

## ADVANCE UNEDITED VERSION

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Committee on Economic, Social and Cultural Rights

Human Rights Committee

**Freedom of association, including the right to form and join trade unions****Joint statement by the Committee on Economic, Social and Cultural Rights and the Human Rights Committee\***

1. On the occasion of the 100th anniversary of the International Labour Organisation (ILO), the Human Rights Committee and the Committee on Economic, Social and Cultural Rights have decided to issue this joint statement on the basic principles of the freedom of association common to both covenants, in particular in relation to the trade union rights, as also protected under the Universal Declaration of Human Rights and the ILO Convention No 87 on Freedom of Association and Protection of the Right to Organise. The Human Rights Committee and the Committee on Economic, Social and Cultural Rights, welcome the progress made by States to guarantee the freedom of association in labour relations. At the same time, the two committees note the challenges faced in the effective protection of this fundamental freedom, including undue restrictions of the right of individuals to form and join trade unions, the right of unions to function freely, and the right to strike.

2. Under article 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the States Parties undertake to ensure the right of everyone to form trade unions and join the trade union of their choice, for the promotion and protection of their economic and social interests. Article 22 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right of everyone to freedom of association with others, including the right to form and join trade unions for the protection of their interests. While the respective provisions are not identical, there is an important commonality between them, reflecting the fact that the right of each individual to freely associate with others, including the right to form and join trade unions, is at the intersection between civil and political rights and economic, social and cultural rights. The exercise of this right, moreover, may be seen both as closely linked to freedoms of opinion and expression and the right of peaceful assembly, protected respectively under articles 19 and 21 of the ICCPR, and as instrumental for the protection of workers' rights, including their right to work and to just and favorable conditions of work, protected under articles 6 and 7 of the ICESCR.

3. Freedom of association includes the right of individuals, without distinction, to form and join trade unions for the protection of their interests. The right to form and join trade unions requires that trade unionists be protected from any discrimination, harassment, intimidation, or reprisals. The right to form and join trade unions also implies that trade

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\* The present statement, which was adopted by the Committee on Economic, Social and Cultural Rights at its sixty-sixth session ( 30 September - 18 October 2019) and the Human Rights Committee at its 127th session (14 October – 8 November 2019), was prepared pursuant to the CESCR's practice on the adoption of statements (see *Official Records of the Economic and Social Council, 2011, Supplement No. 2 (E/2011/22)*, chap. II, sect. K).

unions should be allowed to function freely, without excessive restrictions on their functioning.

4. Freedom of association, along with the right of peaceful assembly, also informs the right of individuals to participate in decision making within their workplaces and communities in order to achieve the protection of their interests. The committees recall that the right to strike is corollary to the effective exercise of the freedom to form and join trade unions. Both committees have sought to protect the right to strike in their review of the implementation of the ICESCR and the ICCPR by the States parties.

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