



CENTER FOR TRADE UNION & WORKERS SERVICES (CTUWS)

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It is High Time To Claim The Right of Association

It became widespread soon after the 97th Session of the International Labour Conference that preparation for the long expected amendments of the Trade Union Act will take place through two different approaches: the Ministry of Manpower and Immigration and the Egyptian Trade Union Federation (ETUF). Further disclosed information indicated the tendency of the expected amendments, their causes and objectives. The rumours were almost confirmed and manifested in a manner that looked like directed statements or media news.

On August 1, 2008 Al Masri Al Youm Newspaper, quoting informed sources, wrote on its second page about preparations to amend the Trade Unions Act under the title "The Ministry of Manpower Prepares Draft Amendments of the Trade Unions Act and ETUF Replies with a Counter Draft" ... "The Ministry Allows Non Governmental Organizations to Intervene in Labour Issues ... And ETUF's Amendments Challenge the Minister's Strong Controls". In its issue dated 10th August the same Newspaper emphasized that "There are some amendments on the Trade Unions Law which ETUF will present to the People's Assembly's next parliamentary term".

According to the sources, Al Masri Al Youm Newspaper of August 1st 2008 wrote on its second page: "The draft which is being prepared by the Ministry of Manpower to be presented to the People's Assembly's next parliamentary term will allow the Non Governmental Organizations and the Civil Society Organizations to be involved in labour issues and to perform their activities without any objections.

Al Masri Al Youm Newspaper of August 1st 2008 dedicated the second page to the information as confirmed by its sources: "The draft amendments prepared by the Ministry of Manpower to be presented to the People's Assembly's in its next parliamentary term will allow the Non Governmental Organizations and the Civil Society Organizations to be involved in labour issues and to perform their activities without any objections in order to avoid the comments which were addressed to Egypt at the International Labour Organization because of the prohibition of trade union pluralism". At the same time, the Egyptian Trade Union Federation is preparing another draft to prevent the administrative intervention represented by the Ministry of Manpower and Immigration in the affairs of the trade union organization and the trade unions without jeopardizing trade union unity". The amendments of ETUF challenge "the ministerial decisions which give the Minister strong controls and in particular the Decision No. 32 of 1976 concerning workers exempted from trade union membership, the Decision No. 348 of 1998 concerning the conditions of attending to trade union

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activities, Decision No. 25 of 1977 concerning methods of spending amounts collected as fines for violating the Trade Union Act, Decision No. 59 of 1985 concerning the study and educational courses and those entitled to benefit thereof and Decision No. 127 of 1989 concerning the financial bylaws of trade union organizations.” Sources said that the amendments suggested by ETUF aim to cancel the double financial supervision system on trade unions (the supervision of the Ministry of Manpower and that of the Central Accounting Authority). Amendments also aim to “cancel the right and the authority of the Minister of Manpower to dissolve the board of a trade union organization or to reject its formation and to annul the provisions which give the Minister the right to issue ministerial decisions to regulate the trade union election process and to announce the election results”. At the same time ETUF upholds the provisions which prevent NGOs and associations established according to the NGOs Law or any other law from exercising trade union activities. The objective is “to protect the trade union structure and unity”.

Sources emphasized that the Egyptian Trade Union Federation “decided not to make the complementary trade union elections of trade union boards for the term 2006/2011 at the present time. ETUF decided to postpone the complementary elections until the law is amended because ETUF wants to avoid comments such as those addressed to Egypt during the last International Labour Conference in Geneva. These comments could have caused sanctions on Egypt”, Al Masri Al Youm added.

Thus, the Trade Union Act is under scrutiny and there is no alternative but to amend it during the next parliamentary term. The sharp criticism of the labour and trade union situation in Egypt during the last International Labour Conference was almost a “knockout” for the Trade Union Act. While the official parties put it under consideration and started to draft amendments thereon, the Egyptian labour movement, which was calling and struggling for so many years to remove all the restrictions on the trade union rights and freedoms, cannot and should not be satisfied unless all the legislative restrictions are removed.

While the Center for Trade Union and Workers Services “CTUWS” launches its campaign to remove all the restrictions on the trade union rights and freedoms, it is important to emphasize the following points:

- If the sharp criticism of the labour and trade union situation in Egypt during the last International Labour Conference served as a “knockout” for the Trade Union Act, it was the continuous struggle of the Egyptian trade union movement throughout the past years and particularly during the last twenty months that threw the stones that stirred the stagnant waters and disclosed the serious discrepancies of the system.
- The Egyptian workers who are suffering from very hard living conditions had no alternative but to organize their protests to improve their work conditions in the cities of Mehalla el Kobra, Shebein El Koum, Alexandria and Damanshour and on the pavement opposite to the People’s Assembly. The frequently repeated question was: “Where is the Egyptian Trade Union Federation? Where is the trade union organization?”. Before going on a strike, and several weeks or even several

months before a strike, the workers announce their claims and seek methods to negotiate on them. But they do not find the required support. The question is once again: Where is the trade union organization?

