties. Firstly, there are the rights guaranteeing positive freedoms to engage in activities necessary for the effective exercise of union rights. These include freedom of assembly, freedom of movement and residence within the borders of each state, the right to leave any country including one's own and to return, and freedom of opinion and expression, in particular freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. Secondly, there are various guarantees against arbitrary interference that is liable to impair the exercise of trade union rights, such as the right to the freedom and safety of the individual and freedom from arbitrary arrest, detention or exile, the right to a fair trial by an independent and impartial tribunal, the non-retroactive nature of penal legislation, protection against inhumane treatment, and protection of trade union property, including freedom from arbitrary interference with privacy.
- 3.4** The conclusions of the Nairobi Panafrican Trade Union Conference on «The African Development Challenge» were explicit in their call: «Unions must be vigilant in their examination of government policies, and must insist upon the highest standards of public administration and justice. It is up to unions to ensure that the human dimensions of development are ever-present in government decisions. Unions must speak out against government policies which fail to meet the needs of workers and abuse their basic rights. In order to carry out this role and fulfill the hopes vested in them, unions themselves must set a high standard. Union structures must ensure a full and open process of democratic decision-making for all groups of members.»
- 3.5** In many countries, trade unions are already taking a direct part in initiatives to uphold human rights and achieve multiparty democracy. Direct actions of trade union solidarity

with democracy movements, in the form of strikes, marches and demonstrations, can convince unrepresentative governments that resistance to change is futile. Where democracy exists and human rights are guaranteed by law, unions have a role as a watchdog over the continued respect of human rights. Trade unions can join or support popular organizations for the respect of human rights, speak out against arbitrary



detention, join protests about freedom of the press, and call for the full respect of democracy. Trade union representatives can form part of formal machinery to monitor respect for the law. If there is resistance to this idea from governments, trade unions could create human rights committees on an unofficial basis, which would endeavour to use the media and public opinion to uphold human rights.

Demonstrators in Madagascar demand political change, Tananarive, June 1991. Photo AP.

3.6 Unions must press governments to pass and apply the relevant legislation to enable them to defend workers' rights. Governments which have ratified ILO Conventions can then be called to account for their actions at international level, giving unions a powerful tool. Laws covering the respect of health and safety regulations are particularly important, in view of the extremely high level of occupational accidents in Africa. Industrial relations procedures should not be biased against trade unions. Governments should establish autonomous industrial courts, on the basis of mutual agreement by trade unions and employers on appointment of judges, with the right of recourse to an Industrial Appeals Court on the basis of expeditious procedures. They should enact and enforce effective anti-trust legislation and the introduction of a harmonized system for the disclosure of audited financial records and accounts, and all other relevant information, for all public and private companies.

3.7 As called for by the Nairobi Conference, trade unions need to devote attention to internal democracy. Elections and appointments must be open to all union members, and the structure of the union leadership must accurately reflect the composition of the membership. Particular attention is needed to ensure an equal role for women in union structures. The same is true of ethnic minorities. Union statutes must specify their independence from outside influence, whether from employers, government or political parties. Any links with political parties must not entail any party influence over union actions. The experience of the last thirty years has shown that close union integration into ruling parties has the result of confining unions to an extremely passive role which has rendered them incapable of defending their members' interests. In some cases union officials have even been fully co-opted into the party through inducements of finance or office.

3.8 A strong, independent and democratic trade union movement requires a well-trained, informed and active membership. The more members unions have and the more closely involved members are in the work of their organizations, the stronger they are. A trade union organization with firm roots in its society and a full and democratic participation of all parts of its membership presents a formidable obstacle to an employer or a government seeking to destroy it. Trade union education can reinforce the essential democratic structures of trade unions through the promotion of the necessary skills and

techniques required to defend the independence of trade unions, free from external influences. Education work is therefore central to the building of strong and independent trade unions.



Education to build strong unions, Sierra Leone. Photo ICFTU.

3.9 Trade unions must take a full role in all discussions of national policy, including those undertaken with international organizations such as the International Monetary Fund (IMF) and the World Bank. For the trade union interventions to have effect, they will have to be based upon independent research and statistical analysis. Well researched policy proposals, supported by the membership, and fitted into national development objectives can lead to steady improvements in workers' living conditions and growing respect for the trade union movement. This will enable them to enhance the credibility of the trade union movement in all spheres, increasing the capacity of unions to influence the policy process and so represent the basic rights of their members.

3.10 If the voice of African workers is to be heard, unions must grow larger. Unions need to increase their paying membership to guarantee their financial stability and independence



of action. Unions must give close attention to their financial structures with the objective of achieving a fully self-financing, autonomous union movement. Dues need to be collected regularly, and set at as high a level as realistically possible, so that the union has the necessary degree of independence from external influence. Building a strong trade

The informal sector: a priority for trade union organizing. Photo ILO.

union movement requires imaginative new approaches to organize the informal and rural sectors and to increase union membership in the formal sector, particularly among hitherto under-represented groups such as women workers. This will entail providing services, educational programmes, vocational training classes, income generating projects, health clinics and so forth. Organizing the huge number of workers in Africa in the rural and informal sectors will provide them with desperately needed trade union help to defend their rights.

INTERNATIONAL SOLIDARITY FOR HUMAN AND TRADE UNION RIGHTS

- 3.11** International actions can have an immense effect on the human rights situation in any country. Indeed, one of the major tasks of the ICFTU throughout its existence has been to mobilize international solidarity when workers' rights have been under attack, through its own actions, through its affiliates and international trade secretariats (ITS) and by using the procedures of the ILO.
- 3.12** International actions for human and trade union rights in Africa can begin at a regional level. There is a major task for African trade unionists in this regard. When unionists are detained or when governments seek to intervene illegitimately in union affairs, they can form the first line of defence. Urgent telegrams and personal visits by trade union leaders can assist fellow unions in times of need. African trade union missions should visit countries accused of infringing trade union rights and prepare reports on the situation. These reports can then be used as a basis for actions at the ILO and the United Nations. The regional structure for the coordination of these actions exists, in the African Regional Organization (AFRO) of the ICFTU. AFRO will assist in the development of an extensive network of inter-union contacts for the protection of human and trade union rights.
- 3.13** A further mechanism for regional trade union solidarity would be provided by getting regional organizations such as SADCC and ECOWAS to adopt a Social Charter. The original Social Charter, called the Community Charter of the Fundamental Social Rights of Workers, was adopted by the European Community in 1989. It provides a commitment by the twelve countries concerned to uphold basic social and labour legislation, regarding maximum hours of work, minimum pay, work safety, social security, union membership and collective bargaining, and so on. The unions affiliated to the Southern African Trade Union Coordination Council (SATUCC) and to the Union of Arab Maghreb Workers (USTMA) have both begun working on the adoption of Social Charters by their respective governments and regional authorities. The Social Charter being considered by SATUCC includes specific clauses to guarantee the respect of all basic human rights as well as workers' rights, which would be enforced by a tripartite supervisory procedure at regional level. The Social Charter of the USTMA includes clauses upholding trade union freedom, the right to strike, equality between men and women, the protection of the young, the aged and the handicapped, and safety and health at work. Success with the adoption of a Social Charter would provide the unions concerned with a tool for actions to press their governments to respect basic human rights, including the social rights of workers.
- 3.14** At international level, there is a huge amount that is already being done by the ICFTU and which can be extended upon. When violations of human and trade union rights occur, unions should immediately inform the ICFTU at the same time as they take actions at national level. The ICFTU can then send missions to countries that violate trade union rights, with a view to providing advice and moral support and putting pressure on government authorities. These missions can be used to have contacts with detained trade

