

MYANMAR – CONVENTION 87 INDUSTRIAL SPEECH

Dear Chair

I speak today to address an issue, which is central to worker and employer organizations, namely the “right to establish and to join organisations of their own choosing.” However, the Labour Organisation Law contains, largely in Article 4, provisions that deprive workers of this right.

First, it dictates the structure of trade unions based on the **administrative structure of the state**. Second, it requires all unions to be formed only of workers in the same trade or activity. Third, the law imposes complicated requirements to form the next higher-level organizations.

First, article 4 provides for a rigid scheme for the formation of unions which strictly follows a geographic scheme. Under the law, unions can only form unions in the following manner: 1) a basic level union – which covers a single workplace; 2) a township level union - which brings together unions in the same township, 3) regional or state level unions – which are comprised of township unions, 4) federations – which are formed of state level unions, and finally confederations.

Under this scheme, it would be impossible for example to create an enterprise-based union which united workers for a common employer if that employer was in more than one township. Instead, each workplace of that employer would have a separate union. Further, it would be impossible to **form an industry or occupational union at a national level**, at least not without having created unnecessary intermediate structures such as township and state level unions. This pyramid structure does not serve the interests of workers, or employers for that matter.

Worse, Article 4 also requires that workers can only form labour organization, at all levels, in the “same trade or activity”. This creates silos where unions from bottom to top are unable to form unions with a workers in similar or even unrelated “trades or activities”. Registrars have narrowly interpreted the law and regulations such that, for example, workers in the “transportation” sector have been forced to form separate unions, one for truck drivers, one for train drivers, one for inland waterways, one for taxis, etc. So, what happens is that you have a basic union which can only form a township union of workers in the same township performing the same task. That township union can only form a statewide union of workers also only performing the same task. And so on with federations, which are made up of state unions which perform the same narrow task. This means that there can be no structure representing workers of different trades or activities. As the Committee on Freedom of Association has held, “Any restriction, either direct or indirect, on the right of unions to establish and join associations of unions belonging to the same or different trades, on a regional basis, would not be in conformity with the principles of freedom of association.

Article 4 also describes how superior levels of trade unions are formed. At each step up, the structure must be supported by at least 10 per cent of the inferior level union structure. A confederation must be supported by at least 20 per cent. This clearly runs afoul of basic principles of freedom of association. However, basing minimum thresholds is a constantly shifting target, and for example one township union that forms may need to group fewer basic unions together to be registered than a township union elsewhere which tries to form with a larger pool of basic unions. The government’s proposed reform to the LOL does shift to numerical minimums, but creates minimum numbers which are too high and therefore address one problem and create another.

Chair, this is a non-sensical way to create trade unions. We urge the government to go back to the drawing board and, with unions, to devise a workable system that respects their right to association. Thank you Chair.