- Such a status quo was not to continue. Labour movements emerge always from outside the trade union organizations. In many cases the labour movement finds itself in confrontation with the trade union movement. The public sector workers suffer from quasi compulsory membership in the single trade union organization which is controlled from the top of the organization. At the same time, the trade union organization finds itself incapable of organizing the private sector workers who are practically deprived of any kind of trade union protection. All the workers are deprived of the right to build their autonomous organizations and deprived of the right to use their tools which enable them to practice pressure and enter into negotiations.
- Not only does the present trade union organization suffer from loss of vitality and democracy, but it is also a captive of a serious structural crisis. Its traditional quasi compulsory membership is declining with the liquidation of the public sector. At the same time it is unable to reach the private sector which cannot be organized without struggle. It is not feasible to organize the private sector workers through the forced membership policies imposed by Law No. 35 of 1976 and its amendments do not suit the private sector.
- The present situation cannot continue as it is. The Trade Union Act with its totalitarian philosophy has become obsolete similar to all the other laws which impose trusteeship on the popular movements and organizations and deprive them from drafting their rules and regulations by themselves. By virtue of these laws, the trade union organization is controlled from the top of the pyramid and the administrative authorities intervene in all the affairs of the organization.
- The trade union law and the single trade union central organization are disappearing day after day throughout the whole world. Its language is no longer comprehended because it is out of date and incapable of coping with the renewable developments of human experience.
- Any attempts to patch the current trade union act or to introduce partial amendments thereon will be useless. The comments contained in the report of the Committee of Experts of the International Labour Organization were focused on the core provisions of this law which denote its philosophy. Moreover, the pretext that trade union plurality is refused in order to defend trade union unity was not a proper response to the comments. On the contrary, such a pretext led to more comments. More important is the fact that it became apparent during the last two years that the issue is not related to pluralism as much as it is related to the right of organization itself. The Egyptian workers are essentially deprived of trade unions because the branches of the present official central organization are not trade unions.

The approach to provide legislative amendments that allow the NGOs to get involved in labour issues and workers rights – according to the news from the Ministry of

Manpower – is an unprecedented positive approach from the government. Nevertheless, it is not sufficient to rectify the legal defect in the present legislative framework for the following reasons:

- The right of organization - as concurrent with the modern societies and recognized by all human rights instruments – is closely linked with the trade unions as a tool for pressure, negotiation and collective agreements. The trade union is the organization which the workers themselves have invented in their historical struggle to improve their work conditions. It is the only organization which was founded by the need to negotiate and was developed by practical experiences.
- Trade unions by virtue of the law are the organizations entitled to make collective negotiations and sign collective agreements and contracts. Thus, the liberation of trade unions from legislative barriers to the right of organization and management is necessary for activating this mechanism and enabling the workers to use it.
- Providing a space for the diversified initiatives of NGOs with different organizational structures is not only a human right but also an indispensable condition for any democratic society to be integrated with the trade unions and to fill the vacuum which trade union mechanisms could not reach in shade of the changing modalities of labour, the expansion of informal sectors and the role played by these organizations throughout the world in their capacity as pressure groups capable of affecting the decision making centers. The removal of legislative barriers which fetter NGOs movement does not substitute the removal of all the legislative barriers on the right of organization and the formation of organizations which defend the workers and represent the main part of the equation of labour relations.

On the other hand, the suggested amendments on the trade union act - as denoted by ETUF's statements – are limited to the sections concerned with the authorities of the Ministry of Manpower to supervise and control the trade union organization. The amendments do not touch the sections concerned with the single trade union organization and its pyramidal structure which it upholds very fast. The suggested amendments seem far below any expectation. They are far different from the recognized standards for the following reasons:

- ☞ The criticism of the Egyptian legislation – according to the report of the Committee of Experts of the International Labour Organization – was not limited only to the government's interference in trade union affairs. The Committee had several comments on the restriction of the right to organize outside the Egyptian Trade Union Federation which regulates the pyramidal structure of the central organization and allows authority to be exercised from the top of the pyramid. It allows the higher levels of the organization vast authorities on its lower levels.
- ☞ Many of the violations which took place during the last trade union elections (in October and November 2006) are attributed to the trade union organization itself (i.e. to the general trade unions and the ETUF). The majority of workers

who were denied the right of nomination for trade union elections could not stand for the elections because their trade unions did not issue their membership certificates which were a pre-requirement for nomination. Another example from the previous trade union elections: ETUF issued the decisions which regulate the election process. It issued several statements that for the first time the elections will be made under the supervision of the workers themselves without interference from the administrative bodies !! What happened was that the decisions which were issued by ETUF were identical with the ministerial decisions which regulated the right of nomination and election. Moreover, they contained more restrictions on these rights.

- ☞ If ETUF wants to amend the law in order to prevent the governmental supervision (of the Ministry of Manpower) on the financial and administrative affairs of ETUF, it is worthy to note that the higher levels of the ETUF were involved in the vast majority of investigation cases with the trade union committees (plant unions) and/or their suspension or dissolution. It is also worthy noting that the most stringent legal provisions concerned with the financial affairs are those which are concerned with the authorities of the higher levels of the central organization. This was the focus of the comments of ILO's Committee of Experts.
- ☞ If the ETUF is willing to liberate the trade union organization from the domination of the government (represented by the Ministry of Manpower) while the ETUF itself prevents the formation of any other central organization, what is the entity which will have the authority to put such a prevention into effect? Isn't it the Ministry of Manpower or any other governmental body? This means that the ETUF refuses the government's supervision of its financial and administrative affairs. But at the same time, the ETUF upholds the authority of the government to remove and/or prohibit the formation of any other organization outside the ETUF itself.

Last, but not least, it is high time to launch the right of organization and the freedom of association which the Egyptian workers lacked for several decades.

**The Center for Trade Union and Workers Services (CTUWS)
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