unionists or unions under attack, and to put pressure on authorities to end such repression. Such missions have taken place to countries such as South Africa, the Central African Republic, Sierra Leone, Tunisia, and Zambia. The ICFTU can be represented at trials of trade union leaders (as in Tunisia), or provide legal assistance (South Africa and Swaziland). Material support can be provided to trade unions operating under repressive regimes, as well as humanitarian relief to persecuted trade unionists and their families. The ICFTU can also make direct representations to governments that violate trade union rights, in the form of official protests and direct approaches through diplomatic channels. Affiliates and international trade secretariats (ITS) can add their weight to these protests in a concerted campaign. In cases of particularly serious and continuous violation of trade union rights, the ICFTU, its affiliates and the ITS concerned will call for boycott action, which is the strongest form of direct action that trade union organizations can apply. Such actions have been particularly important with regard to South Africa.

3.15 The world's media can exert great pressure for the respect of human rights. The ICFTU, its affiliates and ITS can give maximum publicity to violations of freedom of association and other rights, which will serve to mobilize the trade union membership and national and international public opinion. The ICFTU can launch special action weeks or days, as undertaken for South Africa and Tunisia. Lists can be published of trade unionists in detention. The ICFTU can organize follow-up conferences on the rights situation in particular parts of Africa. Such actions can be taken in cooperation with non-governmental organizations active in the field of human rights. Coordination between trade union organizations can support action by the ITS and their affiliates against transnational corporations which are involved in the violation of freedom of association and other trade union rights. Such action has been particularly useful and successful in the struggle of independent black trade unions in South Africa.

3.16 The ICFTU will continue to provide assistance to strengthen free trade unionism, comprising basic trade union education, research, leadership training, organizational support, advisory services, social and economic projects and efforts to broaden the base of free trade unions in the rural sector. The aim of all such programmes is the strengthening of free trade unionism and the expansion of the capabilities of trade unions to defend the rights of their members. Educational activities can be directly targeted to the improvement of human and trade union rights, for example through the holding of seminars explaining basic rights and their defence. The development of good trade union research capabilities is particularly important. This needs to cover both economics training to enable unions to make a successful impact on their government and in collective bargaining with employers, and the documentation of the human and trade union rights situation, so that trade unions can make well-researched, properly prepared interventions to their governments and to the international institutions.

3.17 Among the international institutions, the most elaborate and progressive supervisory machinery for the protection of trade union rights is that of the ILO. Even countries which have not ratified Conventions 87 and 98 may be investigated for violations of freedom of association by the Committee on Freedom of Association. This consists of nine members of the ILO Governing Body and meets three times a year. The Committee usually bases its examination of a case on documentary evidence by the complainant organization(s) and the government concerned. A representative of the ILO may also examine the country in question by a direct visit, with the agreement of the government concerned, and report back to the Committee. Less formal ILO missions also take place to promote compliance with the principles of freedom of association. In very exceptional cases, Commissions of Inquiry composed of independent experts may be instructed by the Governing Body to consider the complaint, usually visiting the country, and report back to the ILO Governing Body. In many cases, ILO actions, together with other actions by the international free trade union movement, have helped to remedy violations of trade union rights. Many

governments have sooner or later accepted the recommendations of ILO supervisory bodies, for example by modifying their legislation, reinstating dismissed trade unionists, or releasing imprisoned trade unionists. Indeed, over the last ten years, thousands of trade unionists have been released as a result of ILO interventions. The ILO has on occasion sent representatives to member states that infringe important principles of freedom of association, particularly at times of urgency when the lives and safety of trade unionists have been in danger.

- 3.18** Representations regarding other ILO Conventions may be made in the cases of governments having ratified the Conventions in question. Such representations are examined by the Committee of Experts on the Application of Conventions and Recommendations and then published, following approval by the Governing Body. The Committee also examines annually the reports supplied by governments on selected ratified Conventions and carries out general surveys on selected instruments, covering all countries whether they have ratified the relevant Conventions or not. These procedures allow trade unions to force governments to try to justify their policies before respected international jurists and the tripartite constituency of the ILO. Criticism and condemnation puts pressure on them to comply with international norms regarding labour standards.
- 3.19** The African Charter on Human and Peoples' Rights provides for the setting up of an African Commission on Human and Peoples' Rights. There is provision for this body to hear complaints from non-governmental organizations, such as trade unions. The African Charter does not refer to trade union rights, *per se*, but it does cover freedom of association, judicial rights, freedom of information and freedom of assembly. Therefore, the potential exists for trade unions to make submissions to the African Commission concerning the abuse of many basic trade union rights. The Commission is then charged to investigate such complaints by any means it sees fit. It should be noted that the African Charter can be amended by a simple majority of states party to the Charter. Therefore trade union rights should be incorporated into the Charter at some future date.
- 3.20** The UN Commission on Human Rights meets annually to consider a whole variety of human rights questions. It has established working groups or appointed rapporteurs to examine the human rights situation in particular countries, such as South Africa, or on particular problems, like disappearances and summary or arbitrary executions. These reports usually refer to violations of trade union rights and to the persecution of trade unionists. The ICFTU has been active in providing documentation and making statements to the Commission on Human Rights. In addition to this, there exists the UN Human Rights Committee to monitor the situation in countries having ratified the International Covenant on Political and Civil Rights. The ICFTU can supply information to government delegations, but has no procedural means to make interventions in its own right. The ICFTU supports the creation of the post of UN High Commissioner for Human Rights, who would promptly intervene with governments in cases of serious violations of human rights.
- 3.21** The ICFTU, together with the affiliates concerned, can also urge governments with close connections with the country where rights are violated to put pressure on them. The ICFTU has called for the benefits of international economic relations to be denied to countries violating human and trade union rights. Aid in particular should be suspended to unrepresentative governments, since under such circumstances it is all too likely to be misappropriated and not reach those for whom it is intended. The United States government has responded to the wishes of the international free trade union movement by including workers' rights considerations in its Generalized System of Preferences (GSP) trade benefit scheme. The Central African Republic, Liberia, and most recently Sudan were refused preferential access for their exports. As a result, the government of the Central African Republic allowed the first free trade union congress for several years

