

COLOMBIA⁹⁰

El affiliates

FECODE Federación Colombiana de Educadores
Colombian Federation of Teachers

ASPU Asociación Sindical de Profesores Universitarios
Trade Union Association of University Lecturers

Ratification

- C. 87 Freedom of Association and the Protection of the Right to Organise (1948) ratified 1976
- C. 98 Right to Organise and Collective Bargaining (1949) ratified 1976
- C. 100 Equal Remuneration (1951) ratified 1963
- C. 111 Discrimination (Employment and Occupation) (1958) ratified 1969
- C. 144 Tripartite Consultations (1976) ratified 1999
- C. 151 Labour Relations (Public Service) (1978) ratified 2000
- C. 154 Collective Bargaining (1981) ratified 2000

Introduction

El's affiliate in Colombia, Federación Colombiana de Educadores (FECODE), has been one of the organisations most affected by the long-standing violence against the trade union movement. The numbers of trade unionists assassinated, forcibly disappeared and threatened remains as a scar on the nation. Over the last two decades, FECODE has documented the killing of 968 teacher unionists, highlighting a pattern of deadly violence targeting teachers and their union.⁹¹ Since President Juan Manuel Santos came to power in June 2010, 32 teacher unionists have been killed and over 500 have received death threats.

The ITUC reports that some progress has been made to end the longstanding violence and to investigate these crimes, although the great majority of the cases reported by trade union organisations remain in impunity. The Vice President of the Republic, speaking on behalf of the government, has recognised the scale of the violence, something previous governments have never done.⁹²

Over and above the violations of fundamental human rights, successive government have imposed reforms and budgetary cuts which have impacted on the quality of education and damaged the status of teachers. El and its affiliate have firmly opposed the Education Law that has facilitated the privatisation of public schools. Under the 'concession' model, public funds have been redirected to private schools, leading to the loss of 30,000 public education teaching jobs in the last 15 years and displacing over 40,000 children from public to private schools.

⁹⁰ Grateful acknowledgements to Senen Nino Avendano, General Secretary, and Bertha Rey Castelblanco, Secretary of Gender, Equality and Inclusion, FECODE, who provided valuable information and comments for this country study.

⁹¹ El http://www.ei-ie.org/en/news/news_details/2319 World Teachers' Day 5 October 2012

⁹² ITUC Annual Report 2012



Right to Freedom of Association and Collective Bargaining

In such circumstances of violence and impunity, freedom of association is self-evidently jeopardised and union membership is very low. It is estimated that only 4% of the work force are union members, with approximately 55% of trade union membership concentrated in the public sector.⁹³

Freedom of association is recognised in the Constitution and Labour Code, with the exception of the Armed Forces and Police. There are, however, various types of contract arrangements, which effectively prevent workers from setting up or joining trade unions by disguising the employment relationship. These include associated labour cooperatives (CTA), service contracts and civil and commercial contracts.

The right to collective bargaining is recognised in the Constitution but the widespread practice of concluding “collective pacts” undermine the position of the trade unions. Since 2011, reforms and measures designed to end the practice of associated labour cooperatives and the use of collective pacts have been introduced although effective implementation remains limited. The Constitution recognises the right to strike, but prohibits federations and confederations from calling strikes. The Constitution prohibits strikes in essential public services as defined by the law. However, the law has not yet been adopted, leaving the concept open to a broad interpretation.

Status of Teachers

Teachers are public employees appointed on merit through a process of competitive exam and their conditions of employment are governed by two statutes. Decree Law 2277/1979 was negotiated with FECODE and provides teachers with a permanent employment, sets out the salary scale and career progression, disciplinary measures and a special pension fund. Decree Law 1278/2002 was imposed by the government and it changed the employment conditions for all new teachers, introducing a new career progression, based on performance evaluation and dependent on budgetary possibilities. Teachers could be dismissed on grounds of poor performance and the pension arrangements were also reduced.

By 2012, the ratio of teachers appointed under the “old” and “new” statutes, was approximately 2:1.⁹⁴ FECODE has opposed this situation consistently and in June 2011, the government agreed to set up a Tripartite Commission (Congress, Ministry of Education and FECODE) in order to discuss a new Single Statute.

However, there are also many teachers with provisional contracts who are not appointed under the provisions of the Statute.

⁹³ *Escuela Sindical Nacional*

⁹⁴ *TribunaMagisterial* 18/4/2012 <http://www.tribunamagisterial.com/2012/04/antiguos-y-nuevos-docentes-batallar.html>

Right to collective bargaining in the public sector

Until 2012, there was no right to collective bargaining in the public sector, and public sector unions could only present “respectful petitions” which could not concern salaries and benefits. The right to collective bargaining in the public sector has been a long-standing demand of the trade union movement. Colombia ratified Convention 151 in 2000 although it was not until 2009, that the government set up a commission to examine the issue. A new Decree (No. 1092) regulating the right to collective bargaining in the public administration was adopted on 24 May 2012.

The Decree provides for the right to collective bargaining for all public employees, apart from the Armed Forces and national police and high-level officials. It sets out the procedures and annual timetable for negotiations and a mediation process in case of disputes. Negotiations on the list of demands take place over a period of 20 days which can be extended by agreement for a further 10 days.

It also provides for an awareness-raising programme:

“Article 8: the Ministry of Labour, in coordination with the trade union confederations, shall, within six (6) months following the promulgation of this Decree, carry out an awareness-raising programme consisting of television and radio broadcasts, publication of a document, and national and regional seminars, to provide background information and as a prerequisite for the implementation of this Decree.”

FECODE and other public sector trade unions are highly critical of the decree as it was issued unilaterally by the government and its provisions are very weak. There is no right to sign a collective agreement, only the possibility of submitting a list of demands (pliego de peticiones) and the Decree only allows for a mediation process without the right to strike.

In 2012, FECODE presented a list of demands which were “negotiated” in these conditions but the government has not implemented the points which were agreed. One issue concerns trade union permits, or the right to paid leave for trade union representatives to carry out their work. In many regions, these permits have been denied.

Education expenditure and GDP growth

% of government expenditure on education	% GDP spent on education	GDP % Growth
2008: 14.9 %	3.9 %	2.8 %
2009:	4.7 %	0.8 %
2010:	4.8 %	4.3 %
2011:	4.5 %	5.9 %

Source World Bank/IndexMundi