

Interpretation of the ILO Freedom of Association and the Protection of the Right to Organize Convention, 1948 (No. 87) with respect to the right to strike;

The State of Belize

RIGHT TO STRIKE

Overview

On December 15th, 1983, Belize ratified the Freedom of Association and Protection of the Right to Organize Convention 1948 (No. 87). To comply with this Convention and the *International Labour Organization Conventions*, Belize had passed the Trade Unions and Employers Organisations (Registration, Recognition and Status) Act in 2000.

While there are several judicial decisions in Belize which speak to the right to form or be a part of a trade union in light of Convention No 87, the same cannot be said regarding right to strike.

The only judicial decision which discussed the right to strike in light of Convention No. 87 is the 2023 High Court decision of *Port of Belize v Christian Worker's Union* Claim No. 79 of 2022. A decision rendered by Honourable Madam Justice Genevieve Chabot (*as she then was*) on March 30th, 2023.

Brief History

In this decision, Justice Chabot discussed a brief history on this right in Belize and how Convention No 87 has developed the jurisprudence regarding right to strike.

Prior to the Trade Union Act which formed a part of our laws on March 29th, 1941, trade unions were not recognized nor afforded any protection. The Trade Unions Act was enacted to address this void by recognizing unions and protecting them from liability for carrying out activities which would otherwise be considered illegal under the law. Thereafter in 1981 when Belize became an independent nation, the Constitution came into force permitting freedom of association which includes the right to strike to be considered a constitutionally protected right. In 2000, the Trade Union and Employers Organization (Registration, Recognition and Status) Act was enacted to comply with Belize's international obligation. The Minister

states, as documented in the Hansard, that the Bill "gives effect to [...] [International Labour Organization] standards" and was modelled after a harmonization bill prepared by a consultant with a view to harmonizing labour laws in the Commonwealth Caribbean countries. Furthermore, only the trade unions and employers' organizations which are registered under the Trade Unions and Employers Organizations (Registration, Recognition and Status) Act shall enjoy the benefits and advantages under this Act.

Port of Belize v Christian Worker's Union

The brief facts of the case are as such: Port of Belize Ltd (*PBL*) filed a claim against Christian Workers Union (*CWU*) for damages allegedly arising from a strike action carried out by *CWU* for a period of 8 days. *CWU* in defending the claim relied on the statutory immunities, privileges and defences afforded to trade unions and their members

under the Trade Unions Act and the Trade Unions and Employers Organisations (Registration, Recognition and Status) Act. The preliminary issue before the judge was whether CWU and its members indeed enjoy statutory immunity.

Justice Chabot held that the CWU as a trade union no longer enjoys statutory immunity from suits. However, the members of CWU do enjoy statutory immunity under the Trade Unions and Employers Organisations (Registration, Recognition and Status) Act. The union members furthermore can only rely on such immunity where the act or omission at issue was done “*in good faith in the course of furthering the objectives of the trade union*”.

The rationale for this is that the CWU is registered under the Trade Unions and Employers Organisations (Registration, Recognition and Status) Act but section 16(2) does not provide for statutory immunity in favour of unions.

S 16(2) of the Act reads as such: *No officer, representative*

or member of a trade union or an employers' organization shall be personally liable for any act or omission of the trade union or employers' organization if the act or omission was done by such officer, representative or member in good faith in the course of furthering the objectives of the trade union or employers' organization.

(3) Subsection (2) of this section, shall not be read and construed as exempting from liability any trade union or employer's organization, or any officer, representative or member thereof from any contractual liability for goods, services and obligations incurred by the trade union or employer's organization in the course of its operations.

In this decision, the court affirmed that the freedom of association and the right to form or belong to trade unions protected under section 13 of the Belize Constitution encompasses right to strike. While the CWU does not enjoy statutory immunity, they do however enjoy a constitutional right to strike which is incorporated by reference in the Trade

Unions and Employers Organizations (Registration, Recognition and Status) Act. This constitutional right to strike can only be exercised where a strike is legally carried out pursuant to the laws of Belize.

The Court however did not go further to determine whether the strike that took place was carried out legally or illegally under the laws of Belize.

Summary

Therefore, based on the above decision trade unions have a constitutionally protected right to strike where the strike is carried out legally under the laws of Belize. A trade union who has registered under the Trade Unions and Employers Organization (Registration, Recognition and Status) Act do not enjoy statutory immunity, but their members on the other hand are protected from a claim provided that the strike was done in good faith in the course of furthering the objectives of the trade union.



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