to take place in 1990. There are moves by countries such as France and Norway to make aid conditional on respect for human rights, though these have yet to be formalized in a consistent approach towards all aid recipients. The ICFTU considers that human rights considerations need ultimately to become a permanent criterion for the provision of all trade preferences, debt reductions, development finance, and balance of payments support by governments and by the IMF and the World Bank. Moreover, international trade agreements like the General Agreement on Tariffs and Trade (GATT) should include a social clause under which all member states undertake to respect labour rights.

- 3.22** This range of actions to support human rights needs to be closely coordinated at international level and the ICFTU will provide whatever assistance it can. One major step would be the setting up of an ICFTU Committee for the Defence of Human and Trade Union Rights in Africa. This Committee would consider regular reports on the situation of human and trade union rights in Africa, aiming to cover all countries of the continent where rights were under attack. These reports would be incorporated by the ICFTU into its existing annual survey. On the basis of the reports, high-level missions would be sent to particular countries, actions taken with the ILO and other international institutions, and ITS and ICFTU affiliates fully involved in the defence of African trade unions.

CONCLUSIONS

- 3.23** Creating a fresh impetus for Africa's development depends upon the full guarantee of popular participation, democracy and freedom in social and economic life. The proof of this is the lack of progress over the last three decades to match expectations at the time of independence. Economic stagnation has been matched by grave abuses of human and trade union rights and an almost total absence of democracy. The primary responsibility



The first day of voting in Namibia's independence elections, Ovamboland, 7 November 1989. Photo AP.

for economic failure lies at the door of the unrepresentative governments which have devoted more attention to ensuring their continued stay in power than to improving the well-being of their people. But events over 1990 and 1991 show that people are now asserting their right to political choice. The positive political changes of the recent past must be built upon, entailing a full and independent role for trade unions with their unique capacity to ensure economic and social justice and hence a stable basis of society.

3.24

The international community also has its responsibilities. Africa has been neglected, left to become increasingly marginalized in the international economy at the same time as the world has preferred to ignore the unending reports of serious repression within the continent. Now that there at last exists a chance for genuine political freedom in Africa, it is vital that there be a generous response to its material needs, most urgently in terms of large-scale emergency assistance to regions stricken by war or natural catastrophe. This should be accompanied by a focus of development aid on countries which have accomplished a transition to the full respect of civil liberties in a constitutional democracy, and which thereby have the basis for a better economic performance in the future. Thereby, the international community should lend its support to those fighting for political freedom and accountable government in Africa, to lay the basis for effective development within a framework of political pluralism and respect for human and trade union rights.

3.25

For the African continent to make a fresh and successful start in its efforts for the full economic and social development of its people, it needs democratic structures in which strong free trade unions assume an integral part. The wave of democratic renewal now sweeping the continent is forcing Africa's unions to make a historic choice. In countries where the trade union situation has entered a state of flux, the passivity of some long-standing unions looks set to create a space for new democratic leaders to emerge at the head of trade unions capable of fully representing the interests of workers. In other cases the existing unions are rising to the challenge and assuming a leading role in the movements for political pluralism and human rights, and are working diligently to build and extend their membership and support amongst working people. The ICFTU stands ready to support the growing and increasingly self-confident African trade union movement. The path chosen by African trade unions now will shape, not just the future structure of the trade union movement in Africa, but the prospects of development for the African continent.



The restoration of political choice in Zambia: the Movement for Multi-party Democracy elects its leader, Mr. Frederick Chiluba, 1 March 1991. Photo AP.

THE GABORONE DECLARATION OF BASIC RIGHTS:

CONCLUSIONS OF THE JOINT BFTU/ICFTU PANAFRICAN CONFERENCE ON DEMOCRACY, DEVELOPMENT AND THE DEFENCE OF HUMAN AND TRADE UNION RIGHTS

INTRODUCTION

1. Meeting in Gaborone, Botswana from 9-11 July 1991, trade unions from 31 African countries, joined by trade unionists from other continents and by representatives of international organizations, discussed the situation of democracy and basic rights in Africa and arrived at the following Conclusions, which build upon the Conclusions of the Nairobi Conference on the African Development Challenge (October 1989) and the Dakar Declaration adopted at the Conference on the African Worker and the World Economic Crisis (March 1984).
2. Africa has long experienced serious violations of human and trade union rights, which date back to the abuses and discriminations of the colonial era. Most countries have been under the rule of undemocratic government during the bulk of the period since independence. Many one-party and military governments have maintained their grip on power through flagrant violations of human rights. Opposition leaders have been imprisoned, exiled or assassinated and political power has in many cases been defined by military regimes or anti-democratic constitutions, many of which have concentrated power in one-party systems. The media in many countries have been so censored as to render them wholly incapable of carrying out their task of presenting true and objective information. The independence of the judiciary has frequently been perverted and the right to a fair trial has not always been respected. Detention without trial and torture have been commonplace.
3. Trade unions have not escaped this widespread denial of basic human rights. Unions have been subject to direct control by many governments which have seen genuinely independent trade unions as a threat to their powers and privileges and a potential source of political opposition. Trade union unity has frequently been imposed by law, compromising the independence of trade unions. In the same way, political and administrative interference in the affairs of trade union organizations has promoted an artificial multiplicity of confederations, compromising the genuine representativeness of the trade union movement and threatening to limit it to a token role. Governments have intervened directly in the procedures of free collective bargaining, pre-empting any possibility for the development of good industrial relations in Africa. The right to strike has been curtailed by numerous laws, regulations and other mechanisms which in many cases have effectively foreclosed the possibilities for legal strike action. Some unions have been accomplices in this process of abuse of union rights and have failed to take vigorous

actions to resist. In some cases, union leaders have been wholly co-opted into ruling party or government structures.

4. The absence of democracy and human rights has been a major factor in the setbacks of development in Africa. Today famine, stagnating or falling living standards and rising unemployment testify to the failure of the development process. Many unrepresentative and unaccountable governments have squandered precious resources, including those produced by the poorest of the poor, on establishing a luxurious way of life for a privileged few. In some cases, aid money has no sooner arrived than it has been diverted straight back to the personal bank accounts of officials overseas. It is well-known that in some countries, the personal wealth of the ruler would suffice to repay their country's entire foreign debt burden. Ruling regimes have in addition engaged in huge armaments expenditure and built up their armed forces, consuming resources that could better have been used for the development of their countries. It is evident from the events of 1990 and 1991 that their main motivation was often fear of popular resentment and rebellion. All too often, these armies have been used against the very people they were supposed to be defending. Multinational corporations and foreign governments claiming to support human and trade union rights have in fact bolstered unpopular regimes to protect their own narrow interests. These practises must be brought to an end. Support for democracy in Africa must be unequivocal and absolute.
5. The continuing crime of apartheid stands out as a uniquely evil violation of human rights. The denial of basic freedoms was institutionalized in South Africa to the point where it systematically invaded every aspect of the lives of its victims. In its conception apartheid is a rejection of humanity, and in practical application it has involved the massive and cruel repression of the basic freedoms of the great majority of the population of South Africa. Furthermore it has led to the economic and political destabilization of other countries of the sub-region. Developments over the last two years give hope that the shadow of apartheid will soon be lifted from the African continent. But formidable obstacles remain to the creation of a unitary, democratic, non-racial South Africa. Until a constitution guaranteeing the principle of one person one vote is in place, ensuring the irreversible destruction of apartheid, all forms of pressure including sanctions against the Pretoria regime must be maintained, as called for by the independent democratic trade union movement of South Africa.
6. In 1990 and 1991, a process of major change has begun in many African countries. In one country after another, the people are rising against oppression in all its forms, and in many countries they have made a great breakthrough. In many countries, the leading agents of change have been the trade unions. They have organized or joined popular movements for democracy, taken part in marches and demonstrations for multipartism, and in some crucial cases it has been the general strike action organized by the trade unions which has acted as the ultimate weapon to transform undemocratic regimes.
7. There is a vital need to extend the movement for democracy to those countries where it has yet to emerge from long decades of repression. At the same time, the new democracies are in many cases fragile, and will require international support to consolidate their situation. The ICFTU, with over 100 million members worldwide, has a unique capacity to mobilize international solidarity in support of human and trade union rights in Africa, and the closer integration of African trade unions with the ICFTU is an urgent necessity for the future of democracy and basic rights in Africa.

DECLARATION OF BASIC RIGHTS

Having considered the above problems and recent developments the Conference has adopted the following Gaborone Declaration of Basic Rights. This is a programme of universal human and trade union rights for all countries in all circumstances. It is of utmost importance that these rights be respected in their entirety by all parties and therefore the Conference calls upon all African governments to commit themselves to the principles of the Gaborone Declaration.

8. The guarantee of democracy and human and trade union rights on a permanent basis requires a number of basic measures to give effect to the terms of the Universal Declaration of Human Rights. The holding of periodic elections at all levels with universal and equal suffrage, by secret vote, is indispensable but alone is not a sufficient condition for improvement. Elections need to be accompanied by a series of other guarantees and practices in such fields as education and literacy, freedom of expression and association, and by legal rights and judicial safeguards which, combined, constitute the human rights infrastructure that make democracy a reality, and freedom more than an abstract ideal. Democracy requires a constitution which enshrines the basic rights: free democratic elections, an independent judiciary, freedom of the press, and workers' rights including the right to form and to join free trade unions.
9. Elections, to be genuine, must provide a real choice between different independent political parties. Elections must take place under free and fair conditions, with the media able to report accurately and equally on each party's programme and activities. Independent supervision of elections and verification of results are indispensable to safeguard the democratic process.
10. Discrimination of all forms must be outlawed, whether it is based on race, colour, sex, language, creed, religion, or physical handicap. This applies with regard to, inter alia, political rights, employment rights such as wages, security of employment, promotion possibilities, and all other areas of life such as sharing of household responsibilities. Much discrimination is presently directed against women. Enforcement of appropriate equal rights legislation, access to education and information, legislative reforms, positive action programmes, rural support services, and other actions are needed to eradicate this discrimination against women's basic rights.
11. Everyone has the right to freedom from arbitrary arrest, detention, torture or exile, to a fair and public hearing by an independent and impartial tribunal, and free legal assistance. Constitutions must stipulate the independence of the judiciary. No person should be imprisoned on political grounds or for their political beliefs and consequently all political prisoners must be released. Confidence in the rule of law must be restored through independent mechanisms and complaints commissions to monitor human rights observance and investigate allegations of ill-treatment. Deaths in custody must trigger automatic public enquiry proceedings, with the full penalty of the law invoked against those found guilty. National security powers and procedures provide authorities with the pretext for gross violations of human rights, and must be seriously examined with a view to removing the potential for such abuse.
12. Everyone has the right to freedom of peaceful assembly and association. This applies to meetings, rallies and demonstrations, and to the formation of parties or groups to defend peoples' interests. Everyone has the right to freedom of opinion and expression and to hold different political or religious views. All censorship provisions must be repealed, and the law must establish a clear right to freedom of information. This will enable the media to publish opinions and to report the news as it sees fit, without fear of intimidation.

Thereby, the media can contribute crucially to the good functioning of democracy, by keeping politicians accountable to their electorate through reporting accurately on their actions, by allowing opposing points of view to be heard, and by providing people with accurate information so as to make a genuine choice in election campaigns.

13. The conventions of the International Labour Organization (ILO) provide an essential framework of protection for workers to carry out their jobs under adequate conditions. It is essential that they be ratified and implemented by all countries.
14. Strong free trade union organizations are indispensable to the defence of basic human rights. Unions advance rights to assemble, associate, speak out, and take action, including strikes. Unions promote their members' rights to a decent wage and can advance equity in the distribution of income. When unions are repressed, the absence of means of resolving conflicts legally and to the satisfaction of all parties means that disputes are conducted outside the law and can degenerate into an escalating cycle of confrontation, repression and violence. The ability of unions to secure improvements in the living standards of working people through established procedures of free collective bargaining, reinforced by the right to strike, thereby makes them an integral element of stability and social consensus.
15. All workers without distinction, whether rural or urban, formal or informal sector, self-employed or employees, public or private sector, have a right to form and to join trade unions to defend their interests. Unions have the right without any interference to draw up their constitutions and rules, to elect their representatives, to organize their administration and activities and to formulate their programmes. Basic union rights are covered in unequivocal terms in ILO Convention 87, Freedom of Association, 1948, and Convention 98, the Right to Organize and Collective Bargaining, 1949. Freedom of association is considered such a fundamental principle of the ILO that all members are bound to observe it, even if they have not ratified these conventions.
16. Workers have the right to protection against acts of anti-union discrimination in respect of employment, for example by threat of dismissal for joining or being active in a trade union. Trade unions should not be liable to be dissolved or suspended by administrative action. Trade unions have the right to establish and join federations and confederations, including those linking the public and private sector and rural and non-rural workers.
17. Pluralism is a fundamental democratic principle which should not be subject to any legal restriction. Trade union unity must be established on a totally voluntary basis. Any system in which a single trade union structure is imposed on working people who have no right to organize outside officially recognized structures represents a major violation of the most basic elements of the right of freedom of association, and cannot be justified in any case or on any grounds. Equally, all plurality which is not the result of the free will of the workers is an intolerable attack on trade union independence.
18. Trade unions have the right to bargain collectively on the regulation of the terms and conditions of employment and all other matters affecting the livelihood of the workers. Situations in which governments, purporting to act «in the national interest», unilaterally impose guidelines or standards with which collective agreements must conform, or reserve for themselves the right to amend or reject such agreements, or determine the level at which collective negotiation is to take place, involve illegitimate interference in the exercise of the right to free collective bargaining.
19. The right to strike is central to the effective functioning of free trade unions and must be protected by clear legal guarantees. If the possibility of ultimate recourse to strike action

is closed to trade unions, the whole process of industrial relations is prejudiced to the disadvantage of working people. The right to strike is denied where authorities have the right to impose binding arbitration, where unions are forced to fulfill long and cumbersome procedures before strike action, where intimidation, dismissal or repression is commonplace, or where governments are able to arbitrarily declare that a given activity constitutes an essential service in which strikes are prohibited. Although the right to strike is not specifically mentioned by any ILO Conventions, over the years the ILO has built up a detailed body of case law which allow for its limitation only in circumstances of genuine emergency, for a certain limited category of public servants, and in the case of essential services - defined as those on which life, personal safety and health depend.

20. Trade unions have the right to affiliate with international trade union organizations. Neither governments, nor any other body, must deny or interfere in the free exercise of this right, either through legislation or through less formal means of discouragement. International affiliation entails the right to receive the benefits that may result, the right to participate in the work of the international organizations and the right of national and international organizations to maintain contacts and exchange publications. This right is explicitly upheld by article 5 of Convention 87.
21. Trade unions have the right to consultation on economic affairs. They have a unique place in defending workers against adverse economic measures and in proposing alternatives. Unions can press for a fair distribution of the costs of adjustment and the fruits of growth, and encourage the employment-oriented growth policies which ultimately are the only way forward. Unions must be consulted both by their governments and by the international financial institutions. The African Alternative Framework to Structural Adjustment Programmes for Socio-Economic Recovery and Transformation should be adopted as a basis for the design of structural adjustment in Africa.

TRADE UNION ACTIONS FOR DEMOCRACY AND BASIC RIGHTS

22. It is vital for the continuation and extension of the momentum of the democratic movement that trade unions lend it their full support. Trade unions must take a leading role in initiatives to uphold human rights and achieve genuine multiparty democracy. Where normal democratic avenues are closed, this may involve direct actions in the form of strikes, marches and demonstrations. Where democracy exists, unions must be a watchdog over the continued respect of human rights. Trade unions should uphold human rights, speak out against arbitrary detention, join protests about freedom of the press, and call for the full respect of democracy.
23. To fulfill the hopes vested in them, trade unions need to devote attention to internal democracy. Elections and appointments must be open to all union members, and the structure of the union leadership must accurately reflect the composition of the membership. Union statutes must specify their independence from outside domination, whether from employers, government or political parties. Particular attention is needed to ensure an equal role for women and minority groups in union structures. There can be no democratic trade union movement without the full participation of women. Unions must recognize that the organization of women workers is vital for the strengthening of the African union movement. They should take positive actions in their own structures, notably by reserving positions for women through a quota system. They must equally take measures so that governments ratify and apply all ILO conventions concerning discrimination against women. Unions should also take actions to further the interests of

young people, including actions against discrimination and to improve job prospects for youth.

24. Trade unions must devote attention to basic organizing, development of representational and collective bargaining skills, education of their membership, and independent research and statistical analysis in order to create a strong, independent and democratic trade union movement. Activities in the field of human and trade union rights must form an integral part of their work. Trade union education should incorporate basic rights themes involving the wide dissemination of major UN and ILO instruments. A trade union with firm roots in its society and a full and democratic participation of its membership presents a formidable bastion of democracy and obstacle to an employer or a government seeking to destroy it. From a basis of strength, unions will be able to insist to governments that they be given a full role in all discussions of national policy.
25. At the level of the regional intergovernmental organizations, unions should press their governments to adopt a Social Charter. Any Social Charter should provide for tripartite regional supervisory procedures to monitor its implementation. They should uphold, inter alia, trade union freedoms including the right to strike, equality between men and women, the protection of the young, aged and handicapped, and safety and health at work. The African Regional Organization (AFRO) of the ICFTU should itself take the initiative to draw up a Social Charter for Africa from a trade union perspective.
26. The newly created ICFTU/AFRO Committee for the Defence of Human and Trade Union Rights in Africa will act urgently and effectively to meet the challenge of the struggle for democracy and basic rights on the continent. The Committee will meet on a regular basis to examine countries where there are violations of basic rights and mobilize international solidarity action. It will assist in the development of an extensive network of contacts between African and international trade unionists. This will enable African trade unions to form the first line of defence of basic rights in Africa.
27. The ICFTU will intensify its work for basic rights in Africa. When violations occur, unions should inform the ICFTU, which will take immediate action. The ICFTU will send missions, provide material support, and maintain contacts with detained trade unionists and unions under attack. The ICFTU will, to the greatest extent possible, be represented at trials of trade union leaders and provide legal assistance. The ICFTU will make direct representations to governments in the form of official protests and direct approaches through diplomatic channels. Affiliates, in over 100 countries worldwide, and international trade secretariats (ITS) will add their weight to these protests in a concerted campaign. Governments with close connections with countries where rights are violated will be urged to put pressure on them, up to and including economic sanctions. The threat of suspending trade or aid privileges can have an immense effect on governments violating basic rights.
28. There is a serious risk that Africa and its people will become increasingly marginalized within the global economic system and thus denied just conditions for development. Trade unions in Africa should coordinate their actions to pressurize African governments to work towards closer economic cooperation and integration on the continent and the speedy implementation of the treaty establishing the African Economic Community. The ICFTU is committed to taking all possible steps to ensure that international trade and development assistance are linked to the respect of human rights and that the social dimension of development is accorded priority. The ICFTU will also act to ensure that trade unions are fully involved in the formulation, application and monitoring of development programmes. The ICFTU will continue to implement the programme of actions called for by the Nairobi Conference on the African Development Challenge until its objectives are attained.

29. The ICFTU will continue to make maximum use of the procedures of the ILO and in particular the Committee on Freedom of Association, the United Nations Commission on Human Rights, and the Lomé Convention. The ICFTU, its affiliates and ITS will make maximum efforts to achieve publicity through the world media, which will serve to mobilize the trade union membership and international public opinion. Some actions can be taken in cooperation with non-governmental organizations active in the field of human rights. The ICFTU will continue to provide assistance to strengthen free trade unionism and expand the capabilities of trade unions to defend the human rights of their members through its usual activities. Seminars to explain basic rights and their defence will be integrated into ICFTU education programmes.
30. The African Commission on Human and Peoples' Rights of the Organization of African Unity (OAU) must activate its procedures to receive complaints from non-governmental organizations and trade unions, so that trade unions can play an active part in its work. The African Charter on Human and Peoples' Rights should be amended to incorporate trade union rights into the Charter, which would require the decision of a simple majority of states party to the Charter.

CONCLUSION

31. Creating a fresh impetus for Africa's development depends upon the full guarantee of popular participation, democracy and freedom in social and economic life. The positive political changes of the recent past must be built upon, entailing a full and independent role for trade unions with their unique capacity to ensure economic and social justice and hence a stable basis of society. The trade unions of Africa are ready to rise to the challenge of representing the interests of African workers and assume a leading role in the movements for political pluralism and human rights. As part of this process they will disseminate these conclusions on the widest possible scale at national level, and submit them to their governments. The ICFTU will support with all possible means the growing and increasingly self-confident free, independent and democratic African trade union movement. The enhancement of ever closer links between the African trade union movement and the ICFTU will enable trade unions to make a major contribution to democracy, development and the defence of human and trade union rights on the African continent.

BFTU/ICFTU PAN-AFRICAN CONFERENCE ON DEMOCRACY, DEVELOPMENT, AND THE DEFENCE OF HUMAN AND TRADE UNION RIGHTS IN AFRICA

GABORONE, BOTSWANA, 9-11 JULY 1991

STATEMENT ON SOUTH AFRICA

The Pan-African Conference on Democracy, Development and the Defence of Human and Trade Union Rights in Africa, organised jointly by the Botswana Federation of Trade Unions and the International Confederation of Free Trade Unions, in Gaborone, Botswana from 9-11 July 1991, heard reports from the democratic trade unions in South Africa, represented by COSATU and NACTU on the situation in South Africa.

The very tragic and bloody violence which has characterized events in South Africa since July 1991 formed a focal point of their statements. Implicitly the violence is a denial of basic human and trade union rights. Black working people are the victims and trade unions and political organizations are the target of this destabilization policy.

The collusion of the state and its so-called security forces, with other elements in the violence, can no longer be denied, as the sole logic behind this violence is to divide the majority people of South Africa, to put an obstacle in the path of negotiations, to interrupt the transition to democracy, and to sabotage democratic elections.

The democratic trade union movement called on the international community to redouble their pressure on the South African Government to ensure that the negotiation process is not aborted.

Although it was recognized that apartheid laws had been repealed, the legacy of apartheid remains intact and pervades all aspects of South African society.

The Government, which is seeking to be both player and referee in the process towards change, maintains control of all the machinery of the State, including the media, the police force, the army and the so-called security forces. The majority people are denied constitutional means to remove the minority government from power. The Conference supported the need for a transitional mechanism to facilitate the process of completing the adoption of a new constitution, without interference from the South African Government.

In the light of the foregoing, the democratic trade unions called for all forms of pressure including sanctions to be maintained against South Africa until a new constitution is in place which would guarantee that there is no turning back. The Conference stated that the unilateral lifting of any sanctions is premature, and condemned the decision taken on 10 July by the United States to lift sanctions, as well as those taken previously by the European Community and Japan.

The Conference supported the call of the democratic trade unions for a constituent assembly to negotiate the future of South Africa. Once negotiations have finally been concluded and a new constitution has been agreed upon, the white electorate should not have the option to veto this constitution.

The Conference recognized that the democratic trade unions have been the locomotive force in the anti-apartheid struggle for liberation in South Africa and called on the ICFTU to continue to give all forms of assistance to the democratic trade union movement, to continue to monitor the situation, and to support their continuing struggle, now and in the future, for a democratic society which will guarantee political, economic and social equality, for all the people of South Africa.

JOINT BFTU/ICFTU PANAFRICAN CONFERENCE ON DEMOCRACY, DEVELOPMENT AND THE DEFENCE OF HUMAN AND TRADE UNION RIGHTS

GABORONE, 9-11 JULY 1991

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NLC	Nigeria	OGBONNA Armstrong
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CNTS	Senegal	MEDOR Pierre

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* Also representing SATUCC.

Delegates from UNST Chad, from LFLU Liberia, and from FMM Madagascar were prevented from attending the conference by the human and trade union rights situation in their countries.

CONTINENTAL AND SUB-REGIONAL TRADE UNION ORGANIZATIONS

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OATUU	SUNMONU Hassan
	BESHA Michael
OTUWA	AHO Gaston
SATUCC	- See JUWATA -
USTMA	TLILI Mustapha

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LO	Denmark	AAKJAER Kjeld
CFDT	France	JACQUOT Denis
FO	France	MOURGUES Bernard
DGB	Germany	BENDT Heniz*
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FNV	Netherlands	VAN OSCH Thera
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		NIELSEN Evaler
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TRADE UNION RELATED ORGANIZATIONS

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		RUFFATO Mime
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AALC	United States	- see AFL-CIO -



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	MUGADZA Walter
	WHITEHOUSE Robin
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IMF	EAST Desmond
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Human Rights Botswana	RAHIM Khan
Norwegian Institute of Human Rights	ANDREASSEN Bard-Anders

AFRO	BOUSLAH Khereddine
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	SALESHANDO D.
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MARLET Dominique
OULATAR Jean
PURSEY Stephen
RYDER Guy
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APPENDIX I: CONCLUSIONS OF ICFTU/COTU/OATUU CONFERENCE ON THE AFRICAN DEVELOPMENT CHALLENGE

1. Meeting in Nairobi from 25-27 October 1989, representatives of trade unions from 32 African countries, joined by trade unionists from other continents, debated the challenges of African development, and, on the basis of their discussions, elaborated the following policy conclusions, which build upon the Dakar Declaration adopted at the Pan-African Conference on the African Worker and the World Economic Crisis held in Dakar in March 1984.
2. Africa faces a serious crisis, brought about by a combination of external and domestic factors including the policies of international financial institutions and governments. In the all too frequent absence of democratic structures and guarantees for civil liberties, governments have failed to establish popular confidence in their policies and to tackle many evils including corruption and serious inequalities. The most pressing reasons for the crisis have been the collapse of African commodity prices and the huge external debt of the African continent. Workers have borne the brunt of these negative developments. Actions must urgently be taken to improve the situation for African development entailing international commitment to fresh finance and less debt payments, backed up by changes in national policies and an increased role in decision-making for workers' organizations.
3. African development particularly in the Southern African region, as represented by the SADCC countries, is being substantially retarded by the policies of aggression and economic and political destabilization of apartheid South Africa. Apartheid itself is not only an aberration in political terms but also a major obstacle to development of the majority black people of South Africa, and a barrier to the development of full regional and continental cooperation. Apartheid must be abolished, urgently.
4. Trade unions in Africa have established a strong base of support and have a long experience dating back to the struggle for independence. Unions are confronted, however, with the enormous task of organizing workers in the rural and informal sectors and face grave restrictions on their actions, even including outright attempts to prevent their activities entirely. Trade unions must have their freedom to play a full role in society if they are to take on responsibilities for improving the economic situation. Governments must ratify and commit themselves to respect ILO Conventions thus providing a legislative environment conducive to effective trade union action.
5. The agricultural sector requires special attention, and increased resources. In the rural sector just as in the urban, representative organizations of workers are an essential means of increasing productivity and giving people a chance to improve their standards of living. Trade unions must do more to organize rural workers. Successful rural development measures must be based upon full recognition of the central role of women in the rural sector, and must equally entail the use of agricultural processes compatible with long-term environmental needs, based upon the full involvement of the local community.
6. Africa must put people at the centre of its development priorities. Development requires participation and dialogue if it is to work, and it can only be sustained if working people receive a fair share of its benefits and if its costs are shared equitably. Strong, democratic and independent institutions, and especially trade unions are the key to a more participative approach to development. The challenge facing the African trade union movement is to increase their membership in all sectors and establish their role as partners in economic and social change. Trade unions equally must increase their activities within the international organizations if they are to have an impact in the rapidly internationalizing world of the late 20th century.

TACKLING AFRICA'S ECONOMIC CRISIS

7. **H**aving considered the above problems, the Conference has adopted the following programme of action aimed at bringing about economic recovery in Africa. These measures should be backed by all those involved in the African development challenge. Governments should apply these measures directly through their actions at home and through their presence at the international institutions, including the United Nations, the International Monetary Fund, the World Bank, and the International Labour Organisation. Unions must press their governments to adopt these measures and must work through the sub-regional, regional, continental and international union organizations to have these policies taken up at highest level. By extending the links of international solidarity and working in a joint effort, unions can show the way forward for the African continent.
8. **T**he Conference, therefore, makes the following recommendations and conclusions:
 - a) The primary responsibility for African recovery lies with the African people. Governments must be responsive to the views of trade unions and other national interest groups in order to develop relevant and responsible policies.
 - b) The measures for reduction and cancellation of debt and interest payments recommended by the Summit of the Heads of State of the Organization of African Unity at their meeting in Addis Ababa from 30 November - 1 December 1987 must be taken up and applied in full. In this context, the Conference welcomes the actions taken by some governments to write off debts. However, further measures are necessary, and the international conference to propose solutions to the African debt crisis called for by the OAU should be convened at the earliest possible opportunity.
 - c) The structural adjustment measures recommended by the IMF and World Bank must be thoroughly reformed so that they promote the interests of development and from the outset incorporate measures to ensure that poor and vulnerable groups do not suffer disproportionately during the adjustment period. Structural adjustment programmes should only be adopted following an open process of national discussion of development priorities, with the full involvement of the social partners, and should be pursued in the context of a socially and economically balanced growth policy. The ILO must play a major role in the development of structural adjustment programmes backed by the international financial institutions.
 - d) The workers' basic rights to freedom of association and to organize and bargain collectively must be fully respected by governments, thus ensuring a solid foundation for increased consultation between governments and trade unions on the full range of economic and social policies. Unions can only carry out their legitimate activities within a full framework of civil liberties, including an independent judiciary and a free press. Development can only succeed with the democratization of society, and political systems must provide for the full participation of all sections of society.
 - e) The Conference welcomes the establishment of the African Commission for Human and Peoples Rights of the OAU located in Banjul, The Gambia, and calls on trade unions to take a full role in its activities. The OAU should take an unequivocal stance in support of human and trade union rights.
 - f) The priority for African recovery is in many countries the agricultural sector. What is needed is a balanced production strategy to increase both food for domestic consumption and export crops (particularly semi-processed and processed) for foreign markets. The central means of achieving this is by the promotion of organizations of rural workers. Governments must respect ILO Convention No. 141, the Rural Workers' Organizations Convention (1975). This should be backed up by investments in the rural infrastructure, such as water supply, roads, and small-scale mechanization projects. Full equality must be extended to women rural workers recognizing their right to land ownership and access integrate them fully in rural development.
 - g) International action to increase aid for policies designed to ensure that the basic needs of

African people are satisfied is essential. Trade preferences to African countries must be improved to encourage the development of manufacturing in Africa. Foreign direct investment must be based on a commitment to apply fully the ILO Declaration of Principles on Multinational Enterprises and Social Policy.

- h) The opportunities for social partner involvement in the Lomé Convention, although in practice not fully exploited, provide an important model for other international agreements. These provisions must be strengthened and the Lomé Convention should receive a renewed commitment, and be applied by its member countries to the promotion of its basic goal of encouraging development.
- i) Recognition of the major role of women in society is long overdue and is centrally important to development. Governments must undertake policies which aim to remove inequality between men and women.
- j) Labour market policies must include job creation, increased education, and training measures to build a qualified workforce capable of meeting the demands of development. Their objectives should be to increase the level of remuneration and create a strongly-motivated and skilled labour force. Measures to improve occupational health and safety, and policies to improve the situation for youth and for migrant workers, are equally important. Governments must seek ways of integrating the informal sector into the formal economy.
- k) Increased international action at the regional and continental levels is essential, so that African countries can contribute in a joint effort to overcome development problems, increase inter-African trade and evolve a unified market of their own leading to eventual economic integration.
- l) African governments together and with the close involvement of trade unions must work out a new comprehensive strategy to integrate protection of the environment into their economic development strategies. Environmental sustainability and ecological interlinkages must be taken into account in the design of all development projects. The key to successful environmental management is increased community participation in conservation. In addition, the international community must ensure that full financial and technical support is provided to assist Africa in its task of sustaining its unique ecological heritage and meeting the pressing basic needs of its people.
- m) The International Labour Organisation, reflecting its importance as a unique forum for tripartite development of consensual approaches to the problems of Africa and indeed the world, must assume a larger role in the development process. In an increasingly interdependent world, the ILO will be required to use its expertise to resolve the issues associated with the activities of multinationals, the improvement of wages and working conditions and the impact of structural adjustment policies on living and working conditions of workers the world over.
- n) Decisive international actions must be taken against South Africa, including as a matter of urgency, the adoption and implementation of comprehensive and mandatory sanctions. At the same time vigorous measures must be taken to shield the countries of the Southern African Development Co-operation Conference (SADCC) from the negative effects of such sanctions, backed up by an international assistance programme to assist SADCC states to withstand the effect of South Africa's destabilizing efforts in the region.

A TRADE UNION ACTION PROGRAMME

9. The trade unions of Africa have the heavy responsibilities of representing the workers of Africa at all levels - in representations with government, in collective bargaining with employers, and at the international level in the sub-regional, regional, continental and international trade union organizations. Trade unions have a central role to play in achieving African recovery, and the following challenges will have to be met:

- a) Trade unions must overcome the obstacles placed in their way by the weakness of the formal

sector and by the attempts of government to intervene in their actions. This will require renewed organizing efforts entailing imaginative new approaches to increase union membership in the informal and rural sector as well as in the formal sector. A particular effort is needed to organize women, who all too often are outside the union movement.

- b) Unions must strengthen their capacity and represent their members. Education and research activities by trade unions are essential if they are to negotiate with and present union proposals to governments and employers on an equal footing.
- c) Unions must be vigilant in their examination of government policies, and must insist on the highest standards of public administration and justice. It is up to unions to ensure that the human dimensions of development are ever present in government decisions. Unions must speak out against government policies which fail to meet the needs of workers and abuse their basic rights. In order to carry out this role and fulfill the hopes vested in them, unions themselves must set a high standard. Union structures must ensure a full and open process of democratic decision-making for all groups of members.
- d) Unions must use the networks of international solidarity and the procedures available through the ILO to defeat the efforts of government to intervene in union actions. African unions must make it plain that such interference constitutes an unacceptable violation of basic human liberties.
- e) Unions must promote the development of the rural workers' organizations which can contribute so much to the success of African agriculture. Unions must step up direct links with existing rural workers' organizations, as well as increasing their organizing activities in the rural sector. In the pursuance of this, the International Federation of Plantation, Agricultural and Allied Workers (IFPAAW) and the Pan-African Federation of Agricultural Trade Unions (PAFATU) can provide advice, assistance and support, as can the technical assistance activities of the FAO and the ILO.
- f) Unions must increase efforts to improve labour and social legislation and ensure its application. A priority must be efforts to improve the extremely poor record of occupational health and safety in Africa, particularly in the informal sector. In addition, consultative rights should be accorded to trade unions on all government policies affecting workers.
- g) The increasingly international dimensions of the world economy indicate the pressing need for trade unions to act on an international level. This must entail increased work at the level of the sub-regional, regional and continental organizations, as well as through the International Trade Secretariats. Action to influence the international financial institutions will require increased ties between trade unions all over the world, and the International Confederation of Free Trade Unions stands ready to provide all possible assistance in this process.

CONCLUSIONS

10. This Conference has seen a landmark in the development of ties of co-operation and solidarity among African trade unions themselves and between African unions and the international free trade union movement worldwide. It is of the utmost importance that they be taken up at the highest level. Education work and programmes of trade union action will be undertaken at the national, regional, continental and international levels, in order to promote the practical implementation of these Conclusions. As a first step, a high-level trade union delegation comprising of COTU, the OATUU and the ICFTU will present the Conclusions to the OAU and to the United Nations, the IMF and the World Bank.

APPENDIX II: UNIVERSAL DECLARATION OF HUMAN RIGHTS ADOPTED BY THE GENERAL ASSEMBLY ON 10 DECEMBER 1948

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore, the General Assembly proclaims this UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everybody has the right to life, liberty and the security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of this nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontier.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in the Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

APPENDIX III: FREEDOM OF ASSOCIATION CONVENTIONS OF THE I.L.O.

FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE CONVENTION 1948 (87)

Article 1

Each member of the International Labour Organisation for which this Convention is in force undertakes to give effect to the following provisions:

Article 2

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

Article 3

1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representative in full freedom to organise their administration and activities and to formulate their programmes.
2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

Article 4

Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.

Article 5

Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.

Article 6

The provisions of Articles 2, 3 and 4 hereof apply to federations and confederations of workers' and employers' organisations.

Article 7

The acquisition of legal personality of workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4 hereof.

Article 8

1. In exercising the rights provided for in this Convention, workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.
2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantee provided for in this Convention.

Article 9

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.
2. In accordance with the principle set forth in paragraph 8 of article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Article 10

In this Convention the term «organisation» means any organisation of workers or of employers for furthering and defending the interests of workers or of employers.

Article 11

Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

RIGHT TO ORGANISE AND COLLECTIVE BARGAINING CONVENTION 1949 (NO.98)

Article 1

1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.
2. Such protection shall apply more particularly in respect of acts calculated to -
 - (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;
 - (b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

Article 2

1. Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.
2. In particular, acts which are designed to promote the establishment of workers' organisations under the domination of employers' organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under the control of employers or employers' organisations, shall be deemed to constitute acts of interference within the meaning of this Article.

Article 3

Machinery appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

Article 4

Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full

development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

Article 5

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police, shall be determined by national laws or regulations.
2. In accordance with the principle set forth in paragraph 8 of article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Article 6

This Convention does not deal with the position of public servants engaged in the administration of the State, nor shall it be construed as prejudicing their rights or status in any way.